

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 Committee on Judiciary

BILL: CS/SB 286

INTRODUCER: Community Affairs Committee and Senator Diaz de la Portilla

SUBJECT: Classified Advertisement Websites

DATE: March 23, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	Fav/CS
2.	Brown	Cibula	JU	Pre-meeting
3.			AGG	
4.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 286 encourages the Department of Management Services and local governmental bodies to designate safe-haven facilities in each county, which will provide a safe place to conduct sales transactions for items advertised on classified advertisement websites, such as Craigslist.

The bill provides that the state and local governmental entities who provide safe-haven facilities are generally immune from tort claims related to sales transactions at the facility.

II. Present Situation:

Online Transaction Safe-Haven Laws

In response to a continuing trend of crimes stemming from transactions related to online classified advertisement websites, such as Craigslist, a number of police departments have opened their lobbies and parking lots to citizens to complete the sales transactions. Conducting transactions in police lobbies or parking lots deters crime for obvious reasons, including the proximity of police officers and the likelihood of surveillance by security cameras.

In May 2014, after a series of robberies related to Craigslist transactions, the East Chicago Police Department began "Operation Safe Sale," and offered the use of its headquarters parking lot and

lobby to conduct transactions.¹ The police department even offered supervision during certain hours.² If supervision is not requested, the parking lot and police lobby are available for use for transactions any time.³

In January 2015, the Virginia Beach, Virginia, Police Department launched the “Find a Safe Place” initiative, in which it offered the use of the police department’s lobby for transactions arranged through classified advertisement websites.⁴ Police lobbies are available for use daily during certain times.⁵ However, the police department prohibited transactions involving “large, cumbersome household items, appliances and landscape care equipment,” or “the sale of any contraband, stolen property, or other illegal items.”⁶

In February 2015, the Toledo, Ohio, Police Department announced it would be making designated parking spots in front of one of its stations available for anyone to complete an online sales transaction.⁷

Florida police departments have also created safe havens at their facilities. In July 2014, the Boca Raton Police Department, in response to “at least three cases in June where people were ripped off by buyers when trying to sell something off Craigslist,” offered the Department’s lobby and parking lot for transactions.⁸ Police in Delray Beach and Boynton Beach are also considering a similar program.

On February 3, 2015, the Miami-Dade Board of County Commissioners (BOCC) adopted a resolution directing the mayor to research and document the feasibility and advisability of providing locations such as Miami-Dade police stations to serve as safe havens for Craigslist transactions. The commissioners envisioned at least 4 locations in different areas of the county to serve as safe houses. The resolution requires the Mayor to provide a report to the BOCC within 60 after the date of the resolution.⁹

III. Effect of Proposed Changes:

This bill encourages the Department of Management Services (DMS) and local governments to establish state safe-haven facilities to conduct sales transactions related to classified advertisement websites similar to Craigslist.

¹ Juan Perez Jr., *East Chicago Police Offer Up Their Lobby, Parking Lot for Craigslist Transactions*, CHICAGO TRIBUNE, (May 01, 2014) available at http://articles.chicagotribune.com/2014-05-01/news/chi-east-chicago-police-offer-up-their-lobby-parking-lot-for-craigslist-transactions-20140501_1_craigslist-transactions-becker-lobby.

² *Id.*

³ *Id.*

⁴ Becca Mitchell and Todd Corillo, *Virginia Beach Police Offering Precinct Lobbies as a Safe Place for Craigslist Transactions*, WTKR NEWS CHANNEL 3, (January 27, 2015) available at <http://wtkr.com/2015/01/27/virginia-beach-police-offering-precinct-lobby-as-a-safe-place-for-craigslist-transactions/>.

⁵ *Id.*

⁶ *Id.*

⁷ Angi Gonzalez, *Toledo Police to Offer Safe Haven to Craigslist Users*, WNWO NBC 24, (February 24, 2015), available at <http://www.nbc24.com/news/story.aspx?id=1168859#.VQCK-nF91A>.

⁸ Kate Jacobsen, *Boca Raton Police Ask Craigslist Sellers to Use Station Lobby*, THE SUN-SENTINEL, (July 5, 2014), available at http://articles.sun-sentinel.com/2014-07-05/news/fl-boca-raton-craigslist-lobby-20140701_1_boca-raton-police-station-lobby-craigslist-sellers.

