



---

# **Agriculture and Natural Resources Policy Committee**

## **Meeting Packet**

**March 3, 2010  
2:00 pm - 5:00 pm  
102 Reed Hall**

**Larry Cretul  
Speaker**

**Trudi Williams  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Agriculture & Natural Resources Policy Committee

**Start Date and Time:** Wednesday, March 03, 2010 02:00 pm

**End Date and Time:** Wednesday, March 03, 2010 05:00 pm

**Location:** Reed Hall (102 HOB)

**Duration:** 3.00 hrs

**Consideration of the following bill(s):**

HB 301 Locksmith Services by Anderson

HB 569 Landfills by Poppell

HB 753 Monroe County by Saunders

HB 765 Unlawful Slaughter of Horses by Garcia, Abruzzo

Presentation by Caitlyn Prichard, State President, Florida FFA Association

**NOTICE FINALIZED on 03/01/2010 16:16 by Cunningham.Reid**

## **Agenda**

### **AGRICULTURE AND NATURAL RESOURCES POLICY COMMITTEE**

**March 3, 2010**

**2:00 p.m. – 5:00 p.m.**

**Reed Hall**

- I. Call to Order**
- II. Roll Call**
- III. Opening Remarks by Chair Williams**
- IV. HB 301 by Rep. Anderson and others – Locksmith Services**
- V. HB 569 by Rep. Poppell – Landfills**
- VI. HB 753 by Rep. Saunders – Monroe County**
- VII. HB 765 by Rep. Garcia, Abruzzo and others – Unlawful Slaughter of Horses**
- VIII. Presentation on Agriscience Education**  
Caitlyn Prichard, State President, Florida FFA Association
- IX. Closing Remarks by Chair Williams**
- X. Adjourn**



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 301 Locksmith Services

**SPONSOR(S):** Anderson and others

**TIED BILLS:** IDEN./SIM. BILLS: SB 658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Agriculture &amp; Natural Resources Policy Committee</u>		Thompson <i>ST</i>	Reese <i>AR</i>
2) <u>Public Safety &amp; Domestic Security Policy Committee</u>			
3) <u>Full Appropriations Council on Education &amp; Economic Development</u>			
4) <u>General Government Policy Council</u>			
5) _____			

**SUMMARY ANALYSIS**

HB 301 creates Part XII, Locksmith Services, within Ch. 559, F.S., and provides the popular name, the "Florida Locksmith Services Act." The bill provides for statewide regulation of the locksmith services industry, and requires locksmith services businesses and locksmith referral services to be licensed by the Department of Agriculture and Consumer Services (DACs) and be responsible for maintaining proper records, training, and supervision of employees. The bill requires licensing to be biennial and for businesses to maintain a minimum of \$100,000 in liability insurance, among other requirements.

Under the bill, applicants for a license are required to identify each employee providing locksmith services as well as each officer, director, owner and partner and submit fingerprints from these individuals to the DACs to forward to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a background check. A copy of the background check must be retained in the individual's personnel file. Other provisions include basic training requirements for employees in areas such as industry ethics and the Americans with Disabilities Act, as well as compliance with advertising requirements.

Further, the bill provides for criminal, administrative, and civil penalties. The bill creates several criminal violations and provides for private rights of action in civil cases.

The bill is projected by the DACs to be self-funding with initial funds being drawn from the DACs General Inspection Trust Fund. The bill caps licensure fees at \$800 for businesses employing one to five locksmiths and \$1600 for those employing six or more. In its fiscal analysis, the DACs estimates initial fees of \$600 (\$300 per year) will be necessary to cover the costs of implementing the bill.

The bill has an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

At present, there is no statewide regulation of the locksmith services industry. Miami-Dade County is the only county presently regulating locksmiths.<sup>1</sup>

According to the Associated Locksmiths of America, "[a] professional trained locksmith/security professional may do some or all of the following: install locks, deadbolts and other mechanical or electronic locking devices to safeguard homes, businesses, vehicles and other property. Locksmiths also may modify or repair such devices, rekey locks, make duplicate keys or cards, generate or program new keys/cards for locks whose keys/cards have been lost and respond to emergency calls to unlock vehicles, homes and businesses that have been locked accidentally, or whose locks have malfunctioned. Some locksmiths install and service electronic alarm and surveillance systems. Many locksmiths specify, design, provide, install and service a wide range of electronic access control systems and closed circuit television (CCTV) systems. Because of the integration of electronic security systems with computers and networks, some locksmiths maintain security hardware and software for computer systems."

