

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 185 Gasoline Stations

SPONSOR(S): Regulatory Affairs Committee; Agriculture & Natural Resources Appropriations Subcommittee; Business & Professional Regulation Subcommittee; Danish and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1184

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	12 Y, 0 N, As CS	Butler	Luczynski
2) Agriculture & Natural Resources Appropriations Subcommittee	12 Y, 1 N, As CS	Lolley	Massengale
3) Regulatory Affairs Committee	17 Y, 1 N, As CS	Butler	Hamon

SUMMARY ANALYSIS

There are more 9,000 gasoline stations within Florida, of which, only about 350 offer limited full-service pumping, in part, to assist disabled persons fueling their vehicles.

The bill requires the Department of Agriculture and Consumer Services to confirm, during their normal inspections, that a decal is placed on each pump for self-service gas stations. The decal must be blue, at least 15 square inches, contain the international symbol of accessibility, the words "Call for Assistance," and a phone number for the station.

The bill preempts all local laws with regards to fueling assistance for self-service gasoline stations.

There is no fiscal impact to the state or local government. According to the Florida Retail Federation, the new decals will cost station owners less than \$1 per sticker.

The bill prohibits a local government from requiring a retail outlet that sells motor fuel to provide air and vacuum supply without charge. The bill preempts local governments from adopting an ordinance and supersedes existing ordinances regarding the pricing of such commodities.

The bill has an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Self-Service Gasoline Station Fueling Assistance

The mission of the Florida Department of Agriculture and Consumer Services (DACS or Department) is to safeguard the public and support Florida's agricultural economy by:

- Ensuring the safety and wholesomeness of food and other consumer products through inspection and testing programs;
- Protecting consumers from unfair and deceptive business practices and providing consumer information;
- Assisting Florida's farmers and agricultural industries with the production and promotion of agricultural products; and
- Conserving and protecting the state's agricultural and natural resources by reducing wildfires, promoting environmentally safe agricultural practices, and managing public lands.

The Bureau of Standards (bureau) within the Division of Consumer Services is responsible for conducting inspections at more than 25,000 retail and wholesale facilities, inspecting more than 260,000 commercial measuring devices. There are approximately 9,000 gasoline stations within Florida, and the bureau is required to inspect all gasoline pumps used for the retail sale of gasoline in this state.

Approximately 350 gasoline stations statewide provide both full-service and self-service fueling services. These stations, known as "limited full-service" stations, are required to provide refueling assistance to any motor vehicle displaying a proper exemption parking permit or license plate at the self-service islands and display a decal on the front of all self-service pumps stating these requirements.¹

Local governments have passed varying regulations with respect to fueling assistance for disabled persons. These regulations range from handicap decals and stickers, to requiring call buttons installed at self-service gas stations meeting certain requirements.

Motor Vehicle Retail Outlet

The term "motor fuel" is defined by s. 526.303(5), F.S., as "any petroleum product, including any special fuel, which is used for the propulsion of motor vehicles."

The term "retail outlet" is defined by s. 526.303(14), F.S., as "a facility, including land and improvements, where motor fuel is offered for sale, at retail, to the motoring public."

Self-service gasoline stations generally provide air and vacuum supply for a fee determined by the station. Some municipalities have required gasoline stations within their jurisdiction to provide this service without charge.²

Effect of the Bill

Self-Service Gasoline Station Fueling Assistance

¹ Section 526.141(5), F.S.

² See City of Sunrise, Sec. 16-136(g)(5) (stating that "[a]ll gas stations shall provide compressed air during operating hours free of charge with or without the purchase of gasoline or other items.")

The bill requires self-service gasoline stations to acquire a new decal that contains the information required by the bill. The new decal must be blue, at least 15 square inches, and contain the internationally recognized symbol of accessibility. Each self-service gasoline station must place a telephone number on the decal that an operator of a vehicle may call to request assistance, and the words "Call for Assistance."

Although the bill requires self-service gasoline stations to provide a telephone number that may be used to request fueling assistance, it does not require stations to employ additional staff to provide assistance.

According to DACS, there are approximately 35,000 gasoline dispensers, and because this decal must be placed on each side of each dispenser, the bill will require at most 70,000 decals to implement.³ Stations owners are required to purchase the decals on their own, each of which should cost less than \$1 per sticker.⁴

The bill requires DACS to confirm that the new decal is affixed to each pump during their normally scheduled gasoline station inspections, and to confirm that the telephone number has been prominently displayed on the decal. The bill provides that all decals are to be in place by July 1, 2016, two years after this law would go into effect, to allow ample opportunity for all stations to come into compliance.

The bill preempts and supersedes all local government laws and regulations pertaining to the provision of fueling assistance for self-service gasoline stations. This would invalidate any current requirements that a local government may have passed with regard to fueling assistance for self-service gasoline stations. This preemption will also prevent a local government from passing any new law, ordinance, or regulation, or to enact additional requirements with regard to the fueling assistance requirements of self-service gasoline stations.

Motor Vehicle Retail Outlet

The bill creates s. 526.142, F.S., pertaining to air and vacuum devices at motor fuel retail outlets. The bill states that a motor fuel retail outlet shall not be required to provide air or vacuum supply without charge. The bill also preempts local governments from adopting an ordinance regarding the pricing of such commodities.

B. SECTION DIRECTORY:

Section 1 amends s. 526.141, F.S., requiring self-service gasoline stations display a decal containing certain information for each pump; requiring the Department of Agriculture and Consumer Services to confirm compliance by a specified date; providing for preemption of local regulations pertaining to fueling assistance for certain motor vehicle operators.

Section 2 creates s. 526.142, F.S., providing that no motor fuel outlet shall be required to provide air or vacuum supply without charge; preempts to the state the power to regulate and set pricing for air and vacuum commodities.

Section 3 provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

³ Florida Department of Agriculture and Consumer Services, Agency Analysis of 2014 House Bill 185, p. 1 (Nov. 19, 2013) (on file with the Business & Professional Regulation Subcommittee).

⁴ Email from Jennifer Gordon, Legislative Aide for Rep. Danish, RE: Decal Pricing Question, February 13, 2014 (on file with the Business & Professional Regulation Subcommittee, indicating that the Florida Retail Federation confirmed that the decals will cost station owners less than one dollar per sticker).

2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the Florida Retail Federation, the new decals will cost station owners less than \$1 per sticker.⁵

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 18, 2014, the Business & Professional Regulation Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment requires a separate decal to implement the bill. The Department's inspection decal no longer needs to be modified. Because the new decal will be provided to gasoline stations through private means, the fiscal impact on the Department is removed.

On March 5, 2014, the Agriculture & Natural Resources Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment is a technical amendment and clarifies that it is self-service gasoline stations that must have a separate decal affixed to each pump.

On March 20, 2014, the Regulatory Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment prohibits local governments from requiring a motor

⁵ *Id.*
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fuel retail outlet provide air and vacuum devices free of charge, and preempts to the state the pricing of such commodities.

The staff analysis is drafted to reflect the committee substitute.