

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 Transportation

BILL: SB 1608

INTRODUCER: Senator Grimsley

SUBJECT: Agritourism Signage

DATE: February 5, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	TR	Pre-meeting
2.			ATD	
3.			AP	

I. Summary:

SB 1608 requires the Florida Department of Transportation (FDOT) to create a program to provide directional signs at certain locations on major public highways for commercial agricultural facilities that promote tourism by providing tours and onsite sales or samples of Florida agricultural products to tourists. The bill requires the directional signage to be placed in a manner that provides visitors with sufficient information to locate the agricultural facility.

To qualify for program participation, the agricultural facility must meet certain eligibility criteria, and must apply and be approved by the FDOT. Upon application, FDOT will assess the suitability of the facility for the program and the reasonable costs of the directional signs.

Lastly, the FDOT is required to adopt rules to administer the new law, and to coordinate with the Department of Agriculture and Consumer Services in administering the bill's provisions.

The FDOT will incur indeterminate administrative expenses associated with the required rulemaking, administration of the signage program, and coordinating with the Department of Agriculture and Consumer Services in administering the program. Whether the reasonable costs of creating and installing the directional signage are to be borne by the applicant or by the FDOT is unclear. See the "Effect of Proposed Changes" and "Fiscal Impact Statement" headings below for further details.

II. Present Situation:

Federal Law

Since the passage of the Highway Beautification Act (HBA) in 1965,¹ the Federal Highway Administration has established controls for outdoor advertising along Federal-Aid Primary, Interstate, and National Highway System (NHS) roads. The HBA allows the location of billboards in commercial and industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings. The HBA mandates state compliance and the development of standards for certain signs, as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.²

Under the provisions of a 1972 agreement³ between the State of Florida and the United States Department of Transportation incorporating the HBA's required controls, the Florida Department of Transportation (FDOT) requires commercial signs to meet certain requirements when they are within 660 feet of Interstate and Federal-Aid Primary highways in urban areas or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required "effective control of the erection and maintenance of outdoor advertising signs, displays, and devices."

State Law

Florida law currently authorizes a number of outdoor advertising signs, primarily in Chapter 479, F.S.⁴ Pursuant to its statutory authority,⁵ the FDOT administers a system of guide signs under Chapter 14-51, F.A.C., entitled "Florida's Highway Guide Sign Program," which includes guide signs,⁶ place name signs,⁷ community wayfinding guide signs,⁸ and tourist-oriented directional

¹ 23 U.S.C. 131.

² 23 U.S.C. 131(b).

³ A copy of the agreement is available at: <http://www.fdot.gov/rightofway/documents/AGREEMENT.pdf>. (Last visited February 1, 2018.)

⁴ As examples of signs authorized other than in Chapter 479, F.S., see s. 599.004, F.S., relating to signs on the rights-of-way of the limited access highway system for the Florida Farm Winery Program; s. 565.03, F.S., relating to signage for licensed craft distilleries; and s. 563.13, F.S., relating to Florida brewery directional signs. Chapter 14-51, F.A.C., addresses these signs respectively in Chapter 14-51.020(3)(h), (i), and (j); and in Chapter 14-51.030(3)(j), (k), and (l), F.A.C., available at: <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=14-51>. (Last visited February 1, 2018.)

⁵ Section 479.02(7), F.S.

⁶ "Guide sign" is defined to mean a sign that shows route designations, destinations, directions, distances, services, points of interest, or other geographical, recreational, or cultural information. Chapter 14-51.011(7), F.A.C.

⁷ "Place name sign" is defined to mean a sign identifying the geographic boundary of a municipality or county, lying on or along a road on the state highway system. Chapter 14-51.011(15), F.A.C.

