

CS/SB 422 by IS, Perry; (Compare to CS/CS/H 00343) Recreational Vehicles						
666186	A	S	RCS	IT, Perry	Before L.21:	02/19 02:54 PM

CS/SB 898 by BI, Gruters (CO-INTRODUCERS) Broxson; (Identical to CS/H 00529) Insurance Guaranty Associations						
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CS/SB 1876 by AG, Montford (CO-INTRODUCERS) Gibson; (Compare to CS/H 01063) State Hemp Program						
108556	D	S	RCS	IT, Montford	Delete everything after	02/18 02:56 PM

SB 138 by Hutson; (Similar to H 00583) Beverage Law						
132272	D	S		IT, Hutson	Delete everything after	02/14 01:01 PM
840478	AA	S		IT, Brandes	btw L.55 - 56:	02/17 07:55 AM
772286	AA	S		IT, Brandes	Delete L.116 - 120:	02/17 07:54 AM
905538	AA	S		IT, Brandes	Delete L.146 - 214:	02/17 07:55 AM
230268	AA	S		IT, Brandes	btw L.241 - 242:	02/14 03:27 PM

SB 1424 by Gruters; (Identical to H 01009) Special Neighborhood Improvement Districts						
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SB 1752 by Pizzo; (Similar to H 01317) Condominium Associations						
775512	A	S	RCS	IT, Pizzo	Delete L.37 - 106:	02/18 01:55 PM

CS/SB 1514 by AG, Albritton; (Compare to CS/CS/H 00395) Department of Agriculture and Consumer Services						
217146	A	S	RCS	IT, Albritton	btw L.67 - 68:	02/18 11:03 AM

CS/SB 646 by ED, Mayfield; (Compare to H 00251) Intercollegiate Athlete Compensation and Rights						
397254	A	S	RCS	IT, Mayfield	Delete L.87 - 89:	02/18 02:38 PM
815468	A	S	RCS	IT, Mayfield	btw L.131 - 132:	02/18 02:38 PM
282524	A	S	WD	IT, Bracy	Delete L.132 - 134:	02/18 02:38 PM
154070	AA	S	UNFAV	IT, Bracy	Delete L.5 - 9:	02/18 02:38 PM
566532	A	S	RCS	IT, Bradley	Delete L.149:	02/18 02:38 PM

CS/SB 1336 by CA, Perry; (Similar to CS/1ST ENG/H 00003) Preemption of Local Occupational Licensing						
118542	A	S	TP	IT, Perry	Delete L.70:	02/17 04:17 PM

SB 658 by Albritton; (Identical to H 00207) Acquisition of Water and Wastewater Systems						
565252	A	S	RCS	IT, Braynon	Before L.20:	02/18 01:05 PM

SB 1698 by Diaz; (Similar to H 01237) Regulation of Pet Stores						
706506	D	S		IT, Diaz	Delete everything after	01/31 01:13 PM
802186	SD	S		IT, Diaz	Delete everything after	02/13 02:18 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

INNOVATION, INDUSTRY AND TECHNOLOGY
Senator Simpson, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Monday, February 17, 2020
TIME: 1:30—3:30 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Building

MEMBERS: Senator Simpson, Chair; Senator Benacquisto, Vice Chair; Senators Bracy, Bradley, Brandes, Braynon, Farmer, Gibson, Hutson, and Passidomo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 422 Infrastructure and Security / Perry (Compare CS/CS/H 343)	Recreational Vehicles; Defining the term “recreational vehicle”; requiring the Department of Agriculture and Consumer Services to adopt rules specifying requirements for agents to administer certain competency examinations and establishing a written competency examination for a license to engage in activities solely related to the service and repair of recreational vehicles; authorizing certain qualifiers and master qualifiers to engage in activities solely related to the service and repair of recreational vehicles, etc. IS 01/27/2020 Fav/CS IT 02/17/2020 Fav/CS RC	Fav/CS Yeas 10 Nays 0
2	CS/SB 898 Banking and Insurance / Gruters (Identical CS/H 529)	Insurance Guaranty Associations; Increasing the obligation of the Florida Insurance Guaranty Association, Incorporated, for certain claims under policies covering certain condominium associations and homeowners’ associations; increasing the percentage limit of certain insurer net written premiums up to which the Office of Insurance Regulation may levy certain emergency assessments upon insurers, etc. BI 01/15/2020 Fav/CS IT 02/17/2020 Favorable RC	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Innovation, Industry and Technology
Monday, February 17, 2020, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 1876 Agriculture / Montford (Compare CS/H 1063)	State Hemp Program; Revising the definition of the term "food" to include hemp extract for purposes of the Florida Food Safety Act; providing that a person operating a minor food outlet that sells hemp extract is not exempt from certain food permit requirements; providing that hemp extract that does not meet certain requirements will be considered adulterated or misbranded; prohibiting the sale of certain hemp extract products to individuals under a specified age; authorizing the Department of Agriculture and Consumer Services to contract with entities to provide certain collection, testing, and disposal services, etc. AG 01/28/2020 Temporarily Postponed AG 02/04/2020 Fav/CS IT 02/17/2020 Fav/CS RC	Fav/CS Yeas 10 Nays 0
4	SB 138 Hutson (Similar H 583, S 482, Compare H 1165, H 6037)	Beverage Law; Repealing provisions relating to limitations on the size of individual wine containers and individual cider containers; revising provisions that authorize a restaurant to allow patrons to remove partially consumed bottles of wine from a restaurant for off-premises consumption; revising the requirements for the sale of branded products by a licensed craft distillery to consumers, etc. IT 02/17/2020 Not Considered CM RC	Not Considered
5	SB 1424 Gruters (Identical H 1009)	Special Neighborhood Improvement Districts; Revising the number of directors allowed on the boards of special neighborhood improvement districts; requiring local planning ordinances to specify the number of directors and provide for 4-year staggered terms; requiring that directors be landowners in the proposed area and be subject to certain taxation, etc. CA 02/03/2020 Favorable IT 02/17/2020 Favorable RC	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDAInnovation, Industry and Technology
Monday, February 17, 2020, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 1752 Pizzo (Similar H 1317, Compare H 1257, CS/CS/S 1154)	Condominium Associations; Revising criminal penalties relating to the acceptance of things or services of value or kickbacks; revising requirements for the creation of a rebuttable presumption relating to the provision of records; providing criminal penalties for fraudulent voting activities related to association elections; revising the jurisdiction of the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation with regard to investigating complaints, etc. IT 02/17/2020 Fav/CS ACJ AP	Fav/CS Yeas 10 Nays 0
7	CS/SB 1514 Agriculture / Albritton (Compare CS/CS/H 395, H 921, H 5003)	Department of Agriculture and Consumer Services; Specifying a methodology for the assessment of certain buildings and structures located on agricultural lands; extending the scheduled expiration for the Department of Agriculture and Consumer Services' use of funds from the Pest Control Trust Fund for certain duties of the department; directing the Florida Forest Service to develop a training curriculum for wildland firefighters; providing wildland firefighter training and certification for certain firefighters and volunteer firefighters, etc. AG 02/11/2020 Fav/CS IT 02/17/2020 Fav/CS AP	Fav/CS Yeas 8 Nays 0
8	CS/SB 646 Education / Mayfield (Compare H 251, H 287, CS/CS/H 7051, S 582)	Intercollegiate Athlete Compensation and Rights; Authorizing certain intercollegiate athletes to earn compensation for the use of their names, images, or likenesses; prohibiting a postsecondary educational institution from compensating intercollegiate athletes or prospective intercollegiate athletes for the use of their names, images, or likenesses; prohibiting the revocation or reduction of certain aid as a result of intercollegiate athletes earning certain compensation or obtaining specified representation; providing requirements for certain athlete agents, etc. ED 02/10/2020 Fav/CS IT 02/17/2020 Fav/CS RC	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Innovation, Industry and Technology
 Monday, February 17, 2020, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 1336 Community Affairs / Perry (Similar CS/H 3)	Preemption of Local Occupational Licensing; Preempting licensing of occupations to the state; providing exceptions; prohibiting local governments from imposing additional licensing requirements or modifying licensing unless specified conditions are met; specifying that certain specialty contractors are not required to register with the Construction Industry Licensing Board; authorizing counties and municipalities to issue certain journeyman licenses, etc. CA 01/27/2020 Temporarily Postponed CA 02/03/2020 Fav/CS IT 02/17/2020 Temporarily Postponed RC	Temporarily Postponed
10	SB 658 Albritton (Identical H 207)	Acquisition of Water and Wastewater Systems; Authorizing certain water and wastewater utilities to establish a rate base value by using the fair market value when acquiring a utility system; establishing a procedure to determine the fair market value; specifying the contents required for an application to the Public Service Commission for approval of the rate base value of the utility system, etc. IT 02/10/2020 Temporarily Postponed IT 02/17/2020 Fav/CS AEG AP	Fav/CS Yeas 9 Nays 1
11	SB 1698 Diaz (Similar H 1237, Linked S 1700)	Regulation of Pet Stores; Creating the "Florida Pet Protection Act"; requiring the licensure of pet stores; requiring the Department of Business and Professional Regulation to adopt procedures for such licensure; regulating the sale or transfer of household pets by pet stores; limiting the sources from which pet stores may acquire pets for sale; requiring the department to conduct periodic inspections of pet stores and audit sales records, etc. IT 02/03/2020 Not Considered IT 02/17/2020 Not Considered AEG AP	Not Considered

Other Related Meeting Documents

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 Innovation, Industry, and Technology

BILL: CS/CS/SB 422

INTRODUCER: Innovation, Industry, and Technology; Infrastructure and Security Committee and Senator Perry

SUBJECT: Recreational Vehicle Industries

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Miller</u>	<u>IS</u>	<u>Fav/CS</u>
2.	<u>Baird</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 422:

The bill amends provisions of chs. 513 and 527, F.S., which governs mobile home parks, lodging parks, recreational vehicle parks, and recreational camps. The bill:

- Specifies that permitting and regulatory authority (for sanitary standards and operational matters) is preempted exclusively to the Department of Health (DOH) for recreational vehicle (RV) parks, mobile home parks, lodging parks, and recreational camps.
- Requires new park or camp owners to apply to DOH for a permit within 60 days after the date of transfer, instead of before the date of transfer.
- Allows an RV park damaged or destroyed by natural disaster to be rebuilt on the same site using the same density standards established at the time of the RV park's initial approval.
- Creates a rebuttable presumption that an RV park guest is a transient guest.
- Provides a method for the disposal of property left by a transient guest with outstanding account who vacates an RV park without notice.
- Adds a violation of posted RV park rules and regulations to the list of reasons a RV park operator may eject a transient guest or visitor from the RV park premises and provides notice of ejection requirements.
- Allows a RV park operator to refuse a transient guest or visitor access to the premises for specified conduct.
- Provides that a RV park operator may request that such person leave the premises immediately for specified conduct.

- Modifies existing duties of a law enforcement officer to allow them to remove from the premise any guest who, according to RV park operator, has violated RV park rules.
- Defines “recreational vehicle” (RV) to mean a motor vehicle that is designed to provide temporary living quarters for recreational, camping, or travel use and that has its own propulsion or is mounted on or towed by another motor vehicle;
- Requires the Department of Agriculture and Consumer Services (DACS) by rule to specify the requirements for agents qualified to administer the written competency examinations required for qualifiers and master qualifiers;
- Requires the DACS to establish by rule a separate written competency examination for persons applying for a license to solely engage in the service and repair of RVs;
- Provides that any qualifier or master qualifier who has passed the category I RV dealer and installer examination may engage in category I activities solely related to the service and repair of RVs; and
- Requires that, in order to apply for certification as a master qualifier, each applicant must meet certain experience or certification criteria, and employment and examination requirements.

The effective date of the bill is July 1, 2020.

II. Present Situation:

Mobile Home and Recreational Vehicle Parks

Florida first began regulating recreational parks and camps in 1927 when the Legislature enacted statutes addressing the operation and maintenance of “tourist camps.” These establishments catered to transient guests by providing tent and cottage accommodations.¹ The substance of these original regulations is currently embodied in ch. 513, F.S. This chapter provides the regulatory requirements governing mobile home parks, lodging parks, recreational vehicle (RV) parks, and recreational camps in the state. Chapter 513, F.S., also contains standards and requirements for operators of these types of recreational facilities.

Chapter 513, F.S., has not undergone major changes since the 1993 regular session.² Applicable rules adopted by the DOH have not been modified since 1996.³

Mobile home parks, lodging parks, RV parks, and recreational camps are similar to hotels in many respects. Like hotels, these parks and camps offer lodging accommodations to the public. Recreational park operators own the accommodations or a portion thereof and allow transient guests to purchase a revocable license to enter and remain on the property. The real difference between hotels and recreational parks are the nature of the facilities provided.

As of July 19, 2019, there were 5,392 licensed mobile home parks, lodging parks, RV parks, and recreational camps in Florida.⁴ In a June 2019 report, RVs Move America found that RV

¹ Chapter 12419, Laws of Fla. (1927)

² *Id.*

³ Fla. Admin. Code R. 64E-15 (1996).

⁴ Florida Department of Health, *Mobile Home Parks* (last modified September 13, 2019), available at <http://www.floridahealth.gov/environmental-health/mobile-home-parks/index.html> (last visited Feb. 18, 2020).

campgrounds and travel had a \$1.1 billion annual economic impact in Florida, which was the third-highest in the nation.⁵

Applicability of Recreational Vehicle Park Provisions to Mobile Home Parks

Although mobile home parks are primarily regulated by ch. 723, F.S., a mobile home park that has five or more sites set aside for rent to transient RV guests must comply with the RV park requirements in ch. 513, F.S. Notwithstanding this requirement, mobile home parks licensed under ch. 723, F.S., are not required to obtain a second operational license under ch. 513, F.S.⁶

Department of Health Oversight

The DOH is the exclusive regulatory and permitting authority for sanitary standards in all mobile home parks, lodging parks, recreational vehicle parks, and recreational camps. The DOH also issues operational permits, provides and enforces administrative rules, performs routine premises inspections, prosecutes regulatory violations, and issues penalties for operator misconduct. Local governments are prohibited from enacting regulations for sanitary standards within a ch. 513, F.S., park or camp.⁷

Permitting

All parks and camps must apply for and receive an operating permit from the DOH to conduct business activities. Permits are not transferable from one place or person to another and must be renewed annually.⁸ The DOH may revoke or suspend a permit if a park or camp is not constructed or maintained according to law and DOH rule. When the ownership of a park or camp is transferred, and the new owner plans to continue recreational operations, the new owner must apply to the DOH for a permit before the date of transfer.⁹

The DOH may charge park and camp operators reasonable permitting fees, and such fees must be based on the actual costs incurred by the DOH in carrying out oversight of the particular facility

Placement of Recreational Vehicles on Lots in Permitted Parks

Under s. 513.1115, F.S., the separation distances between RV sites within an RV park must remain unchanged from the time the DOH initially approves a park's operational permit. Likewise, setback distances from the exterior park property boundary must be the setback distances established at the time of the initial approval of the park by the DOH and the local government.¹⁰

⁵ RVs Move America, *Florida* (June 2019), available at <https://rvia.guerrillaeconomics.net/reports/e5b85c91-4f88-460c-9912-579c89f8d04e>? (last visited Feb. 18, 2020)

⁶ Section 513.014, F.S.

⁷ Section 513.051, F.S.

⁸ Section 513.02, F.S.

⁹ *Id.*

¹⁰ Section 513.1115(2), F.S.

Guest Register

Every park and camp operator that rents to transient guests¹¹ must maintain a current and signed registry of guests that occupy rental sites. The register must show the dates upon which the rental sites were occupied by such guests and the rates charged for the guests' occupancy. This register must be maintained in chronological order and be available for inspection by the DOH at any time. An operator is not required to retain a register that is more than two years old.¹²

Unclaimed Guest Property

If a guest leaves property in a park and the property has an identifiable owner, the park operator may obtain ownership of the property by providing the guest written notice of the property and holding the property for 90 days without it being reclaimed. Alternatively, if the property belongs to a guest who has vacated the premises without notice to the operator and has an outstanding account with the park, the operator may obtain ownership of the property through the court and a writ of distress.¹³

Park Rules and Guest Conduct on Premises

Park and camp operators may establish reasonable rules and regulations for the management of the park, its guests, and employees. Under s. 513.117, F.S., such park and camp rules are deemed a special contract between operators, guests, and employees. Park rules may control the liabilities, responsibilities, and obligations of all parties, and must be posted (along with the provisions of ch. 513, F.S.) in the registration area of the park or camp.¹⁴ The operator of a park or camp may refuse accommodations or service to any person: whose conduct on the premises of the park displays intoxication, profanity, lewdness, or brawling; who indulges in such language or conduct as to disturb the peace or comfort of other guests; who engages in illegal or disorderly conduct; or whose conduct constitutes a nuisance.¹⁵

Guest Eviction

Park and camp operators may remove transient guests for certain violations of park rules and general law. A transient guest may be removed for illegal possession of a controlled substance, disturbing the peace and comfort of other persons, causing harm to the physical park, and failing to make payment of rent.¹⁶

To remove a guest, the operator of a park must notify the guest in writing that the park no longer desires to entertain the guest and request that such guest should immediately leave the park or camp. If the guest has paid in advance, the park must provide the guest with the unused portion of the payment with the written notification. If a guest remains in a park or camp after being requested to leave, the guest is considered guilty of a misdemeanor of the second degree,

¹¹ "Transient guest means any guest registered as provided in s. 513.112, F.S., for 6 months or less. When a guest is permitted with the knowledge of the park operator to continuously occupy a recreational vehicle in a recreational vehicle park for more than 6 months, there is a rebuttable presumption that the occupancy is nontransient, and the eviction procedures of part II of chapter 83 apply." Section 513.01(12), F.S.

¹² Section 513.112, F.S.

¹³ Section 513.115, F.S.; *see also* s. 513.151, F.S.

¹⁴ Section 513.117, F.S.

¹⁵ Section 513.118, F.S.

¹⁶ Section 513.13, F.S.

punishable as provided in ss. 775.082 or 775.083, F.S. (Conviction of a misdemeanor in the second degree is not to exceed a \$500 criminal fine and a term of imprisonment not to exceed 60 days.)¹⁷

In the event a guest owes a park operator an amount equivalent to three nights' rent, the operator may disconnect all utilities to the recreational vehicle or campsite and provide the guest written demand for the amount owed. The operator must reconnect the utilities of the recreational vehicle if the guest agrees to satisfy the debt.¹⁸

If any person is illegally on the premises of a park or camp, the operator may call a law enforcement officer for assistance. A law enforcement officer, upon the request of an operator, must arrest and take into custody any guest who violates park rules, conduct requirements, or general law in the presence of the officer. A law enforcement officer may also serve an arrest warrant on any guest or person and take the person into custody. Upon arrest, with or without a warrant, the guest is deemed to have given up any right to occupancy of the park or camp premises. However, the operator of the park must refund the guest any unused payments and use all reasonable and proper means to care for personal property left on the premises by the guest.¹⁹

In addition to the grounds for eviction established by law, the operator may establish grounds for eviction in any written lease agreement with a guest.²⁰

Other Rights, Requirements, and Remedies for Operators; Writ of Distress

In addition to the rights and remedies described above, ch. 513, F.S., includes other procedures park and camp operators must follow when recovering a rental premise and removing or obtaining ownership of guest property to satisfy an outstanding debt. These procedures require park and camp operators to follow a civil procedure in court. Procedures include, but are not limited to:

- Sealing a recreational vehicle in the presence of at least one other person who is not an agent of the operator;
- Preparing an itemized inventory of any property belonging to the guest in the presence of a person who is not an agent;
- Petitioning a court for a writ of distress predicated on a lien created under s. 713.77, F.S., addressing property claims by third persons; and
- Storing property until a settlement or a final court judgment is obtained on the guest's outstanding account.²¹

Liquefied Petroleum Gas

The Bureau of Compliance within the DACS is the primary agency charged with regulating the LP gas industry, including licensing, inspection, training, and examination requirements, in accordance with ch. 527, F.S. These responsibilities enable DACS to ensure that those persons

¹⁷ *Id.* at (2)

¹⁸ *Id.* at (3)

¹⁹ *Id.* at (4)

²⁰ *Id.* at (5)

²¹ Section 513.151, F.S.

engaged in LP gas-related business activities in this state are trained and that compliance with acceptable safety codes and standards is achieved statewide.²²

LP gas is defined in statute as any material composed predominantly of any of the following hydrocarbons, or mixtures of the same: propane; propylene; butanes (normal butane or isobutane); and butylenes.²³

Propane, the most widely used LP gas, is an energy source for hotels, restaurants, schools, hospitals, nursing homes, universities, private homes, recreational vehicles, agricultural and industrial facilities, and is used as an alternative fuel for vehicles.²⁴

Business Licenses

Current law provides licensing requirements for businesses that engage in certain LP gas-related activities, including sales, installations, service and repair work, manufacture of equipment, and other miscellaneous activities. The DACS is required to license applicants that it determines to be competent, qualified, and trustworthy. Violations for willfully operating without a license is a third degree felony.²⁵ The license categories and associated fees are as follows:²⁶

<i>License Categories</i>	<i>License Fee Per Year</i>
Category I LP gas dealer	\$400
Category II LP gas dispenser	\$400
Category III LP gas cylinder exchange unit operator	\$65
Category IV dealer in appliances and equipment	\$65
Category V LP gas installer	\$200
Category VI miscellaneous operator	\$200

Licenses may elect to renew their license annually, biennially, or triennially, and are required to meet the same requirements and conditions, including fee amounts, for each licensed year. An expired license will become inoperative, and the fee for restoration of an expired license is equal to the original license fee, and must be paid before the licensee is allowed to resume operations.²⁷

²² Florida Department of Agriculture and Consumer Services, *Safe Dispensing of Propane, Propane Dispensing Unit Operator Training Manual*, <https://www.fdacs.gov/content/download/78592/file/Safe-Dispensing-of-Propane-Manual.pdf> (last visited Feb. 18, 2020).

²³ Section 527.01(1), F.S.

²⁴ Florida Department of Agriculture and Consumer Services, *supra* note 1, at 4.

²⁵ Section 527.02(1), F.S. A third degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine not to exceed \$5,000. *See* ss. 775.082 and 775.083, F.S.

²⁶ Section 527.02(2), F.S.

²⁷ Section 527.03, F.S.

Training and Examinations

DACS is responsible for enforcing reasonable standards of competency, including, but not limited to, the training, licensure, testing, and qualifying of persons participating in the LP gas industry.²⁸ DACS is also authorized to adopt rules that are:²⁹

- In the interest of public health, safety, and welfare and to promote the safe handling of LP gas, equipment, and systems; and
- Reasonably necessary to assure the competence of persons to safely engage in the business of LP gas.

According to the DACS's website, training is required for all employees of an LP gas-related business, and refresher training must be conducted at three-year intervals.³⁰

In addition, any person applying for a license to engage in category I (LP gas dealer), II (LP gas dispenser), or V (LP gas installer) activities must prove competency by passing a written examination administered by DACS or its agent.³¹

The DACS does not currently have a rule that provides for a separate written competency examination process for licensees engaged in RV-related LP gas services or repairs that would be different than that taken by other types of applicants in a license category.

Qualifiers

Each category I (LP gas dealer), II (LP gas dispenser), or V (LP gas installer) licensee is required to employ a full-time employee who has received a qualifier certificate from the DACS. Qualifiers are required to function in a supervisory capacity, and a separate qualifier must be present for every ten employees.

An applicant for a qualifier certificate must:

- Be employed by a category I (LP gas dealer), II (LP gas dispenser), or V (LP gas installer) licensee;
- Submit to the DACS a nonrefundable \$20 examination fee; and
- Pass a competency examination with a grade of 70 percent or above in each area tested.

Qualifier registration expires three years after the date of issuance. Qualifiers must renew their qualification 30 calendar days before expiration, upon:

- Application to the DACS;
- Payment of a \$20 renewal fee; and
- Documentation of the completion of a minimum of 16 hours of approved continuing education courses, as defined by rule of the DACS, during the previous three-year period.

²⁸ Section 527.055(1)(b), F.S.

²⁹ Section 527.06, F.S.

³⁰ Florida Department of Agriculture and Consumer Services, *LP Gas Training*, <https://www.fdacs.gov/Business-Services/LP-Gas-Inspection/LP-Gas-Training> (last visited Feb. 18, 2020).

³¹ Section 527.0201(1), F.S.

Persons failing to renew before the expiration date must reapply and take a qualifier competency examination in order to reestablish qualifier status.³²

Master Qualifiers

In addition to the qualifier requirements, each category I (LP gas dealer) and V (LP gas installer) licensee is required to have a manager, owner, or employee at each licensed location who has received a master qualifier certificate from the DACS. The master qualifier must be a manager, owner or someone otherwise primarily responsible for overseeing the operations of the licensed location and must provide documentation to the DACS.

An applicant for a master qualifier certificate must:³³

- Be employed by a category I (LP gas dealer) or V (LP gas installer) licensee;
- Submit to the DACS a nonrefundable \$30 examination fee.
- Have been a registered qualifier for at least three years immediately preceding the application; and
- Pass a master qualifier competency examination with a grade of 70 percent or above in each area tested.

Master qualifier registration expires three years after the date of issuance. Master qualifier registration renewals may be renewed by submitting to DACS.³⁴

- Proof of employment;
- Payment of a \$30 certificate renewal fee; and
- Documentation of the completion of a minimum of 16 hours of approved continuing education courses, as defined by department rule, during the previous three-year period.

Recreational Vehicle Dealers or installers

Propane is widely used in RVs to regulate temperature, cook meals, provide hot water, and refrigerate food. Typically, motorized RVs have a fixed propane tank and towable RVs have a removable propane tank.³⁵ In Florida, the refilling, repairing, or replacing of propane gas and equipment must be completed by a properly trained employee of a licensed LP gas-related business.³⁶

Prior to July 2018, RV dealers and installers were classified separately in Florida law as a “category IV LP gas dispenser and recreational vehicle servicer,” and were defined as:³⁷

“any person engaging in the business of operating a liquefied petroleum gas dispensing unit for the purpose of serving liquid product to the ultimate consumer for industrial, commercial, or domestic use, and selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of liquefied petroleum gas, and

³² Section 527.0201(1)-(4), F.S.

³³ Section 527.0201(5), F.S.

³⁴ Section 527.0201(5)(c), F.S.

³⁵ Winnebagolife, *An Easy Guide to Finding Propane for Your RV*, <https://winnebagolife.com/2019/05/finding-propane-for-your-rv> (last visited Feb. 18, 2020).

³⁶ See ch. 527, F.S.

³⁷ See s. 527.01(9), F.S. (2017).

whose services include the installation, service, or repair of recreational vehicle liquefied petroleum gas appliances and equipment.”

RVs were defined as:³⁸

“a motor vehicle designed to provide temporary living quarters for recreational, camping, or travel use, which has its own propulsion or is mounted on or towed by another motor vehicle.”

In order to engage in LP gas-related activities, category IV (LP gas dispenser and recreational vehicle servicer) businesses were required to obtain licensure from DACS by meeting all applicable requirements within the chapter of law governing the LP gas industry, including training, examination, initial and renewal license fees, insurance coverage, and qualifiers.³⁹

However, legislation passed during the 2018 Legislative Session, effective July 2018, resulted in the category IV (LP gas dispenser and recreational vehicle servicer) license type being deleted from statute.⁴⁰

Since July 2018, depending on the type of work being performed, a RV dealer/installer is now required to obtain either a category I (LP gas dealer), II (LP gas dispenser), or V (LP gas installer) license, and meet all applicable licensing and examination requirements in order to operate lawfully in the state. Current law does not provide a separate LP gas license category specifically for RV dealers and installers.

According to the DACS, RV dealers and installers are required to obtain a category V (LP gas installer) license, and if the RV dealer/installer also dispenses LP gas, a category II (LP gas dispenser) license must also be obtained. In lieu of multiple licenses, RV dealers and installers may obtain a category I (LP gas dealer) license that allows them to perform both service and dispensing functions.⁴¹

According to the DACS, there are 50 licensed RV dealers and installers in the state.⁴²

III. Effect of Proposed Changes:

Mobile Home and Recreational Vehicle Parks

Sections 1 and 3 amend ss. 513.012 and 513.051, F.S., respectively, to clarify that the DOH is the exclusive regulatory and permitting authority for sanitary standards and operational matters in all mobile home parks, lodging parks, recreational vehicle parks, and recreational camps.

Section 1 of the bill also expands the scope of the DOH’s regulatory permitting and operational matters to specifically protect the health and well-being of Florida residents and visitors.

³⁸ Section 527.01(7), F.S. (2017).

³⁹ See ch. 527, F.S. (2017).

⁴⁰ Ch. 2018-84, Laws of Fla.

⁴¹ *Supra* note 1, p. 1.

⁴² *Supra* note 1, p. 3.

Section 2 amends s. 513.02, F.S., to provide park and camp purchasers 60 days to apply for an operational permit from the DOH after the ownership interest in a park is transferred. (Under current law, a park operator must apply to the DOH *before* the date of transfer.)

Section 4 amends s. 513.112, F.S., to provide a rebuttable presumption that a guest who occupies an RV in a park for less than six months, as evidenced by the length of stay shown in the guest registry, is a transient occupant. This change establishes the right of operators to eject transient guests and helps avoid property interest considerations in landlord-tenant law.⁴³

Section 5 amends s. 513.1115, F.S., to allow RV parks to use the same density standards originally permitted by the DOH and local government when rebuilding a site after it was damaged or destroyed by wind, water, or natural disasters. The bill also states that the initial density standards and setback distances permitted by the DOH and local government will supersede any subsequent local government law or regulation on lot size, lot density, lot separation, or setback distance.

Section 6 amends s. 513.115, F.S., to categorize property left by a guest with an outstanding account with the operator as abandoned property. The disposition of this abandoned property will be governed by the requirements specified in the Personal Property Landlord and Tenant Act under s. 715.10 or s. 705.185, F.S., as applicable.

Section 7 amends s. 513.118, F.S., to broaden the ability of park and camp operators to deny transient guests and visitors access to the park premises. The bill allows operators to remove guests and visitors for conduct that disturbs the quiet enjoyment of other guests, or conduct that constitutes a safety hazard. Guests and visitors who do not leave park premises commit the offense of trespass as provided in s. 810.08, F.S.⁴⁴ The bill authorizes operators to rely on a law enforcement officer to supervise guest removal. The bill provides that a removed guest, accompanied by a law enforcement officer, may return to park premises to reclaim left personal property within 48 hours of removal.

Section 8 amends s. 513.13, F.S., to add disturbing quiet enjoyment and a violation of posted park rules as causes for removal of park guests. The bill provides standardized language, mirroring s. 509.141, F.S.,⁴⁵ that park operators may use to request a guest to leave park premises. If a guest committed a removable offense according to a park operator and remains on park premises after receiving the notice, the bill requires a law enforcement officer to remove the guest from the premises. The bill allows removed guests to recollect personal property from the park within 48 hours. The bill changes eviction⁴⁶ terminology to ejection,⁴⁷ clarifying that an

⁴³ Compare s. 509.141, F.S. (public lodging--refusal of admission and ejection of undesirable guests; notice; procedure; penalties for refusal to leave), with s. 83.20, F.S. (rental housing--causes for removal of tenants), and s. 513.13, F.S. (recreational vehicle parks--eviction; grounds; proceedings).

⁴⁴ Criminal trespass in a structure or conveyance is a misdemeanor of the second degree. See s. 810.08(2)(a), F.S.

⁴⁵ Relating to refusal of admission and ejection of undesirable guests in public lodging establishments.

⁴⁶ Eviction is defined as dispossession by process of law; the act of depriving a person of the possession of land or rental property he has held or leased. See Black's Law Dictionary 555 (6th ed. 1991).

⁴⁷ Ejection is defined as a turning out of possession. Ejectment is an action to restore possession of property to the person entitled to it. See Black Law Dictionary 516 (6th ed. 1991).

operator may remove a transient guest without the process of law. This ejection process will be similar to guest removal in hotels, motels, and lodging establishments.⁴⁸

Liquefied Petroleum Gas

Section 9 amends s. 527.01, F.S., to define an RV to mean a motor vehicle that is designed to provide temporary living quarters for recreational, camping, or travel use and that has its own propulsion or is mounted on or towed by another motor vehicle.

Section 10 amends s. 527.0201, F.S., to:

- Require the DACS by rule to specify the requirements for agents qualified to administer the written competency examinations required for qualifiers and master qualifiers;
- Require the DACS to establish by rule a separate written competency examination for persons applying for a license to solely engage in the service and repair of RVs, which must include and ensure competency in the following activities as they relate to recreational vehicles:
 - Operating an LP gas dispensing unit to serve liquid product to a consumer for industrial, commercial, or domestic use;
 - Selling or offering to sell, or leasing or offering to lease, apparatus, appliances, and equipment for the use of LP gas; and
 - Installing, servicing, or repairing LP gas for RV appliances and equipment.
- Allow any qualifier or master qualifier who has passed the category I RV dealer and installer examination to engage in category I (LP gas dealer) activities solely related to the service and repair of RVs; and
- Require that, in order to apply for certification as a master qualifier, each applicant must:
 - Have a minimum of 3 years of verifiable LP gas experience or hold a professional certification by an LP gas manufacturer as adopted by DACS rule immediately preceding submission of the application;
 - Must be employed by a licensed category I (LP gas dealer) or category V (LP gas installer) licensee or an applicant for such license; and
 - Must pass a master qualifier competency examination administered by the DACS or its agent.

Section 11 provides that the bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴⁸ *Supra* note 44.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill prevents a local government from utilizing land use regulations to restrict the occupancy of a park beyond the provisions of an initial permit issued by the DOH and a local government.

C. Government Sector Impact:

The bill may cause an indeterminate, negative fiscal impact on the local governments. The bill requires state and local law enforcement officers to be more involved in the removal of guests. This involvement may cause state and local law enforcement offices to incur additional costs.

VI. Technical Deficiencies:

Section 6 cross references the Personal Property Landlord and Tenant Act under s. 715.10, F.S. This section only references the short title for the act. The entire act is ss. 715.10 – 715.111, F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 513.012, 513.02, 513.051, 513.112, 513.1115, 513.115, 513.118, 513.13, 527.01, and 527.0201.

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 Innovation, Industry, and Technology on February 17, 2020:**

- Specifies that permitting and regulatory authority (for sanitary standards and operational matters) is preempted exclusively to the Department of Health (DOH) for recreational vehicle (RV) parks, mobile home parks, lodging parks, and recreational camps.
- Requires new park or camp owners to apply to DOH for a permit within 60 days after the date of transfer, instead of before the date of transfer.
- Allows an RV park damaged or destroyed by natural disaster to be rebuilt on the same site using the same density standards established at the time of the RV park's initial approval.
- Creates a rebuttable presumption that an RV park guest is a transient guest.
- Provides a method for the disposal of property left by a transient guest with outstanding account who vacates an RV park without notice.
- Adds a violation of posted RV park rules and regulations to the list of reasons a RV park operator may eject a transient guest or visitor from the RV park premises and provides notice of ejection requirements.
- Allows a RV park operator to refuse a transient guest or visitor access to the premises for specified conduct.
- Provides that a RV park operator may request that such person leave the premises immediately for specified conduct.
- Modifies existing duties of a law enforcement officer to allow them to remove from the premise any guest who, according to RV park operator, has violated RV park rules.

CS by Infrastructure and Security on January 27, 2020:

- Requires the DACS by rule to specify the requirements for agents qualified to administer the written competency examinations required for qualifiers and master qualifiers;
- Requires the DACS to establish by rule a separate written competency examination for persons applying for a license to solely engage in the service and repair of RVs;
- Provides that any qualifier or master qualifier who has passed the category I RV dealer and installer examination may engage in category I activities solely related to the service and repair of RVs; and
- Requires that in order to apply for certification as a master qualifier, each applicant must meet certain experience or certification criteria, and employment and examination requirements.

B. Amendments:

None.

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	.	
02/19/2020	.	
	.	
	.	
	.	

The Committee on Innovation, Industry, and Technology (Perry) recommended the following:

Senate Amendment (with title amendment)

Before line 21

insert:

Section 1. Section 513.012, Florida Statutes, is amended to read:

513.012 Public health laws; enforcement.—It is the intent of the Legislature that mobile home parks, lodging parks, recreational vehicle parks, and recreational camps be exclusively regulated under this chapter. As such, the



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11 department shall administer and enforce, with respect to such
12 parks and camps, laws and rules relating to sanitation, control
13 of communicable diseases, illnesses and hazards to health among
14 humans and from animals to humans, and permitting and
15 operational matters in order to protect the general health and
16 well-being of the residents ~~people~~ of and visitors to the state.
17 However, nothing in this chapter qualifies a mobile home park, a
18 lodging park, a recreational vehicle park, or a recreational
19 camp for a liquor license issued under s. 561.20(2)(a)1. Mobile
20 home parks, lodging parks, recreational vehicle parks, and
21 recreational camps regulated under this chapter are exempt from
22 regulation under the provisions of chapter 509.

23 Section 2. Subsection (5) of section 513.02, Florida
24 Statutes, is amended to read:

25 513.02 Permit.—

26 (5) When a park or camp regulated under this chapter is
27 sold or its ownership transferred, the transferee must apply for
28 a permit to the department within 60 days after ~~before~~ the date
29 of transfer. The applicant must provide the department with a
30 copy of the recorded deed or lease agreement before the
31 department may issue a permit to the applicant.

32 Section 3. Section 513.051, Florida Statutes, is amended to
33 read:

34 513.051 Preemption.—The department is the exclusive
35 regulatory and permitting authority for sanitary and permitting
36 standards for all mobile home parks, lodging parks, recreational
37 vehicle parks, and recreational camps in accordance with ~~the~~
38 ~~provisions of~~ this chapter.

39 Section 4. Subsection (3) is added to section 513.112,



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40 Florida Statutes, to read:

41 513.112 Maintenance of guest register and copy of laws.—

42 (3) When a guest occupies a recreational vehicle in a
43 recreational vehicle park for less than 6 months, as evidenced
44 by the length of stay shown in the guest register, there is a
45 rebuttable presumption that the occupancy is transient.

46 Section 5. Present subsection (3) of section 513.1115,
47 Florida Statutes, is redesignated as subsection (4) and amended,
48 and a new subsection (3) is added to that section, to read:

49 513.1115 Placement of recreational vehicles on lots in
50 permitted parks.—

51 (3) If a recreational vehicle park is damaged or destroyed
52 as a result of wind, water, or other natural disaster, the park
53 may be rebuilt on the same site using the same density standards
54 that were approved and permitted before the park was damaged or
55 destroyed.

56 (4)(3) This section does not limit the regulation of the
57 uniform firesafety standards established under s. 633.206.
58 However, this section shall supersede any other county,
59 municipality, or special district ordinance or regulation
60 regarding the lot size, lot density, or separation or setback
61 distance of a recreational vehicle park which goes into effect
62 after the initial permitting and construction of the park.

63 Section 6. Section 513.115, Florida Statutes, is amended to
64 read:

65 513.115 Unclaimed property.—Any property having an
66 identifiable owner which ~~is left in a recreational vehicle park~~
67 ~~by a guest, other than property belonging to a guest who has~~
68 ~~vacated the premises without notice to the operator and with an~~



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69 ~~outstanding account, which property~~ remains unclaimed after
70 having been held by ~~a the~~ park for 90 days after written notice
71 was provided to the guest or the owner of the property, ~~becomes~~
72 the property of the park. Any property that is left by a guest
73 who has vacated the premises without notice to the operator and
74 who has an outstanding account is considered abandoned property,
75 and disposition thereof shall be governed by the Disposition of
76 Personal Property Landlord and Tenant Act under s. 715.10 or
77 under 705.185, as applicable.

78 Section 7. Section 513.118, Florida Statutes, is amended to
79 read:

80 513.118 Conduct on premises; refusal of service.—

81 (1) The operator of a recreational vehicle park may refuse
82 to provide accommodations, ~~or~~ service, or access to the premises
83 to any transient guest or visitor ~~person~~ whose conduct on the
84 premises of the park displays intoxication, profanity, lewdness,
85 or brawling; who indulges in such language or conduct as to
86 disturb the peace, quiet enjoyment, or comfort of other guests;
87 who engages in illegal or disorderly conduct; or whose conduct
88 constitutes a nuisance or safety hazard.

89 (2) The operator of a recreational vehicle park may request
90 that a transient guest or visitor who violates subsection (1)
91 leave the premises immediately. A person who refuses to leave
92 the premises commits the offense of trespass as provided in s.
93 810.08 and the operator may call a law enforcement officer to
94 have the person and his or her property removed under the
95 supervision of the officer. A law enforcement officer is not
96 liable for any claim involving the removal of the person or
97 property from the recreational vehicle park under this section,



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98 except as provided in s. 768.28. If conditions do not allow for
99 immediate removal of the person's property, he or she may
100 arrange a reasonable time, not to exceed 48 hours, with the
101 operator to come remove the property, accompanied by a law
102 enforcement officer.

103 (3) Such refusal of accommodations, ~~or~~ service, or access
104 to the premises may ~~shall~~ not be based upon race, color,
105 national origin, sex, physical disability, or creed.

106 Section 8. Section 513.13, Florida Statutes, is amended to
107 read:

108 513.13 Recreational vehicle parks; ejection ~~eviction~~;
109 grounds; proceedings.-

110 (1) The operator of any recreational vehicle park may
111 remove or cause to be removed from such park, in the manner
112 provided in this section, any transient guest of the park who,
113 while on the premises of the park, illegally possesses or deals
114 in a controlled substance as defined in chapter 893; who ~~or~~
115 disturbs the peace, quiet enjoyment, and comfort of other
116 persons; who causes harm to the physical park; who violates the
117 posted park rules and regulations; or who fails to make payment
118 of rent at the rental rate agreed upon and by the time agreed
119 upon. The admission of a person to, or the removal of a person
120 from, any recreational vehicle park may ~~shall~~ not be based upon
121 race, color, national origin, sex, physical disability, or
122 creed.

123 (2) The operator of any recreational vehicle park shall
124 notify such guest that the park no longer desires to entertain
125 the guest and shall request that such guest immediately depart
126 from the park. Such notice shall be given in writing, as



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127 follows: "You are hereby notified that this recreational vehicle
128 park no longer desires to entertain you as its guest, and you
129 are requested to leave at once. To remain after receipt of this
130 notice is a misdemeanor under the laws of this state." If such
131 guest has paid in advance, the park shall, at the time such
132 notice is given, tender to the guest the unused portion of the
133 advance payment. Any guest who remains or attempts to remain in
134 such park after being requested to leave commits ~~is guilty of a~~
135 misdemeanor of the second degree, punishable as provided in s.
136 775.082 or s. 775.083.

137 (3) If a guest has accumulated an outstanding account in
138 excess of an amount equivalent to 3 ~~three~~ nights' rent at a
139 recreational vehicle park, the operator may disconnect all
140 utilities of the recreational vehicle and notify the guest that
141 the action is for the purpose of requiring the guest to confront
142 the operator or permittee and arrange for the payment of the
143 guest's account. Such arrangement must be in writing, and a copy
144 shall be furnished to the guest. Upon entering into such
145 agreement, the operator shall reconnect the utilities of the
146 recreational vehicle.

147 (4) If any person is illegally on the premises of any
148 recreational vehicle park, the operator of such park may call
149 upon any law enforcement officer of this state for assistance.
150 It is the duty of such law enforcement officer, upon the request
151 of such operator, to remove from the premises or place under
152 arrest ~~and take into custody for violation of this section~~ any
153 guest who, according to the park operator, violated ~~violates~~
154 subsection (1) or subsection (2) ~~in the presence of the officer.~~
155 If a warrant has been issued by the proper judicial officer for



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156 the arrest of any guest who violates ~~violation~~ of subsection (1)
157 or subsection (2), the officer shall serve the warrant, arrest
158 the guest ~~person~~, and take the guest ~~person~~ into custody. Upon
159 removal or arrest, with or without warrant, the guest is deemed
160 to have abandoned or given up any right to occupancy ~~or to have~~
161 ~~abandoned the guest's right to occupancy~~ of the premises of the
162 recreational vehicle park; and the operator of the park shall
163 employ all reasonable and proper means to care for any personal
164 property left on the premises by such guest and shall refund any
165 unused portion of moneys paid by such guest for the occupancy of
166 such premises. If conditions do not allow for immediate removal
167 of the guest's property, he or she may arrange a reasonable
168 time, not to exceed 48 hours, with the operator to come remove
169 the property, accompanied by a law enforcement officer.

170 (5) In addition to the grounds for ejection ~~eviction~~
171 established by law, grounds for ejection ~~eviction~~ may be
172 established in a written lease agreement between a recreational
173 vehicle park operator or permittee and a recreational vehicle
174 park occupant.

175
176 ===== T I T L E A M E N D M E N T =====

177 And the title is amended as follows:

178 Delete line 2

179 and insert:

180 An act relating to recreational vehicle industries;
181 amending s. 513.012, F.S.; revising legislative
182 intent; amending s. 513.02, F.S.; providing a
183 timeframe for the application of a permit; amending s.
184 513.051, F.S.; preempting to the Department of Health



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185 the regulatory authority for permitting standards;
186 amending s. 513.112, F.S.; providing that evidence of
187 a certain length of stay in a guest register creates a
188 rebuttable presumption that a guest is transient;
189 amending s. 513.1115, F.S.; providing standards for a
190 damaged or destroyed recreational vehicle park to be
191 rebuilt under certain circumstances; superseding
192 certain ordinances or regulations; amending s.
193 513.115, F.S.; specifying when certain property
194 becomes abandoned; providing for disposition of such
195 property; amending s. 513.118, F.S.; authorizing a
196 park operator to refuse access to the premises and to
197 eject transient guests or visitors based on specified
198 conduct; providing that a person who refuses to leave
199 the park premises commits the offense of trespass;
200 providing immunity from liability for certain law
201 enforcement officers; providing an exception;
202 providing for removal of property; amending s. 513.13,
203 F.S.; providing for ejection from a park and
204 specifying grounds and requirements therefor;
205 providing for removal of property; amending s.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: January 29, 2020

I respectfully request that **Senate Bill #422**, relating to Recreational Vehicles, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style and is positioned above a horizontal line.

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-17-20

Meeting Date

422

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Dale Calhoun

Job Title Executive Director

Address 2015 Monroe St Unit A

Phone 8506810496

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 Propane Gas 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

APPEARANCE RECORD

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

2/17/20

Meeting Date

422

Bill Number (if applicable)

Topic RV Industry

Amendment Barcode (if applicable)

Name Marc Dunbar

Job Title

Address 215 S Monroe Street

Phone

City

State

Zip

Email

Speaking: For Against Information

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

Representing FL RV Trade 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
APPEARANCE RECORD

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

2/17/20

Meeting Date

422

Bill Number (if applicable)

Topic Recreational Vehicles

Amendment Barcode (if applicable)

Name Marc Dunbar

Job Title _____

Address 215 S Monroe St Ste 815

Phone 999-4100

Street

Tall FL

Email mdunbar@deanmead.com

City

State

Zip

Speaking: For Against Information

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

Representing FL ASSOC. of RV Parks & Campgrounds

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
COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: CS/SB 422
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, February 17, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE		SENATORS	2/17/2020 1 Amendment 666186					
			Perry					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bracy						
X		Bradley						
X		Brandes						
X		Braynon						
X		Farmer						
X		Gibson						
X		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
10	0	TOTALS	RCS	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

By the Committees on Innovation, Industry, and Technology; and
Infrastructure and Security; and Senator Perry

580-03751-20

2020422c2

1 A bill to be entitled
2 An act relating to recreational vehicle industries;
3 amending s. 513.012, F.S.; revising legislative
4 intent; amending s. 513.02, F.S.; providing a
5 timeframe for the application of a permit; amending s.
6 513.051, F.S.; preempting to the Department of Health
7 the regulatory authority for permitting standards;
8 amending s. 513.112, F.S.; providing that evidence of
9 a certain length of stay in a guest register creates a
10 rebuttable presumption that a guest is transient;
11 amending s. 513.1115, F.S.; providing standards for a
12 damaged or destroyed recreational vehicle park to be
13 rebuilt under certain circumstances; superseding
14 certain ordinances or regulations; amending s.
15 513.115, F.S.; specifying when certain property
16 becomes abandoned; providing for disposition of such
17 property; amending s. 513.118, F.S.; authorizing a
18 park operator to refuse access to the premises and to
19 eject transient guests or visitors based on specified
20 conduct; providing that a person who refuses to leave
21 the park premises commits the offense of trespass;
22 providing immunity from liability for certain law
23 enforcement officers; providing an exception;
24 providing for removal of property; amending s. 513.13,
25 F.S.; providing for ejection from a park and
26 specifying grounds and requirements therefor;
27 providing for removal of property; amending s. 527.01,
28 F.S.; defining the term "recreational vehicle";
29 amending s. 527.0201, F.S.; requiring the Department

580-03751-20

2020422c2

30 of Agriculture and Consumer Services to adopt rules
31 specifying requirements for agents to administer
32 certain competency examinations and establishing a
33 written competency examination for a license to engage
34 in activities solely related to the service and repair
35 of recreational vehicles; authorizing certain
36 qualifiers and master qualifiers to engage in
37 activities solely related to the service and repair of
38 recreational vehicles; requiring verifiable LP gas
39 experience or professional certification by an LP gas
40 manufacturer in order to apply for certification as a
41 master qualifier; providing an effective date.

42
43 Be It Enacted by the Legislature of the State of Florida:

44
45 Section 1. Section 513.012, Florida Statutes, is amended to
46 read:

47 513.012 Public health laws; enforcement.—It is the intent
48 of the Legislature that mobile home parks, lodging parks,
49 recreational vehicle parks, and recreational camps be
50 exclusively regulated under this chapter. As such, the
51 department shall administer and enforce, with respect to such
52 parks and camps, laws and rules relating to sanitation, control
53 of communicable diseases, illnesses and hazards to health among
54 humans and from animals to humans, and permitting and
55 operational matters in order to protect the general health and
56 well-being of the residents ~~people~~ of and visitors to the state.
57 However, nothing in this chapter qualifies a mobile home park, a
58 lodging park, a recreational vehicle park, or a recreational

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2020422c2

59 camp for a liquor license issued under s. 561.20(2)(a)1. Mobile
60 home parks, lodging parks, recreational vehicle parks, and
61 recreational camps regulated under this chapter are exempt from
62 regulation under the provisions of chapter 509.

63 Section 2. Subsection (5) of section 513.02, Florida
64 Statutes, is amended to read:

65 513.02 Permit.—

66 (5) When a park or camp regulated under this chapter is
67 sold or its ownership transferred, the transferee must apply for
68 a permit to the department within 60 days after ~~before~~ the date
69 of transfer. The applicant must provide the department with a
70 copy of the recorded deed or lease agreement before the
71 department may issue a permit to the applicant.

72 Section 3. Section 513.051, Florida Statutes, is amended to
73 read:

74 513.051 Preemption.—The department is the exclusive
75 regulatory and permitting authority for sanitary and permitting
76 standards for all mobile home parks, lodging parks, recreational
77 vehicle parks, and recreational camps in accordance with ~~the~~
78 ~~provisions of~~ this chapter.

79 Section 4. Subsection (3) is added to section 513.112,
80 Florida Statutes, to read:

81 513.112 Maintenance of guest register and copy of laws.—

82 (3) When a guest occupies a recreational vehicle in a
83 recreational vehicle park for less than 6 months, as evidenced
84 by the length of stay shown in the guest register, there is a
85 rebuttable presumption that the occupancy is transient.

86 Section 5. Present subsection (3) of section 513.1115,
87 Florida Statutes, is redesignated as subsection (4) and amended,

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88 and a new subsection (3) is added to that section, to read:

89 513.1115 Placement of recreational vehicles on lots in
90 permitted parks.—

91 (3) If a recreational vehicle park is damaged or destroyed
92 as a result of wind, water, or other natural disaster, the park
93 may be rebuilt on the same site using the same density standards
94 that were approved and permitted before the park was damaged or
95 destroyed.

96 (4)(3) This section does not limit the regulation of the
97 uniform firesafety standards established under s. 633.206.
98 However, this section shall supersede any other county,
99 municipality, or special district ordinance or regulation
100 regarding the lot size, lot density, or separation or setback
101 distance of a recreational vehicle park which goes into effect
102 after the initial permitting and construction of the park.

103 Section 6. Section 513.115, Florida Statutes, is amended to
104 read:

105 513.115 Unclaimed property.—Any property having an
106 identifiable owner which ~~is left in a recreational vehicle park~~
107 ~~by a guest, other than property belonging to a guest who has~~
108 ~~vacated the premises without notice to the operator and with an~~
109 ~~outstanding account, which property~~ remains unclaimed after
110 having been held by a the park for 90 days after written notice
111 was provided to the guest or the owner of the property, ~~7~~ becomes
112 the property of the park. Any property that is left by a guest
113 who has vacated the premises without notice to the operator and
114 who has an outstanding account is considered abandoned property,
115 and disposition thereof shall be governed by the Disposition of
116 Personal Property Landlord and Tenant Act under s. 715.10 or

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117 under s. 705.185, as applicable.

118 Section 7. Section 513.118, Florida Statutes, is amended to
119 read:

120 513.118 Conduct on premises; refusal of service.—

121 (1) The operator of a recreational vehicle park may refuse
122 to provide accommodations, ~~or~~ service, or access to the premises
123 to any transient guest or visitor ~~person~~ whose conduct on the
124 premises of the park displays intoxication, profanity, lewdness,
125 or brawling; who indulges in such language or conduct as to
126 disturb the peace, quiet enjoyment, or comfort of other guests;
127 who engages in illegal or disorderly conduct; or whose conduct
128 constitutes a nuisance or safety hazard.

129 (2) The operator of a recreational vehicle park may request
130 that a transient guest or visitor who violates subsection (1)
131 leave the premises immediately. A person who refuses to leave
132 the premises commits the offense of trespass as provided in s.
133 810.08 and the operator may call a law enforcement officer to
134 have the person and his or her property removed under the
135 supervision of the officer. A law enforcement officer is not
136 liable for any claim involving the removal of the person or
137 property from the recreational vehicle park under this section,
138 except as provided in s. 768.28. If conditions do not allow for
139 immediate removal of the person's property, he or she may
140 arrange a reasonable time, not to exceed 48 hours, with the
141 operator to come remove the property, accompanied by a law
142 enforcement officer.

143 (3) Such refusal of accommodations, ~~or~~ service, or access
144 to the premises may ~~shall~~ not be based upon race, color,
145 national origin, sex, physical disability, or creed.

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146 Section 8. Section 513.13, Florida Statutes, is amended to
147 read:

148 513.13 Recreational vehicle parks; ejection ~~eviction~~;
149 grounds; proceedings.-

150 (1) The operator of any recreational vehicle park may
151 remove or cause to be removed from such park, in the manner
152 provided in this section, any transient guest of the park who,
153 while on the premises of the park, illegally possesses or deals
154 in a controlled substance as defined in chapter 893; who ~~or~~
155 disturbs the peace, quiet enjoyment, and comfort of other
156 persons; who causes harm to the physical park; who violates the
157 posted park rules and regulations; or who fails to make payment
158 of rent at the rental rate agreed upon and by the time agreed
159 upon. The admission of a person to, or the removal of a person
160 from, any recreational vehicle park may ~~shall~~ not be based upon
161 race, color, national origin, sex, physical disability, or
162 creed.

163 (2) The operator of any recreational vehicle park shall
164 notify such guest that the park no longer desires to entertain
165 the guest and shall request that such guest immediately depart
166 from the park. Such notice shall be given in writing, as
167 follows: "You are hereby notified that this recreational vehicle
168 park no longer desires to entertain you as its guest, and you
169 are requested to leave at once. To remain after receipt of this
170 notice is a misdemeanor under the laws of this state." If such
171 guest has paid in advance, the park shall, at the time such
172 notice is given, tender to the guest the unused portion of the
173 advance payment. Any guest who remains or attempts to remain in
174 such park after being requested to leave commits ~~is guilty of a~~

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175 misdemeanor of the second degree, punishable as provided in s.
176 775.082 or s. 775.083.

177 (3) If a guest has accumulated an outstanding account in
178 excess of an amount equivalent to 3 ~~three~~ nights' rent at a
179 recreational vehicle park, the operator may disconnect all
180 utilities of the recreational vehicle and notify the guest that
181 the action is for the purpose of requiring the guest to confront
182 the operator or permittee and arrange for the payment of the
183 guest's account. Such arrangement must be in writing, and a copy
184 shall be furnished to the guest. Upon entering into such
185 agreement, the operator shall reconnect the utilities of the
186 recreational vehicle.

187 (4) If any person is illegally on the premises of any
188 recreational vehicle park, the operator of such park may call
189 upon any law enforcement officer of this state for assistance.
190 It is the duty of such law enforcement officer, upon the request
191 of such operator, to remove from the premises or place under
192 arrest and take into custody for violation of this section any
193 guest who, according to the park operator, violated ~~violates~~
194 subsection (1) or subsection (2) in the presence of the officer.
195 If a warrant has been issued by the proper judicial officer for
196 the arrest of any guest who violates ~~violation of~~ subsection (1)
197 or subsection (2), the officer shall serve the warrant, arrest
198 the guest ~~person~~, and take the guest ~~person~~ into custody. Upon
199 removal or arrest, with or without warrant, the guest is deemed
200 to have abandoned or given up any right to occupancy ~~or to have~~
201 ~~abandoned the guest's right to occupancy~~ of the premises of the
202 recreational vehicle park; and the operator of the park shall
203 employ all reasonable and proper means to care for any personal

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204 property left on the premises by such guest and shall refund any
205 unused portion of moneys paid by such guest for the occupancy of
206 such premises. If conditions do not allow for immediate removal
207 of the guest's property, he or she may arrange a reasonable
208 time, not to exceed 48 hours, with the operator to come remove
209 the property, accompanied by a law enforcement officer.

210 (5) In addition to the grounds for ejection ~~eviction~~
211 established by law, grounds for ejection ~~eviction~~ may be
212 established in a written lease agreement between a recreational
213 vehicle park operator or permittee and a recreational vehicle
214 park occupant.

215 Section 9. Subsection (18) is added to section 527.01,
216 Florida Statutes, to read:

217 527.01 Definitions.—As used in this chapter:

218 (18) "Recreational vehicle" means a motor vehicle that is
219 designed to provide temporary living quarters for recreational,
220 camping, or travel use and that has its own propulsion or is
221 mounted on or towed by another motor vehicle.

222 Section 10. Subsection (1) and paragraph (a) of subsection
223 (5) of section 527.0201, Florida Statutes, are amended to read:

224 527.0201 Qualifiers; master qualifiers; examinations.—

225 (1) In addition to the requirements of s. 527.02, a ~~any~~
226 person applying for a license to engage in category I, category
227 II, or category V activities must prove competency by passing a
228 written examination administered by the department or its agent
229 with a grade of 70 percent or above in each area tested. Each
230 applicant for examination shall submit a \$20 nonrefundable fee.

231 (a) The department shall by rule specify the general areas
232 of competency to be covered by each examination and the relative

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233 weight to be assigned in grading each area tested.

234 (b) The department shall by rule specify the requirements
235 for agents qualified to administer the written competency
236 examinations required by this part.

237 (c) The department shall by rule establish a separate
238 written competency examination for persons applying for a
239 license to engage in category I activities solely related to the
240 service and repair of recreational vehicles. The category I
241 recreational vehicle dealer/installer examination shall include
242 and ensure competency in the following activities as they relate
243 to recreational vehicles:

244 1. Operating a liquefied petroleum gas dispensing unit to
245 serve liquid product to a consumer for industrial, commercial,
246 or domestic use;

247 2. Selling or offering to sell, or leasing or offering to
248 lease, apparatus, appliances, and equipment for the use of
249 liquefied petroleum gas; and

250 3. Installing, servicing, or repairing recreational vehicle
251 liquefied petroleum gas appliances and equipment.

252 (d) Any qualifier or master qualifier who has passed the
253 category I recreational vehicle dealer/installer examination may
254 engage in category I activities solely related to the service
255 and repair of recreational vehicles.

256 (5) In addition to all other licensing requirements, each
257 category I and category V licensee must, at the time of
258 application for licensure, identify to the department one master
259 qualifier who is a full-time employee at the licensed location.
260 This person shall be a manager, owner, or otherwise primarily
261 responsible for overseeing the operations of the licensed

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262 location and must provide documentation to the department as
263 provided by rule. The master qualifier requirement shall be in
264 addition to the requirements of subsection (1).

265 (a) In order to apply for certification as a master
266 qualifier, each applicant must have ~~been a registered qualifier~~
267 ~~for~~ a minimum of 3 years of verifiable LP gas experience or hold
268 a professional certification by an LP gas manufacturer as
269 adopted by department rule immediately preceding submission of
270 the application, must be employed by a licensed category I or
271 category V licensee, ~~or an applicant for such license,~~ and must
272 pass a master qualifier competency examination administered by
273 the department or its agent. Master qualifier examinations shall
274 be based on Florida's laws, rules, and adopted codes governing
275 liquefied petroleum gas safety, general industry safety
276 standards, and administrative procedures. The applicant must
277 successfully pass the examination with a grade of 70 percent or
278 above. Each applicant for master qualifier registration must
279 submit to the department a nonrefundable \$30 examination fee
280 before the examination.

281 Section 11. This act shall take effect July 1, 2020.

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 Innovation, Industry, and Technology

BILL: CS/SB 898

INTRODUCER: Banking and Insurance Committee and Senator Gruters and others

SUBJECT: Insurance Guaranty Associations

DATE: February 17, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Palecki</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 898 amends s. 631.57, F.S., which governs the powers and duties of the Florida Insurance Guaranty Association, Incorporated (FIGA). The FIGA provides a mechanism for the payment of covered claims of insolvent property and casualty insurance companies. Upon an insurer's insolvency, the FIGA is currently obligated to pay an insured condominium or homeowners association the lesser of policy limits or the amount of each covered property insurance claim up to \$100,000 multiplied by the number of condominium or other residential units. The bill increases the FIGA's obligation by increasing the covered property insurance claim limits to \$200,000 multiplied by the number of condominium or other residential units.

The bill also increases the amount of funding available to the FIGA through emergency assessments levied against insurers for the direct payment of covered claims of insurers rendered insolvent by the effects of a hurricane. The bill authorizes emergency assessments up to four percent of an insurer's net written premiums in this state in any one calendar year, which is an increase from the current limit of two percent. Such assessments may be used, up to the four-percent limit, to provide for the full and timely payment of the principal, redemption premium, if any, and interest, and related costs of the issuance of municipal and county bonds for the purpose of paying covered claims caused by a hurricane.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Florida Insurance Guaranty Association

Part II of ch. 631, F.S., governs the operations of the Florida Insurance Guaranty Association, Incorporated (FIGA), a nonprofit corporation created to provide a mechanism for the payment of covered claims, including unearned premiums, of insolvent property and casualty insurance companies.¹ A covered claim is an unpaid insurance claim arising out of and within the coverage of the applicable limits of an insurance policy issued by an insurer that has become insolvent.² The FIGA was designed with the intent of avoiding excessive delay in payment and financial loss to claimants or policyholders due to the insolvency of an insurer.³ Membership in the FIGA is a condition of the authority to transact business in Florida as a property or casualty insurance company.⁴ When a property and casualty insurance company becomes insolvent, the FIGA is required to assume the claims of the insurer and pay the claims of the company's policyholders, which includes claims on residential and commercial property insurance, automobile insurance, and liability insurance, among others.

Condominium and Homeowners' Association Claims

For condominium and homeowners' associations that have a responsibility to provide insurance coverage on residential units within the association, FIGA is obligated to pay out the lesser of:

- The policy limits;⁵ or
- Each covered property insurance claim which is less than \$100,000 multiplied by the number of units in the association.⁶

For homeowners associations, the FIGA is only obligated to pay those covered claims for damage to, or loss of, residential units and attached structures.⁷

The FIGA does not, however, have an obligation to pay covered claims that are funded by the proceeds of municipality and county bonds issued for the purpose of paying claims arising out of the hurricane-related insolvency of an insurer.⁸

FIGA Funding and Assessments

In order to secure funds for the payment of covered claims, the Office of Insurance Regulation of the Financial Services Commission (OIR) levies assessments based on each insurer's net written

¹ Workers' compensation insurance is excluded from FIGA since the Florida Workers' Compensation Insurance Guaranty Association (FWCIGA) pays covered claims under ch. 440, F.S., Florida's Workers' Compensation Law.

² Section 631.54(4), F.S.

³ Section 631.51(1), F.S.

⁴ Section 631.55(1), F.S.

⁵ Section 631.57(1)(a)4., F.S.

⁶ Section 631.57(1)(a)3.a., F.S.

⁷ *Id.*

⁸ Section 631.57(1)(a)3.b., F.S. Such bonds are payable from and secured by moneys received by or on behalf of the municipality or county from assessments levied under s. 631.57(3)(a), F.S., and assigned and pledged to or on behalf of the municipality or county for the benefit of the holders of the bonds in connection with the assistance program. *See* s. 631.695(2), F.S.

premiums in Florida.⁹ Regular assessments levied against any insurer may not exceed more than two percent of that insurer's net direct written premiums in this state for the kinds of insurance included within such account in any one calendar year.¹⁰ To the extent necessary to secure funds for the payment of covered claims of insurers rendered insolvent by the effects of a hurricane, and the reasonable costs to administer such claims, the FIGA is authorized to levy emergency assessments upon insurers in addition to regular assessments. The emergency assessments levied against any insurer may not exceed two percent of that insurer's net written premiums in this state in any one calendar year.¹¹ Once an insurance company pays the assessment to the FIGA, it may begin to recoup the assessment from its policyholders at policy issuance or renewal. A uniform assessment percentage is collected from policyholders.¹²

III. Effect of Proposed Changes:

Section 1 of the bill amends ss. 631.57(1)(a)3.a. and (3)(e), F.S., regarding the powers and duties of the FIGA.

Section 631.57(1)(a)3.a., F.S., is amended by the bill to increase the limit of the FIGA obligations for policies covering condominium and homeowners associations claims. The bill increases the FIGA's responsibility for covered claims from \$100,000 multiplied by the number of condos or other residential units to \$200,000 multiplied by the number of condos or other residential units. The bill doubles the possible claim payout a condominium association or homeowners association could receive upon experiencing a covered loss and the insolvency of their insurer.

Section 631.57(3)(e)1., F.S., is amended by the bill to increase the amount of funding available to the FIGA via emergency assessments. The bill doubles the percentage of an insurer's net written premiums in this state that are available to the FIGA via an emergency assessment from two percent to four percent of an insurer's net written premiums for any one calendar year.

Section 631.57(3)(e)2., F.S., is amended by the bill to conform with the amendments to s. 631.57(3)(e)1., F.S. Thus, in each year the board of the FIGA chooses to participate in the issuance of municipal and county bonds in accordance with s. 631.695, F.S.,¹³ during which those bonds are secured by emergency assessments and are outstanding, the OIR may levy emergency assessments upon insurers in an amount up to the four-percent limit, as required, in order to provide for the full and timely payment of the principal of redemption premium, if any, interest, and costs related to issuance of such bonds.

Section 2 of the bill provides an effective date of July 1, 2020.

⁹ Section 631.57(3)(a), F.S.

¹⁰ Section 631.57(3)(a), F.S.

¹¹ Section 631.57(3)(e), F.S.

¹² Section 631.57(3)(c), F.S.

¹³ Municipality and county bonds issued for the purpose of paying claims arising out of the hurricane-related insolvency of an insurer. *See* s. 631.695(2), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Condominium and homeowners' association policyholders of insolvent insurers will be eligible for a higher claim payout and thus stand a better chance of being made whole after suffering a loss or damage.

The increase in the percentage of an insurer's net premiums that are subject to emergency assessments imposes upon insurers a higher potential liability for emergency assessments. Insurers recoup such assessments from their policyholders, so the cost of the increased obligation to pay an emergency assessment of up to four percent, rather than the current two percent, is ultimately borne by the policyholders of the assessed insurers. The FIGA estimates that its current assessment base is approximately \$19.6 billion, which means that doubling the emergency assessment authority to four percent would, if utilized, currently result in up to approximately \$390 million in additional assessments.¹⁴

¹⁴ Email from Tom Streukens, Executive Director, Florida Insurance Guaranty Association to James Knudson, Staff Director, Florida Senate Banking and Insurance Committee (Jan. 15, 2020) (on file with the Senate Committee on Innovation, Industry, and Technology).

C. **Government Sector Impact:**

The bill doubles both the obligation of the FIGA to pay a covered claim of an insured condominium or homeowners association and the emergency assessment authority of the FIGA to pay covered claims caused by a hurricane.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 631.57 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 Banking and Insurance on January 15, 2020:

The CS makes conforming changes to ensure the FIGA can utilize the entirety of the proposed four percent emergency assessments in the issuance of bonds.

- B. **Amendments:**

None.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS

23rd District

February 11, 2020

The Honorable Wilton Simpson, Chair
Innovation, Industry, and Technology Committee
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simpson:

I am writing to request that Senate Bill 898, Insurance Guaranty Associations to be placed on the agenda of the next Innovation, Industry, and Technology Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me.
Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Booter Imhof, Staff Director
Lynn Koon, Committee Administrative Assistant

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

Knudson, James

From: Tom Streukens <tstreukens@agfgroup.org>
Sent: Wednesday, January 15, 2020 9:53 AM
To: Knudson, James
Subject: RE: FIGA Information Request

James – You are probably heading to the meeting soon so I thought I would send a quick note.

- FIGA assessment capacity will be challenging in a 1-100 year event under current limits due to shift from Citizens over the past decade
- Current \$100K exposure would use all of our emergency assessment and some of our regular assessment for 15-20 years in a 1-100 year storm
- Increase to \$200K will result in \$564M additional exposure ~ 2.9% of our \$19.6B assessment base

From: Knudson, James [mailto:KNUDDSON.JAMES@flsenate.gov]
Sent: Wednesday, January 15, 2020 8:20 AM
To: Tom Streukens <tstreukens@agfgroup.org>
Subject: RE: FIGA Information Request

Thanks Tom

From: Tom Streukens <tstreukens@agfgroup.org>
Sent: Tuesday, January 14, 2020 6:06 PM
To: Knudson, James <KNUDDSON.JAMES@flsenate.gov>
Cc: Timothy J. Meenan - Meenan P.A. (Tim@MeenanLawFirm.com) <Tim@MeenanLawFirm.com>
Subject: RE: FIGA Information Request

James – I had an update from Raymond James this evening and should have something for first thing in the morning. Sorry for the delay. Thanks, Tom

From: Knudson, James [mailto:KNUDDSON.JAMES@flsenate.gov]
Sent: Tuesday, January 14, 2020 9:21 AM
To: Tom Streukens <tstreukens@agfgroup.org>
Subject: RE: FIGA Information Request

Tom,

Wanted to discuss this bill briefly with you. Could you give me a call? 850 487 5361

From: Tom Streukens <tstreukens@agfgroup.org>
Sent: Monday, January 13, 2020 6:06 PM
To: Knudson, James <KNUDDSON.JAMES@flsenate.gov>
Cc: Timothy J. Meenan - Meenan P.A. (Tim@MeenanLawFirm.com) <Tim@MeenanLawFirm.com>
Subject: RE: FIGA Information Request

James,

I spoke with Tim Meenan Friday and immediately reached out to Raymond James to pull together the info we need to assess the impact. They are reviewing updated condo info from Citizens and the FHCF to update the work we did back in 2015. The preliminary analysis from Raymond James confirmed the proposed condo limit increase will create additional exposure and the proposed assessment capacity increase will be definitely be needed to cover the additional exposure. We hope to have the analysis ready late tomorrow or early Wednesday.

On a related note, was the 2% on line 85 supposed to be 4% to make the full emergency assessment available for bonding?

