

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 Criminal Justice

BILL: CS/SB 1594

INTRODUCER: Criminal Justice Committee and Senator Powell

SUBJECT: Firesafety Inspectors

DATE: February 11, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1594 creates s. 633.217, F.S., to prohibit certain actions taken to influence a firesafety inspector to violate the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S., or offering any compensation to a firesafety inspector to induce such violation.

The bill also prohibits a firesafety inspector from knowingly and willfully accepting an attempt by a person to influence the firesafety inspector to commit such violation.

The bill does not provide for a specific penalty. Therefore, the described offenses are second degree misdemeanors pursuant to s. 633.124(1), F.S. (general criminal penalties for violations of ch. 633, F.S.).

The bill does not have a state prison bed impact because no felony penalties are created. The second degree misdemeanor penalties for the offenses created by the bill may have a positive indeterminate impact on county jails.

The bill takes effect July 1, 2020.

II. Present Situation:

Division of the State Fire Marshal

State law on fire prevention and control¹ designates the Chief Financial Officer as the State Fire Marshal, operating through the Division of the State Fire Marshal (Division).² Pursuant to this authority, the State Fire Marshal:

- Regulates, educates or trains, and certifies fire service personnel;³
- Investigates the causes of fires;⁴
- Enforces arson laws;⁵
- Regulates the installation and maintenance of fire equipment;⁶
- Conducts firesafety inspections of state buildings;⁷
- Develops firesafety standards;⁸
- Provides testing facilities for testing firefighting equipment;⁹ and
- Operates the Florida State Fire College.¹⁰

The Division consists of two bureaus: the Bureau of Fire Standards and Training and the Bureau of Fire Prevention. The Bureau of Firefighter Standards and Training approves firefighter training curricula, offers fire service training at the Florida State Fire College, and certifies that fire service members meet industry-based standards. The Bureau of Fire Prevention conducts fire/life safety inspections and construction plans review on all state-owned buildings; regulates the fireworks and the fire sprinkler industries, inspects and licenses boilers, and certifies fire suppression industry workers.¹¹

Florida Fire Prevention Code

The State Fire Marshal adopts by rule the Florida Fire Prevention Code (FFPC), which contains all firesafety laws and rules that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules.¹² The State Fire Marshal adopts a new edition of the FFPC every three years.¹³ The FFPC includes national firesafety and life safety standards set forth by the National Fire Protection Association (NFPA).¹⁴

¹ Chapter 633, F.S., and s. 633.104(1), F.S.

² The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of the State Fire Marshal is located within the DFS. Section 20.121, F.S.

³ Section 633.128(1), F.S., and Part IV, ch. 633, F.S. (Fire Standards and Training).

⁴ Sections 633.104(2)(e) and 633.112, F.S.

⁵ Section 633.104(2), F.S.

⁶ Sections 633.104(2)(b) and 633.104(2)(c), F.S., and Part II, ch. 633, F.S. (Fire Protection and Suppression).

⁷ Section 633.218, F.S.

⁸ Part II, ch. 633, F.S. (Fire Safety and Prevention).

⁹ Section 633.432, F.S.

¹⁰ Section 633.128(1)(h)–(q), F.S. See ss. 633.428–633.434, F.S.

¹¹ *What We Do*, Division of State Fire Marshal, available at <https://www.myfloridacfo.com/Division/sfm/> (last visited on Feb. 3, 2020).

¹² Section 633.202(1), F.S., and ch. 69A-60, F.A.C.

¹³ *Id.*

¹⁴ Section 633.202(2), F.S. Founded in 1896, the NFPA is a global, nonprofit organization devoted to eliminating death, injury, property and economic loss due to fire, electrical and related hazards. It has developed over 300 voluntary consensus

Firesafety Enforcement by Local Governments

State law requires all municipalities, counties, and special districts with firesafety responsibilities to enforce the FFPC as the minimum fire prevention code, which operates uniformly among local governments and in conjunction with the Florida Building Code.¹⁵ These local enforcing authorities may adopt more stringent firesafety standards, subject to certain requirements in s. 633.208, F.S.,¹⁶ but may not enact firesafety ordinances which conflict with ch. 633, F.S., or any other state law.¹⁷

The chiefs of local government fire service providers (or their designees) are authorized to enforce ch. 633, F.S., and the rules prescribed by the State Fire Marshal within their respective jurisdictions as agents of those jurisdictions, not agents of the State Fire Marshal.¹⁸ Each county, municipality, and special district with firesafety enforcement responsibilities is also required to employ or contract with a firesafety inspector (certified by the State Fire Marshal) to conduct all firesafety inspections required by law.¹⁹

Firesafety Inspectors

Section 633.102(12), F.S., defines a firesafety inspector as an individual who holds a current and valid Fire Safety Inspector Certificate of Compliance issued by the Division under s. 633.216, F.S., who is officially assigned the duties of conducting firesafety inspections of buildings and facilities on a recurring or regular basis on behalf of the state or any county, municipality, or special district with fire safety responsibilities.²⁰ The Bureau of Firefighter Standards and Training issues certifications for Firesafety Inspector I and Firesafety Inspector II.²¹

A person applying for certification as a Firesafety Inspector I must:

- Be a high school graduate or the equivalent and at least 18 years of age;
- Not have been convicted of a misdemeanor relating to the certification or to perjury or false statements, or a felony or a crime punishable by imprisonment of one year or more, or be dishonorably discharged from the Armed Forces of the United States;
- Submit a set of fingerprints to the Division with a current processing fee;
- Have a good moral character;
- Be in good physical condition as determined by a medical examination; and

codes and standards in the areas of fire, electrical, and building safety which are widely used by state and local officials. *About NFPA*, National Fire Protection Association, available at <http://www.nfpa.org/about-nfpa> (last visited on Feb. 3, 2020).

