

**SB 544** by **Hukill (CO-INTRODUCERS) Simpson, Hays**; (Identical to H 0613) Exemption from the Sales and Use Tax for Certain Machinery and Equipment

**SB 798** by **Lee**; (Identical to H 0765) Household Moving Services

518216 D S RCS CM, Bean Delete everything after 03/24 08:13 AM

**SB 858** by **Garcia**; Exemption from the Sales and Use Tax for Direct Mail Advertising Literature

**SB 944** by **Soto**; (Identical to H 1047) Secondhand Dealers

**SB 982** by **Thompson (CO-INTRODUCERS) Smith**; (Identical to H 0625) Florida Civil Rights Act

**SB 1212** by **Ring**; (Identical to H 0659) Contracts for Goods and Services

110028 A S RCS CM, Ring Delete L.12 - 14: 03/24 08:35 AM

**SB 1318** by **Latvala**; (Identical to H 0589) State Minimum Wage

444468 A S WD CM, Latvala Delete L.24: 03/25 08:50 AM  
807856 A S RCS CM, Latvala Delete L.25: 03/24 08:35 AM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMERCE AND TOURISM**  
**Senator Detert, Chair**  
**Senator Thompson, Vice Chair**

**MEETING DATE:** Monday, March 23, 2015  
**TIME:** 4:00 —6:00 p.m.  
**PLACE:** *Toni Jennings Committee Room, 110 Senate Office Building*

**MEMBERS:** Senator Detert, Chair; Senator Thompson, Vice Chair; Senators Bean, Latvala, Richter, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 544</b> Hukill (Identical H 613)	Exemption from the Sales and Use Tax for Certain Machinery and Equipment; Providing that the exemption for certain mixer drums and the parts and labor required to affix such mixer drums is repealed on a specified date; deleting the expiration date for the exemption for certain industrial machinery and equipment, etc.  CM     03/23/2015 Favorable FT AP	Favorable Yeas 5 Nays 0
2	<b>SB 798</b> Lee (Identical H 765)	Household Moving Services; Removing the requirement that a moving broker provide evidence of current and valid insurance or alternative coverage; removing a prohibition that a mover may not limit its liability for the loss or damage of household goods to a specified valuation rate; requiring a mover to annually publish, file, and post a tariff with the Department of Agricultural and Consumer Services; requiring a mover to tender household goods for delivery on the agreed upon delivery date or within a specified period unless waived by the shipper, etc.  CM     03/23/2015 Fav/CS AGG AP	Fav/CS Yeas 5 Nays 0
3	<b>SB 858</b> Garcia	Exemption from the Sales and Use Tax for Direct Mail Advertising Literature; Providing an exemption for certain direct mail advertising literature for the sale of services or property; defining the term "direct mail advertising literature", etc.  CM     03/23/2015 Favorable FT AP	Favorable Yeas 3 Nays 0
4	<b>SB 944</b> Soto (Identical H 1047)	Secondhand Dealers; Requiring a law enforcement officer with jurisdiction to place a specified written hold order on specified goods, etc.  CM     03/23/2015 Favorable CJ RC	Favorable Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Monday, March 23, 2015, 4:00 —6:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 982</b> Thompson (Identical H 625)	Florida Civil Rights Act; Prohibiting discrimination on the basis of pregnancy in public lodging and food service establishments and in places of public accommodation; prohibiting employment discrimination on the basis of pregnancy; prohibiting discrimination on the basis of pregnancy by labor organizations, joint labor-management committees, employment agencies, and in occupational licensing, certification, and membership organizations, etc.  CM 03/23/2015 Favorable JU RC	Favorable Yeas 5 Nays 0
6	<b>SB 1212</b> Ring (Identical H 659)	Contracts for Goods and Services; Prohibiting contracts for the sale or lease of consumer goods or services from waiving the right of the consumer to make certain statements; providing civil penalties; providing construction and applicability, etc.  CM 03/23/2015 Fav/CS JU FP	Fav/CS Yeas 5 Nays 0
7	<b>SB 1318</b> Latvala (Identical H 589)	State Minimum Wage; Prohibiting an employer or any other party from knowingly procuring labor from any person with an intent to defraud or deceive such person; providing a penalty, etc.  CM 03/23/2015 Fav/CS ACJ FP	Fav/CS Yeas 4 Nays 0
<hr/> <p>Other Related Meeting Documents</p> <hr/>			

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 544

INTRODUCER: Senator Hukill and others

SUBJECT: Exemption from the Sales and Use Tax for Certain Machinery and Equipment

DATE: March 20, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	McKay	CM	<b>Favorable</b>
2.			FT	
3.			AP	

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**I. Summary:**

SB 544 removes the expiration date for the exemption from sales and use tax for certain industrial machinery and equipment.

The bill specifies that the repeal date of April 30, 2017, is still in effect for the sales and use tax exemption for mixer drums affixed to a cement mixer truck.

**II. Present Situation:**

***Florida Sales and Use Tax***

Florida levies a 6 percent state sales and use tax which applies to the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rental of commercial real estate, and a limited number of services. Chapter 212, F.S., contains statutory provisions that authorize the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 200 different exemptions.<sup>1</sup>

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S. The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold or delivered into, and is levied in addition to the state sales and use tax of 6 percent.

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<sup>1</sup> Florida Revenue Estimating Conference, *Florida Tax Handbook*, (2015), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm> (last visited Mar. 18, 2015).

### ***Industrial Manufacturing and Equipment Sales Tax Exemption***

Current law allows industrial machinery and equipment purchased by eligible manufacturing businesses to be exempt from state sales and use tax.<sup>2</sup> The machinery or equipment must be used at a fixed location in the state. Eligible businesses must be classified in the North American Industry Classification System (NAICS) under codes 31, 32 or 33. Types of manufacturing establishments that are classified under these codes include food, apparel, wood, paper, printing, chemical, pharmaceutical, plastic, rubber, metal, transportation, and furniture manufacturing.<sup>3</sup> For the purposes of the exemption, “industrial machinery and equipment” means tangible personal property that has a depreciable life of 3 or more years and is used in the manufacturing, processing, compounding, or production of tangible personal property for sale.

The law also allows the exemption for a mixer drum affixed to a mixer truck used at locations in the state to mix, agitate, and transport freshly mixed concrete in a plastic state, for the manufacturing, processing, compounding, or production of tangible personal property for sale. Parts and labor required to affix a mixer drum, that is exempt from sales and use tax, to a mixer truck are also exempt.

These exemptions are set to repeal April 30, 2017.

### ***Manufacturing Industry in Florida***

According to Enterprise Florida, Inc., (EFI) there are more than 18,200 manufacturing companies and more than 317,000 manufacturing employees in Florida. These companies produce a variety of manufactured goods including aerospace products, batteries, food and beverages, communications equipment, pharmaceuticals, semiconductors, and boats.<sup>4</sup>

### **III. Effect of Proposed Changes:**

The bill removes the expiration date for the exemption from sales and use tax for certain industrial machinery and equipment under s. 212.08(7)(kkk), F.S.

The bill removes language in subparagraph 1., s. 212.08(7)(kkk), F.S., relating to the sales and use tax exemption for mixer drums, and creates a separate subparagraph 3., to provide and describe the mixer drum exemption. The sales and use tax exemption for mixer drums is still subject to repeal on April 30, 2017.

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<sup>2</sup> Section 212.08(7)(kkk), F.S.

<sup>3</sup> The Manufacturers Association of Florida has provided a complete list of the manufacturing sectors that are classified under the relevant NAICS codes, available at: [https://c.ymcdn.com/sites/maf.site-ym.com/resource/resmgr/Docs/NAICS\\_Codes.pdf](https://c.ymcdn.com/sites/maf.site-ym.com/resource/resmgr/Docs/NAICS_Codes.pdf) (last visited Mar. 18, 2015).

<sup>4</sup> Enterprise Florida, Inc., *Florida The Perfect Climate for Business: Manufacturing*, (June 2014) available at: <http://www.enterpriseflorida.com/wp-content/uploads/brief-manufacturing-florida.pdf> (last visited Mar 18, 2015).

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

Article VII, s. 18 of the Florida Constitution, governs laws that require counties and municipalities to spend funds or limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of the provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce county or municipal aggregate revenue generating authority as it existed on February 1, 1989, except where the Legislature passes such a law by two-thirds of the membership of each chamber.

Subsection (c) of this provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce the percentage of a state tax shared with counties and municipalities. The exception to this prohibition exists where the Legislature passes such law by two-thirds of the membership of each chamber.

Subsection (d) provides an exemption from these provisions. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (which is \$2,014,830 for FY 2014-2015<sup>5</sup>), are exempt.<sup>6</sup>

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Indeterminate, but positive.

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<sup>5</sup> Based on the Demographic Estimating Conference’s population adopted on February 11, 2015. The post-conference packet can be found at: <http://edr.state.fl.us/Content/conferences/population/index.cfm> (last visited March 18, 2015).

<sup>6</sup> See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (September 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited March 18, 2015).

**C. Government Sector Impact:**

The current exemption for industrial machinery and equipment continues through April 2017. Thus, the bill does not have a cash impact in Fiscal Years 2015-16 or 2016-17. The Revenue Estimating conference has determined that the bill will reduce General Revenue receipts by \$122.4 million in Fiscal Year 2017-18, with a \$122.4 million recurring impact. The bill will reduce local revenue by \$27.4 million in Fiscal Year 2017-18, with a \$27.4 million recurring impact.<sup>7</sup>

The Department of Revenue reported that the bill will have an insignificant expenditure impact on the department.<sup>8</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 212.08 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>7</sup> Florida Revenue Estimating Conference, *HB 613 / SB 544*, 2, (Feb. 13, 2015) available at: [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/\\_pdf/page88-96.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/page88-96.pdf) (last visited Mar. 18, 2015).

<sup>8</sup> Florida Department of Revenue, *2015 Department of Revenue Legislative Bill Analysis: SB 544*, (Feb. 12, 2015), available at: <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=5293> (last visited Mar. 18, 2015).

By Senator Hukill

8-00774A-15

2015544\_\_

A bill to be entitled

An act relating to the exemption from the sales and use tax for certain machinery and equipment; amending s. 212.08, F.S.; providing that the exemption for certain mixer drums and the parts and labor required to affix such mixer drums is repealed on a specified date; deleting the expiration date for the exemption for certain industrial machinery and equipment; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (kkk) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2015544\_\_

obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in within this state, ~~or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state, for the manufacture, processing, compounding, or production of items of tangible personal property for sale~~ shall be exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph ~~paragraph~~, the seller is relieved of the responsibility for collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



8-00774A-15

2015544\_\_

59 industrial machinery and equipment is located is within the  
60 industries classified under NAICS codes 31, 32, and 33. As used  
61 in this subparagraph, "NAICS" means those classifications  
62 contained in the North American Industry Classification System,  
63 as published in 2007 by the Office of Management and Budget,  
64 Executive Office of the President.

65 b. "Primary business activity" means an activity  
66 representing more than 50 ~~fifty~~ percent of the activities  
67 conducted at the location where the industrial machinery and  
68 equipment is located.

69 c. "Industrial machinery and equipment" means tangible  
70 personal property or other property that has a depreciable life  
71 of 3 years or more and that is used as an integral part in the  
72 manufacturing, processing, compounding, or production of  
73 tangible personal property for sale. A building and its  
74 structural components are not industrial machinery and equipment  
75 unless the building or structural component is so closely  
76 related to the industrial machinery and equipment that it houses  
77 or supports that the building or structural component can be  
78 expected to be replaced when the machinery and equipment are  
79 replaced. Heating and air conditioning systems are not  
80 industrial machinery and equipment unless the sole justification  
81 for their installation is to meet the requirements of the  
82 production process, even though the system may provide  
83 incidental comfort to employees or serve, to an insubstantial  
84 degree, nonproduction activities. The term includes parts and  
85 accessories for industrial machinery and equipment only to the  
86 extent that the parts and accessories are purchased prior to the  
87 date the machinery and equipment are placed in service.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00774A-15

2015544\_\_

88 3. A mixer drum affixed to a mixer truck which is used at  
89 any location in this state to mix, agitate, and transport  
90 freshly mixed concrete in a plastic state for the manufacture,  
91 processing, compounding, or production of items of tangible  
92 personal property for sale shall be exempt from the tax imposed  
93 by this chapter. Parts and labor required to affix a mixer drum  
94 exempt under this subparagraph to a mixer truck are also exempt.  
95 If, at the time of purchase, the purchaser furnishes the seller  
96 with a signed certificate certifying the purchaser's entitlement  
97 to exemption pursuant to this subparagraph, the seller is  
98 relieved of the responsibility for collecting the tax on the  
99 sale of such items, and the department shall look solely to the  
100 purchaser for recovery of the tax if it determines that the  
101 purchaser was not entitled to the exemption. This subparagraph  
102 paragraph is repealed April 30, 2017.

103 Section 2. This act shall take effect July 1, 2015.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR DOROTHY L. HUKILL**  
8th District

**COMMITTEES:**

Finance and Tax, *Chair*  
Communications, Energy, and Public Utilities,  
*Vice Chair*  
Appropriations  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Fiscal Policy

**JOINT COMMITTEE:**

Joint Committee on Public Counsel Oversight

February 16, 2015

The Honorable Nancy C. Detert  
310 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Re: Senate Bill 544 – Exemption from the Sales and Use Tax for Certain Machinery and Equipment

Dear Chairwoman Detert:

Senate Bill 544, relating to Exemption from the Sales and Use Tax for Certain Machinery and Equipment has been referred to the Commerce and Tourism Committee. I am requesting your consideration on placing SB 544 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Dorothy L. Hukill".

Dorothy L. Hukill, District 8

cc: Todd McKay, Staff Director of the Commerce and Tourism Committee  
Patty Blackburn, Administrative Assistant of the Commerce and Tourism Committee

**REPLY TO:**

- 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
- Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

✓  
544  
Bill Number (if applicable)

3/23/15  
Meeting Date

Topic MANUFACTURING SALES TAX EXEMP

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title EXECUTIVE DIRECTOR

Address 1625 SUMMIT LAKE DR  
Street

Phone 850 402 2954

TALLAHASSEE FL 32317  
City State Zip

Email nancy@nstephens.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing MANUFACTURERS ASSOCIATION OF FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23  
Meeting Date

SB 544  
Bill Number (if applicable)

Topic SALES TAX EXEMPTION

Amendment Barcode (if applicable)

Name JERRY SANSON

Job Title \_\_\_\_\_

Address PO Box 98

Phone 321-772-8130

Street

Cocoa

City

FL

State

32923

Zip

Email FISHAWK@AOL.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing NORTHROP GRUMMAN

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-23-15

Meeting Date

544

Bill Number (if applicable)

Topic Sales Tax on M & E

Amendment Barcode (if applicable)

Name Kurt Wenner

Job Title Vice President

Address 106 N. Bronough

Phone 222-5052

Tall FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Tax Watch

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/15  
Meeting Date

0544  
Bill Number (if applicable)

Topic Sales Tax Exemption Machinery

Amendment Barcode (if applicable)

Name Harry DUNCANSON

Job Title Chairman Government Affairs

Address 9704 Waters Meet Dr  
Street

Phone 854 401 5933

Tallahassee FL 32312  
City State Zip

Email harrydunc@comcast.net

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Printing Association of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-23-2015

Meeting Date

SB 544

Bill Number (if applicable)

Topic Sales Tax Exemption for Manufacturing Equipment

Amendment Barcode (if applicable)

Name Christian Weiss

Job Title Policy Coordinator, Governor's Office

Address 1702 Capitol

Phone 850.487.1880

Street

Tallahassee

Fl

32399

Email christian.weiss@myflorida.com

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [x] In Support [ ] Against (The Chair will read this information into the record.)

Representing The Governor's Office

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [x] Yes [ ] No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/15

*Meeting Date*

544

*Bill Number (if applicable)*

Topic M&E Sales Tax Exemption

*Amendment Barcode (if applicable)*

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St

Phone 850-521-1235

*Street*

Tallahassee

FL

32301

Email cjohnson@flchamber.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-23-15

Meeting Date

544

Bill Number (if applicable)

Topic Exemption from Sales and Use Tax

Amendment Barcode (if applicable)

Name Jon Costello

Job Title lobbyist

Address 119 S. Monroe

Phone 850-681-6788

Street

Tallahassee

City

FL

State

32301

Zip

Email jon@ruthless-lobby.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/15

*Meeting Date*

SB 544

*Bill Number (if applicable)*

Topic Sales and Use Tax Exemption

*Amendment Barcode (if applicable)*

Name Bill Wilson

Job Title Legislative Affairs Director, DEO

Address The Caldwell Building

Phone 850-245-7116

*Street*

Tallahassee

FL

32399

Email bill.wilson@deo.myflorida.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Department of Economic Opportunity

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/2015  
Meeting Date

SB 544  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name JOSE L. GONZALEZ

Job Title RVP STATE AFFAIRS

Address PO BOX 836  
Street

Phone 224-7173

TALLAHASSEE, FL 32302  
City State Zip

Email jose.gonzalez@ANHEUSER-BUSCH.COM

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ANHEUSER-BUSCH

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 798

INTRODUCER: Commerce and Tourism Committee and Senator Lee

SUBJECT: Household Moving Services

DATE: March 23, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Fav/CS
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 798 broadens protections for consumers who use intrastate moving services (shippers) by:

- Providing for a required insurance protection option for shippers' moved goods;
- Requiring a binding estimate of the cost of services to be provided by the mover; and
- Clarifying what payment a mover can demand prior to returning the moved goods to the shipper.

**II. Present Situation:**

Chapter 507, F.S., governs the loading, transportation, shipment, unloading, and affiliated storage of household goods as part of intrastate household moves. The chapter applies to any mover or moving broker engaged in intrastate transportation or shipment of household goods originating and terminating in the state.<sup>1</sup> These regulations co-exist with federal law, which governs interstate moving of household goods.

Section 507.01(9), F.S., defines "mover" as a person who, for compensation, contracts for or engages in the loading, transportation, shipment, or unloading of household goods as part of a

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<sup>1</sup> Section 507.02, F.S.

household move,<sup>2</sup> while a “moving broker” arranges for another to load, transport, ship, or unload household goods as part of a household move or refers a shipper to a mover by telephone, postal, or electronic mail, website, or other means.<sup>3</sup>

Section 507.03, F.S., requires any mover or moving broker who wishes to do business in Florida to register annually with the Department of Agriculture and Consumer Services (DACS); as of March 2015, 1,037 movers and 12 moving brokers were registered.<sup>4</sup> In order to obtain a registration certificate, the mover or moving broker must file an application, pay a \$300 annual registration fee, and meet certain statutory qualifications, including proof of insurance coverage.<sup>5</sup>

### **Insurance Coverage and Liability Limitations**

Section 507.04, F.S., requires movers and moving brokers to maintain liability and motor vehicle insurance. A mover who operates more than two vehicles is required to maintain liability insurance of at least \$10,000 per shipment, and not less than 60 cents per pound, per article.<sup>6</sup> Movers who operate fewer than two vehicles are required only to carry either a performance bond or a \$25,000 certificate of deposit in lieu of liability insurance.<sup>7</sup>

Any contractual limitation to a mover’s liability for loss incurred to a shipper’s goods must be disclosed in writing to the shipper, along with the valuation rate, but a mover’s attempt to limit its liability beyond the minimum 60 cents per pound, per article rate is void under s. 507.04(4), F.S. The mover must inform the shipper of the opportunity to purchase valuation coverage, if the mover offers such additional insurance.<sup>8</sup>

### **Violations and Penalties**

Section 507.05, F.S., requires an intrastate mover to provide an estimate and contract to the shipper before commencing the move. Should a dispute arise over payment or costs, s. 507.06, F.S., provides that the mover may place the shipper’s goods in a storage unit until payment is tendered. Because of ambiguity regarding what payment may legally be demanded, some shippers have been taken advantage of by deceptive or fraudulent moving practices.<sup>9</sup> Often, moving fraud manifests as an increased fee assessed by the mover, who then refuses to relinquish the shipper’s goods until the inflated price has been paid in full.

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<sup>2</sup> Section 507.01(9), F.S.

<sup>3</sup> Section 507.01(10), F.S.

<sup>4</sup> DACS, *SB 798 Agency Analysis* (February 24, 2015), on file with the Senate Commerce and Tourism Committee; Interview with DACS staff, March 17, 2015.

<sup>5</sup> Section 507.03(1), F.S.

<sup>6</sup> Section 507.04(4), F.S.

<sup>7</sup> Section 507.04(1)(b), F.S.

<sup>8</sup> Section 507.04(4), F.S.

<sup>9</sup> According to the Federal Motor Carrier Safety Administration (FMCSA), Florida is a hot spot for moving fraud. See, e.g. Christina Hernandez, *3 South Florida Moving Companies Accused of Holding Customer Shipments Hostage* (November 26, 2013), available at <http://www.nbcmiami.com/news/local/3-South-Florida-Moving-Companies-Accused-of-Holding-Customer-Shipments-Hostage-233525971.html> (last accessed March 16, 2015).

While administrative, civil, and criminal penalties exist in ch. 507, F.S., for such fraudulent moving practices and other violations, the aggrieved shipper is not guaranteed the return of his or her goods until after such remedies have been finalized.

### **Local Ordinances and Regulations**

Municipalities and counties may adopt local ordinances or regulations relating to the moving of household goods in addition to the state regulations required by statute.<sup>10</sup> Broward, Miami-Dade, Palm Beach, Hillsborough, and Pinellas counties currently have such ordinances. Movers or moving brokers whose principal place of business is located in a county or municipality with such ordinance are required to register under local and state laws. State law also allows for local taxes, fees, and bonding related to movers and moving brokers, so long as any local registration fees are reasonable and do not exceed the cost of administering the ordinance or regulation.<sup>11</sup>

## **III. Effect of Proposed Changes:**

### **Definitions and Legislative Intent**

**Section 1** defines terms used in the bill, deletes the definition of “estimate” (but provides for a binding estimate in later sections).