Thanks, Tom

From: Knudson, James [<mailto:KNUDSON.JAMES@flsenate.gov>]

Sent: Monday, January 13, 2020 5:06 PM

To: Tom Streukens <tstreukens@agfgroup.org>

Subject: FIGA Information Request

Tom,

I am looking for any analysis of SB 898, which increases FIGA condo association coverage and emergency assessment authority, conducted or commissioned by FIGA. It would be helpful to include such information in our staff analysis, which we are publishing tomorrow morning.

Thanks,

James Knudson

Staff Director

Florida Senate Banking and Insurance Committee

320 Knott Building

404 South Monroe Street

Tallahassee, FL 32399

(850) 487-5361

knudson.james@flsenate.gov

THE FLORIDA SENATE
APPEARANCE RECORD

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

898

Meeting Date _____

Bill Number (if applicable) _____

Topic _____

Amendment Barcode (if applicable) _____

Name Tim Meenan

Job Title _____

Address 300 S. Duval St.

Phone 850 425 4000

Street

Tally

City

FL

State

Zip

Email Tim@meenanlawfirm.com

Speaking: For Against Information

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

Representing Florida Insurance Guaranty 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.

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)

2/17/20

Meeting Date

898

Bill Number (if applicable)

Topic SB 898

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title Lobbyist

Address 110 S Monroe St
Street

Phone 813-205-0654

Tallahassee FL 32301
City State Zip

Email Mark@consistanderson.com

Speaking: For Against Information

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

Representing CEOMC (Chief Executive Officers of Management Companies)

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)

2/17/20

Meeting Date

898

Bill Number (if applicable)

Topic Insurance Guaranty Associations

Amendment Barcode (if applicable)

Name TRAVIS MOORE

Job Title _____

Address P.O. Box 2020
Street

Phone 727.421.6902

St. Petersburg FL 33731
City State Zip

Email travis@moore-relations.com

Speaking: For Against Information

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

Representing Community Associations Institute (CAI)

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
COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: CS/SB 898
FINAL ACTION: Favorable
MEETING DATE: Monday, February 17, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bracy						
X		Bradley						
X		Brandes						
X		Braynon						
X		Farmer						
X		Gibson						
		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
9	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

By the Committee on Banking and Insurance; and Senators Gruters and Broxson

597-02277-20

2020898c1

1 A bill to be entitled
2 An act relating to insurance guaranty associations;
3 amending s. 631.57, F.S.; increasing the obligation of
4 the Florida Insurance Guaranty Association,
5 Incorporated, for certain claims under policies
6 covering certain condominium associations and
7 homeowners' associations; increasing the percentage
8 limit of certain insurer net written premiums up to
9 which the Office of Insurance Regulation may levy
10 certain emergency assessments upon insurers; providing
11 an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Paragraph (a) of subsection (1) and paragraph
16 (e) of subsection (3) of section 631.57, Florida Statutes, are
17 amended to read:

18 631.57 Powers and duties of the association.—

19 (1) The association shall:

20 (a)1. Be obligated to the extent of the covered claims
21 existing:

22 a. Prior to adjudication of insolvency and arising within
23 30 days after the determination of insolvency;

24 b. Before the policy expiration date if less than 30 days
25 after the determination; or

26 c. Before the insured replaces the policy or causes its
27 cancellation, if she or he does so within 30 days of the
28 determination.

29 2. The obligation under subparagraph 1. includes only the

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30 amount of each covered claim which is in excess of \$100 and is
31 less than \$300,000, except that policies providing coverage for
32 homeowner's insurance shall provide for an additional \$200,000
33 for the portion of a covered claim which relates only to the
34 damage to the structure and contents.

35 3.a. Notwithstanding subparagraph 2., the obligation under
36 subparagraph 1. for policies covering condominium associations
37 or homeowners' associations, which associations have a
38 responsibility to provide insurance coverage on residential
39 units within the association, shall include that amount of each
40 covered property insurance claim which is less than \$200,000
41 ~~\$100,000~~ multiplied by the number of condominium units or other
42 residential units; however, as to homeowners' associations, this
43 sub-subparagraph applies only to claims for damage or loss to
44 residential units and structures attached to residential units.

45 b. Notwithstanding sub-subparagraph a., the association has
46 no obligation to pay covered claims that are to be paid from the
47 proceeds of bonds issued under s. 631.695. However, the
48 association shall assign and pledge the first available moneys
49 from all or part of the assessments to be made under paragraph
50 (3)(a) to or on behalf of the issuer of such bonds for the
51 benefit of the holders of such bonds. The association shall
52 administer any such covered claims and present valid covered
53 claims for payment in accordance with the provisions of the
54 assistance program in connection with which such bonds have been
55 issued.

56 4. In no event shall the association be obligated to a
57 policyholder or claimant in an amount in excess of the
58 obligation of the insolvent insurer under the policy from which

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59 the claim arises.

60 (3)

61 (e)1. In addition to assessments authorized in paragraph
62 (a), and to the extent necessary to secure the funds for the
63 account specified in s. 631.55(2)(b) for the direct payment of
64 covered claims of insurers rendered insolvent by the effects of
65 a hurricane and to pay the reasonable costs to administer such
66 claims, or to retire indebtedness, including, without
67 limitation, the principal, redemption premium, if any, and
68 interest on, and related costs of issuance of, bonds issued
69 under s. 631.695 and the funding of any reserves and other
70 payments required under the bond resolution or trust indenture
71 pursuant to which such bonds have been issued, the office, upon
72 certification of the board of directors, shall levy emergency
73 assessments upon insurers holding a certificate of authority.
74 The emergency assessments levied against any insurer may not
75 exceed in any one calendar year more than 4 ~~2~~ percent of that
76 insurer's net written premiums in this state for the kinds of
77 insurance within the account specified in s. 631.55(2)(b).

78 2. Emergency assessments authorized under this paragraph
79 shall be levied by the office upon insurers in accordance with
80 paragraph (f), upon certification as to the need for such
81 assessments by the board of directors. If the board participates
82 in the issuance of bonds in accordance with s. 631.695,
83 emergency assessments shall be levied in each year that bonds
84 issued under s. 631.695 and secured by such emergency
85 assessments are outstanding in amounts up to such 4-percent ~~2-~~
86 ~~percent~~ limit as required in order to provide for the full and
87 timely payment of the principal of, redemption premium, if any,

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88 and interest on, and related costs of issuance of, such bonds.
89 The emergency assessments are assigned and pledged to the
90 municipality, county, or legal entity issuing bonds under s.
91 631.695 for the benefit of the holders of such bonds in order to
92 provide for the payment of the principal of, redemption premium,
93 if any, and interest on such bonds, the cost of issuance of such
94 bonds, and the funding of any reserves and other payments
95 required under the bond resolution or trust indenture pursuant
96 to which such bonds have been issued, without further action by
97 the association, the office, or any other party. If bonds are
98 issued under s. 631.695 and the association determines to secure
99 such bonds by a pledge of revenues received from the emergency
100 assessments, such bonds, upon such pledge of revenues, shall be
101 secured by and payable from the proceeds of such emergency
102 assessments, and the proceeds of emergency assessments levied
103 under this paragraph shall be remitted directly to and
104 administered by the trustee or custodian appointed for such
105 bonds.

106 3. Emergency assessments used to defease bonds issued under
107 this part may be payable in a single payment or, at the option
108 of the association, may be payable in 12 monthly installments
109 with the first installment being due and payable at the end of
110 the month after an emergency assessment is levied and subsequent
111 installments being due by the end of each succeeding month.

112 4. If emergency assessments are imposed, the report
113 required by s. 631.695(7) must include an analysis of the
114 revenues generated from the emergency assessments imposed under
115 this paragraph.

116 5. If emergency assessments are imposed, the references in

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117 sub-subparagraph (1)(a)3.b. and s. 631.695(2) and (7) to
118 assessments levied under paragraph (a) must include emergency
119 assessments imposed under this paragraph.

120 6. If the board of directors participates in the issuance
121 of bonds in accordance with s. 631.695, an annual assessment
122 under this paragraph shall continue while the bonds issued with
123 respect to which the assessment was imposed are outstanding,
124 including any bonds the proceeds of which were used to refund
125 bonds issued pursuant to s. 631.695, unless adequate provision
126 has been made for the payment of the bonds in the documents
127 authorizing the issuance of such bonds.

128 Section 2. This act shall take effect July 1, 2020.

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 Innovation, Industry, and Technology

BILL: CS/CS/SB 1876

INTRODUCER: Innovation, Industry, and Technology Committee; Agriculture Committee and Senator Montford

SUBJECT: State Hemp Program

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1876 makes changes to the state hemp program. Specifically, the bill:

- Includes hemp extract in the definition of “food” in the Florida Food Safety Act;
- Requires persons who operate minor food outlets (which sell only commercially prepackaged food that is not potentially hazardous, or not time or temperature controlled for safety, if the shelf space for those items does not exceed 12 total linear feet) that sell hemp extract to obtain a food permit from the Department of Agriculture and Consumer Services (department);
- Includes a substance or compound that is intended for inhalation in the definition of “hemp extract;”
- Exempts synthetic cannabidiol (CBD) oil and seeds and seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration from the definition of “hemp extract;”
- Provides that, if the plan submitted by the department to the Secretary of the U.S. Department of Agriculture (USDA) is rejected and the plan may be revised without statutory changes, the department must consult with the Administration Commission¹ and submit an amended plan to the USDA.

¹ Section 14.202, F.S. The Administration Commission is part of the Executive Office of the Governor and is composed of the Governor and Cabinet (the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, as specified in s. 4, Art. IV of the State Constitution).

- Modifies how delta-9-tetrahydrocannabinol (THC) is measured in hemp extract;
- Clarifies that a hemp extract container must contain the number of milligrams of each cannabinoid per serving;
- Repeals the requirement that a package of hemp extract must contain a statement that the product's total THC concentration does not exceed 0.3 percent on a dry-weight basis.
- Provides that hemp extract that does not meet certain requirements is considered adulterated or misbranded;
- Prohibits the sale of products that are intended for inhalation and made from hemp extract to a person who is under 21 years of age;
- Provides that the report to the department's monthly report to the USDA must include total acreage and the amount of hemp planted, harvested, and if applicable, destroyed by each license;
- Allows the department to contract with entities to provide sample collection, laboratory testing, and disposal services;
- Provides a process for the department to notify a licensee when hemp is produced with a THC level that exceeds 0.3 percent as well as removal and destruction procedures. Damages may not be awarded for the destruction of the plants;
- Requires that the department's rules for disposal of hemp plants must be in accordance with the federal Controlled Substances Act and regulations of the Drug Enforcement Administration.
- Provides staggered initial appointment terms for members of the Industrial Hemp Council (council);
- Provides that the chair of the council serves for a one-year term; and
- Requires the department to submit a report to the Legislature by December 1, 2020 providing recommendations for initial license and license renewal fees, including a separate cost breakdown if the fees do not cover cost of inspections and testing.

The bill takes effect upon becoming law.

II. Present Situation:

Industrial Hemp

Industrial hemp is a *Cannabis sativa* plant (cannabis) that has been cultivated for approximately 10,000 years as a fiber and grain crop. It is used for fiber, building materials, forages (animal feed), and pain relief as a topical oil.²

Cannabis

Cannabis is a Schedule I controlled substance.³ It is a felony of the third degree⁴ to sell, manufacture, deliver, or possess with intent to sell, manufacture, or deliver, cannabis in Florida.⁵

² See University of Florida, *UF/IFAS Industrial Hemp Pilot Project* at: <https://programs.ifas.ufl.edu/hemp/> (last visited February 10, 2020).

³ Section 893.03(1)(c)7., F.S.

⁴ Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

⁵ Section 893.13(1)(a)2., F.S.

As a controlled substance in ch. 893, F.S., “cannabis” is defined to mean: all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include “marijuana,” as defined in s. 381.986, F.S., if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986, F.S., [the Compassionate Medical Cannabis Act of 2014], hemp as defined in s. 581.217, F.S., [the state hemp program], or industrial hemp as defined in s. 1004.4473, F.S., [industrial hemp pilot projects].⁶

Medical Marijuana

On November 4, 2016, Amendment 2 was approved by the electors and is codified in Article X, section 29, of the Florida Constitution. This section of the constitution became effective on January 3, 2017, and created several exemptions from criminal and civil liability for:

- Qualifying patients medically using marijuana in compliance with the amendment;
- Physicians, solely for issuing physician certifications with reasonable care and in compliance with the amendment; and
- Medical marijuana treatment centers (MMTCs), their agents, and employees for actions or conduct under the amendment and in compliance with rules promulgated by the Florida Department of Health.

Subsequently, the Legislature passed SB 8-A in Special Session A of 2017.⁷ The bill revised the Compassionate Medical Cannabis Act of 2014⁸ in s. 381.986, F.S., to implement Article X, section 29 of the Florida Constitution.

The term medical marijuana includes two distinct forms of the plant genus *Cannabis*:

- Marijuana without any limitation or restriction on the percentage of THC;⁹ and
- “Low-THC cannabis” in which the percentage of THC is limited to 0.8 percent or less and has more than 10 percent of cannabidiol¹⁰ weight for weight.¹¹

The Coalition for Medical Marijuana Research and Education located at the H. Lee Moffitt Cancer Center and Research Institute, Inc., is authorized to conduct medical marijuana research and education.¹²

A MMTC and a qualified patient or caregiver are specifically exempt from the criminal prohibition against the possession of cannabis.¹³

⁶ Section 893.02(3), F.S.

⁷ Chapter 2017-232, Laws of Fla.

⁸ Chapter 2014-157, Laws of Fla.

⁹ THC, or tetrahydrocannabinol, is the main active ingredient in cannabis and is responsible for most of the psychological effects of cannabis.

¹⁰ Cannabidiol (CBD) is a chemical compound, known as a cannabinoid, found in cannabis. CBD does not have the same psychoactivity as THC. See Michael J Breus, *Despite What You May Think... CBD Is Not Weed* (Sept. 20, 2018), Psychology Today, available at: <https://www.psychologytoday.com/us/blog/sleep-newzzz/201809/despite-what-you-may-think-cbd-is-not-weed> (last visited February 10, 2020).

¹¹ See ss. 381.986(1)(e) and (f), F.S.

¹² Section 1004.4351, F.S.

¹³ See s. 381.986(14), F.S.

2014 Federal Farm Bill and State Industrial Hemp Pilot Programs

The Agricultural Improvement Act of 2014 (2014 Farm Bill) defined industrial hemp and allowed state departments of agriculture or universities to grow and produce industrial hemp as part of research or pilot programs. Specifically, the law allowed universities and state departments of agriculture to grow or cultivate industrial hemp if:

- The industrial hemp is grown or cultivated for purposes of research conducted under an agricultural pilot program or other agricultural or academic research; and
- The growing or cultivating of industrial hemp is allowed under the laws of the state in which such institution of higher education or state department of agriculture is located and such research occurs.¹⁴

The 2014 Farm Bill defines “industrial hemp” to mean:

...the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.¹⁵

Section 1004.4473, F.S., authorizes the Florida Department of Agriculture and Consumer Services (department) to oversee the development of industrial hemp pilot projects for the Institute of Food and Agricultural Sciences (IFAS) at the University of Florida, Florida Agricultural and Mechanical University, any land grant university in the state that has a college of agriculture, and any Florida College System institution or state university that has an established agriculture, engineering, or pharmacy program.¹⁶ The purpose of the pilot projects is to cultivate, process, test, research, create, and market safe and effective commercial applications for industrial hemp in the agricultural sector in this state. The department has adopted a rule addressing safety, compliance, and accountability and other concerns.¹⁷

2018 Federal Farm Bill

In the 2018 Farm Bill, the U.S. Congress legalized industrial hemp as an agricultural product by removing hemp’s classification as a controlled substance.¹⁸ The 2018 Farm Bill defines “hemp” to mean:

...the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9

¹⁴ Agricultural Improvement Act of 2014, Pub. L. No. 113-79, s. 7606, 128 Stat. 912 (2014) (codified at 7 U.S.C. s. 5940).

¹⁵ *Id.*

¹⁶ Section 1004.4473(2)(a), F.S.

¹⁷ Fla. Admin. Code R. 5B-57.013 (2018).

¹⁸ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 12619, 132 Stat. 409 (2018) (codified at 21 U.S.C 802(16)).

tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.¹⁹

The 2018 Farm Bill allows a state department of agriculture or an Indian tribe to submit a plan to the United States Secretary of Agriculture and apply for primary regulatory authority over the production of hemp in their state or tribal territory. A state or tribal plan must include:

- A procedure for tracking land upon which hemp will be produced;
- Testing methods for determining THC concentration levels of hemp;
- Methods for effective disposal of noncompliant products;
- Enforcement procedures;
- Inspection procedures; and
- Certification procedures for the persons authorized to produce hemp producers, test hemp products, inspect hemp producers, and enforce the provisions of the state or tribal plan.²⁰

State Hemp Program

The state hemp program was created within the department to regulate the cultivation of hemp in Florida.²¹

Section 581.217(3)(d), F.S., defines the term “hemp” to mean:

...the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis.

Section 581.217(3)(e), F.S., defines the term “hemp extract” to mean “a substance or compound intended for ingestion that is derived from or contains hemp and that does not contain other controlled substances.”

The department is required to seek federal approval of the state plan for the regulation of the cultivation of hemp with the United States Secretary of Agriculture (USDA) in accordance with the Agricultural Improvement Act of 2018 within 30 days of adopting rules.²² A license is required to cultivate hemp²³ and to obtain a license a person must apply to the department and submit a full set of fingerprints.²⁴ A person seeking to cultivate hemp must provide the

¹⁹ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 10113, 132 Stat. 409 (2018) (codified at 7 U.S.C. s. 1639o).

²⁰ Agricultural Improvement Act of 2018, Pub. L. No. 115-334, s. 10113, 132 Stat. 409 (2018) (codified at 7 U.S.C. s. 1639p).

²¹ See s 581.217, F.S.

²² Section 581.217(4), F.S.

²³ Section 581.217(5)(a), F.S.

²⁴ Section 581.217(5)(b), F.S.

department with a legal land description and GPS coordinates of where the hemp will be cultivated.²⁵ The department must deny an application under certain circumstances.²⁶

Florida Seed Law

The duty to administer the Florida Seed Law²⁷ and enforce its provisions and requirements is vested in the department.²⁸ The Florida Seed Law is intended as a comprehensive and exclusive regulation of seed. The department must sample, inspect, analyze, and test agricultural, vegetable, flower, tree, or shrub seed transported, sold, offered or exposed for sale, or distributed in the state for sowing or planting purposes.²⁹

Generally Recognized as Safe

Under sections 201(s) and 409 of the Federal Food, Drug and Cosmetic Act, any substance that is intentionally added to food is a food additive that is subject to premarket review and approval by the U.S. Food and Drug Administration (FDA). A substance may not be offered for sale as food unless the substance is generally recognized, among qualified experts, as having been adequately shown to be safe under the conditions of its intended use, or unless the use of the substance is otherwise excepted from the definition of a food additive.³⁰ The FDA has evaluated three products by Fresh Hemp Foods, Ltd. and determined that hulled hemp seed, hemp seed protein powder, and hemp seed oil were generally recognized as safe.³¹ This applies to products from other companies if they are manufactured in a way that is consistent with the evaluated products and the products meet the listed specifications.³²

Hemp Extract

Hemp extract is a substance or compound intended for ingestion that is derived from or contains hemp and that does not contain controlled substances.³³ Hemp extract may only be sold in this state if the product has a certificate of analysis prepared by an independent testing laboratory and is distributed or sold in packaging that meets certain requirements.³⁴

III. Effect of Proposed Changes:

CS/SB 1876 makes a number of changes to the state hemp program.

The bill amends s. 500.03(1)(n), F.S., to include hemp extract in the definition of “food” in the Florida Food Safety Act.

²⁵ Section 581.217(5)(d), F.S.

²⁶ Section 581.217(5)(e), F.S.

²⁷ Chapter 578, F.S.

²⁸ Section 578.11(1), F.S.

²⁹ Section 578.11(1), F.S.

³⁰ See U.S. Food & Drug Administration *Generally Recognized as Safe* at: <https://www.fda.gov/food/food-ingredients-packaging/generally-recognized-safe-gras> (last visited February 10, 2020).

³¹ See *FDA Responds to Three GRAS Notices for Hemp-Seed Derived Ingredients for Use in Human Food* at: <https://www.fda.gov/food/generally-recognized-safe-gras/about-gras-notification-program> (last visited February 10, 2020).

³² *Id.*

³³ Section 581.217(3)(e), F.S.

³⁴ Section 581.217(7), F.S.

The bill amends s. 500.12(1)1., F.S., to require persons who operate minor food outlets³⁵ that sell hemp extract to obtain a food permit from the department.

The definition of the term “hemp extract” in s. 581.217(3)(e), F.S., is amended by the bill to include the substances or compounds intended for inhalation. Current law limits the definition of the term to products intended for consumption.

Section 581.217(3)(e), F.S., is also amended to exclude synthetic CBD and seeds and seed-derived ingredients that are generally recognized as safe by the FDA from the definition of “hemp extract.”

The bill amends s. 581.217(4), F.S., revises the requirements for the plan the department must submit for the approval of the Secretary of the USDA. The bill provides that, if the plan submitted to the Secretary of the USDA is rejected and the plan may be revised without statutory changes, the department must consult with the Administration Commission³⁶ and submit an amended plan to the USDA.

The bill removes the requirement in s. 581.217(7), F.S., that hemp extract be tested on a dry-weight basis. It also clarifies that the distribution and labeling requirements in s. 581.217(7), F.S., apply to containers of hemp extract instead of to packaging. The bill requires that a container of hemp extract must contain the number of milligrams of each cannabinoid per serving.

The bill also amends s. 581.217(7), F.S., to repeal the requirement that a package of hemp extract must contain a statement that the products total THC concentration does not exceed 0.3 percent on a dry-weight basis.

The bill provides that hemp extract sold in violation of s. 581.217, F.S. is considered misbranded or adulterated.

The bill prohibits the sale of products that are intended for inhalation and made from hemp extract to a person who is under 21 years of age. However, the bill does not provide a penalty for a violation of this prohibition.

Section 581.217(9), F.S., dealing with the monthly report the department must submit to the USDA, is amended by the bill to require the department to include in the report the total acreage of hemp planted, harvested, and if applicable, disposed of by each licensee.

Section 581.217(11), F.S., is amended by the bill to allow the department to contact with entities to provide sample collection, laboratory testing, and disposal services.

³⁵ Section 500.12(1)(a), F.S., exempts the operator of a minor food outlet from the requirement to have food permit issued by the department. A minor food mart sells commercially prepackaged food that is not potentially hazardous and not time or temperature controlled for safety, if the shelf space for those items does not exceed 12 total linear feet and other food is sold by the minor food outlet.

³⁶ *Supra*, note 1.

The bill requires the department to notify a licensee when hemp is produced with a THC level that exceeds the allowable limit of 0.3 percent. Under the bill, the licensee must remove and destroy the plants that are out of compliance within 10 days of receiving the notice from the department. If the licensee fails to comply, the department must destroy the plants at the expense of the licensee. Damages may not be awarded to the licensee for the destruction of the plants.

The bill amends s. 581.217(12), F.S., dealing with the provisions that the department must include in the rules for the State Hemp Program, to

- Delete the requirement that the department initiate rulemaking by August 1, 2019.
- Require that the department's rules for disposal of hemp plants must be in accordance with the federal Controlled Substances Act and regulations of the Drug Enforcement Administration.

Section 581.217(14), F.S., relating to the Industrial Hemp Council (council), to provide:

- That a function of the council is to provide information to the department.
- That members of the council serve four-year terms.
- Staggered initial appointment terms for members of the council.
- That the chair of the council serves for a one-year term.
- That the department must submit a report to the Legislature by December 1, 2020 with recommendations for initial license and license renewal fees, including a separate cost breakdown if the fees do not cover cost of inspections and testing.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Small food retailers will now need to obtain a food permit if they sell hemp extract.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 500.03, 500.12, and 581.217.

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 Innovation, Industry, and Technology on February 17, 2020:

The CS:

- Deletes from the bill the provision to removing a reference in current law to the Department of Health’s medical marijuana regulations in the definition of the term “contaminants unsafe for human consumption.”
- Provides that, if the plan submitted by the Department of Agriculture and Consumer Services (DACS) to the Secretary of the U.S. Department of Agriculture (USDA) is rejected and the plan may be revised without statutory changes, the DACS must consult with the Administration Commission and submit an amended plan to the USDA.
- Repeals the requirement that a package of hemp extract must contain a statement that the products total THC concentration does not exceed 0.3 percent on a dry-weight basis.
- Requires the DACS to include the total acreage of hemp planted, harvested, and if applicable, disposed of by each licensee in its monthly report to the USDA.
- Deletes the requirement that the DACS initiate rulemaking by August 1, 2019.

- Requires that the DACS's rules disposal of hemp plants must be in accordance with the federal Controlled Substances Act and regulations of the Drug Enforcement Administration.
- Provides that a function of the Industrial Hemp Council (Council) is to provide information to the DACS.
- Provides that members of the council serve four-year terms.
- Provides staggered initial appointment terms for members of the Council.
- Provides that the chair of the council serves for a one-year term.
- Requires the DACS to submit a report to the Legislature by December 1, 2020 providing recommendations for initial license and license renewal fees, including a separate cost breakdown if the fees do not cover cost of inspections and testing.
- Changes the effective date to upon becoming law (instead of on July 1, 2020).

CS by Agriculture on February 4, 2020:

- Reverts seed certification requirements back to current law;
- Adds hemp extract to the definition of "food" in the Florida Food Safety Act;
- Requires small food retailers who are normally exempt from a food permit to obtain one if they sell hemp extract.
- Adds products that are inhaled to the definition of "hemp extract" and prohibits those products from being sold to someone under the age of 21;
- Deletes the prohibition on selling products that contain hemp extract to someone under the age of 18;
- Removes synthetic CBD oil from the definition of "hemp extract;" and
- Allows the department to contract for sample collection, laboratory testing, and disposal services.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2020	.	
	.	
	.	
	.	

The Committee on Innovation, Industry, and Technology (Montford) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (n) of subsection (1) of section
500.03, Florida Statutes, is amended to read:

500.03 Definitions; construction; applicability.—

(1) For the purpose of this chapter, the term:

(n) "Food" includes:

1. Articles used for food or drink for human consumption;



108556

- 11 2. Chewing gum;
- 12 3. Articles used for components of any such article;
- 13 4. Articles for which health claims are made, which claims
- 14 are approved by the Secretary of the United States Department of
- 15 Health and Human Services and which claims are made in
- 16 accordance with s. 343(r) of the federal act, and which are not
- 17 considered drugs solely because their labels or labeling contain
- 18 health claims; ~~and~~
- 19 5. Dietary supplements as defined in 21 U.S.C. s.
- 20 321(ff)(1) and (2); and
- 21 6. Hemp extract as defined in s. 581.217.
- 22

23 The term includes any raw, cooked, or processed edible

24 substance; ice; any beverage; or any ingredient used, intended

25 for use, or sold for human consumption.

26 Section 2. Paragraph (a) of subsection (1) of section

27 500.12, Florida Statutes, is amended to read:

28 500.12 Food permits; building permits.—

29 (1) (a) A food permit from the department is required of any

30 person who operates a food establishment or retail food store,

31 except:

32 1. Persons operating minor food outlets that sell food,

33 except hemp extract, that is commercially prepackaged, not

34 potentially hazardous, and not time or temperature controlled

35 for safety, if the shelf space for those items does not exceed

36 12 total linear feet and no other food is sold by the minor food

37 outlet.

38 2. Persons subject to continuous, onsite federal or state

39 inspection.



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40 3. Persons selling only legumes in the shell, either
41 parched, roasted, or boiled.

42 4. Persons selling sugar cane or sorghum syrup that has
43 been boiled and bottled on a premise located within the state.
44 Such bottles must contain a label listing the producer's name
45 and street address, all added ingredients, the net weight or
46 volume of the product, and a statement that reads, "This product
47 has not been produced in a facility permitted by the Florida
48 Department of Agriculture and Consumer Services."

49 Section 3. Paragraph (e) of subsection (3) and subsections
50 (4), (7), (9), (11), (12), and (14) of section 581.217, Florida
51 Statutes, are amended, and subsection (15) is added to that
52 section, to read:

53 581.217 State hemp program.—

54 (3) DEFINITIONS.—As used in this section, the term:

55 (e) "Hemp extract" means a substance or compound intended
56 for ingestion or inhalation which ~~that~~ is derived from or
57 contains hemp and which ~~that~~ does not contain other controlled
58 substances. The term does not include synthetic CBD or seeds or
59 seed-derived ingredients that are generally recognized as safe
60 by the United States Food and Drug Administration.

61 (4) FEDERAL APPROVAL.—The department shall seek approval of
62 the state plan for the regulation of the cultivation of hemp
63 with the United States Secretary of Agriculture in accordance
64 with 7 U.S.C. s. 1639p within 30 days after adopting rules. If
65 the state plan is not approved by the United States Secretary of
66 Agriculture, the Commissioner of Agriculture, in consultation
67 with and with final approval from the Administration Commission,
68 shall develop a recommendation to amend the state plan and



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69 submit the recommendation to the Legislature. If revisions to
70 the state plan may be made without statutory changes, the
71 department, in consultation with and with final approval from
72 the Administration Commission, must submit an amended plan to
73 the United States Secretary of Agriculture.

74 (7) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—

75 (a) Hemp extract may only be distributed and sold in the
76 state if the product:

77 1.(a) Has a certificate of analysis prepared by an
78 independent testing laboratory that states:

79 a.1. The hemp extract is the product of a batch tested by
80 the independent testing laboratory;

81 b.2. The batch contained a total delta-9-
82 tetrahydrocannabinol concentration that did not exceed 0.3
83 percent ~~on a dry-weight basis~~ pursuant to the testing of a
84 random sample of the batch; and

85 c.3. The batch does not contain contaminants unsafe for
86 human consumption.

87 2.(b) Is distributed or sold in a container ~~packaging~~ that
88 includes:

89 a.1. A scannable barcode or quick response code linked to
90 the certificate of analysis of the hemp extract batch by an
91 independent testing laboratory;

92 b.2. The batch number;

93 c.3. The Internet address of a website where batch
94 information may be obtained;

95 d.4. The expiration date; and

96 e.5. The number of milligrams of each marketed cannabinoid
97 per serving ~~hemp extract; and~~



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98 ~~6. A statement that the product contains a total delta-9-~~
99 ~~tetrahydrocannabinol concentration that does not exceed 0.3~~
100 ~~percent on a dry weight basis.~~

101 (b) Hemp extract distributed or sold in violation of this
102 section shall be considered adulterated or misbranded pursuant
103 to chapter 500, chapter 502, or chapter 580.

104 (c) Products that are intended for inhalation and contain
105 hemp extract may not be sold in this state to a person who is
106 under 21 years of age.

107 (9) DEPARTMENT REPORTING.—The department shall submit
108 monthly to the United States Secretary of Agriculture a report
109 of the locations in the state where hemp is cultivated or has
110 been cultivated within the past 3 calendar years. The report
111 must include the contact information for each licensee and the
112 total acreage of hemp planted, harvested, and, if applicable,
113 disposed of by each licensee.

114 (11) ENFORCEMENT.—

115 (a) The department shall enforce this section.

116 (b) Every state attorney, sheriff, police officer, and
117 other appropriate county or municipal officer shall enforce, or
118 assist any agent of the department in enforcing, this section
119 and rules adopted by the department.

120 (c) The department, or its agent, is authorized to enter
121 any public or private premises during regular business hours in
122 the performance of its duties relating to hemp cultivation.

123 (d) The department shall conduct random inspections, at
124 least annually, of each licensee to ensure that only certified
125 hemp seeds are being used and that hemp is being cultivated in
126 compliance with this section. The department may contract with



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127 entities to provide sample collection, laboratory testing, and
128 disposal services to implement this section. The contracts are
129 exempt from chapter 287.

130 (e) If the department finds that *Cannabis sativa L.* was
131 produced with a total delta-9-tetrahydrocannabinol concentration
132 that exceeds 0.3 percent, the director shall notify the licensee
133 of such result. The licensee shall, within 10 days after
134 receiving the notice, cause the removal and destruction of the
135 plants in accordance with methods adopted by the department. If
136 the licensee refuses or neglects to comply with the terms of the
137 notice within 10 days after receiving it, the director or her or
138 his authorized representative may, under authority of the
139 department, proceed to destroy the plants. The expense of the
140 removal or destruction shall be assessed, collected, and
141 enforced against the licensee by the department. Damages may not
142 be awarded to the licensee for the destruction of the plants
143 under this paragraph.

144 (12) RULES. ~~By August 1, 2019,~~ The department, in
145 consultation with the Department of Health and the Department of
146 Business and Professional Regulation, shall initiate rulemaking
147 to administer the state hemp program. The rules must provide
148 for:

149 (a) A procedure that uses post-decarboxylation or other
150 similarly reliable methods and a measure of uncertainty for
151 testing the delta-9-tetrahydrocannabinol concentration of
152 cultivated hemp. This procedure must meet the requirements of
153 the rules adopted by the United States Department of
154 Agriculture.

155 (b) A procedure for the effective disposal of plants,



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156 whether growing or not, that are cultivated in violation of this
157 section or department rules, and products derived from those
158 plants. The procedure must provide for the disposal of such
159 plants in accordance with the federal Controlled Substances Act
160 and regulations of the Drug Enforcement Administration.

161 (14) INDUSTRIAL HEMP ADVISORY COUNCIL.—An Industrial Hemp
162 Advisory Council, an advisory council as defined in s. 20.03, is
163 established to provide information, advice, and expertise to the
164 department with respect to plans, policies, and procedures
165 applicable to the administration of the state hemp program.

166 (a) The advisory council is adjunct to the department for
167 administrative purposes.

168 (b) The advisory council shall be composed of all of the
169 following members:

170 1. Two members appointed by the Commissioner of
171 Agriculture.

172 2. Two members appointed by the Governor.

173 3. Two members appointed by the President of the Senate.

174 4. Two members appointed by the Speaker of the House of
175 Representatives.

176 5. The dean for research of the Institute of Food and
177 Agricultural Sciences of the University of Florida or his or her
178 designee.

179 6. The president of Florida Agricultural and Mechanical
180 University or his or her designee.

181 7. The executive director of the Department of Law
182 Enforcement or his or her designee.

183 8. The president of the Florida Sheriffs Association or his
184 or her designee.



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185 9. The president of the Florida Police Chiefs Association
186 or his or her designee.

187 10. The president of the Florida Farm Bureau Federation or
188 his or her designee.

189 11. The president of the Florida Fruit and Vegetable
190 Association or his or her designee.

191 (c) Each advisory council member shall be appointed to a 4-
192 year term, and any vacancy in the membership of the council must
193 be filled in the same manner as the original appointment for the
194 remainder of the unexpired term. For the purpose of achieving
195 staggered terms, the initial members appointed to the council
196 shall serve the following terms:

197 1. Four years for members appointed by the Governor.

198 2. Three years for members appointed by the President of
199 the Senate or the Speaker of the House of Representatives.

200 3. Three years for members appointed by the Commissioner of
201 Agriculture.

202 4. Two years for all other appointed members.

203 (d) ~~(e)~~ The advisory council shall elect by a two-thirds
204 vote of the members one member to serve as chair of the council.
205 The chair shall serve for a term of 1 year.

206 (e) ~~(d)~~ A majority of the members of the advisory council
207 constitutes a quorum.

208 (f) ~~(e)~~ The advisory council shall meet at least once
209 annually at the call of the chair.

210 (g) ~~(f)~~ Advisory council members shall serve without
211 compensation and are not entitled to reimbursement for per diem
212 or travel expenses.

213 (15) FEES.—By December 1, 2020, the department shall submit



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214 a report to the President of the Senate and the Speaker of the
215 House of Representatives which provides recommendations for
216 initial license application fees and license renewal fees
217 sufficient to cover the costs of implementing and administering
218 this section. If such fees do not cover the costs of inspections
219 and testing, the department shall include a separate cost
220 breakdown for any other program fees that the department
221 recommends and anticipates are necessary.

222 Section 4. This act shall take effect upon becoming a law.

223

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

225 And the title is amended as follows:

226 Delete everything before the enacting clause
227 and insert:

228 A bill to be entitled
229 An act relating to the state hemp program; amending s.
230 500.03, F.S.; revising the definition of the term
231 "food" to include hemp extract for purposes of the
232 Florida Food Safety Act; amending s. 500.12, F.S.;
233 providing that a person operating a minor food outlet
234 that sells hemp extract is not exempt from certain
235 food permit requirements; amending s. 581.217, F.S.;
236 redefining the term "hemp extract"; directing the
237 Department of Agriculture and Consumer Services, in
238 consultation with the Administration Commission, to
239 submit an amended plan for the state program to the
240 United States Secretary of Agriculture under certain
241 circumstances; providing that hemp extract that does
242 not meet certain requirements will be considered



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243 adulterated or misbranded; prohibiting the sale of
244 certain hemp extract products to individuals under a
245 specified age; revising the contents of the
246 department's required monthly report to the United
247 States Secretary of Agriculture; authorizing the
248 department to contract with entities to provide
249 certain collection, testing, and disposal services;
250 providing that such contracts are exempt from
251 specified provisions; requiring the director of the
252 Division of Plant Industry to notify a licensee of
253 certain findings; requiring such licensee or, if the
254 licensee fails to act within a specified timeframe,
255 authorizing the director, to remove and destroy
256 certain plants; requiring that expenses associated
257 with such removal or destruction be assessed,
258 collected, and enforced against the licensee;
259 prohibiting the award of certain damages; requiring
260 program rules to include specified sampling and
261 disposal procedures; providing terms for advisory
262 council members and the council chair; providing
263 requirements for filling advisory council vacancies;
264 directing the department to submit a report that
265 provides recommendations for program fees to the
266 Legislature by a specified date; providing an
267 effective date.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environment and Natural Resources, *Chair*
Education, *Vice Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Education
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR BILL MONTFORD

Minority Leader Pro Tempore
3rd District

February 5, 2020

Senator Wilton Simpson, Chair
Senate Industry, Innovation & Technology Committee
420 Senate Office Building
Tallahassee, Florida 32399-1100

Dear Chair Simpson,

I respectfully request that the following bills be placed on the next Industry, Innovation, and Technology Committee Agenda.

SB 1876 – A bill relating to State Hemp Program.

Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William J. Montford III

WJM:rm

REPLY TO:

- 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-17-2020

Meeting Date

CS 1876

Bill Number (if applicable)

108556

Amendment Barcode (if applicable)

Topic Hemp Program in Florida

Name Ethel Rowland

Job Title President

Address 1375 Cypress Ave
Street

Phone 321-253-3673

Melbourne FL 32935
City State Zip

Email ethel@FLCAN.org

Speaking: For Against Information

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

Representing Florida Cannabis Action Network

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)

2/17/2020

Meeting Date

1876

Bill Number (if applicable)

108556

Amendment Barcode (if applicable)

Topic State Kemp Program

Name Melissa Villar

Job Title Executive Director

Address PO Box 11254

Street

TLH

City

FL

State

32302

Zip

Phone (850) 354-8424

Email Norml Tallahassee@gmail.com

Speaking: [] For [] Against [x] Information

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

Representing NORML Tallahassee

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.

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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)

2/17/20

Meeting Date

1876

Bill Number (if applicable)

Topic HEMP

Amendment Barcode (if applicable)

Name JAFFREY SHARKEY

Job Title COO CAO.

Address 1010 E COLONY AVE #610

Phone 850 224 1060

Street

TZH

City

FL

State

32301

Zip

Email JAFFREY.SHARKEY@TZH.COM

Speaking: For Against Information

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

Representing FLORIDA HEMP 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.

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)

Feb. 17, 2020
Meeting Date

1876
Bill Number (if applicable)

Topic State Hemp Program

Amendment Barcode (if applicable)

Name GRACE Lovett

Job Title VP Government Affairs

Address 227 S. Adams St.
Street

Phone 850 222-4082

Tallahassee FL 32301
City State Zip

Email grace@frf.org

Speaking: For Against Information

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

Representing FL 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
APPEARANCE RECORD

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

2/17/2020

Meeting Date

1876

Bill Number (if applicable)

Topic Hemp

Amendment Barcode (if applicable)

Name Emily Buckley

Job Title Legislative Affairs

Address FL Capitol

Phone 850 631 0272

Street

TLH

City

FL

State

32399

Zip

Email emily.buckley@floridagr.com

Speaking: For Against Information

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

Representing FLORIDA Department of Agriculture & 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.

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)

2/17/20
Meeting Date

1876
Bill Number (if applicable)

Topic HEMP

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title CHAIRMAN

Address _____

Phone 850 445 1607

Street

Tallahassee

City

FL

State

32309

Zip

Email nancy@nstephens.com

Speaking: For Against Information

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

Representing FLORIDA AG COALITION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No
VOLUNTEER ON THIS

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)

2-17-2020

Meeting Date

1876

Bill Number (if applicable)

Topic SB 1876 Hemp Regulation

Amendment Barcode (if applicable)

Name David McKinney

Job Title Engineer

Address 2613 LARRY CT

Phone 321-246-1124

Street

Melbourne

FL

32935

Email floridamelbourne@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Self

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.

By the Committees on Innovation, Industry, and Technology; and Agriculture; and Senators Montford and Gibson

580-03754-20

20201876c2

1 A bill to be entitled
2 An act relating to the state hemp program; amending s.
3 500.03, F.S.; revising the definition of the term
4 "food" to include hemp extract for purposes of the
5 Florida Food Safety Act; amending s. 500.12, F.S.;
6 providing that a person operating a minor food outlet
7 that sells hemp extract is not exempt from certain
8 food permit requirements; amending s. 581.217, F.S.;
9 redefining the term "hemp extract"; directing the
10 Department of Agriculture and Consumer Services, in
11 consultation with the Administration Commission, to
12 submit an amended plan for the state program to the
13 United States Secretary of Agriculture under certain
14 circumstances; providing that hemp extract that does
15 not meet certain requirements will be considered
16 adulterated or misbranded; prohibiting the sale of
17 certain hemp extract products to individuals under a
18 specified age; revising the contents of the
19 department's required monthly report to the United
20 States Secretary of Agriculture; authorizing the
21 department to contract with entities to provide
22 certain collection, testing, and disposal services;
23 providing that such contracts are exempt from
24 specified provisions; requiring the director of the
25 Division of Plant Industry to notify a licensee of
26 certain findings; requiring such licensee or, if the
27 licensee fails to act within a specified timeframe,
28 authorizing the director, to remove and destroy
29 certain plants; requiring that expenses associated

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20201876c2

30 with such removal or destruction be assessed,
31 collected, and enforced against the licensee;
32 prohibiting the award of certain damages; requiring
33 program rules to include specified sampling and
34 disposal procedures; providing terms for advisory
35 council members and the council chair; providing
36 requirements for filling advisory council vacancies;
37 directing the department to submit a report that
38 provides recommendations for program fees to the
39 Legislature by a specified date; providing an
40 effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Paragraph (n) of subsection (1) of section
45 500.03, Florida Statutes, is amended to read:

46 500.03 Definitions; construction; applicability.-

47 (1) For the purpose of this chapter, the term:

48 (n) "Food" includes:

- 49 1. Articles used for food or drink for human consumption;
- 50 2. Chewing gum;
- 51 3. Articles used for components of any such article;
- 52 4. Articles for which health claims are made, which claims
53 are approved by the Secretary of the United States Department of
54 Health and Human Services and which claims are made in
55 accordance with s. 343(r) of the federal act, and which are not
56 considered drugs solely because their labels or labeling contain
57 health claims; ~~and~~
- 58 5. Dietary supplements as defined in 21 U.S.C. s.

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59 321(ff)(1) and (2); and

60 6. Hemp extract as defined in s. 581.217.

61
62 The term includes any raw, cooked, or processed edible
63 substance; ice; any beverage; or any ingredient used, intended
64 for use, or sold for human consumption.

65 Section 2. Paragraph (a) of subsection (1) of section
66 500.12, Florida Statutes, is amended to read:

67 500.12 Food permits; building permits.-

68 (1) (a) A food permit from the department is required of any
69 person who operates a food establishment or retail food store,
70 except:

71 1. Persons operating minor food outlets that sell food,
72 except hemp extract, that is commercially prepackaged, not
73 potentially hazardous, and not time or temperature controlled
74 for safety, if the shelf space for those items does not exceed
75 12 total linear feet and no other food is sold by the minor food
76 outlet.

77 2. Persons subject to continuous, onsite federal or state
78 inspection.

79 3. Persons selling only legumes in the shell, either
80 parched, roasted, or boiled.

81 4. Persons selling sugar cane or sorghum syrup that has
82 been boiled and bottled on a premise located within the state.
83 Such bottles must contain a label listing the producer's name
84 and street address, all added ingredients, the net weight or
85 volume of the product, and a statement that reads, "This product
86 has not been produced in a facility permitted by the Florida
87 Department of Agriculture and Consumer Services."

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88 Section 3. Paragraph (e) of subsection (3) and subsections
89 (4), (7), (9), (11), (12), and (14) of section 581.217, Florida
90 Statutes, are amended, and subsection (15) is added to that
91 section, to read:

92 581.217 State hemp program.—

93 (3) DEFINITIONS.—As used in this section, the term:

94 (e) "Hemp extract" means a substance or compound intended
95 for ingestion or inhalation which ~~that~~ is derived from or
96 contains hemp and which ~~that~~ does not contain other controlled
97 substances. The term does not include synthetic CBD or seeds or
98 seed-derived ingredients that are generally recognized as safe
99 by the United States Food and Drug Administration.

100 (4) FEDERAL APPROVAL.—The department shall seek approval of
101 the state plan for the regulation of the cultivation of hemp
102 with the United States Secretary of Agriculture in accordance
103 with 7 U.S.C. s. 1639p within 30 days after adopting rules. If
104 the state plan is not approved by the United States Secretary of
105 Agriculture, the Commissioner of Agriculture, in consultation
106 with and with final approval from the Administration Commission,
107 shall develop a recommendation to amend the state plan and
108 submit the recommendation to the Legislature. If revisions to
109 the state plan may be made without statutory changes, the
110 department, in consultation with and with final approval from
111 the Administration Commission, must submit an amended plan to
112 the United States Secretary of Agriculture.

113 (7) DISTRIBUTION AND RETAIL SALE OF HEMP EXTRACT.—

114 (a) Hemp extract may only be distributed and sold in the
115 state if the product:

116 1. ~~(a)~~ Has a certificate of analysis prepared by an

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20201876c2

117 independent testing laboratory that states:

118 ~~a.1.~~ The hemp extract is the product of a batch tested by
119 the independent testing laboratory;

120 ~~b.2.~~ The batch contained a total delta-9-
121 tetrahydrocannabinol concentration that did not exceed 0.3
122 percent ~~on a dry-weight basis~~ pursuant to the testing of a
123 random sample of the batch; and

124 ~~c.3.~~ The batch does not contain contaminants unsafe for
125 human consumption.

126 ~~2.(b)~~ Is distributed or sold in a container ~~packaging~~ that
127 includes:

128 ~~a.1.~~ A scannable barcode or quick response code linked to
129 the certificate of analysis of the hemp extract batch by an
130 independent testing laboratory;

131 ~~b.2.~~ The batch number;

132 ~~c.3.~~ The Internet address of a website where batch
133 information may be obtained;

134 ~~d.4.~~ The expiration date; and

135 ~~e.5.~~ The number of milligrams of each marketed cannabinoid
136 per serving hemp extract; and

137 ~~6.~~ ~~A statement that the product contains a total delta-9-~~
138 ~~tetrahydrocannabinol concentration that does not exceed 0.3~~
139 ~~percent on a dry-weight basis.~~

140 (b) Hemp extract distributed or sold in violation of this
141 section shall be considered adulterated or misbranded pursuant
142 to chapter 500, chapter 502, or chapter 580.

143 (c) Products that are intended for inhalation and contain
144 hemp extract may not be sold in this state to a person who is
145 under 21 years of age.

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20201876c2

146 (9) DEPARTMENT REPORTING.—The department shall submit
147 monthly to the United States Secretary of Agriculture a report
148 of the locations in the state where hemp is cultivated or has
149 been cultivated within the past 3 calendar years. The report
150 must include the contact information for each licensee and the
151 total acreage of hemp planted, harvested, and, if applicable,
152 disposed of by each licensee.

153 (11) ENFORCEMENT.—

154 (a) The department shall enforce this section.

155 (b) Every state attorney, sheriff, police officer, and
156 other appropriate county or municipal officer shall enforce, or
157 assist any agent of the department in enforcing, this section
158 and rules adopted by the department.

159 (c) The department, or its agent, is authorized to enter
160 any public or private premises during regular business hours in
161 the performance of its duties relating to hemp cultivation.

162 (d) The department shall conduct random inspections, at
163 least annually, of each licensee to ensure that only certified
164 hemp seeds are being used and that hemp is being cultivated in
165 compliance with this section. The department may contract with
166 entities to provide sample collection, laboratory testing, and
167 disposal services to implement this section. The contracts are
168 exempt from chapter 287.

169 (e) If the department finds that *Cannabis sativa L.* was
170 produced with a total delta-9-tetrahydrocannabinol concentration
171 that exceeds 0.3 percent, the director shall notify the licensee
172 of such result. The licensee shall, within 10 days after
173 receiving the notice, cause the removal and destruction of the
174 plants in accordance with methods adopted by the department. If

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20201876c2

175 the licensee refuses or neglects to comply with the terms of the
176 notice within 10 days after receiving it, the director or her or
177 his authorized representative may, under authority of the
178 department, proceed to destroy the plants. The expense of the
179 removal or destruction shall be assessed, collected, and
180 enforced against the licensee by the department. Damages may not
181 be awarded to the licensee for the destruction of the plants
182 under this paragraph.

183 (12) RULES.—~~By August 1, 2019,~~ The department, in
184 consultation with the Department of Health and the Department of
185 Business and Professional Regulation, shall initiate rulemaking
186 to administer the state hemp program. The rules must provide
187 for:

188 (a) A procedure that uses post-decarboxylation or other
189 similarly reliable methods and a measure of uncertainty for
190 testing the delta-9-tetrahydrocannabinol concentration of
191 cultivated hemp. This procedure must meet the requirements of
192 the rules adopted by the United States Department of
193 Agriculture.

194 (b) A procedure for the effective disposal of plants,
195 whether growing or not, that are cultivated in violation of this
196 section or department rules, and products derived from those
197 plants. The procedure must provide for the disposal of such
198 plants in accordance with the federal Controlled Substances Act
199 and regulations of the Drug Enforcement Administration.

200 (14) INDUSTRIAL HEMP ADVISORY COUNCIL.—An Industrial Hemp
201 Advisory Council, an advisory council as defined in s. 20.03, is
202 established to provide information, advice, and expertise to the
203 department with respect to plans, policies, and procedures

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204 applicable to the administration of the state hemp program.

205 (a) The advisory council is adjunct to the department for
206 administrative purposes.

207 (b) The advisory council shall be composed of all of the
208 following members:

209 1. Two members appointed by the Commissioner of
210 Agriculture.

211 2. Two members appointed by the Governor.

212 3. Two members appointed by the President of the Senate.

213 4. Two members appointed by the Speaker of the House of
214 Representatives.

215 5. The dean for research of the Institute of Food and
216 Agricultural Sciences of the University of Florida or his or her
217 designee.

218 6. The president of Florida Agricultural and Mechanical
219 University or his or her designee.

220 7. The executive director of the Department of Law
221 Enforcement or his or her designee.

222 8. The president of the Florida Sheriffs Association or his
223 or her designee.

224 9. The president of the Florida Police Chiefs Association
225 or his or her designee.

226 10. The president of the Florida Farm Bureau Federation or
227 his or her designee.

228 11. The president of the Florida Fruit and Vegetable
229 Association or his or her designee.

230 (c) Each advisory council member shall be appointed to a 4-
231 year term, and any vacancy in the membership of the council must
232 be filled in the same manner as the original appointment for the

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233 remainder of the unexpired term. For the purpose of achieving
234 staggered terms, the initial members appointed to the council
235 shall serve the following terms:

236 1. Four years for members appointed by the Governor.

237 2. Three years for members appointed by the President of
238 the Senate or the Speaker of the House of Representatives.

239 3. Three years for members appointed by the Commissioner of
240 Agriculture.

241 4. Two years for all other appointed members.

242 (d)-(e) The advisory council shall elect by a two-thirds
243 vote of the members one member to serve as chair of the council.
244 The chair shall serve for a term of 1 year.

245 (e)-(d) A majority of the members of the advisory council
246 constitutes a quorum.

247 (f)-(e) The advisory council shall meet at least once
248 annually at the call of the chair.

249 (g)-(f) Advisory council members shall serve without
250 compensation and are not entitled to reimbursement for per diem
251 or travel expenses.

252 (15) FEES.—By December 1, 2020, the department shall submit
253 a report to the President of the Senate and the Speaker of the
254 House of Representatives which provides recommendations for
255 initial license application fees and license renewal fees
256 sufficient to cover the costs of implementing and administering
257 this section. If such fees do not cover the costs of inspections
258 and testing, the department shall include a separate cost
259 breakdown for any other program fees that the department
260 recommends and anticipates are necessary.

261 Section 4. This act shall take effect upon becoming a law.

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 Innovation, Industry, and Technology

BILL: SB 138

INTRODUCER: Senator Hutson

SUBJECT: Beverage Law

DATE: February 14, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	IT	Pre-meeting
2.	_____	_____	CM	_____
3.	_____	_____	RC	_____

I. Summary:

SB 138 repeals the limits on the size of a wine container, which in current law may not hold more than one gallon, unless the container is reusable and holds 5.16 gallons. The bill also repeals the limits on the size of a cider container, which in current law may not hold more than 32 ounces of cider. However, current law permits cider to be packaged and sold in bulk, in kegs or barrels, or in any individual container of one gallon or more, regardless of container type.

The bill amends the current provision that permits a restaurant patron to take home a partially consumed bottle of wine under certain conditions. It revises the requirement that a restaurant patron must purchase and consume a full course meal (consisting of an entrée, salad or vegetable, beverage, and bread) in order to be able to take home a partially consumed bottle of wine. The bill replaces that requirement with a requirement that a restaurant patron must purchase (but need not consume) a meal and consume a portion of the bottle of wine.

Additionally, the bill revises certain provisions applicable to craft distilleries. First, the bill increases the current distilled spirits production limit to qualify as a craft distillery from 75,000 gallons to 200,000 gallons, and limits the amount that may be transferred to the craft distillery's souvenir gift shop for sale to consumers for off-premises consumption to 200,000 gallons. Second, the bill repeals the six individual container limit on sales of each of the craft distillery's branded products to a consumer at a craft distillery's souvenir gift shop. Third, the bill codifies a recent declaratory statement issued to a craft distillery by the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation. The statement interprets current law to permit a craft distillery to blend distilled spirits produced at its licensed premises with distilled spirits produced elsewhere, provided the blended product is blended and filled in factory-sealed containers, at the craft distillery's licensed premises. Fourth, the bill allows a craft distillery to ship its distilled spirits products out-of-state if the shipment complies with the laws of the other state. Fifth, under the bill, a distillery licensed as a vendor under

s. 561.221, F.S., may ship alcoholic beverages to consumers in Florida because vendors are permitted to make such deliveries.

The bill allows any licensed distillery to qualify for an alcoholic beverage vendor's license. Under the bill, a vendor-licensed distillery must obtain all distilled spirits and other alcoholic beverages manufactured by another licensed manufacturer, including any distilled spirits that are owned in whole or in part by the craft distillery but are distilled by another manufacturer, through a licensed distributor, a licensed broker or sales agent, or a licensed importer.

The effective date of the bill is July 1, 2020.

II. Present Situation:

Division of Alcoholic Beverages and Tobacco

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation administers and enforces¹ the Beverage Law,² which regulates the manufacture, distribution, and sale of wine, beer, and liquor.³ The division is also responsible for the administration and enforcement of tobacco products under ch. 569, F.S.

Wine and Cider Containers

Section 564.05, F.S., prohibits the sale of wine in an individual container that holds more than one gallon of wine. However, wine may be sold in a reusable container of 5.16 gallons. Distributors and manufacturers may sell wine to other distributors and manufacturers in containers of any size. Any person who violates the prohibition in s. 564.05, F.S., commits a second degree misdemeanor.⁴

Section 564.055, F.S., prohibits the sale of cider⁵ at retail in any individual container of more than 32 ounces of cider. However, cider may be packaged and sold in bulk, in kegs or barrels, or in any individual container of one gallon or more, regardless of container type.

Restaurants - Off-Premises Consumption of Wine

Restaurants licensed to sell wine on the premises may permit patrons to remove one bottle of wine for consumption off the licensed premises under the following conditions:

¹ Section 561.02, F.S.

² Section 561.01(6), F.S., provides that the "Beverage Law" means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

³ See s. 561.14, F.S.

⁴ Section 775.082(4), F.S., provides the penalty for a misdemeanor of the second degree is a term of imprisonment not exceeding 60 days. Section 775.083(1)(e), F.S., provides the penalty for a misdemeanor of the second degree is a fine not to exceed \$500.

⁵ Section 564.06(4), F.S., provides that "cider" is "made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume." "Must" is the expressed juice of a fruit before and during fermentation. See <https://www.merriam-webster.com/dictionary/must> (last visited February 11, 2020).

- The patron must have purchased a full-course meal consisting of a salad or vegetable, entrée, a beverage, and bread and consumed a portion of the bottle of wine with the meal;
- Before the partially-consumed bottle of wine is removed from the premises, the bottle must be securely resealed by the licensee, or the licensee’s employee, and placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been opened or tampered with after having been sealed;
- A dated receipt for the wine and meal must be attached to the container; and
- The container must be placed in a locked glove compartment, trunk, or other area behind the last upright seat of a motor vehicle that does not have a trunk.⁶

Three-Tier System

In the United States, the regulation of alcohol since the repeal of Prohibition has traditionally been based upon a “three-tier system.” The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverages. The distributor obtains the beverages from the manufacturer and delivers them to the vendor. The vendor (retailer) makes the ultimate sale to the consumer. Manufacturers may not sell directly to retailers or directly to consumers.

Generally, Florida follows the three-tier system. Only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.⁷ Licensed manufacturers, distributors, and registered exporters are prohibited from also being licensed as vendors.⁸ Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.⁹

Tied House Evil Prohibitions

The system is deeply rooted in the perceived evils of the “tied house” in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.¹⁰ Activities are heavily regulated to prevent a manufacturer or distributor from having a financial interest, directly or indirectly, in the establishment or business of a licensed vendor.

Three-Tier System Exceptions

Exceptions to the three-tier regulatory system permit in-state wineries,¹¹ breweries,¹² and craft distilleries to sell directly to consumers.¹³ Restaurants licensed as vendors (brew pubs) may

⁶ Section 564.09, F.S.

⁷ Section 561.14(3), F.S. However, see the exceptions provided in ss. 561.221 and 565.03, F.S.

⁸ Section 561.22, F.S.

⁹ Sections 563.022(14) and 561.14(1), F.S.

¹⁰ Jessica C. Starns, *The Dangers of Common Ownership in an Uncommon Industry, Alcohol Policy in America and the Timeless Relevance of Tied-House Restrictions*, (2017) available at: <https://www.centerforalcoholpolicy.org/wp-content/uploads/2017/03/The-Dangers-of-Common-Ownership-in-an-Uncommon-Industry.pdf> (last visited Feb. 11, 2020).

¹¹ See s. 561.221(1), F.S.

¹² See s. 561.221(2), F.S.

¹³ See s. 565.03, F.S.

manufacture a limited quantity of malt beverages and sell directly to consumers for consumption on the licensed premises of a restaurant.¹⁴

A winery, even if licensed as a distributor,¹⁵ may be licensed as a vendor for a licensed premises situated on property contiguous to the manufacturing premises of the winery. A winery may not be issued more than three vendor licenses.¹⁶

The division may issue permits for a certified Florida Farm Winery¹⁷ to conduct tasting and sales of its wines at Florida fairs, trade shows, expositions, and festivals. The permit is limited to the length of the event. The certified Florida Farm Winery is required to pay all entry fees and must have a winery representative present during the event.

Distilleries and Craft Distilleries

Section 565.01, F.S., defines the terms “liquor,” “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors” to mean “that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.”

A “distillery” is a manufacturer of distilled spirits,¹⁸ and a “craft distillery” is a licensed distillery that produces 75,000 or fewer gallons of distilled spirits per calendar year on its premises. A craft distillery must notify the division in writing of its decision to qualify as a craft distillery.¹⁹

All distilleries engaged solely in the business of manufacturing distilled spirits, or engaged in the business of blending and rectifying²⁰ distilled spirits must pay a state license tax for each plant or branch operating in Florida. Distilleries pay \$4,000 annually for the license tax and craft distilleries pay \$1,000. Persons who engage in the business of distilling spirits may also rectify and blend spirituous liquors without paying an additional license tax.²¹

Retail Sales by Distilleries

A craft distillery is allowed to sell to consumers branded products²² distilled on the licensed premises. The products must be in factory-sealed containers that are filled at the distillery and sold for off-premises consumption.²³ The sales must occur at the distillery’s souvenir gift shop

¹⁴ See s. 561.221(3), F.S.

¹⁵ Section 561.14(1), F.S., permits manufacturers to distribute at wholesale to licensed distributors and to no one else within the state, unless authorized by statute.

¹⁶ See s. 561.221(1), F.S.

¹⁷ Section 599.004, F.S., establishes the Florida Farm Winery Program within the Department of Agriculture and Consumer Services. The requirements for certification include that a winery produce or sell less than 250,000 gallons of wine annually and that 60 percent of the wine produced is made from state agricultural products.

¹⁸ Section 565.03(1)(c), F.S.

¹⁹ Section 565.03(1)(b), F.S.

²⁰ Merriam-Webster defines rectify as the purification (of alcohol) especially by repeated or fractional distillation, *available at* <http://www.merriam-webster.com/dictionary/rectify> (last visited Feb. 11, 2020).

²¹ Section 565.03(3), F.S.

²² Section 565.03(1)(a), F.S., defines “branded product” to mean “any distilled spirits product manufactured on site, which requires a federal certificate and label approval by the Federal Alcohol Administration Act or federal regulations.”

²³ Section 565.03(2)(c), F.S.

located on private property contiguous to the licensed distillery premises.²⁴ The craft distillery is not required to obtain, in addition to its manufacturer's license, a vendor's license in order to sell distilled spirits to consumers.

A craft distillery must report to the division within five business days after it has reached the 75,000-gallon production limit and cease making sales to consumers on the day after it reaches the production limit.²⁵

A craft distillery may not ship, arrange to ship, or deliver distilled spirits to consumers, but may ship, arrange to ship, or deliver distilled spirits to manufacturers of distilled spirits, wholesale distributors of distilled spirits, state and federal bonded warehouses, and exporters.²⁶

A craft distillery may not transfer its license or any ownership interest to any individual or entity with a direct or indirect interest in another distillery licensed in any other state, territory, or country.²⁷ However, a craft distillery may be affiliated with another distillery that produces 75,000 or fewer gallons per calendar year of distilled spirits on its premises or in any other state, territory, or country.²⁸

A craft distillery must submit beverage excise taxes on distilled spirits sold to consumers in its monthly report to the division.²⁹

Declaratory Statement

On January 19, 2018, the division issued a declaratory statement interpreting s. 565.03(2)(c), F.S., to permit a craft distillery to sell to consumers, at its souvenir gift shop, a product comprised of a blend of liquors distilled on the premises of the craft distillery and liquors distilled by other manufacturers away from the premises. The craft distillery may then, at the craft distillery, fill individual containers with the final, blended liquor product for sale at its souvenir gift shop.³⁰

Deliveries by Licensees

Section 561.57(1), F.S., permits an alcoholic beverages vendor to make deliveries away from its place of business for sales made at the licensed place of business. Telephone, electronic, or mail

²⁴ *Id.*

²⁵ Section 565.03(2)(c)3., F.S.

²⁶ Section 565.03(2)(c)4., F.S.

²⁷ Section 565.03(2)(c)5., F.S.

²⁸ Section 565.03(2)(c)6., F.S.

²⁹ Section 565.03(5), F.S. Section 565.12, F.S., requires manufactures and distributors to pay an excise tax on alcoholic beverages, with the tax rate per gallon depending on the percent of alcohol by volume of the beverage. Section 565.13, F.S., requires every distributor selling spirituous beverages within the state to pay the tax to the division monthly on or before the 10th day of the following month.

³⁰ Final Order on Petition for Declaratory Statement, *In Re: Petition for Declaratory Statement Before the Division Of Alcoholic Beverages and Tobacco, On behalf of Drum Circle Distilling, LLC*, DS 2017-071 (DABT Case No. 2017-052675), January 19, 2018, (on file with Senate Committee on Innovation, Industry, and Technology).

orders received at a vendor's licensed place of business are construed as a sale actually made at the vendor's licensed place of business.³¹

Deliveries made by a manufacturer, distributor, or a vendor away from its place of business may only be made in vehicles owned or leased by the vendor, or in a third-party vehicle pursuant to a contract with a third party, including, but not limited to, common carriers.

By acceptance of an alcoholic beverage license and the use of vehicles owned by or leased by the vendor, the vendor agrees the vehicle is subject to be inspected and searched without a search warrant by employees of the division or law enforcement officers to ascertain compliance with all provisions of the alcoholic beverage laws.³²

Common carriers³³ may transport alcoholic beverages.³⁴ The recipient's age and identity must be verified at the time of delivery. All deliveries by a licensee or a third-party must comply with s. 562.11, F.S., which prohibits selling, giving, serving, or permitting to be served alcoholic beverages to a person under 21 years of age.³⁵

A "permit carrier" is a licensee authorized to make deliveries under s. 561.57, F.S.³⁶

III. Effect of Proposed Changes:

Wine Containers

Section 1 repeals the wine container size limits in s. 564.05, F.S.

Cider Containers

Section 2 repeals the cider container size limits in s. 564.055, F.S.

Restaurants - Off-Premises Consumption of Wine

Section 3 amends s. 564.09, F.S., to revise the requirement that a restaurant patron must purchase and consume a full course meal (consisting of a salad or vegetable, entrée, a beverage, and bread) in order to be able to take home a partially consumed bottle of wine. The bill retains the requirement that the restaurant patron purchase a meal with the bottle of wine.

³¹ Section 561.57(1), F.S.

³² Section 561.57(2), F.S.

³³ Section 561.01(19), F.S., defines a "common carrier" as "any person, firm, or corporation that undertakes for hire, as a regular business, the transportation of persons or commodities from place to place, offering its services to all who choose to employ it and pay its charges."

³⁴ Section 561.57(5), F.S.

³⁵ Section 561.57(6), F.S.

³⁶ Section 561.01(20), F.S.

Craft Distilleries

Section 4 amends s. 565.03, F.S., to revise the definition of “branded product” to include distilled spirits manufactured on site and blended with other distilled spirits. The bill codifies the declaratory statement entered by the division on January 19, 2018.³⁷

The bill revises the requirement that a craft distillery may only produce up to 75,000 gallons per calendar year, instead allowing production of 200,000 or fewer gallons per calendar year. The bill also increases from 75,000 gallons to 200,000 gallons the maximum production per calendar year of distilled spirits a distillery affiliated with a craft distillery may produce on its premises or in any other state, territory, or country.

Under the bill, the amount allowed to be transferred to the craft distillery’s souvenir gift shop for sale to consumers is limited to 200,000 gallons per calendar year.

Additionally, the bill repeals the limit of six individual containers of each branded product a consumer may purchase in a face-to-face transaction in the craft distillery’s souvenir gift shop.

The bill requires a craft distillery to sell its distilled spirits products to consumers in Florida in a face-to-face transaction. The bill permits a craft distillery to ship its products to consumers out-of-state if the shipment complies with the laws where the products are scheduled to be delivered for personal use. Under the bill, a distillery licensed as a vendor under s. 561.221, F.S., may ship alcoholic beverages to consumers in Florida because vendors are permitted to make such deliveries.

Section 5 amends s. 561.221, F.S., to allow the division to issue a vendor’s license to a licensed distillery, even if the distillery is also licensed as a distributor. Under the bill, any distillery licensed under s. 565.03, F.S., may qualify for a vendor’s license whether or not designated as a craft distillery.

If the vendor’s license is for the sale of alcoholic beverages on a distillery’s licensed premise, a sketch or diagram of the premise must be included in the license application to verify that the vendor premises operated by the licensed distillery is owned or leased by the distillery and is located on the licensed distillery premises.³⁸ The bill does not require that a vendor’s license issued to a distillery must be for the sale of alcoholic beverages on a distillery’s licensed premises, i.e., the vendor’s license may be issued for a location where the distilled spirits are not produced.

Under the bill, a vendor-licensed distillery must obtain all distilled spirits and other alcoholic beverages manufactured by another licensed manufacturer, including any distilled spirits that are owned in whole or in part by the craft distillery but are distilled by another manufacturer, through a licensed distributor, a licensed broker or sales agent, or a licensed importer.

³⁷ See *supra* at note 30.

³⁸ Section 561.01(11), F.S., which defines the term “licensed premises,” requires an applicant for an alcoholic beverage license to submit a sketch of the location where alcoholic beverages will be stored or sold by the licensee, including “all other rooms in the building which are so closely connected therewith as to admit of free passage from drink parlor to other rooms over which the licensee has some dominion or control...”

Effective Date

Section 6 provides the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A licensed distillery may qualify to be licensed as an alcoholic beverage vendor.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 564.09, 565.03, and 561.221.

This bill repeals the following sections of the Florida Statutes: 564.05 and 564.055.

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.

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



132272

LEGISLATIVE ACTION

Senate

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House

The Committee on Innovation, Industry, and Technology (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 562.20, Florida Statutes, is amended to
read:

562.20 Monthly reports by common and other carriers of
beverages required.—

(1) All common or contract carriers ~~of freight~~ operating in
the state shall file complete and accurate monthly reports with



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11 the division on forms to be prepared by the division which shall
12 show in detail all shipments and deliveries of all amounts of
13 alcoholic beverages transported by them to or from any point
14 within the state or delivered to any point within the state from
15 any point outside of the state. The division shall issue a
16 notification of violation to any common or contract carrier who
17 willfully fails to file the monthly reports required under this
18 section.

19 (2) Every other person, except manufacturers and
20 distributors licensed in this state who are required to make
21 reports under s. 561.55, who brings into the state from any
22 point without the state any alcoholic beverages, in amounts
23 exceeding 1 gallon in the aggregate, shall likewise file
24 complete and accurate monthly reports with the division on the
25 forms to be prepared by the division, which shall show in detail
26 all such amounts of alcoholic beverages transported by them to
27 any point within the state from any point without the state.
28 Every licensee under this law who ships any alcoholic beverage
29 to points beyond the state shall file monthly reports with the
30 division on forms to be prepared by the division, which shall
31 show in detail all shipments of alcoholic beverages transported
32 by them from any point within the state to any point without the
33 state.

34 (3) Such reports shall show in detail the name and address
35 of the shipper, ~~and~~ the consignee, and the recipient of each
36 shipment; ~~and~~ a description of the kind of malt beverage, wine,
37 spirit, or other alcoholic beverage and the ~~and~~ amount and
38 weight of each such shipment; any unique tracking number for the
39 shipment; and the address and date of delivery for the shipment.



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40 The reports must ~~and shall~~ be filed monthly on or before the
41 15th of each month for the calendar month previous. The division
42 shall accept electronic filings of such reports. The books,
43 records, supporting papers, and documents containing information
44 and data relating to such reports must be kept and maintained
45 for a period of 3 years and must be made available for
46 inspection by the division upon request.

47 (4) By December 31 of each calendar year, the division
48 shall submit a report to the Legislature which states the number
49 of notifications of violation issued under this section during
50 the calendar year and contains a detailed summary of all data
51 relating to untaxed alcoholic beverages and the sources of such
52 beverages, unlicensed sales, and any other violations of the
53 Beverage Law.