##### Proposed Changes

The bill creates Part XII "Locksmith Services" within Chapter 559, F.S., and provides the popular name, the "Florida Locksmith Services Act." The bill creates a statewide regulatory scheme for the locksmith industry and requires licensing of locksmith service providers by the Department of Agriculture and Consumer Services (DACCS). The bill does not license individual locksmiths; only locksmith businesses and locksmith referral services will be licensed.

The bill preempts all local regulation of the locksmith industry beginning July 1, 2011. The bill provides certain exceptions to the licensing requirement (e.g. emergency personnel, sales representatives, hardware stores, landlords, building trades personnel, wrecker operators, and automobile clubs).

---

<sup>1</sup> Ch. 8A, Article XVII, Miami-Dade County 'Locksmith Ordinance'

## APPLICATION REQUIREMENTS

The bill directs the DACS to collect contact information for all applicants including the business' physical address, the names of employee locksmiths, the applicant's Florida agent for service of process, and other contact information. Also, the bill defines information collection and background check requirements for the business' owner (e.g. officers and directors of a corporation; general partners for a partnership).

The bill requires the applicant to submit information regarding all locksmith employees. This required information includes affidavits regarding the employee's criminal record, as well as fingerprints. The Florida Department of Law Enforcement (FDLE) is directed to process the fingerprints for a background check by the FDLE as well as the Federal Bureau of Investigation. All required information must be submitted to the DACS within ten days of the hiring of a new locksmith employee. The FDLE is required to submit a monthly invoice to the DACS for fingerprint processing and criminal records checks, and the DACS is to pay the invoice from the fees collected. The FDLE is required to retain the fingerprints in the statewide automated fingerprint identification system pursuant to s. 943.051, F.S.

The bill provides that a license must be issued for each locksmith services business or locksmith referral service and that such licenses are non-transferrable and non-assignable.

The bill permits the DACS to deny a license to any locksmith services business if the applicant or any of its directors, partners, or others have:

- Failed to meet the requirements set forth in the bill;
- Failed to comply with civil or administrative penalties (including fines);
- Received any civil, criminal, or administrative adjudication in any jurisdiction;
- Pending criminal, administrative, or enforcement proceedings in any jurisdiction; or
- Had a judgment entered against them pursuant to the Florida Deceptive and Unfair Trade Practices Act.

The bill provides that if a person who was disqualified under the fingerprinting and background screening provisions can demonstrate to the DACS by clear and convincing evidence that he or she should not be disqualified, the DACS is authorized to grant an exemption for:

- Any felony committed more than 3 years before the date of disqualification;
- Any misdemeanor; or
- Any misdemeanor or noncriminal offense that was a felony when it was committed.

The bill provides for reciprocity with other states, provided that such state's licensure programs collect the same information required by this legislation.

## FEES

The bill caps licensure fees at \$800 for businesses employing one to five locksmiths and \$1600 for those employing six or more. The renewal cost for licensure is the same and requires a verification of no changes in criminal background checks. The bill requires the license to be renewed biennially. The renewal application requires submission of the proof of insurance, verification of no changes in criminal history, the annual license fees, and criminal history background checks for all new employees. The DACS is permitted to stagger initial registrations to ensure a similar amount in each year and set fees at a lower rate.

## EMPLOYEE RECORDS AND BACKGROUND CHECKS

The bill prohibits the employment of locksmith employees convicted of a felony within the past ten years or convicted of a crime involving fraud or dishonesty (e.g. trespass, theft, larceny, dealing in stolen goods, embezzlement) within the past ten years. This bill requires the FDLE to furnish the DACS any arrest and conviction records in its possession for any individual applying for or holding a locksmith service business license. If the DACS does not receive the required criminal background information before the expiration of time permitted by Chapter 120, F.S., to issue a determination on

the license application, the time period may be extended until the DACS receives the required information.

Employees are required to complete training in courses in "industry ethics," the Americans with Disabilities Act, the Florida Fire Prevention Code, and the Life Safety Code. Every two years, a locksmith must complete at least sixteen hours of training, and an automotive-only locksmith must complete at least eight hours of industry-related training including, but not limited to, training in industry ethics. The bill further requires employers to maintain a photograph, a background check, and certificate of completion of the required ethics and training courses for each locksmith employee and issue photo identification cards to each employee. The photo identification card is required to list the employee's name, the business' name, the locksmith license number, and contain the word "locksmith." Employees are required to carry the card on their person at all times when performing locksmith services. Additionally, the card shall specify whether the employee is a Locksmith, Automotive-Only Locksmith, or Apprentice Locksmith.

