

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 755 Convenience Business Security

SPONSOR(S): Stone

TIED BILLS: None **IDEN./SIM. BILLS:** SB 684

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Cunningham	Cunningham
2) Justice Appropriations Subcommittee	11 Y, 0 N	Schrader	Lloyd
3) Judiciary Committee	18 Y, 0 N	Cunningham	Havlicak

SUMMARY ANALYSIS

The Convenience Business Security Act (Act) requires a convenience business to be equipped with a variety of security devices and standards (e.g., a security camera system, a drop safe for restricted access to cash receipts, a notice at the entrance stating that the cash register contains \$50 or less, height markers at the entrance; a cash management policy that limits cash on hand after 11 p.m., a silent alarm, etc.).

The Act also requires any convenience business at which a specified crime has occurred, to implement enhanced security measures. These measures must be in place between 11 p.m. and 5 a.m., and include:

- Providing at least two employees on the premises, installing a transparent secured safety enclosure for use by the employees; providing a security guard on the premises; locking the premises and transacting business through an indirect pass-through window; or closing the business.

The Act also requires all employees to receive robbery deterrence and safety training within 60 days of employment. Convenience businesses must submit a proposed training curriculum to the Department of Legal Affairs (Department), along with an administrative fee not to exceed \$100, for review and approval. The training curriculum must be submitted to the Department biennially, along with the appropriate administrative fee, for reapproval.

Currently, the term “convenience business” is defined to exclude *any business in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m.*

The bill amends the definition of “convenience business” so that it does not exclude businesses in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m. As a result, all of the above-described security and training requirements (except the ones noted below) will apply to convenience businesses in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m.

The bill continues to exempt convenience businesses in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m. from the enhanced security standards required after a crime has occurred on the property (described above).

The bill removes the requirement that convenience businesses must submit a safety training curriculum and associated administrative fee to the Department. The Department reports that they are not currently collecting the fee. The bill does not appear to have a fiscal impact on state or local government.

The bill is effective July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Convenience Business Security Act

In 1990, the Legislature passed the Convenience Business Security Act (Act)¹ to prevent violent crime and provide uniform statewide security standards for late night convenience businesses.² The provisions of the Act are enforced by the Department of Legal Affairs (Department).³

Minimum Security Standards

The Act requires convenience businesses to have the following security devices and standards:

- A security camera system that is capable of recording and retrieving an image to assist in offender identification and apprehension;
- A drop safe or cash management device for restricted access to cash receipts;
- A lighted parking lot illuminated at a specified intensity;
- A conspicuous notice at the entrance stating that the cash register contains \$50 or less;
- Window signage that allows a clear and unobstructed view from outside the building and in a normal line of sight of the cash register and sales transaction area;
- Height markers at the entrance of the convenience business that display height measures;
- A cash management policy that limits cash on hand after 11 p.m.;
- Windows that are not tinted in a way that reduces exterior or interior view; and
- A silent alarm to law enforcement or a private security agency.⁴

Enhanced Security Standards

The Act requires any convenience business at which a murder, robbery, sexual battery, aggravated assault, aggravated battery, kidnapping, or false imprisonment has occurred, to implement additional security measures. These additional security measures must be in place at all times between 11 p.m. and 5 a.m., and include:

- Providing at least two employees on the premises;
- Installing a transparent secured safety enclosure for use by the employees;
- Providing a security guard on the premises;
- Locking the premises and transacting business through an indirect pass-through window; or
- Closing the business.⁵

After complying with these provisions for 24 months with no additional occurrences of the above-described crimes, a convenience business may file a notice of exemption from the enhanced security measures with the Department.⁶

Training Requirements

The Act requires all employees to receive robbery deterrence and safety training within 60 days of employment.⁷ Convenience businesses must submit a proposed training curriculum to the Department, along with an administrative fee not to exceed \$100, for review and approval.⁸ The training curriculum must be submitted to the Department biennially, along with the appropriate administrative fee, for reapproval.⁹

Enforcement

¹ Ch. 90-346, Laws of Fla.

² s. 812.172, F.S.

³ s. 812.175, F.S. The Department may also enter into agreements with local governments to assist in enforcement. s. 812.175(4), F.S.

⁴ s. 812.173(1), (2), and (3), F.S.

⁵ s. 812.173(4), F.S.

⁶ s. 812.173(5), F.S.

⁷ s. 812.174, F.S.

⁸ *Id.*

⁹ *Id.*

The Department enforces the provisions of the Act. Upon learning of a violation, the Department must provide the convenience business a notice of violation which the business has 30 days to correct.¹⁰ If the convenience business fails to correct the violation within 30 days, the Department may impose a civil fine of up to \$5,000.¹¹ If the violation is determined to be a threat to health, safety, and public welfare, the Department is authorized to pursue an injunction against the convenience business.¹²

Currently, the term “convenience business” is defined as any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, and that is open for business at any time between the hours of 11 p.m. and 5 a.m.¹³ The term does not include:

- A business that is solely or primarily a restaurant;
- A business that always has at least five employees on the premises after 11 p.m. and before 5 a.m.; or
- A business that has at least 10,000 square feet of retail floor space.¹⁴

The term also does not include any business in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m.¹⁵

Effect of the Bill

The bill amends the definition of “convenience business” so that it does not exclude any business in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m. As a result, all of the above-described security and training requirements (except the ones noted below) will apply to convenience businesses in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m.

The bill continues to exempt convenience businesses in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m. from the enhanced security standards required after a crime has occurred on the property (described above).

The bill also removes the requirement that convenience businesses submit a safety training curriculum to the Department.

B. SECTION DIRECTORY:

Section 1. Amends s. 812.171, F.S., relating to definition.

Section 2. Amends s. 812.173, F.S., relating to convenience business security.

Section 3. Amends s. 812.174, F.S., relating to training of employees.

Section 4. Provides an effective date of July 1, 2015.

¹⁰ s. 812.175(1), F.S.

¹¹ *Id.*

¹² s. 812.175(3), F.S.

¹³ s. 812.171, F.S.

¹⁴ *Id.*

¹⁵ *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill removes the requirement that convenience businesses must submit a safety training curriculum and associated administrative fee to the Department. The Department reports that they are not currently collecting the fee, and that the bill will not have a fiscal impact.¹⁶

2. Expenditures:

The bill does not appear to have an impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have an impact on local government revenues.

2. Expenditures:

The bill does not appear to have an impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on convenience businesses, as they will no longer be required to submit a safety training curriculum and associated fee to the Department.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹⁶ E-mail from Andrew Fay, Florida Department of Legal Affairs, March 11, 2015 (on file with the Criminal Justice Subcommittee).