54 (5) The division may adopt rules to administer this
55 section.

56 Section 2. Present subsection (12) of section 565.02,
57 Florida Statutes, is redesignated as subsection (13), and a new
58 subsection (12) is added to that section, to read:

59 565.02 License fees; vendors; clubs; caterers; and others.—

60 (12) (a) As used in this subsection, the term "destination
61 entertainment venue" means a venue that:

62 1. Is located in a designated community redevelopment area
63 and is defined by an adopted community redevelopment plan to
64 support urban redevelopment and economic development;

65 2. Is adjacent to and served by multimodal transportation
66 options, including, but not limited to, bicycle and pedestrian
67 trails included on an adopted city or county trails map; and

68 3. Contains all of the following within a contiguous area



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69 of at least 5 acres, including associated parking and stormwater
70 requirements as defined by the local jurisdiction within which
71 the destination entertainment venue is located:

72 a. At least one indoor event venue with a minimum capacity
73 of 500 people which is fully serviced by a connected on-site
74 kitchen;

75 b. At least one outdoor event venue with a minimum capacity
76 of 1,000 people which has regularly occurring live entertainment
77 on a stage that is at least 12 feet deep and 16 feet wide; and

78 c. A single craft distillery licensed under s. 565.03. The
79 craft distillery must be in operation and open for tours during
80 normal business hours at least 5 days a week.

81 (b) The issuing of a license under this paragraph is not
82 subject to any quota or limitation, except that only one license
83 may be issued per community redevelopment area, the license may
84 only be issued for the premises included on the sketch or
85 diagram on file with the division under s. 565.03, and the
86 license may only be issued to the qualified owner of the
87 destination entertainment venue or the owner's designee. Except
88 as otherwise provided in this paragraph, the entity licensed
89 under this paragraph shall be treated as a vendor and is subject
90 to all provisions relating to such vendors licensed to sell by
91 the drink the beverages mentioned herein. However, the vendor
92 may not make package sales for off-premises consumption or make
93 any deliveries or shipments of alcoholic beverages away from the
94 venue, vendor, or craft distillery which are not authorized
95 under s. 565.03.

96 Section 3. Paragraphs (a) and (b) of subsection (1) and
97 subsections (2) and (5) of section 565.03, Florida Statutes, are



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98 amended to read:

99 565.03 License fees; manufacturers, distributors, brokers,
100 sales agents, and importers of alcoholic beverages; vendor
101 licenses and fees; distilleries and craft distilleries.—

102 (1) As used in this section, the term:

103 (a) "Branded product" means any distilled spirits brand of
104 alcoholic beverage that:

105 1. Is owned by a craft distillery;

106 2. Contains distilled spirits that are manufactured,
107 blended, and bottled by the craft distillery; and

108 3. Has ~~product manufactured on site,~~ which requires a
109 federal certificate of ~~and~~ label approval issued to the craft
110 distillery by the Federal ~~Government Alcohol Administration Act~~
111 or federal regulations.

112 (b) "Craft distillery" means a licensed distillery in this
113 state which is owned by an individual or entity that distills,
114 blends, or bottles 250,000 ~~that produces 75,000~~ or fewer gallons
115 per calendar year of distilled spirits on all of its commonly
116 owned premises, provided that a minimum of 60 percent of the
117 distiller's total finished branded products are produced from
118 spirits distilled in this state and contain one or more
119 agricultural products from this state which have been processed
120 or combined with other products by the craft distiller and has
121 notified the division in writing of its decision to qualify as a
122 craft distillery.

123 (2) (a) A distillery may not operate as a craft distillery
124 until the distillery has provided to the division written
125 notification that it meets the criteria specified in paragraph
126 (1) (b). Upon receipt of the notice and verification that the



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127 distillery meets all such criteria, the division shall add the
128 designation of craft distiller on the distillery's license.

129 (b)~~(a)~~ A distillery or a craft distillery authorized to do
130 business under the Beverage Law shall pay an annual state
131 license tax for each plant or branch operating in the state, as
132 follows:

133 1. A distillery engaged in the business of manufacturing
134 distilled spirits: \$4,000.

135 2. A craft distillery engaged in the business of
136 manufacturing distilled spirits: \$1,000.

137 3. A person engaged in the business of rectifying and
138 blending spirituous liquors and nothing else: \$4,000.

139 (c)~~(b)~~ A licensed distillery or licensed craft distillery
140 may ~~Persons licensed under this section who are in the business~~
141 ~~of distilling spirituous liquors may also~~ engage in the business
142 of rectifying and blending spirituous liquors without the
143 payment of an additional license tax.

144 (d)~~(e)~~ A craft distillery licensed under this section may
145 sell to consumers, by the drink or by the package at its
146 souvenir gift shops and tasting rooms, up to 75,000 gallons per
147 calendar year of ~~shop,~~ branded products that are manufactured by
148 the craft distillery distilled on its premises or in a state or
149 federal bonded space in this state which is on or contiguous to
150 the craft distillery's licensed premises and is owned or leased
151 by the craft distillery in this state in factory-sealed
152 ~~containers that are filled at the distillery for off-premises~~
153 ~~consumption.~~ Such sales are authorized only on private property
154 contiguous to the licensed ~~distillery~~ premises in this state and
155 included on the sketch or diagram defining the licensed premises



132272

156 submitted with the distillery's license application. All sketch
157 or diagram revisions by the distillery shall require the
158 division's approval verifying that the locations of the souvenir
159 gift shops and tasting rooms ~~shop location~~ operated by the
160 licensed distillery are ~~is~~ owned or leased by the distillery and
161 on property contiguous to the distillery's production building
162 in this state.

163 1. Except as permitted under s. 565.17(2), a craft
164 distillery may not sell any factory-sealed individual containers
165 of spirits to consumers except in face-to-face sales
166 transactions with such consumers at the craft distillery's
167 licensed premises. Such branded products must be in compliance
168 with the container limits under s. 565.10 and be intended for
169 personal consumption rather than for resale ~~who are making a~~
170 ~~purchase of no more than six individual containers of each~~
171 ~~branded product.~~

172 2. ~~Each container sold in face-to-face transactions with~~
173 ~~consumers must comply with the container limits in s. 565.10,~~
174 ~~per calendar year for the consumer's personal use and not for~~
175 ~~resale and who are present at the distillery's licensed premises~~
176 ~~in this state.~~

177 3. A craft distillery must report to the division within 5
178 days after it exceeds ~~reaches~~ the production standards or is no
179 longer operating under the requirements or limitations provided
180 in paragraph (1)(b). Any retail sales of branded products by the
181 drink or by the package to consumers at the craft distillery's
182 licensed premises are prohibited beginning the day after it
183 exceeds ~~reaches~~ the production limitation.

184 3.4. A craft distillery is prohibited from shipping or



132272

185 arranging to ship within this state any of its branded products
186 or any other alcoholic beverages that it manufactures,
187 rectifies, blends, or bottles ~~may not ship or arrange to ship~~
188 ~~any of its distilled spirits to consumers~~ and may sell and
189 deliver only to consumers within the state in a face-to-face
190 transaction at the distillery's souvenir gift shops and tasting
191 rooms ~~distillery property~~. However, a craft distillery ~~distiller~~
192 licensed under this section may ship, arrange to ship, or
193 deliver such spirits to any manufacturers of distilled spirits,
194 wholesale distributors of distilled spirits, state or federal
195 bonded warehouses, or ~~and~~ exporters.

196 ~~4.5.~~ Except as provided in subparagraph 5. ~~subparagraph 6.,~~
197 it is unlawful to transfer a craft distillery license ~~for a~~
198 ~~distillery that produces 75,000 or fewer gallons per calendar~~
199 ~~year of distilled spirits on its premises~~ or any ownership
200 interest in such license to an individual or entity that has a
201 direct or indirect ownership interest in any distillery that
202 distills, blends, or bottles 250,000 gallons or more per
203 calendar year of distilled spirits under any license ~~licensed~~ in
204 this state; another state, territory, or country; or by the
205 United States Government to manufacture, blend, or rectify
206 distilled spirits for beverage purposes.

207 ~~5.6.~~ A craft distillery shall not have its ownership
208 affiliated with another distillery, unless such distillery is
209 owned by an individual or entity that distills, blends, or
210 bottles 250,000 gallons or less per calendar year of distilled
211 spirits ~~produces 75,000 or fewer gallons per calendar year of~~
212 ~~distilled spirits on each of its premises in this state or in~~
213 ~~another state, territory, or country.~~



132272

214 6. A craft distillery may transfer up to 75,000 gallons per
215 calendar year of its branded products that it produces, blends,
216 or bottles from its federal bonded space, nonbonded space at its
217 licensed premises, or storage areas to its souvenir gift shops
218 and tasting rooms.

219 (5) A craft distillery making sales under paragraph (2) (d)
220 ~~paragraph (2) (e)~~ is responsible for submitting any excise taxes
221 due to the state on distilled spirits ~~on beverages~~ under the
222 Beverage Law ~~with in~~ its monthly report to the division ~~with any~~
223 tax payments due to the state.

224 Section 4. Section 565.17, Florida Statutes, is amended to
225 read:

226 565.17 Beverage tastings by distributors and vendors.—

227 (1) A licensed distributor of spirituous beverages, a craft
228 distillery as defined in s. 565.03, or any vendor, is authorized
229 to conduct spirituous beverage tastings upon any licensed
230 premises authorized to sell spirituous beverages by package or
231 for consumption on premises without being in violation of s.
232 561.42, provided that the conduct of the spirituous beverage
233 tasting shall be limited to and directed toward the general
234 public of the age of legal consumption.

235 (2) The division shall issue permits to a craft distillery
236 to conduct tastings and sales of distilled spirits produced by
237 craft distilleries at Florida fairs, trade shows, farmers
238 markets, expositions, and festivals. The craft distillery must
239 pay all entry fees and must have a distillery representative
240 present during the event. The permit is limited to the duration
241 and physical location of the event.

242 Section 5. This act shall take effect July 1, 2020.



132272

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to the Beverage Law; amending s.
562.20, F.S.; revising the types of carriers required
to file monthly reports with the Division of Alcoholic
Beverages and Tobacco within the Department of
Business and Professional Regulation; revising the
required contents of such reports; requiring the
division to issue a notification of violation to
carriers under certain circumstances; revising the
required contents of certain other reports relating to
the transport of alcoholic beverages; requiring the
division to accept electronic filings of such reports;
requiring the reports to be maintained for a specified
time and made available to the division for inspection
upon request; requiring the division to annually
submit a report to the Legislature containing
specified information, by a specified date;
authorizing the division to adopt rules; amending s.
565.02, F.S.; defining the term "destination
entertainment venue"; providing requirements for
certain licenses relating to destination entertainment
venues; prohibiting the licensee from taking certain
actions; amending s. 565.03, F.S.; redefining the
terms "branded product" and "craft distillery";



132272

272 prohibiting a distillery from operating as a craft
273 distillery until certain requirements are met;
274 revising the requirements and prohibitions on the sale
275 to consumers of branded products by a licensed craft
276 distillery; revising the circumstances for which a
277 craft distillery must report certain information about
278 the production of distilled spirits to the division;
279 revising prohibitions on the shipment of certain
280 products by a craft distillery; revising prohibitions
281 on the transfer of a craft distillery license or
282 ownership interest in such license; revising
283 prohibitions relating to affiliated ownerships of
284 craft distilleries; authorizing a craft distillery to
285 transfer specified distilled spirits from certain
286 locations to its souvenir gift shops and tasting
287 rooms; making technical changes; amending s. 565.17,
288 F.S.; authorizing craft distilleries to conduct
289 spirituous beverage tastings under certain
290 circumstances; requiring the division to issue permits
291 to craft distilleries to conduct tastings and sales at
292 certain locations; providing requirements for
293 distilleries for such permits; providing an effective
294 date.



840478

LEGISLATIVE ACTION

Senate

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House

The Committee on Innovation, Industry, and Technology (Brandes) recommended the following:

1 **Senate Amendment to Amendment (132272) (with title**
2 **amendment)**

3
4 Between lines 55 and 56
5 insert:

6 Section 2. Section 562.455, Florida Statutes, is amended to
7 read:

8 562.455 Adulterating liquor; penalty.—Whoever adulterates,
9 for the purpose of sale, any liquor, used or intended for drink,
10 with cocculus indicus, vitriol, ~~grains of paradise~~, opium, alum,



840478

11 capsicum, copperas, laurel water, logwood, brazil wood,
12 cochineal, sugar of lead, or any other substance which is
13 poisonous or injurious to health, and whoever knowingly sells
14 any liquor so adulterated, commits ~~shall be guilty of~~ a felony
15 of the third degree, punishable as provided in s. 775.082, s.
16 775.083, or s. 775.084.

17

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

19 And the title is amended as follows:

20 Delete line 265

21 and insert:

22 authorizing the division to adopt rules; amending s.
23 562.455, F.S.; removing grains of paradise from the
24 list of prohibited substances that relate to
25 adulterated liquor; amending s.



772286

LEGISLATIVE ACTION

Senate

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House

The Committee on Innovation, Industry, and Technology (Brandes) recommended the following:

Senate Amendment to Amendment (132272)

Delete lines 116 - 120

and insert:

owned premises ~~and has~~

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905538

LEGISLATIVE ACTION

Senate

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House

The Committee on Innovation, Industry, and Technology (Brandes) recommended the following:

Senate Amendment to Amendment (132272)

Delete lines 146 - 214

and insert:

souvenir gift shops and tasting rooms, up to 250,000 gallons per
calendar year of ~~shop~~ branded products that are manufactured by
the craft distillery ~~distilled~~ on its premises or in a state or
federal bonded space in this state which is on or contiguous to
the craft distillery's licensed premises and is owned or leased
by the craft distillery in this state in factory-sealed



905538

11 ~~containers that are filled at the distillery for off-premises~~
12 ~~consumption.~~ Such sales are authorized only on private property
13 contiguous to the licensed ~~distillery~~ premises in this state and
14 included on the sketch or diagram defining the licensed premises
15 submitted with the distillery's license application. All sketch
16 or diagram revisions by the distillery shall require the
17 division's approval verifying that the locations of the souvenir
18 gift shops and tasting rooms ~~shop location~~ operated by the
19 licensed distillery are ~~is~~ owned or leased by the distillery and
20 on property contiguous to the distillery's production building
21 in this state.

22 1. Except as permitted under s. 565.17(2), a craft
23 distillery may not sell any factory-sealed individual containers
24 of spirits to consumers except in face-to-face sales
25 transactions with such consumers at the craft distillery's
26 licensed premises. Such branded products must be in compliance
27 with the container limits under s. 565.10 and be intended for
28 personal consumption rather than for resale ~~who are making a~~
29 ~~purchase of no more than six individual containers of each~~
30 ~~branded product.~~

31 2. ~~Each container sold in face-to-face transactions with~~
32 ~~consumers must comply with the container limits in s. 565.10,~~
33 ~~per calendar year for the consumer's personal use and not for~~
34 ~~resale and who are present at the distillery's licensed premises~~
35 ~~in this state.~~

36 3. A craft distillery must report to the division within 5
37 days after it exceeds ~~reaches~~ the production standards or is no
38 longer operating under the requirements or limitations provided
39 in paragraph (1)(b). Any retail sales of branded products by the



905538

40 drink or by the package to consumers at the craft distillery's
41 licensed premises are prohibited beginning the day after it
42 exceeds ~~reaches~~ the production limitation.

43 ~~3.4.~~ A craft distillery is prohibited from shipping or
44 arranging to ship within this state any of its branded products
45 or any other alcoholic beverages that it manufactures,
46 rectifies, blends, or bottles ~~may not ship or arrange to ship~~
47 ~~any of its distilled spirits to consumers~~ and may sell and
48 deliver only to consumers within the state in a face-to-face
49 transaction at the distillery's souvenir gift shops and tasting
50 rooms ~~distillery property~~. However, a craft distillery ~~distiller~~
51 licensed under this section may ship, arrange to ship, or
52 deliver such spirits to any manufacturers of distilled spirits,
53 wholesale distributors of distilled spirits, state or federal
54 bonded warehouses, or ~~and~~ exporters.

55 ~~4.5.~~ Except as provided in subparagraph 5. ~~subparagraph 6.,~~
56 it is unlawful to transfer a craft distillery license ~~for a~~
57 ~~distillery that produces 75,000 or fewer gallons per calendar~~
58 ~~year of distilled spirits on its premises~~ or any ownership
59 interest in such license to an individual or entity that has a
60 direct or indirect ownership interest in any distillery that
61 distills, blends, or bottles 250,000 gallons or more per
62 calendar year of distilled spirits under any license ~~licensed~~ in
63 this state; another state, territory, or country; or by the
64 United States Government to manufacture, blend, or rectify
65 distilled spirits for beverage purposes.

66 ~~5.6.~~ A craft distillery shall not have its ownership
67 affiliated with another distillery, unless such distillery is
68 owned by an individual or entity that distills, blends, or



905538

69 bottles 250,000 gallons or less per calendar year of distilled
70 spirits ~~produces 75,000 or fewer gallons per calendar year of~~
71 ~~distilled spirits on each of its premises in this state or in~~
72 ~~another state, territory, or country.~~

73 6. A craft distillery may transfer up to 250,000 gallons
74 per



230268

LEGISLATIVE ACTION

Senate

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House

The Committee on Innovation, Industry, and Technology (Brandes) recommended the following:

1 **Senate Amendment to Amendment (132272) (with title**
2 **amendment)**

3
4 Between lines 241 and 242
5 insert:

6 Section 5. Subsection (4) is added to section 561.221,
7 Florida Statutes, to read:

8 561.221 Licensing of manufacturers and distributors as
9 vendors and of vendors as manufacturers; conditions and
10 limitations.-



230268

11 (4) (a) Notwithstanding s. 561.22, s. 561.42, or any other
12 provision of the Beverage Law, the division may issue a vendor's
13 license for the sale of alcoholic beverages on a distillery's
14 licensed premises to a distillery licensed under s. 565.03, even
15 if such distillery is also licensed as a distributor.

16 (b) If the vendor's license is for the sale of alcoholic
17 beverages on a distillery's licensed premises, the licensed
18 vendor premises must be included on the sketch or diagram
19 defining the licensed premises submitted with the distillery's
20 license application. All sketch or diagram revisions by the
21 distillery must be approved by the division and must verify that
22 the vendor premises operated by the licensed distillery is owned
23 or leased by the distillery and is located on the licensed
24 distillery premises.

25
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 Delete lines 293 - 294

30 and insert:

31 distilleries of such permits; amending s. 561.221,
32 F.S.; authorizing the division to issue vendor's
33 licenses to certain distilleries for the sale of
34 alcoholic beverages on the distillery's licensed
35 premises; requiring that the licensed vendor premises
36 be included on certain sketches and diagrams under
37 certain circumstances; requiring that all revisions to
38 sketches or diagrams be approved by the division;
39 providing an effective date.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: October 16, 2019

I respectfully request that **Senate Bill #138**, relating to Beverage Law, be placed on the:

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

A handwritten signature in black ink that reads "Travis Hutson". The signature is written in a cursive style with a long horizontal line extending from the end.

Senator Travis Hutson
Florida Senate, District 7

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/17/20

Meeting Date

SB 138
Bill Number (if applicable)

D.E. 132272
Amendment Barcode (if applicable)

Topic Craft Distilleries

Name Scott Ashley

Job Title President of General Counsel

Address 215 S. Monroe St. # 800

Street

City

State

Zip

Tallahassee

Phone (850)

Email scot@wsdflorida.com

Speaking: For Against Information

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

Representing Wine & Spirits Distributors of FL

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)

02-17-20

Meeting Date

138

Bill Number (if applicable)

132272

Amendment Barcode (if applicable)

Topic Alcohol Beverages

Name Scott DKK

Job Title lobbyist

Address 210 S. MONROE ST.

Street

Phone 858 4219100

Tallahassee FL 32301

City

State

Zip

Email sd@skdgrp.com

Speaking: For Against Information

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

Representing ABC LIQUOR & FISA

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.

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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)

2/17/20

Meeting Date

SB 138

Bill Number (if applicable)

840478

Amendment Barcode (if applicable)

Topic Craft Distilleries

Name Scott Ashley

Job Title President & General Counsel

Address 245 S. Monroe St. #800-A

Street

Phone (850) 681-8700

Tallahassee FL 32301

City

State

Zip

Email scott@wsdflorida.com

Speaking: For Against Information

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

Representing Wine & Spirits Distributors 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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02-17-20

Meeting Date

138

Bill Number (if applicable)

84095535

Amendment Barcode (if applicable)

Topic Alcohol Beverages

Name SCOTT DICK

Job Title lobbyst

Address 210 S. Monroe

Street

Phone 850 421 9100

City TLH State FL Zip 32301

Email scottdick@kdgspr.com

Speaking: For Against Information

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

Representing ABC Liquors & FSA

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/17/20
Meeting Date

SB 138
Bill Number (if applicable)

Topic Craft Distilleries

772286
Amendment Barcode (if applicable)

Name Scott Ashley

Job Title President of General Counsel

Address 215 S. Monroe St. #800-A

Phone (850) 681-8706

Tallah. FL 32301
City State Zip

Email scott@wsdflorida.com

Speaking: For Against Information

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

Representing Wine & Spirits Distributors 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.

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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)

2/17/20

Meeting Date

SB 138

Bill Number (if applicable)

Topic Craft Distilleries

905538

Amendment Barcode (if applicable)

Name Scott Ashley

Job Title President & General Counsel

Address 215 S. Monroe St. #800

Phone (850) 681-4700

Tallah. FL 32301

Email scott@wsdflo.com

Speaking: For Against Information

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

Representing Wine & Spirits Distributors 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.

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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)

2/17/20
Meeting Date

SB 138
Bill Number (if applicable)
230268
Amendment Barcode (if applicable)

Topic Craft Distilleries

Name Scott Ashley

Job Title President & General Counsel

Address 215 S. Monroe St. #800A

Street
Talla., FL 32301
City State Zip

Phone (850) 681-8700

Email scott@wsdflorida.com

Speaking: For Against Information

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

Representing Wine & Spirits Distributors 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.

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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)

02-17-20

Meeting Date

138

Bill Number (if applicable)

230268

Amendment Barcode (if applicable)

Topic Alcohol Beverages

Name Scott Dick

Job Title Lobbyist

Address 210 S. MONROE ST

Street

City

Tallahassee

State

FL

Zip

32301

Phone 550 421 9100

Email Scott@skdgrp.com

Speaking: For Against Information

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

Representing ABC Liquor & FISA

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)

1/17/2020

Meeting Date

SB138

Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Matt Armstrong

Job Title Director of Planning & Development, St Petersburg Distillery

Address 800 31st Street South

Phone 727-914-0931

Street

St Petersburg

FL

33712

Email marmstrong@stpetersburgdistill

City

State

Zip

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

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

Representing St Petersburg Distillery

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)

2/17/2020

Meeting Date

138

Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name Jason Unger

Job Title

Address 301 South Bronough Street

Phone 577-9090

Street

TLH

FL

32301

Email junger@gray-robinson.com

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing St Augustine Distillery

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

Lobbyist registered with Legislature: [x] 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)

2020 Feb 17
Meeting Date

138
Bill Number (if applicable)

Topic Beverage Law

Amendment Barcode (if applicable)

Name DIEGO ECHEVERRI

Job Title Legislative Liaison

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Americans For Prosperity

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)

02-17-20

Meeting Date

138

Bill Number (if applicable)

Topic Alcohol Beverages

Amendment Barcode (if applicable)

Name Scott Dick

Job Title lobbyst

Address 210 S. Monroe St.

Phone (813) 421-9100

Street Tallahassee FL 32301

Email SDick@skdgrp.com

City State Zip

Speaking: For Against Information

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

Representing ABC Liquor & FISA

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)

By Senator Hutson

7-00041A-20

2020138__

1 A bill to be entitled
2 An act relating to the Beverage Law; repealing s.
3 564.05, F.S., relating to limitations on the size of
4 individual wine containers; repealing s. 564.055,
5 F.S., relating to limitations on the size of
6 individual cider containers; amending s. 564.09, F.S.;
7 revising provisions that authorize a restaurant to
8 allow patrons to remove partially consumed bottles of
9 wine from a restaurant for off-premises consumption;
10 amending s. 565.03, F.S.; redefining the terms
11 "branded product" and "craft distillery"; revising the
12 requirements for the sale of branded products by a
13 licensed craft distillery to consumers; deleting a
14 provision that prohibits a craft distillery from
15 selling more than six individual containers of a
16 branded product to a consumer; revising requirements
17 relating to the shipping of distilled spirits to
18 consumers by a craft distillery; providing that it is
19 unlawful to transfer a distillery license, or
20 ownership in a distillery license, for certain
21 distilleries to certain individuals or entities;
22 prohibiting a craft distillery from having its
23 ownership affiliated with certain other distilleries;
24 authorizing a craft distillery to transfer specified
25 distilled spirits from certain locations to its
26 souvenir gift shop; requiring a craft distillery
27 making certain transfers of distilled spirits to
28 submit certain excise taxes with its monthly report to
29 the Division of Alcoholic Beverages and Tobacco of the

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30 Department of Business and Professional Regulation;
31 amending s. 561.221, F.S.; authorizing the division to
32 issue vendor's licenses to certain distilleries for
33 the sale of alcoholic beverages on the distillery's
34 licensed premises; requiring that the licensed vendor
35 premises be included on certain sketches and diagrams
36 under certain circumstances; requiring that all
37 revisions to a sketch or diagram be approved by the
38 division; requiring that certain alcoholic beverages
39 be obtained through a licensed distributor, a licensed
40 broker or sales agent, or a licensed importer;
41 providing an effective date.

42
43 Be It Enacted by the Legislature of the State of Florida:

44
45 Section 1. Section 564.05, Florida Statutes, is repealed.

46 Section 2. Section 564.055, Florida Statutes, is repealed.

47 Section 3. Section 564.09, Florida Statutes, is amended to
48 read:

49 564.09 Restaurants; off-premises consumption of wine.-
50 Notwithstanding any other provision of law, a restaurant
51 licensed to sell wine on the premises may permit a patron to
52 remove one unsealed bottle of wine for consumption off the
53 premises if the patron has purchased a ~~full course~~ meal
54 ~~consisting of a salad or vegetable, entree, a beverage, and~~
55 ~~bread~~ and consumed a portion of the bottle of wine ~~with such~~
56 ~~meal~~ on the restaurant premises. A partially consumed bottle of
57 wine that is to be removed from the premises must be securely
58 resealed by the licensee or its employees before removal from

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59 the premises. The partially consumed bottle of wine shall be
60 placed in a bag or other container that is secured in such a
61 manner that it is visibly apparent if the container has been
62 subsequently opened or tampered with, and a dated receipt for
63 the bottle of wine and ~~full-course~~ meal shall be provided by the
64 licensee and attached to the container. If transported in a
65 motor vehicle, the container with the resealed bottle of wine
66 must be placed in a locked glove compartment, a locked trunk, or
67 the area behind the last upright seat of a motor vehicle that is
68 not equipped with a trunk.

69 Section 4. Paragraphs (a) and (b) of subsection (1),
70 paragraphs (b) and (c) of subsection (2), and subsection (5) of
71 section 565.03, Florida Statutes, are amended to read:

72 565.03 License fees; manufacturers, distributors, brokers,
73 sales agents, and importers of alcoholic beverages; vendor
74 licenses and fees; distilleries and craft distilleries.—

75 (1) As used in this section, the term:

76 (a) "Branded product" means any distilled spirits product
77 manufactured on site, or manufactured on site and blended on
78 site with other distilled spirits, which requires a federal
79 certificate and label approval by the Federal Alcohol
80 Administration Act or federal regulations.

81 (b) "Craft distillery" means a licensed distillery that
82 produces 200,000 ~~75,000~~ or fewer gallons per calendar year of
83 distilled spirits on its premises and is designated as a craft
84 distillery by ~~has notified~~ the division upon notification in
85 writing of its decision to qualify as a craft distillery.

86 (2)

87 (b) A licensed distillery or craft distillery may ~~Persons~~

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88 ~~licensed under this section who are in the business of~~
89 ~~distilling spirituous liquors may also engage in the business of~~
90 ~~rectifying and blending spirituous liquors without the payment~~
91 ~~of an additional license tax.~~

92 (c) A craft distillery licensed under this section which is
93 not licensed as a vendor under s. 561.221 may sell to consumers
94 under its craft distillery license, at its souvenir gift shop,
95 up to 200,000 gallons per calendar year of branded products
96 ~~distilled on its premises in this state~~ in factory-sealed
97 containers that are filled at the distillery for off-premises
98 consumption by consumers. Such sales are authorized only on
99 ~~private~~ property owned or leased by the craft distillery which
100 is contiguous to the craft distillery's licensed ~~distillery~~
101 premises approved by the division ~~in this state and included on~~
102 ~~the sketch or diagram defining the licensed premises submitted~~
103 ~~with the distillery's license application. All sketch or diagram~~
104 ~~revisions by the distillery shall require the division's~~
105 ~~approval verifying that the souvenir gift shop location operated~~
106 ~~by the licensed distillery is owned or leased by the distillery~~
107 ~~and on property contiguous to the distillery's production~~
108 ~~building in this state.~~

109 1. A craft distillery may not sell under its craft
110 distillery license any factory-sealed individual containers of
111 spirits to consumers in this state except in face-to-face sales
112 transactions with such consumers at the craft distillery's
113 licensed premises. Such containers must be in compliance with
114 the container limits as provided in s. 565.10 ~~who are making a~~
115 ~~purchase of no more than six individual containers of each~~
116 ~~branded product.~~

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117 ~~2. Each container sold in face to face transactions with~~
118 ~~consumers must comply with the container limits in s. 565.10,~~
119 ~~per calendar year for the consumer's personal use and not for~~
120 ~~resale and who are present at the distillery's licensed premises~~
121 ~~in this state.~~

122 2.3. A craft distillery must report to the division within
123 5 days after it reaches the production limitations provided in
124 paragraph (1)(b). Any retail sales to consumers under its craft
125 distillery license ~~at the craft distillery's licensed premises~~
126 are prohibited beginning the day after it reaches the production
127 limitation.

128 3.4. A craft distillery that has not been issued a vendor's
129 license under s. 561.221 may not ship or arrange to ship any of
130 its distilled spirits to consumers in this state and may sell
131 and deliver only to consumers within the state in a face-to-face
132 transaction at the distillery property. However, a craft
133 distillery ~~distiller~~ licensed under this section may ship,
134 arrange to ship, or deliver such spirits to manufacturers of
135 distilled spirits, wholesale distributors of distilled spirits,
136 state or federal bonded warehouses, and exporters, or consumers
137 located outside of this state; however, all such shipments must
138 comply with the laws where such products are scheduled to be
139 delivered for personal use.

140 4.5. Except as provided in subparagraph 5. 6., it is
141 unlawful to transfer a distillery license for a distillery that
142 produces 200,000 ~~75,000~~ or fewer gallons per calendar year of
143 distilled spirits on its premises or any ownership interest in
144 such license to an individual or entity that has a direct or
145 indirect ownership interest in any distillery licensed in this

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146 state; another state, territory, or country; or by the United
 147 States government to manufacture, blend, or rectify distilled
 148 spirits for beverage purposes.

149 ~~5.6.~~ A craft distillery shall not have its ownership
 150 affiliated with another distillery, unless such distillery
 151 produces 200,000 ~~75,000~~ or fewer gallons per calendar year of
 152 distilled spirits on each of its premises in this state or in
 153 another state, territory, or country.

154 6. A craft distillery may transfer up to 200,000 gallons
 155 per calendar year of distilled spirits that it manufactures from
 156 its federal bonded space, nonbonded space at its licensed
 157 premises, or storage areas to its souvenir gift shop.

158 (5) A craft distillery may transfer distilled spirits to
 159 any of its retail areas pursuant to paragraph (2)(c) or s.
 160 561.221 and ~~making sales under paragraph (2)(e)~~ is responsible
 161 for submitting any excise taxes due to the state on distilled
 162 spirits on beverages under the Beverage Law with in its monthly
 163 report to the division ~~with any tax payments due to the state.~~

164 Section 5. Subsection (4) is added to section 561.221,
 165 Florida Statutes, to read:

166 561.221 Licensing of manufacturers and distributors as
 167 vendors and of vendors as manufacturers; conditions and
 168 limitations.—

169 (4) (a) Notwithstanding s. 561.22, s. 561.42, or any other
 170 provision of the Beverage Law, the division may issue a vendor's
 171 license for the sale of alcoholic beverages on a distillery's
 172 licensed premises to a distillery licensed under s. 565.03, even
 173 if such distillery is also licensed as a distributor.

174 (b) If the vendor's license is for the sale of alcoholic

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175 beverages on a distillery's licensed premises, the licensed
176 vendor premises must be included on the sketch or diagram
177 defining the licensed premises submitted with the distillery's
178 license application. All sketch or diagram revisions by the
179 distillery must be approved by the division, verifying that the
180 vendor premises operated by the licensed distillery is owned or
181 leased by the distillery and is located on the licensed
182 distillery premises.

183 (c) Distilled spirits and other alcoholic beverages
184 manufactured by another licensed manufacturer, including any
185 distilled spirits that are owned in whole or in part by the
186 craft distillery but are distilled by another manufacturer, must
187 be obtained through a licensed distributor, a licensed broker or
188 sales agent, or a licensed importer.

189 Section 6. This act shall take effect July 1, 2020.

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 Innovation, Industry, and Technology

BILL: SB 1424

INTRODUCER: Senator Gruters

SUBJECT: Special Neighborhood Improvement Districts

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
2.	<u>Kraemer</u>	<u>Imhof</u>	<u>IT</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1424 revises provisions relating to the board of directors of a special neighborhood improvement district, including authorizing the appointment of a three-, five-, or seven-member board and requiring the board members to be landowners in the district. The bill requires counties or municipalities to specify the number of directors in the ordinance creating the special neighborhood improvement district.

The bill has no impact on state government.

The bill takes effect July 1, 2020.

II. Present Situation:

Safe Neighborhood Improvement Districts

Purposes and Creation

Part IV of ch. 163, F.S., is known as the "Safe Neighborhoods Act." The intent of the act is to:

- Guide and accomplish the coordinated, balanced, and harmonious development of safe neighborhoods;
- Promote the health, safety, and general welfare of these areas and their inhabitants, visitors, property owners, and workers;
- Establish, maintain, and preserve property values and preserve and foster the development of attractive neighborhoods and business environments;
- Prevent overcrowding and congestion;
- Improve or redirect traffic and provide pedestrian safety;
- Reduce crime rates and the opportunities for the commission of crime; and

- Provide improvements in neighborhoods so they are defensible against crime.¹

Section 163.503(1), F.S., defines the term “safe neighborhood improvement district” (SNID) or “neighborhood improvement district” to mean:

[a] district located in an area in which more than 75 percent of the land is used for residential purposes, or in an area in which more than 75 percent of the land is used for commercial, office, business, or industrial purposes, excluding the land area used for public facilities, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques, or through community policing innovations.

The act allows county or municipal governing bodies to create SNIDs through the adoption of a planning ordinance. Each SNID that is established is required to register within 30 days with both the Department of Economic Opportunity (DEO) and the Department of Legal Affairs (DLA) and provide the name, location, size, type of SNID, and such other information that the departments may require.² Under current law, there are four types of SNIDs:

- Local government SNIDs;
- Property owners’ association SNIDs;
- Community redevelopment SNIDs; and
- Special SNIDs, which are further classified as either residential or business.³

As of January 25, 2020, there are 27 active SNIDs in the state of Florida.⁴ Twenty-four of these are local government SNIDs; two are special residential SNIDs; and one is classified as a property owners’ association SNID.

SNID Boards and Revenue Sources

The board of directors of a local government SNID is the local governing body of the municipality or county that created the SNID; however, as an alternative, a majority of the local governing body may also appoint a different board.⁵ The board of a property owners’ association SNID is comprised of the officers of the property owners’ association.⁶

The board of a special SNID is a three-member body, appointed by the governing body of the municipality or county that created the SNID, who are residents of the area, are subject to ad valorem taxation in the district, and serve staggered terms of three years.⁷ The board of a community redevelopment SNID is the community redevelopment board of commissioners,

¹ See s. 163.502(3), F.S.

² Section 163.5055(1)(a), F.S.

³ See ss. 163.506, 163.508, 163.511, and 163.512, F.S.

⁴ Florida Department of Economic Opportunity, Division of Community Development, *Official List of Special Districts Online*, available at <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx> (last visited Feb. 11, 2020).

⁵ Sections 163.506(1)(e) and (3), F.S.

⁶ Section 163.508(1)(e), F.S.

⁷ Sections 163.511(1)(f), and (8), F.S.

which is designated by the governing body of the municipality or county that created the community redevelopment agency.⁸

Local government SNIDs and special SNIDs are authorized to levy ad valorem taxes up to two mills annually.⁹ Local government SNIDs are authorized to levy tax without a referendum; however, special SNIDs require a referendum to levy ad valorem taxes.¹⁰ For a special *residential* SNID, taxes are approved by a majority of the electors voting in the referendum.¹¹ For a special *business* SNID, taxes are approved by freeholders representing in excess of 50 percent of the assessed value of the property within the SNID.¹²

All SNIDs are also authorized to make and collect special assessments, but all special assessments are subject to referendum approval.¹³ Special assessments are approved by a majority of registered voters residing in the SNID.¹⁴ Assessments may be collected pursuant to ss. 197.3632 and 197.3635, F.S., which address the uniform method for collection of non-ad valorem assessments. Assessments may not exceed \$500 for each individual parcel of land per year.

Community redevelopment SNIDs may also utilize community redevelopment trust funds to implement district planning and programming that is consistent with the community redevelopment plan created pursuant to s. 163.360, F.S.¹⁵

SNID Dissolutions

Local government and community redevelopment SNIDs may be dissolved by the governing body that established them.¹⁶ Property owners' association SNIDs continue in perpetuity as long as the property owners' association exists.¹⁷ Special SNIDs are dissolved at the end of the tenth fiscal year of operation.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 163.511, F.S., to revise several provisions relating to the board of directors of a special SNID. The bill provides for the appointment of a three-, five-, or seven-member board rather than the 3-member board currently required by law. The number of appointed

⁸ Section 163.512(1)(d), F.S.

⁹ Sections 163.506(1)(c), F.S., and 163.511(1)(b), F.S.

¹⁰ Section 163.511(1)(a) and (b), F.S.

¹¹ Section 163.511(3)(g), F.S. Although the term "elector" is used in s. 163.511(3)(g), F.S., it is not defined in the act; it appears the intent is that the vote be made by district residents who are registered voters. *See* s. 163.511(3)(b), F.S.

¹² Section 163.511(4)(g), F.S. Similarly, although the term "freeholder" is used in s. 163.511(4)(g), F.S., it is not defined in the act; it appears the intent is that the vote be made by property owners on the tax assessment roll whose property in the district.

¹³ Section 163.514(16), F.S. This authority and any of the other SNID powers enumerated in s. 163.514, F.S., may be prohibited by the SNID's enacting ordinance.

¹⁴ *Id.* *See also supra* notes 11 and 12 regarding the terms "elector" and "freeholder."

¹⁵ Section 163.512(1)(c), F.S.

¹⁶ Sections 163.506(4) and 163.512(3), F.S.

¹⁷ Section 163.508(4), F.S.

¹⁸ Section 163.511(13), F.S. Special SNIDs may continue for subsequent 10-year periods if the continuation of the district is approved through referendum.

directors must be specified in the local planning ordinance, and the members must be elected to staggered terms of four years. Additionally, the board of directors must be landowners in the district, whereas current law only requires the board of directors to be residents of the area.

Section 2 provides the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 163.511 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.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Banking and Insurance

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS

23rd District

February 4, 2020

The Honorable Wilton Simpson, Chair
Innovation, Industry, and Technology Committee
525 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simpson:

I am writing to request that Senate Bill 1424, Special Neighborhood Improvement Districts to be placed on the agenda of the next Innovation, Industry, and Technology Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

A handwritten signature in black ink that reads "Joe Gruters". The signature is written in a cursive, flowing style.

Joe Gruters

cc: Booter Imhof, Staff Director
Lynn Koon, Committee Administrative Assistant

REPLY TO:

- 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 1424
FINAL ACTION: Favorable
MEETING DATE: Monday, February 17, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bracy						
X		Bradley						
X		Brandes						
X		Braynon						
X		Farmer						
X		Gibson						
		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
9	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

By Senator Gruters

23-01841-20

20201424__

1 A bill to be entitled
2 An act relating to special neighborhood improvement
3 districts; amending s. 163.511, F.S.; revising the
4 number of directors allowed on the boards of special
5 neighborhood improvement districts; requiring local
6 planning ordinances to specify the number of directors
7 and provide for 4-year staggered terms; requiring that
8 directors be landowners in the proposed area and be
9 subject to certain taxation; making technical changes;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (f) of subsection (1) and subsections
15 (7) and (8) of section 163.511, Florida Statutes, are amended to
16 read:

17 163.511 Special neighborhood improvement districts;
18 creation; referendum; board of directors; duration; extension.-

19 (1) After a local planning ordinance has been adopted
20 authorizing the creation of special neighborhood improvement
21 districts, the governing body of a municipality or county may
22 declare the need for and create special residential or business
23 neighborhood improvement districts by the enactment of a
24 separate ordinance for each district, which ordinance:

25 (f) Provides for the appointment of a three-member board of
26 directors, a five-member board of directors, or a seven-member
27 ~~three-member~~ board of directors for the district, the members of
28 which must be elected to staggered terms of 4 years. The number
29 of appointed directors must be specified in the ordinance.

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30 (7) The business and affairs of a special neighborhood
31 improvement district shall be conducted and administered by a
32 board of three, five, or seven directors who must ~~shall~~ be
33 landowners in residents of the proposed area and who are subject
34 to ad valorem taxation in the district. Upon their appointment
35 and qualification and in January of each year, the directors
36 shall organize by electing from their number a chair and a
37 secretary, and may also employ staff and legal representatives
38 as deemed appropriate, who shall serve at the pleasure of the
39 board and may receive such compensation as ~~shall be~~ fixed by the
40 board. The secretary shall keep a record of the proceedings of
41 the district and is the ~~shall be~~ custodian of all books and
42 records of the district. The directors may ~~shall~~ not receive any
43 compensation for their services or, ~~nor may they~~ be employed by
44 the district.

45 (8) Within 30 days after ~~of the~~ approval of the creation of
46 a special neighborhood improvement district, if the district is
47 in a municipality, a majority of the governing body of the
48 municipality, or, if the district is in the unincorporated area
49 of the county, a majority of the county commission, shall
50 appoint the ~~three~~ directors provided for under this section
51 ~~herein for staggered terms of 3 years. The initial appointments~~
52 ~~shall be as follows: one for a 1-year term, one for a 2-year~~
53 ~~term, and one for a 3-year term.~~ Each director shall hold office
54 until his or her successor is appointed and qualified unless the
55 director ceases to be qualified to act as a director or is
56 removed from office. Vacancies on the board shall be filled for
57 the unexpired portion of a term in the same manner as the
58 initial appointments were made.

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59

Section 2. This act shall take effect July 1, 2020.

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 Innovation, Industry, and Technology

BILL: CS/SB 1752

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Pizzo

SUBJECT: Condominium Associations

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1752 revises current law to provide that when a condominium or cooperative association has filed a single joint petition to challenge a tax assessment issued by the county property appraiser, an association may continue to represent and defend the unit owners through any related subsequent proceeding in any tribunal on appeal. The association must provide unit owners with notice of its intent to respond to a complaint, and advise the unit owners that they may opt out. Current law permits the association to challenge the initial valuation on behalf of the unit owners. However, the association cannot appeal that decision on behalf of the unit owners. The bill provides that this is intended to clarify existing law and applies to cases pending on July 1, 2020.

The bill amends s. 718.111, F.S., relating to condominium associations, to prohibit certain activities related to an association's obligation to comply with the right of a unit owner or a tenant to inspect and copy official records of the association. The bill also prohibits officers, directors, and managers of an association from performing certain acts related to the association's management, financial obligations, or conduct of elections. The bill provides criminal penalties for certain violations, such as a:

- Third degree felony¹ for an officer, director, or manager of a condominium association to knowingly solicit, offer to accept, or accept anything or service of value or kickback;

¹ A third degree felony is punishable by up to five years in state prison and a fine of up to \$5,000. See ss. 775.082 and 775.083, F.S.

- Second degree misdemeanor² for any director or member of the board or association to knowingly, willfully, and “repeatedly” violate (two or more violations within a 12-month period) any specified requirements relating to inspection and copying of official records of an association;
- First degree misdemeanor³ to knowingly or intentionally deface or destroy required accounting records or knowingly and intentionally fail to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members; and
- Third degree felony to willfully and knowingly refuse to release or otherwise produce association records, with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape.

The bill also:

- Provides that a person commits theft by use of a debit card, if the person uses a debit card issued in the name of, or billed directly to, an association for any expense that is not a lawful obligation of the association.
- Creates s. 718.129, F.S., which specifies acts constituting fraudulent voting activities related to an association election and acts taken in furtherance of such fraudulent voting activities, and provides that commission of any of those acts is a third degree felony.
- Revises requirements related to a condominium association’s maintenance of official records and access to official records by unit owners.
- Expands the application of a requirement to provide digital copies of specified documents on an association’s website to condominium associations of 25 or more units (and no timeshare units) from associations of 150 or more units (and no timeshares). The bill also extends the date by which an association must comply with this requirement from January 1, 2019 to January 1, 2022.
- Authorizes the Florida Division of Condominiums, Timeshares, and Mobile Homes to investigate complaints related to financial issues.

Some of the changes made by the bill regarding condominium association records and elections are similar to changes recommended in a 2017 report by a Miami-Dade County grand jury.

The bill is effective October 1, 2020.

II. Present Situation:

The Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (DBPR) administers the provisions of ch. 718, F.S., (the “Condominium Act”) for condominium associations. The division may investigate complaints and enforce compliance with ch. 718, F.S., with respect to associations that are still under developer control.⁴ The division also has the authority to investigate

² A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to \$500. *See* ss. 775.082 and 775.083, F.S.

³ A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. *See* ss. 775.082 and 775.083, F.S.

⁴ Sections 718.501(1), F.S.

complaints against developers involving improper turnover or failure to transfer control to the association.⁵ After control of the condominium is transferred from the developer to the unit owners, the division's jurisdiction is limited to investigating complaints related to financial issues, elections, and unit owner access to association records.⁶

As part of the division's authority to investigate complaints, the division may subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties against developers and associations.⁷

If the division has a reasonable cause to believe that a violation of any provision of the Condominium Act, or related rule has occurred, the division may institute enforcement proceedings in its own name against any developer, bulk assignee, bulk buyer, association, officer, or member of the board of administration, or its assignees or agents. The division may conduct an investigation and issue an order to cease and desist from unlawful practices and to take affirmative action to carry out the purpose of the applicable chapter. In addition, the division is authorized to petition a court to appoint a receiver or conservator to implement a court order, or to enforce of an injunction or temporary restraining order. The division may also impose civil penalties.⁸

Condominium Associations

The Condominium Act "give[s] statutory recognition to the condominium form of ownership of real property and establish[es] procedures for the creation, sale and operation of condominiums."⁹ A condominium is a form of ownership of real property created pursuant to ch. 718, F.S., which is comprised entirely of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements.¹⁰

A condominium association, which is a Florida corporation for profit or a Florida corporation not for profit,¹¹ "manages and operates the condominium community, maintains the common elements, and provides services in furtherance of its duties to the members. Each purchaser, by accepting title to his or her unit, automatically becomes an association member, and is bound by the association rules and regulations."¹²

⁵ *Id.*

⁶ Section 718.501(1), F.S.

⁷ *Id.*

⁸ *Id.*

⁹ *Citizen Property Insurance Corp. v. River Manor Condominium Assoc., Inc.*, 125 So.3d 846, 850 (Fla. 4th DCA 2013) (citation omitted).

¹⁰ Section 718.103(11), F.S. "Common elements" are the portions of the condominium property not included in the units. Section 718.103(8), F.S. "The structure of the building including the roof, walls, conduit and hallways, and recreation facilities are examples of items that are usually part of the common elements. Common elements are legally attached to each unit and are transferred with the unit when it is sold." *Condominium Living in Florida* (Revised Jan. 2018), Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, available at <http://www.myfloridalicense.com/dbpr/lsc/documents/CondominiumLiving.pdf> (last visited on March 18, 2019). This document is further cited in this analysis as "*Condominium Living in Florida*."

¹¹ Section 718.111(1)(a), F.S.

¹² *Condominium Living in Florida*, *supra*. note 10. Owners of units are shareholders or association members. Section 718.111(1)(a), F.S.

“The board of directors, initially appointed by the developer and subsequently elected by the unit owners, is responsible for managing the affairs of the association. The board may appoint committees to assist with the various duties of the association.”¹³ “It is the board’s duty and responsibility to determine the association’s needs, limited by the association’s fiscal resources. An association may be self-managed or hire professional management.”¹⁴

Tax Assessments – Condominium and Cooperative Associations

Condominium association unit owners and cooperative associations unit owners are assessed yearly ad valorem¹⁵ taxes by the county property appraiser.¹⁶ For condominium parcels, ad valorem taxes are assessed on the condominium parcels and not upon the condominium property as a whole, and the common elements are divided and levied proportionally among individual condominium parcel owners.¹⁷ For a parcel in a cooperative association, ad valorem property taxes are assessed against the cooperative parcels and not upon the cooperative property as a whole.¹⁸

Current law permits condominium and cooperative associations to file a single joint petition to the Value Adjustment Board ("VAB") contesting the tax assessment of all units within the condominium or cooperative.¹⁹ The association must provide each unit owner notice of the petition and their right to opt out of the appeal, if desired.²⁰

A decision by the VAB may be appealed to the circuit court.²¹ While current law is clear that an association is authorized to act on behalf of all unit owners when filing a petition to the VAB and when initiating an appeal of the VAB’s decision, it is unclear whether the association may defend, on behalf of unit owners, an appeal of the VAB’s decision by the property appraiser.²²

In *Central Carillon Beach Condominium v. Garcia*, the Florida Third District Court of Appeals (Third DCA) reviewed this issue in a case of first impression.²³ Petitioners were two condominium associations who had represented their unit owners in a tax assessment challenge before a VAB. Respondent was the property appraiser for Miami-Dade County (appraiser).²⁴

When the associations initially challenged their tax assessment, the VAB substantially lowered their assessed property values.²⁵ As a result, the appraiser challenged the decision in an appeal to the Miami-Dade Circuit Court, and named the individual unit owners, instead of the each

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Section 192.001(1), F.S., defines the term “ad valorem tax” to mean a tax based upon the assessed value of property.

¹⁶ Section 194.011, F.S.

¹⁷ Section 718.120(1), F.S.

¹⁸ Section 719.114, F.S.

¹⁹ Section 194.011(3)(e), F.S.

²⁰ Section 194.171, F.S.

²¹ Section 194.011(3)(e), F.S.

²² *Id.*

²³ *Central Carillon Beach Condominium Association, Inc., et al., v. Garcia, et al., et al.*, 245 So. 3d 869 (Fla. 3d DCA 2018).

²⁴ *Id.* at 869.

²⁵ *Id.* at 870.

association as defendants.²⁶ In response, the associations submitted a motion to dismiss the appeal and a motion for certification of the unit owners as a defense class. Both motions were denied by the circuit court, and the associations appealed the denial of the motion to the Third DCA.²⁷

In response, the appraiser argued that defense class certification should be denied, and the appeal should name individual unit owners, because statutes governing tax assessment challenge procedures require that individual unit owners be named on appeal.²⁸

Section 194.181(2), F.S., provides that in any case brought by the taxpayer or association contesting the assessment of any property, the county property appraiser shall be the party defendant. If the property appraiser appeals a decision of the VAB under s. 194.036(1)(a) or (b), F.S.,²⁹ the taxpayer shall be party defendant. The term “taxpayer” means the person or other legal entity in whose name property is assessed, including an agent of a timeshare period titleholder.³⁰ In *Central Carillon*, the individual unit owners were assessed the taxes, not the associations.³¹

The associations argued that this law conflicts with condominium association law which generally allows associations to represent unit owners through their rights of collective representation.³²

Section 718.111(3), F.S., permits a condominium association to appeal actions or hearings in its name on behalf of all unit owners “concerning matters of common interest to most or all unit owners,” including “protesting ad valorem taxes on commonly used facilities and on units.”³³ The association may also defend actions in eminent domain.³⁴

The Third DCA found that the associations’ argument was unsupported, stating that the s. 718.111(3), F.S., only addresses ad valorem taxes in one phrase: “protesting ad valorem taxes on commonly used facilities and on units.” The associations protested the ad valorem taxes on behalf of all units, but the lawsuits brought by the appraiser against the unit owners are not “protests.” Rather, they are judicial review proceedings in which the unit owners are defendants. The specific cases in which an association may defend on behalf of all unit owners are “actions in eminent domain.”³⁵

The associations argued that because they could bring a class action, if they appealed a decision of the VAB, they “may be joined in an action as a representative of that class with reference to

²⁶ *Id.* at 871.

²⁷ *Id.* at 869.

²⁸ *Id.* at 871.

²⁹ This section providing grounds for an appeal of a VAB decision by the property appraiser.

³⁰ Section 192.001(13), F.S.

³¹ *Central Carillon*, *supra* note 22, at 871.

³² *Id.* at 871, 872.

³³ Chapter 719, F.S., relating to cooperative associations, does not provide a comparable provision.

³⁴ Section 718.111(3), F.S.

³⁵ *Central Carillon*, *supra* note 22, at 872.

litigation....” However, the court rejected the argument, because under s. 718.111(3), F.S., if an appraiser’s appeal of a VAB’s decision, “the taxpayer shall be the party defendant.”³⁶

Miami-Dade County Grand Jury Report “Addressing Condo Owners’ Pleas for Help: Recommendations for Legislative Action”

The increasing numbers of condominiums in Florida, the increasing numbers of problems for people living in them, and the increasing numbers of complaints against the DBPR, motivated a Miami-Dade County grand jury to conduct an investigation of complaints by condominium residents and the DBPR’s responses to their complaints.³⁷ The grand jury’s report contains numerous findings and recommendations, but those relevant to the provisions of the bill are discussed below.

Breaches of a Fiduciary Duty and Prohibited Acts

Officers and directors of a condominium association have a fiduciary relationship to the unit owners, and may be sanctioned for breach of their fiduciary duty.³⁸ An officer, director, or manager may not solicit, offer to accept, or accept anything or service of value or kickback for which consideration has not been provided for the benefit of such person (or immediate family members) from any person providing or proposing to provide goods or services to the association.³⁹

Any such officer, director, or manager who knowingly solicits, offers to accept, or accepts anything or service of value or kickback is subject to a civil penalty pursuant to s. 718.501(1)(d), F.S., and, if applicable, a criminal penalty as provided in s. 718.111(1)(d), F.S.

Section 718.111(1)(d), F.S., requires an officer, director, or agent to discharge his or her duties in good faith, with the care an ordinarily prudent person in a similar position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the interests of the association. An officer, director, or agent is liable for monetary damages as provided in s. 617.0834, F.S., if such officer, director, or agent breaches or fails to perform his or her duties and the breach of, or failure to perform, such duties constitutes:

- A violation of criminal law as provided in s. 617.0834, F.S.;
- A transaction from which the officer or director derived an improper personal benefit, either directly or indirectly; or
- Recklessness or an act or omission that was in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Section 718.111(1)(d), F.S., also criminalizes the following acts:

³⁶ *Id.* at 872.

³⁷ *Final Report of the Miami-Dade County Grand Jury (Addressing Condo Owner’s Pleas for Help: Recommendations for Legislative Action)* (Filed Feb. 6, 2017), Eleventh Judicial Circuit, available at <http://www.miamisao.com/wp-content/uploads/2017/02/Grand-Jury-Report-Final.pdf> (last visited on Jan. 29, 2020). This document is further cited in this analysis as “*Final Report of the Miami-Dade County Grand Jury*.”

³⁸ Section 718.111(1)(a), F.S.

³⁹ Section 718.111(1)(a), F.S., does not prohibit an officer, director, or manager from accepting services or items received in connection with trade fairs or education programs.

- Forgery of a ballot envelope or voting certificate used in a condominium association election is punishable as provided in s. 831.01, F.S.;
- Theft or embezzlement of funds of a condominium association is punishable as provided in s. 812.014, F.S.; and
- Destruction of or refusal to allow inspection or copying of an official record of a condominium association that is accessible to unit owners within the time periods required by general law in furtherance of any crime is punishable as tampering with physical evidence as provided in s. 918.13, F.S., or as obstruction of justice as provided in ch. 843, F.S.

Finally, s. 718.111(1)(d), F.S., provides that an officer or director charged by information or indictment with any crime referenced in this paragraph⁴⁰ must be removed from office, and the vacancy must be filled as provided in s. 718.112(2)(d)2., F.S., until the end of the officer's or director's period of suspension or the end of his or her term of office, whichever occurs first. If a criminal charge is pending against the officer or director, he or she may not be appointed or elected to a position as an officer or a director of any association and may not have access to the official records of any association, except pursuant to a court order. However, if the charges are resolved without a finding of guilt, the officer or director must be reinstated for the remainder of his or her term of office, if any.

The Miami-Dade County grand jury found:

Although the directors have a legally mandated fiduciary obligation toward their unit owners, it appears that some of them are more involved in self-dealing and looking out for their own financial interests. The position of board director is not generally a paid position. Yet, some directors appear to view the ability to get into office as an opportunity to cash in. This should not be countenanced.⁴¹

The grand jury did not make any specific recommendation to criminalize the prohibition against receiving kickbacks in s. 718.111(1)(a), F.S.

Access to Records of a Condominium Association

Section 718.111(12)(a), F.S., requires a condominium association to maintain various records, including but not limited to, the association's recorded bylaws and amendments to those bylaws, articles of incorporation and amendments to those articles, bills of sale or transfer for association-owned property, accounting records, voting ballots, contracts for work to be performed, and bids.

⁴⁰ The only crimes specifically referenced in s. 718.111(1)(d), F.S., are the previously-described offenses relating to forgery of a ballot envelope or voting certificate, theft or embezzlement of association funds, and destruction of or refusal to allow inspection or copying of association records. Additionally, s. 718.111(1)(d), F.S., states that an officer, director, or agent shall be liable for monetary damages as provided in s. 617.0834, F.S., if such officer, director, or agent breached or failed to perform his or her duties and the breach of, or failure to perform, his or her duties constitutes a violation of criminal law as provided in s. 617.0834, F.S. The reference to criminal violations in s. 718.111(1)(d), F.S., is slightly different than the reference to criminal violations in s. 718.112(2)(o), F.S., which provides that a director or officer charged by information or indictment with a felony theft or embezzlement offense involving the association's funds or property must be removed from office. The latter provision appears to be more limited than the former provision.

⁴¹ *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at page 10 (citation omitted).

Section 718.111(12)(b), F.S., requires that some of these records (e.g., bylaws and articles of incorporation) be permanently maintained from the inception of the association. All other official records must be maintained within the state for at least seven years, unless otherwise provided by general law.⁴² The records must be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. An association must make a copy of the records available for inspection or copying by a unit owner on the condominium property or association property or offer the option of making the records available electronically via the Internet or allow the records to be viewed in electronic format on a computer screen and printed upon request.

Section 718.111(12)(c)1., F.S., provides that official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times.⁴³ A renter of a unit has a right to inspect and copy the association's bylaws and rules. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with these requirements. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records.

Section 718.111(12)(c)2., F.S., provides that any person who knowingly or intentionally defaces or destroys accounting records that are required by the Condominium Act, to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d), F.S.

Section 718.111(12)(g), F.S., provides that by January 1, 2019, an association managing a condominium with 150 or more units which does not contain timeshare units must post digital copies of specified records on its website. These documents include, but are not limited to: the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration, the recorded association bylaws and amendments to those bylaws, articles of incorporation of the association and amendments to those articles, the annual and proposed budget, and various contracts, including any contract or document regarding a conflict of interest or possible conflict of interest. The failure of the association to post required information is not in and of itself sufficient to invalidate any action or decision of the association's board or its committees.

The Miami-Dade County grand jury found that provisions of s. 718,111, F.S., "are not effectively protecting unit owners' right to access records."⁴⁴ "Under the law, if the association

⁴² Section 718.111(12)(b), F.S.

⁴³ The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member or authorized representative of such member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying.

⁴⁴ *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at page 5.

fails to comply with a valid request, monetary damages can be awarded to the unit owner. The problem is that the source of those funds will come from assessments levied against all owners.”⁴⁵ The grand jury also found:

It does not seem right to us that a recalcitrant board, acting against the interests of the association, can take willful action and not personally suffer serious consequences. To the extent that the association can engage in these tactics when a unit owner is making record requests for budget, accounting, audit or financial records, is most troubling. The willful failure to provide such documents may be part of a broader scheme to cover up embezzlement or other financial wrongdoing committed by the board or association. In furtherance of possible cover-ups, directors may also chose to intentionally deface or destroy accounting records or knowingly or intentionally create or maintain false accounting records that are required to be maintained by statute. Even such willful action, which again, may be done to cover-up theft of funds from the association, is only punishable by a civil penalty.⁴⁶

The grand jury made three recommendations regarding violations relating to access or destruction of association records that are relevant to directors:

- Section 718.111, F.S., should be amended to provide that directors and members of the board “who willfully and repeatedly fail to comply with their statutory obligation to appropriately and timely respond to written requests for official records of the association (more than two (2) violations within a rolling twelve (12) month period) shall be personally liable for payment of damages to the requesting unit owner(s)[.]”
- “... [D]irectors and members of the board or association who knowingly or intentionally deface or destroy accounting records or fail to create or maintain such records that are required by law shall be criminally liable for such conduct. We recommend that each such act will constitute a 2nd degree misdemeanor for a first offense, and that any subsequent offenses or violations will constitute a first degree misdemeanor[.]”
- “... [A]ny association, board director, management company or management company employee who willfully, knowingly, or intentionally refuses to release or otherwise produce official association records, and such refusal is done to facilitate or cover-up the commission of a crime, shall be criminally liable for such conduct. The violation shall be classified as a 3rd degree felony[.]”⁴⁷

Sanctions Relating to Unauthorized Use of Association-Related Debit Cards

Section 718.111(15)(b), F.S., prohibits the use of a debit card issued in the name of, or billed directly to, the association for any expense that is not a lawful obligation of the association. A violation of this prohibition may be prosecuted as credit card fraud pursuant to s. 817.61, F.S.⁴⁸

⁴⁵ *Id.*

⁴⁶ *Final Report of the Miami-Dade County Grand Jury, supra* note 15, at page 6 (citation omitted).

⁴⁷ *Final Report of the Miami-Dade County Grand Jury, supra* note 15, at pages 8-9.

⁴⁸ The applicable penalties for a violation range from a misdemeanor of the first degree to a felony of the third degree depending on the number of violations during a six-month period and the value of the property that was subject to the fraud. *See* s. 817.61, F.S.

Civil Immunity

As previously noted, s. 718.111(1)(d), F.S., provides that an association officer, director, or agent is liable for monetary damages as provided in s. 617.0834, F.S., if such officer, director, or agent breaches or fails to perform his or her duties as provided in that paragraph. Section 617.0834(1), F.S., in part, provides that an officer or director of a nonprofit organization recognized under s. 501(c)(3) or s. 501(c)(4) or s. 501(c)(6) of the Internal Revenue Code of 1986, as amended, is not personally liable for monetary damages to any person for any statement, vote, decision, or failure to take an action, regarding organizational management or policy by an officer or director, unless:

- The officer⁴⁹ or director⁵⁰ breached or failed to perform his or her duties as an officer or director; and
- The officer's or director's breach of, or failure to perform, his or her duties constitutes:
 - A violation of the criminal law, unless the officer or director had reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe his or her conduct was unlawful. A judgment or other final adjudication against an officer or director in any criminal proceeding for violation of the criminal law estops that officer or director from contesting the fact that his or her breach, or failure to perform, constitutes a violation of the criminal law, but does not estop the officer or director from establishing that he or she had reasonable cause to believe that his or her conduct was lawful or had no reasonable cause to believe that his or her conduct was unlawful;
 - A transaction from which the officer or director derived an improper personal benefit, directly or indirectly; or
 - Recklessness⁵¹ or an act or omission that was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Section 617.0830, F.S., provides general standards for directors of a non-profit corporation, and also specifies when a director is not personally liable for actions he or she takes or fails to take as a director. A director must discharge his or her duties as a director, including his or her duties as a member of a committee, in good faith, with the care an ordinarily prudent person in a similar position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the corporation.⁵² A director is not liable for any action taken as a director, or any failure to take any action, if the duties of office are performed in compliance with s. 617.0830, F.S.⁵³

⁴⁹ "Officer" means a person who serves as an officer without compensation except reimbursement for actual expenses incurred or to be incurred. Section 617.0834(2)(c), F.S.

⁵⁰ "Director" means a person who serves as a director, trustee, or member of the governing board of an organization. Section 617.0834(2)(b), F.S.

⁵¹ "Recklessness" means the acting, or omission to act, in conscious disregard of a risk: known, or so obvious that it should have been known, to the officer or director; and known to the officer or director, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission. Section 617.0834(2)(a), F.S.

⁵² Section 617.0830(1), F.S.

⁵³ Section 617.0830(4), F.S.

Civil Penalties by the Division

As previously noted, s. 718.111(1)(d), F.S., provides that a condominium association officer, director, or manager who knowingly solicits, offers to accept, or accepts any thing or service of value or kickback is subject to a civil penalty pursuant to s. 718.501(1)(d), F.S.

Section 718.111(12)(c)2., F.S., provides that any person who knowingly or intentionally defaces or destroys accounting records of the association or knowingly or intentionally fails to create or maintain the required accounting records is personally subject to a civil penalty pursuant to s. 718.501(1)(d), F.S.

Section 718.501(1), F.S., authorizes the division to enforce and ensure compliance with the provisions of the Condominium Act, and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. The division may impose a civil penalty individually against an officer or board member who willfully and knowingly⁵⁴ violates a provision of the Condominium Act, adopted rule, or a final order of the division.⁵⁵

Condominium Association Elections

Section 718.112, F.S., relating to condominium association bylaws, addresses condominium association elections. Association board members are generally selected through elections.⁵⁶ However, candidates for election to the board may not include a person who is delinquent in the payment of any monetary obligation due to the association.⁵⁷ Similarly, the association may suspend the voting rights of members who are delinquent in paying any monetary obligation to the association by more than 90 days.⁵⁸

Section 718.112, F.S., requires the association to provide notice of the election date and a ballot to unit owners entitled to vote, and for an eligible person to provide notice to the association of his or her intent to be a candidate.⁵⁹

Elections are decided by a plurality of ballots cast.⁶⁰ There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election.⁶¹ A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid.⁶² The election must be by secret ballot.⁶³

⁵⁴ The term “willfully and knowingly” means that the division informed the officer or board member that his or her action or intended action violates ch. 718, F.S., a rule adopted under ch. 718, F.S., or a final order of the division and that the officer or board member refused to comply with the requirements of ch. 718, F.S., a rule adopted under ch. 718, F.S., or a final order of the division. Section 718.501(1)(d)6., F.S.

⁵⁵ Section 718.501(1)(d)6., F.S.

⁵⁶ See s. 718.112(2)(d)4., F.S.

⁵⁷ Section 718.112(2)(d)2., F.S.

⁵⁸ Section 718.303(5), F.S.

⁵⁹ Section 718.112(2)(d)4.a., F.S.

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ Section 718.112(2)(d)1., F.S.

The Miami-Dade County grand jury found that “[f]raud in the election process was a major factor impacting unit owners.”⁶⁴ Some of the fraudulent activity noted by the jury regarding one condominium association election included:

- The Election Monitor discovered what appeared to be double voting by many unit owners.
- “The candidate realized that some of the double votes were of owners from whom she had collected their ballot personally.”
- “Those owners identified their signatures on the true ballots and saw their names on other ballots, purportedly signed by those owners. The signatures on the other ballots were forged, notarized, and dated[.]”
- “Other owners identified their true ballots and identified forged signatures on ballots containing their names. Those ballots were also notarized and dated[.]”
- “All ballots with forged signatures were notarized by the same notary on the same day[.]”
- “Some unit owners whose names were on forged ballots were not in the country on the date the notary verified their signature and identity[.]”
- “None of the unit owners whose signatures were forged and notarized had ever met the notary[.]”
- The notary “later admitted the ballots were not signed in her presence[.]”⁶⁵

Two recommendations of the grand jury pertained to criminal penalties:

- “... [W]e recommend that any person or entity that engages in any fraudulent activity conducted in connection with the election of board members for the association shall be subject to criminal liability.”
- “We further recommend that any director, LCAM,⁶⁶ management company, notary, attorney, or any other person who engages in, or conspires with another person to engage in fraudulent election activity shall be subject to criminal charges classified as a 3rd degree felony.”⁶⁷

III. Effect of Proposed Changes:

Tax Assessments – Condominium and Cooperative Associations

The bill amends s. 194.011(3)(e), to provide that, if an association has filed a single joint petition to challenge a tax assessment, a condominium or cooperative association may continue to represent, prosecute, and defend the unit owners through any related subsequent proceeding in any tribunal and any appeals. The bill provides that this provision is intended to clarify existing law and applies to cases pending on July 1, 2020.

The bill amends s. 194.181(2), F.S., to provide that, in any case brought by the property appraiser concerning a value adjustment board decision on a single joint petition filed by a condominium or cooperative association, the association and all unit owners be included in the single joint petition are the party defendants.

⁶⁴ *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at page 21.

⁶⁵ *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at page 22.

⁶⁶ “LCAM” refers to a licensed condominium association manager.

⁶⁷ *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at page 24.

In order to represent unit owners in such a proceeding, the condominium or cooperative association must provide unit owners with notice of its intent to respond to or answer the property appraiser's complaint, and advise the unit owners that they may elect to:

- Retain their own counsel to defend the appeal;
- Choose not to defend the appeal; or
- Be represented together with other unit owners in the response or answer filed by the association.

Such notice must be mailed, delivered, or electronically transmitted to unit owners and posted conspicuously on the condominium or cooperative property in the same manner for notice of board meetings. Under the bill, any unit owner who does not respond to the association's notice will be represented in the response or answer filed by the association.

For condominium associations, the bill provides that an association, in its own name or on behalf of some or all unit owners, may institute, file, protest, maintain, or defend any administrative challenge, lawsuit, appeal, or other challenge to ad valorem taxes assessed on units for commonly used facilities or common elements. The affected association members are not necessary or indispensable parties to such actions. The bill provides that this provision is intended to clarify existing law and would apply to cases pending on July 1, 2020.

Condominiums – Access to Records, Ethics, and Elections

The bill amends s. 718.111(1), F.S., to revise requirements related to the maintenance of condominium association's official records and a unit owner or tenant's right to access such records. The bill:

- Requires additional financial records (e.g., bank statements and invoices) to be maintained by a condominium association and made available for inspection by association members;
- Provides that the association's duty to maintain association records in a manner and format prescribed by division rule so that the records are easily accessible for inspection;
- Requires that a written request for inspection of the association's records must comply with the association's document inspection rule;
- Provides that the assessment of minimum damages for an association's willful failure to copy inspection records begins on the eleventh working day after receipt of the written request that complies with the association's document inspection rule;
- Permits an association to comply with its obligations related to a member's right of access to certain official records and right to copies of such records by posting the records on the association's website and directing an authorized requester to such website;
- Requires an association to respond to a statutorily compliant written request to inspect records with a checklist of all records made available, and not made available, for inspection and copying and a sworn affidavit in which the person facilitating or handling the association's compliance with the request attests to the veracity of the checklist provided to the requestor; and
- Requires an association to maintain the checklist provided in response to a statutorily compliant written request for seven years.