**Section 2** provides that the bill is intended to provide consistency and transparency in moving practices.

### **Insurance Requirement**

**Section 3** clarifies that movers must maintain current and valid *cargo* liability insurance coverage. The bill also removes the 60 cents per pound, per article minimum liability insurance requirement for the loss or damage of household goods, but adds a requirement that a mover offer valuation coverage<sup>12</sup> equal to at least the cost of replacement of the shipper’s goods, minus depreciation value. Valuation coverage can be more valuable to shippers than liability insurance in instances of loss of relatively light items, e.g., electronics, are lost or damaged during the move because they will be insured based on value rather than weight.

### **Before the Move**

**Section 6** requires a mover to provide a prospective shipper with an informational publication (see section 5) and a binding estimate (see section 4) prior to entering into any contract for moving services.

**Section 5** creates s. 507.054, F.S., which mandates that the DACS prepare a publication entitled “Your Rights and Responsibilities When You Move. Furnished by Your Mover, as Required by Florida Law.” This booklet, distributed by movers, must:

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<sup>10</sup> Section 507.09, F.S.

<sup>11</sup> Section 507.09, F.S.

<sup>12</sup> Valuation coverage will only cover loss caused by the mover’s fault, whereas moving coverage, available through an insurance agent, will cover loss caused by “acts of God.”

<https://www.protectyourmove.gov/consumer/awareness/valuation/valuation-insurance.htm>.

- Describe the shipper's and mover's rights and responsibilities, as well as available remedies;
- Bear an attestation signed by both parties signifying that they have read and understand the document as well as the criminal and administrative penalties for specific violations;
- Include a warning of the risks of shipping sentimental or family heirlooms;
- Be attached to the general contract for moving services as an integral part thereof; and
- Measure at least 36 square inches.

The shipper must acknowledge receipt of this publication by signed acknowledgement in the contract.

The binding estimate, described in **section 4** of the bill, must be based on the mover's physical survey of the household goods to be moved. Additionally, it must:

- Be provided to the shipper before the execution of a contract for services, and at least 48 hours before the move;
- Include at least an itemized total cost for the loading, transport or shipment, and unloading of household goods and accessorial services;
- Provide a table of measures used by the mover in preparing the estimate;
- Evince the date the estimate was prepared and the proposed date of the move;
- State that the estimate is binding on the mover and shipper;
- Identify accepted forms of payment; and
- Bear the signature of both parties.

A physical survey may only be waived if the goods are outside a 50-mile radius from the mover or if the shipper waives the right by signed writing. A binding estimate must be provided in every move performed by a mover, but the 48-hour period between provision of the binding estimate and the move may be waived by a shipper's signed acknowledgement in the contract.

The binding estimate may not be amended by the mover within 48 hours of the move unless the shipper requests additional services or unless both parties agree to amend the estimate.

A mover and shipper must enter into a contract for services prior to the performance of any services. In accordance with **section 4** of the bill, the contract must include:

- Contact information of both parties;
- Date contract was prepared and date of the move;
- Where the goods will be stored, including in the case of a contract dispute;
- A copy of the binding estimate;
- Total cost to shipper that may be collected by the mover at delivery, and terms of the payment; and
- Acceptable forms of payment.

The mover must retain a copy of the binding estimate and the contract for 1 year after their preparation dates and keep a copy with him or her during the entire move, for use should a dispute over cost or payment arise.

## Payment and Delivery of Goods

**Sections 7 and 8** provide for notice requirements if the mover is unable to perform the requested services on the date reflected in the contract. Additionally, the bill requires a mover to relinquish a shipper's goods inside the location directed by the shipper in a timely manner, if the shipper has paid the exact amount of the binding estimate; paid any additional charges properly agreed to by both parties in writing, if applicable; and paid any charges related to impracticable operations, if applicable.

According to **Section 8**, a mover may require payment in excess of the binding estimate prior to his or her relinquishment of the household goods, if:

- Prior to beginning the move, the parties negotiate a revised binding estimate to reflect extra services requested by the shipper.
- The shipper, after at least a 1-hour cool off period, consents by written contract addendum to the mover's performance of (and charging for) additional services that the mover has advised are essential to the move.
- After execution of the contract, the shipper requests additional services and the mover informs the shipper of associated charges in writing.
- Impracticable operations require additional services to be performed by the mover.

The mover cannot demand payment of any additional charges assessed under ch. 507, F.S., prior to relinquishing the shipper's household goods, but may collect payment by billing the shipper within 15 days after delivery of the goods. Payment for legitimate charges must be paid by the shipper within 30 days after receipt of the bill.

**Section 9** of the bill dictates that, should any partial loss or destruction of the household goods occur during shipment, the mover may collect the following payment at delivery of the household goods:

- A prorated payment based on the weight of the portion of the goods delivered versus those that were ordered to be moved;<sup>13</sup>
- Charges for additional services specifically requested by the shipper after execution of the contract;
- Charges for impracticable operations, which may not exceed 15 percent of all other charges due at delivery; and
- Charges for any valuation insurance purchased by the shipper.

The mover may not bill for any charges beyond those specified above if the partial loss of the shipper's goods resulted from an act or omission of the shipper.

If a total loss of the household goods occurs during the move, a mover may not collect any freight charges, including accessorial charges, but may collect valuation insurance charge.

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<sup>13</sup> A mover is responsible for determining the weight of the goods lost at his or her own expense under this bill.



**Violations and Penalties**

**Section 10** expressly prohibits increasing the contracted cost of the move, if not in accordance with ch. 507, F.S., improperly withholding a shipper's goods, and otherwise failing to comply with chapter 507.

**Section 11** creates administrative penalties for violations of ch. 507, F.S., including the suspension of a mover's license if the company's officer or director is charged with a crime involving fraud, theft, larceny, embezzlement, or fraudulent conversion or misappropriation of property, or a crime arising from conduct during movement of household goods.

**Section 12** creates criminal penalties for violations of ch. 507, F.S., including penalizing as a third degree felony any mover's refusal to relinquish a shipper's goods after a law enforcement officer determines that payment has been made in accordance with this chapter.

**Rulemaking Authority**

**Section 13** grants the DACS rulemaking authority to administer this bill.

**Effective Date**

**Section 14** creates an effective date of July 1, 2015.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The public may see a faster resolution to moving disputes that arise.

Movers may see increased costs related to the physical survey of a shipper's household goods, which may be passed on to consumers.

**C. Government Sector Impact:**

To the extent that there are violations of the provisions of this bill, the office of the state attorney in the jurisdiction in which the violation occurred may incur a negative fiscal impact due to the enforcement of the new violation.

The Criminal Justice Impact Conference (CJIC) considered SB 798, which had the same criminal penalties as CS/SB 798, and determined that SB 798 would have a positive insignificant impact (less than 10 per year) on prison beds.<sup>14</sup>

The Department of Agriculture and Consumer Services estimates that its license fee revenues will be reduced by \$2,400 each year, but has not performed a revenue impact on CS/SB 798.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends ss. 507.01, 507.02, 507.04, 507.05, 507.06, 507.07, 507.09, and 507.11, F.S.

This bill creates ss. 507.054, 507.055, 507.065, 507.066, and 507.14, F.S.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism on March 23, 2015:**

- The committee substitute maintains the requirement that moving brokers provide proof of insurance to the DACS;
- Removes requirement that movers publish a tariff;
- Allows shippers to waive the 48-hour waiting period between provision of a binding estimate and the move; and
- Clarifies what costs may be collected by the mover upon delivery of the moved household goods.

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<sup>14</sup> Florida Criminal Justice Impact Conference, *March 11, 2015 Results*, (March 11, 2015), available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/index.cfm> (last accessed March 19, 2015).

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2015	.	
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	.	

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The Committee on Commerce and Tourism (Bean) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present subsections (6) through (9) of section 507.01, Florida Statutes, are amended, and new subsection (8) is added to that section, to read:

507.01 Definitions.—As used in this chapter, the term:

~~(6) "Estimate" means a written document that sets forth the total costs and describes the basis of those costs, relating to~~



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11 ~~a shipper's household move, including, but not limited to, the~~  
12 ~~loading, transportation or shipment, and unloading of household~~  
13 ~~goods and accessorial services.~~

14 (6)~~(7)~~ "Household goods" or "goods" means personal effects  
15 or other personal property commonly found in a home, personal  
16 residence, or other dwelling, including, but not limited to,  
17 household furniture. The term does not include freight or  
18 personal property moving to or from a factory, store, or other  
19 place of business.

20 (7)~~(8)~~ "Household move" or "move" means the loading of  
21 household goods into a vehicle, moving container, or other mode  
22 of transportation or shipment; the transportation or shipment of  
23 those household goods; and the unloading of those household  
24 goods, when the transportation or shipment originates and  
25 terminates at one of the following ultimate locations,  
26 regardless of whether the mover temporarily stores the goods  
27 while en route between the originating and terminating  
28 locations:

29 (a) From one dwelling to another dwelling;

30 (b) From a dwelling to a storehouse or warehouse that is  
31 owned or rented by the shipper or the shipper's agent; or

32 (c) From a storehouse or warehouse that is owned or rented  
33 by the shipper or the shipper's agent to a dwelling.

34 (8) "Impracticable operations" means conditions that arise  
35 after execution of a contract for household moving services  
36 which make it impractical for a mover to perform pickup or  
37 delivery services for a household move.

38 (9) "Additional Services" means any additional  
39 transportation of household goods that is performed by a mover,



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40 is not specifically included in a binding estimate, and which  
41 results in a charge to the shipper.

42 (10)(9) "Mover" means a person who, for compensation,  
43 contracts for or engages in the loading, transportation or  
44 shipment, or unloading of household goods as part of a household  
45 move. The term does not include a postal, courier, envelope, or  
46 package service that does not advertise itself as a mover or  
47 moving service.

48 Section 2. Subsection (3) of section 507.02, Florida  
49 Statutes, is amended to read:

50 507.02 Construction; intent; application.—

51 (3) This chapter is intended to provide consistency and  
52 transparency in moving practices and to secure the satisfaction  
53 and confidence of shippers and members of the public when using  
54 a mover.

55 Section 3. Subsections (1), (3), (4), and (5) of section  
56 507.04, Florida Statutes, are amended to read:

57 507.04 Required insurance coverages; liability limitations;  
58 valuation coverage.—

59 (1) CARGO LIABILITY INSURANCE.—

60 (a)1. Except as provided in paragraph (b), each mover  
61 operating in this state must maintain current and valid cargo  
62 liability insurance coverage of at least \$10,000 per shipment  
63 for the loss or damage of household goods resulting from the  
64 negligence of the mover or its employees or agents.

65 2. The mover must provide the department with evidence of  
66 liability insurance coverage before the mover is registered with  
67 the department under s. 507.03. All insurance coverage  
68 maintained by a mover must remain in effect throughout the



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69 mover's registration period. ~~A mover's failure to maintain~~  
70 ~~insurance coverage in accordance with this paragraph constitutes~~  
71 ~~an immediate threat to the public health, safety, and welfare.~~  
72 ~~If a mover fails to maintain insurance coverage, the department~~  
73 ~~may immediately suspend the mover's registration or eligibility~~  
74 ~~for registration, and the mover must immediately cease operating~~  
75 ~~as a mover in this state. In addition, and notwithstanding the~~  
76 ~~availability of any administrative relief pursuant to chapter~~  
77 ~~120, the department may seek from the appropriate circuit court~~  
78 ~~an immediate injunction prohibiting the mover from operating in~~  
79 ~~this state until the mover complies with this paragraph, a civil~~  
80 ~~penalty not to exceed \$5,000, and court costs.~~

81 (b) A mover that operates two or fewer vehicles, in lieu of  
82 maintaining the cargo liability insurance coverage required  
83 under paragraph (a), may, and each moving broker must, maintain  
84 one of the following alternative coverages:

85 1. A performance bond in the amount of \$25,000, for which  
86 the surety of the bond must be a surety company authorized to  
87 conduct business in this state; or

88 2. A certificate of deposit in a Florida banking  
89 institution in the amount of \$25,000.

90

91 The original bond or certificate of deposit must be filed with  
92 the department and must designate the department as the sole  
93 beneficiary. The department must use the bond or certificate of  
94 deposit exclusively for the payment of claims to consumers who  
95 are injured by the fraud, misrepresentation, breach of contract,  
96 misfeasance, malfeasance, or financial failure of the mover or  
97 moving broker or by a violation of this chapter by the mover or



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98 broker. Liability for these injuries may be determined in an  
99 administrative proceeding of the department or through a civil  
100 action in a court of competent jurisdiction. However, claims  
101 against the bond or certificate of deposit must only be paid, in  
102 amounts not to exceed the determined liability for these  
103 injuries, by order of the department in an administrative  
104 proceeding. The bond or certificate of deposit is subject to  
105 successive claims, but the aggregate amount of these claims may  
106 not exceed the amount of the bond or certificate of deposit.

107 (3) INSURANCE COVERAGES.—The insurance coverages required  
108 under paragraph (1)(a) and subsection (2) must be issued by an  
109 insurance company or carrier licensed to transact business in  
110 this state under the Florida Insurance Code as designated in s.  
111 624.01. The department shall require a mover to present a  
112 certificate of insurance of the required coverages before  
113 issuance or renewal of a registration certificate under s.  
114 507.03. The department shall be named as a certificateholder in  
115 the certificate and must be notified at least 10 days before  
116 cancellation of insurance coverage. A mover's failure to  
117 maintain insurance coverage constitutes an immediate threat to  
118 the public health, safety, and welfare. If a mover fails to  
119 maintain insurance coverage, the department may immediately  
120 suspend the mover's registration or eligibility for  
121 registration, and the mover must immediately cease operating as  
122 a mover in this state. In addition, and notwithstanding the  
123 availability of any administrative relief pursuant to chapter  
124 120, the department may seek from the appropriate circuit court  
125 an immediate injunction prohibiting the mover from operating in  
126 this state until the mover complies with this paragraph, a civil





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127 penalty not to exceed \$5,000, and court costs.

128       (4) ~~LIABILITY LIMITATIONS; VALUATION RATES.~~ A mover may not  
129 limit its liability for the loss or damage of household goods to  
130 a valuation rate that is less than 60 cents per pound per  
131 article. A provision of a contract for moving services is void  
132 if the provision limits a mover's liability to a valuation rate  
133 that is less than the minimum rate under this subsection. If a  
134 mover limits its liability for a shipper's goods, the mover must  
135 disclose the limitation, including the valuation rate, to the  
136 shipper in writing at the time that the estimate and contract  
137 for services are executed and before any moving or accessorial  
138 services are provided. The disclosure must also inform the  
139 shipper of the opportunity to purchase valuation coverage if the  
140 mover offers that coverage under subsection (5).

141       (5) VALUATION COVERAGE.—A mover shall ~~may~~ offer valuation  
142 coverage to compensate a shipper for the loss or damage of the  
143 shipper's household goods that are lost or damaged during a  
144 household move. ~~If a mover offers valuation coverage,~~ The  
145 coverage must indemnify the shipper for at least the cost of  
146 replacement of the goods less depreciated value ~~minimum~~  
147 ~~valuation rate required under subsection (4).~~ The mover must  
148 disclose the terms of the coverage to the shipper in writing  
149 within ~~at the time that~~ the binding estimate and again when the  
150 contract for services is ~~are~~ executed and before any moving or  
151 accessorial services are provided. The disclosure must inform  
152 the shipper of the cost of the valuation coverage, if any ~~the~~  
153 ~~valuation rate of the coverage, and the opportunity to reject~~  
154 ~~the coverage. If valuation coverage compensates a shipper for at~~  
155 ~~least the minimum valuation rate required under subsection (4),~~



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156 ~~the coverage satisfies the mover's liability for the minimum~~  
157 ~~valuation rate.~~

158 Section 4. Section 507.05, Florida Statutes, is amended to  
159 read:

160 507.05 Physical surveys, binding estimates, and contracts  
161 for service. ~~Before providing any moving or accessorial~~  
162 ~~services, a contract and estimate must be provided to a~~  
163 ~~prospective shipper in writing, must be signed and dated by the~~  
164 ~~shipper and the mover, and must include:~~

165 (1) PHYSICAL SURVEY.—A mover must conduct a physical survey  
166 of the household goods to be moved and provide the prospective  
167 shipper with a binding estimate of the cost of the move.

168 (2) WAIVER OF SURVEY.—A shipper may elect to waive the  
169 physical survey, and such waiver must be in writing and signed  
170 by the shipper before the household goods are loaded. The mover  
171 shall retain a copy of the waiver as an addendum to the contract  
172 for service.

173 (3) BINDING ESTIMATE.—Before executing a contract for  
174 service for a household move, and at least 48 hours before the  
175 scheduled time and date of a shipment of household goods, a  
176 mover must provide a binding estimate of the total charges,  
177 including, but not limited to, the loading, transportation or  
178 shipment, and unloading of household goods and accessorial  
179 services. The binding estimate shall be based on a physical  
180 survey conducted pursuant to subsection (1), unless waived  
181 pursuant to subsection (2).

182 (a) The shipper may waive the 48 hour waiting period and  
183 such waiver must be made by signed acknowledgement in the  
184 contract.



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185 (b) At a minimum, the binding estimate must include all of  
186 the following:

187 1. The table of measures used by the mover or the mover's  
188 agent in preparing the estimate.

189 2. The date the estimate was prepared and the proposed date  
190 of the move, if any.

191 3. An itemized breakdown and description of services, and  
192 the total cost to the shipper of loading, transporting or  
193 shipping, unloading, and accessorial services.

194 4. A statement that the estimate is binding on the mover  
195 and the shipper and that the charges shown apply only to those  
196 services specifically identified in the estimate.

197 5. Identification of acceptable forms of payment.

198 (c) A mover may charge a one-time fee, not to exceed \$100,  
199 for providing a binding estimate.

200 (d) The binding estimate must be signed by the mover and  
201 the shipper, and a copy must be provided to the shipper by the  
202 mover at the time that the estimate is signed.

203 (e) A binding estimate may only be amended by the mover  
204 before the scheduled loading of household goods for shipment  
205 when the shipper has requested additional services of the mover  
206 not previously disclosed in the original binding estimate, or  
207 upon mutual agreement of the mover and the shipper. Once a mover  
208 begins to load the household goods for a move, failure to  
209 execute a new binding estimate signifies the mover has  
210 reaffirmed the original binding estimate.

211 (f) A mover may not collect more than the amount of the  
212 binding estimate unless:

213 1. The shipper tenders additional household goods, requests



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214 additional services, or requires services that are not  
215 specifically included in the binding estimate, in which case the  
216 mover is not required to honor the estimate. If, despite the  
217 addition of household goods or the need for additional services,  
218 the mover chooses to perform the move, it must, before loading  
219 the household goods, inform the shipper of the associated  
220 charges in writing. The mover may require full payment at the  
221 destination for the costs associated with the additional  
222 requested services and the full amount of the original binding  
223 estimate.

224 2. Upon issuance of the contract for services, the mover  
225 advises the shipper, in advance of performing additional  
226 services, including accessorial services, that such services are  
227 essential to properly performing the move. The mover must allow  
228 the shipper at least 1 hour to determine whether to authorize  
229 the additional services.

230 a. If the shipper agrees to pay for the additional  
231 services, the mover must execute a written addendum to the  
232 contract for services, which must be signed by the shipper. The  
233 addendum may be sent to the shipper by facsimile, e-mail,  
234 overnight courier, or certified mail, with return receipt  
235 requested. The mover must bill the shipper for the agreed upon  
236 additional services within 15 days after the delivery of those  
237 additional services pursuant to s. 507.06.

238 b. If the shipper does not agree to pay for the additional  
239 services, the mover may perform and, pursuant to s. 507.06, bill  
240 the shipper for those additional services necessary to complete  
241 the delivery.

242 (g) A mover shall retain a copy of the binding estimate for



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243 each move performed for at least 1 year after its preparation  
244 date as an attachment to the contract for service.

245 (4) CONTRACT FOR SERVICE.—Before providing any moving or  
246 accessorial services, a mover must provide a contract for  
247 service to the shipper, which the shipper must sign and date.

248 (a) At a minimum, the contract for service must include:

249 1. (1) The name, telephone number, and physical address  
250 where the mover's employees are available during normal business  
251 hours.

252 2. (2) The date the contract ~~was~~ ~~or estimate is~~ prepared and  
253 the ~~any~~ proposed date of the move, ~~if any.~~

254 3. (3) The name and address of the shipper, the addresses  
255 where the articles are to be picked up and delivered, and a  
256 telephone number where the shipper may be reached.

257 4. (4) The name, telephone number, and physical address of  
258 any location where the household goods will be held pending  
259 further transportation, including situations in which ~~where~~ the  
260 mover retains possession of household goods pending resolution  
261 of a fee dispute with the shipper.

262 5. (5) A binding estimate provided in accordance with s.  
263 ~~507.05 An itemized breakdown and description and total of all~~  
264 ~~costs and services for loading, transportation or shipment,~~  
265 ~~unloading, and accessorial services to be provided during a~~  
266 ~~household move or storage of household goods.~~

267 6. The total charges owed by the shipper based on the  
268 binding estimate and the terms and conditions for their payment,  
269 including any required minimum payment.

270 7. If the household goods are transported under an  
271 agreement to collect payment upon delivery, the maximum payment



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272 that the mover may demand at the time of delivery.

