

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 Commerce and Tourism

BILL: SB 1150

INTRODUCER: Senator Ingoglia

SUBJECT: Department of Agriculture and Consumer Services

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Pre-meeting
2.			AEG	
3.			FP	

I. Summary:

SB 1150 addresses various issues related to the Department of Agriculture and Consumer Services' (department) Divisions of Licensing and Consumer Services. Specifically the bill:

- Allows Class “K” initial applicants to provide military experience as a firearms instructor, or a valid firearms instructor certificate issued by a federal law enforcement agency within the last three years, in lieu of having to obtain other firearms training through certain certifications;
- Allows Class “K” licensees renewing their license to demonstrate continued firearms qualifications by teaching at least six classes during the three-year licensure period in lieu of having to obtain certain firearm training;
- Allows a Class “G” licensee to provide proof of annual training under the Law Enforcement Officers’ Safety Act to be used in lieu of four hours of annual training;
- Allows the Division of Licensing to set or waive license renewal late fees by administrative rule;
- Authorizes the department to post online licensure newsletters and pamphlets in lieu of using a paper format;
- Removes the applicant’s requirement to complete the application under oath;
- Reduces the registration fees from \$75 per year to \$10 per year for certain charities receiving \$50,000 or less in contributions, as well as exempts from registration certain charities receiving \$50,000 or less in total annual revenues;
- Clarifies the definition for a “Category I liquefied petroleum gas dealer” to provide that a dealer is any person who designs the apparatus, piping, tubing, appliances, and equipment for the use of liquefied petroleum or natural gas; and
- Creates criminal penalties for the possession, installation, use, or aiding in the use of contaminant devices inserted into retail fuel dispensers from its standard operation or impeding standard functionality. The bill also creates criminal penalties for possessing or using an auxiliary fuel tank to commit retail fuel theft.

The Legislature’s Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds) on criminal penalties for retail fuel theft. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

The present situation for each issue is described below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

The mission of the department is to support and promote Florida agriculture, protect the environment, safeguard consumers, and ensure the safety and wholesomeness of food.¹

This bill modifies licensing and consumer services provisions under the department’s jurisdiction.

Division of Licensing (Sections 1, 2, 3, 4, & 5)

Present Situation

The Division of Licensing within the department is responsible for investigating and issuing licenses for private security industries including Class “G” Statewide Firearm licenses and Class “K” firearms instructors.²

Class “G” Statewide Firearm License

A Class “G” license is a supplemental license that permits specific licensees to carry a firearm during the course of their licensed, employment-related activity. A Class “G” license is available only to individuals who currently hold one of the following licenses:

- Private investigator (Class “C”);
- Private investigator intern (Class “CC”);
- Security officer (Class “D”);
- Private investigative or security agency manager (Class “M”);
- Private investigative agency manager (Class “MA”); or
- Security agency manager (Class “MB”).³

Application and Training Requirements for Class “G” Licensees

An initial applicant for a Class “G” license must complete firearm training, which must include at least 28 hours of range and classroom training either by in-person instruction, or via live instruction through a secure website, with no more than eight hours consisting of in-person range

¹ Department of Agriculture and Consumer Services, *About Us*, available at <https://www.fdacs.gov/About-Us> (last visited March 10, 2023).

² Chapter 493, F.S.

³ Section 493.6115(2), F.S.

training which must include safe handling and storage of firearms. The training must be administered and taught by a Class “K” licensee who verifies the identity and attendance of the applicant.⁴

The Class “G” applicant must submit a training certificate to the department upon completion of the training. Additionally, the Class “K” licensee who provided the training must submit results directly to the department’s Division of Licensing and provide a copy of the training results to the trainee.⁵ An applicant who was discharged within the last 12 months from service as a military officer, and has completed specific military courses is deemed to have completed a substantially similar training, and is exempt from the 28 hours of range and classroom training required for a Class “G” initial license.⁶

The “Class G” license must be renewed every two years.⁷ Class “G” licensees must annually complete four hours of firearms requalification training for each caliber of firearm that he or she carries in the course of his or her duties.⁸ The department may waive the firearms training requirement if:

- Proof is provided showing the applicant is currently certified as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the previous two years of the licensure period;
- The applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the previous two years of the licensure period; or
- The applicant submits one of the valid firearm certificates required for a Class “K” initial license and provides proof of having completed requalification training during the previous two years of the licensure period.⁹

A Class “G” licensee who fails to file a renewal application on or before its expiration must renew the license by fulfilling all renewal application requirements and pay a late fee equal to the amount of the Class “G” license fee.¹⁰

Application and Training Requirements for Class “K” Firearms Instructor Licensees

Class “K” Firearms Instructor Licensees provide classroom or range instruction to applicants for a Class “G” license.¹¹ The initial applicant for a Class “K” license must submit one of the following certificates to demonstrate continued firearms qualifications:

- The Florida Criminal Justice Standards and Training Commission Instructor Certificate and written confirmation by the commission that the applicant possesses an active firearms certificate.

⁴ Section 493.6105(5), F.S. *See also* Fla. Admin. Code R. 5N-1.132(1)(a).

⁵ *Id.*

⁶ Fla. Admin Code R 5N-1.119

⁷ Section 493.6113(1), F.S.

⁸ Section 493.6113(3)(b), F.S.

⁹ *Id.*

¹⁰ Section 493.6113(4), F.S.

¹¹ Sections 493.6101(14) and 493.6115(7), F.S.

- A valid National Rifle Association Private Security Firearm Instructor Certificate issued not more than three years before the submission of the application.
- A valid firearms instructor certificate issued by a federal law enforcement agency issued not more than three years before the submission of the application.¹²

The initial applicant must also pay the fee for and pass an examination administered by the department.¹³

Class “K” instructors must renew their license every three years¹⁴ and submit one of the certificates, listed above, as proof that he or she remains certified to provide firearms instruction.¹⁵ A Class “K” licensee who fails to file a renewal application on or before its expiration must renew the license by fulfilling all renewal application requirements and pay a late fee equal to the amount of the Class “K” license fee.¹⁶

Recovery agent and security officer school or training facility

Any school, training facility, or instructor who offers training for recovery agents or security officers must file an application with the department which requires the application to be signed and verified by the applicant under oath.¹⁷

Department Publication to the Industry¹⁸

The department periodically publishes newsletters and pamphlets advising licensees of certain information that is of interest to the industry as well as the legal authority, rights, and obligations for various classes of licensure. The newsletter also contains administrative complaints against licensed or unlicensed persons or agencies. The newsletter must be published between two to four times annually, while the pamphlet must be updated every two years as necessary.

Effect of Proposed Changes

Section 1. The bill amends s. 493.6105, F.S., to add a valid DD Form 214 to the list of certificates an initial applicant for a Class K” license may provide. The DD Form 214 cannot be issued more than three years before the submission of the Class “K” application, and must state that the applicant has been honorably discharged and served no less than three years in the military as a firearms instructor.

Section 2. The bill amends s. 493.6113, F.S., to provide that the department may waive the four-hour annual firearms training requirement for a Class “G” license renewal if the applicant provides proof that he or she has completed annual firearms training in accordance with the requirements of the federal Law Enforcement Officers Safety Act.¹⁹

¹² Section 493.6105(6)(a), F.S.

¹³ Section 493.6105(6)(b), F.S.

¹⁴ Section 493.6113(1), F.S.

¹⁵ Section 493.6113(3)(d), F.S.

¹⁶ Section 493.6113(4), F.S.

¹⁷ Sections 493.6304(2) and 493.6406(2), F.S.

¹⁸ Section 493.6123(1), F.S.

¹⁹ See 18 U.S.C., ss. 926B-926C.

The bill provides that a Class “K” licensee renewing their license to demonstrate continued firearms qualifications can provide proof of having taught at least six 28-hour firearms instruction courses to Class “G” applicants during the previous 3-year license period in lieu of having to obtain other firearms training through either a valid Florida Criminal Justice Standards and Training Commission Instructor Certificate, a valid National Rifle Association Private Security Firearm Certificate, or a valid firearms instructor certificate issued by a federal law enforcement agency issued within the last three years.

Pertaining to the failure to renew an application on or before the expiration date of the license, the bill allows the division to set or waive a license renewal late fee by administrative rule. The late fee may not exceed the amount of the license fee.