#### INSURANCE REQUIREMENT

The bill requires each locksmith services business to obtain and maintain insurance coverage and to provide proof of insurance as part of the licensing process. The bill requires liability insurance with coverage of at least \$100,000 per incident for loss or damages resulting from the negligence of the locksmith business or employees. The DACS is authorized to suspend the business' license for failure to maintain the required insurance. The insurance policy must be issued by an insurance company or carrier licensed to transact business in this state pursuant to the Florida Insurance Code.

#### DISPLAY OF LICENSE

The bill requires a locksmith services business to display copy of the license issued by the DACS at the place of business in a manner easily readable by the general public. In the alternative, for mobile locksmith services, a copy of the license must be maintained in each service vehicle for presentation to any person of the general public, any law enforcement officer, or any state or local official upon request. The bill requires all advertisements, service vehicles, and forms to include the license number and the name of the business.

Further, any person applying for a local business tax receipt to engage in business as a locksmith services business must exhibit a valid license certificate from the DACS before the tax receipt may be issued or renewed.

#### CUSTOMER'S RIGHTS

The bill requires locksmiths to accept at least two out of three of the following categories of payment:

- Cash, cashier's check, money order, or traveler's check;
- Valid personal check with appropriate identifiable information; or
- Valid credit card, which shall include, but not be limited to Visa or MasterCard.

Additionally, the bill requires that the locksmith services business must clearly and conspicuously disclose in the work order, invoice, or sales receipt, the forms of payment that the locksmith will accept. Additionally, a copy of each work order, invoice, or sales receipt must be retained for two years and must include the name of the person performing the service.

The bill prohibits and makes unlawful any requirement that a person waive his or her rights provided in this bill as a precondition to the performance of the locksmith services.

#### ADVISORY COUNCIL

The bill creates an advisory council consisting of nine members and appointed by the Commissioner of Agriculture. The bill specifies that five members must be individuals employed by separate, licensed locksmith services businesses who do not provide automotive-only locksmith services; two members



must be employed by separate, licensed locksmith services businesses that provide automotive-only locksmith services; one member must be an electrical contractor certified under Chapter 489, F.S.; and one member must be a consumer who is not connected with the locksmith industry.

## VIOLATIONS

The bill declares that any violation of the provisions of this legislation constitutes a deceptive and unfair trade practice under Part II of Chapter 501, F.S., the Florida Deceptive and Unfair Trade Practices Act and administrative rules adopted pursuant to that act.

The bill directs any moneys recovered by the DACS as a penalty for violations to be deposited in the DACS General Inspection Trust Fund.

The bill prohibits a person from obtaining, owning, or possessing the following locksmith tools, implements, or outfits:

- A bump key, which is a fabricated, specially shaped or modified key intended to be used to unlock a lock by any means other than the specific method designed for the normal operation of opening a lock.
- A car-opening tool, which is a metal, cloth, nylon, rubber, or plastic tool or device designed to enter, bypass, or otherwise overcome the locking systems or locking mechanisms of a motor vehicle by any means other than the specific method designed for the normal operation of opening the lock.
- A manual or codebook, which is a compilation, in any form, of key codes.
- A code-grabbing device, which is a device that can receive, record, or receive and record the code signal sent by the transmitter of a motor vehicle's security, alarm, or immobilizer system and play back the signal to disarm, bypass, or neutralize the system.
- A lock pick, which is a manual, electric, or electronic tool or device used to bypass, override, or neutralize a lock by any means other than the specific method designed for the normal operation of opening the lock.
- A manipulation key, which is a key other than a change or master key that can be variably positioned or manipulated in a keyway to bypass, override, or neutralize a lock by any means other than the specific method designed for the normal operation of opening the lock. As used in this paragraph, the term "manipulation key" includes wiggle and bump keys.
- A safe-opening tool, which is a tool designed, or intended by the user to be used, to open a safe, safe-deposit box, or similar object by means other than that which is intended by the manufacturer of the safe, vault, safe-deposit box, or similar object for normal opening.
- A tryout key, which is a manipulation key that may or may not be one of a set of similar keys used for a specific series, keyway, or brand of lock to open, bypass, override, or neutralize a lock by means other than intended by the manufacturer.