⁸ "Community wayfinding guide sign" is defined to mean a directional guide sign that is part of a coordinated and continuous system of signs directing tourists

signs.⁹ No provision of current law or rule specifically addresses guide signage for commercial agricultural facilities.¹⁰

III. Effect of Proposed Changes:

The bill creates s. 604.71, F.S., relating to the Florida Agritourism Signage Program. The bill directs the FDOT to create and administer a program to provide and install directional signs for commercial agricultural facilities that promote tourism by providing tours and onsite sales or samples of Florida agricultural products to tourists. The signs will be located on major public highways at, or in reasonable proximity to, the nearest interchange or within one mile of roads leading to the Agritourism facility. Placement of directional signage must be at intervals in a manner that provides visitors with sufficient information to locate the agricultural facility.

To qualify for participation in the program, an agricultural facility must:

- Be open for business at least four days a week for 10 months of the year;
- Have a working growing or ranching area of at least two acres that can be toured from the facility location specified in the signage;
- Offer tours of the growing and ranching area; and
- Apply to and be approved by the FDOT.

Upon application by a facility, the FDOT must assess:

- The facility as to its suitability for the program; and
- The reasonable costs of creating and installing directional signs.

Because the bill's language only authorizes FDOT to "assess" the suitability and costs of the signage, but does not specifically provide for who will pay for reimbursement of these costs, it is unclear whether these costs are to be borne by the applicant or by the FDOT.¹¹

The bill directs the FDOT to adopt rules to administer the new section of law, including, but not limited to, an application and approval process for applicants.

Lastly, the FDOT is required to coordinate with the Department of Agriculture and Consumer Services in administering the new section of law.

The bill takes effect on July 1, 2018.

⁹ "Tourist oriented directional signs" or "TODS" means guide sign assemblies with individual panels displaying the identity and directional information for a business, service, or activity facilities. Per s.479.262, F.S., this program is authorized only when approved and permitted by county or local governmental entities within their respective jurisdictional areas.

¹⁰ However, the subject legislation appears to be modeled in a fashion similar, but not identical, to the Florida Farm Winery Program contained in Chapter 599, entitled "Viticulture," which is the production and utilization of grapes. Section 599.001(1), F.S.

¹¹ Section 599.004(2)(c), F.S., requires each certified Florida Farm Winery requesting an authorized sign to be responsible for all costs for placing each sign. The cost for placement is limited to a maximum of \$250, and the annual permit fee is limited to \$50. Section 563.13, F.S., requires a brewery licensed in this state and requesting a directional sign through the FDOT's permit process to pay all associated costs; and s. 565.03(6), F.S., requires the same for a licensed craft distillery requesting a directional sign.

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:

Whether the reasonable costs of creating and installing the directional signage are to be borne by the applicant or by the FDOT is unclear. If the applicant is responsible, the applicant will incur expenses in an amount representing the reasonable costs of creating and installing the directional signs, as determined by the FDOT.

C. Government Sector Impact:

The FDOT will incur indeterminate administrative expenses associated with the required rulemaking, administration of the signage program, and coordinating with the Department of Agriculture and Consumer Services in administering the program.

Whether the reasonable costs of creating and installing the directional signage are to be borne by the applicant or by the FDOT is unclear. If the FDOT is responsible, the FDOT will also incur these costs in an indeterminate amount, depending on the number of applicants and signs installed.

The FDOT has indicated it has no concerns regarding federal law.¹²

VI. Technical Deficiencies:

None.

¹² Telephone conversation with FDOT staff January 11, 2018. A conflict with federal law could impact the state's annual federal-aid highway apportionment.

VII. Related Issues:

Because the bill's language only authorizes FDOT to "assess" the suitability and costs of the signage, but does not specifically provide for who will pay for reimbursement of these costs, it is unclear whether the reasonable costs of creating and installing the directional signage are to be borne by the applicant or by the FDOT. The FDOT has requested clarification that the signs will be installed by permit at the agricultural facility's expense.¹³

VIII. Statutes Affected:

This bill creates the following section of the Florida Statutes: 604.71.

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.

¹³ See the FDOT email dated February 1, 2018. (On file in the Senate Transportation Committee.)