Section 3. The bill amends s. 493.6123, F.S., to authorize the department to publish licensure newsletters and pamphlets online in lieu of using a paper format.

Sections 4 and 5. The bill amends ss. 493.6304 and 493.6406, F.S., to remove the applicant’s requirement to complete the application under oath.

Charitable Organization Fees (Sections 6 & 7)

Present Situation

Organizations that intent to solicit donations in Florida are required to register with the department pursuant to the Solicitation of Contributions Act.²⁰ The Act contains basic registration, financial disclosures, and notification requirements for charitable organizations and sponsors, fundraising consultants, and solicitors.

Every charitable organization, sponsor,²¹ or parent organization²² must pay a single registration fee as follows:

- Ten dollars if the contributions received for the last fiscal year were less than \$5,000; or
 - Ten dollars if the contributions actually raised or received from the public during the immediately preceding fiscal year by the organization or sponsor are no more than \$25,000 and the fundraising activities are carried on by certain entities who are not compensated;
- Seventy-five dollars if the contributions received for the last fiscal year were \$5,000 or more, but less than \$100,000;
- One hundred twenty-five dollars if the contributions received for the last fiscal year were \$100,000 or more but less than \$200,000;

²⁰ Section 496.401, F.S.

²¹ Section 496.404(25), F.S., defines a “sponsor” as a group or person who holds herself or himself out to be soliciting contributions by the use of a name that implies the group or person is in any way affiliated with or organized for the benefit of emergency service employees or law enforcement officers and the group or person is not a charitable organization.

²² Section 496.404(18), F.S. defines a “parent organization” as part of a charitable organization or sponsor that coordinates, supervises, or exercises control over policy, fundraising, and expenditures or assists or advises one or more of the organization’s chapters, branches, or affiliates in Florida.

- Two hundred dollars if the contributions received for the last fiscal year were \$200,000 or more but less than \$500,000;
- Three hundred dollars if the contributions received for the last fiscal year were \$500,000 or more but less than \$1 million;
- Three hundred fifty dollars if the contributions received for the last fiscal year were \$1 million or more but less than \$10 million; and
- Four hundred dollars if the contributions received for the last fiscal year were \$10 million or more.²³

Certain persons and organizations are exempt from these registration fees and requirements including a charitable organization that has less than \$25,000 in total revenue so long as they did not employ professional solicitors or have paid employees.²⁴

Effect of Proposed Changes

Section 6. The bill amends s. 496.405, F.S., to reduce the registration fees from \$75 per year to \$10 per year for certain charities receiving \$50,000 or less in contributions. Currently, the threshold is \$25,000.

Section 7. The bill amends s. 496.406, F.S., to exempt from registration certain charities receiving \$50,000 or less in total annual revenues. Currently, the threshold is \$25,000.

Liquefied Petroleum Gas (Section 8)

Present Situation

The department regulates the licensing, inspection and training requirements relating to the liquefied petroleum gas (LPG) industry.²⁵ Section 527.01, F.S., provides definitions for numerous LPG license categories.

Effect of Proposed Changes

Section 8. The bill amends s. 527.01, F.S. to clarify that a “Category I liquefied petroleum gas dealer” includes any person who designs the apparatus, piping, tubing, appliances, and equipment for the use of liquefied petroleum or natural gas.

The term “Category V LP gas installer” is also revised to include a person whose services include the design of apparatus, piping, tubing, tanks, and equipment for the use of liquefied petroleum or natural gas.

²³ Section 496.405(4)(a), F.S.

²⁴ Section 496.406(1)(d), F.S.

²⁵ Chapter 527, F.S.

Retail Fuel Theft (Section 9)

Present Situation

The department regularly inspects petroleum distribution systems and samples of petroleum products to ensure consistency as well as retail gas stations to ensure fuel dispensers are working safety and properly.²⁶

A fuel pulser is a plastic device connected to the fuel pump dispenser meter housed within the fuel pump. The pulse converts the mechanical movement of the fuel meter, and then sends electrical pulses to control the dispenser's electronic display.²⁷

The pulsers can be replaced by an altered pulser that interrupts the electrical signal.²⁸ This enables the ability to obtain large amounts of gas for a small percentage of the cost. In Hillsborough County, \$60,000 worth of gasoline was stolen from two different gas stations by individuals using the pulsar manipulation devices.²⁹ In Lakeland, two individuals were caught while filling up a large gas tank in the back of a pickup truck after accessing the inside of the fuel pump.³⁰