A person guilty of the above named violations is guilty of a first-degree misdemeanor.<sup>2</sup> Additionally, if these violations are committed with the intent to commit burglary, robbery, or larceny, then the punishment is a third-degree felony.<sup>3</sup>

A person found guilty of the following violations is guilty of a first-degree misdemeanor<sup>4</sup>:

- Performing or offering to perform locksmith services without having or acting under a valid DACS license.
- Advertising or representing himself or herself as a locksmith services business without having a valid DACS license.
- Operating a locksmith referral service without having a valid DACS license.
- Fraudulently misusing any consumer's credit card.
- Failing or refusing, after notice, to provide any law enforcement officer or the DACS with any document or record or disclose any information required to be produced or disclosed.

<sup>2</sup> ss. 775.082, 775.083, F.S.

<sup>3</sup> ss. 775.082, 775.083, 775.084, F.S.

<sup>4</sup> ss. 775.082, 775.083, F.S.

- Employing or contracting with any person disqualified under s. 559.946, F.S., to perform locksmith services on behalf of the licensee.
- Submitting to the DACS the fingerprints of a person other than the person for whom fingerprints must be submitted pursuant to s. 559.946 or failing to submit replacement fingerprints for a locksmith or apprentice locksmith whose original fingerprint submissions are returned to the DACS as unclassifiable by the screening agency.
- Using a mailing address, registration facility, drop box, or answering service in the promotion, advertisement, solicitation, or sale of locksmith services, unless the street address of the licensed business location is clearly disclosed during any telephone solicitation and is prominently and conspicuously disclosed in all advertisements and on the work orders, invoices, and sales receipts.
- Operating as a locksmith services business at a business location other than the location that appears on the license issued by the DACS.
- Making a false statement in response to a request or investigation by the DACS, the Department of Legal Affairs, a law enforcement officer, or a state attorney.
- Making a material false statement in an application, document, or record required to be submitted or kept under this part.
- Committing any other act of fraud or misrepresentation or failing to disclose a material fact.
- Disclosing or permitting the disclosure of any consumer information without the consumer's written approval, except as authorized by this part.
- Defacing or removing a sign indicating the closure of the business by the DACS without written authorization.

#### ADMINISTRATIVE PENALTIES

The bill requires the DACS to process consumer complaints as defined by current law.<sup>5</sup>

The bill requires a locksmith services business to allow DACS personnel to enter its place of business to ascertain whether the license certificate is current. If the business refuses entry, the DACS is authorized to seek injunctive relief in circuit court to compel compliance.

If the DACS finds that a business is in violation of the provisions of this bill or rules adopted pursuant to this legislation, the DACS may:

- Issue a notice of noncompliance under s. 120.695, F.S.;
- Impose an administrative fine not to exceed \$10,000 for each act or omission;
- Direct that the locksmith services business cease and desist specified activities;
- Refuse to issue a license or revoke or suspend a license;
- Place the license on probation for a period of time, subject to the conditions specified by the DACS.

The bill provides that administrative proceedings, which could result in the entry of an order imposing any of the penalties expressed in the bill, are governed by Chapter 120 F.S. The DACS is permitted to assess the sanctioned party for the cost of conducting administrative proceedings when issuing a final order imposing an administrative fine or suspending, revoking, or denying initial issuance or renewal of a license.

The bill also requires the DACS to post a prominent "Closed by Order of the Department" sign on any locksmith services business that has had its license suspended or revoked. The DACS must also post the sign if the business has been judicially or administratively determined to be operating without a license.

---

<sup>5</sup> Sections 570.07 and 570.544, F.S.

**CIVIL PENALTIES & REMEDIES**

The bill permits a customer injured by a violation of this bill to bring an action in the appropriate court for relief. Additionally, the prevailing party may collect damages as well as court costs and reasonable attorney's fees. A customer may also bring an action for injunctive relief in circuit court.

Further, the DACS is authorized to institute a civil action to recover any penalties or damages authorized by this bill and for injunctive relief to compel compliance with the provisions of this legislation. The DACS is permitted to seek a civil penalty of up to \$10,000 for each violation. Additionally, the DACS may seek restitution for and on behalf of any customer injured by a violation.

The bill provides that any agreement that purports to waive, limit, restrict, or avoid any of the duties, obligations, or prescriptions of the locksmith services business, as provided by this bill, is void.