273 8.(6) Acceptable forms of payment, which must be clearly  
274 and conspicuously disclosed to the shipper on the binding  
275 estimate and the contract for services. A mover must ~~shall~~  
276 accept at least a minimum of two of the three following forms of  
277 payment:

278 a.(a) Cash, cashier's check, money order, or traveler's  
279 check;

280 b.(b) Valid personal check, showing upon its face the name  
281 and address of the shipper or authorized representative; or

282 c.(c) Valid credit card, which shall include, but not be  
283 limited to, Visa or MasterCard. A mover must clearly and  
284 conspicuously disclose to the shipper in the estimate and  
285 contract for services the forms of payments the mover will  
286 accept, including the forms of payment described in paragraphs  
287 (a)-(c).

288 (b) Each addendum to the contract for service is an  
289 integral part of the contract.

290 (c) A copy of the contract for service must accompany the  
291 household goods whenever they are in the mover's or the mover's  
292 agent's possession. Before a vehicle that is being used for the  
293 move leaves the point of origin, the driver responsible for the  
294 move must have the contract for service in his or her  
295 possession.

296 (d) A mover shall retain a contract for service for each  
297 move it performs for at least 1 year after the date the contract  
298 for service was signed.

299 Section 5. Section 507.054, Florida Statutes, is created to  
300 read:



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301 507.054 Publication.—

302 (1) The department shall prepare a publication that  
303 includes a summary of the rights and responsibilities of, and  
304 remedies available to movers and shippers under this chapter.  
305 The publication must include a statement that a mover's failure  
306 to relinquish household goods as required by this chapter  
307 constitutes a felony of the third degree, punishable as provided  
308 in s. 775.082, s. 775.083, or s. 775.084, that any other  
309 violation of this chapter constitutes a misdemeanor of the first  
310 degree, punishable as provided in s. 775.082 or s. 775.083, and  
311 that any violation of this chapter constitutes a violation of  
312 the Florida Deceptive and Unfair Trade Practices Act. The  
313 publication must also include a notice to the shipper about the  
314 potential risks of shipping sentimental or family heirloom  
315 items.

316 (2) A mover may provide exact copies of the department's  
317 publication to shippers or may customize the color, design, and  
318 dimension of the front and back covers of the standard  
319 department publication. If the mover customizes the publication,  
320 the customized publication must include the content specified in  
321 subsection (1) and meet the following requirements:

322 (a) The font size used must be at least 10 points, with the  
323 exception that the following must appear prominently on the  
324 front cover in at least 12-point boldface type: "Your Rights and  
325 Responsibilities When You Move. Furnished by Your Mover, as  
326 Required by Florida Law."

327 (b) The size of the booklet must be at least 36 square  
328 inches.

329 (3) The shipper must acknowledge receipt of the publication



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330 by signed acknowledgement in the contract.

331 Section 6. Section 507.055, Florida Statutes, is created to  
332 read:

333 507.055 Required disclosure and acknowledgment of rights  
334 and remedies.—Before executing a contract for service for a  
335 move, a mover must provide to a prospective shipper all of the  
336 following:

337 (1) The publication required under s. 507.054.

338 (2) A concise, easy-to-read, and accurate binding estimate  
339 required under s. 507.05(3).

340 Section 7. Subsection (1) of section 507.06, Florida  
341 Statutes, is amended, and subsections (4) and (5) are added to  
342 that section, to read:

343 507.06 Delivery and storage of household goods.—

344 (1) On the agreed upon delivery date or within the  
345 timeframe specified in the contract for service, a—A mover must  
346 relinquish household goods to a shipper and must place the  
347 household goods inside a shipper's dwelling or, if directed by  
348 the shipper, inside a storehouse or warehouse that is owned or  
349 rented by the shipper or the shipper's agent, unless the shipper  
350 has not tendered payment pursuant to ss. 507.065 or 507.066 in  
351 the amount specified in a written contract or estimate signed  
352 and dated by the shipper. This requirement may be waived by the  
353 shipper. A mover may not, under any circumstances, refuse to  
354 relinquish prescription medicines and household goods for use by  
355 children, including children's furniture, clothing, or toys—  
356 under any circumstances.

357 (3) A mover that lawfully fails to relinquish a shipper's  
358 household goods may place the goods in storage until payment in





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359 accordance with ss. 507.065 or 507.066 is tendered; however, the  
360 mover must notify the shipper of the location where the goods  
361 are stored and the amount due within 5 days after receipt of a  
362 written request for that information from the shipper, which  
363 request must include the address where the shipper may receive  
364 the notice. A mover may not require a prospective shipper to  
365 waive any rights or requirements under this section.

366 (4) If a mover becomes aware that it will be unable to  
367 perform either the pickup or the delivery of household goods on  
368 the date agreed upon or during the timeframe specified in the  
369 contract for service due to circumstances not anticipated by the  
370 contract, the mover shall notify the shipper of the delay and  
371 advise the shipper of the amended date or timeframe within which  
372 the mover expects to pick up or deliver the household goods in a  
373 timely manner.

374 Section 8. Section 507.065, Florida Statutes, is created to  
375 read:

376 507.065 Payment.-

377 (1) Except as provided in s. 507.05(3), the maximum amount  
378 that a mover may charge before relinquishing household goods to  
379 a shipper is the exact amount of the binding estimate, plus  
380 charges for any additional services requested or agreed to in  
381 writing by the shipper after the contract for service was issued  
382 and for impracticable operations, if applicable.

383 (2) A mover must bill a shipper for any charges assessed  
384 under this chapter which are not collected upon delivery of  
385 household goods at their destination within 15 days after such  
386 delivery. A mover may assess a late fee for any uncollected  
387 charges if the shipper fails to make payment within 30 days



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388 after receipt of the bill.

389 Section 9. Section 507.066, Florida Statutes, is created to  
390 read:

391 507.066 Collection for losses.—

392 (1) PARTIAL LOSSES.—A mover may collect an adjusted payment  
393 from a shipper if part of a shipment of household goods is lost  
394 or destroyed.

395 (a) A mover may collect the following at delivery:

396 1. A prorated percentage of the binding estimate. The  
397 prorated percentage must equal the percentage of the weight of  
398 the portion of the household goods delivered relative to the  
399 total weight of the household goods that were ordered to be  
400 moved.

401 2. Charges for any additional services requested by the  
402 shipper after the contract for service was issued.

403 3. Charges for impracticable operations, if applicable;  
404 however, such charges may not exceed 15 percent of all other  
405 charges due at delivery.

406 4. Any specific valuation rate charges due, as provided in  
407 s. 507.04(4), if applicable.

408 (b) The mover may bill and collect from the shipper any  
409 remaining charges not collected at the time of delivery in  
410 accordance with s. 507.065. This paragraph does not apply if the  
411 loss or destruction of household goods occurred as a result of  
412 an act or omission of the shipper.

413 (c) A mover must determine, at its own expense, the  
414 proportion of the household goods, based on actual or  
415 constructive weight, which were lost or destroyed in transit.

416 (2) TOTAL LOSSES.—A mover may not collect, or require a



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417 shipper to pay, freight charges, including a charge for  
418 accessorial services, when a household goods shipment is lost or  
419 destroyed in transit; however, the mover may collect a specific  
420 valuation rate charge due, as provided in s. 507.04(4). This  
421 subsection does not apply if the loss or destruction was due to  
422 an act or omission of the shipper.

423 (3) SHIPPER'S RIGHTS.—A shipper's rights under this section  
424 are in addition to any other rights the shipper may have with  
425 respect to household goods that were lost or destroyed while in  
426 the custody of the mover or the mover's agent. These rights also  
427 apply regardless of whether the shipper exercises his or her  
428 right to obtain a refund of the portion of a mover's published  
429 freight charges corresponding to the portion of the lost or  
430 destroyed household goods, including any charges for accessorial  
431 services, at the time the mover disposes of claims for loss,  
432 damage, or injury to the household goods.

433 Section 10. Subsections (1), (4), and (5) of section  
434 507.07, Florida Statutes, are amended, to read:

435 507.07 Violations.—It is a violation of this chapter:

436 (1) To operate ~~conduct business as a mover or moving~~  
437 ~~broker, or advertise to engage in violation~~ the business of  
438 moving or fail to comply with ss. 507.03-507.10, or any other  
439 requirement under this chapter ~~offering to move, without being~~  
440 ~~registered with the department.~~

441 (4) To increase the contracted cost ~~fail to honor and~~  
442 ~~comply with all provisions of the contract for moving services~~  
443 in any way other than provided for in this chapter ~~or bill of~~  
444 ~~lading regarding the purchaser's rights, benefits, and~~  
445 ~~privileges thereunder.~~



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446 (5) To withhold delivery of household goods or in any way  
447 hold household goods in storage against the expressed wishes of  
448 the shipper if payment has been made as delineated in the  
449 estimate or contract for services, or pursuant to this chapter.

450 Section 11. Section 507.09, Florida Statutes, is amended to  
451 read:

452 507.09 Administrative remedies; penalties.—

453 (1) The department may enter an order doing one or more of  
454 the following if the department finds that a mover or moving  
455 broker, or a person employed or contracted by a mover or broker,  
456 has violated or is operating in violation of this chapter or the  
457 rules or orders issued pursuant to this chapter:

458 (a) Issuing a notice of noncompliance under s. 120.695.

459 (b) Imposing an administrative fine in the Class II  
460 category pursuant to s. 570.971 for each act or omission.

461 (c) Directing that the person cease and desist specified  
462 activities.

463 (d) Refusing to register or revoking or suspending a  
464 registration.

465 (e) Placing the registrant on probation, subject to the  
466 conditions specified by the department.

467 (2) The department shall, upon notification and subsequent  
468 written verification by a law enforcement agency, a court, a  
469 state attorney, or the Department of Law Enforcement,  
470 immediately suspend a registration or the processing of an  
471 application for a registration if the registrant, applicant, or  
472 an officer or director of the registrant or applicant is  
473 formally charged with a crime involving fraud, theft, larceny,  
474 embezzlement, or fraudulent conversion or misappropriation of



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475 property or a crime arising from conduct during a movement of  
476 household goods until final disposition of the case or removal  
477 or resignation of that officer or director.

478 (3) The administrative proceedings that ~~which~~ could result  
479 in the entry of an order imposing any of the penalties specified  
480 in subsection (1) or subsection (2) are governed by chapter 120.

481 ~~(3) The department may adopt rules under ss. 120.536(1) and~~  
482 ~~120.54 to administer this chapter.~~

483 Section 12. Section 507.11, Florida Statutes, is amended to  
484 read:

485 507.11 Criminal penalties.—

486 (1) The refusal of a mover or a mover's employee, agent, or  
487 contractor to comply with an order from a law enforcement  
488 officer to relinquish a shipper's household goods after the  
489 officer determines that the shipper has tendered payment in  
490 accordance with ss. 507.065 and 507.066 ~~of the amount of a~~  
491 ~~written estimate or contract~~, or after the officer determines  
492 that the mover did not produce a signed estimate or contract for  
493 service upon which demand is being made for payment, is a felony  
494 of the third degree, punishable as provided in s. 775.082, s.  
495 775.083, or s. 775.084. A mover's compliance with an order from  
496 a law enforcement officer to relinquish household goods to a  
497 shipper is not a waiver or finding of fact regarding any right  
498 to seek further payment from the shipper.

499 (2) Except as provided in subsection (1), any person or  
500 business that violates this chapter commits a misdemeanor of the  
501 first degree, punishable as provided in s. 775.082 or s.  
502 775.083.

503 Section 13. Section 507.14, Florida Statutes, is created



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504 to read:

505 507.14 Rulemaking.—The department shall adopt rules to  
506 administer this chapter.

507 Section 14. This act shall take effect July 1, 2015.

508

509 ===== T I T L E A M E N D M E N T =====

510 And the title is amended as follows:

511 Delete everything before the enacting clause

512 and insert:

513

A bill to be entitled

514 An act relating to household moving services; amending

515 s. 507.01, F.S.; defining terms; amending s. 507.02,

516 F.S.; clarifying intent; amending s. 507.04, F.S.;

517 removing a prohibition that a mover may not limit its

518 liability for the loss or damage of household goods to

519 a specified valuation rate; removing a requirement

520 that a mover disclose a liability limitation when the

521 mover limits its liability for a shipper's goods;

522 requiring a mover to offer valuation coverage to

523 compensate a shipper for the loss or damage of the

524 shipper's household goods that are lost or damaged

525 during a household move; requiring the valuation

526 coverage to indemnify the shipper for at least the

527 cost of replacement goods less depreciated value;

528 revising the time at which the mover must disclose the

529 terms of the coverage to the shipper in writing;

530 revising the information that the disclosure must

531 provide to the shipper; amending s. 507.05, F.S.;

532 requiring a mover to conduct a physical survey and



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533 provide a binding estimate in certain circumstances  
534 unless waived by the shipper; requiring specified  
535 content for the binding estimate; authorizing the  
536 mover to provide a maximum one-time fee for providing  
537 a binding estimate; requiring the mover and shipper to  
538 sign the estimate; requiring the mover to provide the  
539 shipper with a copy of the estimate at the time of  
540 signature; providing that a binding estimate may only  
541 be amended under certain circumstances; authorizing a  
542 mover to charge more than the binding estimate in  
543 certain circumstances; requiring a mover to allow a  
544 shipper to consider whether additional services are  
545 needed; requiring a mover to retain a copy of the  
546 binding estimate for a specified period; requiring a  
547 mover to provide a contract for service to the shipper  
548 before providing moving or accessorial services;  
549 requiring a driver to have possession of the contract  
550 before leaving the point of origin; requiring a mover  
551 to retain a contract of service for a specified  
552 period; creating s. 507.054, F.S.; requiring the  
553 department to prepare a publication that summarizes  
554 the rights and responsibilities of, and remedies  
555 available to, movers and shippers; requiring the  
556 publication to meet certain specifications; creating  
557 s. 507.055, F.S.; requiring a mover to provide certain  
558 disclosures to a prospective shipper; amending s.  
559 507.06, F.S.; requiring a mover to tender household  
560 goods for delivery on the agreed upon delivery date or  
561 within a specified period unless waived by the



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562 shipper; requiring a mover to notify and provide  
563 certain information to a shipper if the mover is  
564 unable to perform delivery on the agreed upon date or  
565 during the specified period; creating s. 507.065,  
566 F.S.; providing a maximum amount that a mover may  
567 charge a shipper; requiring a mover to bill a shipper  
568 for certain amounts within a specified period;  
569 creating s. 507.066, F.S.; specifying the amount of  
570 payment that the mover may collect upon delivery of  
571 partially lost or destroyed household goods; requiring  
572 a mover to determine the proportion of lost or  
573 destroyed household goods; prohibiting a mover from  
574 collecting or requiring a shipper to pay any charges  
575 other than specific valuation rate charges if a  
576 household goods shipment is totally lost or destroyed  
577 in transit; amending s. 507.07, F.S.; providing that  
578 it is a violation of ch. 507, F.S., to fail to comply  
579 with specified provisions; providing that it is a  
580 violation of ch. 507, F.S., to increase the contracted  
581 cost for moving services in certain circumstances;  
582 conforming a provision to a change made by this act;  
583 amending s. 507.09, F.S.; requiring the department,  
584 upon verification by certain entities, to immediately  
585 suspend a registration or the processing of an  
586 application for a registration in certain  
587 circumstances; amending s. 507.11, F.S.; providing  
588 criminal penalties; creating s. 507.14, F.S.;  
589 requiring the department to adopt rules; providing an  
590 effective date.



By Senator Lee

24-00392B-15

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1 A bill to be entitled  
 2 An act relating to household moving services; amending  
 3 s. 507.01, F.S.; defining terms; amending s. 507.02,  
 4 F.S.; clarifying intent; amending s. 507.03, F.S.;  
 5 revising the registration fees for a moving broker;  
 6 removing the requirement that a moving broker provide  
 7 evidence of current and valid insurance or alternative  
 8 coverage; amending s. 507.04, F.S.; removing a  
 9 prohibition that a mover may not limit its liability  
 10 for the loss or damage of household goods to a  
 11 specified valuation rate; removing a requirement that  
 12 a mover disclose a liability limitation when the mover  
 13 limits its liability for a shipper's goods; requiring  
 14 a mover to offer valuation coverage to compensate a  
 15 shipper for the loss or damage of the shipper's  
 16 household goods that are lost or damaged during a  
 17 household move; requiring the valuation coverage to  
 18 indemnify the shipper for at least the cost of  
 19 replacement goods less depreciated value; revising the  
 20 time at which the mover must disclose the terms of the  
 21 coverage to the shipper in writing; revising the  
 22 information that the disclosure must provide to the  
 23 shipper; creating s. 507.045, F.S.; requiring a mover  
 24 to annually publish, file, and post a tariff with the  
 25 Department of Agricultural and Consumer Services;  
 26 requiring the department to reject a noncomplying  
 27 tariff; providing that a tariff must contain certain  
 28 information; prohibiting a mover from charging,  
 29 demanding, collecting, or receiving compensation

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30 beyond that agreed upon by the mover and shipper;  
 31 requiring a mover to provide certain notice to the  
 32 department about changes in rates or charges and  
 33 related rules; providing that the department may waive  
 34 a certain notice requirement; amending s. 507.05,  
 35 F.S.; requiring a mover to conduct a physical survey  
 36 and provide a binding estimate in certain  
 37 circumstances unless waived by the shipper in writing;  
 38 requiring specified content for the binding estimate;  
 39 authorizing the mover to provide a maximum one-time  
 40 fee for providing a binding estimate; requiring the  
 41 mover and shipper to sign the estimate; requiring the  
 42 mover to provide the shipper with a copy of the  
 43 estimate at the time of signature; providing that a  
 44 binding estimate may only be amended under certain  
 45 circumstances; providing that a mover reaffirms the  
 46 original binding estimate once the mover begins to  
 47 load the household goods for a move; authorizing a  
 48 mover to charge more than the binding estimate in  
 49 certain circumstances; requiring a mover to allow a  
 50 shipper to consider whether additional services are  
 51 needed; requiring a mover to retain a copy of the  
 52 binding estimate for a specified period; requiring a  
 53 mover to provide a contract for service to the shipper  
 54 before providing moving or accessorial services;  
 55 requiring a driver to have possession of the contract  
 56 before leaving the point of origin; requiring a mover  
 57 to retain a contract of service for a specified  
 58 period; creating s. 507.054, F.S.; requiring the

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59 department to prepare a publication that summarizes  
 60 the rights and responsibilities of, and remedies  
 61 available to, movers and shippers; requiring the  
 62 publication to meet certain specifications; creating  
 63 s. 507.055, F.S.; requiring a mover to provide certain  
 64 disclosures to a prospective shipper; amending s.  
 65 507.06, F.S.; requiring a mover to tender household  
 66 goods for delivery on the agreed upon delivery date or  
 67 within a specified period unless waived by the  
 68 shipper; requiring a mover to immediately notify and  
 69 provide certain information to a shipper if the mover  
 70 is unable to perform delivery on the agreed upon date  
 71 or during the specified period; requiring a mover to  
 72 take certain actions if the mover amends the date or  
 73 period for pick up or delivery; creating s. 507.065,  
 74 F.S.; providing a maximum amount that a mover may  
 75 charge a shipper; requiring a mover to bill a shipper  
 76 for certain amounts within a specified period;  
 77 creating s. 507.066, F.S.; specifying the amount of  
 78 payment that the mover may collect upon delivery of  
 79 partially lost or destroyed household goods; requiring  
 80 a mover to determine the proportion of lost or  
 81 destroyed household goods; prohibiting a mover from  
 82 collecting or requiring a shipper to pay any charges  
 83 other than specific valuation rate charges if a  
 84 household goods shipment is totally lost or destroyed  
 85 in transit; amending s. 507.07, F.S.; providing that  
 86 it is a violation of ch. 507, F.S., to fail to comply  
 87 with specified provisions; providing that it is a

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88 violation of ch. 507, F.S., to increase the contracted  
 89 cost for moving services in certain circumstances;  
 90 conforming a provision to a change made by this act;  
 91 amending s. 507.09, F.S.; requiring the department,  
 92 upon verification by certain entities, to immediately  
 93 suspend a registration or the processing of an  
 94 application for a registration in certain  
 95 circumstances; amending s. 507.11, F.S.; providing  
 96 criminal penalties; conforming a provision to a change  
 97 made by this act; creating s. 507.14, F.S.; requiring  
 98 the department to adopt rules; providing an effective  
 99 date.

100  
 101 Be It Enacted by the Legislature of the State of Florida:

102  
 103 Section 1. Present subsections (6) through (9) of section  
 104 507.01, Florida Statutes, are amended, and new subsections (8)  
 105 and (14) are added to that section, to read:

106 507.01 Definitions.—As used in this chapter, the term:

107 ~~(6) "Estimate" means a written document that sets forth the~~  
 108 ~~total costs and describes the basis of those costs, relating to~~  
 109 ~~a shipper's household move, including, but not limited to, the~~  
 110 ~~loading, transportation or shipment, and unloading of household~~  
 111 ~~goods and accessorial services.~~

112 (6)(7) "Household goods" or "goods" means personal effects  
 113 or other personal property commonly found in a home, personal  
 114 residence, or other dwelling, including, but not limited to,  
 115 household furniture. The term does not include freight or  
 116 personal property moving to or from a factory, store, or other

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117 place of business.

