

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 278

SPONSOR: Health, Aging, and Long-Term Care Committee and Senator Sullivan

SUBJECT: Recreational Sport Diving

DATE: March 23, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Liem</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 278 directs the Department of Health to adopt standards for contaminants in compressed air that is used for recreational sport diving. Vendors of compressed air are required to obtain quarterly testing by accredited laboratories of air to be sold, and provide the results of such testing to the department. The department is required to issue a certificate to the vendor if the air meets standards, or notify the vendor that the air does not meet standards. The bill prohibits a person from providing, for compensation, compressed air for recreational sport diving without certification of the air quality from the department. The department is authorized to establish fees adequate to cover its costs of certification, which fees may not exceed \$50 a year for each premises at which compressed air is provided. A person who provides compressed air for recreational sport diving for compensation is prohibited from continuing to provide compressed air after notification that the air fails to meet the department's standards until the department issues a new certificate. A person who violates the provisions of this act is liable for a civil penalty, not to exceed \$500, determined by the department, and any damages resulting from the violation. The department is authorized to adopt rules.

The bill creates an undesignated section of law.

II. Present Situation:

Currently, there is no requirement in state law that compressed air for diving be sampled, analyzed, or certified. There is presently no state mechanism for tracking or reporting the failure rates for compressed air sold in Florida, or resultant injuries or deaths. It is the opinion of operators of national laboratories and compressor manufacturers that vendors who include testing as a regular component of their overall operation experience a low failure rate in terms of air quality. National data from testing laboratories indicates that between 2.5 and 3 percent of samples submitted fail standards, most frequently for water content (typically from fire departments). The failure rate for carbon monoxide (the deadliest of these gasses) is .32 percent. An elevated carbon monoxide level in compressed air is typically produced by either a failure in

the internal mechanism of the compressor unit itself which allows oil to be introduced into the compressed air stream, which combines under pressure to form carbon monoxide, or by an improperly located intake which allows carbon monoxide to be introduced into the system.

Underwater diving is inherently a dangerous sport. According to the Diver's Alert Network at Duke University, gas quality is seldom an issue in the deaths of recreational divers (3 of 818 fatalities since 1989 have involved air quality).

There are approximately 500 retailers who sell compressed air for recreational diving in Florida. Many are voluntarily affiliated with organizations such as the National Association of Underwater Instructors or the Professional Association of Diving Instructors 5 Star Program, which require regular testing of air as a condition of affiliation.

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 278 directs the Department of Health to adopt standards for contaminants in compressed air that is used for recreational sport diving. The department is to take into consideration the levels of contaminants allowed by the Grade "E" Recreational Diving Standards of the Compressed Gas Association. The bill requires persons providing compressed air for compensation to ensure that samples of air to be sold are tested quarterly by a laboratory certified by the American Industrial Hygiene Association or the American Association for Laboratory Accreditation. The results of these tests must be provided to the department, which would issue a certificate to the vendor stating that the submitted test samples of compressed air meet standards, or issue a notification that test samples failed to meet the standards. The certificate must be posted in a location where it can be readily seen by any person purchasing the compressed air.

The bill prohibits a person from providing, for compensation, compressed air for recreational sport diving without having a valid certification of the products' air quality from the Department of Health. The Department of Health is authorized to establish fees adequate to cover its costs of reviewing test results and issuing certificates, which may not exceed \$50 a year for each premises at which compressed air is provided. A person who provides compressed air for recreational sport diving for compensation is prohibited from continuing to provide compressed air after notification that the air fails to meet the department's standards until the department issues a new certificate. A person who violates the provisions of this act is liable for a civil penalty, not to exceed \$500, determined by the department, and any damages resulting from the violation.

The bill requires the department to adopt rules which must include maximum allowable levels of contaminants in compressed air used for sport diving, procedures for submitting test results to the department, and procedures for the issuance of certificates and notices that air fails to meet standards.

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

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Subsections 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

The bill will require vendors of compressed air for recreational diving to pay a \$50 annual fee for review of testing and issuance of certificates.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There will be costs associated with the Department of Health's review of test results and issuance of certificates and notices.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The owner of the compressor would be responsible for collecting the sample. It is possible that owners would take the sample under conditions which would ensure compliance with standards.

The sample would not ensure a safe compressed air source. Rather, it would show that the air was satisfactory at the time it was collected. Factors such as ambient air quality vary hour to hour and day to day. A satisfactory sample one day does not ensure that air meets standards at any other time.

The bill would not protect divers from petroleum-based contaminants which may be present in their own tanks. These contaminants can react with oxygen when under pressure to produce harmful substances, such as carbon monoxide.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