**B. SECTION DIRECTORY:**

Section 1. Creates Part XII, the "Florida Locksmith Services Act" within Chapter 559, F.S.

Section 2. Provides that the bill shall take effect on July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues: General Inspection Trust Fund (GITF)	<u>FY 10-11</u>	<u>FY 11-12</u>	<u>FY 12-13</u>
A. Recurring (2,400 Registrants estimated)	\$1,080,000	\$720,000	\$720,000
<u>1<sup>st</sup> Year</u>			
1,200 Registrants @ \$600 biennial(*)			
1,200 Registrants @ \$300 annual(*)			
<u>Subsequent Years</u>			
1,200 Registrants @ \$600 biennial			
2,400 Initial Fingerprint Background Checks	\$108,600	\$5,430	\$5,430
@ \$45.25 (5% of 2,400 or 120 estimated in later yrs)			
B. Non-Recurring	\$0	\$0	\$0
<b>TOTAL REVENUE</b>	<b>\$1,188,600</b>	<b>\$725,430</b>	<b>\$725,430</b>

(\*) \$600 is an estimate of the amount needed to cover the costs to implement this bill (\$300 per year for two years, per business), based on the estimated number of locksmith businesses statewide.

(\*) Fees will be set by rule and are based upon estimated costs to the DACS. In an effort to keep fees at the lowest level possible and reduce the workload during the first year, 50% of registrants will register for one year and 50% will register for two years. The second year the 50% that registered for one year will then register for two years. This will effectively stagger biennial revenues so that annualized expenses will be covered.

2. Expenditures:	<u>FY 10-11</u>	<u>FY 11-12</u>	<u>FY 12-13</u>
A. Recurring (GITF)			
a. Salaries (9 Positions)			
4- 0442 Regulatory Consultant – pay grade 20	218,324	222,690	227,144
4- 8318 Investigation Specialist II – pay grade 20	218,324	222,690	227,144
1- 0108 Administrative Secretary – pay grade 12	<u>41,257</u>	<u>42,082</u>	<u>42,924</u>

<b>TOTAL SALARIES</b>	<b>477,905</b>	<b>487,462</b>	<b>497,212</b>
b. Expenses			
8- Professional Expense Package (Professional)	52,064	52,064	52,064
1- Professional Expense Package (Support Staff)	5,124	5,124	5,124
Operating cost of (4) Motor Vehicles	12,000	12,000	12,000
Travel – Council Meetings	<u>10,000</u>	<u>10,000</u>	<u>10,000</u>
<b>TOTAL EXPENSES</b>	<b>79,188</b>	<b>79,188</b>	<b>79,188</b>
c. Special Categories			
FDLE Fingerprint (5% of 2,400) 120 @ \$45.25 (5% of initial registrants estimated in subsequent years)	5,430	5,430	5,430
9- Human Resources Allocation	<u>3,591</u>	<u>3,591</u>	<u>3,591</u>
<b>TOTAL SPECIAL CATEGORIES</b>	<b>9,021</b>	<b>9,021</b>	<b>9,021</b>
c. AGMIC Budget Entity			
(GITF-Contracted Services category) 9 PCs Maintenance	1,080	1,080	1,080
9-Additional Siemens System Maintenance	1,755	1,755	1,755
9-Additional Computer System Maintenance	<u>3,038</u>	<u>3,038</u>	<u>3,038</u>
<b>TOTAL AGMIC COSTS</b>	<b>5,873</b>	<b>5,873</b>	<b>5,873</b>
<b>TOTAL RECURRING COSTS</b>	<b>571,987</b>	<b>581,544</b>	<b>591,294</b>
B. Non-Recurring (GITF)			
a. Expenses (GITF)			
8-Professional Packages @ 3,877	31,016		
1-Professional Package @ 3,579	3,579		
b. Special Categories (GITF)			
Acquisition of (4) Motor Vehicles @ 21,625	86,500		
Background Checks (initial background checks) (95% of 2,400) 2,280 @ \$45.25	103,170		
Contracted Services – 1000 hours @ \$85.00 (Programming for online use of "E-Commerce for license renewals and other features)	85,000		
Siemens – Reprogramming & additional card in Telephone system	9,000		
	<u>FY 10-11</u>	<u>FY 11-12</u>	<u>FY 12-13</u>
AGMIC Budget Entity– software application & DOCS Integration (GITF-Contracted Services category)	<u>10,000</u>		
<b>TOTAL NON-RECURRING</b>	<b>328,265</b>		