118 ~~(7)~~<sup>(8)</sup> "Household move" or "move" means the loading of  
 119 household goods into a vehicle, moving container, or other mode  
 120 of transportation or shipment; the transportation or shipment of  
 121 those household goods; and the unloading of those household  
 122 goods, when the transportation or shipment originates and  
 123 terminates at one of the following ultimate locations,  
 124 regardless of whether the mover temporarily stores the goods  
 125 while en route between the originating and terminating  
 126 locations:

127 (a) From one dwelling to another dwelling;

128 (b) From a dwelling to a storehouse or warehouse that is  
 129 owned or rented by the shipper or the shipper's agent; or

130 (c) From a storehouse or warehouse that is owned or rented  
 131 by the shipper or the shipper's agent to a dwelling.

132 (8) "Impracticable operations" means conditions that make  
 133 it impossible for a mover to perform pickup or delivery services  
 134 for a household move with its road haulage equipment.

135 (9) "Mover" means a person who, for compensation, contracts  
 136 for or engages in the loading, transportation or shipment, or  
 137 unloading of household goods as part of a household move. The  
 138 term does not include a postal, courier, envelope, or package  
 139 service that does not advertise itself as a mover or moving  
 140 service or an individual that is hired as a laborer to assist a  
 141 shipper only in the loading and unloading of the shipper's own  
 142 household goods.

143 (14) "Tariff" means the document filed with the department  
 144 by a mover under s. 507.045 which reflects its rates and charges  
 145 for transportation and accessorial services.

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146 Section 2. Subsection (3) of section 507.02, Florida  
 147 Statutes, is amended to read:

148 507.02 Construction; intent; application.—

149 (3) This chapter is intended to provide consistency and  
 150 transparency in moving practices and to secure the satisfaction  
 151 and confidence of shippers and members of the public when using  
 152 a mover.

153 Section 3. Subsections (3) and (9) of section 507.03,  
 154 Florida Statutes, are amended to read:

155 507.03 Registration.—

156 (3) Registration fees shall be calculated at the rate of  
 157 \$300 per year per mover and \$100 per year per ~~or~~ moving broker.  
 158 All amounts collected shall be deposited by the Chief Financial  
 159 Officer to the credit of the General Inspection Trust Fund of  
 160 the department for the sole purpose of administration of this  
 161 chapter.

162 (9) Each mover ~~and moving broker~~ shall provide evidence of  
 163 the current and valid insurance or alternative coverages  
 164 required under s. 507.04.

165 Section 4. Subsections (1), (3), (4), and (5) of section  
 166 507.04, Florida Statutes, are amended to read:

167 507.04 Required insurance coverages; liability limitations;  
 168 valuation coverage.—

169 (1) CARGO LIABILITY INSURANCE.—

170 (a)1. Except as provided in paragraph (b), each mover  
 171 operating in this state must maintain current and valid cargo  
 172 liability insurance coverage of at least \$10,000 per shipment  
 173 for the loss or damage of household goods resulting from the  
 174 negligence of the mover or its employees or agents.

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175 2. The mover must provide the department with evidence of  
 176 liability insurance coverage before the mover is registered with  
 177 the department under s. 507.03. All insurance coverage  
 178 maintained by a mover must remain in effect throughout the  
 179 mover's registration period. ~~A mover's failure to maintain  
 180 insurance coverage in accordance with this paragraph constitutes  
 181 an immediate threat to the public health, safety, and welfare.  
 182 If a mover fails to maintain insurance coverage, the department  
 183 may immediately suspend the mover's registration or eligibility  
 184 for registration, and the mover must immediately cease operating  
 185 as a mover in this state. In addition, and notwithstanding the  
 186 availability of any administrative relief pursuant to chapter  
 187 120, the department may seek from the appropriate circuit court  
 188 an immediate injunction prohibiting the mover from operating in  
 189 this state until the mover complies with this paragraph, a civil  
 190 penalty not to exceed \$5,000, and court costs.~~

191 (b) A mover that operates two or fewer vehicles, in lieu of  
 192 maintaining the cargo liability insurance coverage required  
 193 under paragraph (a), may, and each moving broker must, maintain  
 194 one of the following alternative coverages:

195 1. A performance bond in the amount of \$25,000, for which  
 196 the surety of the bond must be a surety company authorized to  
 197 conduct business in this state; or

198 2. A certificate of deposit in a Florida banking  
 199 institution in the amount of \$25,000.

200  
 201 The original bond or certificate of deposit must be filed with  
 202 the department and must designate the department as the sole  
 203 beneficiary. The department must use the bond or certificate of

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204 deposit exclusively for the payment of claims to consumers who  
 205 are injured by the fraud, misrepresentation, breach of contract,  
 206 misfeasance, malfeasance, or financial failure of the mover or  
 207 moving broker or by a violation of this chapter by the mover or  
 208 broker. Liability for these injuries may be determined in an  
 209 administrative proceeding of the department or through a civil  
 210 action in a court of competent jurisdiction. However, claims  
 211 against the bond or certificate of deposit must only be paid, in  
 212 amounts not to exceed the determined liability for these  
 213 injuries, by order of the department in an administrative  
 214 proceeding. The bond or certificate of deposit is subject to  
 215 successive claims, but the aggregate amount of these claims may  
 216 not exceed the amount of the bond or certificate of deposit.

217 (3) INSURANCE COVERAGES.—The insurance coverages required  
 218 under paragraph (1) (a) and subsection (2) must be issued by an  
 219 insurance company or carrier licensed to transact business in  
 220 this state under the Florida Insurance Code as designated in s.  
 221 624.01. The department shall require a mover to present a  
 222 certificate of insurance of the required coverages before  
 223 issuance or renewal of a registration certificate under s.  
 224 507.03. The department shall be named as a certificateholder in  
 225 the certificate and must be notified at least 10 days before  
 226 cancellation of insurance coverage. A mover's failure to  
 227 maintain insurance coverage constitutes an immediate threat to  
 228 the public health, safety, and welfare. If a mover fails to  
 229 maintain insurance coverage, the department may immediately  
 230 suspend the mover's registration or eligibility for  
 231 registration, and the mover must immediately cease operating as  
 232 a mover in this state. In addition, and notwithstanding the

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233 availability of any administrative relief pursuant to chapter  
 234 120, the department may seek from the appropriate circuit court  
 235 an immediate injunction prohibiting the mover from operating in  
 236 this state until the mover complies with this paragraph, a civil  
 237 penalty not to exceed \$5,000, and court costs.

238 ~~(4) LIABILITY LIMITATIONS; VALUATION RATES. A mover may not~~  
 239 ~~limit its liability for the loss or damage of household goods to~~  
 240 ~~a valuation rate that is less than 60 cents per pound per~~  
 241 ~~article. A provision of a contract for moving services is void~~  
 242 ~~if the provision limits a mover's liability to a valuation rate~~  
 243 ~~that is less than the minimum rate under this subsection. If a~~  
 244 ~~mover limits its liability for a shipper's goods, the mover must~~  
 245 ~~disclose the limitation, including the valuation rate, to the~~  
 246 ~~shipper in writing at the time that the estimate and contract~~  
 247 ~~for services are executed and before any moving or accessorial~~  
 248 ~~services are provided. The disclosure must also inform the~~  
 249 ~~shipper of the opportunity to purchase valuation coverage if the~~  
 250 ~~mover offers that coverage under subsection (5).~~

251 ~~(5) VALUATION COVERAGE.~~—A mover shall may offer valuation  
 252 coverage to compensate a shipper for the loss or damage of the  
 253 shipper's household goods that are lost or damaged during a  
 254 household move. ~~If a mover offers valuation coverage,~~ The  
 255 coverage must indemnify the shipper for at least the cost of  
 256 replacement of the goods less depreciated value minimum  
 257 ~~valuation rate required under subsection (4).~~ The mover must  
 258 disclose the terms of the coverage to the shipper in writing  
 259 within at the time that the binding estimate and again when the  
 260 contract for services is are executed and before any moving or  
 261 accessorial services are provided. The disclosure must inform

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262 the shipper of the cost of the valuation coverage, if any the  
 263 valuation rate of the coverage, and the opportunity to reject  
 264 the coverage. If valuation coverage compensates a shipper for at  
 265 least the minimum valuation rate required under subsection (4),  
 266 the coverage satisfies the mover's liability for the minimum  
 267 valuation rate.

268 Section 5. Section 507.045, Florida Statutes, is created to  
 269 read:

270 507.045 Tariffs.—

271 (1) Each mover shall annually file a tariff with the  
 272 department which must be posted and available for public  
 273 inspection. Such tariff must be clear and concise and arranged  
 274 in a manner that allows a shipper to determine the precise cost  
 275 of, and the terms of service applicable to, the move. The  
 276 department may reject a tariff that fails to meet the  
 277 requirements of this section or department rule, and such tariff  
 278 is void and its use is unlawful.

279 (2) At a minimum, a tariff must contain the following  
 280 information:

281 (a) A table of contents, arranged in alphabetical order,  
 282 which shows the page number or item number for each household  
 283 good or accessorial service. If the content of a tariff is so  
 284 limited that its title page or interior arrangement plainly  
 285 discloses its contents, the table of contents may be omitted.

286 (b) An index of the household goods, with specific rates,  
 287 which makes reference to the page or items where the household  
 288 goods are listed. An index is not required if the tariff has  
 289 fewer than five pages or if the rates for a destination are  
 290 listed alphabetically by household good.

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291 (c) An explanation of any notes, abbreviations, or symbols.

292 (d) Clear and explicit terms that specify covered services.

293 (e) A transportation rate that is explicitly stated in a  
294 dollar amount.

295 (f) The charge for any accessorial service rendered in  
296 connection with the move. The tariff must separately state each  
297 service to be rendered and the associated charge.

298 1. Charges for packing and unpacking must be stated as  
299 amounts per moving container or per 100 pounds of weight.

300 2. An hourly labor charge for miscellaneous labor services  
301 performed at the request of the shipper shall be specified if a  
302 flat rate for all such services is not stated.

303 (g) A charge for impracticable operations, including  
304 identification of the specific services considered to be  
305 impracticable operations.

306 (h) The mileage associated with the tariff, or the method  
307 by which mileage will be determined for the tariff, which must  
308 be based on the distance between the point of origin and the  
309 destination.

310 (3) A mover may not charge, demand, collect, or receive  
311 compensation for transportation or accessorial services in an  
312 amount greater than the rates and charges specified in the  
313 tariff that was in effect on the date that the binding estimate  
314 required under s. 507.05(3) was signed by the mover and the  
315 shipper.

316 (4) A change to a rate or charge, or the manner in which  
317 such rate or charge is calculated, specified in a mover's tariff  
318 is not effective until 30 days after the mover provides notice  
319 of the proposed change to the department. Such notice must

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320 plainly state the proposed change and its effective date. Upon a  
321 showing of good cause, the department may waive the 30-day  
322 notice requirement.

323 Section 6. Section 507.05, Florida Statutes, is amended to  
324 read:

325 507.05 Physical surveys, binding estimates, and contracts  
326 for service. ~~Before providing any moving or accessorial~~  
327 ~~services, a contract and estimate must be provided to a~~  
328 ~~prospective shipper in writing, must be signed and dated by the~~  
329 ~~shipper and the mover, and must include:~~

330 (1) PHYSICAL SURVEY.—A mover must conduct a physical survey  
331 of the household goods to be moved and provide the prospective  
332 shipper with a binding estimate of the cost of the move. A  
333 physical survey is not required if the household goods are  
334 located outside a 50-mile radius of the location of the agent  
335 who prepares the estimate.

336 (2) WAIVER OF SURVEY.—A shipper may elect to waive the  
337 physical survey, and such waiver must be in writing and signed  
338 by the shipper before the household goods are loaded. The mover  
339 shall retain a copy of the waiver as an addendum to the contract  
340 for service.

341 (3) BINDING ESTIMATE.—Before executing a contract for  
342 service for a household move, and at least 48 hours before the  
343 scheduled time and date of a shipment of household goods, a  
344 mover must provide a binding estimate of the total charges,  
345 including, but not limited to, the loading, transportation or  
346 shipment, and unloading of household goods and accessorial  
347 services. The binding estimate shall be based on a physical  
348 survey conducted pursuant to subsection (1), unless waived

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349 pursuant to subsection (2).

350 (a) At a minimum, the binding estimate must include all of  
 351 the following:

352 1. The table of measures used by the mover or the mover's  
 353 agent in preparing the estimate.

354 2. The date the estimate was prepared and the proposed date  
 355 of the move, if any.

356 3. An itemized breakdown and description of services, and  
 357 the total cost to the shipper of loading, transporting or  
 358 shipping, unloading, and accessorial services.

359 4. A statement that the estimate is binding on the mover  
 360 and the shipper and that the charges shown apply only to those  
 361 services specifically identified in the estimate.

362 5. Identification of acceptable forms of payment.

363 (b) A mover may charge a one-time fee, not to exceed \$100,  
 364 for providing a binding estimate.

365 (c) The binding estimate must be signed by the mover and  
 366 the shipper, and a copy must be provided to the shipper by the  
 367 mover at the time that the estimate is signed.

368 (d) A binding estimate may only be amended by the mover  
 369 before the 48 hours immediately preceding the scheduled loading  
 370 of household goods for shipment, when the shipper has requested  
 371 additional services of the mover not previously disclosed in the  
 372 original binding estimate, or upon mutual agreement of the mover  
 373 and the shipper. Once a mover begins to load the household goods  
 374 for a move, failure to execute a new binding estimate signifies  
 375 the mover has reaffirmed the original binding estimate.

376 (e) A mover may not collect more than the amount of the  
 377 binding estimate unless:

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378 1. The shipper tenders additional household goods or  
 379 requires services that are not specifically included in the  
 380 binding estimate, in which case the mover is not required to  
 381 honor the estimate. If, despite the addition of household goods  
 382 or the need for additional services, the mover chooses to  
 383 perform the move, it must, before loading the household goods,  
 384 reaffirm the binding estimate or negotiate a revised binding  
 385 estimate.

386 2. Upon issuance of the contract for services, the mover  
 387 advises the shipper, in advance of performing additional  
 388 services, including accessorial services, that such services are  
 389 essential to properly performing the move. The mover must allow  
 390 the shipper at least 1 hour to determine whether to authorize  
 391 the additional services.

392 a. If the shipper agrees to pay for the additional  
 393 services, the mover must execute a written addendum to the  
 394 contract for services, which must be signed by the shipper. The  
 395 addendum may be sent to the shipper by facsimile, e-mail,  
 396 overnight courier, or certified mail, with return receipt  
 397 requested. The mover must bill the shipper for only the agreed  
 398 upon additional services within 15 days after the delivery of  
 399 those additional services pursuant to s. 507.06.

400 b. If the shipper does not agree to pay for the additional  
 401 services, the mover may perform and, pursuant to s. 507.06, bill  
 402 the shipper for only those additional services necessary to  
 403 complete the delivery.

404 3. The shipper requests additional services after the  
 405 contract for service has been issued, in which case the mover  
 406 must inform the shipper of the associated charges in writing.

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407 The mover may require full payment at the destination for the  
 408 costs associated with the additional requested services and the  
 409 full amount of the original binding estimate.  
 410 (f) A mover shall retain a copy of the binding estimate for  
 411 each move performed for at least 1 year after its preparation  
 412 date as an attachment to the contract for service.  
 413 (4) CONTRACT FOR SERVICE.—Before providing any moving or  
 414 accessorial services, a mover must provide a contract for  
 415 service to the shipper, which the shipper must sign and date.  
 416 (a) At a minimum, the contract for service must include:  
 417 1.(1) The name, telephone number, and physical address  
 418 where the mover's employees are available during normal business  
 419 hours.  
 420 2.(2) The date the contract was ~~or~~ estimate is prepared and  
 421 the any proposed date of the move, if any.  
 422 3.(3) The name and address of the shipper, the addresses  
 423 where the articles are to be picked up and delivered, and a  
 424 telephone number where the shipper may be reached.  
 425 4.(4) The name, telephone number, and physical address of  
 426 any location where the household goods will be held pending  
 427 further transportation, including situations in which ~~where~~  
 428 mover retains possession of household goods pending resolution  
 429 of a fee dispute with the shipper.  
 430 5.(5) An itemized breakdown and description and total of  
 431 all costs and services for loading, transportation or shipment,  
 432 unloading, and accessorial services to be provided during a  
 433 household move or storage of household goods.  
 434 6. The total charges owed by the shipper based on the  
 435 binding estimate and the terms and conditions for their payment,

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436 including any required minimum payment.  
 437 7. If the household goods are transported under an  
 438 agreement to collect payment upon delivery, the maximum payment  
 439 that the mover may demand at the time of delivery.  
 440 8.(6) Acceptable forms of payment, which must be clearly  
 441 and conspicuously disclosed to the shipper on the binding  
 442 estimate and the contract for services. A mover ~~must~~ shall  
 443 accept at least a minimum of two of the three following forms of  
 444 payment:  
 445 a.(a) Cash, cashier's check, money order, or traveler's  
 446 check;  
 447 b.(b) Valid personal check, showing upon its face the name  
 448 and address of the shipper or authorized representative; or  
 449 c.(c) Valid credit card, which shall include, but not be  
 450 limited to, Visa or MasterCard. A mover ~~must~~ clearly and  
 451 conspicuously disclose to the shipper in the estimate and  
 452 contract for services the forms of payments the mover will  
 453 accept, including the forms of payment described in paragraphs  
 454 (a)-(e).  
 455 (b) Each addendum to the contract for service is an  
 456 integral part of the contract.  
 457 (c) A copy of the contract for service must accompany the  
 458 household goods whenever they are in the mover's or the mover's  
 459 agent's possession. Before a vehicle that is being used for the  
 460 move leaves the point of origin, the driver responsible for the  
 461 move must have the contract for service in his or her  
 462 possession.  
 463 (d) A mover shall retain a contract for service for each  
 464 move it performs for at least 1 year after the date the contract

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465 for service was signed.

466 Section 7. Section 507.054, Florida Statutes, is created to  
467 read:

468 507.054 Publication.—

469 (1) The department shall prepare a publication that  
470 includes a summary of the rights and responsibilities of, and  
471 remedies available to, movers and shippers under this chapter.  
472 The publication must include a form, to be signed by the mover  
473 and shipper, stating that both parties have read and understand  
474 the document and an acknowledgement, to be signed by the mover,  
475 that the failure of a mover to relinquish household goods as  
476 required by this chapter constitutes a felony of the third  
477 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
478 775.084, that any other violation of this chapter constitutes a  
479 misdemeanor of the first degree, punishable as provided in s.  
480 775.082 or s. 775.083, and that any violation of this chapter  
481 constitutes a violation of the Florida Deceptive and Unfair  
482 Trade Practices Act. The publication must also include a notice  
483 to the shipper about the potential risks of shipping sentimental  
484 or family heirloom items. The publication, including the signed  
485 and dated form, must be attached as an integral part of the  
486 contract for service.

487 (2) A mover may provide exact copies of the department's  
488 publication to shippers or may customize the color, design, and  
489 dimension of the front and back covers of the standard  
490 department publication. If the mover customizes the publication,  
491 the customized publication must include the content specified in  
492 subsection (1) and meet the following requirements:

493 (a) The font size used must be at least 10 points, with the

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494 exception that the following must appear prominently on the  
495 front cover in at least 12-point boldface type: "Your Rights and  
496 Responsibilities When You Move. Furnished by Your Mover, as  
497 Required by Florida Law."

498 (b) The size of the booklet must be at least 36 square  
499 inches.

500 Section 8. Section 507.055, Florida Statutes, is created to  
501 read:

502 507.055 Required disclosure and acknowledgment of rights  
503 and remedies.—Before executing a contract for service for a  
504 move, a mover must provide to a prospective shipper all of the  
505 following:

506 (1) The publication required under s. 507.054.

507 (2) A concise, easy-to-read, and accurate binding estimate  
508 required under s. 507.05(3).

509 (3) A notice of the availability of the mover's tariff,  
510 including an explanation that the shipper may examine the tariff  
511 at the premises of the mover or request that copies of the  
512 tariff be sent to him or her.

513 Section 9. Subsection (1) of section 507.06, Florida  
514 Statutes, is amended, and subsections (4) and (5) are added to  
515 that section, to read:

516 507.06 Delivery and storage of household goods.—

517 (1) A mover must relinquish household goods to a shipper  
518 and must place the household goods inside a shipper's dwelling  
519 or, if directed by the shipper, inside a storehouse or warehouse  
520 that is owned or rented by the shipper or the shipper's agent,  
521 unless the shipper has not tendered payment pursuant to s.  
522 507.065 in the amount specified in a written contract or

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523 ~~estimate signed and dated by the shipper.~~ A mover may not, under  
 524 any circumstances, refuse to relinquish prescription medicines  
 525 and household goods for use by children, including children's  
 526 furniture, clothing, or toys, ~~under any circumstances.~~

527 (4) A mover shall tender household goods for delivery to a  
 528 shipper on the agreed upon delivery date or within the timeframe  
 529 specified in the contract for service. This requirement may be  
 530 waived by the shipper.

531 (5) If a mover becomes aware that it will be unable to  
 532 perform either the pickup or the delivery of household goods on  
 533 the date agreed upon or during the timeframe specified in the  
 534 contract for service, the mover shall, at its own expense,  
 535 immediately notify the shipper of the delay.

536 (a) A mover's notification of delay must be provided to a  
 537 shipper in person or by telephone, facsimile, e-mail, overnight  
 538 courier, or certified mail, return receipt requested. If the  
 539 mover does not receive confirmation that the shipper has  
 540 received the notification, the mover shall undertake a second  
 541 method of notification.

542 (b) A mover must advise the shipper of the amended date or  
 543 timeframe within which the mover expects to pick up or deliver  
 544 the household goods. The mover must consider the needs of the  
 545 shipper in establishing the amended date or timeframe. The mover  
 546 must also do all of the following:

547 1. Document, in writing, the date, time, and manner of  
 548 notification of the delay and the amended date or period for  
 549 pickup or delivery.