The use of these devices is not just an issue in Florida. It is happening in other states as well. In Arizona, the Senate is considering a bill that would make the possession of a pulsar manipulation device a class 3 felony.³¹

Currently, law enforcement relies on s. 316.80, F.S., for fuel theft crimes; however, the statute does not address fuel pulsers and only penalizes the use of conveyances or vehicles equipped with auxiliary fuel tanks or bladders which do not comply with applicable federal regulation.³²

Retail Theft

Section 812.014(1), F.S., provides that a person commits “theft” if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently

- Deprive the other person of a right to the property or a benefit from the property; or

²⁶ Florida Department of Agriculture and Consumer Services, *Petroleum Inspection*, available at <https://www.fdacs.gov/Business-Services/Petroleum-Inspection> (last visited March 10, 2023).

²⁷ Florida Department of Agriculture and Consumer Services, *SB 1150 Analysis*. On file with the Senate Commerce and Tourism Committee.

²⁸ *Id.*

²⁹ Matthew Impelli, *Fuel Thieves Used ‘Homemade Device’ to Steal \$60,000 in Gas, Police Say*, Newsweek, April 4, 2022, available at <https://www.newsweek.com/fuel-thieves-used-homemade-device-steal-60000-gas-police-say-1694856> (last visited March 10, 2023).

³⁰ Catherine Hawley, *Florida men accused of tampering with gas pumps, stealing fuel in Bay area*, Fox 13 News, March 17, 2022, available at <https://www.fox13news.com/news/florida-men-accused-of-tampering-with-gas-pumps-stealing-fuel-in-bay-area> (last visited March 10, 2023).

³¹ Morgan Loew, *Arizona Senate committee votes to outlaw fuel theft devices*, 3TV/CBS 5, Feb. 3, 2023, available at <https://www.azfamily.com/2023/02/03/arizona-senate-committee-votes-outlaw-fuel-theft-devices/> (last visited March 10, 2023).

³² Supra note 27.

- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.

The statute punishes “grand theft” and “petit theft”. Grand theft is more severe than petit theft penalties and is typically theft of property valued at \$750 or more. Petit theft is generally theft of property valued at less than \$750.

While theft is generally punished in s. 812.014, F.S., and thefts from retailers can be punished under that statute, s. 812.015, F.S., is specifically directed at punishing “retail theft,” which the statute defines as “the taking possession of or carrying away of merchandise,³³ property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant³⁴ of possession, use, benefit, or full retail value.”³⁵

Section 812.015(8), F.S., provides that it is a third degree felony³⁶ to commit retail theft, if the property stolen is valued at \$750 or more, and the person:

- Individually commits retail theft, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, which may occur through multiple acts of retail theft, in which the amount of each individual theft is aggregated within a 30-day period to determine the value of the property stolen;
- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in the control of another person in exchange for consideration, in which the stolen property taken or placed within a 30-day period is aggregated to determine the value of the stolen property;
- Individually, or in concert with one or more other persons, commits theft from more than one location within a 30-day period, in which the amount of each individual theft is aggregated to determine the value of the property stolen;
- Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant’s employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense; or
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box.

Seized or Forfeited Property

The Florida Contraband Forfeiture Act (act)³⁷ provides for the seizure and civil forfeiture of property related to criminal and non-criminal violations of the law.³⁸ Contraband and other

³³ “Merchandise” means “any personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant.” Section 812.015(1)(a), F.S.

³⁴ “Merchant” means “an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise.” Section 812.015(1)(b), F.S.

³⁵ Section 812.015(1)(d), F.S.

³⁶ A third degree felony is generally punishable by not more than five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

³⁷ See ss. 932.701-932.7062, F.S.