The bill amends s. 718.111(1)(g)1., F.S., to expand the application of a requirement to provide digital copies of specified documents on an association's website to condominium associations of 25 or more units (and no timeshare units) from associations of 150 or more units (and no timeshares). The bill also extends the date by which an association must comply with this requirement from January 1, 2019 to January 1, 2022.

The bill creates s. 718.112(12)(g)5., F.S., to require a condominium association managing 25 or more units, not including timeshare units, to post on its website all official records subject to inspection or copying by tenants or unit owners or their authorized representatives.

Some of the changes made by the bill regarding condominium association records and elections are similar to changes recommended in a 2017 report by a Miami-Dade County grand jury.⁶⁸

The bill amends s. 718.111, F.S., to provide additional criminal prohibitions relating to the management of a condominium association, and provides penalties for violations, such as:

- Third degree felony for an officer, director, or manager of a condominium association to knowingly solicit, offer to accept, or accept anything or service of value or kickback;
- Second degree misdemeanor for any director or member of the board or association to knowingly, willfully, and "repeatedly" violate (two or more violations within a 12-month period) any specified requirements relating to inspection and copying of official records of an association;
- First degree misdemeanor to knowingly or intentionally deface or destroy required accounting records or knowingly and intentionally fail to create or maintain required accounting records, with the intent of causing harm to the association or one or more of its members (and deletes the provision that such an offense is punishable by a civil penalty);⁶⁹
- Third degree felony to willfully and knowingly refuse to release or otherwise produce association records, with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape;⁷⁰

The bill amends s. 718.111(15), to revise the prohibitions related to use of an association's credit card. Under the bill, a person commits theft⁷¹ by use of a debit card, if the person uses a debit card issued in the name of, or billed directly to, an association for any expense that is not a lawful obligation of the association. The bill defines a "lawful obligation of the association" as an obligation that has been properly preapproved by the board and is reflected in the meeting

⁶⁸ See s. 718.112(2)(d)4.a., F.S.; and *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at pages 22 and 24.

⁶⁹ This provision is similar to the Miami-Dade County grand jury's recommendation to criminally punish directors and members of the board or association who knowingly or intentionally deface or destroy accounting records or fail to create or maintain such records. The grand jury recommended a second degree misdemeanor for a first offense, and a first degree misdemeanor for any subsequent offenses. *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at pages 8-9.

⁷⁰ This provision is similar to the Miami-Dade County grand jury's recommendation to make it a third degree felony for any association, board director, management company, or management company employee to willfully, knowingly, or intentionally refuse to release or otherwise produce official association records, if such refusal is done to facilitate or cover-up the commission of a crime. *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at pages 8-9.

⁷¹ Theft is generally punishable based upon the value of the property stolen. Petit theft is generally a second degree misdemeanor or first degree misdemeanor. Section 812.014(3)(a) and (b), F.S. Grand theft is generally a third degree felony, second degree felony, or first degree felony. Section 812.014(1)(a)-(c), F.S. A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S. A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. *Id.*

minutes or the written budget. The bill deletes the current provision that the unlawful use of an association's credit card constitutes credit card fraud pursuant to s. 817.61, F.S.

The bill creates a new section relating to penalties for fraudulent voting activities. Section 718.129(1), F.S., provides that the commission of any of the following acts is a third degree felony:⁷²

- Willfully and falsely swearing or affirming any oath or affirmation, or willfully procuring another person to swear or affirm falsely to an oath of affirmation, in connection with or arising out of voting or elections;
- Perpetrating or attempting to perpetrate, or aiding in the perpetration of, any fraud in connection with any vote cast, to be cast, or attempted to be cast;⁷³
- Preventing an elector from voting, or preventing an elector from voting as the elector intended, by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the elector;
- Using bribery, menace, threat, or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter any elector in voting;
- Directly or indirectly giving or promising anything of value to another person with the intent to buy the vote of that person or another person or to corruptly influence that person or another person in casting his or her vote;⁷⁴ or
- Directly or indirectly using or threatening to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to vote or refrain from voting in an election or on any particular ballot measure.

Section 718.129(2), F.S., specifies that the commission of any of the following acts in furtherance of the previously-described fraudulent voting activity is a third degree felony:⁷⁵

- Knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections;
- Agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections; or
- Having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.⁷⁶

The bill transfers the current prohibitions in s. 718.111(1)(d), F.S., relating to forgery of a ballot, and destruction of or refusal to allow inspection of, or access to, official records to the new s. 718.129, F.S.

⁷² This provision is similar to the Miami-Dade County grand jury's recommendation to provide that it is a third degree felony for any director, LCAM, management company, notary, attorney, or any other person to engage in fraudulent election activity. *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at page 24.

⁷³ The bill deletes the current prohibition in s. 718.111(1)(d), F.S., against forgery of a ballot.

⁷⁴ The bill provides that this offense does not apply to the serving of food to be consumed at an election rally or meeting or to any item of nominal value which is used as an election advertisement, including a campaign message designed to be worn by a person.

⁷⁵ This provision is similar to the Miami-Dade County grand jury's recommendation to provide that it is a third degree felony for any director, LCAM, management company, notary, attorney, or any other person to conspire with another person to engage in fraudulent election activity. *Final Report of the Miami-Dade County Grand Jury*, *supra* note 15, at page 24.

⁷⁶ The bill provides that this offense does not apply to a licensed attorney giving legal advice to a client.

The bill amends s. 718.501(1), F.S., to expand the jurisdiction of the division, after control of the condominium is transferred from the developer to the unit owners, to include investigating complaints related to maintenance of official records. This provision currently grants the division jurisdiction to investigate complaints related to financial issues, elections, and unit owner access to association records.

The bill defines the term “financial issue” to mean an issue related to:

- Operating budgets;
- Reserve schedules;
- Financial records under s. 718.111(12)(a)11., F.S.;
- Notices of meetings and meeting minutes for budget or financial statement related meetings;
- Any assessment for common expenses, fees, or fines;
- Commingling of funds; and
- Any other record necessary to determine the revenues and expenses of the association.

The bill authorizes the division to adopt rules to further define the term “financial issue.”

The bill is effective October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The title of the bill is an act related to condominium associations. However, the bill includes provisions related to tax assessment disputes by condominium and cooperative associations.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 194.011, 194.181, 718.111, 718.129, and 718.501.

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 Innovation, Industry, and Technology on February 17, 2020:

The CS amends ss. 194.011, 194.181, and 718.111(3), F.S., to revise the provisions relating the right of a condominium or cooperative association to represent, prosecute, and defend the parcel owners in actions related to ad valorem tax assessments.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2020	.	
	.	
	.	
	.	

The Committee on Innovation, Industry, and Technology (Pizzo) recommended the following:

Senate Amendment (with title amendment)

Delete lines 37 - 106

and insert:

Section 1. Paragraph (e) of subsection (3) of section 194.011, Florida Statutes, is amended to read:

194.011 Assessment notice; objections to assessments.—

(3) A petition to the value adjustment board must be in substantially the form prescribed by the department.

Notwithstanding s. 195.022, a county officer may not refuse to



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11 accept a form provided by the department for this purpose if the
12 taxpayer chooses to use it. A petition to the value adjustment
13 board must be signed by the taxpayer or be accompanied at the
14 time of filing by the taxpayer's written authorization or power
15 of attorney, unless the person filing the petition is listed in
16 s. 194.034(1) (a). A person listed in s. 194.034(1) (a) may file a
17 petition with a value adjustment board without the taxpayer's
18 signature or written authorization by certifying under penalty
19 of perjury that he or she has authorization to file the petition
20 on behalf of the taxpayer. If a taxpayer notifies the value
21 adjustment board that a petition has been filed for the
22 taxpayer's property without his or her consent, the value
23 adjustment board may require the person filing the petition to
24 provide written authorization from the taxpayer authorizing the
25 person to proceed with the appeal before a hearing is held. If
26 the value adjustment board finds that a person listed in s.
27 194.034(1) (a) willfully and knowingly filed a petition that was
28 not authorized by the taxpayer, the value adjustment board shall
29 require such person to provide the taxpayer's written
30 authorization for representation to the value adjustment board
31 clerk before any petition filed by that person is heard, for 1
32 year after imposition of such requirement by the value
33 adjustment board. A power of attorney or written authorization
34 is valid for 1 assessment year, and a new power of attorney or
35 written authorization by the taxpayer is required for each
36 subsequent assessment year. A petition shall also describe the
37 property by parcel number and shall be filed as follows:

38 (e)1. A condominium association as described in chapter
39 718, a cooperative association as described in chapter 719, or a



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40 ~~any~~ homeowners' association as defined in s. 723.075, with
41 approval of its board of administration or directors, may file
42 with the value adjustment board a single joint petition on
43 behalf of any association members who own units or parcels of
44 property which the property appraiser determines are
45 substantially similar with respect to location, proximity to
46 amenities, number of rooms, living area, and condition. The
47 condominium association, cooperative association, or homeowners'
48 association ~~as defined in s. 723.075~~ shall provide the unit or
49 parcel owners with notice of its intent to petition the value
50 adjustment board and shall provide at least 20 days for a unit
51 or parcel owner to elect, in writing, that his or her unit or
52 parcel not be included in the petition.

53 2. A condominium association as described in chapter 718,
54 or a cooperative association as described in chapter 719, which
55 has filed a single joint petition under this subsection may
56 continue to represent, prosecute, or defend the unit owners
57 through any related subsequent proceeding in any tribunal,
58 including judicial review under part II of this chapter and any
59 appeals. This subparagraph is intended to clarify existing law
60 and applies to cases pending on July 1, 2020.

61 Section 2. Subsection (2) of section 194.181, Florida
62 Statutes, is amended to read:

63 194.181 Parties to a tax suit.—

64 (2) (a) In any case brought by a ~~the~~ taxpayer or a
65 condominium or cooperative association, as described in chapters
66 718 and 719, respectively, on behalf of some or all unit owners
67 to contest ~~contesting~~ the assessment of any property, the county
68 property appraiser ~~is the~~ shall be party defendant.



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69 (b) Except as provided in paragraph (c), in any case
70 brought by the property appraiser under pursuant to s.
71 194.036(1) (a) or (b), the taxpayer is the shall be party
72 defendant.

73 (c) In any case brought by the property appraiser under s.
74 194.036(1) (a) or (b) concerning a value adjustment board
75 decision on a single joint petition filed by a condominium or
76 cooperative association under s. 194.011(3), the association and
77 all unit owners included in the single joint petition are the
78 party defendants.

79 1. The condominium or cooperative association must provide
80 unit owners with notice of its intent to respond to or answer
81 the property appraiser's complaint and advise the unit owners
82 that they may elect to:

83 a. Retain their own counsel to defend the appeal;

84 b. Choose not to defend the appeal; or

85 c. Be represented together with other unit owners in the
86 response or answer filed by the association.

87 2. The notice required in subparagraph 1. must be mailed,
88 delivered, or electronically transmitted to unit owners and
89 posted conspicuously on the condominium or cooperative property
90 in the same manner as is required for notice of board meetings
91 under ss. 718.112(2) or 719.106(1), as applicable. Any unit
92 owner who does not respond to the association's notice will be
93 represented in the response or answer filed by the association.

94 (d) In any case brought by the property appraiser under
95 pursuant to s. 194.036(1) (c), the value adjustment board is the
96 shall be party defendant.

97 Section 3. Paragraphs (a) and (d) of subsection (1),



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98 subsection (3), paragraphs (a), (b), (c), and (g) of subsection
99 (12), and paragraph (b) of subsection (15) of section 718.111,
100 Florida Statutes, are amended to read:

101 718.111 The association.—

102 (1) CORPORATE ENTITY.—

103 (a) The operation of the condominium shall be by the
104 association, which must be a Florida corporation for profit or a
105 Florida corporation not for profit. However, any association
106 which was in existence on January 1, 1977, need not be
107 incorporated. The owners of units shall be shareholders or
108 members of the association. The officers and directors of the
109 association have a fiduciary relationship to the unit owners. It
110 is the intent of the Legislature that nothing in this paragraph
111 shall be construed as providing for or removing a requirement of
112 a fiduciary relationship between any manager employed by the
113 association and the unit owners. An officer, director, or
114 manager may not solicit, offer to accept, or accept any thing or
115 service of value or kickback for which consideration has not
116 been provided for his or her own benefit or that of his or her
117 immediate family, from any person providing or proposing to
118 provide goods or services to the association. Any such officer,
119 director, or manager who knowingly so solicits, offers to
120 accept, or accepts any thing or service of value or kickback
121 commits a felony of the third degree, punishable as provided in
122 s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil
123 penalty pursuant to s. 718.501(1)(d) and, if applicable, a
124 criminal penalty as provided in paragraph (d). However, this
125 paragraph does not prohibit an officer, director, or manager
126 from accepting services or items received in connection with



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127 trade fairs or education programs. An association may operate
128 more than one condominium.

129 (d) As required by s. 617.0830, an officer, director, or
130 agent shall discharge his or her duties in good faith, with the
131 care an ordinarily prudent person in a like position would
132 exercise under similar circumstances, and in a manner he or she
133 reasonably believes to be in the interests of the association.
134 An officer, director, or agent shall be liable for monetary
135 damages as provided in s. 617.0834 if such officer, director, or
136 agent breached or failed to perform his or her duties and the
137 breach of, or failure to perform, his or her duties constitutes
138 a violation of criminal law as provided in s. 617.0834;
139 constitutes a transaction from which the officer or director
140 derived an improper personal benefit, either directly or
141 indirectly; or constitutes recklessness or an act or omission
142 that was in bad faith, with malicious purpose, or in a manner
143 exhibiting wanton and willful disregard of human rights, safety,
144 or property. ~~Forgery of a ballot envelope or voting certificate~~
145 ~~used in a condominium association election is punishable as~~
146 ~~provided in s. 831.01, the theft or embezzlement of funds of a~~
147 ~~condominium association is punishable as provided in s. 812.014,~~
148 ~~and the destruction of or the refusal to allow inspection or~~
149 ~~copying of an official record of a condominium association that~~
150 ~~is accessible to unit owners within the time periods required by~~
151 ~~general law in furtherance of any crime is punishable as~~
152 ~~tampering with physical evidence as provided in s. 918.13 or as~~
153 ~~obstruction of justice as provided in chapter 843. An officer or~~
154 director charged by information or indictment with a crime
155 referenced in this paragraph must be removed from office, and



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156 the vacancy shall be filled as provided in s. 718.112(2)(d)2.
157 until the end of the officer's or director's period of
158 suspension or the end of his or her term of office, whichever
159 occurs first. If a criminal charge is pending against the
160 officer or director, he or she may not be appointed or elected
161 to a position as an officer or a director of any association and
162 may not have access to the official records of any association,
163 except pursuant to a court order. However, if the charges are
164 resolved without a finding of guilt, the officer or director
165 must be reinstated for the remainder of his or her term of
166 office, if any.

167 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
168 SUE, AND BE SUED; CONFLICT OF INTEREST.—

169 (a) The association may contract, sue, or be sued with
170 respect to the exercise or nonexercise of its powers. For these
171 purposes, the powers of the association include, but are not
172 limited to, the maintenance, management, and operation of the
173 condominium property.

174 (b) After control of the association is obtained by unit
175 owners other than the developer, the association may:

176 1. Institute, maintain, settle, or appeal actions or
177 hearings in its name on behalf of all unit owners concerning
178 matters of common interest to most or all unit owners,
179 including, but not limited to, the common elements; the roof and
180 structural components of a building or other improvements;
181 mechanical, electrical, and plumbing elements serving an
182 improvement or a building; representations of the developer
183 pertaining to any existing or proposed commonly used facilities;

184 2. Protest ~~and protesting~~ ad valorem taxes on commonly used



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185 facilities and on units; ~~and may~~
186 3. Defend actions pertaining to ad valorem taxation of
187 commonly used facilities or units or pertaining to in eminent
188 domain; or
189 4. Bring inverse condemnation actions.
190 (c) If the association has the authority to maintain a
191 class action, the association may be joined in an action as
192 representative of that class with reference to litigation and
193 disputes involving the matters for which the association could
194 bring a class action.
195 (d) The association, in its own name or on behalf of some
196 or all unit owners, may institute, file, protest, maintain, or
197 defend any administrative challenge, lawsuit, appeal, or other
198 challenge to ad valorem taxes assessed on units for commonly
199 used facilities or common elements. The affected association
200 members are not necessary or indispensable parties to such
201 actions. This paragraph is intended to clarify existing law and
202 applies to cases pending on July 1, 2020.
203 (e) Nothing herein limits any statutory or common-law right
204 of any individual unit owner or class of unit owners to bring
205 any action without participation by the association which may
206 otherwise be available.
207 (f) An association may not hire an attorney who represents
208 the management company of the association.
209
210 ===== T I T L E A M E N D M E N T =====
211 And the title is amended as follows:
212 Delete lines 3 - 5
213 and insert:



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214 s. 194.011, F.S.; providing that certain associations
215 may continue to represent, prosecute, or defend unit
216 owners in certain proceedings; providing
217 applicability; amending s. 194.181, F.S.; revising the
218 parties considered to be the defendant in a tax suit;
219 requiring condominium and cooperative associations to
220 provide unit owners with certain notice and
221 information under certain circumstances; providing
222 requirements for such notice; specifying that a unit
223 owner who does not respond to the notice will be
224 represented in the response or answer filed by the
225 association; amending s. 718.111, F.S.; revising
226 criminal penalties relating to the acceptance of
227 things or services of value or kickbacks; authorizing
228 a condominium association to take certain actions
229 relating to ad valorem taxes assessed on units for
230 commonly used facilities or common elements; providing
231 applicability; revising the documents required to be



The Florida Senate

Committee Agenda Request

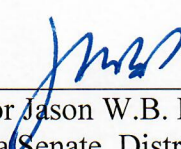
To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: January 21, 2020

I respectfully request that **SB 1752**, relating to Condominium Associations, be placed on the:

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



Senator Jason W.B. Pizzo
Florida Senate, District 38

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/17/2020

Meeting Date

SB 1752

Bill Number (if applicable)

775512

Amendment Barcode (if applicable)

Topic Community Associations

Name Albert Balido

Job Title Managing Partner

Address 201 W Park Ave.

Street

Phone

TLH

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 FL ASSOC. OF PROPERTY APPRAISERS

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)

02/17/2020

Meeting Date

SB 1752

Bill Number (if applicable)

775512

Amendment Barcode (if applicable)

Topic Community Associations

Name Joseph Salzberg ("Saul's-berg")

Job Title Attorney

Address 301 S. Brorough St., #600

Street

TLH

City

FL

State

32303

Zip

Phone _____

Email _____

Speaking: For Against Information

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

Representing Florida Assoc. of Counties

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)

2-17-2020

Meeting Date

1752

Bill Number (if applicable)

775512

Amendment Barcode (if applicable)

Topic _____

Name Pete Dunbar

Job Title _____

Address 215 S. Monroe

Street

Phone 999-4100

Tallahassee Fl 32301

City

State

Zip

Email pdunbar@deanreed.com

Speaking: For Against Information

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

Representing Real Property Section - Fla Bar

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)

2/17/20

Meeting Date

1752

Bill Number (if applicable)

775512

Amendment Barcode (if applicable)

Topic Condo Associations

Name Thomas Ward

Job Title _____

Address 123 S Adams St

Street

Tallahassee FL

City

State

Zip

Phone (305) 423-4178

Email _____

Speaking: For Against Information

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

Representing Fairness in Taxation

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)

1752

Bill Number (if applicable)

Meeting Date

Topic Condo Fraud

Amendment Barcode (if applicable)

Name Michele Lazzaroni

Job Title City Commissioner Hallandale Beach

Address 400 S. Federal Hwy

Phone 3056075683

Street Hallandale Beach

Email _____

City

State

Zip

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.

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)

2-17-20

Meeting Date

1752

Bill Number (if applicable)

Topic SB 1752

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title Lobbyist

Address 110 S Monroe St

Phone 813-205-0654

Street

Tallahassee

FL

State

3230

Zip

Email mark@consultanderson.com

Speaking: For Against Information

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

Representing CEOMC (chief executive officers of management companies)

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.

By the Committee on Innovation, Industry, and Technology; and
Senator Pizzo

580-03744-20

20201752c1

1 A bill to be entitled
2 An act relating to condominium associations; amending
3 s. 194.011, F.S.; providing that certain associations
4 may continue to represent, prosecute, or defend unit
5 owners in certain proceedings; providing
6 applicability; amending s. 194.181, F.S.; revising the
7 parties considered to be the defendant in a tax suit;
8 requiring condominium and cooperative associations to
9 provide unit owners with certain notice and
10 information under certain circumstances; providing
11 requirements for such notice; specifying that a unit
12 owner who does not respond to the notice will be
13 represented in the response or answer filed by the
14 association; amending s. 718.111, F.S.; revising
15 criminal penalties relating to the acceptance of
16 things or services of value or kickbacks; authorizing
17 a condominium association to take certain actions
18 relating to ad valorem taxes assessed on units for
19 commonly used facilities or common elements; providing
20 applicability; revising the documents required to be
21 included with accounting records; requiring an
22 association to maintain official records in a
23 specified manner; revising requirements for the
24 creation of a rebuttable presumption relating to the
25 provision of records; authorizing an association to
26 direct certain persons to the association's website to
27 fulfill certain obligations relating to the inspection
28 of records; requiring an association to provide a
29 checklist and a sworn affidavit to persons requesting

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30 to inspect records; requiring the association to
31 maintain the checklist for a specified period of time;
32 creating a rebuttable presumption for an association
33 that provides such checklist and sworn affidavit;
34 providing criminal penalties for certain violations
35 relating to official association records; defining the
36 term "repeatedly"; requiring certain associations to
37 post copies of certain documents on their websites by
38 a specified date; revising criminal penalties relating
39 to the use of association debit cards; defining the
40 term "lawful obligation of the association"; creating
41 s. 718.129, F.S.; providing criminal penalties for
42 fraudulent voting activities related to association
43 elections; amending s. 718.501, F.S.; revising the
44 jurisdiction of the Division of Florida Condominiums,
45 Timeshares, and Mobile Homes of the Department of
46 Business and Professional Regulation with regard to
47 investigating complaints; defining the term "financial
48 issues"; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Paragraph (e) of subsection (3) of section
53 194.011, Florida Statutes, is amended to read:

54 194.011 Assessment notice; objections to assessments.—

55 (3) A petition to the value adjustment board must be in
56 substantially the form prescribed by the department.

57 Notwithstanding s. 195.022, a county officer may not refuse to
58 accept a form provided by the department for this purpose if the

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59 taxpayer chooses to use it. A petition to the value adjustment
60 board must be signed by the taxpayer or be accompanied at the
61 time of filing by the taxpayer's written authorization or power
62 of attorney, unless the person filing the petition is listed in
63 s. 194.034(1) (a). A person listed in s. 194.034(1) (a) may file a
64 petition with a value adjustment board without the taxpayer's
65 signature or written authorization by certifying under penalty
66 of perjury that he or she has authorization to file the petition
67 on behalf of the taxpayer. If a taxpayer notifies the value
68 adjustment board that a petition has been filed for the
69 taxpayer's property without his or her consent, the value
70 adjustment board may require the person filing the petition to
71 provide written authorization from the taxpayer authorizing the
72 person to proceed with the appeal before a hearing is held. If
73 the value adjustment board finds that a person listed in s.
74 194.034(1) (a) willfully and knowingly filed a petition that was
75 not authorized by the taxpayer, the value adjustment board shall
76 require such person to provide the taxpayer's written
77 authorization for representation to the value adjustment board
78 clerk before any petition filed by that person is heard, for 1
79 year after imposition of such requirement by the value
80 adjustment board. A power of attorney or written authorization
81 is valid for 1 assessment year, and a new power of attorney or
82 written authorization by the taxpayer is required for each
83 subsequent assessment year. A petition shall also describe the
84 property by parcel number and shall be filed as follows:

85 (e)1. A condominium association as described in chapter
86 718, a cooperative association as described in chapter 719, or a
87 ~~any~~ homeowners' association as defined in s. 723.075, with

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88 approval of its board of administration or directors, may file
89 with the value adjustment board a single joint petition on
90 behalf of any association members who own units or parcels of
91 property which the property appraiser determines are
92 substantially similar with respect to location, proximity to
93 amenities, number of rooms, living area, and condition. The
94 condominium association, cooperative association, or homeowners'
95 association ~~as defined in s. 723.075~~ shall provide the unit or
96 parcel owners with notice of its intent to petition the value
97 adjustment board and shall provide at least 20 days for a unit
98 or parcel owner to elect, in writing, that his or her unit or
99 parcel not be included in the petition.

100 2. A condominium association as described in chapter 718,
101 or a cooperative association as described in chapter 719, which
102 has filed a single joint petition under this subsection may
103 continue to represent, prosecute, or defend the unit owners
104 through any related subsequent proceeding in any tribunal,
105 including judicial review under part II of this chapter and any
106 appeals. This subparagraph is intended to clarify existing law
107 and applies to cases pending on July 1, 2020.

108 Section 2. Subsection (2) of section 194.181, Florida
109 Statutes, is amended to read:

110 194.181 Parties to a tax suit.—

111 (2) (a) In any case brought by a ~~the~~ taxpayer or a
112 condominium or cooperative association, as described in chapters
113 718 and 719, respectively, on behalf of some or all unit owners
114 to contest ~~contesting~~ the assessment of any property, the county
115 property appraiser is the ~~shall be~~ party defendant.

116 (b) Except as provided in paragraph (c), in any case

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117 brought by the property appraiser under ~~pursuant to~~ s.
118 194.036(1) (a) or (b), the taxpayer is the ~~shall be~~ party
119 defendant.

120 (c) In any case brought by the property appraiser under s.
121 194.036(1) (a) or (b) concerning a value adjustment board
122 decision on a single joint petition filed by a condominium or
123 cooperative association under s. 194.011(3), the association and
124 all unit owners included in the single joint petition are the
125 party defendants.

126 1. The condominium or cooperative association must provide
127 unit owners with notice of its intent to respond to or answer
128 the property appraiser's complaint and advise the unit owners
129 that they may elect to:

130 a. Retain their own counsel to defend the appeal;

131 b. Choose not to defend the appeal; or

132 c. Be represented together with other unit owners in the
133 response or answer filed by the association.

134 2. The notice required in subparagraph 1. must be mailed,
135 delivered, or electronically transmitted to unit owners and
136 posted conspicuously on the condominium or cooperative property
137 in the same manner as is required for notice of board meetings
138 under s. 718.112(2) or s. 719.106(1), as applicable. Any unit
139 owner who does not respond to the association's notice will be
140 represented in the response or answer filed by the association.

141 (d) In any case brought by the property appraiser under
142 ~~pursuant to~~ s. 194.036(1) (c), the value adjustment board is the
143 ~~shall be~~ party defendant.

144 Section 3. Paragraphs (a) and (d) of subsection (1),
145 subsection (3), paragraphs (a), (b), (c), and (g) of subsection

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146 (12), and paragraph (b) of subsection (15) of section 718.111,
147 Florida Statutes, are amended to read:

148 718.111 The association.—

149 (1) CORPORATE ENTITY.—

150 (a) The operation of the condominium shall be by the
151 association, which must be a Florida corporation for profit or a
152 Florida corporation not for profit. However, any association
153 which was in existence on January 1, 1977, need not be
154 incorporated. The owners of units shall be shareholders or
155 members of the association. The officers and directors of the
156 association have a fiduciary relationship to the unit owners. It
157 is the intent of the Legislature that nothing in this paragraph
158 shall be construed as providing for or removing a requirement of
159 a fiduciary relationship between any manager employed by the
160 association and the unit owners. An officer, director, or
161 manager may not solicit, offer to accept, or accept any thing or
162 service of value or kickback for which consideration has not
163 been provided for his or her own benefit or that of his or her
164 immediate family, from any person providing or proposing to
165 provide goods or services to the association. Any such officer,
166 director, or manager who knowingly so solicits, offers to
167 accept, or accepts any thing or service of value or kickback
168 commits a felony of the third degree, punishable as provided in
169 s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil
170 penalty pursuant to s. 718.501(1)(d) and, if applicable, a
171 criminal penalty as provided in paragraph (d). However, this
172 paragraph does not prohibit an officer, director, or manager
173 from accepting services or items received in connection with
174 trade fairs or education programs. An association may operate

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175 more than one condominium.

176 (d) As required by s. 617.0830, an officer, director, or
177 agent shall discharge his or her duties in good faith, with the
178 care an ordinarily prudent person in a like position would
179 exercise under similar circumstances, and in a manner he or she
180 reasonably believes to be in the interests of the association.
181 An officer, director, or agent shall be liable for monetary
182 damages as provided in s. 617.0834 if such officer, director, or
183 agent breached or failed to perform his or her duties and the
184 breach of, or failure to perform, his or her duties constitutes
185 a violation of criminal law as provided in s. 617.0834;
186 constitutes a transaction from which the officer or director
187 derived an improper personal benefit, either directly or
188 indirectly; or constitutes recklessness or an act or omission
189 that was in bad faith, with malicious purpose, or in a manner
190 exhibiting wanton and willful disregard of human rights, safety,
191 or property. ~~Forgery of a ballot envelope or voting certificate~~
192 ~~used in a condominium association election is punishable as~~
193 ~~provided in s. 831.01, the theft or embezzlement of funds of a~~
194 ~~condominium association is punishable as provided in s. 812.014,~~
195 ~~and the destruction of or the refusal to allow inspection or~~
196 ~~copying of an official record of a condominium association that~~
197 ~~is accessible to unit owners within the time periods required by~~
198 ~~general law in furtherance of any crime is punishable as~~
199 ~~tampering with physical evidence as provided in s. 918.13 or as~~
200 ~~obstruction of justice as provided in chapter 843. An officer or~~
201 director charged by information or indictment with a crime
202 referenced in this paragraph must be removed from office, and
203 the vacancy shall be filled as provided in s. 718.112(2)(d)2.

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204 until the end of the officer's or director's period of
205 suspension or the end of his or her term of office, whichever
206 occurs first. If a criminal charge is pending against the
207 officer or director, he or she may not be appointed or elected
208 to a position as an officer or a director of any association and
209 may not have access to the official records of any association,
210 except pursuant to a court order. However, if the charges are
211 resolved without a finding of guilt, the officer or director
212 must be reinstated for the remainder of his or her term of
213 office, if any.

214 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
215 SUE, AND BE SUED; CONFLICT OF INTEREST.—

216 (a) The association may contract, sue, or be sued with
217 respect to the exercise or nonexercise of its powers. For these
218 purposes, the powers of the association include, but are not
219 limited to, the maintenance, management, and operation of the
220 condominium property.

221 (b) After control of the association is obtained by unit
222 owners other than the developer, the association may:

223 1. Institute, maintain, settle, or appeal actions or
224 hearings in its name on behalf of all unit owners concerning
225 matters of common interest to most or all unit owners,
226 including, but not limited to, the common elements; the roof and
227 structural components of a building or other improvements;
228 mechanical, electrical, and plumbing elements serving an
229 improvement or a building; representations of the developer
230 pertaining to any existing or proposed commonly used facilities;

231 2. Protest ~~and protesting~~ ad valorem taxes on commonly used
232 facilities and on units; ~~and may~~

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233 3. Defend actions pertaining to ad valorem taxation of
234 commonly used facilities or units or pertaining to ~~in~~ eminent
235 domain; or

236 4. Bring inverse condemnation actions.

237 (c) If the association has the authority to maintain a
238 class action, the association may be joined in an action as
239 representative of that class with reference to litigation and
240 disputes involving the matters for which the association could
241 bring a class action.

242 (d) The association, in its own name or on behalf of some
243 or all unit owners, may institute, file, protest, maintain, or
244 defend any administrative challenge, lawsuit, appeal, or other
245 challenge to ad valorem taxes assessed on units for commonly
246 used facilities or common elements. The affected association
247 members are not necessary or indispensable parties to such
248 actions. This paragraph is intended to clarify existing law and
249 applies to cases pending on July 1, 2020.

250 (e) Nothing herein limits any statutory or common-law right
251 of any individual unit owner or class of unit owners to bring
252 any action without participation by the association which may
253 otherwise be available.

254 (f) An association may not hire an attorney who represents
255 the management company of the association.

256 (12) OFFICIAL RECORDS.—

257 (a) From the inception of the association, the association
258 shall maintain each of the following items, if applicable, which
259 constitutes the official records of the association:

260 1. A copy of the plans, permits, warranties, and other
261 items provided by the developer pursuant to s. 718.301(4).

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262 2. A photocopy of the recorded declaration of condominium
263 of each condominium operated by the association and each
264 amendment to each declaration.

265 3. A photocopy of the recorded bylaws of the association
266 and each amendment to the bylaws.

267 4. A certified copy of the articles of incorporation of the
268 association, or other documents creating the association, and
269 each amendment thereto.

270 5. A copy of the current rules of the association.

271 6. A book or books that contain the minutes of all meetings
272 of the association, the board of administration, and the unit
273 owners.

274 7. A current roster of all unit owners and their mailing
275 addresses, unit identifications, voting certifications, and, if
276 known, telephone numbers. The association shall also maintain
277 the e-mail addresses and facsimile numbers of unit owners
278 consenting to receive notice by electronic transmission. The e-
279 mail addresses and facsimile numbers are not accessible to unit
280 owners if consent to receive notice by electronic transmission
281 is not provided in accordance with sub-subparagraph (c)5.e.
282 ~~(c)3.e.~~ However, the association is not liable for an
283 inadvertent disclosure of the e-mail address or facsimile number
284 for receiving electronic transmission of notices.

285 8. All current insurance policies of the association and
286 condominiums operated by the association.

287 9. A current copy of any management agreement, lease, or
288 other contract to which the association is a party or under
289 which the association or the unit owners have an obligation or
290 responsibility.

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291 10. Bills of sale or transfer for all property owned by the
292 association.

293 11. Accounting records for the association and separate
294 accounting records for each condominium that the association
295 operates. Any person who knowingly or intentionally defaces or
296 destroys such records, or who knowingly or intentionally fails
297 to create or maintain such records, with the intent of causing
298 harm to the association or one or more of its members, is
299 personally subject to a civil penalty pursuant to s.

300 718.501(1)(d). The accounting records must include, but are not
301 limited to:

302 a. Accurate, itemized, and detailed records of all receipts
303 and expenditures.

304 b. A current account and a monthly, bimonthly, or quarterly
305 statement of the account for each unit designating the name of
306 the unit owner, the due date and amount of each assessment, the
307 amount paid on the account, and the balance due.

308 c. All audits, reviews, accounting statements, and
309 financial reports of the association or condominium.

310 d. All contracts for work to be performed. Bids for work to
311 be performed are also considered official records and must be
312 maintained by the association.

313 e. All bank statements, canceled checks, and credit card
314 statements.

315 f. All invoices, transaction receipts, deposit slips, or
316 other underlying documentation that substantiates any receipt or
317 expenditure of funds by the association.

318 12. Ballots, sign-in sheets, voting proxies, and all other
319 papers and electronic records relating to voting by unit owners,

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320 which must be maintained for 1 year from the date of the
321 election, vote, or meeting to which the document relates,
322 notwithstanding paragraph (b).

323 13. All rental records if the association is acting as
324 agent for the rental of condominium units.

325 14. A copy of the current question and answer sheet as
326 described in s. 718.504.

327 15. All other written records of the association not
328 specifically included in the foregoing which are related to the
329 operation of the association.

330 16. A copy of the inspection report as described in s.
331 718.301(4)(p).

332 17. Bids for materials, equipment, or services.

333 (b) The official records specified in subparagraphs (a)1.-
334 6. must be permanently maintained from the inception of the
335 association. All other official records must be maintained
336 within the state for at least 7 years, unless otherwise provided
337 by general law. All official records must be maintained in a
338 manner and format prescribed by division rule so that the
339 records are easily accessible for inspection. The records of the
340 association shall be made available to a unit owner within 45
341 miles of the condominium property or within the county in which
342 the condominium property is located within 10 working days after
343 receipt of a written request by the board or its designee.
344 However, such distance requirement does not apply to an
345 association governing a timeshare condominium. This paragraph
346 may be complied with by having a copy of the official records of
347 the association available for inspection or copying on the
348 condominium property or association property, or the association

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349 may offer the option of making the records available to a unit
350 owner electronically via the Internet or by allowing the records
351 to be viewed in electronic format on a computer screen and
352 printed upon request. The association is not responsible for the
353 use or misuse of the information provided to an association
354 member or his or her authorized representative pursuant to the
355 compliance requirements of this chapter unless the association
356 has an affirmative duty not to disclose such information
357 pursuant to this chapter.

358 (c)1.a. The official records of the association are open to
359 inspection by any association member or the authorized
360 representative of such member at all reasonable times. The right
361 to inspect the records includes the right to make or obtain
362 copies, at the reasonable expense, if any, of the member or
363 authorized representative of such member. A renter of a unit has
364 a right to inspect and copy the association's bylaws and rules.
365 The association may adopt reasonable rules regarding the
366 frequency, time, location, notice, and manner of record
367 inspections and copying. The failure of an association to
368 provide the records within 10 working days after receipt of a
369 written request that complies with the association's document
370 inspection rule creates a rebuttable presumption that the
371 association willfully failed to comply with this paragraph. A
372 unit owner who is denied access to official records is entitled
373 to the actual damages or minimum damages for the association's
374 willful failure to comply. Minimum damages are \$50 per calendar
375 day for up to 10 days, beginning on the 11th working day after
376 receipt of the written request that complies with the
377 association's document inspection rule. The failure to permit

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378 inspection entitles any person prevailing in an enforcement
379 action to recover reasonable attorney fees from the person in
380 control of the records who, directly or indirectly, knowingly
381 denied access to the records. If the requested records are
382 posted on an association's website, the association may fulfill
383 its obligations as provided under this paragraph by directing to
384 the website all persons authorized to request access to official
385 records pursuant to this paragraph.

386 b. In response to a statutorily compliant written request
387 to inspect records, the association must simultaneously provide
388 a checklist to the requestor of all records made available for
389 inspection and copying and a sworn affidavit in which the person
390 facilitating or handling the association's compliance with the
391 request attests to the veracity of the checklist provided to the
392 requestor. The checklist must also identify any of the
393 association's official records that were not made available to
394 the requestor. An association must maintain a checklist provided
395 under this sub-subparagraph for 7 years. An association
396 delivering a checklist and affidavit pursuant to this sub-
397 subparagraph creates a rebuttable presumption that the
398 association has complied with this paragraph.

399 2. Any director or member of the board or association or a
400 community association manager who knowingly, willfully, and
401 repeatedly violates subparagraph 1. commits a misdemeanor of the
402 second degree, punishable as provided in s. 775.082 or s.
403 775.083. For purposes of this subparagraph, the term
404 "repeatedly" means two or more violations within a 12-month
405 period.

406 3.2. Any person who knowingly or intentionally defaces or

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407 destroys accounting records that are required by this chapter to
408 be maintained during the period for which such records are
409 required to be maintained, or who knowingly or intentionally
410 fails to create or maintain accounting records that are required
411 to be created or maintained, with the intent of causing harm to
412 the association or one or more of its members, commits a
413 misdemeanor of the first degree, punishable as provided in s.
414 775.082 or s. 775.083 ~~is personally subject to a civil penalty~~
415 ~~pursuant to s. 718.501(1)(d).~~

416 4. Any person who willfully and knowingly refuses to
417 release or otherwise produce association records with the intent
418 to avoid or escape detection, arrest, trial, or punishment for
419 the commission of a crime, or to assist another person with such
420 avoidance or escape, commits a felony of the third degree,
421 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

422 ~~5.3.~~ The association shall maintain an adequate number of
423 copies of the declaration, articles of incorporation, bylaws,
424 and rules, and all amendments to each of the foregoing, as well
425 as the question and answer sheet as described in s. 718.504 and
426 year-end financial information required under this section, on
427 the condominium property to ensure their availability to unit
428 owners and prospective purchasers, and may charge its actual
429 costs for preparing and furnishing these documents to those
430 requesting the documents. An association shall allow a member or
431 his or her authorized representative to use a portable device,
432 including a smartphone, tablet, portable scanner, or any other
433 technology capable of scanning or taking photographs, to make an
434 electronic copy of the official records in lieu of the
435 association's providing the member or his or her authorized

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436 representative with a copy of such records. The association may
437 not charge a member or his or her authorized representative for
438 the use of a portable device. Notwithstanding this paragraph,
439 the following records are not accessible to unit owners:

440 a. Any record protected by the lawyer-client privilege as
441 described in s. 90.502 and any record protected by the work-
442 product privilege, including a record prepared by an association
443 attorney or prepared at the attorney's express direction, which
444 reflects a mental impression, conclusion, litigation strategy,
445 or legal theory of the attorney or the association, and which
446 was prepared exclusively for civil or criminal litigation or for
447 adversarial administrative proceedings, or which was prepared in
448 anticipation of such litigation or proceedings until the
449 conclusion of the litigation or proceedings.

450 b. Information obtained by an association in connection
451 with the approval of the lease, sale, or other transfer of a
452 unit.

453 c. Personnel records of association or management company
454 employees, including, but not limited to, disciplinary, payroll,
455 health, and insurance records. For purposes of this sub-
456 subparagraph, the term "personnel records" does not include
457 written employment agreements with an association employee or
458 management company, or budgetary or financial records that
459 indicate the compensation paid to an association employee.

460 d. Medical records of unit owners.

461 e. Social security numbers, driver license numbers, credit
462 card numbers, e-mail addresses, telephone numbers, facsimile
463 numbers, emergency contact information, addresses of a unit
464 owner other than as provided to fulfill the association's notice

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465 requirements, and other personal identifying information of any
466 person, excluding the person's name, unit designation, mailing
467 address, property address, and any address, e-mail address, or
468 facsimile number provided to the association to fulfill the
469 association's notice requirements. Notwithstanding the
470 restrictions in this sub-subparagraph, an association may print
471 and distribute to parcel owners a directory containing the name,
472 parcel address, and all telephone numbers of each parcel owner.
473 However, an owner may exclude his or her telephone numbers from
474 the directory by so requesting in writing to the association. An
475 owner may consent in writing to the disclosure of other contact
476 information described in this sub-subparagraph. The association
477 is not liable for the inadvertent disclosure of information that
478 is protected under this sub-subparagraph if the information is
479 included in an official record of the association and is
480 voluntarily provided by an owner and not requested by the
481 association.

482 f. Electronic security measures that are used by the
483 association to safeguard data, including passwords.

484 g. The software and operating system used by the
485 association which allow the manipulation of data, even if the
486 owner owns a copy of the same software used by the association.
487 The data is part of the official records of the association.

488 (g)1. By January 1, 2022 ~~2019~~, an association managing a
489 condominium with 25 ~~150~~ or more units which does not contain
490 timeshare units shall post digital copies of the documents
491 specified in subparagraph 2. on its website.

492 a. The association's website must be:

493 (I) An independent website or web portal wholly owned and

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494 operated by the association; or

495 (II) A website or web portal operated by a third-party
496 provider with whom the association owns, leases, rents, or
497 otherwise obtains the right to operate a web page, subpage, web
498 portal, or collection of subpages or web portals dedicated to
499 the association's activities and on which required notices,
500 records, and documents may be posted by the association.

501 b. The association's website must be accessible through the
502 Internet and must contain a subpage, web portal, or other
503 protected electronic location that is inaccessible to the
504 general public and accessible only to unit owners and employees
505 of the association.

506 c. Upon a unit owner's written request, the association
507 must provide the unit owner with a username and password and
508 access to the protected sections of the association's website
509 that contain any notices, records, or documents that must be
510 electronically provided.

511 2. A current copy of the following documents must be posted
512 in digital format on the association's website:

513 a. The recorded declaration of condominium of each
514 condominium operated by the association and each amendment to
515 each declaration.

516 b. The recorded bylaws of the association and each
517 amendment to the bylaws.

518 c. The articles of incorporation of the association, or
519 other documents creating the association, and each amendment
520 thereto. The copy posted pursuant to this sub-subparagraph must
521 be a copy of the articles of incorporation filed with the
522 Department of State.

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523 d. The rules of the association.

524 e. A list of all executory contracts or documents to which
525 the association is a party or under which the association or the
526 unit owners have an obligation or responsibility and, after
527 bidding for the related materials, equipment, or services has
528 closed, a list of bids received by the association within the
529 past year. Summaries of bids for materials, equipment, or
530 services which exceed \$500 must be maintained on the website for
531 1 year. In lieu of summaries, complete copies of the bids may be
532 posted.

533 f. The annual budget required by s. 718.112(2)(f) and any
534 proposed budget to be considered at the annual meeting.

535 g. The financial report required by subsection (13) and any
536 monthly income or expense statement to be considered at a
537 meeting.

538 h. The certification of each director required by s.
539 718.112(2)(d)4.b.

540 i. All contracts or transactions between the association
541 and any director, officer, corporation, firm, or association
542 that is not an affiliated condominium association or any other
543 entity in which an association director is also a director or
544 officer and financially interested.

545 j. Any contract or document regarding a conflict of
546 interest or possible conflict of interest as provided in ss.
547 468.436(2)(b)6. and 718.3027(3).

548 k. The notice of any unit owner meeting and the agenda for
549 the meeting, as required by s. 718.112(2)(d)3., no later than 14
550 days before the meeting. The notice must be posted in plain view
551 on the front page of the website, or on a separate subpage of

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552 the website labeled "Notices" which is conspicuously visible and
553 linked from the front page. The association must also post on
554 its website any document to be considered and voted on by the
555 owners during the meeting or any document listed on the agenda
556 at least 7 days before the meeting at which the document or the
557 information within the document will be considered.

558 1. Notice of any board meeting, the agenda, and any other
559 document required for the meeting as required by s.
560 718.112(2)(c), which must be posted no later than the date
561 required for notice pursuant to s. 718.112(2)(c).

562 3. The association shall ensure that the information and
563 records described in paragraph (c), which are not allowed to be
564 accessible to unit owners, are not posted on the association's
565 website. If protected information or information restricted from
566 being accessible to unit owners is included in documents that
567 are required to be posted on the association's website, the
568 association shall ensure the information is redacted before
569 posting the documents online. Notwithstanding the foregoing, the
570 association or its agent is not liable for disclosing
571 information that is protected or restricted pursuant to this
572 paragraph unless such disclosure was made with a knowing or
573 intentional disregard of the protected or restricted nature of
574 such information.

575 4. The failure of the association to post information
576 required under subparagraph 2. is not in and of itself
577 sufficient to invalidate any action or decision of the
578 association's board or its committees.

579 5. By January 1, 2022, an association managing 25 or more
580 units, not including timeshare units, shall post on its website

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581 digital copies of all official records subject to inspection by
582 tenants or unit owners or their authorized representatives.

583 (15) DEBIT CARDS.—

584 (b) A person who uses ~~Use of~~ a debit card issued in the
585 name of the association, or billed directly to the association,
586 for any expense that is not a lawful obligation of the
587 association commits theft under s. 812.014. For the purposes of
588 this paragraph, a "lawful obligation of the association" means
589 an obligation that has been properly preapproved by the board
590 and is reflected in the meeting minutes or the written budget
591 ~~may be prosecuted as credit card fraud pursuant to s. 817.61.~~

592 Section 4. Section 718.129, Florida Statutes, is created to
593 read:

594 718.129 Fraudulent voting activities related to association
595 elections; penalties.—

596 (1) Each of the following acts is a fraudulent voting
597 activity related to association elections and constitutes a
598 felony of the third degree, punishable as provided in s.
599 775.082, s. 775.083, or s. 775.084:

600 (a) Willfully and falsely swearing or affirming any oath or
601 affirmation, or willfully procuring another person to swear or
602 affirm falsely to an oath or affirmation, in connection with or
603 arising out of voting or elections.

604 (b) Perpetrating or attempting to perpetrate, or aiding in
605 the perpetration of, any fraud in connection with any vote cast,
606 to be cast, or attempted to be cast.

607 (c) Preventing an elector from voting, or preventing an
608 elector from voting as the elector intended, by fraudulently
609 changing or attempting to change a ballot, ballot envelope,

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610 vote, or voting certificate of the elector.

611 (d) Using bribery, menace, threat, or any other corruption
612 to attempt, directly or indirectly, to influence, deceive, or
613 deter any elector in voting.

614 (e) Directly or indirectly giving or promising anything of
615 value to another person with the intent to buy the vote of that
616 person or another person or to corruptly influence that person
617 or another person in casting his or her vote. However, this
618 paragraph does not apply to the serving of food to be consumed
619 at an election rally or meeting or to any item of nominal value
620 which is used as an election advertisement, including a campaign
621 message designed to be worn by a person.

622 (f) Directly or indirectly using or threatening to use
623 force, violence, or intimidation or any tactic of coercion or
624 intimidation to induce or compel an individual to vote or
625 refrain from voting in an election or on any particular ballot
626 measure.

627 (2) Each of the following acts constitutes a felony of the
628 third degree, punishable as provided in s. 775.082, s. 775.083,
629 or s. 775.084:

630 (a) Knowingly aiding, abetting, or advising a person in the
631 commission of a fraudulent voting activity related to
632 association elections.

633 (b) Agreeing, conspiring, combining, or confederating with
634 at least one other person to commit a fraudulent voting activity
635 related to association elections.

636 (c) Having knowledge of a fraudulent voting activity
637 related to association elections and giving any aid to the
638 offender with intent that the offender avoid or escape

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639 detection, arrest, trial, or punishment. This paragraph does not
640 apply to a licensed attorney giving legal advice to a client.

641 Section 5. Subsection (1) of section 718.501, Florida
642 Statutes, is amended to read:

643 718.501 Authority, responsibility, and duties of Division
644 of Florida Condominiums, Timeshares, and Mobile Homes.—

645 (1) The division may enforce and ensure compliance with the
646 provisions of this chapter and rules relating to the
647 development, construction, sale, lease, ownership, operation,
648 and management of residential condominium units. In performing
649 its duties, the division has complete jurisdiction to
650 investigate complaints and enforce compliance with respect to
651 associations that are still under developer control or the
652 control of a bulk assignee or bulk buyer pursuant to part VII of
653 this chapter and complaints against developers, bulk assignees,
654 or bulk buyers involving improper turnover or failure to
655 turnover, pursuant to s. 718.301. However, after turnover has
656 occurred, the division has jurisdiction to investigate
657 complaints related only to financial issues, elections,
658 maintenance of official records, and unit owner access to
659 association records pursuant to s. 718.111(12). As used in this
660 subsection, the term "financial issue" means an issue related to
661 operating budgets; reserve schedules; financial records under s.
662 718.111(12) (a)11.; notices of meetings and meeting minutes for
663 budget or financial statement related meetings; any assessment
664 for common expenses, fees, or fines; commingling of funds; and
665 any other record necessary to determine the revenues and
666 expenses of the association. The division may adopt rules to
667 further define the term "financial issue."

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668 (a)1. The division may make necessary public or private
669 investigations within or outside this state to determine whether
670 any person has violated this chapter or any rule or order
671 hereunder, to aid in the enforcement of this chapter, or to aid
672 in the adoption of rules or forms.

673 2. The division may submit any official written report,
674 worksheet, or other related paper, or a duly certified copy
675 thereof, compiled, prepared, drafted, or otherwise made by and
676 duly authenticated by a financial examiner or analyst to be
677 admitted as competent evidence in any hearing in which the
678 financial examiner or analyst is available for cross-examination
679 and attests under oath that such documents were prepared as a
680 result of an examination or inspection conducted pursuant to
681 this chapter.

682 (b) The division may require or permit any person to file a
683 statement in writing, under oath or otherwise, as the division
684 determines, as to the facts and circumstances concerning a
685 matter to be investigated.

686 (c) For the purpose of any investigation under this
687 chapter, the division director or any officer or employee
688 designated by the division director may administer oaths or
689 affirmations, subpoena witnesses and compel their attendance,
690 take evidence, and require the production of any matter which is
691 relevant to the investigation, including the existence,
692 description, nature, custody, condition, and location of any
693 books, documents, or other tangible things and the identity and
694 location of persons having knowledge of relevant facts or any
695 other matter reasonably calculated to lead to the discovery of
696 material evidence. Upon the failure by a person to obey a

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697 subpoena or to answer questions propounded by the investigating
698 officer and upon reasonable notice to all affected persons, the
699 division may apply to the circuit court for an order compelling
700 compliance.

701 (d) Notwithstanding any remedies available to unit owners
702 and associations, if the division has reasonable cause to
703 believe that a violation of any provision of this chapter or
704 related rule has occurred, the division may institute
705 enforcement proceedings in its own name against any developer,
706 bulk assignee, bulk buyer, association, officer, or member of
707 the board of administration, or its assignees or agents, as
708 follows:

709 1. The division may permit a person whose conduct or
710 actions may be under investigation to waive formal proceedings
711 and enter into a consent proceeding whereby orders, rules, or
712 letters of censure or warning, whether formal or informal, may
713 be entered against the person.

714 2. The division may issue an order requiring the developer,
715 bulk assignee, bulk buyer, association, developer-designated
716 officer, or developer-designated member of the board of
717 administration, developer-designated assignees or agents, bulk
718 assignee-designated assignees or agents, bulk buyer-designated
719 assignees or agents, community association manager, or community
720 association management firm to cease and desist from the
721 unlawful practice and take such affirmative action as in the
722 judgment of the division carry out the purposes of this chapter.
723 If the division finds that a developer, bulk assignee, bulk
724 buyer, association, officer, or member of the board of
725 administration, or its assignees or agents, is violating or is

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726 about to violate any provision of this chapter, any rule adopted
727 or order issued by the division, or any written agreement
728 entered into with the division, and presents an immediate danger
729 to the public requiring an immediate final order, it may issue
730 an emergency cease and desist order reciting with particularity
731 the facts underlying such findings. The emergency cease and
732 desist order is effective for 90 days. If the division begins
733 nonemergency cease and desist proceedings, the emergency cease
734 and desist order remains effective until the conclusion of the
735 proceedings under ss. 120.569 and 120.57.

736 3. If a developer, bulk assignee, or bulk buyer, fails to
737 pay any restitution determined by the division to be owed, plus
738 any accrued interest at the highest rate permitted by law,
739 within 30 days after expiration of any appellate time period of
740 a final order requiring payment of restitution or the conclusion
741 of any appeal thereof, whichever is later, the division must
742 bring an action in circuit or county court on behalf of any
743 association, class of unit owners, lessees, or purchasers for
744 restitution, declaratory relief, injunctive relief, or any other
745 available remedy. The division may also temporarily revoke its
746 acceptance of the filing for the developer to which the
747 restitution relates until payment of restitution is made.

748 4. The division may petition the court for appointment of a
749 receiver or conservator. If appointed, the receiver or
750 conservator may take action to implement the court order to
751 ensure the performance of the order and to remedy any breach
752 thereof. In addition to all other means provided by law for the
753 enforcement of an injunction or temporary restraining order, the
754 circuit court may impound or sequester the property of a party

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755 defendant, including books, papers, documents, and related
756 records, and allow the examination and use of the property by
757 the division and a court-appointed receiver or conservator.

758 5. The division may apply to the circuit court for an order
759 of restitution whereby the defendant in an action brought
760 pursuant to subparagraph 4. is ordered to make restitution of
761 those sums shown by the division to have been obtained by the
762 defendant in violation of this chapter. At the option of the
763 court, such restitution is payable to the conservator or
764 receiver appointed pursuant to subparagraph 4. or directly to
765 the persons whose funds or assets were obtained in violation of
766 this chapter.

767 6. The division may impose a civil penalty against a
768 developer, bulk assignee, or bulk buyer, or association, or its
769 assignee or agent, for any violation of this chapter or related
770 rule. The division may impose a civil penalty individually
771 against an officer or board member who willfully and knowingly
772 violates a provision of this chapter, adopted rule, or a final
773 order of the division; may order the removal of such individual
774 as an officer or from the board of administration or as an
775 officer of the association; and may prohibit such individual
776 from serving as an officer or on the board of a community
777 association for a period of time. The term "willfully and
778 knowingly" means that the division informed the officer or board
779 member that his or her action or intended action violates this
780 chapter, a rule adopted under this chapter, or a final order of
781 the division and that the officer or board member refused to
782 comply with the requirements of this chapter, a rule adopted
783 under this chapter, or a final order of the division. The

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784 division, before initiating formal agency action under chapter
785 120, must afford the officer or board member an opportunity to
786 voluntarily comply, and an officer or board member who complies
787 within 10 days is not subject to a civil penalty. A penalty may
788 be imposed on the basis of each day of continuing violation, but
789 the penalty for any offense may not exceed \$5,000. By January 1,
790 1998, the division shall adopt, by rule, penalty guidelines
791 applicable to possible violations or to categories of violations
792 of this chapter or rules adopted by the division. The guidelines
793 must specify a meaningful range of civil penalties for each such
794 violation of the statute and rules and must be based upon the
795 harm caused by the violation, the repetition of the violation,
796 and upon such other factors deemed relevant by the division. For
797 example, the division may consider whether the violations were
798 committed by a developer, bulk assignee, or bulk buyer, or
799 owner-controlled association, the size of the association, and
800 other factors. The guidelines must designate the possible
801 mitigating or aggravating circumstances that justify a departure
802 from the range of penalties provided by the rules. It is the
803 legislative intent that minor violations be distinguished from
804 those which endanger the health, safety, or welfare of the
805 condominium residents or other persons and that such guidelines
806 provide reasonable and meaningful notice to the public of likely
807 penalties that may be imposed for proscribed conduct. This
808 subsection does not limit the ability of the division to
809 informally dispose of administrative actions or complaints by
810 stipulation, agreed settlement, or consent order. All amounts
811 collected shall be deposited with the Chief Financial Officer to
812 the credit of the Division of Florida Condominiums, Timeshares,

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813 and Mobile Homes Trust Fund. If a developer, bulk assignee, or
814 bulk buyer fails to pay the civil penalty and the amount deemed
815 to be owed to the association, the division shall issue an order
816 directing that such developer, bulk assignee, or bulk buyer
817 cease and desist from further operation until such time as the
818 civil penalty is paid or may pursue enforcement of the penalty
819 in a court of competent jurisdiction. If an association fails to
820 pay the civil penalty, the division shall pursue enforcement in
821 a court of competent jurisdiction, and the order imposing the
822 civil penalty or the cease and desist order is not effective
823 until 20 days after the date of such order. Any action commenced
824 by the division shall be brought in the county in which the
825 division has its executive offices or in the county where the
826 violation occurred.

827 7. If a unit owner presents the division with proof that
828 the unit owner has requested access to official records in
829 writing by certified mail, and that after 10 days the unit owner
830 again made the same request for access to official records in
831 writing by certified mail, and that more than 10 days has
832 elapsed since the second request and the association has still
833 failed or refused to provide access to official records as
834 required by this chapter, the division shall issue a subpoena
835 requiring production of the requested records where the records
836 are kept pursuant to s. 718.112.

837 8. In addition to subparagraph 6., the division may seek
838 the imposition of a civil penalty through the circuit court for
839 any violation for which the division may issue a notice to show
840 cause under paragraph (r). The civil penalty shall be at least
841 \$500 but no more than \$5,000 for each violation. The court may

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842 also award to the prevailing party court costs and reasonable
843 attorney ~~attorney's~~ fees and, if the division prevails, may also
844 award reasonable costs of investigation.

845 (e) The division may prepare and disseminate a prospectus
846 and other information to assist prospective owners, purchasers,
847 lessees, and developers of residential condominiums in assessing
848 the rights, privileges, and duties pertaining thereto.

849 (f) The division may adopt rules to administer and enforce
850 the provisions of this chapter.

851 (g) The division shall establish procedures for providing
852 notice to an association and the developer, bulk assignee, or
853 bulk buyer during the period in which the developer, bulk
854 assignee, or bulk buyer controls the association if the division
855 is considering the issuance of a declaratory statement with
856 respect to the declaration of condominium or any related
857 document governing such condominium community.

858 (h) The division shall furnish each association that pays
859 the fees required by paragraph (2) (a) a copy of this chapter, as
860 amended, and the rules adopted thereto on an annual basis.

861 (i) The division shall annually provide each association
862 with a summary of declaratory statements and formal legal
863 opinions relating to the operations of condominiums which were
864 rendered by the division during the previous year.

865 (j) The division shall provide training and educational
866 programs for condominium association board members and unit
867 owners. The training may, in the division's discretion, include
868 web-based electronic media, and live training and seminars in
869 various locations throughout the state. The division may review
870 and approve education and training programs for board members

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871 and unit owners offered by providers and shall maintain a
872 current list of approved programs and providers and make such
873 list available to board members and unit owners in a reasonable
874 and cost-effective manner.

875 (k) The division shall maintain a toll-free telephone
876 number accessible to condominium unit owners.

877 (l) The division shall develop a program to certify both
878 volunteer and paid mediators to provide mediation of condominium
879 disputes. The division shall provide, upon request, a list of
880 such mediators to any association, unit owner, or other
881 participant in arbitration proceedings under s. 718.1255
882 requesting a copy of the list. The division shall include on the
883 list of volunteer mediators only the names of persons who have
884 received at least 20 hours of training in mediation techniques
885 or who have mediated at least 20 disputes. In order to become
886 initially certified by the division, paid mediators must be
887 certified by the Supreme Court to mediate court cases in county
888 or circuit courts. However, the division may adopt, by rule,
889 additional factors for the certification of paid mediators,
890 which must be related to experience, education, or background.
891 Any person initially certified as a paid mediator by the
892 division must, in order to continue to be certified, comply with
893 the factors or requirements adopted by rule.

894 (m) If a complaint is made, the division must conduct its
895 inquiry with due regard for the interests of the affected
896 parties. Within 30 days after receipt of a complaint, the
897 division shall acknowledge the complaint in writing and notify
898 the complainant whether the complaint is within the jurisdiction
899 of the division and whether additional information is needed by

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900 the division from the complainant. The division shall conduct
901 its investigation and, within 90 days after receipt of the
902 original complaint or of timely requested additional
903 information, take action upon the complaint. However, the
904 failure to complete the investigation within 90 days does not
905 prevent the division from continuing the investigation,
906 accepting or considering evidence obtained or received after 90
907 days, or taking administrative action if reasonable cause exists
908 to believe that a violation of this chapter or a rule has
909 occurred. If an investigation is not completed within the time
910 limits established in this paragraph, the division shall, on a
911 monthly basis, notify the complainant in writing of the status
912 of the investigation. When reporting its action to the
913 complainant, the division shall inform the complainant of any
914 right to a hearing pursuant to ss. 120.569 and 120.57.

915 (n) Condominium association directors, officers, and
916 employees; condominium developers; bulk assignees, bulk buyers,
917 and community association managers; and community association
918 management firms have an ongoing duty to reasonably cooperate
919 with the division in any investigation pursuant to this section.
920 The division shall refer to local law enforcement authorities
921 any person whom the division believes has altered, destroyed,
922 concealed, or removed any record, document, or thing required to
923 be kept or maintained by this chapter with the purpose to impair
924 its verity or availability in the department's investigation.

925 (o) The division may:

- 926 1. Contract with agencies in this state or other
927 jurisdictions to perform investigative functions; or
928 2. Accept grants-in-aid from any source.

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929 (p) The division shall cooperate with similar agencies in
930 other jurisdictions to establish uniform filing procedures and
931 forms, public offering statements, advertising standards, and
932 rules and common administrative practices.

933 (q) The division shall consider notice to a developer, bulk
934 assignee, or bulk buyer to be complete when it is delivered to
935 the address of the developer, bulk assignee, or bulk buyer
936 currently on file with the division.

937 (r) In addition to its enforcement authority, the division
938 may issue a notice to show cause, which must provide for a
939 hearing, upon written request, in accordance with chapter 120.

940 (s) The division shall submit to the Governor, the
941 President of the Senate, the Speaker of the House of
942 Representatives, and the chairs of the legislative
943 appropriations committees an annual report that includes, but
944 need not be limited to, the number of training programs provided
945 for condominium association board members and unit owners, the
946 number of complaints received by type, the number and percent of
947 complaints acknowledged in writing within 30 days and the number
948 and percent of investigations acted upon within 90 days in
949 accordance with paragraph (m), and the number of investigations
950 exceeding the 90-day requirement. The annual report must also
951 include an evaluation of the division's core business processes
952 and make recommendations for improvements, including statutory
953 changes. The report shall be submitted by September 30 following
954 the end of the fiscal year.

955 Section 6. This act shall take effect October 1, 2020.

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 Agriculture

BILL: CS/CS/SB 1514

INTRODUCER: Innovation, Industry, and Technology Committee, Agriculture Committee and Senator Albritton

SUBJECT: Department of Agriculture and Consumer Services

DATE: February 17, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Wiehle</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1514 addresses various issues related to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). Specifically, the bill:

- Specifies a methodology for a property appraiser to assess buildings or structures on agricultural lands which are used for production, packaging, processing, or storage;
- Eliminates a distance requirement for vehicles making local trips while transporting agricultural products;
- Authorizes the department to purchase private insurance policies to cover expenses related to the payment of required firefighter cancer benefits;
- Postpones a sunset provision for certain Pest Control Trust Fund expenditures;
- Revises the Florida Service’s training requirements and certifications for firefighters; and
- Requires the Department of Environmental Protection, in coordination with the Department of Agriculture and Consumer Services, the Florida chapter of the National Waste and Recycling Association, and the Florida Natural Gas Association, to develop a study to estimate the potential benefits of renewable natural gas in Florida.

II. Present Situation:

Taxation of Agricultural Lands and Property

Section 193.461, F.S, provides for property tax classification and assessment of agriculture lands. When land has been classified as agricultural, the assessment must be based solely on its agricultural use, and the property appraiser may consider only the following factors:

- The quantity and size of the property;
- The condition of the property;
- The present market value of the property as agricultural land;
- The income produced by the property;
- The productivity of land in its present use;
- The economic merchantability of the agricultural product; and
- Such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.

The statute specifically provides, at s. 193.461(6)(c)1., F.S, that for purposes of the income methodology approach to assessment of property used for agricultural purposes, irrigation systems, including pumps and motors, physically attached to the land must be considered a part of the average yields per acre and have no separately assessable contributory value. It goes on to provide that this same methodology is to apply to poultry litter and animal waste containment structures, structures and improvements used in horticultural production for frost or freeze protection, and screened enclosures used in horticulture for protection from pests and disease.

Agricultural Loads on Vehicles

Federal rules require each commercial motor vehicle transporting cargo on public roads to have its cargo secured to prevent the cargo from leaking, spilling, blowing, or falling from the motor vehicle.¹

Under Florida law, a vehicle may not be driven or moved on any highway unless the vehicle is constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping from the vehicle.²

Every vehicle owner and driver has the duty to prevent items from escaping from his or her vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover or a load securing device meeting federal requirements or a device designed to reasonably ensure that cargo will not shift upon or fall from the vehicle is required and constitutes compliance.³

However, Florida's load covering and securing provisions do not apply to vehicles carrying agricultural products locally from a harvest site or to or from a farm on roads where the posted speed limit is 65 miles per hour or less and the distance driven on public roads is less than 20 miles.⁴

Florida Forest Service

The Florida Forest Service employs more than 1,250 people in more than 90 job classes. To become licensed, Florida Forest Service firefighters must complete a fire training course approved by the Florida State Fire College of the Division of State Fire Marshal and a minimum

¹ 49 C.F.R. 393.100

² Section 316.520(1), F.S.

³ Section 316.520(2), F.S.

⁴ Section 316.520(4), F.S.

of 250 hours of wildfire training. The Division of the State Fire Marshal's structural training course must be at least 206 hours. Students must pass a required exam administered by the division and meet the Florida Forest Services' requirements to receive a Forestry Certificate of Compliance. The Florida Forest Service, unlike many other fire suppression and safety agencies, primarily manages wildland or forest fires that may involve a structural element.

III. Effect of Proposed Changes:

Section 1 amends s. 193.461, F.S., to specify that the income methodology approach to assessment of property used for agricultural purposes in which improvements are considered a part of the average yields per acre and have no separately assessable contributory value also applies to buildings or structures on agricultural lands which are used for production, packaging, processing, or storage.

Section 2 amends s. 316.520, F.S., to eliminate a distance requirement for securing of loads on vehicles making local trips while transporting agricultural products.

Section 3 amends s. 570.07, F.S., which sets forth the department's functions, powers, and duties, to authorize the department to purchase private insurance policies to cover expenses related to the payment of required firefighter cancer benefits.

Section 4 amends s. 570.441, F.S., to extend the expiration for the use of funds in the Pest Control Trust Fund from June 30, 2020, until June 30, 2024. This would allow the department to continue to use these funds to carry out the duties of the Division of Agricultural Environmental Services.

Section 5 amends s. 590.02, F.S., to require the Florida Forest Service to restructure its training course to better meet its wildland firefighters' specific training needs. The training curriculum would need to contain a minimum of:

- 40 hours of structural firefighter training;
- 40 hours of emergency medical training; and
- 376 hours of wildfire training, rather than the current 250.

Section 6 amends s. 633.408, F.S., to provide wildland firefighter training and certification for firefighters and volunteer firefighters. These changes are needed to conform to changes made to Section 4 of the bill.

Section 7 creates an as yet undesignated section to require a renewable natural gas study.⁵ The Department of Environmental Protection, in coordination with the Department of Agriculture

⁵ Renewable natural gas (RNG) begins with a methane biogas produced by the decomposition of organic matter. This biogas can be produced and captured at landfills, livestock operations, and wastewater treatment plants. To be usable, the raw biogas must be treated, a process called conditioning or upgrading which involves the removal of water, carbon dioxide, hydrogen sulfide, and other trace elements. With minor cleanup, biogas can be used to produce electricity and heat. To fuel vehicles, biogas must be processed to a higher purity standard. The resulting RNG, or biomethane, has a higher content of methane than raw biogas, which makes it comparable to conventional natural gas and thus a suitable energy source in applications that require pipeline-quality gas. RNG is a pipeline-quality gas that is fully interchangeable with conventional natural gas and

and Consumer Services, the Florida chapter of the National Waste and Recycling Association, and the Florida Natural Gas Association must develop a study to estimate the potential benefits of renewable natural gas in Florida. Specifically, the study must consider:

- The use of renewable natural gas resources to generate energy and fuel and the benefits for local communities, the economy, and the environment;
- The ability of renewable natural gas to create new revenue streams for local governments, agricultural producers, and other producers of waste; and
- The potential for renewable natural gas to contribute to energy security by providing the gas grid enhanced diversity of supply.

The Department of Environmental Protection must report the results of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives upon completion of the study.

Section 8 provides that this act shall take effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill expands the list of property located on agricultural land that a tax assessor can consider when using the income methodology approach to assessment of agricultural property.

thus can be used in natural gas vehicles, either in the form of compressed natural gas (CNG) or liquefied natural gas (LNG). See, e.g. https://afdc.energy.gov/fuels/natural_gas_renewable.html (last accessed February 12, 2020).

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 193.461, 316.520, 570.07, 570.441, 590.02, and 633.408.

This bill creates an as yet undesignated section.

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 Innovation, Industry, and Technology on February 17, 2020:**

The committee substitute authorizes the Department of Agriculture and Consumer Services to purchase private insurance policies to cover expenses related to the payment of required firefighter cancer benefits.

CS by the Agriculture Committee on February 11, 2020:**The committee substitute deletes sections of SB 1514 that:**

- Revise the contents of an annual department report to the Governor and the Legislature to include the development of renewable energy, alternative fuels, and alternative technologies;
- Require the department to promote the development of alternative fuel and alternative vehicle technologies;
- Delete a requirement that the department prepare a separate energy report of the utilization of the renewable energy technologies investment tax credit;
- Clarify the definition of food establishment to be consistent with the state's current regulatory structure;
- Revise the membership of the Florida Food Safety and Food Defense Advisory Council;
- Realign Chapter 502 with recent updates to the federal Grade A Pasteurized Milk Ordinance;

- Clarify the preexisting distinction between wholesale and retail frozen dessert sellers and phases out the frozen dessert plant number of gallons of frozen dessert produced reporting requirement;
- Revise the authority of the department to include the inspection of facilities used to distribute milk and milk products and collect samples of those products for testing;
- Eliminate the Milkfat Content Permit reporting requirements;
- Delete the Dairy Industry Technical Council;
- Revise the requirements for the agriculture water conservation program and expands the types of cost-share projects for irrigation system retrofit, mobile irrigation laboratory evaluations, and water conservation that can be considered and funded;
- Establish a waiver process by rule for School Nutrition Program Sponsors;
- Define Raw Agricultural Commodity Fumigation and clarify the applicability of licensure requirements;
- Enable the department to consider whether an entity performs Raw Agricultural Commodity Fumigation when making license classification decisions; and
- Clarify the food establishment licensee fee submission deadline.

