

THE FLORIDA SENATE
2015 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/HB 71 — Service Animals

by Judiciary Committee and Rep. Smith and others (CS/SB 414 by Commerce and Tourism Committee and Senator Altman)

The bill amends Florida’s law related to service animals and aligns it with similar provisions in the American with Disabilities Act and the Fair Housing Act. The bill redefines “service animal,” and for the purposes of public accommodation, limits the term to a dog or miniature horse. The bill amends the definition of public accommodation to include a timeshare that is a transient public lodging establishment, and exempts air carriers covered by the Air Carrier Access Act of 1986.

The bill requires a business to modify its policies to accommodate the use of a service animal by an individual with a disability. Although a business may not ask about the nature of an individual’s disability, it may ask if the service animal is required because of a disability and what tasks the service animal is trained to perform. A service animal must be on a leash or harness unless it would interfere with the service animal’s ability to perform the tasks it is trained to do, and it must be under the handler’s control. If an animal is not under the handler’s control, is not housebroken, or poses a threat, the business may request its removal. In addition to the criminal penalties in current law, the bill requires a business unlawfully denying or interfering with an individual’s right to use or train a service animal to perform 30 hours of community service with an organization that serves individuals with disabilities.

The bill creates a second-degree misdemeanor for a person who knowingly and willfully misrepresents that he or she is qualified to use a service animal or is a trainer of service animals. In addition to the criminal penalty, an individual in violation of this provision must also perform 30 hours of community service with an organization that serves individuals with disabilities.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 38-0; House 112-0

THE FLORIDA SENATE
2015 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/CS/CS/SB 222 — Electronic Commerce

by Judiciary Committee; Communications, Energy, and Public Utilities Committee; Commerce and Tourism Committee; and Senator Hukill

The bill creates the “Computer Abuse and Data Recovery Act,” which provides a civil cause of action for those injured by an individual who knowingly and with intent to cause harm or loss:

- Obtains information from a protected computer used in the operation of a business without authorization, and as a result, causes a harm or loss;
- Causes transmission of a program, code, or command from a protected computer used in the operation of a business without authorization, and as a result, causes a harm or loss; or
- Traffics in any technological access barrier (e.g., password) through which access to a protected computer used in the operation of a business may be obtained without authorization.

The bill allows an injured party to recover actual damages and the violator’s profits; obtain an injunction or other equitable relief to prevent a future violation; recover all copies of the misappropriated information, program, or code; and be awarded attorney’s fees. A victim must commence an action under this section within 3 years after the violation or 3 years after the violation was discovered, or should have been discovered with due diligence.

If approved by the Governor, these provisions take effect October 1, 2015.

Vote: Senate 38-0; House 117-0

THE FLORIDA SENATE
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SB 456 — Labor Pools

by Senators Braynon and Smith

The bill authorizes labor pools to pay the wages of day laborers by a payroll debit card that does not charge a fee for withdrawal of its contents, or through an electronic funds transfer to the financial institution designated by the day laborer, in addition to cash or negotiable instrument. The labor pool must notify the day laborer of the payment method it intends to use and provide the day laborer the option to be paid by another authorized method. If a labor pool opts to pay wages by a payroll debit card, it must provide the day laborer a list of businesses in close proximity to the labor pool that will allow the day laborer to withdraw the contents of the payroll debit card without a fee. The labor pool must also offer to pay the day laborer by electronic funds transfer. The bill also authorizes a labor pool to provide an itemized statement of wages, including any deductions made from the wages, in an electronic format, upon the request of a day laborer.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 36-0; House 107-4

THE FLORIDA SENATE
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CS/SB 526 — Notaries Public

by Commerce and Tourism Committee and Senator Grimsley

The bill allows a law enforcement officer, correctional officer, correctional probation officer, traffic accident investigation officer, or traffic infraction enforcement officer engaged in the performance of official duties to remotely administer an oath either through reliable electronic means, or in the physical presence of a person who swears to an affidavit. Currently, these law enforcement officers may only administer an oath in the physical presence of an affiant. Additionally, the bill allows these law enforcement officers to verify documents pursuant to ss. 92.50 and 92.525, F.S.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 39-0; House 118-0

