

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 Commerce Committee

BILL: SB 2576

INTRODUCER: Senator Gelber

SUBJECT: Export of goods of value to foreign countries

DATE: April 7, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Cooper	CM	Favorable
2.	_____	_____	GO	_____
3.	_____	_____	GA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill prohibits any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government from issuing a certificate of free sale, export certification report, certificate of good manufacturing practices, permit, registration, license, or certification of any kind for any good, commodity, or thing of value to be exported to a foreign country that has been designated by the U.S. Secretary of State as a state sponsor of terrorism.

This bill creates an undesignated section of the Florida Statutes.

II. Present Situation:

Terrorist States

Currently, four countries are designated by the U.S. Department of State under the Export Administration Act,¹ the Arms Export Control Act,² and the Foreign Assistance Act,³ as state sponsors of terrorism: Cuba, Iran, Syria, and Sudan.⁴ These designated countries, which repeatedly support international terrorism, are subject to certain U.S. government sanctions. These sanctions include:

- Restrictions on U.S. foreign assistance;
- A ban on defense exports and sales; and

¹ See 50 U.S.C. ss. 2401 et seq.

² See 22 U.S.C. ss. 2751 et seq.

³ See 22 U.S.C. 2371.

⁴ See U.S. Department of State; *State Sponsors of Terrorism*, available at <http://www.state.gov/s/ct/c14151.htm>.

- Controls over exports of dual use items, requiring 30-day Congressional notification for goods or services that could significantly enhance a listed country's military capability or ability to support terrorism.

Additionally, the federal government may impose miscellaneous financial and other restrictions on terrorist states, including:

- Requiring the U.S. to oppose loans by the World Bank and other international financial institutions;
- Denying diplomatic immunity to allow families of terrorist victims to file civil lawsuits in U.S. courts;
- Denying companies and individuals tax credits for income earned in terrorist-list countries;
- Denial of duty-free treatment for goods exported to the U.S.;
- Authority to prohibit any U.S. citizen from engaging in a financial transaction with a terrorist-list government without a Treasury Department license; and
- Prohibition of Defense Department contracts above \$100,000 with companies owned or substantially controlled by terrorist-list states.⁵

Exports to state sponsors of terrorism are limited under federal law. Only certain types of gifts or humanitarian aid are permitted to be exported to such countries.⁶

Certificates of Free Sale⁷

Florida

The Florida Department of Agriculture and Consumer Services (DACS) issues "certificates of free sale," also known as "certificates of export" or "certificates to foreign governments."⁸ These certificates are issued to companies that export products to foreign countries that require such certificates as an assurance that the products listed on the certificate are freely sold and manufactured in Florida or meet certain government standards. DACS may also issue "certificates of origin" for the purpose of authenticating the place of origin of the merchandise being shipped.

It is the general policy of DACS not to issue any certificates to foreign countries designated by the U.S. Secretary of State as a state sponsor of terrorism. DACS issues approximately 1,350 certificates per year and turns down approximately 10 requests per year from state sponsors of terrorism for such certificates.

⁵ U.S. Department of State; *Country Reports on Terrorism 2008: Chapter 3: State Sponsors of Terrorism*; available at <http://www.state.gov/s/ct/rls/crt/2008/122436.htm>. Note: This report is required to be submitted to Congress pursuant to Title 22 of the United States Code, Section 2656f(a).

⁶ See 15 C.F.R. 740.12.

⁷ Unless specified, the information relating to certificates of free sale were obtained from DACS on March 25, 2010, and adapted from the House of Representative's Governmental Affairs Policy Committee Staff Analysis on HB 1401 (2010), which is identical to SB 2576.

⁸ See Florida Department of Agriculture and Consumer Services; *Development and Information: Frequently Asked Questions*; available at <http://www.doacs.state.fl.us/onestop/mkt/devinfo.html>.

In addition, the Florida Department of Health (DOH) issues “certificates of free sale” to certify that a drug, device, or cosmetic, is registered with the department and can be legally sold in the state.⁹ Many foreign countries require an exporter to obtain this certificate before allowing these products to enter their country for distribution. A certificate may be issued by DOH to a manufacturer or a distributor for products required to be registered with DOH. A copy of the product label must either be on file with DOH or submitted as part of the request for a certificate of free sale before DOH can issue the certificate. DOH will not issue a certificate of free sale for products that are not manufactured or cosmetics that are not labeled in Florida. A maximum of 30 product names can be included on one certificate of free sale issued by DOH.¹⁰

Federal Government

The federal government issues certain types of certificates for export. A federal export certificate is a paper or electronic document requested by an importing nation that describes or attests to animal health or product safety, production, or processing methods, packaging, labeling, or specific attributes of a food or food ingredient intended for international destinations. An export certificate may also attest to the status of the manufacturing or packaging establishment producing such food for export.¹¹

Almost 4 million export certificates are issued by the U.S. Food and Drug Administration (FDA) and other federal agencies, state authorities, and the processed food industry each year.¹² There are 9 federal agencies, including five U.S. Department of Agriculture (USDA) agencies that issue export certificates for foreign imported foods.¹³

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of Florida law to prohibit any “state agency” from issuing a certificate of free sale, export certification report, certificate of good manufacturing practices, permit, registration, license, or certification of any kind for any good, commodity, or thing of value to be exported to a foreign country that has been designated by the U.S. Secretary of State as a state sponsor of terrorism.

“State agency” is defined as any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government.

Section 2 provides that the bill shall take effect upon becoming a law.

⁹ Florida Department of Health; *Free Sale Certificates*; available at <http://www.doh.state.fl.us/mqa/ddc/freesale.htm>.

¹⁰ 64F-12.017, F.A.C.

¹¹ United States Department of Agriculture Foreign Agricultural Service; *Food Export Certificate Project*; available at <http://www.fas.usda.gov/itp/ofsts/exportcertif/intro.asp>.

¹² *Id.*

¹³ The 9 federal agencies are: USDA-Food Safety and Inspection Service (FSIS); USDA-Animal Plant Health Inspection Service (APHIS); USDA-Agricultural Marketing Service (AMS); USDA - Grain Inspection, Packers and Stockyards Administration (GIPSA); USDA - Foreign Agricultural Service (FAS); Department of Treasury: Alcohol, Tobacco and Firearms (ATF); U.S. Fish and Wildlife Service; National Marine Fisheries Services (NMFS); Food and Drug Administration (FDA).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Those exporters seeking a certificate of free sale or origin to be used for exports to a state sponsor of terrorism will have to request the certificate from the appropriate federal agency, which may be more time-consuming and more expensive than obtaining a certificate from a state agency.

C. Government Sector Impact:

To the extent that a state agency issued certificates of free sale or other documents on exported goods to state sponsors of terrorism, that state agency's administrative costs associated with the issuance of such certificates would decrease.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial 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.
