

STORAGE NAME: h4359.brc

DATE: March 21, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS REGULATION AND CONSUMER AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4359 (PCB BRCA 98-06)

RELATING TO: Industrial Hygienists and Safety Professionals

SPONSOR(S): Committee on Business Regulation and Consumer Affairs and Rep. Ogles

COMPANION BILL(S): None.

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS REGULATION AND CONSUMER AFFAIRS YEAS 6 NAYS 1
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This bill requires industrial hygienists and safety professionals to accurately disclose their credentials, and to not refer to themselves as either a: "certified safety professional;" "associate safety professional;" "certified occupational health and safety technologist;" "industrial hygienist in training;" or "certified industrial hygienist," unless they possess a certification from one of two specifically cited boards, or a certification from a program with substantially equivalent standards (as determined by the Department of Business and Professional Regulation).

This proposal does not prohibit anyone from *doing the work* that industrial hygienists or safety professionals do. It merely prohibits the use of certain titles by persons who do not have a certain level of qualification, on the basis that the use of such titles would be misleading to the public with regard to the proficiency of the person performing the work.

Failure to comply with the provisions of this act constitutes a "deceptive and unfair trade practice," pursuant to chapter 501, F.S. Part II of Chapter 501, F.S., is the Florida Deceptive and Unfair Trade Practices Act, also referred to as the "little FTC act." The act is enforced by the state attorneys and the Department of Legal Affairs (department), but consumers also may bring action under the act if they have suffered damages as a result of unfair and deceptive practices. The bill takes effect July 1 of the year in which enacted.

Neither industrial hygienists nor safety professionals are currently regulated in Florida. Since 1993, nine states -- Alaska, California, Colorado, Connecticut, Illinois, Indiana, Nevada, New Jersey, and Tennessee have enacted legislation similar to this proposal.

There are presently 12,000 national members in the American Industrial Hygiene Association (AIHA), 342 of which reside in Florida and 495 of those members are in the Florida AIHA. There are 5,833 industrial hygienists, nationally, and 129 certified industrial hygienists in Florida.

No numbers have been provided regarding safety professionals.

The bill has no significant fiscal impact on state or local governments or on private industry.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

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The act was patterned after the Federal Trade Commission Act which says that unfair methods of competition, and unfair or deceptive acts or practices in or affecting commerce are unlawful. The Federal Trade Commission (FTC) has established standards to test whether a practice is unfair or deceptive and has promulgated many rules designed to specifically prohibit certain activities.

B. EFFECT OF PROPOSED CHANGES:

This proposal does not prohibit anyone from *doing the work* that industrial hygienists or safety professionals do. It merely prohibits the use of certain titles by persons who do not have a certain level of qualification, on the basis that the use of such titles would be misleading to the public with regard to the proficiency of the person performing the work.

In addition, the bill requires a person who represents himself as an industrial hygienist or a safety professional to accurately disclose his credentials. It provides that failure to comply with the provisions of the act constitutes a deceptive and unfair trade practice.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. It prohibits the use of certain titles by persons who are not properly qualified, and prohibits industrial hygienists and safety professionals from misrepresenting their qualifications, specifically stipulating that violation of these prohibitions amounts to a "deceptive and unfair trade practice." A "willful" violation of the deceptive and unfair trade practice act subjects the violator to the possibility of a civil penalty of \$10,000 per violation, should the Attorney General's Office choose to prosecute the matter.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 501.937, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Creates s. 501.937, F.S., providing:

(1) A definition for an industrial hygienist, and a safety professional.

(2) That no person may represent himself as a certified industrial hygienist or certified safety professional (or one of several other specific titles) unless that person is properly qualified.

(3) That in order to be qualified, the person must have a degree in an appropriate science field and hold a certificate from one of several stipulated private

certifying organizations (or from a certifying program that the DBPR has concluded has substantially equivalent standards).

- (4) That a person who represents himself as an industrial hygienist or a safety professional is required to accurately disclose his credentials.
- (5) That failure to comply with the provisions of the act constitutes a deceptive and unfair trade practice.

Section 2. Provides that the bill shall take effect on July 1 of the year it is enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION AND CONSUMER AFFAIRS:

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