THE FLORIDA SENATE
2015 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/CS/CS/HB 531 — Limited Liability Companies

by Judiciary Committee; Economic Development and Tourism Subcommittee; Civil Justice Subcommittee; and Reps. McGhee, Spano, and others (CS/CS/CS/SB 554 by Rules Committee; Judiciary Committee; Commerce and Tourism Committee; and Senator Simmons)

The bill revises the Florida Revised Limited Liability Company Act (the revised act) to delete or replace obsolete references to the predecessor act, and makes technical, grammatical, and stylistic changes required by the repeal of the predecessor act.

The bill also makes the following changes to the Revised Limited Liability Company Act:

- Provides that a third-party does not have notice of a person's lack of authority to transfer real property on behalf of the limited liability company (LLC), unless the limitation of authority is recorded in the official records of the county where the property is located;
- Repeals a provision that prohibits an LLC's operating agreement from varying the power of a person to dissociate from the LLC;
- Clarifies that an operating agreement may not provide indemnification for a member or manager for a breach of the member or manager's duties and obligations as required under the law, taking into account any restriction, expansion, or elimination of duties provided for in the operating agreement;
- Provides that the duties of a member of an LLC may be restricted, expanded, or eliminated by the operating agreement and in accordance with law;
- Provides that common law principles relating to the fiduciary duties of loyalty and care apply unless abrogated by ch. 605, F.S.;
- Conditions the authority of the members of an LLC to vote outside of a meeting on having a certain minimum number of votes and recording those votes;
- Authorizes an LLC to alter or eliminate a fiduciary duty in its operating agreement if it is not manifestly unreasonable and is not prohibited by law;
- Requires a member-managed LLC to identify, within 10 days after a member's request for information about the LLC, the information that the LLC will provide or reasons why the LLC will not provide the information;
- Specifies the information that must be submitted when applying for reinstatement by either an administratively-dissolved LLC or a foreign LLC whose certificate of authority has been revoked;
- Permits domestic and foreign LLCs to submit an annual report, in lieu of a reinstatement application, when seeking reinstatement with the department;
- Limits the circumstances under which an appraisal event that is an interested transaction may be contested or set aside; and
- Clarifies that, in the event of a conflict between an operating agreement and the LLC's articles of organization, the provisions of the operating agreement prevail over inconsistent provisions of the LLC's articles of organization.

If approved by the Governor, these provisions take effect July 1, 2015, except as otherwise expressly provided in the act, which shall take effect upon becoming law.

Vote: Senate 38-0; House 114-0

THE FLORIDA SENATE
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CS/SB 604 — Consumer Protection

by Commerce and Tourism Committee and Senators Flores, Braynon, Bradley, Simpson, and Negrón

The bill creates the “True Origin of Digital Goods Act,” which requires owners or operators of websites that, as a substantial part of their website’s service, disseminate third-party commercial recordings or audiovisual works to Florida consumers to clearly post on the website and make readily accessible to a consumer using or visiting the website the following information:

- The true and correct name of the operator or owner;
- The operator or owner’s physical address; and
- The operator or owner’s telephone number or e-mail address.

The bill establishes a right to injunctive relief for owners, assignees, authorized agents, or licensees of a commercial recording or audio visual work whose work appears on a website that has not posted identifying information in violation of the bill. Before initiating the civil action provided for in the bill, the aggrieved party must “make reasonable efforts” to place an individual alleged to be in violation of the section on notice that the owner or operator may be in violation of the act, and that failure to cure the violation within 14 days may result in civil action. The prevailing party may also obtain necessary expenses and reasonable attorney fees. These remedies are available as a supplement to other state and federal criminal and civil law provisions. A court may make appropriate orders to compel compliance with the section upon motion of the party instituting the action.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 36-3; House 78-38

THE FLORIDA SENATE
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HB 755 — Convenience Business Security

by Rep. Stone (SB 684 by Senator Grimsley)

The bill amends the definition of “convenience business,” as used in the Convenience Business Security Act, so that it includes a business in which the owner or members of the owner’s family work between the hours of 11 p.m. and 5 a.m. This has the effect of requiring owner-operated convenience businesses to meet all the minimum security standards required under the Convenience Business Security Act, unless otherwise exempted. The bill continues to exempt owner-operated businesses from meeting enhanced security measures that are required when certain violent crimes have occurred at the business.