³⁸ Section 932.701(1), F.S.

property may be seized when utilized during a violation of, or for the purpose of violating, the act. Property constituting a “contraband article” includes, but is not limited to, motor fuel upon which the motor fuel tax has not been paid as required by law; vehicles of any kind which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony; and personal property including equipment, which was used or was attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony.³⁹

Currently, any contraband article, vessel, motor vehicle, aircraft, other personal property, or real property used in violation of any provision of the act, or in, upon, or by means of which any violation of the act has taken or is taking place, may be seized and forfeited subject to the act.⁴⁰

If the court finds that the seizure occurred lawfully⁴¹ and that probable cause exists for the seizure, the forfeiture may proceed as set forth in the act.⁴²

Effect of Proposed Changes

Section 9. The bill creates s. 812.0151, F.S. relating to retail fuel theft. The bill provides for criminal penalties for the possession, installation, use, or aiding in the use of contaminant devices insert into retail fuel dispensers for the purpose of fraudulently altering, manipulating, or interrupting a retail fuel dispenser from its standard operation or impeding standard functionality.

Specifically, a person commits a third degree felony when the person:

- Intentionally breaches, causes to be breached, or gains access without authorization to any internal portion of a retail fuel dispenser;
- Uses any form of electronic communication from a device such as a wireless remote, computer, or other device which alters, tricks, or manipulates a retail fuel dispenser;
- Obtains fuel as a result of a violation of this section;
- Aids, abets, or assists in a violation of this section;
- Has possession of any item used to hold fuel which was not fitted to a vehicle or conveyance⁴³ at the time of manufacture with the intent to use the item, or allow the item to be used; or
- Modifies a vehicle’s factory installed fuel tank for the purpose of committing, attempting to commit, or aiding, abetting, or assisting someone.

Additionally, a person commits a second degree felony⁴⁴ when the person:

- Tamper with, manipulates, removes, replaces, or interrupts any mechanical or electronic component located within a retail fuel dispenser for the purpose of devising or executing any scheme or artifice to defraud or obtain property; or

³⁹ Section 932.701(2)(a)4, 5, and 7, F.S.,

⁴⁰ Section 932.703(1)(a), F.S.

⁴¹ Section 932.703(1)(a), F.S., sets forth the circumstances that permit for a lawful seizure of property.

⁴² Section 932.703(2)(c), F.S.

⁴³ Section 810.011(3), F.S., defines “conveyance” to mean any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car; and “to enter a conveyance” includes taking apart any portion of the conveyance.

⁴⁴ A second degree felony is generally punishable by not more than 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

- Possesses, uses, or installs any device constructed for the purpose of fraudulently altering, manipulating, or interrupting a retail fuel dispenser from standard operation or impeding the retail fuel dispenser's functionality *while* using any form of electronic communication from a device such as a wireless remote, computer, or other device that alters, tricks, or manipulates a retail fuel dispenser.

The bill provides that any conveyances, vehicles, fuel tanks, and other equipment used or intended to be used in a violation of this section, and any fuel acquired in a violation of this section, is subject to seizure and forfeiture under the Florida Contraband Forfeiture Act. Law enforcement that seizes fuel must remove and reclaim, recycle, or dispose of all the fuel as soon as practicable in a safe and proper manner.

Upon conviction of a person arrested for violating this section, the bill requires a judge to issue an order adjudging and declaring that all conveyances, vehicles, fuel tanks, and other equipment used or intended to be used in a violation of this section are forfeited and directing their destruction, with the exception of the conveyance or vehicle.

The bill specifies that, if convicted, a person is responsible for the following costs and payments:

- All reasonable costs incurred by the investigating law enforcement agency, including, but not limited to, the costs for the towing and storage of the conveyance or vehicle, the removal and disposal of the fuel, and the storage and destruction of all fuel tanks and other equipment used or intended to be used in violation of this section; and
- Payment to the party from whom it was fraudulently obtained for the retail value of any associated fuel at the time of the underlying act.

This section does not apply to the following persons who are lawfully engaged in an activity that would otherwise be a violation of this section:

- Inspectors and investigators of the department;
- Persons registered with the department under ch. 525, F.S., relating to oil and gas inspections;
- Employees or owners of fuel stations;
- Law enforcement officers; and
- Firefighters or other necessary public safety personnel.

Lastly, the bill defines "fuel" to mean any of the following:⁴⁵

- Alternative fuel⁴⁶
- Aviation fuel⁴⁷
- Diesel fuel⁴⁸
- Gas⁴⁹
- Motor fuel⁵⁰

⁴⁵ Section 163.3206(2), F.S.