550 2. Retain the documentation required by subparagraph 1. as  
 551 part of its file on the move for 1 year after the notification

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552 date.

553 3. Upon the request of the shipper, furnish a copy of the  
 554 notice by hand delivery or by first-class mail.

555 Section 10. Section 507.065, Florida Statutes, is created  
 556 to read:

557 507.065 Payment.—

558 (1) Except as provided in s. 507.05(3), the maximum amount  
 559 that a mover may charge before relinquishing household goods to  
 560 a shipper is the exact amount of the binding estimate, plus  
 561 charges for any additional services requested or agreed to in  
 562 writing by the shipper after the contract for service was issued  
 563 and for impracticable operations as defined in the mover's  
 564 tariff, if applicable.

565 (2) A mover must bill a shipper for any charges assessed  
 566 under this chapter which are not collected upon delivery of  
 567 household goods at their destination within 15 days after such  
 568 delivery. A mover may assess a late fee for any uncollected  
 569 charges if the shipper fails to make payment within 30 days  
 570 after receipt of the bill.

571 Section 11. Section 507.066, Florida Statutes, is created  
 572 to read:

573 507.066 Collection for losses.—

574 (1) PARTIAL LOSSES.—A mover may collect an adjusted payment  
 575 from a shipper if part of a shipment of household goods is lost  
 576 or destroyed.

577 (a) A mover may collect the following at delivery:

578 1. A prorated percentage of the binding estimate. The  
 579 prorated percentage must equal the percentage of the weight of  
 580 the portion of the household goods delivered relative to the

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581 total weight of the household goods that were ordered to be  
582 moved.

583 2. Charges for any additional services requested by the  
584 shipper after the contract for service was issued.

585 3. Charges for impracticable operations, if applicable;  
586 however, such charges may not exceed 15 percent of all other  
587 charges due at delivery.

588 4. Any specific valuation rate charges due, as provided in  
589 s. 507.04(4), if applicable.

590 (b) The mover may bill and collect from the shipper any  
591 remaining charges not collected at the time of delivery in  
592 accordance with s. 507.065. This paragraph does not apply if the  
593 loss or destruction of household goods occurred as a result of  
594 an act or omission of the shipper.

595 (c) A mover must determine, at its own expense, the  
596 proportion of the household goods, based on actual or  
597 constructive weight, which were lost or destroyed in transit.

598 (2) TOTAL LOSSES.—A mover may not collect, or require a  
599 shipper to pay, freight charges, including a charge for  
600 accessorial services, when a household goods shipment is lost or  
601 destroyed in transit; however, the mover may collect a specific  
602 valuation rate charge due, as provided in s. 507.04(4). This  
603 subsection does not apply if the loss or destruction was due to  
604 an act or omission of the shipper.

605 (3) SHIPPER'S RIGHTS.—A shipper's rights under this section  
606 are in addition to any other rights the shipper may have with  
607 respect to household goods that were lost or destroyed while in  
608 the custody of the mover or the mover's agent. These rights also  
609 apply regardless of whether the shipper exercises his or her

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610 right to obtain a refund of the portion of a mover's published  
611 freight charges corresponding to the portion of the lost or  
612 destroyed household goods, including any charges for accessorial  
613 services, at the time the mover disposes of claims for loss,  
614 damage, or injury to the household goods.

615 Section 12. Subsections (1), (4), and (5) of section  
616 507.07, Florida Statutes, are amended, to read:

617 507.07 Violations.—It is a violation of this chapter:

618 (1) ~~To operate conduct business as a mover or moving~~  
619 ~~broker, or advertise to engage in violation the business of~~  
620 ~~moving or fail to comply with ss. 507.03-507.10, or any other~~  
621 ~~requirement under this part offering to move, without being~~  
622 ~~registered with the department.~~

623 (4) ~~To increase the contracted cost fail to honor and~~  
624 ~~comply with all provisions of the contract for moving services~~  
625 ~~previously provided in a binding estimate of the scheduled date~~  
626 ~~and time of the move without a request by the shipper to perform~~  
627 ~~additional services not disclosed on the original binding~~  
628 ~~estimate or bill of lading regarding the purchaser's rights,~~  
629 ~~benefits, and privileges thereunder.~~

630 (5) To withhold delivery of household goods or in any way  
631 hold household goods in storage against the expressed wishes of  
632 the shipper if payment has been made as delineated in the  
633 estimate or contract for services, or pursuant to this chapter.

634 Section 13. Section 507.09, Florida Statutes, is amended to  
635 read:

636 507.09 Administrative remedies; penalties.—

637 (1) The department may enter an order doing one or more of  
638 the following if the department finds that a mover or moving

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639 broker, or a person employed or contracted by a mover or broker,  
640 has violated or is operating in violation of this chapter or the  
641 rules or orders issued pursuant to this chapter:

642 (a) Issuing a notice of noncompliance under s. 120.695.

643 (b) Imposing an administrative fine in the Class II  
644 category pursuant to s. 570.971 for each act or omission.

645 (c) Directing that the person cease and desist specified  
646 activities.

647 (d) Refusing to register or revoking or suspending a  
648 registration.

649 (e) Placing the registrant on probation, subject to the  
650 conditions specified by the department.

651 (2) The department shall, upon notification and subsequent  
652 written verification by a law enforcement agency, a court, a  
653 state attorney, or the Department of Law Enforcement,  
654 immediately suspend a registration or the processing of an  
655 application for a registration if the registrant, applicant, or  
656 an officer or director of the registrant or applicant is  
657 formally charged with a crime involving fraud, theft, larceny,  
658 embezzlement, or fraudulent conversion or misappropriation of  
659 property or a crime arising from conduct during a movement of  
660 household goods until final disposition of the case or removal  
661 or resignation of that officer or director.

662 (3) The administrative proceedings ~~that which~~ could result  
663 in the entry of an order imposing any of the penalties specified  
664 in subsection (1) or subsection (2) are governed by chapter 120.

665 ~~(3) The department may adopt rules under ss. 120.536(1) and~~  
666 ~~120.54 to administer this chapter.~~

667 Section 14. Section 507.11, Florida Statutes, is amended to

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668 read:

669 507.11 Criminal penalties.—

670 (1) The refusal of a mover or a mover's employee, agent, or  
671 contractor to comply with an order from a law enforcement  
672 officer to relinquish a shipper's household goods after the  
673 officer determines that the shipper has tendered payment of the  
674 amount of a written binding estimate, any charges for additional  
675 services requested by the shipper after the contract for service  
676 was issued, and charges for applicable impracticable operations,  
677 as defined in the mover's tariff ~~or contract~~, or after the  
678 officer determines that the mover did not produce a signed  
679 estimate or contract for service upon which demand is being made  
680 for payment, is a felony of the third degree, punishable as  
681 provided in s. 775.082, s. 775.083, or s. 775.084. A mover's  
682 compliance with an order from a law enforcement officer to  
683 relinquish household goods to a shipper is not a waiver or  
684 finding of fact regarding any right to seek further payment from  
685 the shipper.

686 (2) The refusal of a mover or a mover's employee, agent, or  
687 contractor to comply with an order from a law enforcement  
688 officer to relinquish a shipper's household goods after the  
689 officer determines that the shipper has tendered payment of the  
690 prorated percentage of the binding estimate for a partial  
691 delivery under s. 507.066 is a felony of the third degree,  
692 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
693 A mover's compliance with an order from an law enforcement  
694 agency to relinquish household goods to a shipper is not a  
695 waiver or finding of fact regarding any right to seek further  
696 payment from the shipper.

Page 24 of 25

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

24-00392B-15

2015798\_\_

697 (3)~~(2)~~ Except as provided in subsections ~~subsection~~ (1) and  
698 (2), any person or business that violates this chapter commits a  
699 misdemeanor of the first degree, punishable as provided in s.  
700 775.082 or s. 775.083.

701 Section 15. Section 507.14, Florida Statutes, is created  
702 to read:

703 507.14 Rulemaking.—The department shall adopt rules to  
704 administer this chapter.

705 Section 16. This act shall take effect July 1, 2015.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations, *Chair*  
Appropriations Subcommittee on General  
Government  
Banking and Insurance  
Rules

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission,  
*Alternating Chair*

**SENATOR TOM LEE**

24th District

February 16, 2015

The Honorable Nancy Detert  
Senate Committee on Criminal Justice, Chair  
416 Senate Office Building  
404 South Monroe St.  
Tallahassee, FL 32399

Dear Chair Detert,

I respectfully request that SB 798 related to *Household Moving Services*, be placed on the Senate Committee on Commerce and Tourism agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom Lee".

Tom Lee  
Senator, District 24

Cc: Todd McKay, Staff Director

**REPLY TO:**

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations, *Chair*  
Appropriations Subcommittee on General  
Government  
Banking and Insurance  
Rules

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission,  
*Alternating Chair*

### SENATOR TOM LEE

24th District

March 23, 2015

The Honorable Nancy Detert  
Senate Committee on Health Policy, Chair  
416 Senate Office Building  
404 South Monroe St.  
Tallahassee, FL 32399

Dear Chair Detert,

I respectfully request that my aide, Doug Roberts, present SB 798, related to Household Moving Services, at the Senate Health Policy committee meeting due to a scheduling conflict.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Lee".

Tom Lee  
Senator, District 24

Cc: Todd McKay, Staff Director

**REPLY TO:**

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 798  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic Household Moving Services

Amendment Barcode (if applicable) \_\_\_\_\_

Name Jonathan Rees

Job Title Deputy Director, Legislative Affairs

Address 400 S. Monroe St

Phone (850) 612-7700

Tallahassee FL 32319

City State Zip

Email Jonathan.Rees@freshfromflorida.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Department of Agriculture and Consumer Services

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/15

Meeting Date

SB 798

Bill Number (if applicable)

518216

Amendment Barcode (if applicable)

Topic HOUSEHOLD MOVING

Name CORCY MATHEWS

Job Title EXECUTIVE DIRECTOR

Address 13910 TIMBERLAKE RD

Street

TALLAHASSEE

City

FL

State

32312

Zip

Phone 850/222-6000

Email CORCY@FMWA.ORG

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL MERCHANTS & WAREHOUSEMEN'S ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

---

BILL: SB 858

INTRODUCER: Senator Garcia

SUBJECT: Exemption from the Sales and Use Tax for Direct Mail Advertising Literature

DATE: March 20, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	<b>Favorable</b>
2.			FT	
3.			AP	

---

**I. Summary:**

SB 858 provides an exemption from the sales and use tax on the printing of direct mail advertising literature, including catalogs, letters, postcards, circulars, brochures, and pamphlets. Under current law, a 6 percent sales and use tax is levied pursuant to ch. 212, F.S., on the printing of direct mail advertising literature that consists of printed sales messages for the sale of property or a service.

**II. Present Situation:**

Florida levies a 6 percent state sales and use tax which applies to the sale or rental of most tangible personal property, admissions, rentals of transient accommodations, rental of commercial real estate, and a limited number of services. Chapter 212, F.S., contains statutory provisions that authorize the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 200 different exemptions.<sup>1</sup>

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by ch. 212, F.S. The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold or delivered into, and is levied in addition to the state sales and use tax of 6 percent.

Currently, newspapers, magazines, and newsletter subscriptions that are delivered to a customer by mail are exempt from the sales and use tax.<sup>2</sup> Additionally, free, regularly-circulated

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<sup>1</sup> Florida Revenue Estimating Conference, *Florida Tax Handbook*, (2015), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/index.cfm>.

<sup>2</sup> Section 212.08(7)(w), F.S. The exemption on free advertising materials was passed in 1990, and the magazine tax exemption was passed in 1996.

publications that function primarily as advertisements are exempt from the state and local sales and use tax, if they are distributed to the customer by mail, home delivery, or newsstands. Postcards, letters, and similar materials that function primarily as a sales message for the sale of property or a service, however, are subject to state and local sales and use taxes.

### III. Effect of Proposed Changes:

**Section 1** of the bill creates a sales tax exemption for direct mail advertising literature that:

- Consists primarily of a printed sales message;
- Is printed pursuant to a seller's special order;
- Is mailed or delivered by the seller or its agent, such as a direct mail services provider; and
- Is provided at no cost to its recipient.

The bill also defines "direct mail advertising literature" as any printed material, including catalogs, letters, postcards, circulars, brochures, and pamphlets.

**Section 2** of the bill provides an effective date of July 1, 2015.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

Article VII, s. 18 of the Florida Constitution, governs laws that require counties and municipalities to spend funds or limit their ability to raise revenue or receive state tax revenues.

Subsection (b) of the provision prohibits the Legislature from "enacting, amending, or repealing any general law if the anticipated effect" is to reduce county or municipal aggregate revenue generating authority as it existed on February 1, 1989, except where the Legislature passes such a law by 2/3<sup>rd</sup> of the membership of each chamber.

Subsection (c) of this provision prohibits the Legislature from "enacting, amending, or repealing any general law if the anticipated effect" is to reduce the percentage of a state tax shared with counties and municipalities. The exception to this prohibition exists where the Legislature passes such law by 2/3<sup>rd</sup> of the membership of each chamber.

Subsection (d) provides an exemption from these provisions. Laws determined to have an "insignificant fiscal impact," which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (which is \$2,014,830 for FY 2014-2015<sup>3</sup>), are exempt.<sup>4</sup>

The Revenue Estimating Conference has not evaluated the effects of this bill.

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<sup>3</sup> Based on the Demographic Estimating Conference's population adopted on February 11, 2015. The post-conference packet can be found at: <http://edr.state.fl.us/Content/conferences/population/index.cfm> (last accessed March 18, 2015).

<sup>4</sup> See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (September 2011), available at <http://www.flsenate.gov/PublishedContent?Session/2012/InterimReports/2012-115ca.pdf>, (last accessed March 17, 2015).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Sellers of property or services who advertise via direct mail advertising will be exempt from state and local taxes on the printing of their advertisements.

**C. Government Sector Impact:**

The Revenue Estimating Conference has not yet determined the impact of this bill. However, the exemption is likely to result in a reduction of tax revenues to the state and local governments.

Additionally, the Department of Revenue may incur costs related to updating relevant departmental rules to reflect the bill.<sup>5</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends s. 212.08, F.S.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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<sup>5</sup> See, Florida Department of Revenue *SB 858 Agency Analysis*, (March 5, 2015), on file with the Senate Commerce and Tourism Committee).

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

By Senator Garcia

38-01088-15

2015858\_\_

A bill to be entitled

An act relating to an exemption from the sales and use tax for direct mail advertising literature; amending s. 212.08, F.S.; providing an exemption for certain direct mail advertising literature for the sale of services or property; defining the term "direct mail advertising literature"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (nnn) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

38-01088-15

2015858\_\_

required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(nnn) Direct mail advertising literature.—Direct mail advertising literature that primarily consists of a printed sales message for the sale of property or a service is exempt from the tax imposed by this chapter if the literature is printed pursuant to the special order of the seller of the property or service and mailed or delivered by the seller or the seller's agent, such as a direct mail services provider, through the mail or by common carrier to any other person, at no cost to that person. For purposes of this paragraph, the term "direct mail advertising literature" means any printed material and includes, but is not limited to, catalogs, letters, postcards, circulars, brochures, and pamphlets.

Section 2. This act shall take effect July 1, 2015.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**The Florida Senate**  
State Senator René García  
38<sup>th</sup> District

**Please reply to:**

**District Office:**

1490 West 68 Street  
Suite # 201  
Hialeah, FL. 33014  
Phone# (305) 364-3100

March 2, 2015

The Honorable Senator Nancy C. Detert  
Chair, Commerce and Tourism  
310 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairwoman Detert:

This letter should serve as a request to have my bill *SB 858: Exemption from the Sales and Use Tax for Direct Mail Advertising Literature* heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me.

Thank you.

Sincerely,



State Senator René García  
District 38  
RG:JT

CC: Todd McKay, Staff Director

**Chair: Appropriations Subcommittee on Health & Human Services**  
**Committees:** Appropriations, Children, Families, and Elderly Affairs, Health Policy, Agriculture, Education Pre-K – 12, Joint Legislative Budget Committee and Communications, Energy and Public Utilities.

**The Florida Senate**  
State Senator René García  
38<sup>th</sup> District

Please reply to:

□ District Office:

1490 West 68 Street  
Suite # 201  
Hialeah, FL. 33014  
Phone# (305) 364-3100

The Honorable Senator Nancy Detert  
Chairwoman, Committee Commerce and tourism  
310 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Chairwoman Detert,

Unfortunately I am unable to present **SB 858: Exemption from the Sales and Use Tax for Direct Mail Advertising Literature** to the Commerce and Tourism Committee today.

I respectfully request that my Legislative Aide, AJ D'Amico present the bill on my behalf. If you have any questions please contact my office.

Sincerely,



State Senator René García  
District 38  
RG:JT

CC: Todd McKay

**Chair: Appropriations Subcommittee on Health & Human Services**  
**Committees:** Appropriations, Children, Families, and Elderly Affairs, Health Policy, Agriculture, Education Pre-K – 12, Joint Legislative Budget Committee and Communications, Energy and Public Utilities.



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/15

Meeting Date

0858

Bill Number (if applicable)

Topic Exemption Sales Tax Direct Mail Advertising

Amendment Barcode (if applicable)

Name HARRY DUNCANSON

Job Title Chairman Government Affairs Printing Association of Florida

Address 9704 Waters Meet

Street

Phone 954 401 5933

Tallahassee

FL

32312

City

State

Zip

Email haryduncanson@comcast.net

Speaking: [X] For [ ] Against [ ] Information
if questions

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Printing Association of Florida

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/15

*Meeting Date*

858

*Bill Number (if applicable)*

Topic Sales Tax on Direct Mail Advertising

*Amendment Barcode (if applicable)*

Name H. Lee Moffitt

Job Title Attorney at Law

Address 3227 NW Perimeter Road

Phone 813 760-5712

*Street*

Palm City

FL

34990

Email lee.moffitt@arlaw.com

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Time Customer Service, Inc

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-23

Meeting Date

SB 858

Bill Number (if applicable)

Topic SB 858 - DIRECT MAIL S.T. EX

Amendment Barcode (if applicable)

Name JACK HEBERT

Job Title \_\_\_\_\_

Address 2861 EXECUTIVE DR. SUITE 100

Phone 727-560-3323

Street

CLEARWATER FL 33762

City

State

Zip

Email jad@themalibudgroup.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing AMERICAN ADVERTISING FEDERATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**ABSTENTION FROM VOTING  
AND DISCLOSURE OF CONFLICT**

Pursuant to Senate Rule 1.39, a Senator must abstain from voting on any matter that would inure to the Senator's special private gain or loss and must disclose the nature of the interest in the matter that requires the Senator to abstain.

**ABSTENTION FROM VOTING AND DISCLOSURE OF CONFLICT**

March 23, 2015

*Date*

Pursuant to Senate Rule 1.39(1), I am disclosing that certain provisions in  
SB 858

\_\_\_\_\_  
(Bill Number; Appointment; Suspension)

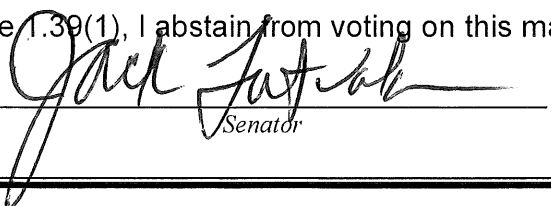
\_\_\_\_\_  
(Amendment Barcode)

provide a special private gain or loss to me. The nature of the interest is specified below.

Due to me owning a printing company, I feel I should abstain from voting on this bill.

\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

As established by Senate Rule 1.39(1), I abstain from voting on this matter.

  
\_\_\_\_\_  
*Senator*

20  
\_\_\_\_\_  
*District*

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

---

BILL: SB 944

INTRODUCER: Senator Soto

SUBJECT: Secondhand Dealers

DATE: March 20, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	<b>Favorable</b>
2.			CJ	
3.			RC	

---

**I. Summary:**

SB 944 requires law enforcement officers to place a 90-day written order (“hold order”) mandating a secondhand dealer to hold a specific item that an officer has probable cause to believe was stolen. This process allows the item to be used as evidence in a criminal case, and to be returned to its rightful owner, should a judge enter an order to that effect. Current law permits, but does not require, a law enforcement officer to place a hold order.

**II. Present Situation:**

A secondhand dealer engages in the business of buying, reselling, or consigning certain types of used personal property.<sup>1</sup> Part I of ch. 538, F.S., grants authority to regulate secondhand dealers to the Department of Revenue (department). The department requires secondhand dealers to register on an annual basis, and currently has 5,048 secondhand dealer registrants.<sup>2</sup> Pawnbrokers were formerly regulated as secondhand dealers, but are now separately regulated under ch. 539, F.S.

Upon each acquisition, a secondhand dealer is required to complete a transaction record that details the goods purchased and the seller’s identity. The secondhand dealer must retain this document for at least 1 year and forward a copy to local law enforcement within 24 hours of the acquisition of the goods. Secondhand dealers are required to hold all property for at least 15 days after they acquire the property.<sup>3</sup> Should a law enforcement officer have probable cause to believe that the goods held by a secondhand dealer are stolen, the officer may place a 90-day written

---

<sup>1</sup> Section 538.03, F.S.

<sup>2</sup> Section 538.09, F.S.; Florida Department of Revenue, *Secondhand Dealers Registered with the Florida Department of Revenue*, (2015), available at [http://dor.myflorida.com/dor/taxes/documents/secondhand\\_dealers\\_recyclers\\_08\\_09\\_13.pdf](http://dor.myflorida.com/dor/taxes/documents/secondhand_dealers_recyclers_08_09_13.pdf), (last accessed March 18, 2015).