⁹ Miami-Dade Board of County Commissioners, Res. No. R-126-15 (February 3, 2015).

The bill refers to a classified advertisement website as a web-based advertisement site that lists items for sale or items wanted for purchase or acquisition. Safe-haven facilities are those designated by state or local government as places where persons can effect sales transactions safely.

The DMS is encouraged to designate at least:

- One state safe-haven facility in each county having a population of less than 250,000.
- Two state safe-haven facilities in each county having a population from 250,000 to less than 800,000.
- Four state safe-haven facilities in each county having a population of 800,000 and greater.

Based on the 2010 census, six counties would require four state safe-haven facilities, 15 counties would require two facilities, and 46 counties would require one safe-haven facility.¹⁰

The suggested options for state safe-haven facilities are a state college or university, a Florida Highway Patrol station, or another kind of public state office building. The bill encourages the DMS to designate at least one indoor and one outdoor area for use during regular hours of operation at each state safe-haven facility.

The suggested options for local safe-haven facilities include sheriff's offices and county courthouses.

State and local governmental entities are not responsible for supervising, intervening in, or facilitating a sales transaction at a safe-haven facility.

This bill makes state and local governments and their officers, employees, and agents immune from tort claims arising from a sales transaction, unless the governmental officer or employee:

- Acts out of the scope of employment; or
- Acts in bad faith; or
- Acts with malicious purpose or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

As this bill encourages, rather than requires local governments to establish safe-haven facilities. Therefore, the bill is not a mandate.

B. Public Records/Open Meetings Issues:

None.

¹⁰ Department of Management Services, *2015 Legislative Bill Analysis* (July 1, 2015).

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Sovereign immunity originally referred to the English common law concept that the government may not be sued because “the King can do no wrong.” Sovereign immunity bars lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents unless the public entity expressly waives immunity.

Article X, s. 13, of the Florida Constitution recognizes sovereign immunity and authorizes the Legislature to provide a waiver of immunity. Section 768.28(1), F.S., provides a broad waiver of sovereign immunity. But by law, liability to pay a claim or judgment is limited to \$200,000 per plaintiff or \$300,000 per incident.¹¹

This bill appears to provide absolute immunity, but only to the extent that an injury or damages arise out of a sales transaction at a designated safe-haven. Accordingly, this bill creates an exception to the broad waiver of sovereign immunity under s. 768.28, F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This bill may encourage more private buyers and sellers to engage in sales transactions through websites such as Craigslist if a safe location exists for the actual exchange of goods for money.

C. Government Sector Impact:

The Department of Management Services (DMS) and state and local government could incur a fiscal impact due to the provisions of this bill relating to the designation and operation of safe-haven facilities for sales transactions from classified advertising websites. However, DMS and local governments are in complete control of the costs because the creation of safe-haven facilities is voluntary.

VI. Technical Deficiencies:

None.

¹¹ Section 768.28(5), F.S.

VII. Related Issues:

An unintended consequence of the bill could be that a seller who advertises extensively on a classified advertising website sets up shop daily in the designated safe-haven facility to conduct business.¹²

The Board of Governors of the State University System indicates that making buildings on campus available to the public for these transactions may prove difficult. Parking on most campuses is extremely limited, and not provided on a free basis.¹³

VIII. Statutes Affected:

This bill creates section 501.181 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 17, 2015:

- Provides definitions for the following terms: “building,” “classified advertisement website,” “department,” “local safe-haven facility,” “sales transaction” or “transaction,” and “state safe-haven facility.”
- Encourages the Department of Management Services to designate a certain number of state safe-haven facilities in each county depending on the population of the county.
- Encourages local governments to designate local safe-haven facilities.
- Provides that government actors are not responsible for facilitating sales transactions and provides governments are not liable for the actions of the parties involved in the transaction.
- Provides that governments and their employees or agents are immune from liability for injuries arising out of sales transactions. Government employees may be liable if they acted in bad faith, outside the scope of employment, or with malicious purpose or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

¹² Florida Department of Transportation, *2015 Legislative Bill Analysis* (July 1, 2015).

¹³ Board of Governors of the State University System of Florida, *2015 Legislative Bill Analysis*.