⁴⁶ See s. 525.01, F.S.

⁴⁷ See s. 206.9815, F.S.

⁴⁸ See s. 206.86, F.S.

⁴⁹ See s. 206.9925, F.S.

⁵⁰ See s. 206.01, F.S.

- Natural gas fuel⁵¹
- Oil⁵²
- Petroleum fuel⁵³
- Petroleum product⁵⁴

Miscellaneous Effect of Proposed Changes

Sections 10 and 11 are reenacted to incorporate the amendments made by this act to s. 527.01, F.S. in **Section 8**.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature to pass legislation requiring counties and municipalities to spend funds, limiting their ability to raise revenue, or reducing the percentage of a state tax shared with them. This bill does not require counties or municipalities to spend funds, limit their authority to raise revenue, or reduce the percentage of a state tax shared with them as specified in Article VII, section 18 of the Florida Constitution. Therefore, the provisions of Article VII, section 18 of the Florida Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

⁵¹ See s. 206.9951, F.S.

⁵² See s. 206.9925, F.S.

⁵³ See s. 525.01, F.S.

⁵⁴ See s. 206.9925, F.S.

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

None.

B. Private Sector Impact:

Class “G” may see a cost savings by applying their law enforcement training to their license renewal requirements. Class “K” licensee renewing their license to demonstrate continued firearms qualifications may see a cost savings by providing proof of having taught at least six 28-hour firearms instruction courses to Class “G” applicants during the previous 3-year license period in lieu of having to obtain certain certifications.

C. Government Sector Impact:

The department may see a cost savings by providing newsletters and pamphlets online instead of a paper format.

The Criminal Justice Impact Conference, which provides the final, official estimate of prison bed impact of legislation, if any, has not yet reviewed the bill. However, EDR preliminarily estimates that the bill will have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds). Additionally, the EDR provided the following information regarding its estimate:

While these felonies are newly created, other felonies currently exist where fuel theft offenses might be prosecuted, such as retail theft, grand theft, petit theft, and accessory after the fact. Per [Department of Corrections], there were 40 new commitments to prison in FY 18-19 for retail theft offenses, and 23 new commitments in FY 19-20. There were 22 new commitments in FY 20-21, and 14 new commitments in FY 21-22. For grand theft, there were 1,511 new commitments in FY 18-19, and 1,069 new commitments in FY 19-20. In FY 20-21, there were 698 new commitments, and in FY 21-22, there were 785 new commitments. While a large proportion of the grand theft commitments include a third conviction for petit theft, there are also a large number of misdemeanor petit theft convictions each year for those on their first or second conviction. Per FDLE, in FY 21-22, there were 9,524 guilty/convicted charges and 2,939 adjudication withheld charges. These misdemeanors could be elevated to felonies under this new language, though it is not known how many of these involved the theft of fuel. Finally, the aiding and abetting parts of this new language could potentially be under the current accessory after the fact felonies, where there were 41 new commitments in FY 18-19, and 36 new commitments in FY 19-20. In FY 20-21, there were 26 new commitments, and there were 38 new commitments in FY 21-22. Per FDLE, for misdemeanor accessory after the fact, there was one guilty/convicted charge and 2 adjudication withheld charges in FY 21-22.⁵⁵

⁵⁵ SB 1150 – *Department of Agriculture and Consumer Services* (Identical to HB 1307). On file with the Senate Commerce and Tourism Committee.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill creates new criminal penalties for retail fuel theft. The bill provides that a conveyance, vehicle, fuel tank, or other equipment, and any fuel can be seized under the Florida Contraband Forfeiture Act. However, the bill also provides that, upon conviction, a judge must issue an order that all conveyances, vehicles, fuel tanks, and other equipment are forfeited and that fuel tanks or other equipment must be destroyed.

It is unclear if these two provisions would conflict with each other in instances where such items are already seized under the Contraband and Forfeiture Act before a person is convicted.

VIII. Statutes Affected:

This bill substantially amends sections 493.6105, 493.6113, 493.6123, 493.6304, 493.6406, 496.405, 496.406, 527.01, 366.032, and 489.105 of the Florida Statutes.

This bill creates section 812.0151 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.