<sup>3</sup> Section 538.06, F.S.

hold order on the goods, which prevents the secondhand dealer from selling them.<sup>4</sup> This allows the goods to be preserved for use as evidence in a criminal trial, and for the possible return to their rightful owner.

A victim of a theft whose property is subject to a hold order may recover his or her goods or the value thereof through one of three methods:<sup>5</sup>

- A court may order restitution or return of the goods to the secondhand dealer or victim of the crime.<sup>6</sup> If the court orders return of the goods or restitution to the victim, the court must also order restitution to the secondhand dealer from the person who sold the goods to the secondhand dealer;<sup>7</sup>
- A victim may file an action for replevin against the secondhand dealer;<sup>8</sup> or
- A victim may purchase her items back from the secondhand dealer, and then file a civil action against the thief for reimbursement of the cost expended.

Local law enforcement enforces secondhand dealer compliance with registration, record keeping, holding periods, and inspection requirements.<sup>9</sup>

### **III. Effect of Proposed Changes:**

The bill requires law enforcement officers to place a 90-day hold order on goods in the possession of a secondhand dealer for which there is probable cause to believe have been stolen. Previously, such action by law enforcement was optional. This 90-day hold order may be overridden by a court order to return the goods to either the secondhand dealer or another rightful owner.<sup>10</sup>

Section 2 of the bill provides an effective date of July 1, 2015.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>4</sup> Section 538.06, F.S.

<sup>5</sup> Interview with representative of the Florida Law Enforcement Property Recovery Unit, March 18, 2015.

<sup>6</sup> Section 538.07, F.S.

<sup>7</sup> Section 538.06(4), F.S.

<sup>8</sup> Section 538.08, F.S.

<sup>9</sup> Section 538.05, F.S.; [http://dor.myflorida.com/dor/taxes/secondhand\\_dealers\\_recyclers.html](http://dor.myflorida.com/dor/taxes/secondhand_dealers_recyclers.html).

<sup>10</sup> Section 538.06(4), F.S.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

This may result in increased workload and costs for law enforcement officers involved in the recovery of stolen property.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

This bill does not affect the procedures for placement of a hold order on property in the possession of a pawnbroker.

**VIII. Statutes Affected:**

This bill substantially amends section 538.06, Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

By Senator Soto

14-01345-15

2015944\_\_

1 A bill to be entitled

2 An act relating to secondhand dealers; amending s.  
3 538.06, F.S.; requiring a law enforcement officer with  
4 jurisdiction to place a specified written hold order  
5 on specified goods; providing an effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9 Section 1. Subsection (3) of section 538.06, Florida  
10 Statutes, is amended to read:

11 538.06 Holding period.—

12 (3) Upon probable cause that goods held by a secondhand  
13 dealer are stolen, a law enforcement officer with jurisdiction  
14 shall ~~may~~ place a 90-day written hold order on the goods subject  
15 to the court's disposition under subsection (4). However, the  
16 hold may be extended beyond 90 days by a court of competent  
17 jurisdiction upon a finding of probable cause that the property  
18 is stolen and further holding is necessary for the purposes of  
19 trial or to safeguard such property. The dealer shall assume all  
20 responsibility, civil or criminal, relative to the property or  
21 evidence in question, including responsibility for the actions  
22 of any employee with respect thereto.

23 Section 2. This act shall take effect July 1, 2015.



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

---

BILL: SB 982

INTRODUCER: Senators Thompson and Smith

SUBJECT: Florida Civil Rights Act

DATE: March 20, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	McKay	CM	<b>Favorable</b>
2.			JU	
3.			RC	

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**I. Summary:**

SB 982 amends the Florida Civil Rights Act (FCRA) by expressly prohibiting discrimination because of pregnancy. The FCRA currently prohibits discrimination based on race, creed, color, sex, physical disability, or national origin in the areas of education, employment, housing, and public accommodation. In 2014, the Florida Supreme Court decided that discrimination based on pregnancy is subsumed within the prohibition in the FCRA against sex discrimination in employment practices. This bill codifies that decision.

By specifically permitting a state cause of action for pregnancy discrimination claims, plaintiffs will have more time to file suit than under federal law. After the Equal Employment Opportunity Commission concludes an investigation of a complaint and issues a “right-to-sue” letter, the plaintiff has 90 days to file an action in federal court. Plaintiffs bringing pregnancy discrimination cases in state court would have up to 1 year to file after a determination of reasonable cause by the Florida Commission on Human Relations (FCHR). Also, plaintiffs filing against a small-sized employer may be able to recoup greater punitive damages in state court, due to the difference in caps on punitive damages in state and federal court.

**II. Present Situation:**

**Title VII of the Civil Rights Act of 1964<sup>1</sup>**

Title VII of the Civil Rights Act of 1964 (Title VII) prohibits discrimination based on race, color, religion, national origin, or sex. Title VII applies to employers with 15 or more employees and outlines a number of unlawful employment practices. Title VII makes it unlawful for employers to refuse to hire, discharge, or otherwise discriminate against an individual with respect to

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<sup>1</sup> 42 U.S.C. 2000e et. seq.

compensation, terms, conditions, or privileges of employment, based on race, color, religion, national origin, or sex.<sup>2</sup>

### **Pregnancy Discrimination Act<sup>3</sup>**

In 1976, the United States Supreme Court ruled in *General Electric Co. v. Gilbert* that Title VII did not provide protection based on pregnancy discrimination.<sup>4</sup> In response, in 1978, Congress passed the Pregnancy Discrimination Act (PDA). The PDA amended Title VII to expressly provide that discrimination because of sex includes discrimination against a woman due to pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.<sup>5</sup>

### **Americans with Disabilities Act<sup>6</sup>**

The Americans with Disabilities Act (ADA) prohibits discrimination based on disability in employment, public accommodation, and telecommunications. The ADA defines disability as a “physical or mental impairment that substantially limits one or more major life activities...; a record of such an impairment; or... being regarded as having such an impairment.”<sup>7</sup> Although pregnancy is not generally considered a disability, pregnancy-related impairments may be protected under the ADA if they substantially limit one or more major life activities, such as walking or lifting.<sup>8</sup>

### **Family and Medical Leave Act<sup>9</sup>**

The Family and Medical Leave Act (FMLA) provides that employees of certain covered employers are entitled to take up to 12 weeks of unpaid leave a year for a serious illness, injury, or other health condition that involves continuing treatment by a health care provider. The FMLA also guarantees that employees can return to the same or an equivalent position. To apply, the FMLA sets certain threshold requirements regarding a minimum number of employees and time worked in that position.<sup>10</sup> In addition to providing coverage for birth or adoption, the FMLA authorizes leave for prenatal care, incapacity related to pregnancy, and any serious health condition following childbirth.<sup>11</sup>

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<sup>2</sup> 42 U.S.C. 2000e-2.

<sup>3</sup> Pub. L. No. 95-555, 92 Stat. 2076.

<sup>4</sup> 429 U.S. 125, 145-146 (1976).

<sup>5</sup> The PDA provides that individuals qualifying for protection on the basis of pregnancy must be treated the same for employment purposes, including the receipt of benefits, as any other person who does not have that condition but is similarly able or unable to work.

<sup>6</sup> 42 U.S.C. s. 101.

<sup>7</sup> 42 U.S.C. s. 12102.

<sup>8</sup> Equal Employment Opportunity Commission, *EEOC Enforcement Guidance on Pregnancy Discrimination and Related Issues* (July 14, 2014), available at [http://www.eeoc.gov/laws/guidance/pregnancy\\_guidance.cfm#dissta](http://www.eeoc.gov/laws/guidance/pregnancy_guidance.cfm#dissta) (last visited Mar. 17, 2015).

<sup>9</sup> 29 U.S.C. s. 2611 (11)(1993).

<sup>10</sup> The FMLA applies to private employers with at least 50 employees and all public employers. To be eligible for FMLA leave, an individual must have worked for the employer for at least 12 months and must have worked at least 1,250 hours during the 12 months prior to the leave.

<sup>11</sup> For more information, see U.S. Dept. of Labor, Wage and Hour Division, *Family and Medical Leave Act*, <http://www.dol.gov/whd/fmla/> (last visited Mar. 17, 2015).

## Florida Civil Rights Act

The 1992 Florida Legislature enacted the Florida Civil Rights Act to protect persons from discrimination in education, employment, housing, and public accommodations. In addition to the classes of race, color, religion, sex, and national origin protected in federal law, the FCRA includes age, handicap, and marital status as protected classes.<sup>12</sup>

Similar to Title VII, the FCRA specifically provides a number of actions that, if undertaken by an employer, are considered unlawful employment practices.<sup>13</sup> Unlike Title VII, the FCRA has not been amended to expressly prohibit pregnancy discrimination.

Courts interpreting the FCRA typically follow federal precedent because the FCRA is generally patterned after Title VII. Still, differences between state and federal law persist. As noted above, the FCRA includes age, handicap, and marital status as protected categories. Although Title VII does not include these statuses, other federal laws address age and disability, albeit in a different manner.<sup>14</sup>

## Pregnancy Discrimination in Florida

Although Title VII expressly includes pregnancy status as a form of sex discrimination, the FCRA does not. The fact that the FCRA is modeled after Title VII but failed to include this provision has caused division among both federal and state courts as to whether the Legislature intended to provide protection on the basis of pregnancy status. Thus, the ability to bring a claim based on pregnancy discrimination varies among jurisdictions.

The case of *O'Loughlin v. Pinchback* was the first time that a Florida district court of appeal reviewed a claim of pregnancy discrimination in the context of the FCRA (then known as the Florida Human Rights Act).<sup>15</sup> In this case, the plaintiff alleged that her employer unlawfully terminated her from her position as a correctional officer based on her pregnancy. The First District Court of Appeal indicated as an initial matter that Florida styled its anti-discrimination law on the federal model.<sup>16</sup> Although the Legislature did not amend Florida law to conform to Title VII as amended by the Pregnancy Discrimination Act, the court held that both federal and state law should be read in concert to provide the maximum protection against discrimination. Therefore, Title VII as amended by the PDA preempts Florida law “to the extent that Florida’s law offers less protection to its citizens than does the corresponding federal law.”<sup>17</sup> Therefore, the *O'Loughlin* court found that pregnancy discrimination is prohibited by state law.

Other courts interpreted the issue of pregnancy discrimination in state law differently. In *Carsillo v. City of Lake Worth*, the Fourth District Court of Appeal opined that the FCRA includes pregnancy because Congress originally intended Title VII to include pregnancy, and the PDA

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<sup>12</sup> Section 760.10(1)(a), F.S.

<sup>13</sup> Section 760.10(2) through (8), F.S.

<sup>14</sup> Kendra D. Presswood, *Interpreting the Florida Civil Rights Act of 1992*, 87 FLA. B.J. 36, 36 (December 2013).

<sup>15</sup> 579 So.2d 788 (Fla. 1st DCA 1991). This case was brought under the Florida Human Rights Act of 1977, which was the predecessor to the Florida Civil Rights Act of 1992, and was also patterned after Title VII.

<sup>16</sup> *Id.* at 791.

<sup>17</sup> *Id.* at 792.

merely clarified that intent.<sup>18</sup> The court concluded it was unnecessary for Florida to amend its statute in light of this interpretation. The Florida Supreme Court declined to hear the appeal.<sup>19</sup>

However, the Third District Court of Appeal court reached an opposite finding. In *Delva v. Continental Group, Inc.*, the court did not look beyond the plain language of the FCRA, and found that no remedy exists for a pregnancy claim in state court under Florida law.<sup>20</sup> The court certified the conflict with *Carsillo* to the Florida Supreme Court.

In 2014, the Florida Supreme Court reviewed the *Delva* case and quashed that decision.<sup>21</sup> The Court concluded that “discrimination based on pregnancy is subsumed within the prohibition in the FCRA against discrimination based on an individual’s sex.”<sup>22</sup> The Court opined that this interpretation was consistent with legislative intent, as provided in the FCRA itself, that the FCRA be liberally construed to further its purpose of securing all individuals within the state freedom from discrimination based on sex.<sup>23</sup>

The decision only addressed pregnancy discrimination claims under the FCRA, but did not speak to s. 509.092, F.S., which addresses discrimination in public lodging and public food establishments.

### **Procedure for Filing Claims of Discrimination**

A Florida employee may file a charge of an unlawful employment practice with either the federal Equal Employment Opportunities Commission (EEOC) or the Florida Commission on Human Relations (FCHR).

For a charge filed with the EEOC, the EEOC must investigate and make a reasonable cause determination within 120 days after the date of the filing.<sup>24</sup> If the EEOC finds an absence of reasonable cause, the EEOC will dismiss the charge. If the EEOC finds reasonable cause, the EEOC must engage in informal conferencing, conciliation, and persuasion to remedy the unlawful employment practice.<sup>25</sup>

After the EEOC concludes its investigation and issues a “right-to-sue” letter to the plaintiff, the plaintiff must file a claim in federal court under Title VII within 90 days of receipt of the letter.<sup>26</sup>

For a charge filed with the FCHR, the FCHR must make a reasonable cause determination within 180 days after the filing of the complaint.<sup>27</sup> If the FCHR finds reasonable cause, the plaintiff may bring either a civil action or request an administrative hearing.<sup>28</sup>

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<sup>18</sup>*Carsillo v. City of Lake Worth*, 995 So.2d 1118, 1121 (Fla. 4th DCA 2008).

<sup>19</sup> 20 So.3d 848 (Fla. 2009).

<sup>20</sup> *Delva v. Continental Group, Inc.*, 96 So.3d 956, 958 (Fla. 3d DCA 2012), *reh’g denied*.

<sup>21</sup> *Delva v. Continental Group, Inc.*, 137 So.3d 371 (Fla. 2014).

<sup>22</sup> *Id.* at 375.

<sup>23</sup> *Id.* at 375.

<sup>24</sup> 42 U.S.C. s. 2000e-5(b).

<sup>25</sup> *Id.*

<sup>26</sup> 42 U.S.C. s. 2000e-5(f)(1).

<sup>27</sup> Section 760.11(3), F.S.

<sup>28</sup> Section 760.11(4), F.S.

A plaintiff is required to file a state claim in civil court under the Florida Civil Rights Act within 1 year of the determination of reasonable cause by the FCHR.<sup>29</sup>

### Remedies

Both state and federal law authorize awards of back pay, compensatory damages, and punitive damages.<sup>30</sup>

In federal court, punitive damages vary depending on the size of the employer. In cases that qualify for punitive damages, the sum of both compensatory and punitive damages is capped at:

- \$50,000 for an employer that has 15 to 100 employees for at least 20 calendar weeks in the current or preceding calendar year;
- \$100,000 for an employer that has between 101 and 200 employees;
- \$200,000 for an employer that has between 201 and 500 employees; and
- \$300,000 for an employer that has more than 500 employees.<sup>31</sup>

In state court, punitive damages are capped at \$100,000 regardless of the size of the employer.<sup>32</sup>

### III. Effect of Proposed Changes:

SB 982 adds the condition of pregnancy as a protected class under the Florida Civil Rights Act of 1992 (FCRA). (**Sections 2 and 3**, amending ss. 760.01 and 760.05, F.S., respectively.)

Pregnancy is afforded the same protection as other statuses or classes identified in the FCRA. A woman affected by pregnancy may not be discriminated against:

- by public lodging and food service establishments (**Section 1**, amending s. 509.092, F.S.);
- with respect to education, housing, or public accommodation (**Sections 4 and 5**, amending ss. 760.07 and 760.08, F.S., respectively.); or
- with respect to employment, provided that any discriminatory act constitutes an unlawful employment practice (**Section 6**, amending s. 760.10, F.S.).<sup>33</sup>

By specifically permitting a state cause of action for pregnancy discrimination claims, plaintiffs will have more time to file suit. As described in the Present Situation, after receiving a “right-to-sue” letter from the EEOC, a plaintiff must file a case in federal court within 90 days. A plaintiff has up to 1 year to file a civil action in state court after the FCHR issues its reasonable cause determination.

<sup>29</sup> Section 760.11(5), F.S.

<sup>30</sup> 42 U.S.C. s. 2000e-5(g)(1) and s. 1981a.

<sup>31</sup> 42 U.S.C. s. 1981a(b)(3).

<sup>32</sup> Section 760.11(5), F.S.

<sup>33</sup> Unlawful employment practices include discharging or failing to or refusing to hire a person, or discriminating in compensation, benefits, terms, conditions, or privileges of employment; and limiting or classifying an employee or applicant in such a way as to deprive the person of employment opportunities. The prohibition on unlawful employment practices applies also to employment agencies and labor organizations. *See* s. 760.10, F.S.

Additionally, a state cause of action in some cases will allow for greater remedies than the remedies authorized by federal law. Under federal law, the sum of compensatory and punitive damages against an employer having between 15 and 100 employees may not exceed \$50,000. Under a state claim, punitive damages may reach \$100,000, regardless of the size of the employer. However, federal law authorizes the sum of compensatory and punitive damages of up to \$300,000 for discrimination by larger employers.

**Section 7** reenacts s. 760.11, F.S., for the purpose of incorporating changes made by the provisions of this bill.

**Section 8** provides that the bill takes effect July 1, 2015.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill will ensure plaintiffs have access to state courts to pursue pregnancy discrimination claims, and such plaintiffs may receive greater remedies than available under federal law.

C. Government Sector Impact:

State and local governments are currently required to comply with Title VII as amended by the Pregnancy Discrimination Act of 1978 (PDA). The PDA has been interpreted by the state and local governments as prohibiting discrimination on the basis of pregnancy, childbirth, or related medical conditions. Therefore, complying with this bill will not create any additional burdens for state or local governments.

The FCHR manages complaints of discrimination brought under Title VII in Florida. According to the analysis conducted by the FCHR, passage of this bill will not result in any additional fiscal or workload burden on the agency.<sup>34</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 509.092, 760.01, 760.05, 760.07, 760.08, and 760.10.

This bill reenacts section 760.11(1), Florida Statutes, for the purpose of incorporating the changes made by the provisions of this bill.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>34</sup> Florida Commission on Human Relations, *SB 982 by Senator Thompson* (Feb. 19, 2015) (on file with the Senate Commerce and Tourism Committee).

By Senator Thompson

12-00862-15

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1 A bill to be entitled  
 2 An act relating to the Florida Civil Rights Act;  
 3 amending s. 509.092, F.S.; prohibiting discrimination  
 4 on the basis of pregnancy in public lodging and food  
 5 service establishments; amending s. 760.01, F.S.;  
 6 revising the general purpose of the Florida Civil  
 7 Rights Act of 1992; amending s. 760.05, F.S.; revising  
 8 the function of the Florida Commission on Human  
 9 Relations; amending s. 760.07, F.S.; providing civil  
 10 and administrative remedies for discrimination on the  
 11 basis of pregnancy; amending s. 760.08, F.S.;  
 12 prohibiting discrimination on the basis of pregnancy  
 13 in places of public accommodation; amending s. 760.10,  
 14 F.S.; prohibiting employment discrimination on the  
 15 basis of pregnancy; prohibiting discrimination on the  
 16 basis of pregnancy by labor organizations, joint  
 17 labor-management committees, and employment agencies;  
 18 prohibiting discrimination on the basis of pregnancy  
 19 in occupational licensing, certification, and  
 20 membership organizations; providing an exception to  
 21 unlawful employment practices based on pregnancy;  
 22 reenacting s. 760.11(1), F.S., relating to  
 23 administrative and civil remedies for violations of  
 24 the Florida Civil Rights Act of 1992, to incorporate  
 25 the amendments made to s. 760.10(5), F.S., in a  
 26 reference thereto; providing an effective date.

27  
 28 Be It Enacted by the Legislature of the State of Florida:  
 29

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30 Section 1. Section 509.092, Florida Statutes, is amended to  
 31 read:  
 32 509.092 Public lodging establishments and public food  
 33 service establishments; rights as private enterprises.—Public  
 34 lodging establishments and public food service establishments  
 35 are private enterprises, and the operator has the right to  
 36 refuse accommodations or service to any person who is  
 37 objectionable or undesirable to the operator, but such refusal  
 38 may not be based upon race, creed, color, sex, pregnancy,  
 39 physical disability, or national origin. A person aggrieved by a  
 40 violation of this section or a violation of a rule adopted under  
 41 this section has a right of action pursuant to s. 760.11.  
 42 Section 2. Subsection (2) of section 760.01, Florida  
 43 Statutes, is amended to read:  
 44 760.01 Purposes; construction; title.—  
 45 (2) The general purposes of the Florida Civil Rights Act of  
 46 1992 are to secure for all individuals within the state freedom  
 47 from discrimination because of race, color, religion, sex,  
 48 pregnancy, national origin, age, handicap, or marital status and  
 49 thereby to protect their interest in personal dignity, to make  
 50 available to the state their full productive capacities, to  
 51 secure the state against domestic strife and unrest, to preserve  
 52 the public safety, health, and general welfare, and to promote  
 53 the interests, rights, and privileges of individuals within the  
 54 state.  
 55 Section 3. Section 760.05, Florida Statutes, is amended to  
 56 read:  
 57 760.05 Functions of the commission.—The commission shall  
 58 promote and encourage fair treatment and equal opportunity for

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59 all persons regardless of race, color, religion, sex, pregnancy,  
60 national origin, age, handicap, or marital status and mutual  
61 understanding and respect among all members of all economic,  
62 social, racial, religious, and ethnic groups; and shall endeavor  
63 to eliminate discrimination against, and antagonism between,  
64 religious, racial, and ethnic groups and their members.