¹⁵ Sections 633.108 and 633.208, F.S.

¹⁶ See Rule 69A-60.002, F.A.C.

¹⁷ Section 633.214(4), F.S. The State Fire Marshal maintains a list of local amendments to the FFPC. This information is available at <https://www.myfloridacfo.com/Division/SFM/bfp/LocalAmendments.htm> (last visited on Feb. 3, 2020).

¹⁸ Section 633.118, F.S.

¹⁹ Section 633.216(1) and (2), F.S.

²⁰ See s. 633.214(1)(a), F.S.

²¹ Section 633.216(2), F.S., and *Firesafety Inspector I Certification* (Feb. 4, 2016), Bureau of Fire Standards and Training, Division of State Fire Marshal, available at <https://www.myfloridacfo.com/division/sfm/bfst/Documents/FiresafetyInspectorI.pdf> (last visited on Feb. 3, 2020).

- Be a nonuser of tobacco or tobacco products for at least one year immediately preceding application.²²

A Firesafety Inspector I Certificate of Compliance will be issued by the Division to an individual who:

- Successfully completes a minimum of 200 hours of basic certification training for firesafety inspectors, or has received equivalent training in another state; and
- Passes a state written examination.²³

The Firesafety Inspector I Certificate of Compliance is valid for a period of four years from the date of issuance. Renewal of this certificate includes completion of at least 54 hours of continuing education during the preceding four-year period.²⁴

A Firesafety Inspector II Certificate of Compliance will be issued by the Division to an individual who:

- Is certified as a Firesafety Inspector I; and
- Successfully completes a minimum of 160 hours of certification training for Firesafety Inspector II, or has received equivalent training in another state.²⁵

General Criminal Penalties for Violation of Ch. 633, F.S.

Section 633.124(1), F.S., generally provides that a person who violates any provision of ch. 633, F.S., relating to fire prevention or control, any order or rule of the State Fire Marshal, or any order to cease and desist or to correct conditions issued under ch. 633, F.S., commits a second degree misdemeanor. A second degree misdemeanor is punishable by up to 60 days in county jail and a fine not exceeding \$500.²⁶

III. Effect of Proposed Changes:

The bill creates s. 633.217, F.S., which prohibits:

- A person from influencing a firesafety inspector by threatening, coercing, tricking, or attempting to threaten, coerce, or trick a firesafety inspector into violating any provision of the Florida Fire Prevention Code, any rule adopted by the State Fire Marshal, or any provision of ch. 633, F.S., or offering any compensation to a firesafety inspector to induce such violation; and
- A firesafety inspector from knowingly and willfully accepting an attempt by a person to influence the firesafety inspector to commit such violation.

²² Sections 633.216(2) and 633.412(1)-(4), F.S.

²³ Section 633.216(2), F.S.

²⁴ Section 633.216(4), F.S., and Rules 69A-39.003, 69A-39.005, and 69A-39.009, F.A.C.

²⁵ Sections 633.216(2) and s. 633.216(8), F.S., and *Firesafety Inspector II Certification* (Sept. 26, 2012), Bureau of Fire Standards and Training, Division of State Fire Marshal, available at <https://www.myfloridacfo.com/division/sfm/bfst/Documents/FiresafetyInspectorII.pdf> (last visited on Feb. 3, 2020).

²⁶ Sections 775.082 and 775.083, F.S.

The bill does not provide for a specific penalty. Therefore, the described offenses are second degree misdemeanors pursuant to s. 633.124(1), F.S. (general criminal penalties for violations of ch. 633, F.S.).

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The second degree misdemeanor penalties in s. 633.124(1), F.S., which are applicable to the offenses created by the bill, may have an indeterminate but positive county jail bed impact. However, punishment of criminal offenses is exempt from the requirements of Art. VII, s. 18(d) of the Florida Constitution, relating to unfunded mandates.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not create felony penalties so the bill does not have a state prison bed impact. The second degree misdemeanor penalties in s. 633.124(1), F.S., which are applicable to the offenses created by the bill, may have an indeterminate but positive county jail bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 633.217 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 Criminal Justice on February 11, 2020:

Revises the acts that constitute unlawfully influencing a firesafety inspector by removing reference to “persuading, interfering with, or otherwise influencing” a firesafety inspector (or attempting to do these acts).

- B. **Amendments:**

None.