

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 Fiscal Policy

BILL: SB 684

INTRODUCER: Senator Grimsley

SUBJECT: Convenience Businesses

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Siples</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Clodfelter</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	Pre-meeting

I. Summary:

SB 684 revises the Convenience Business Security Act. With one exception, the bill repeals the current exemption of certain family-owned and operated convenience businesses from enhanced security provisions required under the law. The bill repeals administrative fees associated with the approval of a mandated safety training curriculum, and repeals the requirement that the safety-training curriculum be submitted biennially for re-approval. The bill also deletes obsolete language.

The fiscal impact of this bill is indeterminate, but likely minimal (see Section V.).

II. Present Situation:

Convenience Business Security Act¹

In 1990, the Legislature passed the Convenience Business Security Act (the act) to deter violent crime and provide uniform, statewide protection for employees and patrons at late night convenience businesses. The provisions of the act are enforced by the Department of Legal Affairs (Office of the Attorney General).

¹ Sections 812.1701-812.175, F.S. A “convenience business” is defined as any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, that is open for business at any time between the hours of 11 p.m. and 5 a.m. The term does not include a business that is primarily a restaurant, that has at least 5 employees on the premises between 11 p.m. and 5 a.m., that has at least 10,000 square feet of retail space, or in which the owner or a member of the owner’s family work between the hours of 11 p.m. and 5 a.m.

Family Business Exception

The definition of “convenience business” in the act expressly states that it does not include businesses at which the owner or a member of the owner’s family works during the hours between 11 p.m. and 5 a.m.² Thus, the act currently does not apply to “family businesses.”

Minimum Security Standards

The act requires a convenience business to utilize the following minimum standards:³

- A security camera system that is capable of recording and retrieving an image to assist in offender identification and apprehension;
- A drop safe or management device for restricted access to cash receipts;
- A lighted parking lot;
- A conspicuous notice at the entrance that states that the cash register contains \$50 or less;
- Window signage that allows a clear and unobstructed view from outside the building and in a normal line of sight of the cash register and sales transaction area;
- Height markers at the business entrance that display height measures;
- A cash management policy that limits cash on hand between 11 p.m. and 5 a.m.;
- Window tinting that allows for identification of all persons in the sales transaction area from outside the business; and
- A silent alarm.⁴

Enhanced Security Standards⁵

The act requires any convenience business at which a murder, robbery, sexual battery, aggravated assault, aggravated battery, kidnapping, or false imprisonment has occurred to comply with at least one additional security measure. These security measures must be provided at all times between 11 p.m. and 5 a.m., and include:

- Providing at least two employees on the premises;
- Installing a transparent security enclosure for use by employees;
- Providing a security guard on the premises; or
- Locking the premises and transacting business through an indirect pass-through window.

After complying with these provisions for 24 months with no additional occurrence of the type of crimes indicated above, a business may file a notice of exemption from the enhanced security measures with the Office of Attorney General.

² Section 812.171, F.S.

³ See Office of the Attorney General, *Convenience Business Security Act – Helping to Create Safer Florida Convenience Businesses* (rev. Aug. 2010), available at [http://www.fcpti.com/fcpti.nsf/pics/01029BCED8A92DD0852578BD0062499E/\\$file/2011_Revised_Convenience_Store_Br_o.pdf](http://www.fcpti.com/fcpti.nsf/pics/01029BCED8A92DD0852578BD0062499E/$file/2011_Revised_Convenience_Store_Br_o.pdf) (last visited 4/3/2015). See also s. 812.173(1)-(3), F.S.

⁴ Pursuant to s. 812.173(3), F.S., a business may apply for an exemption to the silent alarm requirement with the Office of the Attorney General. The application for exemption must be in writing and include a \$25 administrative fee for each store for which the exemption is requested.

⁵ Section 812.173(4) and (5), F.S.

Training Requirements⁶

The act requires all employees of a convenience business to receive robbery deterrence and safety training within 60 days of employment. The convenience business must submit a proposed training curriculum to the Office of Attorney General for review and approval. The training curriculum must be submitted biennially for re-approval. The statute provides for submission of an administrative fee of no more than \$100 for the original and renewal approvals, but no fee is currently charged.

Enforcement⁷

The Office of the Attorney General enforces the provisions of the act.⁸ Upon finding a violation, the convenience business is provided with a notice and has 30 days to cure the violation. If the convenience business fails to correct the violation within 30 days, it may be subject to a civil fine of up to \$5,000. If the violation is determined to be a threat to health, safety, and public welfare, the Office of the Attorney General is authorized to pursue an injunction against the convenience business.

III. Effect of Proposed Changes:

Section 1 amends s. 812.171, F.S., to repeal the “family business exception” that specifically excludes a business in which the owner or members of the owner’s family work during the hours between 11 p.m. and 5 a.m., from the definition of “convenience business” that applies throughout the Convenience Business Security Act. This has the effect of requiring those convenience businesses to meet all of the minimum security standards of the act, unless otherwise exempted.

Section 2 amends s. 812.173(5), F.S., relating to the requirement for convenience businesses to maintain specified enhanced security measures required in s. 812.173(4), F.S., if certain violent crimes have occurred at the business. The bill exempts convenience businesses at which the owner or members of the owner’s family work during the hours between 11 p.m. and 5 a.m. from this requirement. This retains the current exemption from the requirement for enhanced security measures that would otherwise be lost because of the change in Section 1 to the definition of “convenience business.”

This section of the bill also repeals an obsolete provision that required the Office of the Attorney General to provide notice to any business that required the additional security measures as of the date the act became law in 1992.

Section 3 amends s. 812.174, F.S., to repeal:

- The requirement for a convenience business to resubmit a safety training curriculum to the Office of the Attorney General biennially;

⁶ Section 812.174, F.S.

⁷ Section 812.175, F.S.

⁸ Section 812.175(4), F.S., authorizes the Office of Attorney General to enter into agreements with local governments to assist in the enforcement of the act.

- Authorization for the Office of the Attorney General to charge administrative fees associated with original submission and review of the safety training curriculum (\$100 for each); and
- Obsolete language related to the enactment of the act in 1992.

The repeal of the family business exception from the definition of “convenience business” in Section 1 of the bill has the effect to require new employees of convenience businesses at which the owner or a member of the owner’s family works during the hours between 11 p.m. and 5 a.m. to receive robbery deterrence and safety training. Such businesses are currently exempt from this training requirement.

Section 4 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the counties’ or municipalities’ ability to raise revenue, or reduce the percentage of a state tax shared with counties and municipalities.

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:

The bill will affect convenience businesses at which the owner or a member of the owner’s family works during the hours between 11 p.m. and 5 a.m. to the extent that the business must make modifications to comply with security measures required by the act.

C. Government Sector Impact:

The fiscal impact of this bill is indeterminate but likely minimal. The Office of the Attorney General does not currently collect the administrative fees for original and biennial review of training curriculum that are repealed by the bill. However, the bill’s repeal of the requirement for biennial submission of training curriculum re-approval may

have a positive fiscal impact due to the reduction of costs incurred by the Office of the Attorney General that may be attributed to that process.⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 812.171, 812.173, 812.174.

IX. Additional Information:

A. Committee Substitute – Statement of 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.

⁹ The Department of Legal Affairs has not yet provided an analysis of the bill.