65 Section 4. Section 760.07, Florida Statutes, is amended to  
66 read:

67 760.07 Remedies for unlawful discrimination.—Any violation  
68 of any Florida statute making unlawful discrimination because of  
69 race, color, religion, gender, pregnancy, national origin, age,  
70 handicap, or marital status in the areas of education,  
71 employment, housing, or public accommodations gives rise to a  
72 cause of action for all relief and damages described in s.  
73 760.11(5), unless greater damages are expressly provided for. If  
74 the statute prohibiting unlawful discrimination provides an  
75 administrative remedy, the action for equitable relief and  
76 damages provided for in this section may be initiated only after  
77 the plaintiff has exhausted his or her administrative remedy.  
78 The term “public accommodations” does not include lodge halls or  
79 other similar facilities of private organizations which are made  
80 available for public use occasionally or periodically. The right  
81 to trial by jury is preserved in any case in which the plaintiff  
82 is seeking actual or punitive damages.

83 Section 5. Section 760.08, Florida Statutes, is amended to  
84 read:

85 760.08 Discrimination in places of public accommodation.—  
86 All persons are ~~shall be~~ entitled to the full and equal  
87 enjoyment of the goods, services, facilities, privileges,

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88 advantages, and accommodations of any place of public  
89 accommodation, ~~as defined in this chapter~~, without  
90 discrimination or segregation on the ground of race, color,  
91 national origin, sex, pregnancy, handicap, familial status, or  
92 religion.

93 Section 6. Subsections (1) and (2), paragraphs (a) and (b)  
94 of subsection (3), subsections (4) through (6), and paragraph  
95 (a) of subsection (8) of section 760.10, Florida Statutes, are  
96 amended to read:

97 760.10 Unlawful employment practices.—

98 (1) It is an unlawful employment practice for an employer:

99 (a) To discharge or to fail or refuse to hire any  
100 individual, or otherwise to discriminate against any individual  
101 with respect to compensation, terms, conditions, or privileges  
102 of employment, because of such individual’s race, color,  
103 religion, sex, pregnancy, national origin, age, handicap, or  
104 marital status.

105 (b) To limit, segregate, or classify employees or  
106 applicants for employment in any way which would deprive or tend  
107 to deprive any individual of employment opportunities, or  
108 adversely affect any individual’s status as an employee, because  
109 of such individual’s race, color, religion, sex, pregnancy,  
110 national origin, age, handicap, or marital status.

111 (2) It is an unlawful employment practice for an employment  
112 agency to fail or refuse to refer for employment, or otherwise  
113 to discriminate against, any individual because of race, color,  
114 religion, sex, pregnancy, national origin, age, handicap, or  
115 marital status or to classify or refer for employment any  
116 individual on the basis of race, color, religion, sex,

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117 pregnancy, national origin, age, handicap, or marital status.

118 (3) It is an unlawful employment practice for a labor  
119 organization:

120 (a) To exclude or to expel from its membership, or  
121 otherwise to discriminate against, any individual because of  
122 race, color, religion, sex, pregnancy, national origin, age,  
123 handicap, or marital status.

124 (b) To limit, segregate, or classify its membership or  
125 applicants for membership, or to classify or fail or refuse to  
126 refer for employment any individual, in any way ~~that which~~ would  
127 deprive or tend to deprive any individual of employment  
128 opportunities, or adversely affect any individual's status as an  
129 employee or as an applicant for employment, because of such  
130 individual's race, color, religion, sex, pregnancy, national  
131 origin, age, handicap, or marital status.

132 (4) It is an unlawful employment practice for any employer,  
133 labor organization, or joint labor-management committee  
134 controlling apprenticeship or other training or retraining,  
135 including on-the-job training programs, to discriminate against  
136 any individual because of race, color, religion, sex, pregnancy,  
137 national origin, age, handicap, or marital status in admission  
138 to, or employment in, any program established to provide  
139 apprenticeship or other training.

140 (5) Whenever, in order to engage in a profession,  
141 occupation, or trade, it is required that a person receive a  
142 license, certification, or other credential, become a member or  
143 an associate of any club, association, or other organization, or  
144 pass any examination, it is an unlawful employment practice for  
145 any person to discriminate against any other person seeking such

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146 license, certification, or other credential, seeking to become a  
147 member or associate of such club, association, or other  
148 organization, or seeking to take or pass such examination,  
149 because of such other person's race, color, religion, sex,  
150 pregnancy, national origin, age, handicap, or marital status.

151 (6) It is an unlawful employment practice for an employer,  
152 labor organization, employment agency, or joint labor-management  
153 committee to print, or cause to be printed or published, any  
154 notice or advertisement relating to employment, membership,  
155 classification, referral for employment, or apprenticeship or  
156 other training, indicating any preference, limitation,  
157 specification, or discrimination, based on race, color,  
158 religion, sex, pregnancy, national origin, age, absence of  
159 handicap, or marital status.

160 (8) Notwithstanding any other provision of this section, it  
161 is not an unlawful employment practice under ss. 760.01-760.10  
162 for an employer, employment agency, labor organization, or joint  
163 labor-management committee to:

164 (a) Take or fail to take any action on the basis of  
165 religion, sex, pregnancy, national origin, age, handicap, or  
166 marital status in those certain instances in which religion,  
167 sex, condition of pregnancy, national origin, age, absence of a  
168 particular handicap, or marital status is a bona fide  
169 occupational qualification reasonably necessary for the  
170 performance of the particular employment to which such action or  
171 inaction is related.

172 Section 7. For the purpose of incorporating the amendment  
173 made by this act to section 760.10(5), Florida Statutes, in a  
174 reference thereto, subsection (1) of section 760.11, Florida

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175 Statutes, is reenacted to read:

176 760.11 Administrative and civil remedies; construction.—

177 (1) Any person aggrieved by a violation of ss. 760.01-  
 178 760.10 may file a complaint with the commission within 365 days  
 179 of the alleged violation, naming the employer, employment  
 180 agency, labor organization, or joint labor-management committee,  
 181 or, in the case of an alleged violation of s. 760.10(5), the  
 182 person responsible for the violation and describing the  
 183 violation. Any person aggrieved by a violation of s. 509.092 may  
 184 file a complaint with the commission within 365 days of the  
 185 alleged violation naming the person responsible for the  
 186 violation and describing the violation. The commission, a  
 187 commissioner, or the Attorney General may in like manner file  
 188 such a complaint. On the same day the complaint is filed with  
 189 the commission, the commission shall clearly stamp on the face  
 190 of the complaint the date the complaint was filed with the  
 191 commission. In lieu of filing the complaint with the commission,  
 192 a complaint under this section may be filed with the federal  
 193 Equal Employment Opportunity Commission or with any unit of  
 194 government of the state which is a fair-employment-practice  
 195 agency under 29 C.F.R. ss. 1601.70-1601.80. If the date the  
 196 complaint is filed is clearly stamped on the face of the  
 197 complaint, that date is the date of filing. The date the  
 198 complaint is filed with the commission for purposes of this  
 199 section is the earliest date of filing with the Equal Employment  
 200 Opportunity Commission, the fair-employment-practice agency, or  
 201 the commission. The complaint shall contain a short and plain  
 202 statement of the facts describing the violation and the relief  
 203 sought. The commission may require additional information to be

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204 in the complaint. The commission, within 5 days of the complaint  
 205 being filed, shall by registered mail send a copy of the  
 206 complaint to the person who allegedly committed the violation.  
 207 The person who allegedly committed the violation may file an  
 208 answer to the complaint within 25 days of the date the complaint  
 209 was filed with the commission. Any answer filed shall be mailed  
 210 to the aggrieved person by the person filing the answer. Both  
 211 the complaint and the answer shall be verified.

212 Section 8. This act shall take effect July 1, 2015.

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The Florida Senate

## Committee Agenda Request

**To:** Senator Nancy C. Detert, Chair  
Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** March 3, 2015

RECEIVED


MAR 03 2015

COMMERCE

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I respectfully request that **Senate Bill # 982**, relating to Florida Civil Rights Act, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

  
\_\_\_\_\_  
Senator Geraldine F. Thompson  
Florida Senate, District 12

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/15  
Meeting Date

✓  
982  
Bill Number (if applicable)

Topic SB 982

Amendment Barcode (if applicable)

Name Lisa Vargo

Job Title student at UWF

Address \_\_\_\_\_

Phone \_\_\_\_\_

Street Pensacola FL  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

3-23-15  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

85B982  
Bill Number (if applicable)

Topic Florida Civil Rights Act

Amendment Barcode (if applicable)

Name Amy Datz

Job Title ~~Staff~~ Legislative Liaison

Address 1130 Crestview Ave

Phone 850 322-7589

Street

Tallahassee FL 32303

City

State

Zip

Email amalie.datz@

mcc.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing National Council of Jewish

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

SB 982  
Bill Number (if applicable)

Topic FLORIDA CIVIL RIGHTS ~~Bill~~ Act

Amendment Barcode (if applicable)

Name DR. LINDA GELLER-SCHWARTZ

Job Title STATE POLICY ADVOCATE, ~~NATIONAL COUNCIL OF JEWISH WOMEN~~

Address 6861 Calle del PAZ S

Phone 561 703-6718

Street

BOCA RATON

City

FL

State

33433

Zip

Email ldgellerschwartz@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing NATIONAL COUNCIL OF JEWISH WOMEN

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-23-15  
Meeting Date

982  
Bill Number (if applicable)

Topic pregnancy discrimination

Amendment Barcode (if applicable)

Name Barbara Devane

Job Title Ms

Address 625 E. Brevard St

Phone 850-222-3969

Tallahassee FL 32308  
City State Zip

Email barbdevane1@yahoo

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL NOW (National Organization for Women)

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-23-15

Meeting Date

SB 982

Bill Number (if applicable)

Topic Pregnancy Discrimination

Amendment Barcode (if applicable)

Name Stephanie Kunkel

Job Title

Address 1143 Albrighton Dr

Phone 850-320-4208

Street

Tallahassee FL 32301

Email Stef.Kunkel@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Federation of Business and Professional Women

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/2015  
Meeting Date

982  
Bill Number (if applicable)

Topic CIVIL RIGHTS

Amendment Barcode (if applicable)

Name GAIL MARIE PERRY

Job Title CHAIR

Address PO BOX 1766  
Street

Phone 954/850-4055

POMPANO BEACH FL 33061  
City State Zip

Email workingfolk@hotmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing COMMUNICATIONS WORKERS of AMERICA COUNCIL of FLORIDA

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 1212

INTRODUCER: Commerce and Tourism Committee and Senator Ring

SUBJECT: Contracts for Goods and Services

DATE: March 23, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	McKay	CM	<b>Fav/CS</b>
2.			JU	
3.			FP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 1212 provides that a contract for goods or services is unlawful if it includes a provision requiring the consumer to waive his or her right to make any statement regarding the seller or lessor or the goods or services. The bill also makes it unlawful for a party to threaten or seek enforcement of such a provision or to penalize the consumer for making a statement regarding his or her experiences with the seller or lessor or the goods or services. The bill provides that any waiver of a consumer's right to provide such statement is contrary to public policy and would be void and unenforceable. The bill provides civil penalties for violation of its provisions.

**II. Present Situation:**

**Contracts**

The formation of a contract requires the following: offer, acceptance, and consideration.<sup>1</sup> A contract may be written or oral.<sup>2</sup> A contract formed under duress, induced by fraud, or with a

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<sup>1</sup> 11 Fla. Jur. 2d *Contracts* s. 25.

<sup>2</sup> In some cases, there is a statutory requirement that a contract be written.

person that lacks capacity are voidable.<sup>3</sup> A contract is void, meaning it has no legal effect, if it is unconscionable,<sup>4</sup> contravenes public policy, or is otherwise illegal.<sup>5</sup>

General provisions and definitions for certain commercial transactions are found in the Florida Uniform Commercial Code (UCC).<sup>6</sup> Among other things, the UCC applies to the sale of goods and leases, but does not generally govern contracts for services. “Contract” is defined as the total legal obligation that results from the parties’ agreement, consistent with law.<sup>7</sup>

### Freedom of Speech

Both the First Amendment of the United States Constitution and Article 1, Section 4 of the Florida Constitution, protect against an infringement on the right of free speech. Although it is legal to waive one’s constitutional rights in contracts, the court will determine: (1) whether the waiver was voluntary, free, deliberate, and not procured through intimidation, coercion, or deception; and (2) whether the waiver was executed with full awareness of the nature of the rights being abandoned and the consequences of such abandonment.<sup>8</sup>

### Customer Reviews

There are a number of internet websites on which a consumer can share his or her experience with a particular business.<sup>9</sup> When seeking services or goods, an individual may review these websites and in making a decision to do business with a particular company, take into consideration the experiences that others have had with that particular company. According to one study, online reviews are the second most trusted source of information relied on by consumers, behind recommendations from friends and family.<sup>10</sup>

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<sup>3</sup> 11 Fla. Jur. 2d *Contracts* s. 10.

<sup>4</sup> Unconscionability is common law doctrine that courts may use to refuse to enforce contractual provisions in which one party overreaches the other party to gain “...an unjust and undeserving advantage which it would be inequitable to permit him to enforce...” *Steinhardt v. Rudolph*, 422 So.2d 884, 889 (Fla. 3d DCA 1982) (quoting *Peacock Hotel, Inc. v. Shipman*, 138 So. 44, 46 (1931). Unconscionability may be either procedural, dealing with the factors surrounding the entering of the contract; or substantive, focusing directly on the contract terms. *Steinhardt* at 889 (citing *Kohl v. Bay Colony Club Condominium, Inc.*, 398 So.2d 865, 867 (Fla. 4th DCA 1981), *reh’g denied*).

<sup>5</sup> 11 Fla. Jur. 2d *Contracts* s. 11.

<sup>6</sup> Chapters 670-680, F.S., are cited as the Uniform Commercial Code (UCC). General provisions of the Uniform Commercial Code are found in ch. 671, F.S.; the Uniform Commercial Code – Sales is found in ch. 672, F.S.; and the Uniform Commercial Code – Leases is found in ch. 680, F.S.

<sup>7</sup> Section 671.201(12), F.S.

<sup>8</sup> *Peterson v. Florida Bar*, 720 F. Supp.2d 1351, 1358 (M.D. Fla. 2010) (citing *Sliney v. State*, 699 So.2d 662, 668 (Fla. 1997)).

<sup>9</sup> For example, see TripAdvisor, *About TripAdvisor*, available at [http://www.tripadvisor.com/PressCenter-c6-About\\_Us.html](http://www.tripadvisor.com/PressCenter-c6-About_Us.html) (last visited Mar. 16, 2015); Yelp.com, *About Us*, available at <http://www.yelp.com/about> (last visited Mar. 16, 2015); and Angieslist.com, *Angie’s List*, <http://www.angieslist.com/aboutus.htm> (last visited Mar. 16, 2015). Additionally, many search engines, such as Google ([www.google.com](http://www.google.com)), Yahoo ([www.yahoo.com](http://www.yahoo.com)), or Bing ([www.bing.com](http://www.bing.com)) offer access to consumer reviews within the search engine results.

<sup>10</sup> Nielsen, *Consumer Trust in Online, Social and Mobile Advertising Grows*, (Apr. 10, 2012), available at <http://www.nielsen.com/us/en/insights/news/2012/consumer-trust-in-online-social-and-mobile-advertising-grows.html> (last visited Mar. 17, 2015).

Some businesses have attempted to limit a consumer's ability to share his or her opinion about the business or the goods or services received from the business. Several stories about such contractual clauses have made the news recently:

- In 2013, an online retailer threatened enforcement of a non-disparagement clause against customers, after the customers left a negative review on a consumer review website. The retailer demanded removal of the review or a payment of \$3,500. The customer refused to pay and the retailer reported the fine for collection, which negatively impacted the customers' credit ratings. The customers filed a lawsuit in a federal district court in Utah seeking compensation for violations of the Fair Credit Reporting Act and tort law. They claimed that the clause was unconscionable and unlawfully restricted their First Amendment rights. Ultimately, the customers obtained a default judgment against the retailer and were awarded compensatory and punitive damages, as well as attorney's fees and expenses.<sup>11</sup>
- A hotel in New York posted a policy on its website that indicated it would fine wedding parties \$500 for each negative review posted by any member of the wedding party or their guests. After public backlash, this policy was removed.<sup>12</sup>
- Medical Justice provided standard agreements to medical professionals for use in their practices that asked patients to waive the right to, directly or indirectly, provide commentary regarding the practitioner or the services received. Some of the standard agreements required the patient to sign over any written, pictorial, or electronic commentary about the practitioner.<sup>13</sup> One dentist, using a Medical Justice form contract, was sued by a patient. In March 2015, a federal district court in New York ruled the contract was unenforceable and constituted a misuse of copyright law.<sup>14</sup>

### *Defamation*<sup>15</sup>

If a business is concerned about false reviews that may have a negative impact on its business, it would be able to bring a civil action against a consumer who publishes false or misleading reviews. To prevail, the business must show that the customer:

- Published a false statement about the business;
- The false statement was published to a third party; and
- The falsity of the statement caused injury to the business.<sup>16</sup>

<sup>11</sup> Nelson, Steven, *Retailer That Fined Couple \$3,500 for Negative Review Hit with Lawsuit*, U.S. News & World Report, (Dec. 13, 2013), available at <http://www.usnews.com/news/articles/2013/12/18/retailer-that-fined-couple-3500-for-negative-review-hit-with-lawsuit> (last visited Mar. 19, 2015) and Volokh, Eugene, *Default Judgment Against KlearGear, the Company that Billed Customers for \$3,500, Because They Posted a Negative Review*, The Washington Post, (May 16, 2014), available at <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/05/16/default-judgment-against-kleargear-the-company-that-billed-customers-for-3500-because-they-posted-a-negative-review/> (last visited Mar. 19, 2015).

<sup>12</sup> Hetter, Katia, CNN, *A \$500 Fine for Bad Reviews? Inn's Policy Pummeled*, (Aug. 5, 2014), available at <http://www.cnn.com/2014/08/04/travel/bad-hotel-review-fine-backlash/> (last visited Mar. 17, 2015).

<sup>13</sup> Doctored Reviews, available at <http://doctoredreviews.com/patients/the-back-story/> (last visited Mar. 17, 2015).

<sup>14</sup> Lexology.com, *Court Finds Dentist Misused Copyright Law to Stop Bad Yelp Reviews*, (Mar. 17, 2015), available at <http://www.lexology.com/library/detail.aspx?g=56373e86-0715-4b86-97c7-68582badf0cd> (last visited Mar. 17, 2015).

<sup>15</sup> Defamation is defined as the unprivileged publication of false statements that naturally and proximately result in an injury to another. Under Florida law, defamation also includes libel and slander. 19 Fla. Jur. 2d s. 2.

<sup>16</sup> *Razner v. Wellington Regional Medical Center, Inc.*, 837 So.2d 437, 442 (Fla. 4d DCA 2002) (citing *Valencia v. Citibank Int'l.*, 728 So.2d 330, 330 (Fla. 3d DCA 1999)).

### III. Effect of Proposed Changes:

**Section 1** creates s. 725.09, F.S., to prohibit a contract for the sale or lease of consumer goods or services from including a provision that limits a consumer's right to make statements regarding his or her experiences with the seller or lessor, the seller's or lessor's employees, or the goods or services. The bill makes it unlawful to threaten or to seek to enforce a provision made unlawful under this bill, or otherwise penalize a consumer for making a statement protected under this bill.

The bill creates a civil action for the violation of the provisions of the bill which may be brought by a consumer, the Office of Attorney General, or the state attorney for the county in which the violation occurred. A court may impose a civil penalty of no more than \$2,500 for the first violation and no more than \$5,000 for each subsequent violation. Willful, intentional, or reckless violations may incur an additional civil penalty of up to \$10,000. The civil penalty will be awarded to the consumer, if he or she brought the civil action, or to the general fund of the Office of Attorney General or the state attorney, if one of these entities brought the action. The imposition of these civil penalties does not affect any other relief available to the consumer.

The provisions of this bill do not affect a host of online consumer reviews or comments from removing consumer reviews or comments that the host may lawfully remove.

**Section 2** provides an effective date of July 1, 2015.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. Other Constitutional Issues:

The United States Constitution and the Florida Constitution prohibit the state from passing any law impairing the obligation of contracts.<sup>17</sup> “[T]he first inquiry must be whether the state law has, in fact, operated as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear.”<sup>18</sup> If a law does impair contracts, the courts will assess whether the

<sup>17</sup> U.S. Const. Art. I, § 10; Art. I, s. 10, Fla. Const.

<sup>18</sup> *Pomponio v Claridge of Pompano Condominium, Inc.*, 378 So.2d 774, 779 (Fla. 1979) (quoting *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 244-45 (1978)). See also *General Motors Corp. v. Romein*, 503 U.S. 181 (1992).

law is deemed reasonable and necessary to serve an important public purpose.<sup>19</sup> The factors that a court will consider when balancing the impairment of contracts with the public purpose include:

- Whether the law was enacted to deal with a broad, generalized economic or social problem;
- Whether the law operates in an area that was already subject to state regulation at the time the parties undertook their contractual obligations, or whether it invades an area never before subject to regulation; and
- Whether the law effects a temporary alteration of the contractual relationships of those within its scope, or whether it works a severe, permanent, and immediate change in those relationships, irrevocably and retroactively.<sup>20</sup>

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent that individuals violate the provisions of the bill, there may be a negative fiscal impact to the state court system or legal agencies seeking to enforce the provisions of the bill. However, some of that costs may be offset by the recovery of civil penalties.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the section 725.09 of the Florida Statutes.

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<sup>19</sup> *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So.2d 681, 683 (Fla. 1980); *Yellow Cab Co. of Dade County v. Dade County*, 412 So.2d 395, 397 (Fla. 3rd DCA 1982) (citing *United States Trust Co. v. New Jersey*, 431 U.S. 1, (1977)).