The bill also removes a requirement that a convenience business submit safety training curricula and associated administrative fees to the Department of Legal Affairs.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 40-0; House 113-0

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SB 982 — Florida Civil Rights Act

by Senators Thompson, Smith, and Gibson

This bill amends the Florida Civil Rights Act (FCRA) to expressly prohibit discrimination on the basis of pregnancy in education, employment, housing, and public accommodation. The bill codifies a Florida Supreme Court decision that found that discrimination based on pregnancy in employment practices was subsumed in the FCRA's current prohibition on discrimination based on sex.

If approved by the Governor, these provisions take effect July 1, 2015.

Vote: Senate 39-0; House 115-2

THE FLORIDA SENATE
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Committee on Commerce and Tourism

CS/CS/HB 997 — Public Records/Department of Agriculture and Consumer Services

by Regulatory Affairs Committee; Government Operations Subcommittee; and Rep. Trumbull (CS/CS/SB 1446 by Rules Committee; Governmental Oversight and Accountability Committee; and Senator Richter)

The bill makes confidential and exempt criminal or civil intelligence or investigative information provided to the Department of Agriculture and Consumer Services (DACS) by another state or federal agency as part of a joint or multiagency examination or investigation if the information is confidential or exempt under the regulations or laws of the state or federal agency that provides the information. DACS will be able to obtain, use, and release the information that is confidential or exempt under the laws or regulations of the state or federal source of information in accordance with conditions imposed by agreements DACS enters into with the other state or governmental entity. DACS may also release confidential and exempt information in furtherance of its official duties, and may release the information to another governmental agency in furtherance of that agency's official duties.

If approved by the Governor, these provisions take effect upon adoption of CS/CS/CS/HB 995 or similar legislation during the 2015 legislative session, or an extension thereof. As of April 29, 2015, neither CS/CS/CS/HB 995, nor any similar legislation was approved by both chambers of the Legislature.

Vote: Senate 38-0; House 115-0

THE FLORIDA SENATE
2015 SUMMARY OF LEGISLATION PASSED
Committee on Commerce and Tourism

CS/HB 7019 — Workforce Services

by Economic Affairs Committee; Economic Development and Tourism Subcommittee; and Rep. Drake and others (CS/SB 7002 by Fiscal Policy Committee and Commerce and Tourism Committee)

The bill changes the name of Workforce Florida, Inc., to CareerSource Florida, Inc., in the Florida Statutes. The bill also creates a 20-member task force to develop the state's plan for implementing the federal Workforce Innovation and Opportunity Act of 2014 (WIOA). The task force must organize by June 1, 2015, and administrative support for the task force will be provided by CareerSource Florida, Inc. Task force members are to serve without compensation but are entitled to be paid per diem and reimbursed for travel expenses, which must be paid from the funds budgeted to the state agency or entity that the member represents. The task force's recommendations must include:

- A review of the current workforce service delivery system and recommendations for inclusiveness of programs;
- A regional planning design;
- A one-stop service delivery design;
- A plan for integrating economic development, workforce development, and the state's education system; and
- A plan for developing sector strategies and career pathways.

The board of directors of CareerSource Florida, Inc., must approve the task force's recommendations for the implementation of WIOA, and the task force must submit its approved recommendations in a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2015. CareerSource Florida, Inc., must incorporate the task force's recommendations in the approved state plan required under WIOA, which must be submitted to the United States Department of Labor, with copies to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The task force is abolished June 30, 2016, or at an earlier date as provided by the task force.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 111-0