

STORAGE NAME: h0627a.tr

DATE: March 17, 1999

HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS

BILL #: HB 627

RELATING TO: Minor/Approaching Vehicle/Soliciting

SPONSOR(S): Representatives C. Smith and Wilson

COMPANION BILL(S): SB 2254 (s) SB 1678 (c)

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

- (1) TRANSPORTATION YEAS 10 NAYS 1
- (2) CRIME AND PUNISHMENT
- (3) CRIMINAL JUSTICE APPROPRIATIONS
- (4)
- (5)

I. SUMMARY:

Current law does not place age restrictions on persons who stand, or approach vehicles, on public streets, highways, roads, or state transportation facility rights-of-way for the purpose of soliciting.

The bill prohibits minors under the age of 18 from standing or approaching vehicles on any public street, highway, or road for the purpose of soliciting. Minors under the age of 18 are not subject to the age requirement for activities on non-state roads if they are acting on behalf of an organization qualified under s. 501(c)(3) of the Internal Revenue Code and registered pursuant to chapter 496, F.S.

A person who violates this provision would be guilty of a misdemeanor of the second degree, punishable by a fine of up to \$500 or imprisonment for up to 60 days.

Note: One amendment was adopted by the Committee on Transportation. The amendment deletes an unintended exception in the bill for minors under the age of 18 on non-state roads if they are acting on behalf of a 501(c)(3) organization that is registered pursuant to chapter 496, F.S. As a result, the amendment would prohibit minors from soliciting on all public streets, highways, and roads. The age restriction for solicitation would apply to those areas of the street, highway, or road that are used for vehicular traffic purposes. The amendment also requires a law enforcement officer to issue a warning for a first time violation of the age/solicitation restriction.

The bill has no fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Current law does not place age restrictions on persons who stand or approach vehicles on public streets, highways, roads, or state transportation facility rights-of-way for the purpose of soliciting. Section 316.2045, F.S., provides that it is a \$15 pedestrian violation for a person to obstruct the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon, by standing or approaching a motor vehicles thereon, or by endangering the safe movement of vehicles or pedestrians. Local governments are authorized to issue permits for using streets, roads, or rights-of-way not maintained by the state. Permits for the use of any portion of a state-maintained road or right-of-way are required pursuant to s. 337.406.

This section further provides that it is unlawful, without proper authorization or a lawful permit, for any person or persons to *willfully* obstruct the free, convenient, and normal use of any public street, highway, or road in order to solicit. A violation of this provision is a second degree misdemeanor, punishable by a fine of up to \$500 or imprisonment for up to 60 days. Organizations qualified under s. 501(c)(3) of the Internal Revenue Code and registered pursuant to chapter 496, or persons or organizations acting on their behalf are exempted from the authorization/permit requirement for activities on non-state roads.

Section 337.406, F.S., governs the use of state transportation facility rights-of-way. Generally, the law prohibits using the right-of-way of any state transportation facility outside of an incorporated municipality in any manner that interferes with the safe and efficient movement of people and property. Within incorporated municipalities, the local governmental entity may issue permits of limited duration for the temporary use of the right-of-way of a state transportation facility if it determines that the use will not interfere with the safe and efficient movement of traffic and the use will cause no danger to the public. A violation of this section is a misdemeanor of the second degree, punishable by a fine of up to \$500 or imprisonment for up to 60 days.

B. EFFECT OF PROPOSED CHANGES:

The bill prohibits minors under the age of 18 from standing or approaching vehicles on any public street, highway, or road for the purpose of soliciting. Minors under the age of 18 are not subject to the age requirement for activities on non-state roads if they are acting on behalf of an organization qualified under s. 501(c)(3) of the Internal Revenue Code and registered pursuant to chapter 496, F.S.

A person who violates this provision would be guilty of a misdemeanor of the second degree, punishable by a fine of up to \$500 or imprisonment for up to 60 days.

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?

N/A

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

The state and local governments would be responsible for enforcing this law.

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

N/A

2. Personal Responsibility:

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

N/A

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

N/A

3. Individual Freedom:

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

N/A

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

Yes, persons under the age of 18 would no longer be able to solicit on public streets, highways, roads or state transportation facility rights-of-way

4. 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?

N/A

- 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:

ss. 316.2045 and 337.406, F.S.

E. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 17, 1999, the Committee on Transportation adopted 1 amendment to HB 627. The amendment deletes an unintended exception in the bill for minors under the age of 18 on non-state roads if they are acting on behalf of a 501(c)(3) organization that is registered pursuant to chapter 496, F.S. As a result, the amendment would prohibit minors from soliciting on all public streets, highways, and roads. The age restriction for solicitation would apply to those areas of the street, highway, or road that are used for vehicular traffic purposes. The amendment also requires a law enforcement officer to issue a warning for a first time violation of the age/solicitation restriction.

Amendment 1:

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VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:
Prepared by:

Staff Director:

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