<sup>20</sup> See *supra* note 17, at 779.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism Committee on March 23, 2015:**

The committee substitute moves the bill's provisions from ch. 672, F.S., to ch. 725, F.S.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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110028

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2015	.	
	.	
	.	
	.	

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The Committee on Commerce and Tourism (Ring) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 12 - 14

and insert:

Section 1. Section 725.09, Florida Statutes, is created to read:

725.09 Right of consumer to make statements.-

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:



110028

11           Delete line 3  
12 and insert:  
13           creating s. 725.09, F.S.; prohibiting contracts for

By Senator Ring

29-01355-15

20151212\_\_

A bill to be entitled

An act relating to contracts for goods and services; creating s. 672.3021, F.S.; prohibiting contracts for the sale or lease of consumer goods or services from waiving the right of the consumer to make certain statements; providing civil penalties; providing construction and applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 672.3021, Florida Statutes, is created to read:

672.3021 Right of consumer to make statements.—

(1) (a) A contract for the sale or lease of consumer goods or services may not include a provision waiving the right of the consumer to make any statement regarding the seller or lessor, the seller's or lessor's employees or agents, or the goods or services.

(b) A seller or lessor or its employees or agents may not threaten or seek to enforce a provision prohibited under this subsection or otherwise penalize a consumer for making a statement protected under this subsection.

(c) A waiver of this section is contrary to public policy, void, and unenforceable.

(2) (a) A seller or lessor or its employees or agents that violate this section are subject to a civil penalty not to exceed \$2,500 for the first violation and \$5,000 for each subsequent violation. For a willful, intentional, or reckless

Page 1 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

29-01355-15

20151212\_\_

violation, an additional civil penalty not to exceed \$10,000 may be assessed.

(b) The penalty shall be assessed and collected in a civil action brought by the consumer, the Attorney General, or the state attorney for the county in which the violation occurred. The penalty shall be payable, as appropriate, to the consumer or to the general fund of the governmental entity that brought the action.

(c) The penalties in this subsection are not exclusive remedies and do not affect other relief or remedies provided by law.

(3) This section does not prohibit a person or business that hosts online consumer reviews or comments from removing a statement that is otherwise lawful to remove.

Section 2. This act shall take effect July 1, 2015.

Page 2 of 2

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

## Committee Agenda Request

**To:** Senator Nancy Detert  
Senate Committee on Commerce and Tourism

**Subject:** Committee Agenda Request

**Date:** March 2, 2015

---

I respectfully request that **Senate Bill # 1212**, relating to Contracts for Goods and Services, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Jeremy Ring".

---

Senator Jeremy Ring  
Florida Senate, District 29

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

---

**BILL:** CS/SB 1318

**INTRODUCER:** Commerce and Tourism Committee and Senator Latvala

**SUBJECT:** State Minimum Wage

**DATE:** March 23, 2015

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	McKay	CM	Fav/CS
2.			ACJ	
3.			FP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1318 makes it unlawful to knowingly procure labor with the intent to defraud or deceive the laborer. The bill provides that a violation of the minimum wage rights provided in the Florida Statutes is punishable as a third degree felony.

**II. Present Situation:**

**Florida's Minimum Wage**

The state minimum wage was established by an amendment to Florida's Constitution, which took effect on May 2, 2005.<sup>1</sup> The Legislature enacted the Florida Minimum Wage Act in 2005 to implement the constitutional provisions.<sup>2</sup>

The Department of Economic Opportunity (DEO) is required to annually calculate and publish the state minimum wage.<sup>3</sup> The minimum wage is calculated by increasing the state minimum wage by the rate of inflation for the 12 months prior to September 1.<sup>4</sup> Each state-adjusted

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<sup>1</sup> Section 24, Art. X, of the State Constitution.

<sup>2</sup> Chapter 2005-353, L.O.F.

<sup>3</sup> "To implement s. 24, Art. X of the State Constitution, the Department of Economic Opportunity is designated as the state Agency for Workforce Innovation." s. 448.110(2), F.S.

<sup>4</sup> Section 448.110(4)(a), F.S.. In calculating the minimum wage, the DEO is required to use the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for the South Region or a successor index as calculated by the United States Department of Labor.

minimum wage rate shall take effect on the following January 1.<sup>5</sup> Current law requires employers to pay employees a minimum wage at an hourly rate published by the DEO for all hours worked in Florida. Only those individuals entitled to receive the federal minimum wage under the federal Fair Labor Standards Act<sup>6</sup> and its implementing regulations are eligible to receive the state minimum wage. Currently, the state minimum wage is \$8.05 per hour, which is higher than the federal minimum wage of \$7.25 per hour.<sup>7</sup> Federal law requires the payment of the higher of the federal or state minimum wage.<sup>8</sup>

### **Compliance with Florida Minimum Wage Act**

Employees who are not paid the minimum wage may bring a civil action against the employer or any person violating Florida's minimum wage law. "Rights protected include, but are not limited to, the right to file a complaint or inform any person of his or her potential rights pursuant to s. 24, Art. X of the State Constitution and to assist him or her in asserting such rights."<sup>9</sup> However, prior to bringing any claim for unpaid minimum wages, the person aggrieved must notify the employer, in writing, of his or her intent to initiate such an action. An employer may ultimately be liable for unpaid wages, liquidated damages, and reasonable attorney's fees and costs to the employee.<sup>10</sup> Such actions may also be brought as class actions.<sup>11</sup>

The Attorney General may also bring an enforcement action to enforce the minimum wage, and may seek to impose a fine of \$1,000 per violation, payable to the state.<sup>12</sup> Actions must be brought within 5 years of the date the alleged violation occurred.<sup>13</sup> Chapter 448, F.S., also prohibits an employer from retaliating against the employee for enforcing his or her rights, and it preserves the rights that an employee has under any collective bargaining agreement or employee contract.<sup>14</sup>

### **Fair Labor Standards Act**

The Fair Labor Standards Act (FLSA) prescribes standards for minimum wages, overtime pay, recordkeeping, and child labor.<sup>15</sup> It is administered by the U.S. Department of Labor, Wage and Hour Division. The FLSA allows states to set a minimum wage higher than the federal rate, which is currently \$7.25 per hour;<sup>16</sup> however, it may not be lower than the federal rate.<sup>17</sup> The FLSA also requires employers to pay one and one-half times regular wages for any time worked

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<sup>5</sup> Section 448.110(4)(a), F.S.

<sup>6</sup> The U.S. Department of Labor provides an extensive list of types of employees covered under the FLSA at <http://www.dol.gov/compliance/guide/minwage.htm#who> (last visited Mar. 13, 2015).

<sup>7</sup> The Department of Economic Opportunity, *Florida Minimum Wage History 2000 to 2015*, (Oct. 2014), available at <http://sitefinity.floridajobs.org/docs/default-source/2015-minimum-wage-increases/florida-minimum-wage-history-2000-2015.pdf> (last visited Mar. 13, 2015).

<sup>8</sup> 29 U.S.C. §218(a).

<sup>9</sup> Section 448.110(5), F.S.

<sup>10</sup> Section 448.110(6), F.S.

<sup>11</sup> Section 448.110(9), F.S.

<sup>12</sup> Section 448.110(7), F.S.

<sup>13</sup> Section 448.110(8), F.S.

<sup>14</sup> Section 448.105, F.S.

<sup>15</sup> 29 U.S.C. 201, et seq. See generally U.S. Department of Labor, Wage and Hour Division, "Compliance Assistance – Fair Labor Standards Act (FLSA)," available at <http://www.dol.gov/whd/flsa/index.htm> (last visited Mar. 12, 2015).

<sup>16</sup> The FLSA also prescribes a minimum wage for tipped employees, which is currently \$2.13. See 29 C.F.R. 531.50.

<sup>17</sup> 29 U.S.C. s. 218(a).

in excess of 40 hours during a workweek.<sup>18</sup> The FLSA applies to most classes of workers, but a major exception is that it does not apply to most employees of businesses that have less than \$500,000 in annual business.<sup>19</sup>

The FLSA provides for enforcement in three separate ways:

- Civil actions or lawsuits by the federal government;
- Criminal prosecutions by the United States Department of Justice; or
- Private lawsuits by employees or workers, which includes individual lawsuits and collective actions.

An employer who violates the minimum wage or the maximum hours provisions of the FLSA is liable to the employee for the amount of the unpaid wages and liquidated damages equal to the amount of the unpaid wages. An employer who fails to pay according to law is also responsible for the employee's attorney's fees and costs.<sup>20</sup>

### Wage Theft

Wage theft is a general term used to describe the failure of employers to pay employees wages that they are legally owed.<sup>21</sup> Wage theft can take a variety of forms, such as paying below the minimum wage, forcing employees to work off the clock, or failing to pay any wages for work performed. Workers who receive lower wages seem to be more likely to have their wages stolen by their employers.<sup>22</sup>

Several counties have implemented ordinances or programs to address wage theft, and other counties are considering such ordinances.<sup>23</sup> These programs typically institute quasi-judicial or administrative proceedings to assist employees in the recovery of unpaid or underpaid wages. If an employer fails to pay any ordered back wages, the employee typically has to seek relief in civil court.

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<sup>18</sup> 29 U.S.C. s. 207(a)(1).

<sup>19</sup> See *supra* note 6.

<sup>20</sup> 29 U.S.C. s. 216.

<sup>21</sup> Hernandez, Cynthia S. and Carol Stepick. *Wage Theft: An Economic Drain on Florida: How Millions of Dollars are Stolen from Florida's Workforce*, available at <http://www.afsc.org/sites/afsc.civicaactions.net/files/documents/Wage%20Theft%20How%20Millions%20of%20Dollars%20are%20Stolen%20from%20Florida.pdf> (last visited Mar. 13, 2015).

<sup>22</sup> *Id.*

<sup>23</sup> Miami-Dade County's wage theft program can be found at <http://www.miamidade.gov/business/wage-theft.asp> (last visited Mar. 13, 2015); Broward County's wage theft ordinance can be found at <http://www.ordinancewatch.com/files/72011/LocalGovernment78367.pdf> (last visited Mar. 13, 2015); Palm Beach County funds an attorney with the Legal Aid Society of Palm Beach County for a wage recovery program. See [http://articles.sun-sentinel.com/2014-01-15/news/sfl-palm-beach-county-renews-compromise-wage-theft-effort-20140115\\_1\\_wage-county-commission-low-income-workers](http://articles.sun-sentinel.com/2014-01-15/news/sfl-palm-beach-county-renews-compromise-wage-theft-effort-20140115_1_wage-county-commission-low-income-workers) (last visited Mar. 13, 2015), and [http://www.legalaidpbc.org/press\\_wagetheft.php](http://www.legalaidpbc.org/press_wagetheft.php) (last visited Mar. 13, 2015); and Alachua County's wage theft program can be found at <http://www.alachuacounty.us/Depts/AdminSvcs/EO/WageTheftComplaints/Pages/default.aspx> (last visited Mar. 13, 2015). Hillsborough and Osceola Counties are considering wage theft programs, see <http://tbo.com/news/politics/hillsborough-moves-ahead-with-law-to-get-back-stolen-wages-20150304/> and <http://www.orlandosentinel.com/news/breaking-news/os-osceola-wage-theft-ordinance-20150306-story.html> (last visited Mar. 13, 2015), respectively.

**III. Effect of Proposed Changes:**

**Section 1** amends s. 448.110, F.S., to make it unlawful to knowingly employ a person with the intent to defraud or deceive a person and any violation is punishable as a third degree felony.<sup>24</sup>

**Section 2** provides an effective date of July 1, 2015.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

Section 24, art. X, of the Florida Constitution, sets forth Florida's minimum wage. The section provides for civil enforcement of its provisions. The enforcement has been codified in s. 448.110, F.S., and is discussed above.

Additionally, the section provides that "[t]he state legislature may by statute establish additional remedies or fines for violations of this amendment, ..."

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

To the extent that there are violations of the provisions of this bill, the office of the state attorney in the jurisdiction in which the violation occurred may incur a negative fiscal impact due to the enforcement of the new violation.

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<sup>24</sup> A felony in the third degree is punishable by a term of imprisonment not to exceed 5 years. (s. 775.082(3)(e), F.S.), or a fine not to exceed \$5,000 (s. 775.083(1)(c), F.S.). The bill also makes the violation subject to sentencing as a habitual felony offender.



The Criminal Justice Impact Conference (CJIC) has considered HB 589, which is substantively similar to SB 1318. The CJIC determined that HB 589 would have a positive insignificant impact on prison beds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 448.110 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism Committee on March 23, 2015:**

The committee substitute clarifies that the newly created third degree felony only applies to the knowing procurement of labor with an intent to deceive or defraud and does not apply to the other provisions of the subsection.

- B. **Amendments:**

None.



444468

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/25/2015	.	
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	.	

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The Committee on Commerce and Tourism (Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 24  
and insert:  
to defraud or deceive such person. For purposes of this  
paragraph:

1. Intent to defraud or deceive is presumed if:

a. The employer or party absconded without paying for the  
service or expressly refused to pay for the service in  
circumstances in which payment is ordinarily made immediately



444468

11 upon rendering of the service; or

12 b. The employer or party failed to make payment under a  
13 service agreement within 10 days after receiving notice  
14 demanding payment. Notice shall be in writing, sent by  
15 registered or certified mail with return receipt requested or by  
16 telegram with report of delivery requested, and addressed to the  
17 employer or party at his or her known address or the address  
18 shown on the service agreement. If written notice meets such  
19 requirements, it is presumed that the notice was received no  
20 later than 5 days after it was sent.

21 2. If payment is made periodically, the intent to abscond  
22 without paying for a service may be formed at any time during or  
23 before a pay period. The partial payment of wages, alone, is not  
24 sufficient evidence to negate the employer's or party's intent  
25 to abscond without paying for a service.

26  
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Between lines 5 and 6

30 insert:

31 providing a presumption of intent to defraud, deceive,  
32 or abscond;



807856

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2015	.	
	.	
	.	
	.	

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The Committee on Commerce and Tourism (Latvala) recommended the following:

**Senate Amendment**

Delete line 25

and insert:

(c) A violation of paragraph (b) of this subsection is a felony of the third

By Senator Latvala

20-01129-15

20151318\_\_

A bill to be entitled

An act relating to state minimum wage; amending s. 448.110, F.S.; prohibiting an employer or any other party from knowingly procuring labor from any person with an intent to defraud or deceive such person; providing a penalty; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 448.110, Florida Statutes, is amended to read:

448.110 State minimum wage; annual wage adjustment; enforcement.—

(5) ~~It shall be unlawful for~~ An employer or any other party may not: ~~to~~

(a) Discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected pursuant to s. 24, Art. X of the State Constitution. Rights protected include, but are not limited to, the right to file a complaint or inform any person of his or her potential rights pursuant to s. 24, Art. X of the State Constitution and to assist him or her in asserting such rights.

(b) Knowingly procure labor from any person with an intent to defraud or deceive such person.

(c) A violation of this subsection is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect July 1, 2015.



**THE FLORIDA SENATE**

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Appropriations Subcommittee on  
Transportation, Tourism, and Economic  
Development, *Chair*  
Appropriations  
Commerce and Tourism  
Governmental Oversight and Accountability  
Regulated Industries  
Rules

**SENATOR JACK LATVALA**

20th District

March 2, 2015

**RECEIVED**

**MAR 03 2015**

**COMMERCE**

The Honorable Nancy Detert, Chair  
Senate Committee on Commerce and Tourism  
310 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

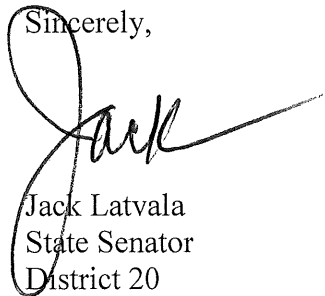
Dear Chairman Detert:

I respectfully request consideration of Senate Bill 1318/State Minimum Wage by the Senate Commerce and Tourism Committee at your earliest convenience.

This bill will make it a felony to withhold wages from Florida workers, some of whom are undocumented. Under federal labor laws, every employee, regardless of their immigration status, must be paid.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,



Jack Latvala  
State Senator  
District 20

Cc: Todd McKay, Staff Director; Patty Blackburn, Administrative Assistant

**REPLY TO:**

- 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/15

Meeting Date

SB13

Bill Number (if applicable)

Topic Minimum wage

Amendment Barcode (if applicable)

Name Rich Templin

Job Title \_\_\_\_\_

Address 135 S. Monroe

Phone 850-224-6926

Street

Tallahassee

FL

32301

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida AFL-CIO

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/15

Meeting Date

1318

Bill Number (if applicable)

Topic Minimum Wage

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St

Phone 850-521-1235

Street

Tallahassee

FL

32301

Email cjohnson@flchamber.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/23/15

Meeting Date

1318

Bill Number (if applicable)

Topic State Minimum Wage

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title General Counsel

Address 227 S Adams St.

Phone 222-4082

Tallahassee FL 32301  
City State Zip

Email samantha@frf.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Retail Federation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**



**THE FLORIDA SENATE**

Tallahassee, Florida 32399-1100

**RECEIVED**

**MAR 23 2015**

**COMMERCE**

**COMMITTEES:**  
Ethics and Elections, *Chair*  
Banking and Insurance, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Health  
and Human Services  
Commerce and Tourism  
Regulated Industries  
Rules

**SENATOR GARRETT RICHTER**

*President Pro Tempore*  
23rd District

March 23, 2015

The Honorable Nancy Detert, Chair  
The Committee on Commerce and Tourism  
310 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Detert,

I respectfully ask to be excused from the Commerce and Tourism Committee meeting scheduled for March 23<sup>rd</sup>, 2015 at 4 p.m.

Thank you for your consideration.

Sincerely,

Garrett Richter

cc: Todd McKay, Staff Director  
Patty Blackburn, Committee Administrative Assistant

REPLY TO:

- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# CourtSmart Tag Report

Room: EL 110

Case:

Type:  
Judge:

Caption: Senate Commerce and Tourism Committee

Started: 3/23/2015 4:16:32 PM

Ends: 3/23/2015 5:07:55 PM

Length: 00:51:24

4:16:34 PM Call to order  
4:16:47 PM Call to order  
4:16:49 PM Tab 1 SB 544 Senator Hukill  
4:18:04 PM Senator Bean  
4:21:02 PM Nancy Stephens Manufacturers Association of Florida  
4:22:04 PM Jerry Sampson waive in support  
4:22:15 PM Jose Gonzalez waive in support  
4:23:19 PM waive close  
4:23:23 PM Roll Call on SB 544  
4:23:34 PM Bill reported favorably  
4:23:43 PM Tab 2 SB 798 Senator Lee  
4:24:25 PM Amendment 518216  
4:24:57 PM Senator Latvala  
4:27:01 PM Senator Detert  
4:28:46 PM Jonathan Rees, Department of Agriculture waive in support  
4:29:08 PM Corey Mathews FL Movers Association  
4:31:05 PM Amendment adopted  
4:31:20 PM Roll call on CS SB 798  
4:31:45 PM Bill reported favorably  
4:31:52 PM Tab 3 SB 858 Senator Garcia's LA (tp)  
4:33:02 PM Tab 5 SB 982 Senator Thompson  
4:34:17 PM Lisa Vargo  
4:36:31 PM Linda Geller-Schwartz waives in support  
4:36:44 PM Stephanie Kunkel waives in support  
4:36:53 PM Gail Mari Terry waives in support  
4:37:14 PM Close Senator Thompson  
4:37:47 PM Roll Call on SB 982  
4:37:56 PM SB 982 Reported favorably  
4:38:21 PM Tab 4 SB 944 Senator Soto's LA  
4:39:18 PM Senator Detert  
4:39:54 PM Waive close  
4:40:29 PM roll call on SB 944  
4:40:38 PM SB 944 Reported favorably  
4:40:52 PM Tab 6 SB 1212 Senator Ring  
4:42:59 PM Amendment 110028 adopted  
4:43:23 PM Senator Thompson  
4:44:24 PM Senator Detert  
4:45:37 PM Waive close  
4:45:42 PM Roll call on CS SC 1212  
4:45:51 PM CS SB 1212 Reported favorably  
4:46:14 PM Tab 7 SB 1318 Senator Latvala  
4:47:17 PM Amendment 1 Barcode 444468  
4:48:07 PM Amendment 1 adopted  
4:48:47 PM Amendment 2 Barcode 807856  
4:49:03 PM Amendment 2 withdrawn  
4:49:18 PM Senator Detert  
4:52:10 PM Amendment 2 Barcode 807856 reconsidered and adopted  
4:53:10 PM Amendment 1 Barcode 444468 reconsidered and withdrawn  
4:53:36 PM Rich Templin Florida AFC-CIO  
4:54:48 PM Carolyn Johnson Florida Chamber of Commerce  
4:56:02 PM Senator Latvala  
4:59:04 PM Senator Ring

**5:00:54 PM** Samantha Padgett Florida Retail Federation  
**5:01:26 PM** Senator Ring  
**5:04:13 PM** Waive close  
**5:04:33 PM** Roll Call on SB 1318  
**5:04:45 PM** SB 1318 Reported favorably  
**5:04:57 PM** Tab 3 SB 858 Senator Garcia's LA  
**5:05:50 PM** Harry Duncanson, Printing Association of Florida waive in support  
**5:06:20 PM** H. Lee Moffitt waives in support  
**5:06:30 PM** Jack Hebert waive in support  
**5:06:41 PM** Waive close  
**5:06:44 PM** Roll Call SB 858  
**5:06:51 PM** SB 858 Reported favorably  
**5:07:41 PM** Adjourned