The committee substitute adds sections to SB 1514 that:

- Specify a methodology for a property appraiser to assess buildings or structures on agricultural lands which are used for production, packaging, processing, or storage;
- Eliminate a distance requirement for vehicles making local trips while transporting agricultural products; and
- Require the Department of Environmental Protection, in coordination with the Department of Agriculture and Consumer Services, the Florida chapter of the National Waste and Recycling Association, and the Florida Natural Gas Association to develop a study to estimate the potential benefits of renewable natural gas in Florida.

B. Amendments:

None.



217146

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2020	.	
	.	
	.	
	.	

The Committee on Innovation, Industry, and Technology
(Albritton) recommended the following:

Senate Amendment (with title amendment)

Between lines 67 and 68

insert:

Section 3. Subsection (47) is added to section 570.07,
Florida Statutes, to read:

570.07 Department of Agriculture and Consumer Services;
functions, powers, and duties.—The department shall have and
exercise the following functions, powers, and duties:

(47) To purchase, at its discretion, private insurance



217146

11 policies to cover expenses related to the payment of benefits
12 required by s. 112.1816.

13

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

15 And the title is amended as follows:

16 Between lines 7 and 8

17 insert:

18 s. 570.07, F.S.; revising the functions, powers, and
19 duties of the Department of Agriculture and Consumer
20 Services to authorize the department to purchase
21 private insurance policies for a specified purpose;
22 amending



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: February 13, 2020

I respectfully request that **Senate Bill #1514**, relating to Department of Agriculture and Consumer Services, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/17/20
Meeting Date

1514
Bill Number (if applicable)

Topic Department of Ag

Amendment Barcode (if applicable)

Name Adam Basford

Job Title Director of Leg Affairs

Address 310 W College Ave

Phone 272 2557

Tallahassee 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 FL Farm Bureau

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)

2/17/2020
Meeting Date

1514
Bill Number (if applicable)

Topic Department of Agriculture

Amendment Barcode (if applicable)

Name Emily Buckley

Job Title Legislative Affairs

Address FL Capitol
Street

Phone 850 631 0272

TLH FL 32399
City State Zip

Email emily.buckley@fla.gov

Speaking: For Against Information

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

Representing FDACS

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.

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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)

2/17/2020
Meeting Date

1514
Bill Number (if applicable)

Topic Department of Ag

Amendment Barcode (if applicable)

Name Jim Spratt

Job Title _____

Address PO Box 10011

Phone 850-228-1296

TLH FL 32302
City State Zip

Email jspratt@flaforestry.com

Speaking: For Against Information

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

Representing FLORIDA Forestry 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
APPEARANCE RECORD

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

2/17/20
Meeting Date

1514
Bill Number (if applicable)

Topic FDACS

Amendment Barcode (if applicable)

Name NANCY STEPHENS

Job Title CHAIRMAN

Address _____

Phone 850 445 1607

Street

Tallahassee
City

FL
State

32309
Zip

Email nancy@nstephens.com

Speaking: For Against Information

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

Representing FLORIDA AG COALITION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No ^{VOLUNTEER} _{FOR THIS}

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)

2/17/2020
Meeting Date

SB 1514
Bill Number (if applicable)

Topic RENEWABLE NATURAL GAS STUDY

Amendment Barcode (if applicable)

Name KEYNA CORY

Job Title LOBBYIST

Address 730 E. PARK AVE

Phone 850 681 1065

TANAWASSEE FL 32301
City State Zip

Email keynacory@pacconsulants.com

Speaking: For Against Information

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

Representing NATIONAL WASTE + RECYCLING ASSN - FL CHAPTER

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)

2-17-20

Meeting Date

1514

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Dale Calkoun

Job Title Executive Director

Address 201 S Maunrest Unit A

Phone 850 681 0496

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 Natural Gas 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 COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: CS/SB 1514
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, February 17, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE		SENATORS	2/17/2020 ¹ Amendment 217146					
			Albritton					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bracy						
X		Bradley						
		Brandes						
X		Braynon						
X		Farmer						
X		Gibson						
		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
8	0		RCS	-				
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

By the Committees on Innovation, Industry, and Technology; and
Agriculture; and Senator Albritton

580-03741-20

20201514c2

1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 193.461, F.S.;
4 specifying a methodology for the assessment of certain
5 buildings and structures located on agricultural
6 lands; amending s. 316.520, F.S.; revising application
7 of agricultural load securing requirements; amending
8 s. 570.07, F.S.; revising the functions, powers, and
9 duties of the Department of Agriculture and Consumer
10 Services to authorize the department to purchase
11 private insurance policies for a specified purpose;
12 amending s. 570.441, F.S.; extending the scheduled
13 expiration for the Department of Agriculture and
14 Consumer Services' use of funds from the Pest Control
15 Trust Fund for certain duties of the department;
16 amending s. 590.02, F.S.; directing the Florida Forest
17 Service to develop a training curriculum for wildland
18 firefighters; providing requirements for such
19 training; amending s. 633.408, F.S.; providing
20 wildland firefighter training and certification for
21 certain firefighters and volunteer firefighters;
22 requiring the Department of Environmental Protection,
23 in coordination with the Department of Agriculture and
24 Consumer Services and other entities, to develop a
25 study to estimate the benefits of renewable natural
26 gas in this state; requiring a report to the Governor
27 and the Legislature; providing an effective date.

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

580-03741-20

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Section 1. Paragraph (c) of subsection (6) of section 193.461, Florida Statutes, is amended to read:

193.461 Agricultural lands; classification and assessment; mandated eradication or quarantine program; natural disasters.—

(6) (c) 1. For purposes of the income methodology approach to assessment of property used for agricultural purposes, irrigation systems, including pumps and motors, physically attached to the land shall be considered a part of the average yields per acre and shall have no separately assessable contributory value.

2. Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms shall be assessed by the methodology described in subparagraph 1.

3. Structures or improvements used in horticultural production for frost or freeze protection, which are consistent with the interim measures or best management practices adopted by the Department of Agriculture and Consumer Services pursuant to s. 570.93 or s. 403.067(7) (c), shall be assessed by the methodology described in subparagraph 1.

4. Screened enclosed structures used in horticultural production for protection from pests and diseases or to comply with state or federal eradication or compliance agreements shall be assessed by the methodology described in subparagraph 1.

5. Any building or structure located on land that is classified as agricultural and which is used in and in furtherance of the agricultural purpose of the land, including, but not limited to, buildings or structures used for production,

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20201514c2

59 packaging, processing, or storage, shall be assessed by the
60 methodology described in subparagraph 1.

61 Section 2. Subsection (4) of section 316.520, Florida
62 Statutes, is amended to read:

63 316.520 Loads on vehicles.—

64 (4) The provision of subsection (2) requiring covering and
65 securing the load with a close-fitting tarpaulin or other
66 appropriate cover does not apply to vehicles carrying
67 agricultural products locally from a harvest site or to or from
68 a farm on roads where the posted speed limit is 65 miles per
69 hour or less ~~and the distance driven on public roads is less~~
70 ~~than 20 miles.~~

71 Section 3. Subsection (47) is added to section 570.07,
72 Florida Statutes, to read:

73 570.07 Department of Agriculture and Consumer Services;
74 functions, powers, and duties.—The department shall have and
75 exercise the following functions, powers, and duties:

76 (47) To purchase, at its discretion, private insurance
77 policies to cover expenses related to the payment of benefits
78 required by s. 112.1816.

79 Section 4. Subsection (4) of section 570.441, Florida
80 Statutes, is amended to read

81 570.441 Pest Control Trust Fund.—

82 (4) In addition to the uses authorized under subsection
83 (2), moneys collected or received by the department under
84 chapter 482 may be used to carry out the provisions of s.
85 570.44. This subsection expires June 30, 2024 ~~2020~~.

86 Section 5. Subsection (1) of section 590.02, Florida
87 Statutes, is amended to read

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20201514c2

88 590.02 Florida Forest Service; powers, authority, and
89 duties; liability; building structures; Withlacoochee Training
90 Center.—

91 (1) The Florida Forest Service has the following powers,
92 authority, and duties to:

93 (a) Enforce the provisions of this chapter;

94 (b) Prevent, detect, and suppress wildfires wherever they
95 may occur on public or private land in this state and do all
96 things necessary in the exercise of such powers, authority, and
97 duties;

98 (c) Provide firefighting crews, who shall be under the
99 control and direction of the Florida Forest Service and its
100 designated agents;

101 (d) Appoint center managers, forest area supervisors,
102 forestry program administrators, a forest protection bureau
103 chief, a forest protection assistant bureau chief, a field
104 operations bureau chief, deputy chiefs of field operations,
105 district managers, forest operations administrators, senior
106 forest rangers, investigators, forest rangers, firefighter
107 rotorcraft pilots, and other employees who may, at the Florida
108 Forest Service's discretion, be certified as forestry
109 firefighters pursuant to s. 633.408(8). Other law
110 notwithstanding, center managers, district managers, forest
111 protection assistant bureau chief, and deputy chiefs of field
112 operations have Selected Exempt Service status in the state
113 personnel designation;

114 (e) Develop a training curriculum for wildland forestry
115 firefighters which must contain a minimum of 40 hours of
116 structural firefighter training, a minimum of 40 hours of

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20201514c2

117 emergency medical training, ~~the basic volunteer structural fire~~
118 ~~training course approved by the Florida State Fire College of~~
119 ~~the Division of State Fire Marshal~~ and a minimum of 376 ~~250~~
120 hours of wildfire training;

121 (f) Pay the cost of the initial commercial driver license
122 examination fee for those employees whose position requires them
123 to operate equipment requiring a license. This paragraph is
124 intended to be an authorization to the department to pay such
125 costs, not an obligation;

126 (g) Provide fire management services and emergency response
127 assistance and set and charge reasonable fees for performance of
128 those services. Moneys collected from such fees shall be
129 deposited into the Incidental Trust Fund of the Florida Forest
130 Service;

131 (h) Require all state, regional, and local government
132 agencies operating aircraft in the vicinity of an ongoing
133 wildfire to operate in compliance with the applicable state
134 Wildfire Aviation Plan;

135 (i) Authorize broadcast burning, prescribed burning, pile
136 burning, and land clearing debris burning to carry out the
137 duties of this chapter and the rules adopted thereunder; and

138 (j) Make rules to accomplish the purposes of this chapter.

139 Section 6. Subsection (8) of section 633.408, Florida
140 Statutes, is amended to read:

141 633.408 Firefighter and volunteer firefighter training and
142 certification.—

143 (8) (a) Pursuant to s. 590.02(1)(e), the division shall
144 establish a structural fire training program of not less than 40
145 ~~206~~ hours. The division shall issue to a person satisfactorily

580-03741-20

20201514c2

146 complying with this training program and who has successfully
147 passed an examination as prescribed by the division and who has
148 met the requirements of s. 590.02(1)(e), a Wildland Firefighter
149 ~~Forestry~~ Certificate of Compliance.

150 (b) An individual who holds a current and valid Wildland
151 Firefighter ~~Forestry~~ Certificate of Compliance is entitled to
152 the same rights, privileges, and benefits provided for by law as
153 a firefighter.

154 Section 7. Renewable natural gas study.—

155 (1) The Department of Environmental Protection, in
156 coordination with the Department of Agriculture and Consumer
157 Services, the Florida chapter of the National Waste and
158 Recycling Association, and the Florida Natural Gas Association,
159 shall develop a study to estimate the potential benefits of
160 renewable natural gas in this state. The study must consider all
161 of the following:

162 (a) The use of renewable natural gas resources to generate
163 energy and fuel and the benefits for local communities, the
164 economy, and the environment.

165 (b) The ability of renewable natural gas to create new
166 revenue streams for local governments, agricultural producers,
167 and other producers of waste.

168 (c) The potential for renewable natural gas to contribute
169 to energy security by providing the gas grid enhanced diversity
170 of supply.

171 (2) The Department of Environmental Protection shall submit
172 a report of the results of the study to the Governor, the
173 President of the Senate, and the Speaker of the House of
174 Representatives upon completion of such study.

580-03741-20

20201514c2

175

Section 8. This act shall take effect July 1, 2020.

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 Innovation, Industry, and Technology

BILL: CS/CS/SB 646

INTRODUCER: Innovation, Industry, and Technology Committee; Education Committee and Senator Mayfield

SUBJECT: Intercollegiate Athlete Compensation and Rights

DATE: February 17, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dew, Brick</u>	<u>Sikes</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 646 establishes the right of intercollegiate athletes and the responsibilities for postsecondary educational institutions concerning an intercollegiate athlete's right to be compensated for her or his name, image, or likeness (NIL). Specifically, the bill:

- Authorizes an intercollegiate athlete to earn compensation for the use of her or his NIL.
- Prohibits a postsecondary educational institution from adopting or maintaining a requirement that unduly restricts an intercollegiate athlete from earning compensation for the use of her or his NIL.
- Prohibits a postsecondary educational institution and an entity whose purpose includes benefiting a postsecondary educational institution or its athletic program (or an employee, officer, or director of such entity) from compensating a current or prospective intercollegiate athlete for the use of her or his name, image, or likeness (NIL).
- Requires a postsecondary educational institution to conduct a financial literacy and life skills workshop at the beginning of the intercollegiate athlete's first and third academic years and specifies conditions for the workshop.
- Prohibits a postsecondary educational institution from unduly restricting an intercollegiate athlete from obtaining professional representation by a licensed athlete agent or an attorney in good standing for the purpose of securing compensation for the use of such athlete's NIL.
- Specifies that an intercollegiate athlete may not enter into a contract for compensation for the use of NIL if a term in such contract conflicts with a term in the athlete's team contract.

- Requires an intercollegiate athlete who enters into a contract for compensation for the use of her or his NIL to disclose the contract to the postsecondary educational institution at which she or he is enrolled, in a manner designated by the institution.

The bill has no impact on state revenues or expenditures. The bill may have a negative, indeterminate fiscal impact on postsecondary educational institutions.

The bill takes effect July 1, 2021.

II. Present Situation:

National Collegiate Athletic Association

The National Collegiate Athletic Association (NCAA) is a nonprofit organization comprised of voluntary members, including colleges and universities, athletic conferences, and affiliated organizations. As the governing and regulatory body for the majority of intercollegiate athletic programs for Division I, Division II, and Division III sports, the NCAA describes its basic purpose as maintaining and retaining:¹

- Intercollegiate athletics as integral to educational programs;
- Athletes as integral to student bodies; and
- A clear line of demarcation between intercollegiate athletics and professional sports.

The NCAA issues and enforces rules governing athletic competitions for member schools. The rules are developed by a governance system in which members introduce and vote on proposed rules, which vary for student athletes by division.

Amateurism and Eligibility

A student athlete must receive an amateurism certification before being deemed eligible to compete in intercollegiate athletics. The NCAA defines the principle of amateurism to require that student athletes must be:²

- Motivated primarily by education and the derived physical, mental, and social benefits of intercollegiate athletic participation; and
- Protected from exploitation by professional and commercial enterprises.

A student athlete can lose amateur status, as determined by the NCAA, by engaging in certain activities, including:³

- Receiving payments from a sports team to participate;
- Using a recruiting agency, agent, or scouting service;
- Accepting prize money based on performance;
- Being represented or marketed by a professional sports agent; or
- Promoting or endorsing a commercial product or service.

¹ NCAA Bylaw 1.3.1, *Division I Manual 2019-20 NCAA* (Jan. 28, 2020), available at <https://web3.ncaa.org/lstdbi/reports/getReport/90008>, at 1 (last visited Feb. 12, 2020).

² NCAA Bylaw 2.9, *Division I Manual*, *supra* note 1, at 3.

³ NCAA, *Amateurism*, <http://www.ncaa.org/student-athletes/future/amateurism> (last visited Feb. 12, 2020); and NCAA Bylaw 12.1.2, *Division I Manual*, *supra* note 1, at 63-68.

Compensation for Student Athletes

The NCAA, along with member colleges and universities, awards nearly \$3.5 billion in athletic scholarships every year to more than 180,000 student athletes.⁴ The NCAA also provides almost \$100 million each year to support student athletes' academic pursuits and assist with basic needs of college life, such as computers, clothing, or emergency travel expenses.⁵

Student athletes are permitted to receive scholarships or grants-in-aid from individual postsecondary educational institutions,⁶ which may cover the cost of tuition and fees, books and supplies, room and board, transportation, and personal expenses.⁷ However, a student athlete's grant-in-aid must not exceed the cost of attendance at the student athlete's institution.⁸

Penalties for violation of NCAA bylaws may include financial sanctions, repayment of moneys received from competition, forfeiture of contents, and expulsion from the association.⁹

Name, Image, and Likeness (NIL)

The NCAA's rules prohibit student athletes from receiving compensation for the use of the student athlete's NIL to advertise or promote the sale or use of any kind of commercial product or service.¹⁰ Student athletes who use their NIL to promote sale or use of a commercial product or service are held ineligible to participate in intercollegiate athletics.¹¹ The NCAA has expressed concerns with the potentially harmful consequences from compensating student athletes for use of NIL, including the concern that a patchwork of different state rules may make it impossible for the NCAA to conduct intercollegiate athletics at a national level and undermine its commitment to provide student-athletes with broad-based offerings and comprehensive support.¹²

On October 28, 2019, the NCAA's Board of Governors voted to permit students participating in intercollegiate athletics to benefit from the use of their NIL in a manner consistent with the collegiate model.¹³ The Board of Governors directed each of the NCAA's three divisions to consider updates to relevant bylaws and policies, with the addition of new rules no later than

⁴ NCAA, Big East Conference Commissioner Val Ackerman and Ohio State Athletic Director Gene Smith, *Statement from Federal and State Legislation Working Group co-chairs on name, image and likeness efforts* (Jan. 23, 2020), available at <http://www.ncaa.org/about/resources/media-center/news/statement-federal-and-state-legislation-working-group-co-chairs-name-image-and-likeness-efforts> (last visited Feb. 12, 2020).

⁵ NCAA, *Finances*, <https://www.ncaa.org/about/resources/finances> (last visited Feb. 12, 2020).

⁶ NCAA, *NCAA Recruiting Facts*, <http://www.ncaa.org/sites/default/files/Recruiting%20Fact%20Sheet%20WEB.pdf>, (last visited Feb. 12, 2020).

⁷ Office of Student Financial Assistance, *Financial Aid Terms and Definitions*, <https://www.floridastudentfinancialaidsg.org/pdf/TermsAndDefinitions.pdf> (last visited Feb. 12, 2020), at 2.

⁸ NCAA Bylaw 2.13, *Division I Manual*, *supra* note 1, at 3.

⁹ *See Division I Manual*, *supra* note 1.

¹⁰ NCAA Bylaws 12.4.2.3, 12.5.1.3, and 12.5.2.1, *Division I Manual*, *supra* note 1, at 74, 75, and 77.

¹¹ NCAA Bylaw 12.5.2.1, *Division I Manual*, *supra* note 1, at 77.

¹² NCAA, *Statement from Federal and State Legislation Working Group co-chairs on name, image and likeness efforts*, *supra* note 4.

¹³ NCAA, *Board of Governors starts process to enhance name, image and likeness opportunities* (October 29, 2019), available at <http://www.ncaa.org/about/resources/media-center/news/board-governors-starts-process-enhance-name-image-and-likeness-opportunities> (last visited Feb. 12, 2020).

January 2021.¹⁴ On January 23, 2020, representatives of the NCAA voiced concerns about harmful influences and effects relating to use of NIL, particularly regarding recruitment and national parity in intercollegiate athletics.¹⁵ The NCAA's Federal and State Legislation Working Group¹⁶ will provide ongoing guidance to members of the NCAA on modifications to permitted uses of a student athlete's NIL.¹⁷

Representation of Student Athletes

A student athlete is defined as a student whose enrollment was solicited by a member of the athletics staff or other representative of athletics interests with a view toward the student's ultimate participation in the intercollegiate athletics program.¹⁸ Under NCAA rules student athletes are not permitted to agree to be represented by an agent or organization to market the student athlete's ability or reputation until the completion of the student athlete's last intercollegiate contest. NCAA rules also forbid a student athlete or his or her representative from negotiating or signing a playing contract in any sport in which the student athlete intends to compete, or marketing the student athlete's name or image.¹⁹

Contracts for Minors

A contract made or proposed to be made by a minor, or a minor's parent or guardian on behalf of a minor, under which the minor is to perform or render artistic or creative services, including rendering services as a participant or player in professional or semi-professional athletics, may be approved by the probate division of the circuit court, or any other division of the circuit court that has guardianship jurisdiction, if the minor is a resident of this state or the services of the minor are to be performed or rendered in this state. A contract for the services of a minor may not extend for a period of more than 3 years.²⁰

Licensing of Athlete Agents

The licensing and regulation of athlete agents in Florida is administered by the Department of Business and Professional Regulation (DBPR), which processes licenses, responds to consumer complaints and inquiries, and monitors activities and compliance within the athlete agent industry. An athlete agent is a person who:²¹

- Recruits or solicits a student athlete to enter into an agent contract, directly or indirectly;

¹⁴ State University System of Florida, *Agency Bill Analysis for SB 646* (2020), at 2.

¹⁵ *Statement from Federal and State Legislation Working Group co-chairs on name, image and likeness efforts*, *supra* note 4.

¹⁶ The NCAA State and Federal Working Group was appointed by the president and Board of Governors of the NCAA to examine issues related to student athlete NIL and make recommendations to maintain the demarcation between professional and college sports. See *infra* note 33.

¹⁷ *Statement from Federal and State Legislation Working Group co-chairs on name, image and likeness efforts*, *supra* note 4.

¹⁸ NCAA Bylaw 12.02.14, *Division I Manual*, *supra* note 1, at 62. Any other student becomes a student athlete only when the student reports for an intercollegiate squad that is under the jurisdiction of the athletics department. *Id.* Florida law defines student athlete as any student who participates or formally intends to participate in intercollegiate athletics. Section 468.452(5), F.S.

¹⁹ NCAA Bylaw, Article 12, *Division I Manual*, *supra* note 1, at 60.

²⁰ Section 743.08, F.S.

²¹ Section 468.452(2), F.S.

- Procures, offers, promises, or attempts to obtain employment or promotional fees or benefits for a student athlete with a professional sports team or as a professional athlete, for any type of financial gain; or
- Markets or attempts to market the student athlete's athletic ability or athletic reputation with any promoter.

An agent contract is the contract or agreement in which a student athlete authorizes an athlete agent to represent the student in the marketing of the student's athletic ability or athletic reputation.²² In order to be valid, such contract must include any fees paid to the agent and indicate how such fees are calculated. The athlete agent is also required to follow certain procedures during the contracting process, such as alerting the athletic director of the educational institution of the existence of the agent contract. A contract with an athlete agent is generally voidable by the student athlete within 14 days of execution.²³

In order to be licensed as an athlete agent, an applicant must be at least 18 years of age, be of good moral character, and submit a completed the application form with fingerprints for a background check. Applicants must remit to DBPR an initial application fee of \$250, an initial licensure fee of \$375, an unlicensed activity fee of \$5, and a biennial renewal fee of \$220.²⁴

Athlete agents must establish and maintain complete business and financial records,²⁵ and athlete agents are subject to disciplinary action for violating practice requirements, including:

- Commingling money or property of another person with the athlete agent's money or property.²⁶
- Committing mismanagement or misconduct which causes financial harm to a student athlete or college or university.²⁷
- Violating or aiding and abetting another person to violate the rules of the athletic conference or collegiate athletic association governing a student athlete or student athlete's college or university.²⁸

An unlicensed person is generally prohibited from acting as an athlete agent.²⁹ However, an unlicensed individual may act as an athlete agent if:³⁰

- A student athlete or person acting on the student athlete's behalf initiates communication with the individual; and
- The individual submits an application for licensure within seven days after an initial act as an athlete agent.

²² Section 468.452(1), F.S.

²³ Section 468.454, F.S.

²⁴ Fla. Admin Code R. 61-24.004.

²⁵ See s. 468.4565, F.S. DBPR has the right to full inspection of such records and may exercise its subpoena powers to obtain the financial and business records of an athlete agent.

²⁶ Section 468.456(1)(d), F.S.

²⁷ Section 468.456(1)(h), F.S.

²⁸ Section 468.456(1)(k), F.S. In addition, s. 468.4562, F.S., establishes civil actions for institutions damaged by a national association, athletic conference, or relevant entity on account of actions by an agent or student athlete.

²⁹ Section 468.4561, F.S.

³⁰ Section 468.453(3), F.S.

In the 2018-2019 fiscal year, there were 321 licensed athlete agents in Florida.³¹

Intercollegiate Athletic Programs in Florida

Athletic programs in Florida include NCAA Divisions I and II, the National Junior College Athletic Association (NJCAA), the National Association of Intercollegiate Athletics (NAIA), and the National Christian College Athletic Association (NCCAA).³² The number of schools in each program includes:

- 13 schools in NCAA Division I.
- 13 schools in NCAA Division II.
- 25 institutions in the NJCAA.
- 10 institutions in the NAIA.
- 3 institutions in the NCCAA.

The NCAA has levied 30 penalties against Division I universities in Florida since 1955. Recent sanctions include recruitment violations at the University of Central Florida in 2010, 2012, and 2019, and improper designations of student eligibility at Florida Agricultural and Mechanical University in 2019.

NCAA Division I Intercollegiate Athletic Programs³³

Institution Name	Classification	Total Undergraduates	Total Expenses	Total Revenue
Florida State University	FBS ³⁴	29,187	\$ 167,054,375.00	\$ 177,512,950.00
University of Florida	FBS	30,887	\$ 157,240,476.00	\$ 157,240,476.00
University of Miami	FBS	10,134	\$ 94,723,980.00	\$ 94,723,980.00
University of Central Florida	FBS	39,685	\$ 60,069,492.00	\$ 60,069,492.00
University of South Florida	FBS	24,342	\$ 51,710,233.00	\$ 51,710,233.00
Florida International University	FBS	26,210	\$ 31,172,655.00	\$ 38,240,735.00
Florida Atlantic University	FBS	15,907	\$ 27,662,831.00	\$ 27,662,831.00
Stetson University	FCS ³⁵	2,998	\$ 19,391,731.00	\$ 19,391,731.00
Jacksonville University	FCS	2,174	\$ 17,180,946.00	\$ 17,180,946.00
Florida Gulf Coast University	(no football)	10,821	\$ 15,037,882.00	\$ 15,037,882.00
Bethune-Cookman University	FCS	3,751	\$ 14,397,984.00	\$ 14,397,984.00
University of North Florida	(no football)	10,147	\$ 11,835,623.00	\$ 12,546,853.00

³¹ Florida Department of Business and Professional Regulation, *Fiscal Year 2018-2019 Annual Report*, page 19, available at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1819.pdf (last visited Feb. 12, 2020).

³² There are no NCAA Division III athletic programs in Florida.

³³ See generally, U.S. Department of Education, *Equity in Athletics Data Analysis*, <https://ope.ed.gov/athletics/#/customdata/search> (last visited Jan. 23, 2020).

³⁴ NCAA Football Bowl Championship Subdivision (formerly Division I-A). See NCAA, *Divisional Differences and the History of Multidivision Classification*, available at <http://www.ncaa.org/about/who-we-are/membership/divisional-differences-and-history-multidivision-classification> (last visited Feb. 12, 2020).

³⁵ NCAA Football Championship Subdivision (formerly Division I-AA). See *supra* note 34.

Institution Name	Classification	Total Undergraduates	Total Expenses	Total Revenue
Florida A&M University	FCS	6,852	\$ 9,922,955.00	\$ 9,922,955.00

Annual Submission of Disclosures

Each institution of higher education which receives federal funding and is attended by students receiving athletically related student aid must annually submit detailed disclosures with respect to athletically related student aid to the Secretary of the U.S. Department of Education.³⁶ The law allows a similar report required by the NCAA to substitute for the requirements of the federal report.

Recent Developments

NCAA Working Group

In 2019, the president and Board of Governors of the NCAA appointed a federal and state legislation working group to examine issues related to compensating student athletes for use of their NIL and to make recommendations to maintain the demarcation between professional and college sports.³⁷ The NCAA's Board of Governors charged the working group with writing a set of overarching principles to guide each division to develop consistent legislation regarding NIL payments.³⁸

Legislation in Other States

California recently passed the first law of its kind allowing college athletes in that state to hire agents and earn compensation for the use of NIL, which will go into effect January 2023.³⁹ Other states including Illinois, New York, North Carolina, and Washington have proposed legislation relating to compensation for use of a student athlete's NIL,⁴⁰ and a federal bill is proposing to rescind tax-exempt status from any organization that denies an athlete compensation for use of NIL.⁴¹

Relevant Litigation

Since 2009, numerous former college athletes sued the NCAA for violating antitrust law by limiting the amount of compensation a college athlete may receive for performance. Courts have ruled that:

³⁶ 20 U.S.C. s. 1092.

³⁷ Michelle Brutlag Hosick, NCAA, *NCAA working group to examine name, image and likeness* (May 14, 2019), available at <http://www.ncaa.org/about/resources/media-center/news/ncaa-working-group-examine-name-image-and-likeness>.

³⁸ NCAA, *NCAA Board of Governors Federal and State Legislation Working Group* (2019), available at https://ncaaorg.s3.amazonaws.com/committees/ncaa/exec_boardgov/BOG_FederalStateLegWGFINAL.pdf, at 1.

³⁹ Cal. Educ. Code § 67456 (West). Legislation undertaken in the state of California does not go into effect until 2023, allowing time for consideration and alignment of NCAA bylaws and legislation in other states.

⁴⁰ H.B. 3904, 2019 Leg. (Ill. 2019); S.B. 6722A, 2019 Leg. (N.Y. 2019); S.B. 335, 2019 Leg. (N.C. 2019); H.B. 1084, 2019 Leg. (Wash. 2019). See also National Conference of State Legislatures, *Pay for Play for College Athletes?* (Sept. 30, 2019), available at <https://www.ncsl.org/blog/2019/09/30/pay-for-play-for-college-athletes.aspx>.

⁴¹ H.R. 1804, 116th Cong. (2019).

- The NCAA must allow an institution to provide an athlete with financial aid at least equal to the cost of attendance.⁴²
- The NCAA may prohibit a college athlete from contracting to profit from his or her NIL without violating antitrust law.⁴³
- A student athlete is not an employee and is not entitled to protection under the Fair Labor Standards Act.⁴⁴

III. Effect of Proposed Changes:

The bill creates s. 1006.74, F.S., to establish the right of intercollegiate athletes and the responsibilities for postsecondary educational institutions concerning an intercollegiate athlete's right to be compensated for her or his NIL. The bill also authorizes an athlete agent to represent an intercollegiate athlete, notwithstanding athletic conference or collegiate athletic association rules, bylaws, regulations, and policies to the contrary.

An intercollegiate athlete may earn compensation for the use of her or his NIL. Such compensation must be commensurate with the market value of the authorized use of the athlete's NIL, may not be provided in exchange for athletic performance or attendance at a particular institution, and may only be provided by a third party unaffiliated with such athlete's postsecondary educational institution.

An intercollegiate athlete who enters into a contract for compensation for the use of her or his NIL must disclose the contract to the postsecondary educational institution at which she or he is enrolled, in a manner designated by the institution. An intercollegiate athlete may not enter into a contract for compensation for the use of her or his NIL if a term of the contract conflicts with a term of the intercollegiate athlete's team contract.⁴⁵ A postsecondary educational institution asserting such conflict must disclose each relevant contract term in conflict to the intercollegiate athlete or her or his representative.

The bill requires an athlete agent representing an intercollegiate athlete for the purposes of securing compensation for the use of NIL to be licensed under Florida law. Similarly, the bill requires an attorney representing an intercollegiate athlete for such purposes to be a member in good standing with The Florida Bar. The duration of a contract for representation of an intercollegiate athlete for compensation for the use of such athlete's NIL may not extend beyond such athlete's participation in an athletic program at a postsecondary educational institution. An intercollegiate athlete under 18 years of age must have any contract for compensation for the use of her or his NIL approved as provided under Florida law.⁴⁶

An athlete agent may represent an intercollegiate athlete in securing compensation for the use of such athlete's NIL, notwithstanding athletic conference or collegiate athletic association rules, bylaws, regulations, and policies to the contrary.

⁴² *O'Bannon v. Nat'l Collegiate Athletic Ass'n*, 802 F.3d 1049 (9th Cir. 2015).

⁴³ *Id.*

⁴⁴ *Berger v. Nat'l Collegiate Athletic Ass'n*, 843 F.3d 285, 293 (7th Cir. 2016).

⁴⁵ The term "team contract" is not defined.

⁴⁶ See ss. 743.08 and 743.09, F.S.

The bill establishes responsibilities for postsecondary educational institutions. A postsecondary educational institution may not:

- Adopt or maintain a contract, rule, regulation, standard, or other requirements that prevents or unduly restricts an intercollegiate athlete from earning compensation for the use of her or his NIL. Earning such compensation may not affect the intercollegiate athlete's grant-in-aid or athletic eligibility.
- Prevent or unduly restrict an intercollegiate athlete from obtaining professional representation by an athlete agent or attorney engaged for the purpose of securing compensation for the use of her or his NIL.

Under the bill, a current or prospective intercollegiate athlete may not be compensated, or cause to be compensated, for the use of her or his NIL by:

- A postsecondary educational institution; or
- An entity whose purpose includes benefiting a postsecondary educational institution or its athletic program (or an employee, officer, or director of such entity).

Under the bill, grant-in-aid awarded to an intercollegiate athlete by a postsecondary educational institution is not compensation as it relates to the student athlete's NIL and may not be revoked or reduced as a result of an intercollegiate athlete earning compensation or obtaining relevant professional representation.

The bill requires a postsecondary educational institution to conduct a financial literacy and life skills workshop at the beginning of the intercollegiate athlete's first and third academic years. The workshop must be for a minimum of 5 hours, and at a minimum, include information or skills related to financial aid, debt management, marketing, advertising, referral, or solicitation by providers of financial products or services. It also must include time management skills and academic resources. The workshop may not include any marketing advertising referral or solicitation by providers of financial products or services.

The bill defines:

- "Athletic program" to mean an intercollegiate athletic program at a postsecondary educational institution.
- "Intercollegiate athlete" to mean a student who participates in an athletic program.
- "Postsecondary educational institution" to mean a state university, Florida College System institution, or private college or university receiving state financial aid or tuition assistance.

The bill requires the Board of Governors of the State University System and the State Board of Education to adopt relevant regulations and rules.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:Commerce Clause

The bill includes regulations governing participation in intercollegiate athletics at postsecondary educational institutions. These requirements may affect interstate commerce. The U.S. Constitution confers authority upon the federal government to regulate commerce among the states.⁴⁷ Nondiscriminatory state laws affecting interstate commerce are valid unless the burdens imposed on interstate commerce clearly outweigh the local benefits.⁴⁸

Contract Clause

The Florida Constitution includes a prohibition against laws impairing the obligation of contracts.⁴⁹ The U.S. Constitution includes a similar provision against the substantial impairment of contracts.⁵⁰ The bill may affect the obligations of postsecondary educational institutions to uphold existing contracts prohibiting students participating in intercollegiate athletics from earning compensation through the use of name, image, or likeness. Substantial impairments to existing contracts may be acceptable if the degree of the impairment is both “reasonable and necessary to achieve a valid state interest.”⁵¹

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

None.

B. Private Sector Impact:

Violations of National Collegiate Athletic Association (NCAA) bylaws may impact the eligibility of student athletes in the state to participate in intercollegiate athletics, and different laws in effect in different states may make it difficult to adopt a uniform

⁴⁷ U.S. Const., Art. 1, s. 8, cl. 3.

⁴⁸ *Dep’t of Revenue of Ky. v. Davis*, 553 U.S. 328, 338–39 (2008).

⁴⁹ Art. 1, s. 10, Fla. Const.

⁵⁰ U.S. Const., Art. 1, s. 10.

⁵¹ *Nat’l Collegiate Athletic Ass’n v. Roberts*, TCA 94-40413-WS, 1994 WL 750585 (N.D. Fla. Nov. 8, 1994) (citing *Nat’l Collegiate Athletic Ass’n v. Miller*, 795 F. Supp. 1476, 1486 (D. Nev. 1992)).

approach to supporting student athletes.⁵² The anticipated update to the NCAA’s bylaws and policies in January 2021 may place additional pressures on student athletes to attend only institutions in compliance with NCAA rules and bylaws in order to participate in intercollegiate athletics for the 2020-2021 academic year.

C. Government Sector Impact:

The bill may have a negative, indeterminate fiscal impact on postsecondary educational institutions. The bill may require university boards of trustees and related staff to amend university policies and regulations and draft related documents.⁵³ Additional athletics staff to provide oversight on student athlete compensation at each institution may also need to be hired.⁵⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides that an intercollegiate athlete may not enter into a contract for compensation for the use of her or his NIL if a term of the contract conflicts with a term of the intercollegiate athlete’s team contract. The term “team contract” is not defined. The term may relate to “student athlete behavior contracts” in which a student athlete is required to meet specified academic and behavioral standards.⁵⁵

The effective date of the bill is July 1, 2020. The NCAA is currently considering updating its bylaws and policies related to the issues presented in this bill. The updated bylaws and policies are anticipated to be released by the NCAA in January 2021. It is not clear how this bill will affect the rights and responsibilities of Florida’s NCAA-member educational institutions and the institution’s student athletes.

VIII. Statutes Affected:

This bill substantially amends section 468.453 of the Florida Statutes.

This bill creates section 1006.74 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 Innovation, Industry, and Technology on February 17, 2020:

⁵² State University System of Florida, *Agency Bill Analysis for SB 646* (2020), at 4. (on file with the Senate Committee on Innovation, Industry, and Technology).

⁵³ *Id.*, at 3.

⁵⁴ *Id.*

⁵⁵ See Study.com, *Athlete Behavior Contract Template*, available at: <https://study.com/academy/lesson/athlete-behavior-contract-template.html> (last visited Feb. 12, 2020).

The committee Substitute:

- Prohibits an entity whose purpose includes benefiting a postsecondary educational institution or its athletic program (or an employee, officer, or director of such entity) from compensating a current or prospective intercollegiate athlete for the use of her or his name, image, or likeness (NIL).
- Requires a postsecondary educational institution to conduct a financial literacy and life skills workshop at the beginning of the intercollegiate athlete's first and third academic years and specifies conditions for the workshop.
- Extends the effective date of the bill from July 1, 2020 to July 1, 2021.

CS by Education on February 10, 2020:

The committee substitute removes sections addressing contracts made by minors to license name, image, and likeness (NIL) while participating in intercollegiate athletics and compensation for postsecondary student athletes; amends a section to require an athlete agent to hold a valid license and authorize an athlete agent to represent an intercollegiate athlete in securing compensation for use of NIL; and creates a new section to provide intercollegiate athletes equal opportunity to control and profit from the commercial use of NIL, protected from unauthorized appropriation and commercial exploitation of publicity rights, including NIL. Specifically, the amendment:

- Defines the following terms:
 - “Athletic program” to mean an intercollegiate athletic program at a postsecondary educational institution.
 - “Intercollegiate athlete” to mean a student who participates in an athletic program.
 - “Postsecondary educational institution” to mean a state university, Florida College System institution, or private college or university receiving aid under chapter 1009.
- Establishes compensation and rights for intercollegiate athletes and responsibilities for postsecondary educational institutions as follows:
 - An intercollegiate athlete may earn compensation for the use of such athlete's NIL. Such compensation must be commensurate with the market value of the authorized use of the athlete's NIL, may not be provided in exchange for athletic performance or attendance at a particular institution, and may only be provided by a third party unaffiliated with such athlete's postsecondary educational institution.
 - A postsecondary educational institution may not adopt or maintain a contract, rule, regulation, standard, or other requirements that prevents or unduly restricts an intercollegiate athlete from earning compensation for the use of her or his NIL. Earning such compensation may not affect the intercollegiate athlete's grant-in-aid or athletic eligibility.
 - A postsecondary educational institution may not compensate a current or prospective intercollegiate athlete for the use of her or his NIL.
 - A postsecondary educational institution may not prevent or unduly restrict an intercollegiate athlete from obtaining professional representation by an athlete agent or attorney engaged for the purpose of securing compensation for the use of her or his NIL.
 - An athlete agent representing an intercollegiate athlete for the purposes of securing compensation for the use of NIL must be licensed under part IX of

- chapter 468, and an attorney representing an intercollegiate athlete for such purposes must be a member in good standing of The Florida Bar.
- Grant-in-aid, including cost of attendance, awarded to an intercollegiate athlete by a postsecondary educational institution is not compensation for such purposes and may not be revoked or reduced as a result of an intercollegiate athlete earning compensation or obtaining relevant professional representation.
 - An intercollegiate athlete under 18 years of age must have any contract for compensation for the use of her or his NIL approved under statute.
 - An intercollegiate athlete's contract for compensation for the use of NIL may not violate these rights and responsibilities.
 - An intercollegiate athlete may not enter into a contract for compensation for the use of NIL if a term of the contract conflicts with a term of the intercollegiate athlete's team contract. A postsecondary educational institution asserting such conflict must disclose each relevant contract term in conflict to the intercollegiate athlete or her or his representative.
 - An intercollegiate athlete who enters into a contract for compensation for the use of her or his NIL must disclose the contract to the postsecondary educational institution at which she or he is enrolled, in a manner designated by the institution.
 - The duration of a contract for representation of an intercollegiate athlete or compensation for the use of such athlete's NIL may not extend beyond such athlete's participation in an athletic program at a postsecondary educational institution.
 - Requires the Board of Governors and the State Board of Education to adopt relevant regulations and rules.
 - Specifies that a person must hold a valid license as an athlete agent to act as an athlete agent representing an intercollegiate athlete for purposes of contracts authorized under statute.
 - Authorizes an athlete agent to represent an intercollegiate athlete in securing compensation for the use of such athlete's NIL under statute, notwithstanding athletic conference or collegiate athletic association rules, bylaws, regulations, and policies to the contrary.

B. Amendments:

None.



397254

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2020	.	
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The Committee on Innovation, Industry, and Technology (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete lines 87 - 89

and insert:

(c) A postsecondary educational institution, an entity whose purpose includes supporting or benefitting the institution or its athletic programs, or an officer, director, or employee of such institution or entity may not compensate or cause compensation to be directed to a current or prospective intercollegiate athlete for her or his name, image, or likeness.



397254

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

And the title is amended as follows:

Delete line 16

and insert:

and other entities, institutions, and their employees
from compensating intercollegiate athletes or



815468

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2020	.	
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The Committee on Innovation, Industry, and Technology (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Between lines 131 and 132
insert:

(k) A postsecondary institution shall conduct a financial literacy and life skills workshop for a minimum of 5 hours at the beginning of the intercollegiate athlete's first and third academic years. The workshop shall, at a minimum, include information concerning financial aid, debt management, and a recommended budget for full and partial grant-in-aid



815468

11 intercollegiate athletes based on the current academic year's
12 cost of attendance. The workshop shall also include information
13 on time management skills necessary for success as an
14 intercollegiate athlete and available academic resources. The
15 workshop may not include any marketing, advertising, referral,
16 or solicitation by providers of financial products or services.

17
18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete line 36

21 and insert:

22 beyond a specified timeframe; requiring each
23 postsecondary institution to conduct a financial
24 literacy and life skills workshop for intercollegiate
25 athletes; requiring the Board of



282524

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/18/2020	.	
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The Committee on Innovation, Industry, and Technology (Bracy) recommended the following:

Senate Amendment (with title amendment)

Delete lines 132 - 134
and insert:

(3) STUDENT ATHLETE REVENUE SHARING.-At the conclusion of each school year, each Florida College System institution and state university shall distribute equally to all student athletes a total amount equal to 10 percent of revenue earned from ticket sales to all athletic events.

(4) REGULATIONS AND RULES.-The Board of Governors and the



282524

11 State Board of Education shall adopt regulations and rules,
12 respectively, to implement this section.

13 Section 2. (1) The Chancellor of the Florida College System
14 shall convene a College System Athlete Name, Image, and Likeness
15 Task Force, a task force as defined in s. 20.03(8), Florida
16 Statutes. Except as otherwise provided in this section, the task
17 force shall operate in a manner consistent with s. 20.052,
18 Florida Statutes. The members must be appointed as follows:

19 (a) The President of the Senate and the Speaker of the
20 House of Representatives shall each appoint one member.

21 (b) The Chancellor of the Florida College System shall
22 appoint the following members:

23 1. Two members who are Florida College System institution
24 students who participate in intercollegiate athletics.

25 2. One member who is a Florida College System institution
26 athletic administrator.

27 3. One member who is a Florida College System institution
28 athletic coach.

29 4. One member who is a Florida College System student
30 government association representative.

31 5. Two members who are students who participate in
32 intercollegiate athletics.

33 6. One member of his or her choosing.

34 (c) The president of the Florida College System Activities
35 Association shall appoint one member.

36
37 All appointments to the task force shall be completed on or
38 before December 1, 2020.

39 (2) The task force shall meet at least twice and elect a



282524

40 chair and a vice chair. A quorum consists of a majority of the
41 group's members. The task force shall:

42 (a) Review existing Florida College System Activities
43 Association bylaws, state and federal laws, and national
44 athletic association bylaws regarding the use of a Florida
45 College System institution student's name, image, and likeness
46 for compensation if he or she participates in intercollegiate
47 athletics.

48 (b) On or before December 1, 2021, submit a report
49 containing its findings and policy recommendations to the
50 President of the Senate, the Speaker of the House of
51 Representatives, the Chancellor of the Florida College System,
52 and the Florida College System Activities Association.

53 (3) Upon submission of the report required pursuant to
54 paragraph (2)(b), the task force shall expire.

55
56 ===== T I T L E A M E N D M E N T =====

57 And the title is amended as follows:

58 Delete lines 36 - 38

59 and insert:

60 beyond a specified timeframe; requiring the
61 remuneration of student athletes from a percentage of
62 athletic event ticket sales; requiring the Board of
63 Governors and the State Board of Education to adopt
64 regulations and rules, respectively; requiring the
65 Chancellor of the Florida College System to convene a
66 College System Athlete Name, Image, and Likeness Task
67 Force composed of certain members and appointed by
68 certain officials; requiring the task force to meet at



282524

69 least twice and elect a chair and a vice chair;
70 requiring the task force to review certain bylaws and
71 state and federal laws regarding the use of a student
72 athlete's name, image, or likeness for compensation;
73 requiring the task force to submit a report containing
74 findings and policy recommendations to the President
75 of the Senate, the Speaker of the House of
76 Representatives, the Chancellor of the Florida College
77 System, and the Florida College System Activities
78 Association; providing for the expiration of the task
79 force upon submission of the report; amending s.



154070

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/18/2020	.	
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The Committee on Innovation, Industry, and Technology (Bracy) recommended the following:

Senate Amendment to Amendment (282524)

Delete lines 5 - 9
and insert:

(3) STUDENT ATHLETE REVENUE SHARING.—Each Florida College System institution and state university shall distribute to each student athlete, upon his or her graduation, a pro-rata share of revenue equal to 10 percent of the income from ticket sales to all athletic events held during that student athlete's attendance at the Florida College System institution or state



154070

11 university.



566532

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2020	.	
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The Committee on Innovation, Industry, and Technology (Bradley) recommended the following:

Senate Amendment

Delete line 149
and insert:
Section 3. This act shall take effect July 1, 2021.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Appropriations
Environment and Natural Resources
Health Policy

SENATOR DEBBIE MAYFIELD

17th District

February 12, 2020

The Honorable Wilton Simpson
Chairman, Committee on Innovation, Industry, and Technology
420 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

RE: SB 646

Dear Chairman Simpson,

I am respectfully requesting Senate Bill 646, a bill relating to Intercollegiate Athlete Compensation and Rights, be placed on the agenda for your Committee on Innovation, Industry, and Technology.

I appreciate your consideration of this bill and I look forward to working with you and the Committee on Innovation, Industry, and Technology. If there are any questions or concerns, please do not hesitate to call my office at 850-487-5017

Thank you,



Senator Debbie Mayfield
District 17

Cc; Booter Imhof and Lynn Koon

REPLY TO:

- 900 East Strawbridge Avenue, Melbourne, Florida 32901 (321) 409-2025 FAX: (888) 263-3815
- 1801 27th Street, Vero Beach, Florida 32960 (772) 226-1970
- 322 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

2020 LEGISLATIVE BILL ANALYSIS

Bill Number: SB 646	Bill Title: Postsecondary Student Athletes
Sponsor(s): Sen. Mayfield	Effective Date: July 1, 2020
Companion Bill Number: HB 287	
Companion Bill Sponsor(s): Rep. LaMarca & Donalds	
Policy Analyst(s): Lynn Nelson	Fiscal Analyst(s):

EXECUTIVE SUMMARY

Senate Bill 646 proposes the following:

Section One

- Providing a short title;

Section Two

- Amending section 743.08, Florida Statutes:
 - Providing requirements for contracts made by a minor or his or her parent or guardian relating to the licensing of the minor's name, image, or likeness while participating in intercollegiate athletics;

Section Three

- Creating section 1004.098, Florida Statutes:
 - Prohibiting a postsecondary educational institution from preventing students participating in intercollegiate athletics from earning specified compensation;
 - Prohibiting certain organizations from preventing such students from earning specified compensation;
 - Prohibiting certain organizations from preventing postsecondary educational institutions from participating in intercollegiate athletics under certain circumstances;
 - Prohibiting certain entities from providing compensation to prospective students under certain conditions;
 - Prohibiting certain entities from preventing students participating in intercollegiate athletics from obtaining professional representation;
 - Providing requirements for such representation;
 - Providing that specified scholarships are not considered compensation;
 - Prohibiting the revocation of scholarships for specified reasons;
 - Prohibiting students participating in intercollegiate athletics from entering into contracts that meet certain criteria;
 - Providing student disclosure requirements for certain contracts;
 - Providing requirements for such disclosure;
 - Providing postsecondary education institution requirements for conflicts with specified contracts;
 - Providing requirements for specified contracts;

- Providing for retroactive application;
- Defining terms;
- Requiring the Board of Governors and the State Board of Education to adopt regulations and rules, respectively;

Section Four

- Providing an effective date.

CURRENT SITUATION AND EFFECT OF PROPOSED CHANGES

CURRENT SITUATION

Section One

There is currently no title or citation for this act.

Section Two

A contract made by a minor or made by a parent or guardian of a minor, or a contract proposed to be made, may be approved by the probate division of the circuit court or any other division of the circuit court that has guardianship jurisdiction, where the minor is a resident of this state or the services of the minor are to be performed or rendered in this state, where the contract sought to be approved is one under which the minor is to perform or render artistic or creative services.

Section Three

At present, student athletes must receive a final amateurism certification before being eligible to compete. According to the National Collegiate Athletic Association (NCAA), situations that may impact a student athlete's amateur status includes, but is not limited to, receiving payment from a sports team to participate, accepting prize money based on performance, being represented or marketed by a professional sports agent, and promoting or endorsing a commercial product or service (Source: <http://www.ncaa.org/student-athletes/future/amateurism>).

On October 29, 2019, the NCAA Board of Governors voted unanimously to permit students participating in athletics the opportunity to benefit from the use of their name, image, and likeness in a manner consistent with the collegiate model (Source: <http://www.ncaa.org/about/resources/media-center/news/board-governors-starts-process-enhance-name-image-and-likeness-opportunities>). Each of the NCAA's three divisions have been directed by the Board of Governors to consider updates to relevant bylaws and policies following specified principles and guidelines. The NCAA Board of Governors has asked each division to create any new rules immediately, but no later than January 2021.

EFFECT OF PROPOSED CHANGES

Section One

This act may be cited as the "Student Athlete Achievement Act."

Section Two

The proposed change expands the approval of a contract under which the minor is to perform or render artistic or creative services to include licensing his or her name, image, or likeness while participating in intercollegiate athletics as a student athlete pursuant to section 1004.098.

Section Three

Section 1004.098, F.S., will permit student athletes to be compensated for the use of their name, image, and likeness. This section will also allow student athletes to obtain professional representation/athlete agent.

At this time, it is difficult to fully ascertain the effects creating section 1004.098, F.S., will have.

Section Four

The effective date is July 1, 2020.

ESTIMATED STUDENT IMPACT

At this time, it is difficult to fully determine the estimated student impact of SB 646.

FISCAL IMPACT

ESTIMATED FISCAL IMPACT ON LOCAL GOVERNMENTS AND UNIVERSITIES

University boards of trustees will need to amend current policies and regulations. Staff effort will be required to effect the changes to university policies and regulations and related documents. There may also be a fiscal impact due to the hiring of additional athletics staff to provide oversight of principles and guidelines relevant to compensation of student athletes at each institution.

ESTIMATED IMPACT ON THE BOARD OF GOVERNORS OFFICE

Pursuant to SB 646, the Board of Governors office will be required to adopt regulations and rules to administer Section three.

ESTIMATED DATA IMPACT ON THE BOARD OF GOVERNORS OFFICE AND/OR THE STATE UNIVERSITY SYSTEM

This bill language has no data impact on the Board of Governors office and/or the State University System.

LEGAL ISSUES (if applicable)

ANALYST COMMENTS

Different laws from different states will negate a uniform approach to support student athletes nationwide, resulting in inconsistent practices.

There is no cap on the amount of compensation a student athlete may earn.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/17/20

Meeting Date

646

Bill Number (if applicable)

815 468

Amendment Barcode (if applicable)

Topic Intercollegiate Athletics

Name Nick Matthews

Job Title Lobbyist

Address 1 E Browne Blvd.

Street

Phone 813-767-7656

Ft. Lauderdale

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing National College Players 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
APPEARANCE RECORD

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

2.17.20
Meeting Date

6046
Bill Number (if applicable)

566532
Amendment Barcode (if applicable)

Topic Collegiate athletes

Name Samantha Sexton

Job Title Director of Government Relations

Address 215 S. Monroe St, Suite 110
Street

Phone 321-544-1577

Tallahassee FL 32301
City State Zip

Email ssexton@ufl.edu

Speaking: For Against Information

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

Representing University 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/17/2020
Meeting Date

646
Bill Number (if applicable)
#566532
Amendment Barcode (if applicable)

Topic Intercollegiate Athlete Compensation & Rights

Name Chris Floyd

Job Title Consultant

Address 1302 Colless Ave #302
Street

Phone 813-624-5117

Tallahassee FL 32301
City State Zip

Email Chris@CLFconsulting.com

Speaking: For Against Information

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

Representing ICUF

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.

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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)

2/17/20
Meeting Date

646

Bill Number (if applicable)

Topic Athlete Compensation and Rights

*580-03712-20

Amendment Barcode (if applicable)

Name Kristin Whitaker

Job Title Vice Chancellor Govt. Affairs

Address _____
Street

Phone 850-566-5217

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing State University System

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.

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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)

2/17/20

Meeting Date

646

Bill Number (if applicable)

Topic Intercollegiate Athletics

Amendment Barcode (if applicable)

Name Nick Matthews

Job Title Lobbyist

Address J. E. Brand Blvd.

Phone 813-767-7656

St. Fort Lauderdale FL

Email _____

City State Zip

Speaking: For Against Information

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

Representing National College Players 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.

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)

1/17/2020
Meeting Date

Topic Intercollegiate Athlete Compensation & Rights

Name Chris Floyd

Job Title Consultant

Address 1302 College Ave #302
Street

Tallahassee
City

FL
State

32301
Zip

Phone 813-624-5117

Email Chris@CLF-consulting.com

Speaking: For Against Information

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

Representing FCUF / University of Tampa

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

646
Bill Number (if applicable)
#566532
Amendment Barcode (if applicable)

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
COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: CS/SB 646
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, February 17, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE		SENATORS	2/17/2020 1 Amendment 397254		2/17/2020 2 Amendment 815468		2/17/2020 3 Amendment 282524	
			Mayfield		Mayfield		Bracy	
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Bracy						
X		Bradley						
X		Brandes						
X		Braynon						
X		Farmer						
X		Gibson						
X		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
10	0	TOTALS	RCS	-	RCS	-	-	WD
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: CS/SB 646
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, February 17, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

SENATORS	2/17/2020 ⁴ Amendment 154070 Bracy		2/17/2020 ⁵ Consider late-filed AM (2/3 vote required)		2/17/2020 ⁶ Amendment 566532 Bradley		Yea	Nay
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay
Bracy								
Bradley								
Brandes								
Braynon								
Farmer								
Gibson								
Hutson								
Passidomo								
Benacquisto, VICE CHAIR								
Simpson, CHAIR								
TOTALS	-	UNF	FAV	-	RCS	-	Yea	Nay
	Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

By the Committees on Innovation, Industry, and Technology; and Education; and Senator Mayfield

580-03750A-20

2020646c2

1 A bill to be entitled
2 An act relating to intercollegiate athlete
3 compensation and rights; creating s. 1006.74, F.S.;
4 providing legislative findings; defining terms;
5 authorizing certain intercollegiate athletes to earn
6 compensation for the use of their names, images, or
7 likenesses; providing requirements for such
8 compensation; prohibiting postsecondary educational
9 institutions from adopting or maintaining contracts,
10 rules, regulations, standards, or other requirements
11 that prevent or unduly restrict intercollegiate
12 athletes from earning specified compensation;
13 providing that certain compensation does not affect
14 certain intercollegiate athlete eligibilities;
15 prohibiting a postsecondary educational institution
16 and other entities, institutions, and their employees
17 from compensating intercollegiate athletes or
18 prospective intercollegiate athletes for the use of
19 their names, images, or likenesses; prohibiting a
20 postsecondary educational institution from preventing
21 or unduly restricting intercollegiate athletes from
22 obtaining specified representation; requiring athlete
23 agents and attorneys to meet specified requirements;
24 providing that specified aid for intercollegiate
25 athletes is not compensation; prohibiting the
26 revocation or reduction of certain aid as a result of
27 intercollegiate athletes earning certain compensation
28 or obtaining specified representation; providing
29 approval requirements for certain contracts for

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30 compensation for intercollegiate athletes who are
31 minors; providing contract requirements; prohibiting
32 intercollegiate athletes from entering into contracts
33 for specified compensation that conflict with terms of
34 her or his team contract; providing intercollegiate
35 athlete contract disclosure requirements; prohibiting
36 an intercollegiate athlete contract from extending
37 beyond a specified timeframe; requiring each
38 postsecondary institution to conduct a financial
39 literacy and life skills workshop for intercollegiate
40 athletes; requiring the Board of Governors and the
41 State Board of Education to adopt regulations and
42 rules, respectively; amending s. 468.453, F.S.;

43 providing requirements for certain athlete agents;
44 providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. Section 1006.74 Florida Statutes, is created to
49 read:

50 1006.74 Intercollegiate athlete compensation and rights.-
51 The Legislature finds that intercollegiate athletics provide
52 intercollegiate athletes with significant educational
53 opportunities. However, participation in intercollegiate
54 athletics should not infringe upon an intercollegiate athlete's
55 ability to earn compensation for her or his name, image, or
56 likeness. An intercollegiate athlete must have an equal
57 opportunity to control and profit from the commercial use of her
58 or his name, image, or likeness, and be protected from

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59 unauthorized appropriation and commercial exploitation of her or
60 his right to publicity, including her or his name, image, or
61 likeness.

62 (1) DEFINITIONS.—As used in this section, the term:

63 (a) "Athletic program" means an intercollegiate athletic
64 program at a postsecondary educational institution.

65 (b) "Intercollegiate athlete" means a student who
66 participates in an athletic program.

67 (c) "Postsecondary educational institution" means a state
68 university, a Florida College System institution, or a private
69 college or university receiving aid under chapter 1009.

70 (2) INTERCOLLEGIATE ATHLETES' COMPENSATION AND RIGHTS AND
71 POSTSECONDARY EDUCATIONAL INSTITUTIONS RESPONSIBILITIES.—

72 (a) An intercollegiate athlete at a postsecondary
73 educational institution may earn compensation for the use of her
74 or his name, image, or likeness. Such compensation must be
75 commensurate with the market value of the authorized use of the
76 athlete's name, image, or likeness. To preserve the integrity,
77 quality, character, and amateur nature of intercollegiate
78 athletics and to maintain a clear separation between amateur
79 intercollegiate athletics and professional sports, such
80 compensation may not be provided in exchange for athletic
81 performance or attendance at a particular institution and may
82 only be provided by a third party unaffiliated with the
83 intercollegiate athlete's postsecondary educational institution.

84 (b) A postsecondary educational institution may not adopt
85 or maintain a contract, rule, regulation, standard, or other
86 requirement that prevents or unduly restricts an intercollegiate
87 athlete from earning compensation for the use of her or his

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88 name, image, or likeness. Earning such compensation may not
89 affect the intercollegiate athlete's grant-in-aid or athletic
90 eligibility.

91 (c) A postsecondary educational institution, an entity
92 whose purpose includes supporting or benefitting the institution
93 or its athletic programs, or an officer, director, or employee
94 of such institution or entity may not compensate or cause
95 compensation to be directed to a current or prospective
96 intercollegiate athlete for her or his name, image, or likeness.

97 (d) A postsecondary educational institution may not prevent
98 or unduly restrict an intercollegiate athlete from obtaining
99 professional representation by an athlete agent or attorney
100 engaged for the purpose of securing compensation for the use of
101 her or his name, image, or likeness. Pursuant to s. 468.453(8),
102 an athlete agent representing an intercollegiate athlete for
103 purposes of securing compensation for the use of her or his
104 name, image, or likeness, must be licensed under part IX of
105 chapter 468. An attorney representing an intercollegiate athlete
106 for purposes of securing compensation for the use of her or his
107 name, image, or likeness must be a member in good standing of
108 The Florida Bar.

109 (e) A grant-in-aid, including cost of attendance, awarded
110 to an intercollegiate athlete by a postsecondary educational
111 institution is not compensation for the purposes of this
112 subsection, and may not be revoked or reduced as a result of an
113 intercollegiate athlete earning compensation or obtaining
114 professional representation under this subsection.

115 (f) An intercollegiate athlete under 18 years of age must
116 have any contract for compensation for the use of her or his

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117 name, image, or likeness approved under ss. 743.08 and 743.09.

118 (g) An intercollegiate athlete's contract for compensation
119 for the use of her or his name, image, or likeness may not
120 violate this subsection.

121 (h) An intercollegiate athlete may not enter into a
122 contract for compensation for the use of her or his name, image,
123 or likeness if a term of the contract conflicts with a term of
124 the intercollegiate athlete's team contract. A postsecondary
125 educational institution asserting a conflict under this
126 paragraph must disclose each relevant contract term that
127 conflicts with the team contract to the intercollegiate athlete
128 or her or his representative.

129 (i) An intercollegiate athlete who enters into a contract
130 for compensation for the use of her or his name, image, or
131 likeness shall disclose the contract to the postsecondary
132 educational institution at which she or he is enrolled, in a
133 manner designated by the institution.

134 (j) The duration of a contract for representation of an
135 intercollegiate athlete or compensation for the use of an
136 intercollegiate athlete's name, image, or likeness may not
137 extend beyond her or his participation in an athletic program at
138 a postsecondary educational institution.

139 (k) A postsecondary institution shall conduct a financial
140 literacy and life skills workshop for a minimum of 5 hours at
141 the beginning of the intercollegiate athlete's first and third
142 academic years. The workshop shall, at a minimum, include
143 information concerning financial aid, debt management, and a
144 recommended budget for full and partial grant-in-aid
145 intercollegiate athletes based on the current academic year's

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146 cost of attendance. The workshop shall also include information
147 on time management skills necessary for success as an
148 intercollegiate athlete and available academic resources. The
149 workshop may not include any marketing, advertising, referral,
150 or solicitation by providers of financial products or services.

151 (3) REGULATIONS AND RULES.—The Board of Governors and the
152 State Board of Education shall adopt regulations and rules,
153 respectively, to implement this section.

154 Section 2. Subsections (8) and (9) are added to section
155 468.453, Florida Statutes, to read:

156 468.453 Licensure required; qualifications; license
157 nontransferable; service of process; temporary license; license
158 or application from another state.—

159 (8) Notwithstanding subsection (3), a person must hold a
160 valid license as an athlete agent to act as an athlete agent
161 representing an intercollegiate athlete for purposes of
162 contracts authorized under s. 1006.74.

163 (9) Notwithstanding athletic conference or collegiate
164 athletic association rules, bylaws, regulations, and policies to
165 the contrary, an athlete agent may represent an intercollegiate
166 athlete in securing compensation for the use of her or his name,
167 image, or likeness under s. 1006.74.

168 Section 3. This act shall take effect July 1, 2021.

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 Innovation, Industry, and Technology

BILL: CS/SB 1336

INTRODUCER: Community Affairs Committee and Senator Perry

SUBJECT: Preemption of Local Occupational Licensing

DATE: February 14, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Kraemer</u>	<u>Imhof</u>	<u>IT</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 1336 expressly preempts the licensing of occupations to the state and supersedes any local government licensing of occupations, with the exception of local government licensing of occupations authorized by general law or occupational licenses imposed by a local government before October 1, 2020. Local government occupational licensing requirements in place by the deadline may not be increased or modified thereafter. In addition, a local government's ability to enact residency requirements for licenses or licensees is not prevented or restricted by the bill.

The bill specifically prohibits local governments from requiring a license for a person whose job scope does not substantially correspond to that of a contractor or journeyman type licensed by the Construction Industry Licensing Board, within the Department of Business and Professional Regulation. It specifically precludes local governments from requiring a license for: painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning, and ornamental iron installation.

Finally, the bill authorizes counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as the electrical and alarm system trades, which is the current practice by counties and municipalities. Local journeyman licensing is excepted from the preemption of local licensing to the state.

The bill has no impact on state government.

The bill is effective July 1, 2020.

II. Present Situation:

Local Government Authority

The Florida Constitution grants local governments broad home rule authority. Specifically, non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹ Those counties operating under a county charter have all powers of local self-government not inconsistent with general law or special law approved by the vote of the electors.² Likewise, municipalities have those governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform their functions and provide services, and exercise any power for municipal purposes, except as otherwise provided by law.³

Unlike counties or municipalities, independent special districts do not possess home rule power. Therefore, the powers possessed by independent special districts are those expressly provided by, or which can be reasonably implied from, the special district's charter or general law.⁴ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁵

Revenue Sources Authorized in the Florida Constitution⁶

The Florida Constitution limits the ability of local governments to raise revenue for their operations. The Florida Constitution provides:

No tax shall be levied except in pursuance of law. No state ad valorem taxes⁷ shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law.⁸

Counties, school districts, and municipalities shall, and special districts may, be authorized by law to levy ad valorem taxes and may be authorized by general law to levy other taxes, for their respective purposes, except ad valorem taxes on intangible personal property and taxes prohibited by this constitution.⁹

¹ FLA. CONST. art. VIII, s. 1(f).

² FLA. CONST. art. VIII, s. 1(g).

³ FLA. CONST. art. VIII, s. 2(b). *See also* s. 166.021(1), F.S.

⁴ *See* s. 189.031(3)(b), F.S. *See also State ex rel. City of Gainesville v. St. Johns River Water Mgmt. Dist.*, 408 So.2d 1067, 1068 (Fla. 1st DCA 1982).

⁵ State Affairs Committee and Local, Federal & Veterans Affairs Subcommittee, The Florida House of Representatives, *2018 - 2020 Local Government Formation Manual*, available at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual%20Final.pdf> (last visited Feb. 12, 2020).

⁶ *See* Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf> (last visited Feb. 12, 2020).

⁷ Pursuant to s. 192.001(1), F.S., “ad valorem tax” means a tax based upon the assessed value of property.

⁸ FLA. CONST. art. VII, s. 1(a).

⁹ FLA. CONST. art. VII, s. 9(a).

However, not all local government revenue sources are taxes requiring general law authorization. When a county or municipal revenue source is imposed by ordinance, the question is whether the charge is a valid assessment or fee. As long as the charge is not deemed a tax, the imposition of the assessment or fee by ordinance is within the constitutional and statutory home rule powers of county and municipal governments. If the charge is not a valid assessment or fee, it is deemed a revenue source requiring general law authorization.

Local Government Revenue Sources Based on Home Rule Authority¹⁰

Pursuant to home rule authority, counties and municipalities may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. Because special districts do not possess home rule powers, they may impose only those taxes, assessments, or fees authorized by special or general law.¹¹

Preemption

Local governments have broad authority to legislate on any matter that is not inconsistent with federal or state law. A local government enactment may be inconsistent with state law if (1) the Legislature has preempted a particular subject area or (2) the local enactment conflicts with a state statute. Where state preemption applies, it precludes a local government from exercising authority in that particular area.¹²

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.¹³ Express preemption of a field by the Legislature must be accomplished by clear language stating that intent.¹⁴ In cases where the Legislature expressly or specifically preempts an area, there is no problem with ascertaining what the Legislature intended.¹⁵

¹⁰ Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, available at <http://edr.state.fl.us/Content/local-government/reports/lghfih19.pdf> (last visited Feb. 12, 2020).

¹¹ See ch. 189, F.S. See also State Affairs Committee and Local, Federal & Veterans Affairs Subcommittee, The Florida House of Representatives, *The Local Government Formation Manual 2018-2020*, 70, available at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3025&Session=2019&DocumentType=General%20Publications&FileName=2018-2020%20Local%20Government%20Formation%20Manual%20Final.pdf> (last visited Feb. 12, 2020).

¹² See James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemption and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009) available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Feb. 12, 2020).

¹³ See *City of Hollywood v. Mulligan*, 934 So.2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So.2d 1011, 1018 (Fla. 2d DCA 2005), approved in *Phantom of Brevard, Inc. v. Brevard County*, 3 So.3d 309 (Fla. 2008).

¹⁴ *Mulligan*, 934 So.2d at 1243.

¹⁵ *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So.3d 880, 886 (Fla. 2010). Examples of activities “expressly preempted to the state” include: operator use of commercial mobile radio services and electronic communications devices in motor vehicles, s. 316.0075, F.S.; regulation of the use of cameras for enforcing provisions of the Florida Uniform Traffic Control Law, s. 316.0076, F.S.; and, the adoption of standards and fines related to specified subject areas under the purview of the Department of Agriculture and Consumer Services, s. 570.07, F.S.

In cases determining the validity of ordinances enacted in the face of state preemption, the effect has been to find such ordinances null and void.¹⁶ In one case, the court stated that implied preemption “is actually a decision by the courts to create preemption in the absence of an explicit legislative directive.”¹⁷ Preemption of a local government enactment is implied only where the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and strong public policy reasons exist for finding preemption.¹⁸ Implied preemption is found where the local legislation would present the danger of conflict with the state's pervasive regulatory scheme.¹⁹

Professions and Occupations

General law directs a number of state agencies and licensing boards to regulate certain professions and occupations. For example, the Department of Business and Professional Regulation (DBPR) currently regulates approximately 25 professions and occupations.²⁰

General law determines whether local governments are able to regulate occupations and businesses, and to what degree.²¹ If state law preempts regulation for an occupation, then, generally, local governments may not regulate that occupation.²² Florida law currently preempts local regulation with regard to the following:

- Assessing local fees associated with providing proof of licensure as a contractor, or providing, recording, or filing evidence of worker’s compensation insurance coverage by a contractor;²³
- Assessing local fees and rules regarding low-voltage alarm system projects;²⁴
- Smoking;²⁵
- Firearms and ammunition;²⁶
- Employment benefits;²⁷
- Polystyrene products;²⁸
- Public lodging establishments and public food service establishments;²⁹ and
- Disposable plastic bags.³⁰

¹⁶ See, e.g., *Nat’l Rifle Ass’n of Am., Inc. v. City of S. Miami*, 812 So.2d 504 (Fla. 3d DCA 2002).

