

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 Community Affairs

BILL: SB 1152

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Classified Advertisement Websites

DATE: February 15, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	Pre-meeting
2.	_____	_____	AGG	_____
3.	_____	_____	FP	_____

I. Summary:

SB 1152 authorizes the Department of Management Services, and encourages local governments, to designate safe-haven facilities for sales transactions for items advertised on classified advertisement websites.

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

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 (last visited February 10, 2016).

² *Id.*

³ *Id.*

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 Several other police departments across the state are also implementing safe havens, including Port Orange, Flagler, and Pinecrest.⁹ Miami-Dade has designated 11 safe haven locations, of which 8 are open 24 hours, 7 days a week.¹⁰

III. Effect of Proposed Changes:

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

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 authorized to designate at least:

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/> (last visited February 10, 2016).

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> (last visited February 10, 2016).

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 (last visited February 10, 2016).

⁹ Matt Bruce, *Flagler Beach Police Station Doubles as Safe Haven for Online Deals*, The Daytona Beach News Journal, (May 13, 2015), available at <http://www.news-journalonline.com/article/20150513/NEWS/150519775?p=1&tc=pg> (last visited February 10, 2016); Lyda Longa, *Port Orange Police Sets up Safe Spot for Craigslist Transactions*, The Daytona Beach News Journal, (August 25, 2015), available at <http://www.news-journalonline.com/article/20150825/NEWS/150829664> (last visited February 10, 2016); CBS Miami, *Pinecrest Police Now a Safe Haven for Craigslist Transactions*, (October 15, 2015), available at <http://miami.cbslocal.com/2015/10/15/pinecrest-police-now-a-safe-haven-for-craigslist-transactions/> (last visited February 10, 2016).

¹⁰ Miami-Dade Police Department, *Using the Internet to Buy or Sell Items?*, <http://www.miamidade.gov/police/safe-haven-for-exchanges.asp> (last visited February 10, 2016).

- 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 or more.

Based on the 2010 census, 6 counties would require 4 state safe-haven facilities, 15 counties would require 2 facilities, and 46 counties would require 1 safe-haven facility.¹¹

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, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ Department of Management Services, *Senate Bill 1152 Analysis* (February 11, 2016) (on file with the Senate Committee on Community Affairs).

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.¹²

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 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:

The Florida Department of Transportation has suggested adding the word “not” to line 28 preceding the word “caused,” for clarification purposes.¹³

¹² Section 768.28(5), F.S.

¹³ Florida Department of Transportation, *Senate Bill 1152 Analysis* (February 11, 2016) (on file with the Senate Committee on Community Affairs).

VII. Related Issues:

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.¹⁴

The Department of Management Services expressed that “easily accessible” is not defined within the bill, and could use clarification. Additionally, the bill is not specific as to what makes a designated facility safe, and should also be clarified. DMS also states that it is unclear as to what entity, or who, is responsible for ensuring that a designated state safe-haven facility is safe and meets the intent of the bill.¹⁵

VIII. Statutes Affected:

This bill substantially amends section 501.181 of the Florida Statutes.

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.

¹⁴ Board of Governors of the State University System of Florida, *Senate Bill 1152 Analysis* (January 16, 2016) (on file with the Senate Committee on Community Affairs).

¹⁵ Department of Management Services, *Senate Bill 1152 Analysis* (February 11, 2016) (on file with the Senate Committee on Community Affairs).