C. Non-Operating Costs (GITF)

Administrative/Indirect costs (13%)	62,128	63,370	64,638
General Revenue Service Charge (8%)	<u>95,088</u>	<u>58,034</u>	<u>58,034</u>
<b>TOTAL NON-OPERATING COSTS</b>	<b>157,216</b>	<b>121,404</b>	<b>122,672</b>
<b>GRAND TOTAL OF COSTS (GITF)</b>	<b>\$1,057,468</b>	<b>\$702,948</b>	<b>\$713,966</b>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the DACS, the fiscal impact on local governments should be slight, depending on whether there was previous local regulation of locksmiths.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Act creates a new regulatory structure for an existing industry. According to DACS, impacts on the private sector are unknown other than the increase in costs represented by the new licensing fee and costs of fingerprinting and criminal background checks.

D. FISCAL COMMENTS:

DACS estimates that 2,400 businesses will be subject to licensing based on answers provided by the Associated Locksmiths of America (ALOA) on the Sunrise Questionnaire.<sup>6</sup>

DACS indicates the need for nine new employees to implement the provisions of this bill and an intention to stagger the hiring of these employees. Some first year savings might be realized if the DACS staggered the hiring of the new employees as needed.

Unless the bill expressly ranks the new felony offense on the state's offense severity ranking chart, s. 921.0022, F.S., the new felony will be "unranked." According to the Criminal Justice Impact Conference (CJIC), this is not uncommon. An unranked, 3rd degree felony, defaults to Level 1 on the ranking chart, which is the least severe, thus imposing a lower percentage of related prison sentences.

Pursuant to s. 216.136(5), F.S., a function of the CJIC is the development of official forecasts of prison admissions and population as they relate to new felonies. Typically, a new felony is not created until a consensus has been reached within the CJIC process. On February 23, 2010, the CJIC met and could not reach consensus regarding HB 301. The bill was temporarily postponed until the next impact conference, which has not been scheduled.

---

<sup>6</sup> Sunrise Questionnaire For Groups Seeking New Regulation. On file with the Insurance, Business, and Financial Affairs Policy Committee.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

##### 2. Other:

None

#### B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority to the DACS. It requires the DACS to adopt rules relating to the following requirements for licensing locksmith services businesses:

- Requirements and processes for background checks and fingerprint checks for locksmith employees,
- Establishment of forms to implement the bill,
- Establishment of necessary fees based upon the costs to administer the bill,
- Development of a schedule to maintain an updated fee for the FBI background checks,
- Development of methods to obtain and renew photographs for photo identification of locksmiths,
- Adoption of rules relating to the use and display of licenses and license numbers.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### Application Requirements

The bill provides that a license must be issued for each locksmith services business or locksmith referral service and that such licenses are non-transferrable and non-assignable. As read, the plain language of this section is unclear and could be misinterpreted as requiring a license to be issued to each individual location of the same business, as the definition of "locksmith services business" in the bill is defined as "any person, who, for compensation, provides [...] locksmith services [...] or who operates a locksmith services business or referral service in this state."

##### Preemption

This bill will preempt local regulation of locksmith services on July 1, 2011. This bill takes effect on July 1, 2010. Thus, locksmiths will be required to comply with both state and local regulation for a period of one year.

##### Violations

There are a number of potential issues with the violations that carry criminal penalties in this bill. In general, many of the bill's violation provisions are duplicative of present law, provide for a penalty less severe than currently provided by law, or may be broader than intended.

The bill's first criminal violation is codified as s. 559.953, F.S., and reads as follows:

- (2) Except as otherwise provided in subsection (1) [exemptions], a person may not obtain, own, or possess locksmith tools, implements, or outfits [...]

This provision has the facial effect of banning the ownership of locksmithing tools by a person not licensed or exempted by this act. Potentially, this could include common consumer tools such as "Slim Jims."<sup>7</sup> It is unclear whether this is intended.

The bill provides a list of violations, s. 559.954, F.S., and specific criminal penalties for those violations, s. 559.958, F.S.

(1)(a) Perform or offer to perform locksmith services without having or acting under a valid license issued by the department under this part.

This provision could be interpreted such that a person who offers, as a good deed, to help open a car door could be charged with a violation of this part.

(2)(a) Fraudulently misuse any customer's credit card.