¹⁷ *Phantom of Clearwater, Inc.*, 894 So.2d at 1019.

¹⁸ *Id.*

¹⁹ *Sarasota Alliance for Fair Elections, Inc.*, 28 So.3d at 886.

²⁰ See s. 20.165, F.S., and *Annual Report, Fiscal Year 2018-2019, for the Division of Professions, Certified Public Accounting, Real Estate, and Regulation*, and the list of professions and occupations at page 19, at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1819.pdf (last visited Feb. 12, 2020).

²¹ See FLA. CONST art. VIII, s. 1(f), art. VIII, s. 2(b), and ss. 125.01(1) and 166.021(1), F.S.

²² See James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemption and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009) available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Feb. 12, 2020).

²³ Section 553.80(7)(a)5., F.S.

²⁴ Section 489.503(14), F.S.

²⁵ Section 386.209, F.S.

²⁶ Section 790.33(1), F.S.

²⁷ Section 218.077, F.S.

²⁸ Section 500.90, F.S.

²⁹ Section 509.032(7), F.S.

³⁰ Section 403.7033, F.S.

Conversely, Florida law also specifically grants local jurisdictions the right to regulate businesses, occupations, and professions in certain circumstances.³¹ Florida law authorizes local regulations relating to:

- Zoning and land use;³²
- The levy of “reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter;”³³
- The levy of local business taxes;³⁴
- Building code inspection fees;³⁵
- Tattoo establishments;³⁶
- Massage practices;³⁷
- Child care facilities;³⁸
- Taxis and other vehicles for hire;³⁹
- Waste and sewage collection;⁴⁰ and
- Regulation of vaping.⁴¹

Construction Professional Licenses

Chapter 489, F.S., relates to “contracting,” with part I addressing the licensure and regulation of construction contracting, and part II addressing the licensure and regulation of electrical and alarm system contracting.

Construction Contracting

Construction contractors are either certified or registered by the Construction Industry Licensing Board (CILB) housed within DBPR.⁴² The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate.⁴³ The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.⁴⁴

“Certified contractors” are individuals who pass the state competency examination and obtain a certificate of competency issued by DBPR. Certified contractors are able to obtain a certificate of

³¹ See James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009) available at <https://www.floridabar.org/the-florida-bar-journal/the-effectiveness-of-home-rule-a-preemption-and-conflict-analysis/> (last visited Feb. 12, 2020).

³² See part II, ch. 163, F.S.

³³ Section 166.221, F.S.

³⁴ Chapter 205, F.S.

³⁵ Section 166.222, F.S.

³⁶ Section 381.00791, F.S.

³⁷ Section 480.052, F.S.

³⁸ Section 402.306, F.S.

³⁹ Section 125.01(1)(n), F.S.

⁴⁰ Section 125.01(1)(k), F.S.

⁴¹ Section 386.209, F.S.

⁴² See ss. 489.105, 489.107, and 489.113, F.S.

⁴³ Section 489.107(1), F.S.

⁴⁴ Section 489.107, F.S.

competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state.⁴⁵

“Certified specialty contractors” are contractors whose scope of work is limited to a particular phase of construction, such as drywall or demolition. Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.⁴⁶

“Registered contractors” are individuals that have taken and passed a local competency examination and may practice the specific category of contracting for which he or she is approved, only in the local jurisdiction for which the license is issued.⁴⁷

The following table provides examples of CILB licenses for types of contractors.⁴⁸

Statutory Licenses	Specialty Licenses
<ul style="list-style-type: none"> • Air Conditioning- Classes A, B, and C • Building • General • Internal Pollutant Storage Tank Lining Applicator • Mechanical • Plumbing • Pollutant Storage Systems • Pool/Spa- Classes A, B, and C • Precision Tank Tester • Residential • Roofing • Sheet Metal • Solar • Underground Excavation 	<ul style="list-style-type: none"> • Drywall • Demolition • Gas Line • Glass and Glazing • Industrial Facilities • Irrigation • Marine • Residential Pool/Spa Servicing • Solar Water Heating • Structure • Swimming Pool Decking • Swimming Pool Excavation • Swimming Pool Finishes • Swimming Pool Layout • Swimming Pool Piping • Swimming Pool Structural • Swimming Pool Trim • Tower

Current law provides that local jurisdictions may approve or deny applications for licensure as a registered contractor, review disciplinary cases, and conduct informal hearings relating to discipline of registered contractors licensed in their jurisdiction.⁴⁹ Local jurisdictions are not barred from issuing and requiring construction licenses that are outside the scope of practice for

⁴⁵ See ss. 489.105(6)-(8) and (11), F.S.

⁴⁶ See ss. 489.108, 489.113, 489.117, and 489.131, F.S.

⁴⁷ Section 489.117, F.S.

⁴⁸ See s. 489.105(a)-(q), F.S., and Fla. Admin. Code R. 61G4-15.015 through 61G4-15.040 (2020).

⁴⁹ Sections 489.117 and 489.131, F.S.

a certified contractor or certified specialty contractor, such as painting and fence erection licenses. Local governments may only collect licensing fees that cover the cost of regulation.⁵⁰ Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license. However, persons holding a local construction license whose job scope does not substantially correspond to the job scope of a certified contractor or a certified specialty contractor are not required to register with DBPR.⁵¹

Electrical and Alarm System Contracting

Electrical contractors, alarm system contractors, and electrical specialty contractors are certified or registered under the Electrical Contractors' Licensing Board (ECLB).⁵² Certified contractors may practice statewide and are licensed and regulated by ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may only practice within that locality.⁵³

Electrical contractors are contractors who have the ability to work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits which generate, transmit, transform, or utilize electrical energy in any form. The scope of an electrical contractor's license includes alarm system work.⁵⁴

Alarm system contractors are contractors who are able to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems. An "alarm system" is defined as "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency."⁵⁵

Electrical certified specialty contractors are contractors whose scope of work is limited to a particular phase of electrical contracting, such as electrical signs. The ECLB creates electrical certified specialty contractor licenses through rulemaking.⁵⁶ Certified electrical specialty contractors may practice statewide. The ECLB has created the following certified specialty contractor licenses:

- Lighting Maintenance Specialty Contractor;
- Sign Specialty Electrical Contractor;
- Residential Electrical Contractor;
- Limited Energy Systems Specialty Contractor;
- Utility line electrical contractor; and
- Two-Way Radio Communications Enhancement Systems Contractor.⁵⁷

⁵⁰ Office of Economic and Demographic Research, The Florida Legislature, *2019 Local Government Financial Handbook*, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih19.pdf> (last visited Feb. 12, 2020).

⁵¹ Sections 489.105 and 489.117(4), F.S.

⁵² See Sections 489.505(3) and 489.507, F.S.

⁵³ See s. 489.505(16), F.S.

⁵⁴ Sections 489.505(12) and 489.537(7), F.S.

⁵⁵ Sections 489.505(1) and (2), F.S.

⁵⁶ Sections 489.507(3) and 489.511(4), F.S.

⁵⁷ Sections 489.505(19) and 489.511(4), F.S.; See Fla. Admin. Code R. 61G6-7.001 (2020).

Journeyman Licenses

A journeyman is a skilled worker in a building trade or craft. There is no state requirement for licensure as a journeyman, but the construction and electrical contractor practice acts account for the fact that counties and municipalities issue journeyman licenses. A person with a journeyman license must always work under the supervision of a licensed contractor, but the state does not regulate journeymen activities or issue journeymen licenses.⁵⁸

However, under ch. 489, F.S., a tradesman may be licensed as a journeyman in one local jurisdiction and work in multiple jurisdictions (license reciprocity) without having to take another examination or pay an additional licensing fee to qualify to work in the other jurisdictions (county or municipality). If eligible for license reciprocity, a journeyman with a valid, active journeyman license issued by a county or municipality in Florida need not take any additional examinations or pay additional license fees and may work in the:

- Plumbing/pipe fitting, mechanical, or HVAC trades;⁵⁹ or
- Electrical and alarm system trades.⁶⁰

The statutory criteria for licensure reciprocity between local jurisdictions for journeymen include.⁶¹

- Scoring at least 75 percent on an approved proctored examination for that construction trade;
- Completing a registered apprenticeship program and demonstrating four years of verifiable practical experience in the particular trade, or alternatively demonstrating six years of such experience in the particular trade;
- Completing coursework approved by the Florida Building Commission specific to the discipline within the required time frame; and
- Not having a license suspended or revoked within the last five years.

Residency Requirements for Contracting Licenses

Some local governments have adopted policies to promote the usage of local residents for contracting activities within their jurisdictions. For example, it is the policy of Miami-Dade County that, except where federal or state laws or regulations mandate to the contrary, all contractors and subcontractors of any tier performing on a county construction contract must satisfy the requirements of the Miami-Dade County Residents First Training and Employment Program.⁶² These requirements include that the contractor will make its best reasonable efforts to promote employment opportunities for local residents and seek to achieve a project goal of having 51 percent of all construction labor hours performed by Miami-Dade County residents.⁶³

⁵⁸ Sections 489.103, 489.1455, 489.503, and 489.5335, F.S.

⁵⁹ Section 489.1455, F.S.

⁶⁰ Section 489.5355, F.S.

⁶¹ Sections 489.1455 and 489.5355, F.S.

⁶² See Code of Miami Dade County Florida, Chapter 2, Article I, Section 2.11.17, available at

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-11.17REFITREMPR (last visited Feb. 4, 2020).

⁶³ *Id.* at paragraph (5)(a)(ii) of Article I, Section 2.11.17.

III. Effect of Proposed Changes:

Section 1 creates s. 163.21, F.S., to define the following terms:

- "Licensing" means any training, education, test, certification, registration, or license that is required for a person to perform an occupation along with any associated fee.
- "Local government" means a county, municipality, special district, or political subdivision of the state.
- "Occupation" means a paid job, profession, work, line of work, trade, employment, position, post, career, field, vocation, or craft.

This section of the bill expressly preempts occupational licensing to the state. This preemption supersedes any local government licensing requirement of occupations unless:

- The local licensing scheme for an occupation is enacted before October 1, 2020; or
- The licensing of occupations by local governments is authorized by general law.

In addition, this section of the bill prohibits local governments that license an occupation from imposing additional licensing requirements on that occupation and from modifying such licensing. Under the bill, any local licensing of an occupation that is not imposed before October 1, 2020 or otherwise authorized by general law does not apply and may not be enforced.

Nothing in the bill is intended to prevent or restrict a local government's ability to enact residency requirements for licenses or licensees.

Section 2 amends s. 489.117, F.S., relating to registration of specialty contractors to provide that persons whose job scope is outside the contractor trades or certified specialty trades need not register with the Construction Industry Licensing Board (CILB). A county or municipality may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the CILB, or the plumbing/pipefitting, mechanical, or HVAC trades of a journeyman under s. 489.1455(1), F.S.

The bill specifically prohibits counties and municipalities from requiring a license for certain job scopes, including, but not limited to, painting, flooring, cabinetry, interior remodeling, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning, and ornamental iron installation.

Sections 3 and 4 amend ss. 489.1455 and 489.5335, F.S., to authorize counties and municipalities to issue journeyman licenses in the plumbing, pipe fitting, mechanical, or HVAC trades, as well as the electrical and alarm system trades, which is the current practice by counties and municipalities. Therefore, local journeyman licensing is excepted from the preemption of local licensing to the state, as provided in the bill.

Section 5 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Certain professionals will not be required to pay local licensing and/or examination fees due to the preemption of occupational licensure to the state. This may have a positive impact on the number of individuals practicing certain professions. The impact on construction costs and workers' wages is indeterminate.

C. Government Sector Impact:

The bill will have indeterminate impact on local government costs and revenues linked to licensing. Under the bill, local governments are not authorized to increase existing license fees after October 1, 2020. If local governments enact a residency requirement for licenses or licensees as authorized by the bill, but do so after October 1, 2020, the costs associated with such requirements may not be imposed or enforced.

VI. Technical Deficiencies:

Line 76 of the bill provides a job scope description of "canvas awning." The job scope may be better captured by "canvas awning installation."

VII. Related Issues:

The bill provides that local occupational licensing that is not authorized under s. 163.21, F.S., created by the bill, or otherwise authorized by general law “does not apply and may not be enforced.” *See* lines 49 to 52 of the bill. These authorizations do not address occupational licensing imposed by local governments that may be authorized by special act of the Legislature (previously or in the future), or licensing imposed by local ordinance for a purpose such as protection of water quality.

As an example, the Pinellas County Construction Licensing Board was originally established in 1975 by special act, which was last revised in 2018 by special act of the Legislature.⁶⁴ Similarly, in 2008 Lee County adopted an ordinance regulating landscape management practices, including registration of landscaping businesses and certain landscapers, and completion of certain training.⁶⁵ A stated purpose of this ordinance is to meet federal and state water quality standards and to minimize the detrimental impacts on the county’s lakes, estuaries, wetlands, the Caloosahatchee River, and the Gulf of Mexico.⁶⁶ Similar requirements exist for drilling of elevator shafts and water wells,⁶⁷ to avoid cross contamination of local aquifers.

The bill amends s. 489.1455(1), F.S., relating to journeyman licenses in the building trades of plumbing, pipe fitting, mechanical, and HVAC, as well as s. 489.5335, F.S., relating to journeyman licenses in the electrical and alarm system trades. It appears the job scopes described on lines 69 and 70 of the bill should also include the electrical and alarm system trades. If this was unintentional, consideration of a conforming amendment to reference s. 489.5335, F.S., appears appropriate.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 489.117, 489.1455, and 489.5335.

This bill creates section 163.21 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.)

CS by Community Affairs on February 3, 2020:

The committee substitute:

- Removes “procedure” from the list of terms that mean licensing.
- Allows a local government that imposes a license on an occupation before October 1, 2020, to retain such licensing scheme so long as the local government does not impose additional licensing requirements or modify such licensing.

⁶⁴ *See* ch. 2018-179, Laws of Florida, at <http://laws.flrules.org/2018/179> (last visited Feb. 13, 2020).

⁶⁵ *See* Lee County Ordinance No. 08-08 at <https://www.leegov.com/bocc/ordinances/08-08.pdf> (last visited Feb. 13, 2020).

⁶⁶ *Id.* at p. 3 (Section Two).

⁶⁷ *See* Lee County Ordinance No. 16-06 at <https://www.leegov.com/bocc/Ordinances/16-06.pdf> (last visited Feb. 13, 2020).

- Provides that nothing in the bill is intended to prevent or restrict a local government's ability to enact residency requirements for licenses or licensees.

B. Amendments:

None.

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



118542

LEGISLATIVE ACTION

Senate	.	House
Comm: TP	.	
02/17/2020	.	
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	.	
	.	

The Committee on Innovation, Industry, and Technology (Perry) recommended the following:

Senate Amendment

Delete line 70
and insert:
s. 489.105(3)(a)-(o) and (q) or authorized in s. 489.1455(1) or
s. 489.5335(1).



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: February 5, 2020

I respectfully request that **Senate Bill #1336**, relating to Preemption of Local Occupational Licensing, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/12/14

Meeting Date

HB 1336

Bill Number (if applicable)

Topic Preemption of Local Occupational License

Amendment Barcode (if applicable)

Name Phillip Suteran

Job Title Policy Director

Address _____
Street

Phone _____

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

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

2/17/2020

Meeting Date

SB 1336

Bill Number (if applicable)

Topic Preemption of Local Occupational Licensing

Amendment Barcode (if applicable)

Name Mandy Freeman

Job Title

Address 613 Park Rd

Phone 352-530-5303

Street

Mascotte

City

FL

State

34753

Zip

Email Mandy.mamoffive@aol.com

Speaking: [] For [] Against [] Information

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

Representing Myself

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)

17 FEB 2020
Meeting Date

SB 1336
Bill Number (if applicable)

Topic Preemption of local Occupational Licensing

Amendment Barcode (if applicable)

Name TERRY FREEMAN

Job Title Mechanic

Address 613 Park Road
Street

Phone 352-530-5317

Mascotte FL 34753
City State Zip

Email CDEADWIZARDS@AOL.com

Speaking: For Against Information

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

Representing my self

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)

2-17-2020
Meeting Date

SB1336
Bill Number (if applicable)

Topic Preemption of local Occupational Lic.

Amendment Barcode (if applicable)

Name Tammy Canada

Job Title Park Specialist

Address 2701 Phillips Rd

Phone 407-234-0429

Christmas FL 32709
City State Zip

Email tcanada0929@gmail.com

Speaking: For Against Information

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

Representing Myself

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)

1336

Meeting Date

Bill Number (if applicable)

Topic Pre Emption Local Licensing

Amendment Barcode (if applicable)

Name Jon Ellingwood

Job Title Business Rep

Address 3628 Coco Lake Dr

Phone 860995-0169

Cocoon Creek FL 33073

Email jon.ellingwood@yeshov

Speaking: For Against Information

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

Representing Myself

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

2-17-2020

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

1336

Meeting Date

Bill Number (if applicable)

Topic Pre-emption Local Licensing

Amendment Barcode (if applicable)

Name Jim Junecko

Job Title Business Agent

Address 540 Carillon Pkwy #1132

Phone 407-346-3525

Street

St. Pete, FL 33714

City

State

Zip

Email

Speaking: [] For [] Against [] Information

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

Representing Self

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)

2-17-20

Meeting Date

SB 1336

Bill Number (if applicable)

Topic Preemption of local Occupational Licensing

Amendment Barcode (if applicable)

Name Joseph Shaffer

Job Title _____

Address 3432 Dante Dr
Street

Phone 941-586-2629

Sarasota
City

FL
State

34235
Zip

Email _____

Speaking: For Against Information

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

Representing myself

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

2/17/2020

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

Meeting Date

1336

Bill Number (if applicable)

Topic PRE-EMPTION OF LOCAL LICENSING

Amendment Barcode (if applicable)

Name DAVID STOVER

Job Title

Address 386 SE THORNHILL DRIVE

Phone

Street

PORT ST. LUCIE, FL 34983

Email

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing MYSELF

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.

110 S.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-17-20

Meeting Date

1336

Bill Number (if applicable)

Topic LICENSING

Amendment Barcode (if applicable)

Name Sal Nuzzo

Job Title Vice President of Policy

Address 100 N Duval Street

Phone 850-322-9941

Street

Tallahassee

FL

32301

Email snuzzo@jamesmadison.org

City

State

Zip

Speaking: [] For [] Against [] Information

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

Representing The James Madison Institute

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.

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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)

2-17-20

Meeting Date

1336

Bill Number (if applicable)

Topic OCC. LICENSURE

Amendment Barcode (if applicable)

Name KURT SPITZER

Job Title _____

Address 693 Forest Lane

Phone 228-6212

Tallahassee FL 32312

City State Zip

Email KSPITZER@KSNM-TV.COM

Speaking: For Against Information

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

Representing FLA STORMWATER 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.

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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)

2-17-20

Meeting Date

1336

Bill Number (if applicable)

Topic LOCAL LICENSING

Amendment Barcode (if applicable)

Name LAURA YOUMANS

Job Title LEGISLATIVE COUNSEL

Address 100 S. MONROE ST

Phone

Street

TAL

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 ASSOCIATION OF COUNTIES

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.

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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)

02/17/2020

Meeting Date

SB 1336

Bill Number (if applicable)

Topic Preemption of Local

Amendment Barcode (if applicable)

Name Michael Claypool Occupations / Licensing

Job Title Community School Officer II

Address 201 SW Monroe Cir N
Street

Phone 727-656-1214

St. Petersburg
City

FL
State

33703
Zip

Email mike @ qvemasq.ir.com

Speaking: For Against Information

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

Representing Self

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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2-17-20

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

1336

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

FL

33128

City

State

Zip

Email JMM2@MIAMIDADE.GOV

Speaking: For Against Information

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

Representing MIAMI-DADE COUNTY

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.

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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)

2/17/2020

Meeting Date

1336

Bill Number (if applicable)

Topic Premp to Local Occ Lic

Amendment Barcode (if applicable)

Name Deborah Foote

Job Title Gov't Affairs + Pol Div

Address 200 College #314

Phone 251 5331798

Tallahassee FL 32301
Street City State Zip

Email deborah.foote@sierraclub.org

Speaking: For Against Information

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

Representing SIERRA CLUB FL

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.

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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)

17 Feb 20
Meeting Date

1336
Bill Number (if applicable)

Topic Occupational Licensing

Amendment Barcode (if applicable)

Name DIEGO ELHEVERRI

Job Title LEGISLATIVE LIAISON

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Americans For Prosperity

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.

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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)

2/17/2020

Meeting Date

SB1336

Bill Number (if applicable)

Topic Occupational Licensing

Amendment Barcode (if applicable)

Name Jorge Chamizo

Job Title Attorney

Address 108 South Monroe Street

Phone (850) 681-0024

Street Tallahassee FL 32301

Email jorge@flapartners.com

City State Zip

Speaking: For Against Information

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

Representing FBA Action

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.

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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)

02-17-2020

Meeting Date

1336
Bill Number (if applicable)

Topic Pre-emption of Local Occupational Licenses Amendment Barcode (if applicable)

Name Amy Patz

Job Title Retired Environmental Scientist Phone 850 322-7599

Address Tallahassee City State Zip Email amali@dutz@mac.com

Speaking: For Against Information

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

Representing Self

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.

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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)

2/17/20
Meeting Date

SBI 336
Bill Number (if applicable)

Topic Preemption of local occupational

Amendment Barcode (if applicable)

Name Shereen Tolbat

Job Title R & P Specialist

Address 3603 E. Shuman Ave
Street

Phone _____

Tampa
City

FL
State

33610
Zip

Email _____

Speaking: For Against Information

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

Representing Self

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.

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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)

02-17-2020
Meeting Date

SB 1336
Bill Number (if applicable)

Topic Preemption of Local Occupational Licensing Amendment Barcode (if applicable)

Name Jackie L McCollister

Job Title School Bus Driver (Hillsborough County)

Address 6400 Coronet Rd
Street
Lakeford Florida 33811
City State Zip

Phone 813 918 9559

Email clanmae@aol.com

Speaking: For Against Information

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

Representing myself

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.

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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)

2/17/20

Meeting Date

1336

Bill Number (if applicable)

Topic Preemption

Amendment Barcode (if applicable)

Name Jeremiah Tattersall

Job Title Field Staff

Address 230 NW 14th Ave

Phone 352-222-1991

Street

Gainesville

City

FL

State

32601

Zip

Email JeremiahT@snell.com

Speaking: For Against Information

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

Representing Myself

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)

By the Committee on Community Affairs; and Senator Perry

578-03061-20

20201336c1

1 A bill to be entitled
2 An act relating to preemption of local occupational
3 licensing; creating s. 163.21, F.S.; defining terms;
4 preempting licensing of occupations to the state;
5 providing exceptions; prohibiting local governments
6 from imposing additional licensing requirements or
7 modifying licensing unless specified conditions are
8 met; specifying that certain local licensing that does
9 not meet specified criteria does not apply and may not
10 be enforced; providing construction; amending s.
11 489.117, F.S.; specifying that certain specialty
12 contractors are not required to register with the
13 Construction Industry Licensing Board; prohibiting
14 local governments from requiring certain specialty
15 contractors to obtain a license under specified
16 circumstances; specifying job scopes for which a local
17 government may not require a license; amending ss.
18 489.1455 and 489.5335, F.S.; authorizing counties and
19 municipalities to issue certain journeyman licenses;
20 providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 163.21, Florida Statutes, is created to
25 read:

26 163.21 Licensing of occupations preempted to state.-

27 (1) DEFINITIONS.-As used in this section:

28 (a) "Licensing" means any training, education, test,
29 certification, registration, or license that is required for a

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20201336c1

30 person to perform an occupation in addition to any associated
31 fee.

32 (b) "Local government" means a county, municipality,
33 special district, or political subdivision of the state.

34 (c) "Occupation" means a paid job, profession, work, line
35 of work, trade, employment, position, post, career, field,
36 vocation, or craft.

37 (2) PREEMPTION OF OCCUPATIONAL LICENSING TO THE STATE.—The
38 licensing of occupations is expressly preempted to the state and
39 this section supersedes any local government licensing
40 requirement of occupations with the exception of the following:

41 (a) Any local government that imposed licenses on
42 occupations before October 1, 2020.

43 (b) Any local government licensing of occupations
44 authorized by general law.

45 (3) EXISTING LICENSING LIMIT.—A local government that
46 licenses occupations and retains such licensing as set forth in
47 paragraph (2) (a) may not impose additional licensing
48 requirements on that occupation or modify such licensing.

49 (4) LOCAL LICENSING NOT AUTHORIZED.—Local licensing of an
50 occupation that is not authorized under this section or
51 otherwise authorized by general law does not apply and may not
52 be enforced.

53
54 Nothing in this section is intended to prevent or restrict a
55 local government's ability to enact residency requirements for
56 licenses or licensees.

57 Section 2. Paragraph (a) of subsection (4) of section
58 489.117, Florida Statutes, is amended to read:

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20201336c1

59 489.117 Registration; specialty contractors.—

60 (4) (a) A person ~~holding a local license~~ whose job scope
61 does not substantially correspond to either the job scope of one
62 of the contractor categories defined in s. 489.105(3) (a)-(o), or
63 the job scope of one of the certified specialty contractor
64 categories established by board rule, is not required to
65 register with the board ~~to perform contracting activities within~~
66 ~~the scope of such specialty license.~~ A local government, as
67 defined in s. 163.21(1), may not require a person to obtain a
68 license for a job scope which does not substantially correspond
69 to the job scope of one of the contractor categories defined in
70 s. 489.105(3) (a)-(o) and (q) or authorized in s. 489.1455(1).
71 For purposes of this section, job scopes for which a local
72 government may not require a license include, but are not
73 limited to, painting, flooring, cabinetry, interior remodeling,
74 driveway or tennis court installation, decorative stone, tile,
75 marble, granite, or terrazzo installation, plastering,
76 stuccoing, caulking, canvas awning, and ornamental iron
77 installation.

78 Section 3. Section 489.1455, Florida Statutes, is amended
79 to read:

80 489.1455 Journeyman; reciprocity; standards.—

81 (1) Counties and municipalities are authorized to issue
82 journeyman licenses in the plumbing, pipe fitting, mechanical,
83 or HVAC trades.

84 (2)~~(1)~~ An individual who holds a valid, active journeyman
85 license in the plumbing, pipe fitting ~~plumbing/pipe fitting~~,
86 mechanical, or HVAC trades issued by any county or municipality
87 in this state may work as a journeyman in the trade in which he

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20201336c1

88 or she is licensed in any county or municipality of this state
89 without taking an additional examination or paying an additional
90 license fee, if he or she:

91 (a) Has scored at least 70 percent, or after October 1,
92 1997, at least 75 percent, on a proctored journeyman Block and
93 Associates examination or other proctored examination approved
94 by the board for the trade in which he or she is licensed;

95 (b) Has completed an apprenticeship program registered with
96 a registration agency defined in 29 C.F.R. s. 29.2 and
97 demonstrates 4 years' verifiable practical experience in the
98 trade for which he or she is licensed, or demonstrates 6 years'
99 verifiable practical experience in the trade for which he or she
100 is licensed;

101 (c) Has satisfactorily completed specialized and advanced
102 module coursework approved by the Florida Building Commission,
103 as part of the building code training program established in s.
104 553.841, specific to the discipline or, pursuant to
105 authorization by the certifying authority, provides proof of
106 completion of such coursework within 6 months after such
107 certification; and

108 (d) Has not had a license suspended or revoked within the
109 last 5 years.

110 (3)~~(2)~~ A local government may charge a registration fee for
111 reciprocity, not to exceed \$25.

112 Section 4. Section 489.5335, Florida Statutes, is amended
113 to read:

114 489.5335 Journeyman; reciprocity; standards.—

115 (1) Counties and municipalities are authorized to issue
116 journeyman licenses in the electrical and alarm system trades.

578-03061-20

20201336c1

117 (2)~~(1)~~ An individual who holds a valid, active journeyman
118 license in the electrical or alarm system trade issued by any
119 county or municipality in this state may work as a journeyman in
120 the trade in which he or she is licensed in any other county or
121 municipality of this state without taking an additional
122 examination or paying an additional license fee, if he or she:

123 (a) Has scored at least 70 percent, or after October 1,
124 1997, at least 75 percent, on a proctored journeyman Block and
125 Associates examination or other proctored examination approved
126 by the board for the ~~electrical~~ trade in which he or she is
127 licensed;

128 (b) Has completed an apprenticeship program registered with
129 a registration agency defined in 29 C.F.R. s. 29.2 and
130 demonstrates 4 years' verifiable practical experience in the
131 ~~electrical~~ trade for which he or she is licensed, or
132 demonstrates 6 years' verifiable practical experience in the
133 ~~electrical~~ trade for which he or she is licensed;

134 (c) Has satisfactorily completed specialized and advanced
135 module coursework approved by the Florida Building Commission,
136 as part of the building code training program established in s.
137 553.841, specific to the discipline, or, pursuant to
138 authorization by the certifying authority, provides proof of
139 completion of such curriculum or coursework within 6 months
140 after such certification; and

141 (d) Has not had a license suspended or revoked within the
142 last 5 years.

143 (3)~~(2)~~ A local government may charge a registration fee for
144 reciprocity, not to exceed \$25.

145 Section 5. This act shall take effect July 1, 2020.

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 Innovation, Industry, and Technology

BILL: CS/SB 658

INTRODUCER: Innovation, Industry, and Technology Committee and Senator Albritton

SUBJECT: Water and Wastewater Systems

DATE: February 17, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	Fav/CS
2.			AEG	
3.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 658 requires a municipality providing water or sewer services to customers in another municipality using infrastructure located in the second municipality to charge the customers in the second municipality the same rates, fees, and charges as it charges customers in its own municipal boundaries.

The bill also creates a process by which a utility acquiring an existing utility system may seek to establish a rate base value (the value upon which rates are set) for the acquired utility system based on the fair market value of the utility system instead of the system's original cost at the time it was placed into service.

The process is available only to acquiring utilities that provide water and wastewater services to more than 10,000 customers and are engaged in a voluntary and mutually agreeable acquisition of a water and wastewater system.

To enable the process, the Public Service Commission (PSC or commission) is required to establish a list of licensed appraisers, and the prospective buyer and prospective seller each select from that list (and individually pay) an appraiser to represent their interests. The prospective buyer and prospective seller jointly retain a licensed engineer to conduct an assessment of the tangible assets of the utility system to be used by the two appraisers in determining the fair market value of the system. Each appraiser determines the fair market value using the Uniform Standards of Professional Appraisal Practice, employing cost, market, and income approaches in

assessing the value. For ratemaking purposes, the fair market value is the average of the two appraisals.

The acquiring utility's application to the commission for approval of the rate base value of the utility system to be acquired must contain specified information.

The acquiring utility may include in the cost of the acquired utility system reasonable fees paid to the appraisers, if approved by the commission, and reasonable transaction and closing costs incurred by the acquiring utility. The rate base value of the acquired utility system is equal to the lesser of the purchase price negotiated between the parties to the sale or the fair market value, plus the authorized fees and costs.

If the application complies with these requirements, the commission must issue a final order approving or denying the application within eight months after the date on which the application was filed.

Notwithstanding any of these provisions, the commission retains its authority to set rates for the acquired utility system in future rate cases and may classify the acquired utility system as a separate entity for ratemaking purposes, consistent with the public interest.

The commission is required to adopt rules to implement the bill.

The bill takes effect July 1, 2020.

II. Present Situation:

A municipality¹ may establish a utility by resolution or ordinance under s. 180.03, F.S. A municipality may establish a service area within its municipal boundary or within 5 miles of its corporate limits of the municipality.² However, under s. 180.19, F.S., a municipality may permit another municipality and the owners or association of owners of lands outside of its corporate limits or within another municipality's corporate limits to connect to its utilities upon such terms and conditions as may be agreed upon. Section 180.191, F.S., provides limitations on the rates that can be charged to customers outside their corporate limits. The municipality may charge the same rates as inside the municipal boundaries and add a 25 percent surcharge.³ In the alternative, a municipality may charge rates that are just and equitable and based upon the same factors used in fixing the rates for the customers within the boundaries of the municipality and may add a 25 percent surcharge not to exceed 50 percent of the rates or charges for corresponding service within the boundaries of the municipality.⁴

The Florida Public Service Commission has exclusive jurisdiction over each water and wastewater utility with respect to its service and rates.⁵ However, the statutes also provide exclusions from commission jurisdiction. The two most significant exclusions relate to government utilities and to counties that have opted out of commission jurisdiction. The statutes

¹ Defined by s. 180.01, F.S. "as any city, town, or village duly incorporated under the laws of the state."

² Section 180.02, F.S.

³ Section 180.191(1)(a), F.S.

⁴ Section 180.191(1)(b), F.S.

⁵ Section 367.011(2), F.S.

expressly exempt utility systems owned, operated, managed, or controlled by governmental authorities, including water or wastewater facilities operated by private firms under privatization contracts, and nonprofit corporations formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility.⁶ The statutes also authorize a county to exclude itself from commission regulation, by resolution or ordinance, thereby reserving to itself the regulation of water and wastewater utilities that are completely within the county's boundaries;⁷ the commission retains exclusive jurisdiction over all utility systems whose service crosses county boundaries, except for utility systems that are subject to interlocal utility agreements.⁸ As of December 2018, the commission had jurisdiction over 150 investor-owned water and/or wastewater utilities in 38 counties.⁹

The commission sets rates for all water and wastewater utilities within its jurisdiction. The rates must be "just, reasonable, compensatory, and not unfairly discriminatory." As to the "compensatory" aspect of the rates, the commission is required, in each rate-setting proceeding, to consider "the cost of providing the service, which shall include, but not be limited to, debt interest; the requirements of the utility for working capital; maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service; and a fair return on the investment of the utility in property used and useful in the public service."¹⁰

No utility may sell, assign, or transfer its certificate of authorization, facilities or any portion thereof, or majority organizational control without the approval of the commission after a determination that the proposed sale, assignment, or transfer is in the public interest and that the buyer, assignee, or transferee will fulfill the commitments, obligations, and representations of the utility. Except for any sale, assignment, or transfer to a governmental authority, the commission may, by order entered during the approval proceeding, establish the rate base for a utility or its facilities or property.¹¹

The commission has consistently interpreted the "investment of the utility" to be the original cost of the property when first dedicated to public service.¹² This original cost of acquiring an asset and placing it into service for first utility use includes the direct costs of acquiring the asset and the cost of labor, materials, and associated costs of installation to prepare the asset for first utility use. When an asset is acquired that is already in public service, the original cost of the asset is recorded as part of the in-service infrastructure, and the historic accumulated depreciation is charged to the accumulated depreciation account.¹³ The depreciated original cost, or net book value, is the value of an existing utility's rate base.¹⁴ Additional capital expenditures through

⁶ Section 367.022(2), F.S.

⁷ Section 367.171, F.S.

⁸ Section 367.171(7), F.S.

⁹ Florida Public Service Commission, *Facts and Figures of the Florida Utility Industry*, p. 31 (Jun. 2019), available at <http://www.psc.state.fl.us/Files/PDF/Publications/Reports/General/Factsandfigures/June%202019.pdf>.

¹⁰ Section 367.081, F.S.

¹¹ Section 367.071, F.S.

¹² Florida Public Service Commission, *Agency Analysis of 2020 House Bill 207*, p. 1 (Jan, 6, 2020) (on file with the Senate Committee on Innovation, Industry, and Technology).

¹³ Rule 25-30.140 (1)(r), F.A.C.

¹⁴ *Supra*, note 8.

expansion of the system or new infrastructure for the initial system add to the investment of the utility and thus to the net book value.

If the purchase price is different from the net book value, the acquiring utility may petition for an acquisition adjustment. If the purchase price is higher than the net book value, the utility seeks a “positive acquisition adjustment” to increase the rate base. A positive acquisition adjustment may not be included in rate base, however, absent proof of extraordinary circumstances such as:

- Anticipated improvements in quality of service;
- Anticipated improvements in compliance with regulatory mandates;
- Anticipated rate reductions or rate stability over a long-term period; or
- Anticipated cost efficiencies.¹⁵

III. Effect of Proposed Changes:

The bill requires a municipality providing water or sewer services to customers in another municipality using infrastructure located in the second municipality to charge the customers in the second municipality the same rates, fees, and charges as it charges customers in its own municipal boundaries.

The bill also creates a process by which a utility acquiring an existing utility system may seek to establish a rate base value (the value upon which rates are set) for the acquired utility system based on the fair market value of the utility system instead of the system’s original cost at the time it was placed into service.

The process is available only to acquiring utilities that provide water and wastewater services to more than 10,000 customers and are engaged in a voluntary and mutually agreeable acquisition of a water and wastewater system.

To enable the process, the commission is required to establish a list of licensed appraisers, and the prospective buyer and prospective seller each select from that list (and individually pay) an appraiser to represent their interests. The prospective buyer and prospective seller jointly retain a licensed engineer to conduct an assessment of the tangible assets of the utility system to be used by the two appraisers in determining the fair market value of the system. Each appraiser determines the fair market value using the Uniform Standards of Professional Appraisal Practice, employing cost, market, and income approaches in assessing the value.¹⁶ The original source of funding for the utility system being acquired is not relevant to an evaluation of fair market value. For ratemaking purposes, the fair market value is the average of the two appraisals.

The acquiring utility’s application to the commission for approval of the rate base value of the utility system to be acquired must contain the following:

- The contract of sale;

¹⁵ Rule 25-30.0371(2), F.A.C.

¹⁶ The cost approach considers the current cost of reproducing or replacing a building, minus an estimate for depreciation, plus the value of the land (and entrepreneurial incentive, if applicable). The market (sales comparison) approach considers the value indicated by recent sales of comparable properties on the market. The income approach considers the value that the property’s net earning power will support. See The Appraisal Foundation, *Understanding the Appraisal*, [https://www.appraisalinstitute.org/assets/1/7/understand_appraisal_1109_\(1\).pdf](https://www.appraisalinstitute.org/assets/1/7/understand_appraisal_1109_(1).pdf) (last visited Jan. 21, 2020).

- The licensed engineer's assessment of tangible assets;
- Each deficiency identified by the engineering assessment and a three-year plan for prudent and necessary infrastructure improvements;
- Copies of the appraisals performed by the appraisers;
- The average of the appraisals, which shall constitute the fair market value of the system;
- The estimated value of fees and transaction and closing costs to be incurred by the acquiring utility;
- The projected rate impact for the selling utility's customers for the next five years; and
- A tariff, including rates equal to the rates of the selling utility.

The acquiring utility may include in the cost of the acquired utility system:

- Reasonable fees paid to the appraisers, if approved by the commission; and
- Reasonable transaction and closing costs incurred by the acquiring utility.

The rate base value of the acquired utility system, which must be reflected in the acquiring utility's next general rate case for ratemaking purposes, is equal to the lesser of the purchase price negotiated between the parties to the sale or the fair market value, plus the authorized fees and costs.

If the application complies with these requirements, the commission shall issue a final order approving or denying the application within eight months after the date on which the application was filed. An order approving an application must determine the rate base value of the acquired utility system for ratemaking purposes in a manner consistent with these provisions.

Notwithstanding any of these provisions, the commission retains its authority to set rates for the acquired utility system in future rate cases and may classify the acquired utility system as a separate entity for ratemaking purposes, consistent with the public interest.

The commission is required to adopt rules to implement this section.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill's full fiscal impact on ratepayers of an acquiring utility is uncertain, however, they likely will have higher rates due to the following factors:

- As identified in the commission's analysis of the bill:¹⁷
 - Small utilities that are acquired will likely have higher valuations, increasing the resulting purchase price; and
 - Each acquisition will also have the added costs for contracting two appraisers;¹⁸ and
- In each acquisition, the acquiring utility may include all reasonable transaction and closing costs.

The commission analysis also identifies a potential cause for additional rate increases: "The bill could encourage larger utilities to acquire smaller systems, potentially resulting in better access to low cost capital and improved infrastructure."¹⁹ If such improvements are made, the capital expenditures would increase rate base and, in turn, customers' rates, on top of any rate increase due to a higher acquisition price and cost.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

¹⁷ Florida Public Service Commission, *Agency Analysis of 2020 House Bill 207*, p. 4 (Jan, 6, 2020) (on file with the Senate Committee on Innovation, Industry, and Technology).

¹⁸ While there would also be additional costs for the licensed engineer's assessment of tangible assets of the utility system, the bill does not provide for recovery of these costs.

¹⁹ *Supra*, note 13, at 2.

VII. Related Issues:

Appraisal and Real Property

The bill requires that each appraiser determine the fair market value of the utility system being acquired “using the Uniform Standards of Professional Appraisal Practice, employing cost, market, and income approaches in assessing the value.” An industry publication summarizes these approaches as follows:

The cost approach considers the current cost of reproducing or replacing a building, minus an estimate for depreciation, plus the value of the land (and entrepreneurial incentive, if applicable). The market (sales comparison) approach considers the value indicated by recent sales of comparable properties on the market. The income approach considers the value that the property’s net earning power will support.²⁰

Some of value considerations used in some of these approaches may not be appropriate for use in these circumstances. For example, the publication states the following:

Highest and best use is a critical step in the development of a market value opinion. In highest and best use analysis, the appraiser considers the use of the land as though it were vacant and the use of the property as it is improved. To qualify as the highest and best use, a use must satisfy four criteria: it must be legally permissible, physically possible, financially feasible and maximally productive. The highest and best use is selected from various alternative uses.²¹

An older utility may have deteriorated infrastructure but the real property on which it sits may have appreciated significantly. As it is being purchased for continued use as a utility, however, it appears that applying a real estate value based on use as a site for a theme park, condominium, or other such use is unlikely to result in rates that are “just, reasonable, compensatory, and not unfairly discriminatory.”

Commission Comments

The commission analysis on the bill raises the following points:²²

The bill states that it applies exclusively to utilities that “regularly provide water and wastewater services to more than 10,000 customer connections.” At this time, only three Commission-regulated utilities are of sufficient size to qualify under the bill.

Unlike the Department of Business and Professional Regulation that regulates appraisers, the Commission has no expertise in property appraisal. An alternative may be to have a

²⁰ See The Appraisal Foundation, *Understanding the Appraisal*, [https://www.appraisalinstitute.org/assets/1/7/understand_appraisal_1109_\(1\).pdf](https://www.appraisalinstitute.org/assets/1/7/understand_appraisal_1109_(1).pdf) (last visited Jan. 21, 2020).

²¹ *Id.*

²² Florida Public Service Commission, Agency Analysis of 2020 House Bill 207, p. 4 (Jan, 6, 2020) (on file with the Senate Committee on Innovation, Industry, and Technology).

more appropriate agency prepare and maintain the list of appraisers required by paragraph (2)(a).

VIII. Statutes Affected:

This bill substantially amends section 180.191 of the Florida Statutes.

This bill creates section 367.0712 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 Innovation, Industry, and Technology on February 17, 2020:

The committee substitute requires a municipality providing water or sewer services to customers in another municipality using infrastructure located in the second municipality to charge the customers in the second municipality the same rates, fees, and charges as it charges customers in its own municipal boundaries.

- B. **Amendments:**

None.



565252

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2020	.	
	.	
	.	
	.	

The Committee on Innovation, Industry, and Technology (Braynon) recommended the following:

Senate Amendment (with title amendment)

Before line 20

insert:

Section 1. Present subsections (2), (3), and (4) of section 180.191, Florida Statutes, are redesignated as subsections (3), (4), and (5), respectively, a new subsection (2) is added to that section, and subsection (1) of that section is amended, to read:

180.191 Limitation on rates charged consumer outside city



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11 limits.-

12 (1) Except as provided in subsection (2), any municipality
13 within the state operating a water or sewer utility outside of
14 the boundaries of such municipality shall charge consumers
15 outside the boundaries rates, fees, and charges determined in
16 one of the following manners:

17 (a) It may charge the same rates, fees, and charges as
18 consumers inside the municipal boundaries. However, in addition
19 thereto, the municipality may add a surcharge of not more than
20 25 percent of such rates, fees, and charges to consumers outside
21 the boundaries. Fixing of such rates, fees, and charges in this
22 manner does ~~shall~~ not require a public hearing except as may be
23 provided for service to consumers inside the municipality.

24 (b) It may charge rates, fees, and charges that are just
25 and equitable and that ~~which~~ are based on the same factors used
26 in fixing the rates, fees, and charges for consumers inside the
27 municipal boundaries. In addition thereto, the municipality may
28 add a surcharge not to exceed 25 percent of such rates, fees,
29 and charges for said services to consumers outside the
30 boundaries. However, the total of all such rates, fees, and
31 charges for the services to consumers outside the boundaries may
32 ~~shall~~ not be more than 50 percent in excess of the total amount
33 the municipality charges consumers served within the
34 municipality for corresponding service. ~~No~~ Such rates, fees, and
35 charges may not ~~shall~~ be fixed until after a public hearing at
36 which all of the users of the water or sewer systems; owners,
37 tenants, or occupants of property served or to be served
38 thereby; and all others interested shall have an opportunity to
39 be heard concerning the proposed rates, fees, and charges. Any



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40 change or revision of such rates, fees, or charges may be made
41 in the same manner as such rates, fees, or charges were
42 originally established, but if such change or revision is to be
43 made substantially pro rata as to all classes of service, both
44 inside and outside the municipality, no hearing or notice shall
45 be required.

46 (2) Any municipality within the state operating a water or
47 sewer utility providing service to customers in another
48 recipient municipality from infrastructure located in the
49 recipient municipality shall charge the customers in the
50 recipient municipality the same rates, fees, and charges as it
51 does the customers inside its own municipal boundaries.

52
53 ===== T I T L E A M E N D M E N T =====

54 And the title is amended as follows:

55 Delete lines 2 - 3

56 and insert:

57 An act relating to water and wastewater systems;
58 amending s. 180.191, F.S.; requiring a municipality to
59 charge customers receiving its utility services
60 outside the municipal boundaries the same rates, fees,
61 and charges as it charges customers within the
62 municipality under certain circumstances; creating s.
63 367.0712, F.S.; authorizing



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry, and Technology

Subject: Committee Agenda Request

Date: February 5, 2020

I respectfully request that **Senate Bill #658**, relating to Acquisition of Water and Wastewater Systems, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26

Date: _____

Agency Affected: Public Service Commission
Program Manager: Katherine Pennington
Agency Contact: Katherine Pennington
Respondent:

Telephone: 413.6524
Telephone: 413.6960
Telephone: 413.6960
Telephone: 413.6092

RE: BILL # SB 658

I. SUMMARY:

SB 658 creates Section 367.0712, Florida Statutes (F.S.), to authorize a public water or wastewater utility to establish the rate base of a purchased system it acquires using the fair market value of the acquired utility instead of the system's original cost. The Public Service Commission (Commission) will maintain a list of licensed appraisers. The bill provides requirements for determination of fair market value. The bill also provides the information the acquiring utility must provide to the Commission. The Commission must make a final determination of the value within six months after the date the application is filed. This bill applies to utilities that provide services to more than 10,000 customers. The bill takes effect July 1, 2020.

II. PRESENT SITUATION:

Pursuant to Section 367.011, F.S., the Commission has exclusive jurisdiction over each water and wastewater utility with respect to its authority, service, and rates. Pursuant to Section 367.021(12), F.S., a "utility" means a water or wastewater system providing service to the public for compensation, except as provided in Section 367.022, F.S. (setting forth a number of regulatory exemptions). Further, the Commission does not regulate utilities in counties that have exempted themselves from Commission jurisdiction pursuant to Section 367.171, F.S.

The Commission currently establishes the value of an existing utility's rate base using original cost. Rule 25-30.115, Florida Administrative Code (F.A.C.), requires that all water and wastewater utilities shall, effective January 1, 1998, maintain their accounts and records in conformity with the 1996 National Association of Regulatory Utility Commissioners (NARUC) Uniform Systems of Accounts (USOA) adopted by NARUC, which is incorporated by reference in this rule. The NARUC USOA states that "original cost", as applied to utility plant, means the cost of such property to the person first devoting it to the public service." Section 367.081(2)(a)1., F.S., states that the Commission shall consider. . . "a fair return on the investment of the utility in property used and useful in the public service." The Commission has consistently interpreted the "investment of the utility" contained in Section 367.081(2)(a)1., F.S., to be the original cost of the property when first dedicated to public service. Rule 25-30.140, F.A.C., states, "[i]n the event that an asset is acquired that is already in public service, the original historic cost of the asset should be recorded in plant in service." Under original cost ratemaking, the value of a utility's rate base is determined using the depreciated original cost of the property devoted to the public service. By applying the required rate of return to the depreciated original cost of the property devoted to the public service, and accounting for associated operating costs and taxes, investors are provided the opportunity to recover all costs associated with the provision of utility service, including an appropriate return for placing their capital at risk. Under such a scenario, customers receive service at just and reasonable rates and the utility and its shareholders remain whole. Original cost is the basis upon which the Commission sets rates for all regulated utilities under its jurisdiction.

Rule 25-30.0371, F.A.C., codifies the Commission's current policy on acquisition adjustments for its jurisdictional water and wastewater utilities:

For the purpose of this rule, an acquisition adjustment is defined as the difference between the purchase price of utility system assets to an acquiring utility and the net book value of the utility assets. A positive acquisition adjustment exists when the

purchase price is greater than the net book value. A negative acquisition adjustment exists when the purchase price is less than the net book value.

Pursuant to Rule 25-30.0371(2), F.A.C.,

A positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, anticipated cost efficiencies, and whether the purchase was made as part of an arms-length transaction.

Pursuant to Rule 25-30.0371(3), F.A.C.,

If the purchase price is greater than 80 percent of net book value, a negative acquisition adjustment will not be included in rate base. When the purchase price is equal to or less than 80 percent of net book value, a negative acquisition adjustment shall be included in rate base and will be equal to 80 percent of net book value less the purchase price.

Pursuant to Section 367.121(1)(b), F.S., the Commission has the authority “[t]o prescribe, by rule, a uniform system and classification of accounts for all utilities, which rules, among other things, shall establish adequate, fair, and reasonable depreciation rates and charges.”

III. EFFECT OF PROPOSED CHANGES:

As previously indicated, when a larger utility acquires a smaller utility, a new rate base must be established in order to set rates for customers. SB 658 proposes for certain larger utilities that acquire smaller utilities (those acquiring utilities providing services to more than 10,000 customers) to eliminate the current “original cost” method along with the current acquisition adjustment considerations in valuing the smaller acquired utility for purposes of establishing how rates are to be established for customers of newly acquired utilities. Alternatively, SB 658 imposes a new “fair market value” (FMV) approach in establishing the value of the newly acquired utility that will be used to determine how rates are to be established for the customers of the newly acquired utility. (For those acquiring utilities who at the time of acquisition service less than 10,000 customers, the current “original cost” method would be retained.) The basis for how rates are determined is to allow recovery of all costs, including an appropriate return on investment. Under the proposed new FMV method, by establishing net book value based on a value other than original cost (which contains the primary components of rate base), the rates set for the acquired utility could in some instances significantly differ from the acquired utility’s current rates because the investment in the utility under fair market value could be significantly greater.

Original cost accounting maintains that the investment value of an asset is established when the asset is put into service. By having an appraiser determine the value of the asset over time, that asset could be seen as more or less valuable based on a replacement cost, for example.

The bill could encourage larger utilities to acquire smaller systems, potentially resulting in better access to low cost capital and improved infrastructure. While these are desirable results, they are not a requirement under the bill or guaranteed to occur. The bill could also result in customer rates increasing simply due to the purchase price valuation.

Currently, a transfer of certificate application must be submitted by the purchasing entity to the Commission within 90 days of when an acquisition occurs. The application currently contains many items including the estimated net book value, purchase price, and a statement of why the acquisition is in the

public interest. SB 658 sets forth additional requirements that the purchasing utility must provide the Commission. The application would include all of the following:

- A copy of the appraisals performed by licensed appraisers.
- Any deficiencies identified by the engineering assessment and a 3-year plan for prudent and necessary infrastructure improvements.
- The projected rate impact for the selling utility’s customers for the next 5 years.
- The average of the appraisals, which shall constitute the fair market value of the system.
- The assessment of tangible assets performed by the professional engineer.
- The contract of sale.
- Estimated valuation fees and transaction and closing costs incurred.
- A tariff, including rates equal to the rates of the selling utility.

The Commission has traditionally had the discretion to approve, deny, or modify any rate base items or expenses based on whether they are found to be in the public interest. However, after an acquisition is made, the bill states, “the lesser of the purchase price negotiated between the parties to the sale or the fair market value,” plus reasonable fees and costs should be included in the acquiring company’s next rate case. The bill does not allow the Commission the discretion to modify the fair market value determination.

The bill provides that the Commission must issue a final order approving or denying a qualifying application within six months after the application is filed. This timeline is problematic and may affect the Commission’s ability to process transfers in an efficient manner within the bounds of Chapter 120, F.S. Currently, acquisition adjustments and net book value determinations are handled by way of proposed agency action with no statutory timeline, with the length of the proceeding being determined by the ability of participating utilities to provide sufficient information for a decision to be made. In order to comply with a six month time limit for the issuance of a final order, all transfers of this type will need to be set directly for a Section 120.57, F.S., administrative hearing. A hearing process may impose additional resource costs on the utilities and customer representatives, including the Office of Public Counsel.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

(in this section please provide information concerning FTEs. How many positions, if any will be necessary to enact this bill. Also, what specific positions will be needed.)

The impact on state agencies is not known at this time. It is unclear how the change to the Commission’s cost for transfer and rate proceedings will be affected.

	(FY 19-20) Amount / FTE	(FY 20-21) Amount / FTE	(FY 21-22) Amount / FTE
A. Revenues			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
B. Expenditures			
1. Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE
2. Non-Recurring	\$0/0 FTE	\$0/0 FTE	\$0/0 FTE

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None known at this time.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

The private sector will likely see significant new costs under this statute. Small utilities will likely see higher valuations, which will increase the purchase price of utilities; this would lead to higher rates for customers. There would also be the added costs for contracting two appraisers for each acquisition. There may be anti-competitive concerns raised by allowing some appraisers on the Commission list, but not others.

VII. LEGAL ISSUES:

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

None known at this time.

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)?

None known at this time.

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

The bill may require all qualifying acquisitions to be processed exclusively as Section 120.57, F.S., administrative hearings. Further, customers and customer advocates may litigate the assessment of excessive rates and evaluation costs.

D. Other:

VIII. COMMENTS:

The bill states that it applies exclusively to utilities that “regularly provide water and wastewater services to more than 10,000 customer connections.” At this time, only three Commission-regulated utilities are of sufficient size to qualify under the bill.

Unlike the Department of Business and Professional Regulation that regulates appraisers, the Commission has no expertise in property appraisal. An alternative may be to have a more appropriate agency prepare and maintain the list of appraisers required by paragraph (2)(a).

The bill requires the Commission to issue a final order “within 6 months after the date on which the application” is filed. An alternative may be to extend the statutory deadline to 8 months, which would enable a more efficient and timely processing of the application. Entering a final order within 8 months is consistent with the 8-month clock in the file and suspend law found in Section 367.081(6), F.S.

Prepared by: David Frank, Kristen Simmons, Bart Fletcher

THE FLORIDA SENATE
APPEARANCE RECORD

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

02/17/2020
Meeting Date

SB 658
Bill Number (if applicable)

Topic Water & Wastewater Acquisition

Amendment Barcode (if applicable)

Name Joseph Salzberg (Salzberg)

Job Title Attorney

Address 301 S. Bratton St #600

Phone _____

Street

TLH
City

FL
State

32301
Zip

Email _____

Speaking: For Against Information

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

Representing Florida Association of Counties

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)

2/17/20

Meeting Date

658

Bill Number (if applicable)

Topic Water / WW Acquisitions

Amendment Barcode (if applicable)

Name Ryan Matthews

Job Title Lobbyist

Address PO Box 10930

Phone 681 7883

Street

Tallahassee

City

FL

State

32301

Zip

Email ryan@psmfl.net

Speaking: For Against Information

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

Representing FL League of Cities

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)

2/17/20
Meeting Date

SB 658
Bill Number (if applicable)

Topic Acquisition of Water and Wastewater Systems Amendment Barcode (if applicable)

Name Joanna Bonfanti (Bon-fawn-tee)

Job Title Government Affairs Consultant

Address 215 S. Monroe St., Suite 601
Street

Phone 850-521-1980

Tallahassee FL 32301
City State Zip

Email jbonfanti@gunster.com

Speaking: For Against Information

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

Representing Utilities, 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-17-20

Meeting Date

658

Bill Number (if applicable)

Topic Water & Wastewater

Amendment Barcode (if applicable)

Name Chris Hansen

Job Title Ballard Partners

Address 201 E. Park Ave 5th Floor

Phone 850/251-2672

Street

Tallahassee

City

FL

State

32301

Zip

Email Chansen@ballardpartners.org

Speaking: For Against Information

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

Representing Florida Rural Water 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.

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)

2.17.20

Meeting Date

SB 658

Bill Number (if applicable)

Topic Acquisition of Water and Wastewater Systems

Amendment Barcode (if applicable)

Name Ron Brise

Job Title Government Affairs Consultant

Address 215 S. Monroe Street, Suite 601

Phone 850.521.1980

Street

Tallahassee

Florida

32301

Email rbrise@gunster.com

City

State

Zip

Speaking: For Against Information

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

Representing Utilities, 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
COMMITTEE VOTE RECORD

COMMITTEE: Innovation, Industry, and Technology
ITEM: SB 658
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Monday, February 17, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE		SENATORS	2/10/2020 ¹		2/17/2020 ²			
			Yea	Nay	Yea	Nay	Yea	Nay
X		Bracy						
X		Bradley						
X		Brandes						
X		Braynon						
	X	Farmer						
X		Gibson						
X		Hutson						
X		Passidomo						
X		Benacquisto, VICE CHAIR						
X		Simpson, CHAIR						
9	1	TOTALS	FAV	-	RCS	-	Yea	Nay
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

By the Committee on Innovation, Industry, and Technology; and
Senator Albritton

580-03760-20

2020658c1

1 A bill to be entitled
2 An act relating to water and wastewater systems;
3 amending s. 180.191, F.S.; requiring a municipality to
4 charge customers receiving its utility services
5 outside the municipal boundaries the same rates, fees,
6 and charges as it charges customers within the
7 municipality under certain circumstances; creating s.
8 367.0712, F.S.; authorizing certain water and
9 wastewater utilities to establish a rate base value by
10 using the fair market value when acquiring a utility
11 system; establishing a procedure to determine the fair
12 market value; requiring the rate base value to be
13 reflected in the acquiring utility's next rate case
14 for ratemaking purposes; specifying the contents
15 required for an application to the Public Service
16 Commission for approval of the rate base value of the
17 utility system; specifying duties of the commission
18 regarding applications; specifying the commission's
19 retained authority; providing applicability; requiring
20 the commission to adopt rules; providing an effective
21 date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Present subsections (2), (3), and (4) of section
26 180.191, Florida Statutes, are redesignated as subsections (3),
27 (4), and (5), respectively, a new subsection (2) is added to
28 that section, and subsection (1) of that section is amended, to
29 read:

580-03760-20

2020658c1

30 180.191 Limitation on rates charged consumer outside city
31 limits.-

32 (1) Except as provided in subsection (2), any municipality
33 within the state operating a water or sewer utility outside of
34 the boundaries of such municipality shall charge consumers
35 outside the boundaries rates, fees, and charges determined in
36 one of the following manners:

37 (a) It may charge the same rates, fees, and charges as
38 consumers inside the municipal boundaries. However, in addition
39 thereto, the municipality may add a surcharge of not more than
40 25 percent of such rates, fees, and charges to consumers outside
41 the boundaries. Fixing of such rates, fees, and charges in this
42 manner does ~~shall~~ not require a public hearing except as may be
43 provided for service to consumers inside the municipality.

44 (b) It may charge rates, fees, and charges that are just
45 and equitable and that ~~which~~ are based on the same factors used
46 in fixing the rates, fees, and charges for consumers inside the
47 municipal boundaries. In addition thereto, the municipality may
48 add a surcharge not to exceed 25 percent of such rates, fees,
49 and charges for said services to consumers outside the
50 boundaries. However, the total of all such rates, fees, and
51 charges for the services to consumers outside the boundaries may
52 ~~shall~~ not be more than 50 percent in excess of the total amount
53 the municipality charges consumers served within the
54 municipality for corresponding service. ~~No~~ Such rates, fees, and
55 charges may not ~~shall~~ be fixed until after a public hearing at
56 which all of the users of the water or sewer systems; owners,
57 tenants, or occupants of property served or to be served
58 thereby; and all others interested shall have an opportunity to

580-03760-20

2020658c1

59 be heard concerning the proposed rates, fees, and charges. Any
60 change or revision of such rates, fees, or charges may be made
61 in the same manner as such rates, fees, or charges were
62 originally established, but if such change or revision is to be
63 made substantially pro rata as to all classes of service, both
64 inside and outside the municipality, no hearing or notice shall
65 be required.

66 (2) Any municipality within the state operating a water or
67 sewer utility providing service to customers in another
68 recipient municipality from infrastructure located in the
69 recipient municipality shall charge the customers in the
70 recipient municipality the same rates, fees, and charges as it
71 does the customers inside its own municipal boundaries.

72 Section 2. Section 367.0712, Florida Statutes, is created
73 to read:

74 367.0712 Determination of value.-

75 (1) When a utility acquires an existing utility system, the
76 utility may establish a rate base value of the acquired utility
77 system by using the fair market value of the utility system
78 instead of the system's original cost.

79 (2) (a) The fair market value of a utility system to be
80 acquired must be based on appraisals conducted by two licensed
81 appraisers chosen from a list established by the commission.

82 1. One appraiser shall represent and be paid by the
83 acquiring utility and one appraiser shall represent and be paid
84 by the utility system being acquired.

85 2. Each appraiser shall determine the fair market value
86 using the Uniform Standards of Professional Appraisal Practice,
87 employing cost, market, and income approaches in assessing the

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88 value.

89 3. For ratemaking purposes, the fair market value is the
90 average of the two appraisals.

91 4. The original source of funding for the utility system
92 being acquired is not relevant to an evaluation of fair market
93 value.

94 (b) The acquiring utility and utility system being acquired
95 shall jointly retain a licensed engineer to conduct an
96 assessment of the tangible assets of the utility system and the
97 assessment shall be used by the two appraisers in determining
98 the fair market value of the system.

99 (c) The acquiring utility may include in the cost of the
100 acquired utility system:

101 1. Reasonable fees paid to the appraisers, if approved by
102 the commission.

103 2. Reasonable transaction and closing costs incurred by the
104 acquiring utility.

105 (d) The rate base value of the acquired utility system,
106 which must be reflected in the acquiring utility's next general
107 rate case for ratemaking purposes, is equal to the lesser of the
108 purchase price negotiated between the parties to the sale or the
109 fair market value, and the fees and costs authorized in
110 paragraph (c).

111 (3) An application to the commission for approval of the
112 rate base value of the utility system to be acquired must
113 contain the following:

114 (a) Copies of the appraisals performed by the appraisers
115 pursuant to paragraph (2) (a).

116 (b) Each deficiency identified by the engineering

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117 assessment conducted pursuant to paragraph (2) (b) and a 3-year
118 plan for prudent and necessary infrastructure improvements.

119 (c) The projected rate impact for the selling utility's
120 customers for the next 5 years.

121 (d) The average of the appraisals, which shall constitute
122 the fair market value of the system.

123 (e) The assessment of tangible assets pursuant to (2) (b).

124 (f) The contract of sale.

125 (g) The estimated value of fees and transaction and closing
126 costs to be incurred by the acquiring utility.

127 (h) A tariff, including rates equal to the rates of the
128 selling utility.

129 (4) If the application complies with the requirements of
130 subsection (3), the commission shall issue a final order
131 approving or denying the application within 8 months after the
132 date on which the application was filed. An order approving an
133 application shall determine the rate base value of the acquired
134 utility system for ratemaking purposes in a manner consistent
135 with this section.

136 (5) Notwithstanding any provision in this section, the
137 commission retains its authority under this chapter to set rates
138 for the acquired utility system in future rate cases and may
139 classify the acquired utility system as a separate entity for
140 ratemaking purposes, consistent with the public interest.

141 (6) This section applies to acquiring utilities that
142 provide water and wastewater services to more than 10,000
143 customers and are engaged in a voluntary and mutually agreeable
144 acquisition of a water and wastewater system.

145 (7) The commission shall adopt rules to implement this

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146 section.

147 Section 3. This act shall take effect July 1, 2020.

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 Innovation, Industry, and Technology

BILL: SB 1698

INTRODUCER: Senator Diaz

SUBJECT: Regulation of Pet Stores

DATE: February 14, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>IT</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AEG</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1698 creates the “Florida Pet Protection Act) (act) to require the licensing of pet stores in Florida that display, sell, offer to sell, deliver, auction, broker, give away, or transfer certain household pets (i.e., domestic dogs or domestic cats). Under the bill, a valid pet store license issued by the Department of Business and Professional Regulation (DBPR) is required to operate a pet store that sells household pets (licensed pet store). A licensed pet store must be annually inspected by the DBPR.

The bill requires that, as to household pets, a licensed pet store must:

- Acquire the pets only from certain sources, as defined in the bill; and
- Not sell a pet:
 - Younger than eight weeks old;
 - Without an identification microchip and the pet’s professional breeder history unless there is proof the pet was acquired through an animal rescue or animal shelter;
 - To a person younger than 18 years old
 - That is acquired from a qualified breeder or pet broker, unless the pet store provides to the buyer of the pet, before completing the transaction, a written certification of information specified in the bill, including identifying information for the pet and the breeder who bred the pet.

The bill requires a pet store to provide all of the following for household pets at the store:

- Specified flooring in animal enclosures;
- Daily cleaning of animal enclosures, as necessary to prevent body waste accumulation;
- An isolation enclosure for animals under veterinarian-directed observation;
- Climate control to maintain enclosure temperatures between 67 and 78 degrees at all times;
- Veterinary visits to the pet store at least three times weekly;
- Dog trainer visits to the pet store at least once per week;

- A daily enrichment program for puppies of exercise and socialization; and
- Photographs, digital images, or video footage depicting all breeding facilities from which the pet store acquires household pets.

Administrative, civil, and criminal penalties are set forth in the bill. If a person is convicted of engaging in unlawful practices in the sale of household pets or the operation of a pet store, the person may be punished by up to 60 days in jail or a fine up to \$500.

The bill provides that the act preempts county and municipal ordinances and regulations that prohibit or regulate pet stores, but does not preempt the authority of a local government's authority to levy a local business tax.

The bill is estimated to have an impact on state government. See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2020.

II. Present Situation:

The regulation in Florida law of retail pet stores and the sale of dogs and cats is limited, and no state license is required under current law to engage in such activities.

Section s. 823.15, F.S., provides requirements for the handling of dogs and cats taken in by a public or private animal shelter, humane organization, or animal control agency operated by a humane organization or by a county, municipality, or other incorporated political subdivision (shelter). A shelter must maintain certain records about the animals it takes in and make the records available for public inspection and dissemination.¹

All dogs and cats sold or released for adoption from a shelter must be sterilized, by either:

- Providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or
- Entering into a written agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity.²

As to pet shops, current state law mandates the procedure for the euthanasia of warm-blooded animals, except those held as food for another animal, offered for sale, or obtained for sale by a pet shop.³

Local Ordinance Regulation

A number of local governments in Florida have adopted ordinances to regulate the operations of pet stores in their jurisdictions. The Hillsborough County Commission (commission) continues

¹ See s. 823.15(2)(a), F.S.; data for species other than domestic cats and domestic dogs is to be separately recorded.

² See s. 828.15(3), F.S.; the shelter must require a sufficient deposit from the adopter or purchaser, refundable upon presentation to the shelter of written evidence of sterilization by the veterinarian performing procedure.

³ Section 828.065, F.S.

to address perceived abuses at pet stores in that jurisdiction. The county commission has enacted retail sale regulations for grandfathered and existing pet shops⁴ and for new pet shops.⁵

The commission is considering modifying its retail sales ordinance and implementing new breeder regulations,⁶ and the commission's staff notes the following circumstances occurring in that county:

On May 26, 2017, the Board of County Commissioners (BOCC) enacted the Pet Retail Sales Ordinance. Hillsborough County is one of over 200 jurisdictions that have enacted similar ordinances in the U.S. and Canada, with nearly 70 ordinances existing in Florida. The Ordinance regulates the sale of dogs and cats by pet retail businesses that existed in Hillsborough County at the time the Ordinance became effective. The Ordinance also requires new pet retail businesses to sell only dogs or cats obtained from an animal shelter or rescue organization and prohibits retail sale of these animals in public places, like flea markets, and yard sales.

On September 23, 2019, Hillsborough County Pet Resources was awarded custody of more than 300 dogs living in deplorable conditions at an animal breeding and retail business in Tampa. In view of this event, on October 2, 2019, the BOCC directed the County Attorney's Office, with the assistance of County Administration, to bring back recommendations to strengthen the Pet Retail Sales Ordinance, including addressing commercial dog breeding facilities at the November 6, 2019 BOCC meeting. After meeting with individual Commissioners, Pet Resources, County Administration, and other interested persons, including Pet Retail business owners and representatives from various breeding associations, the matter was postponed to December 4, 2019 to further explore new ideas that developed.

Staff's recommendations include addressing pet retail sales and proposed breeder regulations separately; eliminating grandfather privilege for existing pet retail shops in the County within an approximate two year period; including additional interim restrictions and penalties for existing pet shops; redefining the term breeder and defining the term hobby breeder; banning all unregulated breeding activities; establishing permitting/licensing and zoning requirements for hobby breeders and

⁴ See the Hillsborough County Code of Ordinances, Part A, s. 6-6, Grandfathering in existing pet shops, registration requirements, and certain regulations, and the Hillsborough County Code of Ordinances, Part A, s. 6-62, Additional retail sale regulations for existing pet shops, at https://library.municode.com/fl/hillsborough_county/codes/code_of_ordinances_part_a?nodeId=HICOCOORLA_CH6AN (last visited Jan. 29, 2020).

⁵ *Id.*, and see the Hillsborough County Code of Ordinances, Part A, s. 6-63, Adoption-based business model for retail sale of dogs and cats and other requirements for new pet shops.

⁶ See the county's Agenda Item Cover Sheet and Staff Report Outlining Recommendations, at <https://eagenda.hillsboroughcounty.org/portal/PTL29560/search?D=01/23/2020&T=Regular%20BOCC%20Meeting&Y=Ba ckup&o=B-4.pdf> (last visited Jan. 29, 2020).

eliminating the County's current permitting process; and setting forth breeder care/treatment regulations, enforcement, and penalties.

The commission is holding a public hearing to consider modifications to its ordinances at its next meeting on February 5, 2020.⁷

According to the Humane Society of the United States, there are a total of 70 municipalities and counties in Florida that have passed ordinances banning the retail sales of dogs and cats.⁸ There are 340 such ordinances nationwide.⁹

United States Department of Agriculture Breeder Inspections

The Animal Care program under the Animal and Plant Health Inspection Service within the United States Department of Agriculture licenses breeders under the federal Animal Welfare Act.¹⁰ Information from the animal care program regarding compliance with the federal Animal Welfare Act provides the program will not cite in an inspection report a noncompliance other than a critical noncompliance, if the facility:

- Timely discovers a noncompliance using its own monitoring program; and
- Immediately takes appropriate corrective action and swiftly establishes measures to prevent reoccurrence.

Further, the program will not cite on an inspection report a critical noncompliance occurring outside a routine or focused inspection if it does not constitute a repeat noncompliance and the facility:

- Has no repeat or critical noncompliance on any inspection report for the relevant approved site during the preceding 12 months;
- Timely discovers the critical noncompliance using its own compliance monitoring program;
- Has not voluntarily reported a noncompliance that falls within the same section or subsection of the animal welfare act regulations and standards during the preceding 24 months for relevant approved site;
- Immediately takes appropriate corrective action and establishes measures to prevent recurrence; and
- Promptly reports the incident generally within five days of discovering a noncompliance orally or in writing to its animal care inspector or any animal care office and cooperates with the inspector as he or she reviews the incident.¹¹

⁷ See Anastasia Dawson, *Commissioners look to snuff out animal breeders, sales within Hillsborough County*, at <https://www.tampabay.com/news/hillsborough/2020/01/23/commissioners-look-to-snuff-out-animal-breeders-sales-within-hillsborough-county/> (last visited Jan. 29, 2020).

⁸ *FL Localities Banning Retail Pet Store Puppy Sales*, Humane Society of the United States (on file with the Senate Committee on Innovation, Industry, and Technology).

⁹ *[US] Localities Banning Retail Pet Store Puppy Sales*, Humane Society of the United States (on file with the Senate Committee on Innovation, Industry, and Technology).

¹⁰ See 7 U.S.C. ss. 2131 *et seq.*

¹¹ See *Tech Note*, Animal Care Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, May 2018 at https://www.aphis.usda.gov/animal_welfare/downloads/awa/ac-tech-note-incentives-animal-welfare-act-compliance.pdf (last visited January 29, 2020).

III. Effect of Proposed Changes:

Statutory Framework and Definitions

Section 1 of the bill provides direction to the Division of Law Revision to create part XVII of ch. 468, F.S., consisting of ss. 468.901 through 468.919, F.S., with the title “Household Pet Stores.”

Section 2 of the bill creates s. 468.901, F.S., which provides part VII of ch. 468, F.S., may be cited as the “Florida Pet Protection Act” (act). Under the bill, the term “household pet” includes a domestic dog or a domestic cat (regardless of age, thus puppies and kittens are deemed household pets also). See **Section 3** for the definitions applicable to the act.

Section 3 of the bill creates s. 468.903, F.S., to define the following terms used in the act.

- “Accredited veterinarian” means a veterinarian accredited by the United States Department of Agriculture.¹²
- “Adult cat” means a domestic cat that is one year of age or older.
- “Adult dog” means a domestic dog that is one year of age or older.
- “Animal rescue” means:
 - A nonprofit organization exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code which:
 1. Keeps, houses, and maintains household pets (defined as domestic dogs or domestic cats); and
 2. Is dedicated to the welfare, health, safety, and protection of such pets; or
 - An organization that offers for adoption spayed or neutered household pets in exchange for payment of reasonable adoption fees to cover the organization’s costs, including, but not limited to, costs related to spaying or neutering.
- “Animal shelter” means a public facility, or a private facility operated by a nonprofit organization that is exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code, which keeps, houses, and maintains household pets, such as a county or municipal animal control agency or pound, humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such pets.
- “Department” means the Department of Business and Professional Regulation (DBPR).
- “Hobby breeder” means an establishment that:
 - Sells no more than four puppies or adult dogs and no more than four kittens or adult cats in any calendar year; or

¹² The Animal and Plant Health Inspection Service under the U. S. Department of Agriculture provides a voluntary program for accreditation of veterinarians. Accredited veterinarians under the program are the “first line of defense in ensuring the health of this Nation’s livestock and poultry. APHIS is dependent on accredited veterinarians for carrying out many of the programs and services designed to protect public health and safeguard animal health.” See <https://www.aphis.usda.gov/aphis/ourfocus/animalhealth/nvap/NVAP-Reference-Guide/Introduction> (last visited Jan. 29, 2020). The responsibilities under the program include: animal identification, disease prevention, control, and eradication, regulatory immunization, regulations for intrastate, interstate, and international shipment of animals and animal byproducts, and instructions on the proper selection, completion, and submission of regulatory forms. *Id.*

- Keeps, houses, and maintains in any location no more than three intact (unspayed) adult female dogs, one intact (unneutered) male adult dog, three intact (unspayed) adult female cats, and one intact (unneutered) male adult cat.
- “Household pet” means a domestic dog or a domestic cat.
- “Intact” means that an animal’s reproductive organs have not been removed through spaying or neutering.
- “Kitten” means a domestic cat younger than one year old.
- “Pet broker” means a person who buys, sells, or offers for sale household pets, at wholesale for resale to another, or who sells or gives one or more such pets to a pet store.
- “Pet store” means:
 - A retail store that sells or offers for sale household pets, to the public and, with respect to such sales, the store’s salesperson, the pet’s buyer, and the pet being sold are each physically present during the sale so that the buyer may personally observe the pet and help ensure its health before taking custody; and
 - An animal rescue or animal shelter that purchases household pets for resale from a pet broker or professional breeder.
- “Professional breeder” means an establishment other than an animal rescue, an animal shelter, or a hobby breeder, that sells in any calendar year for money or other consideration, five or more puppies or adult dogs, or five or more kittens or adult cats.
- “Puppy” means a domestic dog that is younger than one year old.
- “Veterinarian” means a health care practitioner licensed to engage in the practice of veterinary medicine under ch. 474, F.S., or licensed by the appropriate authority in another state to engage in the practice of veterinary medicine in that state.

Licensure of Pet Stores; Prohibitions

Section 4 of the bill creates s. 468.905, F.S., to prohibit a person who does not have a valid pet store license issued by the DBPR in accordance with the act, from operating a pet store in Florida that displays, offers for sale, delivers, barter, auctions, brokers, gives away, transfers, or sells any household pet from the store. The bill provides that an animal rescue or an animal shelter must be licensed as a pet store if it purchases household pets for resale from a pet broker or professional breeder as those terms are defined in the act.

The bill requires the DBPR to adopt procedures for the licensure of pet stores, and an applicant for a pet store license must apply to the DBPR in the format required by the DBPR. Under the bill, the DBPR must assign each licensee a unique license number for each licensed location.

The bill authorizes the DBPR to establish annual licenses. Under the bill, an application for license renewal must be submitted to the DBPR in a format required by the DBPR.

Requirements for Pet Stores; Unlawful Practices

Section 5 of the bill creates s. 468.907, F.S., to set forth the requirements for sales of household pets, pet store operations and procedures, pet store features and services.

Sales and Transfers of Household Pets by Pet Stores

The bill prohibits displaying, offering for sale, delivery, bartering, auctioning, brokering, giving away, transferring, or selling of any household pet from a pet store, unless such pet is acquired from one of the following sources:

- A qualified breeder (qualification requirements are set forth below);
- A hobby breeder;
- An animal rescue;
- An animal shelter;
- Another pet store; and
- A pet broker, and if the pet broker acquire a pet from a professional breeder, that breeder must be a qualified breeder.

Under the bill, for the purposes of sale or transfer of household pets by pet stores, the term “qualified breeder” means a professional breeder located inside or outside Florida that meets all of the following requirements:

- Is licensed by the United States Department of Agriculture (USDA) under the federal Animal Welfare Act¹³ and, if required, by a state agency.
- Has not been issued a report of a direct¹⁴ noncompliance violation by the USDA¹⁵ under the federal Animal Welfare Act, in the two years immediately before offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling a household pet.
- Has not had three or more noncompliance violations documented in any report issued by the USDA under the federal Animal Welfare Act for the year immediately before the offering for sale, delivering, bartering, auctioning, brokering, giving away, transferring, or selling of a household pet.

The bill provides that a pet store may not sell, deliver, barter, auction, broker, give away, or transfer (sell) a household pet that:

- Is younger than eight weeks old;
- Is not implanted with an identification microchip;
- Does not have a health certificate signed by an accredited veterinarian;
- Is to be sold to a person younger than 18 years old (verified by a valid driver license, state identification card, or other government-issued identification card with the person’s photograph); or

¹³ See 7 U.S.C. ss. 2131 *et seq.* Licensing of dealers and exhibitors is addressed in 7. U.S.C. s. 2133.

¹⁴ According to the USDA Animal and Plant Health Inspection Service (APHIS), a “direct” noncompliance is a critical noncompliance that is currently (at the time of the inspection) having a serious or severe adverse effect on the health and well-being of the animal. See the APHIS Animal Care Inspection Guide (8/19/19) Appendix B for examples that include heavy tick/flea infestation and embedded overgrown toenails causing gait problems, at https://www.aphis.usda.gov/animal_welfare/downloads/Animal-Care-Inspection-Guide.pdf (last visited Jan. 29, 2020).

¹⁵ For information on noncompliance issues and the noncompliance process, see *Tech Note*, Animal Care Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, May 2018 at https://www.aphis.usda.gov/publications/animal_welfare/2017/ac-tech-note-incentives-animal-welfare-act-compliance.pdf (last visited Jan. 29, 2020).

- Is acquired from a qualified breeder or pet broker, unless the pet store provides to the buyer of the pet, before completing the transaction, a written certification of the following (pre-sale certification documents):
 - 1. The name, address, and USDA license number, if applicable, of the breeder who bred the pet;
 - 2. A copy of the breeder's most recent USDA inspection report, if applicable;
 - 3. The pet's date of birth, if known;
 - 4. The date the pet store took possession of the pet;
 - 5. The breed, gender, color, and any identifying marks of the pet;
 - 6. A signed statement by an accredited veterinarian which describes any known disease, illness, or congenital or hereditary condition that adversely affects the health of the pet at the time of examination; and
 - 7. A document signed by the owner or a manager or employee of the pet store certifying that all information required to be provided to the person acquiring the household pet is accurate.

The owner or a manager or employee of a pet store may not fraudulently alter or provide false information on a certification, and a pet store must keep a copy of the certification for at least three years after the date of acquisition of the pet.

The bill requires a licensed pet store to provide to the buyer of a household pet the following information (identity and history data):

- The pet's microchip identification number;
- The complete name, address, and telephone number of all professional breeders or other persons who kept, housed, or maintained the pet before its coming into possession of the pet store, or proof that the pet was acquired through an animal rescue or animal shelter; and
- A photograph or digital image of both of the pet's parents (sire and dam).

A pet store must keep a copy of the pre-sale certification documents and the required identity and history data for at least three years after the date it acquired the household pet.

Required Pet Store Features and Services

The bill requires a pet store to provide all of the following for household pets at the store:

- Flooring in the primary housing enclosures constructed of a solid surface; if grid-style or wire flooring is used, the surface must be covered with a rubberized or coated material that prevents an animal's toe or foot from passing through or being entrapped by the flooring;
- Cleaning of all primary enclosures daily, or as often as necessary to prevent body waste accumulation, and maintenance of a sanitation log of such cleanings;
- An isolation enclosure with separate ventilation which allows an animal to be kept separately from others while under veterinarian-directed observation;
- Climate control that ensures temperatures in animal enclosures are kept between 67 degrees and 78 degrees at all times;
- Maintenance of daily logs of temperatures in animal enclosures, and if such temperatures fall outside the required range for any reason, maintenance of a corrective action record detailing the steps taken to adjust temperatures;

- Visits by a veterinarian licensed in Florida who visits the pet store at least three times weekly to observe the condition of the pets' health and overall well-being;
- Visits by a dog trainer who visits the pet store at least once every week to assist with any behavioral or training issues;
- An enrichment program for puppies which consists of exercise and socialization for at least two 30-minute periods each day;
- Maintenance of a log for each puppy of the daily activities that the puppy participates in as part of an enrichment program; and
- Photographs, digital images, or video footage depicting all breeding facilities from which the pet store acquires household pets.

Inspections of Pet Stores

Section 6 of the bill creates s. 468.909, F.S., to require the DBPR to annually inspect each pet store subject to licensure to ensure compliance with the act and any administrative rules adopted pursuant to the act, including, but not limited to, an audit of the pre-sale certification documents and required identity and history data that the licensee must maintain as required in s. 468.907, F.S., as discussed above.

The bill authorizes, but does not require, the DBPR to conduct an inspection upon receipt of a complaint or other information alleging a violation of the act or administrative rules adopted pursuant to the act. In addition, the bill requires the DBPR to establish procedures for conducting inspections and for creating inspection records. Under the bill, inspections must be conducted during regular business hours in accordance with the DBPR's procedures, may be conducted without prior notice, and a record of each inspection must be maintained by the DBPR in accordance with its procedures. The bill authorizes the DBPR to enter into a contract or agreement with one or more veterinarians to conduct pet store inspections.

Administrative, Civil, and Criminal Penalties and Remedies

Section 7 of the bill creates s. 468.911, F.S., to set forth administrative requirements, remedies and penalties for violations, and authorizes the DBPR to adopt rules to administer the act.

Under the bill, the DBPR must deny an application for issuance or renewal of a pet store license if:

- The licensee or applicant violates the act or any rule or order issued under the act, if the violation materially threatens the health or welfare of a household pet; or
- The licensee or applicant, in the past 20 years, has been convicted of or pled guilty or nolo contendere to, regardless of adjudication, a misdemeanor or felony under ch. 828, F.S., [Animals: Cruelty, Sales; Animal Enterprise Protection],¹⁶ or a misdemeanor or felony under ch. 741, F.S., involving an act of domestic violence.

¹⁶ Sections 828.40 to 828.43, F.S., constitute the Florida Animal Enterprise Protection Act." An "animal enterprise" is defined in s. 828.41(1), F.S., as a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing; a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or any fair or similar event intended to advance agricultural arts and sciences.

The bill provides, if the DBPR finds that a pet store, or a person employed or contracted by a pet store, has violated or is operating in violation of the act or any rule or order issued under the act, the DBPR may:

- Issue a notice of noncompliance under s. 120.695, F.S.;¹⁷
- Impose an administrative fine for each act or omission (with each day a violation continues constituting a separation violation), not to exceed the following amounts:
 - 1. For a first violation, \$250;
 - 2. For a second violation, \$500;
 - 3. For a third or subsequent violation, \$1,000;
- Direct that the person cease and desist from specified activities;
- Refuse to issue or renew a license or revoking or suspending a license; or
- Place the licensee on probation, subject to conditions specified by the DBPR.

Under the bill, the administrative proceedings that could result in the entry of an order imposing any of the above penalties are governed by ch. 120, F.S., the Florida Administrative Procedure Act, which provides uniform procedures for the exercise of specified authority.

Section 8 of the bill creates s. 468.913, F.S., to authorize legal action to recover civil penalties and for injunctive relief. Under the bill, the DBPR may bring a civil action in a court of competent jurisdiction to recover any penalties or damages authorized by the act and for injunctive relief to enforce compliance with the act.

Section 9 of the bill creates s. 468.915, F.S., to set forth criminal penalties for violations of certain requirements in the act. A person commits a misdemeanor of the second degree, punishable by a term of imprisonment not to exceed 60 days or a fine not to exceed \$500,¹⁸ if he or she violates:

- Section 468.907(2) or (3), F.S., created by the bill, relating to unlawful practices in the sale of household pets by pet stores; or
- Section 468.905(1) or (4), F.S., created by the bill, relating to operation of a pet store without a license.

Section 10 of the bill creates s. 468.917, F.S., to require the deposit of license fees and civil penalties collected by the DBPR under the act into the Professional Regulation Trust Fund for the DBPR's use in administering the act.

Preemption of Local Government Regulation of Pet Stores

Section 11 of the bill creates s. 468.919, F.S., to provide that part VII of ch. 468, F.S., created in the bill, preempts county and municipal ordinances and regulations that prohibit or regulate pet stores. A local government's authority to levy a local business tax under ch. 205, F.S., for the

¹⁷ Section 120.695(2), F.S., provides each state agency must issue a notice of noncompliance as a first response to a minor violation of an administrative rule. Section 120.695(1), F.S., sets forth the state's policy that the purpose of regulation is to protect the public through compliance with policies established by the Legislature; while fines and other penalties may be imposed in order to assure compliance, they are secondary to the primary goal of attaining compliance with agency rules.

¹⁸ See ss. 775.082 and 775.083, F.S.

privilege of engaging in or managing any business, profession, or occupation within its jurisdiction,¹⁹ is not preempted under the bill.

The bill is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Under Article VII, Section 19 of the Florida Constitution, a “state tax or fee imposed, authorized, or raised under this section must be contained in a separate bill that contains no other subject.” A “fee” is defined by the Florida Constitution to mean “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”²⁰

Section 10 of the bill provides in part that “monies collected by the [Department of Professional Regulation (DBPR) under the act] from license fees . . . must be deposited into the [DBPR’s] Professional Regulation Trust Fund for use by the [DBPR] for administration of [the act]. Authorization for the DBPR to impose license fees for its administration of the act may be required to be addressed in a separate bill as required by Article VII, Section 19 of the Florida Constitution.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁹ See s. 205.022(5), F.S., for the definition of “local business tax.” The term does not mean fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection, which, unless otherwise provided by law, are deemed to be regulatory and in addition to, but not in lieu of, any local business tax imposed under the provisions of [ch. 205, F.S.]. *Id.*

²⁰ FLA. CONST. art. VII, s. 19(d)(1).

B. Private Sector Impact:

The bill requires pet stores in Florida, if the stores sell or offer to sell domestic dogs or domestic cats, to have the features, offer the services, perform the activities, and maintain the records required under the bill, and the cost of meeting these requirements will be borne by the affected pet stores.

C. Government Sector Impact:

The creation of an additional licensing, inspection, and regulatory structure for pet stores will result in a fiscal impact to the state.

The Department of Business and Professional Regulation (DBPR) estimates, based on its calculation that as many as 500 pet stores in the state sell household pets and will be required to be licensed and inspected, the new regulatory program will increase expenditures by approximately \$105,573 in Fiscal Year 2020-2021, \$99,517 in Fiscal Year 2021-2022 and \$99,517 in Fiscal Year 2022-2023.²¹ The DBPR estimates one environmental health specialist position is necessary to accomplish the inspections of pet stores required by the bill, with an associated FTE expense of \$60,886 (\$54,830 recurring) and nonrecurring costs for technology hardware and software licenses and service of approximately \$2,700.²²

The DBPR's Office of General Counsel addresses concerns about the terms used in the bill and the basis for agency decisions and rules, and notes that programs within the DBPR must fund themselves through adequate associated license fees as other programs may not offset the costs of another program.²³

VI. Technical Deficiencies:

None.

VII. Related Issues:

The language on retention of required certifications in lines 198 to 200 appears to be applicable to all of the information required in s. 468.907(3)(e), F.S., not just paragraph 7 thereof. If this is not intentional, an amendment to move that language to the left margin so it applies to s. 468.907(3)(e), F.S., in its entirety should be considered.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 468.901, 468.919, 468.903, 468.905, 468.907, 468.909, 468.911, 468.913, 468.915, and 468.917.

²¹ See 2020 Agency Legislative Bill Analysis (Department of Business and Professional Regulation) for SB 1698, Jan. 30, 2020 (on file with Senate Committee on Innovation, Industries, and Technology) at page 4.

²² *Id.* at pp. 5-7.

²³ *Id.* at p. 6.

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.

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

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House

The Committee on Innovation, Industry, and Technology (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. The Division of Law Revision is directed to create part XVII of chapter 468, Florida Statutes, consisting of ss. 468.901-468.919, Florida Statutes, to be entitled "Retail Pet Stores."

Section 2. Section 468.901, Florida Statutes, is created to read:



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11 468.901 Short title.—This part may be cited as the “Florida
12 Pet Protection Act.”

13 Section 3. Section 468.903, Florida Statutes, is created to
14 read:

15 468.903 Definitions.—As used in this part, the term:

16 (1) “Animal rescue” means a nonprofit organization exempt
17 from federal income taxation under s. 501(c)(3) of the Internal
18 Revenue Code which keeps, houses, and maintains household pets
19 and which is dedicated to the welfare, health, safety, and
20 protection of such pets. The term includes an organization that
21 offers spayed or neutered household pets for adoption and
22 charges only reasonable adoption fees to cover the
23 organization’s costs, including, but not limited to, costs
24 related to spaying or neutering the pets.

25 (2) “Animal shelter” means a public facility, or a private
26 facility operated by a nonprofit organization that is exempt
27 from federal income taxation under s. 501(c)(3) of the Internal
28 Revenue Code, which keeps, houses, and maintains household pets,
29 such as a county or municipal animal control agency or pound, a
30 humane society, an animal welfare society, a society for the
31 prevention of cruelty to animals, or another nonprofit
32 organization devoted to the welfare, protection, and humane
33 treatment of household pets.

34 (3) “Department” means the Department of Business and
35 Professional Regulation.

36 (4) “Household pet” means a domestic dog or a domestic cat.

37 (5) “Pet broker” means a person who buys, sells, or offers
38 for sale household pets for resale to other persons, or who
39 sells or gives one or more pets to a retail pet store, and who



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40 holds a valid Class B animal dealer license issued by the United
41 States Department of Agriculture.

42 (6) "Professional breeder" means a person who is required
43 to be licensed as a Class A animal dealer by the United States
44 Department of Agriculture.

45 (7) "Retail pet store" means a retail store that sells or
46 offers for sale household pets to the public. The term does not
47 include an animal rescue; an animal shelter; or a breeder who
48 sells or transfers, directly to the public, household pets bred
49 and raised on the breeder's premises.

50 (8) "Veterinarian" means a health care practitioner
51 licensed under chapter 474, or licensed out of state by the
52 applicable entity in that state, to engage in the practice of
53 veterinary medicine.

54 Section 4. Section 468.905, Florida Statutes, is created to
55 read:

56 468.905 Licensure of retail pet stores.-

57 (1) A person may not operate a retail pet store in this
58 state without having a valid retail pet store license issued by
59 the department in accordance with this section.

60 (2) The department shall adopt procedures for the licensure
61 of retail pet stores. An applicant for a retail pet store
62 license shall apply to the department in a format prescribed by
63 the department. Upon licensure, the department shall assign a
64 unique license number for each licensed premises.

65 (3) The department may establish annual license periods
66 that are valid for 1 year and that may be renewed. An
67 application for renewal of a license must be submitted to the
68 department in a format prescribed by the department.



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69 (4) A retail pet store that does not have a valid license
70 may not display, offer for sale, deliver, barter, auction,
71 broker, give away, transfer, or sell any household pet from the
72 store.

73 (5) Nothing in this part shall be construed to prohibit or
74 regulate the sale of hunting dogs, field trial dogs, sporting
75 dogs, or cattle dogs.

76 Section 5. Section 468.907, Florida Statutes, is created to
77 read:

78 468.907 Sale or transfer of household pets by retail pet
79 stores.-

80 (1) As used in this section, the term "qualified breeder"
81 means a professional breeder that is located inside or outside
82 this state and meets all of the following requirements:

83 (a) Holds a valid Class A animal license issued by the
84 United States Department of Agriculture and, if required by the
85 respective state, is licensed by a state agency.

86 (b) Has not been issued a report of a finally adjudicated
87 direct noncompliance violation by the United States Department
88 of Agriculture under the federal Animal Welfare Act, 7 U.S.C.
89 ss. 2131 et seq., in the 2 years immediately before offering for
90 sale, delivering, bartering, auctioning, brokering, giving away,
91 transferring, or selling a household pet. However, a
92 professional breeder is not considered a qualified breeder until
93 a pending report of a direct noncompliance violation is finally
94 adjudicated.

95 (c) Has not had three or more finally adjudicated
96 noncompliance violations documented in any report issued by the
97 United States Department of Agriculture under the federal Animal



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98 Welfare Act, 7 U.S.C. ss. 2131 et seq., for the year immediately
99 before offering for sale, delivering, bartering, auctioning,
100 brokering, giving away, transferring, or selling a household
101 pet. However, a professional breeder is not considered a
102 qualified breeder until a pending report of a noncompliance
103 violation is finally adjudicated.

104 (2) A retail pet store may not display, offer for sale,
105 deliver, barter, auction, broker, give away, transfer, or sell
106 any household pet from the store unless such pet was acquired
107 from one of the following sources:

108 (a) A qualified breeder.

109 (b) A person who, pursuant to 9 C.F.R. s. 2.1(a)(3)(ii)-
110 (vii), is exempt from licensure by the United States Department
111 of Agriculture.

112 (c) An animal rescue.

113 (d) An animal shelter.

114 (e) A pet broker; however, if the pet broker acquires the
115 pet from a professional breeder, the breeder must be a qualified
116 breeder.

117 (3) A retail pet store may not sell, deliver, barter,
118 auction, broker, give away, or transfer any of the following:

119 (a) A household pet younger than 8 weeks of age.

120 (b) A household pet that has not been implanted with an
121 identification microchip.

122 (c) A household pet that does not have a valid veterinary
123 certification, including the United States Interstate and
124 International Certificate of Health Examination for Small
125 Animals prescribed by the United States Department of
126 Agriculture or the official certificate of veterinary inspection



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127 prescribed by the Department of Agriculture and Consumer
128 Services pursuant to s. 828.29.

129 (d) A household pet to a person younger than 18 years of
130 age, as verified by a valid driver license, state identification
131 card, or other government-issued identification card bearing a
132 photograph of the cardholder.

133 (e) A household pet acquired from a qualified breeder or
134 pet broker, unless the retail pet store provides to the buyer
135 acquiring the pet, before completing the transaction, a written
136 certification that includes the following:

137 1. The name, address, and United States Department of
138 Agriculture license number, if applicable, of the breeder who
139 bred the household pet.

140 2. A copy of the breeder's most recent United States
141 Department of Agriculture inspection report, if applicable.

142 3. The household pet's date of birth, if known.

143 4. The date the retail pet store took possession of the
144 household pet.

145 5. The breed, gender, color, and any identifying marks of
146 the household pet.

147 6. A signed statement by the store's Florida-licensed
148 veterinarian, in a format prescribed by the department, which
149 describes any known disease, illness, or congenital or
150 hereditary condition that adversely affects the health of the
151 household pet at the time of examination.

152 7. A document signed by the owner or a manager or employee
153 of the retail pet store certifying that all information required
154 to be provided to the person acquiring the household pet under
155 this paragraph is accurate.



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A retail pet store shall keep a copy of the certification for at least 3 years after the date of acquisition of the household pet. The owner or a manager or an employee of a retail pet store may not fraudulently alter or provide false information on a certification provided in accordance with this paragraph.

(4) A licensed retail pet store shall provide to the buyer of a household pet:

(a) The pet's microchip identification number.

(b) The complete name, address, and telephone number of all professional breeders, pet brokers, or other persons who kept, housed, or maintained the pet before its coming into possession of the retail pet store or proof that the pet was acquired through an animal rescue or animal shelter.

(c) A photograph or digital image of both of the pet's parents, sire and dam.

A retail pet store shall keep a copy of the documentation required under this subsection for at least 3 years after the date it acquired the household pet.

(5) A retail pet store shall provide for all of the following:

(a) Flooring in the primary enclosures that house household pets which is constructed of a solid surface or, if grid-style or wire flooring is used, the surface of which is covered with a rubberized or coated material that prevents a pet's toe or foot from passing through or being entrapped by the flooring. A retail pet store shall clean all primary enclosures daily, or as often as necessary to prevent accumulation of body waste, and



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185 keep a daily sanitation log.

186 (b) An isolation enclosure with separate ventilation which
187 allows a household pet to be kept separately from other pets
188 while under veterinarian-directed isolation.

189 (c) Climate control that ensures that the ambient air
190 temperature of the store's premises is kept between 67 and 78
191 degrees at all times. Retail pet stores shall keep daily logs of
192 the temperature. If, for any reason, the temperature falls
193 outside the required range, a corrective action record detailing
194 steps taken to adjust the temperature must be kept.

195 (d) A Florida-licensed veterinarian who visits the retail
196 pet store at least twice a week to observe the condition of the
197 pets' health and overall well-being.

198 (e) An enrichment program for puppies which consists of
199 exercise and socialization for at least two 30-minute periods
200 each day. A retail pet store must keep a log for each puppy of
201 the daily activities that the puppy participates in as part of
202 the program.

203 (f) A photograph or digital image and video footage
204 depicting each breeding facility from which the retail pet store
205 acquires household pets.

206 Section 6. Section 468.909, Florida Statutes, is created to
207 read:

208 468.909 Inspections.—

209 (1) (a) At least annually, the department shall inspect each
210 retail pet store that is subject to licensure to ensure
211 compliance with this part and with rules adopted under this
212 part, including, but not limited to, an audit of the records
213 that the licensee maintains pursuant to s. 468.907(3)(e) and



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214 (4) .

215 (b) The department also may conduct an inspection upon
216 receipt of a complaint or other information alleging a violation
217 of this part or rules adopted under this part.

218 (2) The department shall establish procedures for
219 conducting inspections and making records of inspections.
220 Inspections shall be conducted during regular business hours in
221 accordance with the department's procedures and may be conducted
222 without prior notice. A record of each inspection must be
223 maintained by the department in accordance with such procedures.

224 (3) The department may enter into a contract or agreement
225 with one or more veterinarians to conduct inspections under this
226 section. Such veterinarians must be independent and may not be
227 affiliated with an animal rights advocacy organization.

228 Section 7. Section 468.911, Florida Statutes, is created to
229 read:

230 468.911 Administrative remedies; penalties.-

231 (1) The department shall deny an application for issuance
232 or renewal of a retail pet store license if:

233 (a) The licensee or applicant violates this part or any
234 rule or order issued under this part, if the violation
235 materially threatens the health or welfare of a household pet;
236 or

237 (b) The licensee or applicant, in the past 20 years, has
238 been convicted of or pled guilty or nolo contendere to,
239 regardless of adjudication, a misdemeanor or felony under
240 chapter 828 or a misdemeanor or felony under chapter 741
241 involving an act of domestic violence.

242 (2) The department may enter an order doing one or more of



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243 the following if the department finds that the owner of a retail
244 pet store, or a person employed or contracted by a retail pet
245 store about who the owner knows or reasonably should have known,
246 has violated or is operating in violation of this part or any
247 rule or order issued pursuant to this part:

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

249 (b) Imposing an administrative fine for each act or
250 omission, not to exceed the following amounts:

251 1. For a first violation, \$250.

252 2. For a second violation, \$500.

253 3. For a third or subsequent violation, \$1,000.

254

255 Each day that a violation continues constitutes a separate
256 violation.

257 (c) Directing that the person cease and desist specified
258 activities.

259 (d) Refusing to issue or renew a license or revoking or
260 suspending a license.

261 (e) Placing the licensee on probation, subject to the
262 conditions specified by the department.

263 (3) The administrative proceedings that could result in the
264 entry of an order imposing any of the penalties specified in
265 subsection (1) or subsection (2) are governed by chapter 120.

266 (4) The department may adopt rules to administer this part.
267 Section 8. Section 468.913, Florida Statutes, is created to
268 read:

269 468.913 Civil penalties; remedies.—The department may bring
270 a civil action in a court of competent jurisdiction to recover
271 any penalties or damages authorized by this part and for



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272 injunctive relief to enforce compliance with this part.

273 Section 9. Section 468.915, Florida Statutes, is created to
274 read:

275 468.915 Criminal penalties.—A person commits a misdemeanor
276 of the second degree, punishable as provided in s. 775.082 or s.
277 775.083, if he or she violates:

278 (1) Section 468.907(2) or (3), relating to unlawful
279 practices in the sale of household pets by retail pet stores; or

280 (2) Section 468.905(1) or (4), relating to operation of a
281 retail pet store without a license.

282 Section 10. Section 468.917, Florida Statutes, is created
283 to read:

284 468.917 Deposit of funds.—All moneys collected by the
285 department under this part from license fees or civil penalties
286 must be deposited into the department's Professional Regulation
287 Trust Fund for use by the department for administration of this
288 part.

289 Section 11. Section 468.919, Florida Statutes, is created
290 to read:

291 468.919 Local regulation.—This part preempts any local
292 ordinance or regulation of a county or municipality which
293 prohibits or regulates retail pet stores or the purchase or sale
294 of hunting dogs, field trial dogs, sporting dogs, or cattle
295 dogs. This section does not preempt a local government's
296 authority to levy a local business tax pursuant to chapter 205.

297 Section 12. This act shall take effect July 1, 2020.

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

300 And the title is amended as follows:



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301 Delete everything before the enacting clause
302 and insert:
303 An act relating to the regulation of retail pet
304 stores; providing a directive to the Division of Law
305 Revision; creating s. 468.901, F.S.; providing a short
306 title; creating s. 468.903, F.S.; defining terms;
307 creating s. 468.905, F.S.; requiring the licensure of
308 retail pet stores; requiring the Department of
309 Business and Professional Regulation to adopt
310 procedures for such licensure; creating s. 468.907,
311 F.S.; defining the term "qualified breeder";
312 regulating the sale or transfer of household pets by
313 retail pet stores; limiting the sources from which
314 retail pet stores may acquire pets for sale; providing
315 certain restrictions on the sale of household pets;
316 requiring certain documentation of the sources from
317 which retail pet stores acquire pets for sale;
318 providing requirements for the living conditions for
319 pets at retail pet stores; providing retail pet store
320 veterinarian, exercise, and socialization
321 requirements; creating s. 468.909, F.S.; requiring the
322 department to conduct periodic inspections of retail
323 pet stores and to audit sales records; requiring the
324 department to establish procedures for the inspections
325 and records of the inspections; authorizing contracts
326 with certain veterinarians to conduct inspections;
327 creating s. 468.911, F.S.; requiring the department to
328 deny a license under certain circumstances;
329 authorizing disciplinary action against licensees and



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330 applicants for licensure under certain circumstances;
331 providing civil penalties; authorizing the department
332 to adopt rules; creating s. 468.913, F.S.; authorizing
333 civil actions for purposes of enforcement; creating s.
334 468.915, F.S.; providing criminal penalties for
335 specified violations; creating s. 468.917, F.S.;
336 requiring certain moneys to be deposited into the
337 department's Professional Regulation Trust Fund;
338 creating s. 468.919, F.S.; preempting certain county
339 and municipal ordinances and regulations; providing
340 construction; providing an effective date.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Innovation, Industry, and Technology (Diaz) recommended the following:

1 **Senate Substitute for Amendment (706506) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. The Division of Law Revision is directed to
7 create part XVII of chapter 468, Florida Statutes, consisting of
8 ss. 468.901-468.921, Florida Statutes, to be entitled "Retail
9 Pet Stores."

10 Section 2. Section 468.901, Florida Statutes, is created to



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11 read:

12 468.901 Short title.—This part may be cited as the “Florida
13 Pet Protection Act.”

14 Section 3. Section 468.903, Florida Statutes, is created to
15 read:

16 468.903 Definitions.—As used in this part, the term:

17 (1) “Animal rescue” means a nonprofit organization exempt
18 from federal income taxation under s. 501(c)(3) of the Internal
19 Revenue Code which keeps, houses, and maintains household pets
20 and which is dedicated to the welfare, health, safety, and
21 protection of such pets. The term includes an organization that
22 offers spayed or neutered household pets for adoption and
23 charges only reasonable adoption fees to cover the
24 organization’s costs, including, but not limited to, costs
25 related to spaying or neutering the pets.

26 (2) “Animal shelter” means a public facility, or a private
27 facility operated by a nonprofit organization that is exempt
28 from federal income taxation under s. 501(c)(3) of the Internal
29 Revenue Code, which keeps, houses, and maintains household pets,
30 such as a county or municipal animal control agency or pound, a
31 humane society, an animal welfare society, a society for the
32 prevention of cruelty to animals, or another nonprofit
33 organization devoted to the welfare, protection, and humane
34 treatment of household pets.

35 (3) “Department” means the Department of Business and
36 Professional Regulation.

37 (4) “Household pet” means a domestic dog or a domestic cat.

38 (5) “Pet broker” means a person who buys, sells, or offers
39 for sale household pets for resale to other persons, or who



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40 sells or gives one or more pets to a retail pet store, and who
41 holds a valid Class B animal dealer license issued by the United
42 States Department of Agriculture.

43 (6) "Professional breeder" means a person who is required
44 to be licensed as a Class A animal dealer by the United States
45 Department of Agriculture.

46 (7) "Retail pet store" means a retail store that sells or
47 offers for sale household pets to the public. The term does not
48 include an animal rescue; an animal shelter; or a breeder who
49 sells or transfers, directly to the public, household pets bred
50 and raised on the breeder's premises.

51 (8) "Veterinarian" means a health care practitioner
52 licensed under chapter 474, or licensed out of state by the
53 applicable entity in that state, to engage in the practice of
54 veterinary medicine.

55 Section 4. Section 468.905, Florida Statutes, is created to
56 read:

57 468.905 Licensure of retail pet stores.—

58 (1) A person may not operate a retail pet store in this
59 state without having a valid retail pet store license issued by
60 the department in accordance with this section.

61 (2) The department shall adopt procedures for the licensure
62 of retail pet stores. An applicant for a retail pet store
63 license shall apply to the department in a format prescribed by
64 the department. Upon licensure, the department shall assign a
65 unique license number for each licensed premises.

66 (3) The department may establish annual license periods
67 that are valid for 1 year and that may be renewed. An
68 application for renewal of a license must be submitted to the



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69 department in a format prescribed by the department.

70 (4) A retail pet store that does not have a valid license
71 may not display, offer for sale, deliver, barter, auction,
72 broker, give away, transfer, or sell any household pet from the
73 store.

74 Section 5. Section 468.907, Florida Statutes, is created to
75 read:

76 468.907 Sale or transfer of household pets by retail pet
77 stores.—

78 (1) As used in this section, the term "qualified breeder"
79 means a professional breeder that is located inside or outside
80 this state and meets all of the following requirements:

81 (a) Holds a valid Class A animal license issued by the
82 United States Department of Agriculture and, if required by the
83 respective state, is licensed by a state agency.

84 (b) Has not been issued a report of a finally adjudicated
85 direct noncompliance violation by the United States Department
86 of Agriculture under the federal Animal Welfare Act, 7 U.S.C.
87 ss. 2131 et seq., in the 2 years immediately before offering for
88 sale, delivering, bartering, auctioning, brokering, giving away,
89 transferring, or selling a household pet. However, a
90 professional breeder is not considered a qualified breeder until
91 a pending report of a direct noncompliance violation is finally
92 adjudicated.

93 (c) Has not had three or more finally adjudicated
94 noncompliance violations documented in any report issued by the
95 United States Department of Agriculture under the federal Animal
96 Welfare Act, 7 U.S.C. ss. 2131 et seq., for the year immediately
97 before offering for sale, delivering, bartering, auctioning,



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98 brokering, giving away, transferring, or selling a household
99 pet. However, a professional breeder is not considered a
100 qualified breeder until a pending report of a noncompliance
101 violation is finally adjudicated.

102 (2) A retail pet store may not display, offer for sale,
103 deliver, barter, auction, broker, give away, transfer, or sell
104 any household pet from the store unless such pet was acquired
105 from one of the following sources:

106 (a) A qualified breeder.

107 (b) A person who, pursuant to 9 C.F.R. s. 2.1(a)(3)(ii)-
108 (vii), is exempt from licensure by the United States Department
109 of Agriculture.

110 (c) An animal rescue.

111 (d) An animal shelter.

112 (e) A pet broker; however, if the pet broker acquires the
113 pet from a professional breeder, the breeder must be a qualified
114 breeder.

115 (3) A retail pet store may not sell, deliver, barter,
116 auction, broker, give away, or transfer any of the following:

117 (a) A household pet younger than 8 weeks of age.

118 (b) A household pet that has not been implanted with an
119 identification microchip.

120 (c) A household pet that does not have a valid veterinary
121 certification, including the United States Interstate and
122 International Certificate of Health Examination for Small
123 Animals prescribed by the United States Department of
124 Agriculture or the official certificate of veterinary inspection
125 prescribed by the Department of Agriculture and Consumer
126 Services pursuant to s. 828.29.



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127 (d) A household pet to a person younger than 18 years of
128 age, as verified by a valid driver license, state identification
129 card, or other government-issued identification card bearing a
130 photograph of the cardholder.

131 (e) A household pet acquired from a qualified breeder or
132 pet broker, unless the retail pet store provides to the buyer
133 acquiring the pet, before completing the transaction, a written
134 certification that includes the following:

135 1. The name, address, and United States Department of
136 Agriculture license number, if applicable, of the breeder who
137 bred the household pet.

138 2. A copy of the breeder's most recent United States
139 Department of Agriculture inspection report, if applicable.

140 3. The household pet's date of birth, if known.

141 4. The date the retail pet store took possession of the
142 household pet.

143 5. The breed, gender, color, and any identifying marks of
144 the household pet.

145 6. A signed statement by the store's Florida-licensed
146 veterinarian, in a format prescribed by the department, which
147 describes any known disease, illness, or congenital or
148 hereditary condition that adversely affects the health of the
149 household pet at the time of examination.

150 7. A document signed by the owner or a manager or an
151 employee of the retail pet store certifying that all information
152 required to be provided to the person acquiring the household
153 pet under this paragraph is accurate.

154
155 A retail pet store shall keep a copy of the certification for at



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156 least 3 years after the date of acquisition of the household
157 pet. The owner or a manager or an employee of a retail pet store
158 may not fraudulently alter or provide false information on a
159 certification provided in accordance with this paragraph.

160 (4) A licensed retail pet store shall provide to the buyer
161 of a household pet:

162 (a) The pet's microchip identification number.

163 (b) The complete name, address, and telephone number of all
164 professional breeders, pet brokers, or other persons who kept,
165 housed, or maintained the pet before its coming into possession
166 of the retail pet store or proof that the pet was acquired
167 through an animal rescue or animal shelter.

168 (c) A photograph or digital image of both of the pet's
169 parents, sire and dam.

170
171 A retail pet store shall keep a copy of the documentation
172 required under this subsection for at least 3 years after the
173 date it acquired the household pet.

174 (5) A retail pet store shall provide for all of the
175 following:

176 (a) Flooring in the primary enclosures that house household
177 pets which is constructed of a solid surface or, if grid-style
178 or wire flooring is used, the surface of which is covered with a
179 rubberized or coated material that prevents a pet's toe or foot
180 from passing through or being entrapped by the flooring. A
181 retail pet store shall clean all primary enclosures daily, or as
182 often as necessary to prevent accumulation of body waste, and
183 keep a daily sanitation log.

184 (b) An isolation enclosure with separate ventilation which



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185 allows a household pet to be kept separately from other pets
186 while under veterinarian-directed isolation.

187 (c) Climate control that ensures that the ambient air
188 temperature of the store's premises is kept between 67 and 78
189 degrees at all times. Retail pet stores shall keep daily logs of
190 the temperature. If, for any reason, the temperature falls
191 outside the required range, a corrective action record detailing
192 steps taken to adjust the temperature must be kept.

193 (d) A Florida-licensed veterinarian who visits the retail
194 pet store at least twice a week to observe the condition of the
195 pets' health and overall well-being.

196 (e) An enrichment program for puppies which consists of
197 exercise and socialization for at least two 30-minute periods
198 each day. A retail pet store must keep a log for each puppy of
199 the daily activities that the puppy participates in as part of
200 the program.

201 (f) A photograph or digital image and video footage
202 depicting each breeding facility from which the retail pet store
203 acquires household pets.

204 Section 6. Section 468.909, Florida Statutes, is created to
205 read:

206 468.909 Inspections.—

207 (1) (a) At least annually, the department shall inspect each
208 retail pet store that is subject to licensure to ensure
209 compliance with this part and with rules adopted under this
210 part, including, but not limited to, an audit of the records
211 that the licensee maintains pursuant to s. 468.907(3) (e) and
212 (4).

213 (b) The department also may conduct an inspection upon



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214 receipt of a complaint or other information alleging a violation
215 of this part or rules adopted under this part.

216 (2) The department shall establish procedures for
217 conducting inspections and making records of inspections.
218 Inspections shall be conducted during regular business hours in
219 accordance with the department's procedures and may be conducted
220 without prior notice. A record of each inspection must be
221 maintained by the department in accordance with such procedures.

222 (3) The department may enter into a contract or an
223 agreement with one or more veterinarians to conduct inspections
224 under this section. Such veterinarians must be independent and
225 may not be affiliated with an animal rights advocacy
226 organization.

227 Section 7. Section 468.911, Florida Statutes, is created to
228 read:

229 468.911 Administrative remedies; penalties.-

230 (1) The department shall deny an application for issuance
231 or renewal of a retail pet store license if:

232 (a) The licensee or applicant violates this part or any
233 rule or order issued under this part, if the violation
234 materially threatens the health or welfare of a household pet;
235 or

236 (b) The licensee or applicant, in the past 20 years, has
237 been convicted of or pled guilty or nolo contendere to,
238 regardless of adjudication, a misdemeanor or felony under
239 chapter 828 or a misdemeanor or felony under chapter 741
240 involving an act of domestic violence.

241 (2) The department may enter an order doing one or more of
242 the following if the department finds that the owner of a retail



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243 pet store, or a person employed or contracted by a retail pet
244 store about whom the owner knows or reasonably should have
245 known, has violated or is operating in violation of this part or
246 any rule or order issued pursuant to this part:

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

248 (b) Imposing an administrative fine for each act or
249 omission, not to exceed the following amounts:

250 1. For a first violation, \$250.

251 2. For a second violation, \$500.

252 3. For a third or subsequent violation, \$1,000.

253

254 Each day that a violation continues constitutes a separate
255 violation.

256 (c) Directing that the person cease and desist specified
257 activities.

258 (d) Refusing to issue or renew a license or revoking or
259 suspending a license.

260 (e) Placing the licensee on probation, subject to the
261 conditions specified by the department.

262 (3) The administrative proceedings that could result in the
263 entry of an order imposing any of the penalties specified in
264 subsection (1) or subsection (2) are governed by chapter 120.

265 (4) The department may adopt rules to administer this part.

266 Section 8. Section 468.913, Florida Statutes, is created to
267 read:

268 468.913 Civil penalties; remedies.—The department may bring
269 a civil action in a court of competent jurisdiction to recover
270 any penalties or damages authorized by this part and for
271 injunctive relief to enforce compliance with this part.



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272 Section 9. Section 468.915, Florida Statutes, is created to
273 read:

274 468.915 Criminal penalties.—A person commits a misdemeanor
275 of the second degree, punishable as provided in s. 775.082 or s.
276 775.083, if he or she violates:

277 (1) Section 468.907(2) or (3), relating to unlawful
278 practices in the sale of household pets by retail pet stores; or
279 (2) Section 468.905(1) or (4), relating to operation of a
280 retail pet store without a license.

281 Section 10. Section 468.917, Florida Statutes, is created
282 to read:

283 468.917 Deposit of funds.—All moneys collected by the
284 department under this part from license fees or civil penalties
285 must be deposited into the department's Professional Regulation
286 Trust Fund for use by the department for administration of this
287 part.

288 Section 11. Section 468.919, Florida Statutes, is created
289 to read:

290 468.919 Construction of part.—This part may not be
291 construed to prohibit or regulate the breeding, purchase, or
292 sale of hunting dogs, field trial dogs, sporting dogs, or cattle
293 dogs.

294 Section 12. Section 468.921, Florida Statutes, is created
295 to read:

296 468.921 Local regulation.—

297 (1) A county or municipal ordinance or regulation may not
298 prohibit or regulate the breeding, purchase, or sale of hunting
299 dogs, field trial dogs, sporting dogs, or cattle dogs.

300 (2) (a) A county or municipal ordinance or regulation, or an



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301 amendment thereof, adopted on or after January 1, 2020, which
302 regulates retail pet stores or the breeding, purchase, or sale
303 of household pets may not impose any requirement more stringent
304 than those imposed under s. 468.907.

305 (b) This subsection does not affect any requirement of a
306 county or municipal ordinance or regulation in effect before
307 January 1, 2020, which prohibits or regulates retail pet stores
308 or the breeding, purchase, or sale of household pets and does
309 not affect a local government's authority to levy a local
310 business tax pursuant to chapter 205.

311 Section 13. This act shall take effect July 1, 2020.

312

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

314 And the title is amended as follows:

315 Delete everything before the enacting clause
316 and insert:

317 A bill to be entitled
318 An act relating to the regulation of retail pet
319 stores; providing a directive to the Division of Law
320 Revision; creating s. 468.901, F.S.; providing a short
321 title; creating s. 468.903, F.S.; defining terms;
322 creating s. 468.905, F.S.; requiring the licensure of
323 retail pet stores; requiring the Department of
324 Business and Professional Regulation to adopt
325 procedures for such licensure; creating s. 468.907,
326 F.S.; defining the term "qualified breeder";
327 regulating the sale or transfer of household pets by
328 retail pet stores; limiting the sources from which
329 retail pet stores may acquire pets for sale; providing



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330 certain restrictions on the sale of household pets;
331 requiring certain documentation of the sources from
332 which retail pet stores acquire pets for sale;
333 providing requirements for the living conditions for
334 pets at retail pet stores; providing retail pet store
335 veterinarian, exercise, and socialization
336 requirements; creating s. 468.909, F.S.; requiring the
337 department to conduct periodic inspections of retail
338 pet stores and to audit sales records; requiring the
339 department to establish procedures for the inspections
340 and records of the inspections; authorizing contracts
341 with certain veterinarians to conduct inspections;
342 creating s. 468.911, F.S.; requiring the department to
343 deny a license under certain circumstances;
344 authorizing disciplinary action against licensees and
345 applicants for licensure under certain circumstances;
346 providing civil penalties; authorizing the department
347 to adopt rules; creating s. 468.913, F.S.; authorizing
348 civil actions for purposes of enforcement; creating s.
349 468.915, F.S.; providing criminal penalties for
350 specified violations; creating s. 468.917, F.S.;
351 requiring certain moneys to be deposited into the
352 department's Professional Regulation Trust Fund;
353 creating s. 468.919, F.S.; providing construction;
354 creating s. 468.921, F.S.; providing applicability to
355 county and municipal ordinances and regulations;
356 providing an effective date.



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Innovation, Industry and Technology

Subject: Committee Agenda Request

Date: January 27, 2020

I respectfully request that **Senate Bill # 1698**, relating to Regulation of Pet Stores, be placed on the:

- Committee agenda at your earliest possible convenience.
- Next committee agenda.

A handwritten signature in black ink, appearing to read "M. Diaz, Jr.", written over a horizontal line.

Senator Manny Diaz, Jr.
Florida Senate, District 36



THE HUMANE SOCIETY OF THE UNITED STATES

FL LOCALITIES BANNING RETAIL PET STORE PUPPY SALES

	City/County	Ordinance/Resolution	Year	Comments/Links	Legal Challenges
1	Parkland	<u>Sec. 3-49</u>	2010	<u>Parkland Aims to Stop Puppy Mills</u>	
2	Lake Worth	<u>Section 6-9</u>	2011	<u>Lake Worth City Commission To Ban Pet Stores Selling Puppy Mill Puppies</u>	
3	Flagler Beach	<u>Section 5-17</u>	2011	<u>Shutting Off Sales Outlets for Commercial Mass Breeders Prohibits the sale or disposition of live animals for "commercial gain" or "other commercial purpose".</u>	
4	Coral Gables	<u>Section 10-33</u>	2011	<u>Dogs only. Shutting Off Sales Outlets for Commercial Mass Breeders</u>	
5	Lauderdale Lakes	<u>Section 10-36</u>	2011	<u>Dogs only. Shutting Off Sales Outlets for Commercial Mass Breeders</u>	
6	Opa-Locka	<u>Section 5-35</u>	2011	<u>Dogs only. Shutting Off Sales Outlets for Commercial Mass Breeders</u>	
7	North Bay Village	<u>Section 9.1.11</u>	2011	<u>Dogs only. Shutting Off Sales Outlets for Commercial Mass Breeders</u>	
8	Hallandale Beach	<u>Section 6-12</u>	2012	<u>COULD HALLANDALE BEACH BAN PET STORES?</u>	
9	Margate	<u>Sec. 6-88.</u>	2013	<u>Margate bans sale of cats and dogs</u>	
10	Pinecrest	<u>Ordinance 2013-11</u>	2013	<u>City of Miami May Soon Ban the Sale of Puppies in Pet Stores</u>	
11	Palmetto Bay	<u>Section 30-60.31</u>	2013	<u>City of Miami May Soon Ban the Sale of Puppies in Pet Stores</u>	
12	Coconut Creek	<u>Ordinance 2014-001</u>	2014	<u>South Florida cities banning pet sales</u>	
13	Wellington	<u>Ordinance 2014-02</u>	2014	<u>Wellington bans commercial pet sales</u>	
14	Surfside	<u>Section 90.41</u>	2014	<u>The New Normal? Pet sales bans are gaining momentum at the local, county and state level, creating dire implications for the entire industry.</u>	
15	Aventura	<u>Ordinance 2014-05</u>	2014	<u>Chicago Passes Landmark Ordinance Banning Sale of Dogs and Cats in Pet Stores</u>	
16	Wilton Manors	<u>Ordinance 2014-0002</u>	2014	<u>Lauderhill bans the sale of 'puppy mill' pets</u>	
17	Greenacres	<u>Ordinance 2014-03</u>	2014	<u>Greenacres to ban sale of dogs, cats from pet stores</u>	
18	North Lauderdale	<u>Section 10-11</u>	2014	<u>North Lauderdale may ban puppy mills</u>	
19	Bay Harbor Islands	<u>Section 23-5</u>	2014	<u>Bay Harbor Islands (Florida, USA): A law for banning the sale of live animals</u>	
20	Sunrise	<u>Section 4-7</u>	2014	<u>Sunrise takes stand against puppy mills</u>	<u>* Challenged in and upheld by Federal District Court: Judge upholds puppy mill ban in Sunrise</u>
21	Pompano Beach	<u>Section 90.39</u>	2014	<u>PUPPY MILL BAN MAY BE NEXT IN POMPANO</u>	
22	Miami Beach	<u>Ordinance 2014-3860</u>	2014	<u>City of Miami May Soon Ban the Sale of Puppies in Pet Stores</u>	
23	N. Miami Beach	<u>Ordinance 2014-3</u>	2014	<u>NORTH MIAMI BEACH VOTES TO BAN SALE OF COMMERCIALLY BRED PETS IN STORES</u>	
24	Dania Beach	<u>Ordinance 2014-008</u>	2014	<u>Dania Beach passes puppy mill sales ban</u>	
25	Palm Beach Gardens	<u>Ordinance 11, 2014</u>	2014	<u>Palm Beach Gardens bans pet shops from selling puppies</u>	<u>*Challenged and upheld in state court</u>
26	Juno Beach	<u>Sec. 4-4</u>	2014	<u>Selling dogs, cats in pet shops now illegal in Juno Beach</u>	

27	Bal Harbour Village	<u>Section 5-8</u>	2014	City of Miami May Soon Ban the Sale of Puppies in Pet Stores
28	Sunny Isles Beach	<u>Section 100-3</u>	2014	City of Miami May Soon Ban the Sale of Puppies in Pet Stores
29	Cutler Bay	<u>Ordinance 14-03</u>	2014	City of Miami May Soon Ban the Sale of Puppies in Pet Stores
30	North Palm Beach	<u>Ordinance 2014-07</u>	2014	Palm Beach Gardens bans sale of puppies at pet stores
31	Hypoluxo	<u>Section 22-180</u>	2014	x
32	Jupiter	<u>Ordinance 37-14</u>	2014	Puppy mill ban approved in Jupiter
33	Homestead	<u>Ordinance 2014-10-16</u>	2014	Council Approves Ban On Puppy Mills
34	Tamarac	<u>Ordinance 2014-18</u>	2014	Tamarac to prohibit 'puppy mill' sales of dogs, cats
35	Palm Beach	<u>Ordinance 19-2014</u>	2015	x
36	North Miami	<u>Section 4-18</u>	2015	x
37	Lauderhill	<u>Ordinance 150-04-110</u>	2015	Lauderhill bans the sale of 'puppy mill' pets
38	Fernandina Beach	<u>Ordinance 2015-07</u>	2015	Bans on Pet Store Sales Grow
39	Jacksonville Beach	<u>Ordinance 2015-8063</u>	2015	Jacksonville Beach Bans Sales From Puppy, Kitten Mills
40	Plantation	<u>Section 4-31</u>	2015	Plantation revokes restrictions on city's sole pet store (Petland is exempt until the end of its lease in 2 years and 7 months)
41	West Melbourne	<u>Ordinance 2015-21</u>	2015	West Melbourne may regulate puppy mills, kitten factories
42	Deerfield Beach	<u>Ordinance 2015</u>	2015	Deerfield Approves Ban on Sale of Commercially Raised Pets
43	Casselberry	<u>Ordinance 2015-1430</u>	2015	Casselberry adopts partial ban on pet shop sales of dogs, cats
44	Coral Springs	<u>Section 4-28</u>	2015	Springs to ban sale of dogs, cats sourced from mills
45	Neptune Beach	<u>Ordinance 2015-20</u>	2016	Puppy Mill Bill Advances in Neptune Beach
46	Sarasota County	<u>Ordinance 2015-089</u>	2016	Sarasota County approves puppy mill ordinance Effective January 2017
47	South Miami	<u>Section 5-7</u>	2016	x
48	Delray Beach	<u>Ordinance 01-17</u>	2016	Delray Beach closes loophole in puppy mill law (updates made in 2017)
49	Hollywood	<u>Ordinance 2016-06</u>	2016	Hollywood bans commercially bred animals from pet stores
50	St. Petersburg	<u>Ordinance 235-H</u>	2016	St. Pete Ordinance Takes Aim at Puppy Mills
51	Key West	<u>Sec. 10-255</u>	2016	x
52	Miramar	<u>Sec. 6-14</u>	2016	x
53	Safety Harbor	<u>Ordinance 2016-24</u>	2016	x
54	Holmes Beach	<u>Ordinance 17-03</u>	2017	Holmes beach limits pet sales bans medical marijuana dispensaries
55	Fort Lauderdale	<u>Ordinance C-17</u>	2017	Fort Lauderdale says no to puppy mills
56	Desoto County	<u>Ordinance 2017</u>	2017	x
57	Miami City	<u>Section 6-46</u>	2017	Miami cracks down on pet stores with new law
58	Oakland Park	<u>Ordinance 2017</u>	2017	x
59	Seminole County	<u>Ordinance 2018</u>	2018	Seminole County bans pet shops from selling dogs and cats from puppy mills or kitten factories
60	Atlantic Beach	<u>Ordinance 95-18-115</u>	2018	Sale of puppies, kittens from puppy mills now banned in Atlantic Beach
61	Lake County	<u>Ordinance 2018</u>	2018	Lake Commission bans retail sale of cats, dogs

Petland Sues Sarasota County Over Dog and Cat Ban

62	Sanford	<u>Ordinance 2018-4470</u>	2018	Sanford officials ban puppy mill sales
63	Dunedin	<u>Ordinance 18-20</u>	2018	Dunedin bans the sale of cats, dogs in pet stores
64	Royal Palm Beach	<u>Ordinance 975</u>	2018	Royal Palm Beach votes to ban retail dog and cat sales
65	Mount Dora	<u>Ordinance 2018-20</u>	2019	Mount Dora bans retail sale of cats and dogs
66	Indian Harbour Beach	<u>Ordinance 2019-02</u>	2019	Indian Harbour Beach may ban retail sale of dogs, cats, rabbits, ferrets, guinea pigs
67	Marion County	<u>Ordinance 19-09</u>	2019	x
68	Indian River County	<u>Ordinance 2019</u>	2019	Indian River County bans sale of dogs, cats from puppy mills or cat factories
69	Oviedo	<u>Ordinance 1686</u>	2019	Oviedo considers banning sale of dogs, cats from puppy mills, kitten factories
70	Osceola County	<u>Ordinance 2019-19</u>	2019	x



THE HUMANE SOCIETY OF THE UNITED STATES

LOCALITIES BANNING RETAIL PET STORE PUPPY SALES

	City/Country	State	Ordinance/Resolution	Year	Comments/Links	Legal Challenges
1	Albuquerque	NM	Section 9-2-2-3	2006	No pups for sale? Cities ban pet shops	
2	South Lake Tahoe	CA	Section 6.55.350	2009	South Lake Tahoe considers ban on dog cat sales	
3	West Hollywood	CA	Section 9.50.020	2010	Council Votes on Pet Shop Ban	
4	Hermosa Beach	CA	Section 6.16.020	2010	Hermosa Beach bans sale of cats, dogs in pet stores	
5	Austin	TX	Section 3-2-3	2010	Austin City Council Prohibits Retail Sales of Dogs and Cats	
6	El Paso	TX	Section 7.14.020	2010	El Paso City Council to Vote on Puppy Mill Ban Effective 2011	
7	Parkland	FL	Sec. 3-49	2010	Parkland Aims to Stop Puppy Mills	
8	Turlock	CA	Section 6-1-701	2010	Council bans new pet stores from selling unaltered dogs and cats	
9	Lake Worth	FL	Section 6-9	2011	Lake Worth City Commission To Ban Pet Stores Selling Puppy Mill Puppies	
10	Fountain	CO	Ordinance 1535	2011	Shutting Off Sales Outlets for Commercial Mass Breeders	
11	Flagler Beach	FL	Section 5-17	2011	Shutting Off Sales Outlets for Commercial Mass Breeders Prohibits the sale or disposition of live animals for "commercial gain" or "other commercial purpose".	
12	Coral Gables	FL	Section 10-33	2011	Champion of puppy mill ban not one to back down from a fight.	
13	Lauderdale Lakes	FL	Section 10-36	2011	Dogs only. Shutting Off Sales Outlets for Commercial Mass Breeders	
14	Opa-Locka	FL	Section 5-35	2011	Dogs only. Shutting Off Sales Outlets for Commercial Mass Breeders	
15	North Bay Village	FL	Section 91.11	2011	Dogs only. Shutting Off Sales Outlets for Commercial Mass Breeders	
16	Glendale	CA	Section 6.10.020	2011	It's unanimous: Glendale City Council to ban pet store sales of dogs and cats	
17	Irvine	CA	Section 4-5-506	2011	Irvine City Council Votes To Ban Pet Sales, Circuses	
18	City of Dana Point	CA	Section 10.10.140	2012	Dana Point ban on dog, cat sales gets initial OK	
19	Chula Vista	CA	Section 6.08.108	2012	Vista Bans 'Puppy Mill' Sales	
20	Hallandale Beach	FL	Section 6-12	2012	COULD HALLANDALE BEACH BAN PET STORES?	
21	Laguna Beach	CA	Section 6.12.160	2012	Laguna Beach Bans Puppy Mills	
22	Aliso Viejo	CA	Section 6-2-120	2012	Aliso Viejo bans commercial dog, cat sales	
23	Huntington Beach	CA	Section 7.12.180	2012	H.B. OKs pet sales ban with 2-year phaseout	
24	Waukegan	IL	Section 4-68	2012	Will Mundelein ban the sale of dogs from puppy mills?	
25	Los Angeles	CA	Section 53.73	2012	L.A. council votes to ban stores from selling non-rescue dogs, cats	
26	Burbank	CA	Section 5-1-1439	2012	Burbank Takes on Puppy Mills - A Pet Store Owners Perspective	
27	Brick Twp	NJ	Ordinance 201Z	2012	With Overwhelming Support, Brick Bans All Commercial Puppy Sales	
28	Point Pleasant	NJ	Ordinance 2012-08	2012	Point Beach Outlawing Dog and Cat Sales	
29	Rancho Mirage	CA	Section 6.80.065	2013	Palm Springs bans pet stores selling non-shelter dogs and cats	
30	Hoboken	NJ	Ordinance Z-238	2013	Keeping Pets out of the Market	
31	San Diego	CA	Ordinance O-20280	2013	City Council Approves Ban on Retail Pet Sales	*Challenged in US District Court - case dismissed. CAPS Wins Lawsuit brought by Pet Store Owners. Objecting to Retail Pet Store Ban
32	Margate	FL	Sec. 6-88.	2013	Margate bans sale of cats and dogs	
33	Pinecrest	FL	Ordinance 2013-11	2013	City of Miami May Soon Ban the Sale of Puppies in Pet Stores	
34	Palmetto Bay	FL	Section 30-60.31	2013	City of Miami May Soon Ban the Sale of Puppies in Pet Stores	
35	Ventura County	CA	Ordinance 445Z	2013	Spav. neuter law will affect breeders, owners	



LOCALITIES BANNING RETAIL PET STORE PUPPY SALES

	THE HUMANE SOCIETY OF THE UNITED STATES	City/County	State	Ordinance/Resolution	Year	Comments/Links	Legal Challenges
36		Manasquan	NJ	Ordinance 2120-12	2013	Oceanport Proposing to Ban Sale of Cats, Dogs	
37		North Brunswick	NJ	Section 387-5	2013	Camden County Cracking down on puppy mill pets	
38		Bernalillo County	NM	Section 6-64	2013	x	
39		Coconut Creek	FL	Ordinance 2014-001	2014	South Florida cities banning pet sales	
40		Wellington	FL	Ordinance 2014-02	2014	Wellington bans commercial pet sales	
41		Surfside	FL	Section 90.41	2014	The New Normal? Pet sales bans are gaining momentum at the local, county and state level, creating dire implications for the entire industry.	
42		Aventura	FL	Ordinance 2014-05	2014	Chicago Passes Landmark Ordinance Banning Sale of Dogs and Cats in Pet Stores	
43		Chicago	IL	Section 4-384-015	2014	Chicago aldermen pass anti-puppy mill ordinance 49-1	* Challenged in and upheld by Federal District Court: Puppy Mill Ban. Affirmed by Court, Enforcement To Begin
44		Wilton Manors	FL	Ordinance 2014-0002	2014	Lauderhill bans the sale of 'puppy mill' pets	
45		Greenacres	FL	Ordinance 2014-03	2014	Greenacres to ban sale of dogs, cats from pet stores	
46		Cook County	IL	Section 10-13	2014	Court: No Retail Sale of Puppy Mill Dogs in Cook County	* Challenged in and upheld by Federal District * Challenged again, with amended complaint and again upheld: Judge dismisses suit challenging Cook County 'puppy mill' ban
47		North Lauderdale	FL	Section 10-11	2014	North Lauderdale may ban puppy mills	
48		Bay Harbor Islands	FL	Section 23-5	2014	Bay Harbor Islands (Florida, USA): A law for banning the sale of live animals	
49		Sunrise	FL	Section 4-7	2014	Sunrise takes stand against puppy mills	* Challenged in and upheld by Federal District Court: Judge upholds puppy mill ban in Sunrise
50		Pompano Beach	FL	Section 90.39	2014	PUPPY MILL BAN MAY BE NEXT IN POMPANO	
51		Miami Beach	FL	Ordinance 2014-3860	2014	City of Miami May Soon Ban the Sale of Puppies in Pet Stores	
52		N. Miami Beach	FL	Ordinance 2014-3	2014	NORTH MIAMI BEACH VOTES TO BAN SALE OF COMMERCIAL BRED PETS IN STORES	
53		E. Providence	RI	Section 3-68	2014	East Providence Puts Perfect Puppy Out of Business - Must It Pay?	* Challenged in and upheld by US District Court: Judge upholds East Providence ban on sales of dogs, cats
54		Dania Beach	FL	Ordinance 2014-008	2014	Dania Beach passes puppy mill sales ban	* Challenged and upheld in state court
55		Palm Beach Gardens	FL	Ordinance 11, 2014	2014	Palm Beach Gardens bans pet shops from selling puppies	
56		Juno Beach	FL	Sec. 4-4	2014	Selling dogs, cats in pet shops now illegal in Juno Beach	
57		Bal Harbour Village	FL	Section 5-8	2014	City of Miami May Soon Ban the Sale of Puppies in Pet Stores	
58		Sunny Isles Beach	FL	Section 100-3	2014	City of Miami May Soon Ban the Sale of Puppies in Pet Stores	
59		Cutler Bay	FL	Ordinance 14-03	2014	City of Miami May Soon Ban the Sale of Puppies in Pet Stores	
60		North Palm Beach	FL	Ordinance 2014-07	2014	Palm Beach Gardens bans sale of puppies at pet stores	
61		Hypoluxo	FL	Section 22-180	2014	x	



LOCALITIES BANNING RETAIL PET STORE PUPPY SALES

City/Country	State	Ordinance/Resolution	Year	Comments/Links	Legal Challenges
Jupiter	FL	Ordinance 37-14	2014	Puppy mill ban approved in Jupiter	
Homestead	FL	Ordinance 2014-10-16	2014	Council Approves Ban On Puppy Mills	
Chino Hills	CA	Ordinance 279	2014	Sales Restriction of Dogs and Cats at Pet Stores	
Tamarac	FL	Ordinance 2014-18	2014	Tamarac to prohibit 'puppy mill' sales of dogs, cats	
Randolph	NJ	Ordinance 21-14	2014	Ban on Retail Sale of Dogs and Cats, Millbrook Closure, Ambulance Contract, Among Topics Discussed at Randolph Township Council Meeting	
Palm Beach	FL	Ordinance 19-2014	2015	Palm Beach County OKs tough new rules for dog and cat sales	
Oceanside	CA	Section 4.6.5	2015	Oceanside puts ban on puppy mill dog sales	
Montgomery County	MD	Bill 50-14	2015	Montgomery County limits pet shops to only offering rescue cats, dogs	
Long Beach	CA	Section 6.16.062	2015	Mandatory dog spay-and-neuter law is on its way in Long Beach	
Garden Grove	CA	Ordinance 28-55	2015	Garden Grove Poised to Become Latest OC City to Ban Breeder Sales of Dogs and Cats	
North Miami	FL	Section 4-18	2015	North Miami Beach Votes to Ban Sale of Commercially Bred Pets in Stores	
Lauderhill	FL	Ordinance 150-04-110	2015	Lauderhill bans the sale of 'puppy mill' pets	
Encinitas	CA	Ordinance 2015-10	2015	Encinitas council votes to ban sale of 'puppy mill' pets	
Fernandina Beach	FL	Ordinance 2015-07	2015	Bans on Pet Store Sales Grow	
Jacksonville Beach	FL	Ordinance 2015-8063	2015	Jacksonville Beach Bans Sales From Puppy, Kitten Mills	
Beverly Hills	CA	Ordinance 15-0-2688	2015	Beverly Hills says 'no' to puppy mills and yes to humane model pet stores	
Plantation	FL	Section 4-31	2015	Plantation revokes restrictions on city's sole pet store (Petland is exempt until the end of its lease in 2 years and 7 months)	
Eastpointe	MI	Ordinance 1126	2015	Eastpointe approves pet sale restrictions	
Palm Springs	CA	Ordinance 1887	2015	Palm Springs bans retail pet stores	
Camden County	NJ	Normas Law	2015	Camden County cracking down on puppy mill pets	
Waterford	NJ	Ordinance 2015-16	2015	Cherry Hill moves to ban pet mill sales	
Voorhees	NJ	Section 92-32	2015	Voorhees Township Committee Agenda	
Brooklawn	NJ	Section 56-36	2015	**The same as Voorhees, Camden County model	
Audubon	NJ	Ordinance 2015-09	2015	More NJ towns ban puppy mill sales	
Cherry Hill	NJ	Ordinance 2015-15	2015	Cherry Hill Township Council Agenda	
Merchantville	NJ	Ordinance 15-10	2015	More NJ towns ban puppy mill sales	
Somerdale	NJ	Ordinance 2015:14	2015	More NJ towns ban puppy mill sales	
Laurel Springs	NJ	Ordinance 795-2015	2015	More NJ towns ban puppy mill sales	
Oaklyn	NJ	Ordinance 16-15	2015	More NJ towns ban puppy mill sales	
Haddon Heights	NJ	Section 125-26	2015	More NJ towns ban puppy mill sales	
Runnemede	NJ	Ordinance 15-21	2015	More NJ towns ban puppy mill sales	
Magnolia	NJ	Ordinance 2015-16	2015	More NJ towns ban puppy mill sales	
Gloucester Twp	NJ	Section 47-17	2015	More NJ towns ban puppy mill sales	
Vista	CA	Section 6.10.020	2015	Vista passes pet store ordinance	
Salt Lake County	UT	Section 8.03.035	2015	New Salt Lake County ordinance mandates pet stores sell only shelter animals	
West Melbourne	FL	Ordinance 2015-21	2015	West Melbourne may regulate puppy mills, kitten factories	
Deerfield Beach	FL	Ordinance 2015	2015	Deerfield Approves Ban on Sale of Commercially Raised Pets Effective May 2016	



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99	Casselberry	FL	Ordinance 2015-1430	2015	Casselberry adopts partial ban on pet shop sales of dogs, cats	
100	Pittsburgh	PA	Ordinance 55	2015	City Council Takes Steps to Crackdown on Puppy Mills Effective June 2016	
101	Coral Springs	FL	Section 4-28	2015	Spring to ban sale of dogs, cats sourced from mills	
102	Glassboro	NJ	Ordinance 15-41	2015	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales; Will Morristown Be Next?	
103	Westville	NJ	Ordinance No. 9-2015	2015	x	
104	Fraser	MI	Ordinance 2015	2015	Fraser City Council approves pet mill ordinance	
105	New Baltimore	MI	Section 8-78	2015	x	
106	Delray Beach	FL	Ordinance 01-17	2016	Delray Beach closes loophole in puppy mill law (updates made in 2017)	
107	Bellmawr	NJ	Ordinance 12-14-15	2016	Bellmawr passes anti-puppy mill law	
108	Berlin Twp	NJ	Ordinance 2016-1	2016	More towns supporting N.J.'s push against puppy mills	
109	Winslow	NJ	Ordinance 2016	2016	More NJ towns ban puppy mill sales	
110	Haddon Twp	NJ	Ordinance 1352	2016	More NJ towns ban puppy mill sales	
111	Pine Hill	NJ	Ordinance 2016-940	2016	More NJ towns ban puppy mill sales	
112	Clementon	NJ	Ordinance 2016-03	2016	More NJ towns ban puppy mill sales	
113	Collingswood	NJ	Ordinance 1594	2016	N.J. county's anti-puppy mill push garners more support	
114	Audubon Park	NJ	Ordinance 2016-03	2016	N.J. county's anti-puppy mill push garners more support	
115	Mt. Ephraim	NJ	Ordinance 01-16	2016	N.J. county's anti-puppy mill push garners more support	
116	Barrington	NJ	Ordinance 1051	2016	N.J. county's anti-puppy mill push garners more support	
117	Berlin Borough	NJ	Ordinance 16-06	2016	N.J. county's anti-puppy mill push garners more support	
118	Gloucester City	NJ	Ordinance 009-2016	2016	N.J. county's anti-puppy mill push garners more support	
119	Cheshilhurst	NJ	Ordinance 2016-3	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales; Will Morristown Be Next?	
120	Pennsauken	NJ	Ordinance 2016-05	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales; Will Morristown Be Next?	
121	Gibbsboro	NJ	Ordinance 2016-06	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales; Will Morristown Be Next?	
122	Hi-Nella	NJ	Ordinance 2016-3	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales; Will Morristown Be Next?	
123	Lindenwold	NJ	Ordinance 2016-10	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales; Will Morristown Be Next?	
124	Camden City	NJ	Ordinance 2016	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales; Will Morristown Be Next?	
125	Hamilton Township	NJ	Ordinance 16-040	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales; Will Morristown Be Next?	
126	Neptune Beach	FL	Ordinance 2015-20	2016	Puppy Mill Bill Advances in Neptune Beach	
127	Oceanport	NJ	Ordinance 919	2016	Puppy Mill Ordinance Set for Monmouth County	
128	Eatontown	NJ	Ordinance 09-2016	2016	Eatontown adopts anti puppy mill ordinance	
129	Malboro	NJ	Ordinance 2016-16	2016	Malboro places restrictions on sale of dogs and cats	
130	Ocean Township	NJ	Ordinance 2285	2016	Puppy Mill Ordinance Set for Monmouth County	



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131	Union Beach	NJ	Ordinance 2016-246	2016	x	
132	Cathedral City	CA	Ordinance 771	2016	Insider: Indio bans store sales of dogs, cats	
133	San Marcos	CA	Ordinance 2016-1418	2016	San Marcos bans puppy mill sales	
134	Sarasota County	FL	Ordinance 2015-089	2016	Sarasota County approves puppy mill ordinance Effective January 2017	Petland Sues Sarasota County Over Dog and Cat Ban
135	Warrenville	IL	Ordinance 2978	2016	Facebook Post- Congrats Warrenville	
136	Point Pleasant Beach	NJ	Section 5-23.2	2016	Facebook Post by Senator Lesniak	
137	Jackson Twp	NJ	Ordinance 07-16	2016	Jackson Outlaws Sales from "Puppy Mills"	
138	Mamaroneck	NY	Local Law D 2016	2016	Another Westchester Municipality Adopts Local Law Banning 'Puppy Mills'	
139	Mount Pleasant	NY	Ordinance 2016	2016	Mamaroneck bans the sale of puppy mill dogs in village	
140	Truckee	CA	Ordinance 2016-01	2016	Truckee adopts law prohibiting sale of cats, dogs in pet stores	
141	Boston	MA	Ordinance 0319	2016	City of Boston Ordinance on Pet Shop and Roadside sales	
142	La Quinta	CA	Ordinance 534	2016	La Quinta banning store sales of dogs, cats	
143	South Miami	FL	Section 5-7	2016	x	
144	East Brunswick	NJ	Ordinance 16-08	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
145	Indio	CA	Section 92.10	2016	Insider: Indio bans store sales of dogs, cats	
146	Philadelphia	PA	Ordinance 160013	2016	Victory! Puppy Mill Dogs Win Big in Philadelphia	
147	Carlsbad	CA	Section 7.16.010	2016	Carlsbad City Council votes to ban retail pet sales	
148	Greenwich	NJ	Ordinance 7-2016	2016	x	
149	Colton	CA	Ordinance 0-09-16	2016	City Passes Retail Pet Sale Ban	
150	Mesquite	NV	Ordinance 501	2016	Pet stores and land sales consume council meeting	
151	West Deptford	NJ	Section 82-27	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
152	Hollywood	FL	Ordinance 2016-06	2016	Hollywood bans commercially bred animals from pet stores	
153	Little Ferry	NJ	Ordinance 1463-12-16	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
154	Wyckoff	NJ	Ordinance 1806	2016	Wyckoff Bans the Sale of Puppies and Kittens from Pet Mills	
155	Washington Twp	NJ	Ordinance 13-2016	2016	x	
156	Maywood	NJ	Section 333-5	2016	Council bans puppy and kitten mills in Maywood	
157	Hackensack	NJ	Ordinance 24-2016	2016	Hackensack moves to ban sale of cats, dogs from breeding mills	
158	Pitman	NJ	Ordinance 6-2016	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
159	Solana Beach	CA	Section 4.50.030	2016	Solana Beach approves ban on 'puppy mill' pets	
160	East Rutherford	NJ	Ordinance 2016-15	2016	East Rutherford passes ordinance banning sale of pets bred in puppy mills	
161	St. Petersburg	FL	Ordinance 235-H	2016	St. Pete Ordinance Takes Aim at Puppy Mills	
162	Harrison	NY	Ordinance 2016	2016	x	
163	Clayton	NJ	Ordinance 12-2016	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	



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	City/County	State	Ordinance/Resolution	Year	Comments/Links	Legal Challenges
164	Glen Rock	NJ	Ordinance 1745	2016	Statute would ban sale of pets from puppy, kitten mills in Glen Rock	
165	Woodcliff Lake	NJ	Ordinance 16-12	2016	Woodcliff Lake bans sale of dogs, cats from 'mills'	
166	Mantua	NJ	Ordinance 0-5-2016	2016	x	
167	Yorktown	NY	Local Law 7-14-2016	2016	x	
168	Saddle Brook	NJ	Ordinance 1610-16	2016	Saddle Brook Mayor: Puppy Mill Ban To Pass. Other Ordinances Up For Intro	
169	Woodlynnne	NJ	Ordinance 2016-4	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
170	Mt. Holly	NJ	Ordinance 2016-20	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
171	Beverly	NJ	Ordinance 2016-5	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
172	Bordentown Township	NJ	Ordinance 2016-9	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
173	Washington Township	NJ	Ordinance 2016-05	2016	x	
174	Key West	FL	Sec. 10-255	2016	x	
175	Miramar	FL	Sec. 6-14	2016	x	
176	Rye Brook Village	NY	Local Law	2016	Rye Brook enacts law to prohibit the sale of puppy mill pets	
177	Upper Saddle River	NJ	Ordinance 8-16	2016	Puppy and kitten mills banned in Upper Saddle River	
178	Portland	ME	Ordinance 39-16/17	2016	Portland bans the retail sale of cats and dogs	
179	Swedesboro	NJ	Ordinance 12-2016	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
180	Ridgefield	NJ	Ordinance 2308	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
181	Fairview	NJ	Ordinance 16-16	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
182	Wallington	NJ	Ordinance 2016-14	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
183	Fanwood	NJ	Ordinance 16-08-R	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
184	New Milford	NJ	Ordinance 2016:21	2016	Law in New Milford to control pet sales	
185	Ridgewood	NJ	Ordinance 3553	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
186	Port Chester	NY	Local Law 1-7	2016	x	
187	Edgewater	NJ	Ordinance 2016-1539	2016	Council may ban pet sales from breeding mills	
188	Woodbury Heights	NJ	Ordinance 14-2016	2016	Norman's Law: A Humane Idea Becomes a Movement: 80 NJ Towns Ban Puppy Mill Sales: Will Morristown Be Next?	
189	Fair Lawn	NJ	Ordinance 2406-2016	2016	Restrictions proposed by council on sale of animals in Fair Lawn	
190	Safety Harbor	FL	Ordinance 2016-24	2016	New Safety Harbor ordinance prohibits the retail sale of pets	
191	North Arlington	NJ	Ordinance 2016-01	2016	x	
192	Watchung	NJ	Ordinance 16/14	2016	x	



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193		Frenchtown	NJ	Ordinance 782	2016		x
194		North Las Vegas	NV	Ordinance 2754	2016	Las Vegas votes to ban some dog, cat, pig sales	
195		Palisades Park	NJ	Ordinance 2016-25	2016		x
196		Cliffside Park	NJ	Ordinance 2016-11	2016		x
197		Millcreek	UT	Section 8.01.010	2016		x
198		Stratford	NJ	Ordinance 2017-05	2017		x
199		Haddonfield	NJ	Ordinance 2017-01	2017		x
200		Bradley Beach	NJ	Ordinance 2017-1	2017		x
201		Burlington City	NJ	Ordinance 02-2017	2017		x
202		San Francisco	CA	Ordinance 161352	2017	San Francisco passes law targeting 'puppy mills'	
203		Bound Brook	NJ	Ordinance 2017-03	2017		x
204		Livingston	NJ	Ordinance No. 7 - 2017	2017	Livingston Council Bans Sale Of 'Puppy Mill' Dogs, Cats	
205		Holmes Beach	FL	Ordinance 17-03	2017	Holmes beach limits pet sales bans medical marijuana dispensaries	
206		Roseville	CA	Ordinance 2017	2017	Roseville becomes first Minnesota city to ban sales of dogs, cats at pet stores	
207		Canton	GA	Ordinance 2017	2017	Georgia city bans retail pet sales	
208		Franklin Township	NJ	Ordinance 4182-17	2017		x
209		Manalapan	NJ	Ordinance 2017-03	2017	Manalapan sets rules for sale of dogs and cats in pet stores	
210		Scotch Plains	NJ	Ordinance 2017-6	2017		x
211		Lodi	NJ	Ordinance 2017-03	2017		x
212		Rio Rancho	NM	Ordinance 10	2017		x
213		East Newark	NJ	Ordinance 01-2017	2017		x
214		Secaucus	NJ	Ordinance 2017-4	2017		x
215		Roselle Park	NJ	Ordinance 2484	2017	Ordinance 2484: Puppy/Kitten Mill Sales Prohibited	
216		Stoneham	MA	Bylaw 2017	2017		x
217		Harrison	NJ	Ordinance 17-2017	2017		x
218		Holly Springs	GA	Ordinance 12-2017	2017	Holly Springs bans dog, cat retail sales	
219		Sacramento	CA	Ordinance 2017	2017	Sacramento bans commercial sale of animals from pet stores	
220		Waleska	GA	Ordinance 2017-6	2017	Waleska approves ban on dog, cat sales	
221		Brielle Borough	NJ	Ordinance 2017	2017		x
222		South Pasadena	CA	Ordinance 2017	2017	South Pasadena bans sale of dogs, cats, rabbits from pet stores	
223		Matawan	NJ	Ordinance 17-08	2017	Matawan bans sale of 'puppy mill' pets	
224		Woodstock	GA	Ordinance 2017	2017		x
225		Fort Lauderdale	FL	Ordinance C-17	2017	Fort Lauderdale says no to puppy mills	
226		Caldwell	NJ	Ordinance 1331-17	2017	Caldwell Council Adopts Pet Store Ordinance	
227		Maple Shade	NJ	Ordinance 2017-10	2017		x
228		North Plainfield	NJ	Ordinance 17-11	2017	N. Plainfield Bans Sale of Puppy, Kitten Mill Pets	
229		St. Joseph County	IN	Ordinance 33-17	2017	New animal ordinance OK'd by St. Joseph County Council	
230		Bainbridge Island	WA	Ordinance 2017-16	2017		x



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231	Asbury Park	NJ	Ordinance 2017-25	2017	x	
232	Leonia	NJ	Ordinance 2017-10	2017	Leonia prohibits sales from puppy, kitten mills	
233	Warwick	RI	Ordinance 31-17	2017	x	
234	Desoto County	FL	Ordinance 2017	2017	x	
235	Hopewell Borough	NJ	Ordinance 806	2017	x	
236	Cambridge	MA	Ordinance 1396	2017	Cambridge bans retail sales of commercially bred pets	
237	Del Mar	CA	Ordinance 2017	2017	x	
238	Miami City	FL	Section 6-46	2017	Miami cracks down on pet stores with new law	
239	Bremerton	WA	Ordinance 5334	2017	Bremerton Bans Pet Stores from Selling Dogs from Puppy Mills	
240	Springfield	NJ	Ordinance 2017-12	2017	Pet store ordinance brings opposing views on pet stores	
241	Nutley	NJ	Ordinance 3368	2017	Nutley Commissioners ban retail pet sales	
242	Fraser City	IA	Ordinance 2017	2017	Fraser Takes Stand Against Puppy Mills	
243	Granford	NJ	Ordinance 2017-11	2017	x	
244	Crest Hill	IL	Ordinance 1752	2017	x	
245	Moorestown	NJ	Ordinance 18-2017	2017	Moorestown Finalizes Puppy and Kitten Mill Ban	
246	Senoia	GA	Ordinance 2017	2017	Senoia Approves Progressive Animal Ordinance Changes	
247	Sandy Springs	GA	Ordinance 2017	2017	Sandy Springs Bans Retail Sale of Cats, Dogs	
248	Rahway	NJ	Ordinance 0-28-17	2017	x	
249	Bar Harbor	ME	Ordinance 2017-07	2017	Bar Harbor Town Council Passes Anti-Puppy Mill And Wild Act Ordinances	
250	Oakland Park	FL	Ordinance 2017	2017	x	
251	Kearns	UT	Salt Lake County Code Adopted	2017	x	
252	Magna	UT	Salt Lake County Code Adopted	2017	x	
253	White City	UT	Salt Lake County Code Adopted	2017	x	
254	Emigration Canyon	UT	Salt Lake County Code Adopted	2017	x	
255	Copperton	UT	Salt Lake County Code Adopted	2017	x	
256	Wilkinsburg	PA	Section 112-21	2017	x	
257	Poulsbo	WA	Ordinance 2018	2018	Poulsbo Bans Sale of Dogs from Puppy Mills	
258	Ball Ground	GA	Ordinance 2018	2018	Ball Ground bans retail pet sales, becomes fifth in Cherokee	
259	Centerville	GA	Ordinance 2018-1	2018	x	
260	Seminole County	FL	Ordinance 2018	2018	Seminole County bans pet shops from selling dogs and cats from puppy mills or kitten factories	
261	Holmdel Twp	NJ	Ordinance 2018-02	2018	Holmdel Bans Puppy Mill Puppies From Being Sold In Town	
262	Barneget	NJ	Ordinance 2018-6	2018	Barneget Ordinance Bans Puppy, Kittens sales	
263	Lawrence Twp	NJ	Ordinance 2287-18	2018	Township council bans selling of commercially bred animals	
264	Atlantic Beach	FL	Ordinance 95-18-115	2018	Sale of puppies, kittens from puppy mills now banned in Atlantic Beach	
265	Westfield	NJ	Ordinance 2103	2018	Westfield Town Council Votes to Ban The Selling of Dogs and Cats from Puppy and Kitten Mills	
266	Rock Springs	WY	Ordinance 2018-05	2018	RS City Council Approves Ordinance Prohibiting Commercial Sale of Pets	
267	Sandy City	UT	Ordinance 2018	2018	Should you be able to buy a new puppy at a pet store?	
268	Sharpsburg	PA	Section 2-502	2018	x	



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269	Eden Prairie	MN	Ordinance 18	2018	Eden Prairie passes ordinance to prevent inhumane breeding of pets	
270	Kankakee County	IL	Ordinance 2018-05-08-79	2018	Pet Store Sales of Dogs and Cats Banned in Kankakee	
271	Lake County	FL	Ordinance 2018	2018	Lake Commission bans retail sale of cats, dogs	
272	Boone	IA	Ordinance 2246	2018	Animal welfare advocates champion retail ban in Boone	
273	Nashville and Davidson County	TN	BL2018-1159	2018	Nashville ordinance proposal wants pet stores to choose animal rescues, shelters	
274	Garwood	NJ	Ordinance 18-15	2018	x	
275	Linden	NJ	Ordinance 62-40	2018	x	
276	Palmyra	NJ	Ordinance 2018-08	2018	Palmyra Borough Council moves to ban sale of dogs and cats from mills	
277	Fort Worth	TX	Ordinance 2018	2018	New animal ordinance approved	
278	Sanford	FL	Ordinance 2018-4470	2018	Sanford officials ban puppy mill sales	
279	Dunedin	FL	Ordinance 18-20	2018	Dunedin bans the sale of cats, dogs in pet stores	
280	Midvale	UT	Chapter 6.14	2018	Midvale City Council seeks to ban pet stores within city limits	
281	Murray City	UT	Ordinance 2018	2018	New Murray city ordinance restricts pet shops from selling animals from "puppy mills"	
282	Teaneck	NJ	Ordinance 4913	2018	x	
283	Royal Palm Beach	FL	Ordinance 975	2018	Royal Palm Beach votes to ban retail dog and cat sales	
284	Salt Lake City	UT	Ordinance 2018	2018	Salt Lake City passes puppy mill ordinance to protect pets, their owners	
285	Atlanta	GA	Ordinance 18-O-655	2018	Atlanta City Council Approves Gulch Agreement	
286	South Orange Twp	NJ	Ordinance 2018-33	2018	x	
287	Franklin	TN	Ordinance 2018-35	2018	Franklin votes to restrict sales of dogs, cats	
288	St. Paul	MN	Ordinance 18-63	2018	St. Paul bans retail sales of cats and dogs, but adoptions are OK	
289	Huntsville	AL	Ordinance 18-592	2018	Help pets find their way home at Huntsville Animal Services	
290	Wall Twp	NJ	Ordinance 17-2018	2018	Wall enacts a ban on pet store sales of dogs and cats	
291	West Warwick	RI	Ordinance 2018-4	2018	x	
292	Providence	RI	Ordinance 2018-37	2018	x	
293	Mount Dora	FL	Ordinance 2018-20	2019	Mount Dora bans retail sale of cats and dogs	
294	Fulton County	GA	Ordinance 18-0896	2019	x	
295	Indian Harbour Beach	FL	Ordinance 2019-02	2019	Indian Harbour Beach may ban retail sale of dogs, cats, rabbits, ferrets, guinea pigs	
296	Athens	AL	Ordinance 2019	2019	Athens council passes ordinance restricting 'puppy mill' sales	
297	Vernon Hills	IL	Ordinance 2019-019	2019	Taking aim at puppy mills, Vernon Hills bans commercial sale of dogs and cats	
298	Medford Lakes	NJ	Ordinance 659	2019	x	
299	Downers Grove	IL	Ordinance 2019-8058	2019	Downers Grove Adopts New Ordinance To Ban Puppy Mill Sales	
300	Tinton Falls	NJ	Ordinance 2019-1442	2019	Tinton Falls officials move to ban sale of dogs and cats from puppy/kitten mills	
301	Carteret	NJ	Ordinance 19-5	2019	x	
302	West Chicago	IL	Ordinance No. 19-O-0008	2019	x	
303	Gig Harbor	WA	Ordinance 1418	2019	x	
304	Madison	NJ	Ordinance 20-2019	2019	Borough Council Passes Ban on Retail Sale of Dogs and Cats	
305	Marion County	FL	Ordinance 19-09	2019	x	



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306	Bellevue	PA	Ordinance 19-08	2019	x	
307	Buffalo Grove	IL	Ordinance 2019	2019	Buffalo Grove bans retail sale of dogs, cats and rabbits	
308	Indian River County	FL	Ordinance 2019	2019	Indian River County bans sale of dogs, cats from puppy mills or cat factories	
309	Royal Oak	MI	Ordinance 2019	2019	x	
310	Berthoud	CO	Ordinance 1267	2019	Berthoud bans sale of puppy mill dogs	
311	Village of Lisle	IL	Ordinance 2019	2019	x	
312	Guntersville	AL	Ordinance 1102	2019	Guntersville City Council passes new pet sale ordinance	
313	Kitsap County	WA	Ordinance 575-2019	2019	Commissioners ban sale of pets from large commercial breeders	
314	Cherokee County	GA	Ordinance 2019-0	2019	Commissioners ban pet store sales of dogs and cats	
315	Anniston	AL	Ordinance 19-O-11	2019	Anniston council passes two new animal ordinances	
316	North Myrtle Beach	SC	Ordinance 2019	2019	Here's what North Myrtle Beach is doing to improve the livelihood of animals	
317	Albertville	AL	Ordinance 1634-19	2019	x	
318	National City	CA	Ordinance 2019	2019	National City makes ban on retail sale of pets official (stricter than state law)	
319	Tuscaloosa	AL	Ordinance 8850	2019	x	
320	Oviedo	FL	Ordinance 1686	2019	Oviedo considers banning sale of dogs, cats from puppy mills, kitten factories	
321	Jasper	AL	Ordinance 2019-16	2019	x	
322	Breckenridge	CO	Council Bill 25	2019	Frisco, Breckenridge take stand on 'puppy mills'	
323	Springfield	IL	Ordinance 2019 - 428	2019	City Council approves ban on retail sale of dogs, cats	
324	Summit	NJ	Ordinance 19-3199	2019	Pass The Pet Store Ordinance In Summit	
325	Victory Gardens	NJ	Ordinance 23-10	2019	x	
326	Port Orchard	WA	Not yet available online	2019	x	
327	South Amboy	NJ	Ordinance 20-2019	2019	x	
328	Boaz	AL	Ordinance 2019-1141	2019	x	
329	Frisco	CO	Ordinance 19-23	2019	Frisco, Breckenridge take stand on 'puppy mills'	
330	Highland Park	NJ	Ordinance 19-1990	2019	x	
331	Maplewood	NJ	Ordinance 2973-19	2019	Maplewood restricts sale of dogs, cats from stores	
332	Dillon	CO	Ordinance 13-19	2019	x	
333	Metuchen	NJ	Ordinance 2019-19	2019	x	
334	Eagle	CO	Ordinance 28	2019	x	
335	Sayreville	NJ	Not yet available online	2019	x	
336	Osceola County	FL	Ordinance 2019-109	2019	x	
337	Fairplay	CO	Not yet available online	2020	x	
338	Rock Island	IL	Not yet available online	2020	x	
339	The Colony	TX	Not yet available online	2020	x	
340	Smithfield	RI	Not yet available online	2020	x	



ANALYSIS

2020 AGENCY LEGISLATIVE BILL

AGENCY: Department of Business & Professional Regulation

<u>BILL INFORMATION</u>	
BILL NUMBER:	<u>SB 1698</u>
BILL TITLE:	<u>Regulation of Pet Stores</u>
BILL SPONSOR:	<u>Sen. Diaz</u>
EFFECTIVE DATE:	<u>7/01/2020</u>

<u>COMMITTEES OF REFERENCE</u>	<u>CURRENT COMMITTEE</u>
1) Innovation, Industry, and Technology	On Committee agenda - Innovation, Industry, and Technology, 02/03/20, 1:30 pm, 110 S
2) Appropriations Subcommittee on Agriculture, Environment and General Government	
3) Appropriations	<u>SIMILAR BILLS</u>
4) Click or tap here to enter text.	
5) Click or tap here to enter text.	
	BILL NUMBER: HB 1237 (similar) SB 1700 (linked)
	SPONSOR: Rep. Avila Sen. Diaz

<u>PREVIOUS LEGISLATION</u>	<u>IDENTICAL BILLS</u>
BILL NUMBER: N/A	BILL NUMBER: N/A
SPONSOR: N/A	SPONSOR: N/A
YEAR: N/A	
LAST ACTION: N/A	
	Is this bill part of an agency package?
	No

<u>BILL ANALYSIS INFORMATION</u>	
---	--

DATE OF ANALYSIS:	January 30, 2020
LEAD AGENCY ANALYST:	Ruthanne Christie, Executive Director
ADDITIONAL ANALYST(S):	Jeff Kelly, Deputy Director; Division of Professions Tom Coker, Technology Jerry Wilson, Regulation
LEGAL ANALYST:	Tracy Dixon, Service Operations Thomas Izzo, OGC Rules Tom Thomas, OGC
FISCAL ANALYST:	Raleigh Close, Planning and Budget

<u>POLICY ANALYSIS</u>

1. EXECUTIVE SUMMARY

The bill creates licensing and inspection requirements under the Department of Business and Professional Regulation (department) for retail pet stores that sell dogs and cats.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 828.29, F.S., establishes health requirements and documentation guidelines for dogs and cats offered for sale in the State of Florida. This section states that all dogs and cats offered for sale and their related health certificates are subject to inspection by the Florida Department of Agriculture and Consumer Services. Additionally, s. 828.29, F.S., establishes guidelines for consumers who purchase animals found to be unfit to retain, return or exchange the animal and receive reimbursement for related veterinary costs.

2. EFFECT OF THE BILL:

The bill creates Part XVII under ch. 468, F.S., which establishes requirements and guidelines for licensure and inspection of pet stores selling dogs and cats under the Department of Business and Professional Regulation. It also establishes requirements and prohibitions for licensed pet stores including record keeping, physical facilities, veterinary care and enrichment.

The bill creates s. 468.919, F.S., to preempt any local ordinance or regulation of a county or municipality which prohibits or regulates pet stores. However, the bill does not preempt a local government's authority to levy a local business tax pursuant to ch. 205, F.S.

The bill defines "pet store" to mean a retail store that sells or offers for sale household pets to the public and, with respect to such sales, the store's salesperson, the pet's buyer, and the pet being sold are each physically present during the sale so that the buyer may personally observe the pet and help ensure its health before taking custody. The term does not include an animal rescue or animal shelter unless the animal rescue or animal shelter purchases household pets for resale from a pet broker or professional breeder.

The bill provides that a person may not operate a pet store in this state without having a valid pet store license issued by the department.

The bill provides that the department may establish annual license periods and that are valid for one year and that may be renewed.

The bill requires pet stores to keep copies of certain documents for at least three years after the date of acquiring household pets.

The bill requires the department to inspect each pet store subject to licensure and audit the records that the licensee maintains. Additionally, the department must conduct an inspection up receipt of a complaint or other information alleging a violation. The department must establish procedures for conducting inspections and making records of inspections. Further, the department must maintain a record of each inspection in accordance with such procedures. The bill permits the department to enter into a contract or agreement with one or more veterinarians to conduct inspections.

The bill creates s. 468.911(1), F.S., which provides that the department can deny an application for issuance or renewal of a pet store license, if the licensee or applicant materially threatens the health or welfare of a household pet, or the licensee or applicant has been convicted of or pled nolo contendere to certain misdemeanors or felonies in the past 20 years.

The provides that the department may enter an order if the department finds that a pet store, or a person employed or contracted by a pet store is in violation of this part.

The bill provides that the department may bring a civil action in a court of competent jurisdiction to recover any penalties or damages. The bill provides that all moneys collected by the department under this part from license fees or civil penalties must be deposited into the department's Professional Regulation Trust Fund for use by the department for administration of this part. The bill has an effective date of July 1, 2020.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	<p>The bill creates s. 468.911(4), F.S., which states the department may adopt rules to administer this part.</p> <p>The bill also creates s. 468.905(3), F.S., which permits the department to prescribe a required form for application, and s. 468.909(2), F.S., which directs the Department to establish procedures for conducting inspections.</p>
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y N

If yes, provide a description:	N/A
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Date Due:	N/A
Bill Section Number(s):	N/A

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y N

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y N

Revenues:	Indeterminate
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y N

Revenues:	The bill does not authorize application or renewal fees; however some revenue will be generated from civil penalties imposed for violations of the bill. The amount of the revenue is indeterminate.
Expenditures:	Based upon a projected licensee base of 500 (see Additional Comments) the program will increase expenditures by approximately \$105,573 in Fiscal Year 2020-21, \$99,517 in Fiscal Year 2021-22 and \$99,517 in Fiscal Year 2022-23.

Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y N

Revenues:	None
Expenditures:	Indeterminate costs associated with compliance.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y N

If yes, explain impact.	This bill creates s. 468.911, F.S., which establishes administrative fines for violations of the provisions of ch. 468 Part XVII, F.S.
Bill Section Number:	Section 7

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

<p>If yes, describe the anticipated impact to the agency including any fiscal impact.</p>	<p>This bill will require modifications to Versa: Regulation, Versa: Online, OnBase document management system, and the Interactive Voice Response (IVR) system to add a new license category and transactions for licensure of pet stores. It will also require modification to the iPad inspection application.</p> <p>Changes to Versa: Regulation – 44 hours Changes to Versa: Online – 40 hours Changes to OnBase – 4 hours Changes to iPad – 40 hours Changes to IVR – 4 hours These modifications can be made with existing resources.</p> <p><u>Infrastructure and Licensing Costs</u></p> <p>Additional staffing required to implement the provisions of this bill (see Additional Comments below) would result in technology infrastructure and licensing costs. Assuming there is not adequate office space in existing DBPR offices, additional undetermined infrastructure costs will be incurred based on the number, location and suitability of adequate space to support the full workforce.</p> <p>For 1 Environmental Health Specialist position:</p> <ul style="list-style-type: none"> • Non-recurring cost of iPad - \$732.24 • Non-recurring costs for software licenses – \$1,197.40 • Recurring software license maintenance and data service - \$784.26
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FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

<p>If yes, describe the anticipated impact including any fiscal impact.</p>	<p>N/A</p>
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ADDITIONAL COMMENTS

Professions:

This bill does not authorize the department to establish fees for licensure, renewal or inspection of facilities regulated under this part. The bill does not address corporate ownership of pet stores with regard to s. 468.911(1)(b), F.S.

Pursuant to the Whitepages, Florida has 2,818 pet stores, of which the vast majority most likely sell only supplies and not dogs and cats as referenced in the bill. A projection of 500 licensed pet stores is used for

the fiscal projections in this analysis, utilizing the veterinarian licensing program to extrapolate projected expenses.

Regulation:

This bill will cause each licensed pet store to be inspected at least once a year to ensure compliance with this part and any rules adopted to regulate pet stores. An inspection will also be conducted when a complaint about the establishments is filed. The Division of Regulation currently conducts inspections of Cosmetology, Barber and Veterinary establishments and in Fiscal Year 2018-19, the division conducted 25,097 inspections of these establishments with 16 FTE Inspectors (Environmental Health Specialists). The Division has been able to conduct all of the statutorily mandated inspections each year, but they are generally not completed until the end of the fiscal year. Therefore, the division requests 1 Inspector (Environmental Health Specialist) to conduct the additional 500 pet store inspections.

DSO: There will be a minimal impact to the division which can be accommodated with existing resources.

OGC Rules: The bill does not provide a definition of what constitutes “an establishment” or establish any criteria or standards for agency decisions. The bill defines the term “qualified breeder” under s. 468.907(1), F.S., however, it is unclear how agency determination is to be made in terms of being in compliance to the specified requirements set forth therein, including the manner or method of providing notice to the department of any “noncompliance violations by U.S. Department of Agriculture.” Additionally, the bill is inconsistent in application of requirements regarding “accredited veterinarians” in lines 171-172 and 191-192, “veterinarian-direct observation” in lines 228-230, “Florida-licensed veterinarians” in lines 237-239, and “veterinarians” in lines 267-269. Furthermore, it is unclear what constitutes “adversely affecting the health of the pet” as provided in lines 193-194, and the bill does not provide any established criteria or standards for an agency decision. Moreover, the bill does not provide any guidance in lines 211-212 on what constitutes sufficient “proof” to demonstrate compliance. Lastly, it is unclear from the language provided in lines 276277 what is considered “a violation that materially threatens the health or welfare of a household pet” or provide any criteria or standards on what constitutes “materially threatening the health or welfare of a household pet.”

Fiscal Comment: The fiscal impact of the bill is estimated using a percentage of the Board of Veterinary Medicine actual expenditures as of June 30, 2019. The department estimates there will be 500 pet shops licensed and inspected. The department also estimates the pet shop licensees will be 4.21% of the Board of Veterinary Medicine license count of 11,865 as of June 30, 2019 (500 divided by 11,865 equals .0421). This estimated percentage was applied to the Board of Veterinary Medicine actual expenditures as of June 30, 2019 to get an estimate of regulatory costs for pet shops.

Anticipated Expenditures

	JUNE 30 2021	JUNE 30 2022	JUNE 30 2023
EXPENSES			
<u>Board Office</u>			
Board Administrative Office	8,564	8,564	8,564
<u>Professional Regulation Division</u>			
Inspections	3,232	3,232	3,232
Investigations	8,405	8,405	8,405
Attorney General's Office	1,424	1,424	1,424
<u>Service Operations</u>			
Central Intake/Licensure	6,131	6,131	6,131
Call Center	2,000	2,000	2,000

Department Administrative Costs

Administration	2,636	2,636	2,636
Information Technology	3,438	3,438	3,438
General Counsel/Legal	7,980	7,980	7,980
<u>Unlicensed Activity</u>	877	877	877
Total Expenses	44,687	44,687	44,687

In addition to the above expenses, one Environmental Health Specialist FTE will be necessary for inspections. The costs for this FTE are anticipated to be \$60,886 (\$54,830 recurring).

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

<p>Issues/concerns/comments:</p>	<p>OGC: The bill creates a brand new regulatory program within the department. With an estimated license population of 500 businesses, the department will incur associated costs to implement this program. The bill requires each business to be inspected at least one time each year. These inspections may lead to legal cases and enforcement. There will also be more calls to the call center, more applications to process, etc. It appears \$25 per licensee (SB 1700) is inadequate to cover the costs associated with the new workload.</p> <p>Programs within the department must fund themselves through adequate associated license fees – other programs may not be asked to offset the costs of another programs. It appears the license fees set for this new program may lead to the program running a recurring annual deficit.</p>
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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)

2/17/20

Meeting Date

1698

Bill Number (if applicable)

802186

Amendment Barcode (if applicable)

Topic _____

Name Diana Ferguson

Job Title Attorney

Address 119 S Monroe St Ste 202
Street

Phone 681-6788

Tampa FL 32308
City State Zip

Email dferguson@nrtkge-ecenia.com

Speaking: For Against Information

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

Representing FL Animal Control 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.

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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)

Meeting Date

1690
Bill Number (if applicable)

Topic Puppy Mills

802186
Amendment Barcode (if applicable)

Name JACK CORRY

Job Title

Address 720 East Colley Ave

Phone 850-893-0995

Street

City

State

Zip

Email JACK@CORRYAFC.com

Speaking: For Against Information

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

Representing Fix 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

02/17/2020

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

1698

Meeting Date

Bill Number (if applicable)

Topic

Pet Sales Retail

802186

Amendment Barcode (if applicable)

Name

Nichele Lazarow

Job Title

President Alliance for Animal Welfare

Address

2021 NE 105th

Phone

3056075683

Street

City

Dallandale Beach

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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2/17/2020

Meeting Date

1698

Bill Number (if applicable)

802186

Amendment Barcode (if applicable)

Topic Regulation of Pet Stores

Name Natalie Fausel

Job Title

Address 201 West Park Avenue, Suite 100

Street

Phone 561-317-0889

Tallahassee

FL

32301

Email natalie@anfieldflorida.com

City

State

Zip

Speaking: For Against Information

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

Representing Broward County

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

1698

2/17/20

Meeting Date

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

~~1090~~

Bill Number (if applicable)

802186

Amendment Barcode (if applicable)

Topic Pet Store Bans -

Name Stephanie Grutman Zauder

Job Title Managing Partner - Ballard Ft. Laud office

Address 401 East Las Olas su 1400

Phone 954-817-8007

Street

Tallahassee, FL 32301

City

State

Zip

Email stephanie@ballardpartners.com

Speaking: For Against Information

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

Representing Animal Defense Coalition

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)

2/17/20
Meeting Date

1698
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Casey Cook

Job Title Legislative Advocate

Address PO Box 1757
Street

Phone 850 701 3701

TLH FL 32302
City State Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA LEAGUE OF CITIES

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)

2/17/2020

Meeting Date

SB1698

Bill Number (if applicable)

Topic Pet stores

Amendment Barcode (if applicable)

Name Amanda Bush

Job Title _____

Address 2124 W. Brandon Blvd

Phone 813 654 0022

Street

Brandon

City

FL

State

33511

Zip

Email _____

Speaking: For Against Information

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

Representing All About Puppies

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

2/17/20
Meeting Date

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

SB 1698
Bill Number (if applicable)

Topic Pet stores

Amendment Barcode (if applicable)

Name Madison McDowell

Job Title

Address 13705 Dale Mabry Highway
Street
Tampa FL 33618
City State Zip

Phone

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.

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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)

2/17/2020
Meeting Date

1698
1968
Bill Number (if applicable)

Topic SB 1968 Det Stores

Amendment Barcode (if applicable)

Name NATALYA SANABRIA

Job Title _____

Address 1508 W Patterson St
Street

Phone _____

Tampa FL 33604
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.

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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)

2/17/2020

Meeting Date

SB 1698

Bill Number (if applicable)

Topic SB 1698

Amendment Barcode (if applicable)

Name Daniela Coffey

Job Title manager

Address 1370S N Dale Mabry

Phone 813-300-0894

Street

Tempe

City

FL

State

33618

Zip

Email Danielacoffey@gmail

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.

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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)

2-17-2020

Meeting Date

~~SB 16098~~ SB 16098

Bill Number (if applicable)

Topic SB 16098

Amendment Barcode (if applicable)

Name Cristal Gutierrez

Job Title _____

Address 5820 n Nubert ave

Phone 8135311790

Street

Tampa

City

FL

State

33614

Zip

Email CristalGutierrez60@gmail

Speaking: For Against Information

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

Representing Self

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)

2/17/2020
Meeting Date

SB 1098
Bill Number (if applicable)

Topic SB 1098

Amendment Barcode (if applicable)

Name Megan Houston

Job Title _____

Address 13705 N Dale Mabry
Street

Phone _____

Tampa FL 33618
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.

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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)

9/17/20

Meeting Date

SB 1698

Bill Number (if applicable)

Topic SB 1698 / Hillsborough County

Amendment Barcode (if applicable)

Name Mike Kampen

Job Title Manager/owner

Address 6031 N Dale Mabry

Phone

Tampa FL 33614

Email

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

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

Representing Puppies Tampa

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.

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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)

2/17/2020
Meeting Date

1698
Bill Number (if applicable)

Topic SB 1698

Amendment Barcode (if applicable)

Name Christine Finley

Job Title _____

Address 2124 W Brandon Blvd

Phone _____

Brandon, FL 33511
Street City State Zip

Email _____

Speaking: For Against Information
NOT SPEAKING

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.

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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)

2/17/20
Meeting Date

1698
Bill Number (if applicable)

Topic 1698 PET STORES

Amendment Barcode (if applicable)

Name ALEXANDRIA JULIAN

Job Title _____

Address 2124 W BRANDON BLVD
Street

Phone 813-255-6699

BRANDON FL 33571
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

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

2/17/2020

Meeting Date

SB 1698

Bill Number (if applicable)

Topic SB 1698 / Hillsborough County

Amendment Barcode (if applicable)

Name Jestin Johnson

Job Title Assistant General Manager

Address 9240 Ulmerton rd

Phone 813-470-5538

Largo FL

City

State

Zip

Email jestin@mail.usf.edu

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.

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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)

2/17/20

Meeting Date

SB1698

Bill Number (if applicable)

Topic SB1698

Amendment Barcode (if applicable)

Name Jared Putter

Job Title sales

Address 10031 N. Dale Mabry Hwy

Phone 941-258-4515

Street

Tampa

City

FL

State

33614

Zip

Email

Speaking: For Against Information

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

Representing Puppies Tampa

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.

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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)

2/17/20

Meeting Date

SB1698

Bill Number (if applicable)

Topic 1698

Amendment Barcode (if applicable)

Name Logan Croskrey

Job Title Sales Asso

Address 6031 N Dale Mabry

Phone _____

Street

Tampa

City

FL

State

33614

Zip

Email _____

Speaking: For Against Information

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

Representing Puppies Tampa

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.

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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)

2-17-19

Meeting Date

1698

Bill Number (if applicable)

Topic ~~SB 1698~~ SB 1698

Amendment Barcode (if applicable)

Name Alexa Julian

Job Title _____

Address 2124 W Brandon Blvd

Street

Phone _____

Brandon FL 33511

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.

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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)

2/17/2020

Meeting Date

1698

Bill Number (if applicable)

Topic SB 1698

Amendment Barcode (if applicable)

Name Kristy Julian

Job Title _____

Address 2124 W. Brandon Blvd

Phone _____

Street

Brandon

City

FL

State

33511

Zip

Email _____

Speaking: For Against Information

NOT SPEAKING

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.

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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)

2/17/20

Meeting Date

1698

Bill Number (if applicable)

Topic SB 1698 Hillsborough County

Amendment Barcode (if applicable)

Name William Rowland

Job Title Owner / Manager

Address 6031 N. Dale Mabry

Phone 941-539-5506

City

State

Zip

Email rowlandwtr@gmail.com

Speaking: For Against Information

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

Representing ~~Small Business Owners~~ Small Business Owners

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.

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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)

SB 169K
Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic Puppy mill Ban

Name Lauren Bryant

Job Title professional pet sitter

Address 1336 Branch St

Phone (850) 321-7352

Street

Dall. FL 32303

Email

City

State

Zip

Speaking: For Against Information

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

Representing the Leon County people / pets / animals

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.

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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)

2-17-20

Meeting Date

SB 1698

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Dr. Haven B. Cook

Job Title President, Big Bend Disaster Animal Response Team

Address 310 N. Dellview Dr.

Phone 850-443-1662

Street

Tallahassee

FL

State

32303

Zip

Email havenyaya@gmail.com

Speaking: For Against Information

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

Representing Big Bend Disaster Animal Response Team

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.

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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)

2/17/20
Meeting Date

SB 1698
Bill Number (if applicable)

Topic SB 1698

Amendment Barcode (if applicable)

Name Pedro Hernandez

Job Title _____

Address 1672 Portsmouth Lane Dr
Street

Phone 813-434-8937

Boston FL 33711
City State Zip

Email Pherandez221997@gmail

Speaking: For Against Information

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

Representing MY PUPPY MY CHOICE

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.

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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)

2-17-20

Meeting Date

1698

Bill Number (if applicable)

Topic SB 1698

Amendment Barcode (if applicable)

Name Brianna McCrany

Job Title Kennel tech + sales

Address 8240 Ulmerton Rd.

Phone

Street

Largo

City

FL

State

33701

Zip

Email

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

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

Representing Puppies Tampa

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

02/17/2020

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

SB1698

Meeting Date

Bill Number (if applicable)

Topic Pet Sales

Amendment Barcode (if applicable)

Name Michele Lazarov

Job Title President Animal Defense Coalition

Address 2621 NE 10 Street

Phone 305-6075683

Street

City

Hallandale Beach

State

33009

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.

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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)

SB 1698
Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date _____

Topic Pets

Name JACK CORY

Job Title _____

Address 730 East Perd Ad

Street

Tallah FL

City State Zip

Phone 850-691-995
893-0000

Email JACK.CORY@PERD.AD

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.

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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)

2/17/20

Meeting Date

1698

Bill Number (if applicable)

Topic Pet Stores

Amendment Barcode (if applicable)

Name ZAVUILLE Bryan

Job Title Lead Kennel Technician

Address 10000 Sheridan St

Phone 786-597-9422

Street

Pembroke Pines FL 33024

City

State

Zip

Email Zavuille15@gmail.com

Speaking: For Against Information

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

Representing Self

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.

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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)

2/17/20

Meeting Date

1698

Bill Number (if applicable)

Topic Pet stores

Amendment Barcode (if applicable)

Name Rosaliss Socorro

Job Title _____

Address 13705 N Dale Mabry

Phone 813 735 5232

Street

Tampa

City

FL

State

33618

Zip

Email rosaliss.socorro@gmail.com

Speaking: For Against Information

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

Representing Self

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.

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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)

07/17/20

Meeting Date

SB 1698

Bill Number (if applicable)

Topic Regulation of pet stores

Amendment Barcode (if applicable)

Name Victoria Garcia

Job Title Pet Land Pet counselor

Address 9061 NW 176th St

Phone 786-556-6440

Street

Hialeah

City

FL

State

33018

Zip

Email vicgy33@gmail.com

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.

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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)

2/17/20
Meeting Date

SB 1698
Bill Number (if applicable)

Topic Regulations of pet stores

Amendment Barcode (if applicable)

Name Gabriela Redonob

Job Title Petland Pet Counselor

Address 54160 W 21 Ct

Phone 786 202 8524

Hiatah FL 33016
City State Zip

Email gabyredondob@hotmail.com

Speaking: For Against Information

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

Representing Self

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.

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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)

2/17/2020

Meeting Date

1698

Bill Number (if applicable)

Topic SB 1698

Amendment Barcode (if applicable)

Name Amyanna Lee

Job Title _____

Address 2124 W Brandon Blvd

Street

Phone 654 0022
813 000 4009

Brandon

City

FL

State

33511

Zip

Email _____

Speaking: For Against Information

nb:

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

Representing SELF

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.

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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)

2/17/20
Meeting Date

1698
Bill Number (if applicable)

Topic Pet Stores

Amendment Barcode (if applicable)

Name Savannah Finley

Job Title

Address 7190 Ulmerton Rd
Street

Phone (813) 415-5851

Largo FL 33771
City State Zip

Email savannah09-12@yahoo.com

Speaking: For Against Information

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

Representing Self

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.

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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)

02/17/20
Meeting Date

SB1698
Bill Number (if applicable)

Topic Pets

Amendment Barcode (if applicable)

Name Luis Marquez

Job Title Provider

Address 8181 NW 154 St.

Phone 305.987.4489

Miami Lakes FL 33016
City State Zip

Email luis@petlandflorida.com

Speaking: For Against Information

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

Representing Yourself

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.

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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)

02/17/2020

Meeting Date

SB 1698

Bill Number (if applicable)

Topic SB 1698 - Regulate Pet Stores

Amendment Barcode (if applicable)

Name Carlos Payret

Job Title Handy Man

Address 12055 SW 42nd Manor Apt 109

Phone 786-343-5350

Street

Miramar

City

FL

State

33025

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Carlos Payret

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.

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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)

02/17/2020

Meeting Date

SB 1698

Bill Number (if applicable)

Topic SB 1698 Regulate Pet Stores

Amendment Barcode (if applicable)

Name Geidys Viton

Job Title _____

Address 14636 SW 112th St

Phone 786 309 0500

Street

Miami

FL

33186

Email vgeidys@hotmail.com

City

State

Zip

Speaking: For Against Information

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

Representing Geidys Viton

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

02/17/2020

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

SB 1698

Bill Number (if applicable)

Meeting Date

Topic SB 1698 - Regulate Pet Stores

Amendment Barcode (if applicable)

Name Yaylim Martinez

Job Title Manager

Address 8181 NW 154th St Suite 270

Phone 305-319-2454

Street

Miami Lakes FL 33016

City

State

Zip

Email Yaylim.Martinez@aol.com

Speaking: For Against Information

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

Representing Yaylim Martinez

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.

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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)

2/17/20

Meeting Date

SB 1698

Bill Number (if applicable)

Topic Regulate Pet Stores

Amendment Barcode (if applicable)

Name Dayden Portela

Job Title _____

Address 8181 NW 154th St #270 Phone 954 492 3106

Street

Miami Lakes FL 33016

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.

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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)

2/17/20

Meeting Date

SB 1698

Bill Number (if applicable)

Topic SB1698- Regulate Pet Stores

Amendment Barcode (if applicable)

Name Jessica Tello

Job Title Regional Kennel Manager

Address 8187 NW 154th Street St 70

Phone 954 442 3106

Street

Miami Lakes FL 35046

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.

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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)

2/17/20

Meeting Date

SB1698

Bill Number (if applicable)

Topic SB1698 - Regulate Pet Stores

Amendment Barcode (if applicable)

Name Luis Marquez

Job Title Owner

Address 8187 NW 154th St St 270

Phone 954 442 3106

Miami Lakes FL 33027

City State Zip

Email _____

Speaking: For Against Information

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

Representing Pelland floripa

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.

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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)

2/17/20

Meeting Date

SB1698

Bill Number (if applicable)

Topic Pet Stores

Amendment Barcode (if applicable)

Name Kim STATON

Job Title Pres, FLORIDA ANIMAL CONTROL ASSOC.

Address 3910 Old Canal Creek Rd, Street

Phone 407-742-8000

City St. Cloud, FL State Zip 34769

Email Kim.Staton@acesde.org

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

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

Representing FLORIDA Animal Control

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

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

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.

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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)

2/17/20
Meeting Date

SB1698
Bill Number (if applicable)

Topic SB1698 - Regulate Pet Stores Amendment Barcode (if applicable)

Name Andrew Olivares

Job Title Store Manager

Address 8187 NW 154th Street

Phone 954 992 3106

Miami Lakes FL 33016
City State Zip

Email andrew@petkindFLORIDA.com

Speaking: For Against Information

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

Representing Petland 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.

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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)

2/17/20
Meeting Date

1698
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Diana Ferguson

Job Title Attorney

Address 119 S MONROE ST STE 202
Street
TALL FL 32308
City State Zip

Phone 401-4788

Email dferguson@attledge-ecenia.com

Speaking: For Against Information

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

Representing FL Animal Control 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.

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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)

2/17/20

Meeting Date

1698

Bill Number (if applicable)

Topic Regulation of Pet Stores

Amendment Barcode (if applicable)

Name Travis Moore

Job Title _____

Address P.O. Box 2020

Phone 727.421-6902

Street

St. Petersburg FL

City

State

Zip

Email travis@moore-relations.com

Speaking: For Against Information

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

Representing Animal Legal Defense Fund

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.

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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)

2/17/20
Meeting Date

SB 1698
Bill Number (if applicable)

Topic SB1698 - Regulate Pet Stores

Amendment Barcode (if applicable)

Name Tiffany Carrazana

Job Title Inventory Manager

Address 8187 NW 159th St Apt 270

Phone 954 942 3106

Street

Miami Lakes, FL 33070

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.

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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)

02/17/20
Meeting Date

SB 1698
Bill Number (if applicable)

Topic Regulation of Pet Stores

Amendment Barcode (if applicable)

Name Jham Penney

Job Title Store manager

Address 6015 NW 186th Street

Phone 305-833-3764

Hialeah
City

FL
State

33015
Zip

Email Jhampenney@gmail.com

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.

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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)

2/17/20

Meeting Date

SB 1698

Bill Number (if applicable)

Topic SB 1698 - Regulate Pet Stores

Amendment Barcode (if applicable)

Name Angel

Job Title

Address 8181 NW 154th Street St 270

Phone 954 442 3106

Street

Miami Lakes FL 33016

City

State

Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing Petland 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.

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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)

2/17/20
Meeting Date

SB1698
Bill Number (if applicable)

Topic PET STORES

Amendment Barcode (if applicable)

Name VIOLET CARR

Job Title N/A

Address 2101 CAIRO CONCORD RD
Street

Phone 850 539 3761

HAVANA FL 32333
City State Zip

Email gerbilbaggins9@gmail

Speaking: For Against Information

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

Representing SELF

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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2/17/20
Meeting Date

SB1698
Bill Number (if applicable)

Topic PET STORES

Amendment Barcode (if applicable)

Name JENNIFER HOBGOOD

Job Title SENIOR DIRECTOR, LEGISLATION

Address P O BOX 5071
Street

Phone 850 445 5245

TALLAHASSEE FL 32316
City State Zip

Email jen.hobgood@aspc.org

Speaking: For Against Information

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

Representing ASPCA - AMERICAN SOCIETY for the PREVENTION OF CRUELTY TO ANIMALS

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.

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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)

2/17/2020

Meeting Date

1698

Bill Number (if applicable)

Topic Pet stores

Amendment Barcode (if applicable)

Name Travis Blackwell

Job Title _____

Address 2124 W Brandon Blvd

Phone 813-654-0022

Brandon FL 33511

City State Zip

Email ThePuppy9w/84@aol.com

Speaking: For Against Information

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

Representing self

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/17/20

Meeting Date

1698

Bill Number (if applicable)

Topic Pet Stores

Amendment Barcode (if applicable)

Name Julianna Pellegrino

Job Title _____

Address 2124 W Brandon Blvd

Phone 813 504 6040

Street

Brandon

City

FL

State

33511

Zip

Email Jutie.Pellegrino@yahoo.com

Speaking: For Against Information

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

Representing Self

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.

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APPEARANCE RECORD

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2/17/20

Meeting Date

1698

Bill Number (if applicable)

Topic Pet stores

Amendment Barcode (if applicable)

Name Trevor Blackwell

Job Title

Address 2124 W Brandon FL

Phone 813-654-0022

Street

Brandon

FL

33511

Email

City

State

Zip

Speaking: For Against Information

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

Representing Self

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.

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APPEARANCE RECORD

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2/17/20

Meeting Date

1698

Bill Number (if applicable)

Topic Pet stores

Amendment Barcode (if applicable)

Name Lexi Wise

Job Title _____

Address 2124 W Brandon Blvd

Phone NA

Street

Brandon

FL

33511

Email N/A

City

State

Zip

Speaking: For Against Information

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

Representing self

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/17/20

Meeting Date

1698

Bill Number (if applicable)

Topic Pet Stores

Amendment Barcode (if applicable)

Name Alex Mitchell

Job Title _____

Address 2124 W Brandon Blvd

Phone _____

Street

Brandon FL 33511

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing self

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/17/20
Meeting Date

1698
Bill Number (if applicable)

Topic Pet store

Amendment Barcode (if applicable)

Name Rebecca M.

Job Title _____

Address 2124 W Brandon Blvd

Phone N/A

Brandon FL 33511
City State Zip

Email N/A

Speaking: For Against Information

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

Representing Self

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

2-17-20

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

1698

Meeting Date

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JESS MCCARTY

Job Title ASSISTANT COUNTY ATTORNEY

Address 111 NW 1ST STREET, SUITE 2810

Phone 305-979-7110

Street

MIAMI

FL

33128

City

State

Zip

Email JMM2@MIAMIDADE.GOV

Speaking: For Against Information

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

Representing MIAMI-DADE COUNTY

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.

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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)

02/17/2020
Meeting Date

B1698
Bill Number (if applicable)

Topic SB1698 - Reopen pet stores
Amendment Barcode (if applicable)

Name Kyana Rodriguez

Job Title Petland Florida

Address 11 NW 137 Ave
Street

Phone (786) 512-8912

Miami FL 33182
City State Zip

Email kyana.rodriguez@petland.com

Speaking: For Against Information

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

Representing Kyana Rodriguez

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.

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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)

02/17/2020

Meeting Date

B1698

Bill Number (if applicable)

Topic SB 1698 - Regulate Pet Store

Amendment Barcode (if applicable)

Name Antonio Ortiz

Job Title Petland Florida

Address 2000 SW 36th Ter
Street

Phone 954-479-2415

Fort Lauderdale FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing Antonio Ortiz

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.

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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)

2/17/20

Meeting Date

1698

Bill Number (if applicable)

Topic

Pet Stores

Amendment Barcode (if applicable)

Name

Kate MacFall

Job Title

State director

Address

1624 Metropole Circle

Phone

850 508-1001

Street

Tallahassee

FL

32308

Email

kmacfall@hsus.org

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

Humane Society of the United States

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.

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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)

Feb. 17 2020
Meeting Date

1698
Bill Number (if applicable)

Topic Regulation of Pet Stores

Amendment Barcode (if applicable)

Name Grace Lovett

Job Title VP Government Affairs

Address 227 S. Adams St.
Street

Phone 850 222 4082

Tallahassee FL 32301
City State Zip

Email grace@frf.org

Speaking: For Against Information

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

Representing FL 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.

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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)

2/17/20

Meeting Date

1698

Bill Number (if applicable)

Topic Regulation of Pet Stores

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

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

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)

By Senator Diaz

36-01494-20

20201698__

1 A bill to be entitled
2 An act relating to the regulation of pet stores;
3 providing a directive to the Division of Law Revision;
4 creating s. 468.901, F.S.; providing a short title;
5 creating s. 468.903, F.S.; defining terms; creating s.
6 468.905, F.S.; requiring the licensure of pet stores;
7 requiring the Department of Business and Professional
8 Regulation to adopt procedures for such licensure;
9 creating s. 468.907, F.S.; defining the term
10 "qualified breeder"; regulating the sale or transfer
11 of household pets by pet stores; limiting the sources
12 from which pet stores may acquire pets for sale;
13 providing certain restrictions on the sale of
14 household pets; requiring certain documentation of the
15 sources from which pet stores acquire pets for sale;
16 providing requirements for the living conditions for
17 pets at pet stores; providing pet store veterinarian,
18 trainer, and exercise and socialization requirements;
19 creating s. 468.909. F.S.; requiring the department to
20 conduct periodic inspections of pet stores and audit
21 sales records; requiring the department to establish
22 procedures for the inspections and records of the
23 inspections; authorizing contracts with veterinarians
24 to conduct inspections; creating s. 468.911, F.S.;
25 requiring the department to deny a license under
26 certain circumstances; authorizing disciplinary action
27 against licensees and applicants for licensure;
28 providing civil penalties; authorizing the department
29 to adopt rules; creating s. 468.913, F.S.; authorizing

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30 civil actions for purposes of enforcement; creating s.
31 468.915, F.S.; providing criminal penalties for
32 specified violations; creating s. 468.917, F.S.;
33 requiring certain moneys to be deposited into the
34 department's Professional Regulation Trust Fund;
35 creating s. 468.919, F.S.; preempting county and
36 municipal ordinances and regulations; providing an
37 effective date.

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. The Division of Law Revision is directed to
42 create part XVII of chapter 468, Florida Statutes, consisting of
43 ss. 468.901-468.919, Florida Statutes, to be entitled "Household
44 Pet Stores."

45 Section 2. Section 468.901, Florida Statutes, is created to
46 read:

47 468.901 Short title.—This part may be cited as the "Florida
48 Pet Protection Act."

49 Section 3. Section 468.903, Florida Statutes, is created to
50 read:

51 468.903 Definitions.—As used in this part, the term:

52 (1) "Accredited veterinarian" means a veterinarian
53 accredited by the United States Department of Agriculture.

54 (2) "Adult cat" means a domestic cat that is 1 year of age
55 or older.

56 (3) "Adult dog" means a domestic dog that is 1 year of age
57 or older.

58 (4) "Animal rescue" means a nonprofit organization exempt

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59 from federal income taxation under s. 501(c)(3) of the Internal
60 Revenue Code which keeps, houses, and maintains household pets
61 and which is dedicated to the welfare, health, safety, and
62 protection of such pets. The term includes an organization that
63 offers spayed or neutered household pets for adoption and
64 charges only reasonable adoption fees to cover the
65 organization's costs, including, but not limited to, costs
66 related to spaying or neutering the pets.

67 (5) "Animal shelter" means a public facility, or private
68 facility operated by a nonprofit organization that is exempt
69 from federal income taxation under s. 501(c)(3) of the Internal
70 Revenue Code, which keeps, houses, and maintains household pets,
71 such as a county or municipal animal control agency or pound,
72 humane society, animal welfare society, society for the
73 prevention of cruelty to animals, or other nonprofit
74 organization devoted to the welfare, protection, and humane
75 treatment of household pets.

76 (6) "Department" means the Department of Business and
77 Professional Regulation.

78 (7) "Hobby breeder" means an establishment that:

79 (a) Sells no more than four puppies or adult dogs and no
80 more than four kittens or adult cats in any calendar year; or

81 (b) Keeps, houses, and maintains in any location no more
82 than three intact adult female dogs, one intact male adult dog,
83 three intact adult female cats, and one intact male adult cat.

84 (8) "Household pet" means a domestic dog or a domestic cat.

85 (9) "Intact" means that an animal's reproductive organs
86 have not been removed through spaying or neutering.

87 (10) "Kitten" means a domestic cat younger than 1 year of

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88 age.

89 (11) "Pet broker" means a person who buys, sells, or offers
90 for sale household pets at wholesale for resale to another or
91 who sells or gives one or more pets to a pet store.

92 (12) "Pet store" means a retail store that sells or offers
93 for sale household pets to the public and, with respect to such
94 sales, the store's salesperson, the pet's buyer, and the pet
95 being sold are each physically present during the sale so that
96 the buyer may personally observe the pet and help ensure its
97 health before taking custody. The term does not include an
98 animal rescue or animal shelter unless the animal rescue or
99 animal shelter purchases household pets for resale from a pet
100 broker or professional breeder.

101 (13) "Professional breeder" means an establishment that, in
102 exchange for money or other consideration, sells five or more
103 puppies or adult dogs or five or more kittens or adult cats in
104 any calendar year. The term does not include an animal rescue,
105 an animal shelter, or a hobby breeder.

106 (14) "Puppy" means a domestic dog that is younger than 1
107 year of age.

108 (15) "Veterinarian" means a health care practitioner
109 licensed under chapter 474, or licensed out of state by the
110 applicable entity in that state, to engage in the practice of
111 veterinary medicine.

112 Section 4. Section 468.905, Florida Statutes, is created to
113 read:

114 468.905 Licensure of pet stores.-

115 (1) A person may not operate a pet store in this state
116 without having a valid pet store license issued by the

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117 department in accordance with this section. An animal rescue or
118 animal shelter is not required to be licensed as a pet store
119 unless it purchases household pets for resale from a pet broker
120 or professional breeder.

121 (2) The department shall adopt procedures for the licensure
122 of pet stores. An applicant for a pet store license shall apply
123 to the department in a format prescribed by the department. Upon
124 licensure, the department shall assign a unique license number
125 for each licensed location.

126 (3) The department may establish annual license periods
127 that are valid for 1 year and that may be renewed. An
128 application for renewal of a license must be submitted to the
129 department in a format prescribed by the department.

130 (4) A pet store that does not have a valid license may not
131 display, offer for sale, deliver, barter, auction, broker, give
132 away, transfer, or sell any household pet from the store.

133 Section 5. Section 468.907, Florida Statutes, is created to
134 read:

135 468.907 Sale or transfer of household pets by pet stores.-

136 (1) As used in this section, the term "qualified breeder"
137 means a professional breeder that is located inside or outside
138 this state and meets all of the following requirements:

139 (a) Is licensed by the United States Department of
140 Agriculture under 7 U.S.C. s. 2133 and, if required, by a state
141 agency.

142 (b) Has not been issued a report of a direct noncompliance
143 violation by the United States Department of Agriculture under
144 the federal Animal Welfare Act, 7 U.S.C. ss. 2131 et seq., in
145 the 2 years immediately before offering for sale, delivering,

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146 bartering, auctioning, brokering, giving away, transferring, or
147 selling a household pet.

148 (c) Has not had three or more noncompliance violations
149 documented in any report issued by the United States Department
150 of Agriculture under the federal Animal Welfare Act, 7 U.S.C.
151 ss. 2131 et seq., for the year immediately before offering for
152 sale, delivering, bartering, auctioning, brokering, giving away,
153 transferring, or selling a household pet.

154 (2) A pet store may not display, offer for sale, deliver,
155 barter, auction, broker, give away, transfer, or sell any
156 household pet from the store unless such pet was acquired from
157 one of the following sources:

158 (a) A qualified breeder.

159 (b) A hobby breeder.

160 (c) An animal rescue.

161 (d) An animal shelter.

162 (e) Another pet store.

163 (f) A pet broker; however, if the pet broker acquires the
164 pet from a professional breeder, the breeder must be a qualified
165 breeder.

166 (3) A pet store may not sell, deliver, barter, auction,
167 broker, give away, or transfer any of the following:

168 (a) A household pet younger than 8 weeks of age.

169 (b) A household pet that has not been implanted with an
170 identification microchip.

171 (c) A household pet without a health certificate signed by
172 an accredited veterinarian.

173 (d) A household pet to a person younger than 18 years of
174 age, as verified by a valid driver license, state identification

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175 card, or other government-issued identification card bearing a
176 photograph of the cardholder.

177 (e) A household pet acquired from a qualified breeder or
178 pet broker, unless the pet store provides to the buyer acquiring
179 the pet, before completing the transaction, a written
180 certification that includes the following:

181 1. The name, address, and United States Department of
182 Agriculture license number, if applicable, of the breeder who
183 bred the household pet.

184 2. A copy of the breeder's most recent United States
185 Department of Agriculture inspection report, if applicable.

186 3. The household pet's date of birth, if known.

187 4. The date the pet store took possession of the household
188 pet.

189 5. The breed, gender, color, and any identifying marks of
190 the household pet.

191 6. A signed statement by an accredited veterinarian which
192 describes any known disease, illness, or congenital or
193 hereditary condition that adversely affects the health of the
194 household pet at the time of examination.

195 7. A document signed by the owner or a manager or employee
196 of the pet store certifying that all information required to be
197 provided to the person acquiring the household pet under this
198 paragraph is accurate. A pet store shall keep a copy of the
199 certification for at least 3 years after the date of acquisition
200 of the household pet.

201

202 The owner or a manager or employee of a pet store may not
203 fraudulently alter or provide false information on a

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204 certification provided in accordance with this paragraph.

205 (4) A licensed pet store must provide to the buyer of a
206 household pet:

207 (a) The pet's microchip identification number.

208 (b) The complete name, address, and telephone number of all
209 professional breeders or other persons who kept, housed, or
210 maintained the pet before its coming into possession of the pet
211 store or proof that the pet was acquired through an animal
212 rescue or animal shelter.

213 (c) A photograph or digital image of both of the pet's
214 parents, sire and dam.

215
216 A pet store shall keep a copy of the documentation required
217 under this subsection for at least 3 years after the date it
218 acquired the household pet.

219 (5) A pet store must provide for all of the following:

220 (a) Flooring in the primary enclosures that house household
221 pets which is constructed of a solid surface or, if grid-style
222 or wire flooring is used, the surface of which is covered with a
223 rubberized or coated material that prevents a pet's toe or foot
224 from passing through or being entrapped by the flooring. A pet
225 store shall clean all primary enclosures daily, or as often as
226 necessary to prevent accumulation of body waste, and keep a
227 sanitation log of such cleanings.

228 (b) An isolation enclosure with separate ventilation which
229 allows a household pet to be kept separately from other pets
230 while under veterinarian-directed observation.

231 (c) Climate control that ensures temperatures in animal
232 enclosures are kept between 67 and 78 degrees at all times. Pet

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233 stores shall keep daily logs of temperatures in animal
234 enclosures. If, for any reason, temperatures fall outside the
235 required range, a corrective action record detailing steps taken
236 to adjust temperatures must be kept.

237 (d) A veterinarian who is licensed in this state and who
238 visits the pet store at least three times a week to observe the
239 condition of the pets' health and overall well-being.

240 (e) A dog trainer who visits the pet store at least once a
241 week to assist with any behavioral or training issues.

242 (f) An enrichment program for puppies which consists of
243 exercise and socialization for at least two 30-minute periods
244 each day. A pet store must keep a log for each puppy of the
245 daily activities that the puppy participates in as part of the
246 program.

247 (g) Photographs, digital images, or video footage depicting
248 all breeding facilities from which the pet store acquires
249 household pets.

250 Section 6. Section 468.909, Florida Statutes, is created to
251 read:

252 468.909 Inspections.—

253 (1) (a) At least annually, the department shall inspect each
254 pet store that is subject to licensure to ensure compliance with
255 this part and rules adopted under this part, including, but not
256 limited to, an audit of the records that the licensee maintains
257 pursuant to s. 468.907(3) (e) and (4).

258 (b) The department also may conduct an inspection upon
259 receipt of a complaint or other information alleging a violation
260 of this part or rules adopted under this part.

261 (2) The department shall establish procedures for

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262 conducting inspections and making records of inspections.
263 Inspections shall be conducted during regular business hours in
264 accordance with the department's procedures and may be conducted
265 without prior notice. A record of each inspection must be
266 maintained by the department in accordance with such procedures.

267 (3) The department may enter into a contract or agreement
268 with one or more veterinarians to conduct inspections under this
269 section.

270 Section 7. Section 468.911, Florida Statutes, is created to
271 read:

272 468.911 Administrative remedies; penalties.—

273 (1) The department shall deny an application for issuance
274 or renewal of a pet store license, if:

275 (a) The licensee or applicant violates this part or any
276 rule or order issued under this part, if the violation
277 materially threatens the health or welfare of a household pet;
278 or

279 (b) The licensee or applicant, in the past 20 years, has
280 been convicted of or pled guilty or nolo contendere to,
281 regardless of adjudication, a misdemeanor or felony under
282 chapter 828 or a misdemeanor or felony under chapter 741
283 involving an act of domestic violence.

284 (2) The department may enter an order doing one or more of
285 the following if the department finds that a pet store, or a
286 person employed or contracted by a pet store, has violated or is
287 operating in violation of this part or any rule or order issued
288 pursuant to this part:

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

290 (b) Imposing an administrative fine for each act or

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291 omission, not to exceed the following amounts:

292 1. For a first violation, \$250.

293 2. For a second violation, \$500.

294 3. For a third or subsequent violation, \$1,000.

295

296 Each day that a violation continues constitutes a separate
297 violation.

298 (c) Directing that the person cease and desist specified
299 activities.

300 (d) Refusing to issue or renew a license or revoking or
301 suspending a license.

302 (e) Placing the licensee on probation, subject to the
303 conditions specified by the department.

304 (3) The administrative proceedings that could result in the
305 entry of an order imposing any of the penalties specified in
306 subsection (1) or subsection (2) are governed by chapter 120.

307 (4) The department may adopt rules to administer this part.

308 Section 8. Section 468.913, Florida Statutes, is created to
309 read:

310 468.913 Civil penalties; remedies.—The department may bring
311 a civil action in a court of competent jurisdiction to recover
312 any penalties or damages authorized by this part and for
313 injunctive relief to enforce compliance with this part.

314 Section 9. Section 468.915, Florida Statutes, is created to
315 read:

316 468.915 Criminal penalties.—A person commits a misdemeanor
317 of the second degree, punishable as provided in s. 775.082 or s.
318 775.083, if he or she violates:

319 (1) Section 468.907(2) or (3), relating to unlawful

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320 practices in the sale of household pets by pet stores; or
321 (2) Section 468.905(1) or (4), relating to operation of a
322 pet store without a license.

323 Section 10. Section 468.917, Florida Statutes, is created
324 to read:

325 468.917 Deposit of funds.—All moneys collected by the
326 department under this part from license fees or civil penalties
327 must be deposited into the department's Professional Regulation
328 Trust Fund for use by the department for administration of this
329 part.

330 Section 11. Section 468.919, Florida Statutes, is created
331 to read:

332 468.919 Local regulation.—This part preempts any local
333 ordinance or regulation of a county or municipality which
334 prohibits or regulates pet stores. This section does not preempt
335 a local government's authority to levy a local business tax
336 pursuant to chapter 205.

337 Section 12. This act shall take effect July 1, 2020.