Fraudulent misuse of a customer's credit card is already covered under current law.<sup>8</sup> Under the provisions of this bill, fraudulent misuse of a customer's credit card is a first-degree misdemeanor. Under current law, fraudulent misuse is a first-degree misdemeanor only if the fraudulently charged amount is less than \$300 in a six month period. If the amount is more than \$300 or certain other conditions are met, fraudulent misuse of a customer's credit card is a third-degree felony.<sup>9</sup> Thus, this bill may lessen the penalty currently provided by law in some instances.

(2)(c) Fail or refuse, after notice, to provide any law enforcement officer or the department with any document or record or disclose any information required to be produced or disclosed.

This provision may be overbroad. In general, "a statute is overbroad [...] when the legislature sets a net large enough to catch all possible offenders and leaves it to the courts to step inside and determine who is being lawfully detained and who should be set free."<sup>10</sup>

At present, this provision can be read to require a person to disclose anything that a law enforcement officer or the department chooses to require to be disclosed (whether relevant to this act or not). It would be more clear and effective if the phrase "by this part" was inserted at the end of the sentence.

#### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

---

<sup>7</sup> "A metal device which can be slipped in between the window and molding of many car windows to unlock the door." National Highway Traffic Safety Administration, "Advisory: Slim Jim Incidents Unfounded."

<http://www.nhtsa.dot.gov/people/injury/enforce/slim.htm>. Last accessed March 6, 2009.

<sup>8</sup> s. 817.62, F.S.

<sup>9</sup> s. 817.67, F.S.

<sup>10</sup> 73 Am. Jur. 2d Statutes § 243.

1                                   A bill to be entitled  
 2           An act relating to locksmith services; creating part XII  
 3           of ch. 559, F.S.; providing a short title; providing  
 4           findings and purpose; providing definitions; providing  
 5           exemptions from the application of the part; requiring the  
 6           licensure of locksmith services businesses and locksmith  
 7           referral services by the Department of Agriculture and  
 8           Consumer Services; specifying licensure and application  
 9           requirements; requiring license fees; authorizing the  
 10          waiver or reduction of fees under certain circumstances;  
 11          providing for expiration of licenses; requiring  
 12          fingerprinting and background screening for criminal  
 13          records checks of the owner and certain other persons  
 14          affiliated with a locksmith services business; specifying  
 15          background screening requirements; disqualifying certain  
 16          persons from performing locksmith services based upon  
 17          background screening; requiring the Department of Law  
 18          Enforcement to retain the fingerprints and search arrest  
 19          records against the fingerprints; requiring fees for  
 20          background screening; requiring the Department of Law  
 21          Enforcement to provide certain records to the Department  
 22          of Agriculture and Consumer Services upon request;  
 23          authorizing licensure by endorsement under certain  
 24          circumstances; providing license renewal requirements and  
 25          procedures; providing for the denial, suspension,  
 26          revocation, or refusal to renew a license under certain  
 27          circumstances; requiring a locksmith services business to  
 28          maintain liability insurance; prohibiting the performance



29 of locksmith services except by certain persons;  
 30 authorizing locksmiths, automotive-only locksmiths, and  
 31 apprentice locksmiths to perform locksmith services under  
 32 certain circumstances; establishing qualifications and  
 33 training requirements for locksmiths, automotive-only  
 34 locksmiths, and apprentice locksmiths; requiring locksmith  
 35 services businesses to keep certain records and issue  
 36 photo identification cards to locksmiths, automotive-only  
 37 locksmiths, and locksmith apprentices; requiring display  
 38 of photo identification cards and licenses; requiring a  
 39 locksmith services business to display its license,  
 40 license number, and other information in all advertising;  
 41 requiring a locksmith services business to accept certain  
 42 methods of payment and keep certain business records;  
 43 authorizing the review of records by the department;  
 44 prohibiting certain acts relating to the possession of  
 45 locksmith tools; specifying certain prohibited acts  
 46 relating to the operation of a locksmith services  
 47 business; providing civil penalties and remedies;  
 48 providing administrative remedies and penalties; providing  
 49 that a violation of the act is a deceptive and unfair  
 50 trade practice; providing criminal penalties; requiring  
 51 the department to adopt rules; providing for the deposit  
 52 and use of certain funds; preempting to the state the  
 53 regulation of locksmith services, locksmiths, and  
 54 locksmith services businesses; prohibiting the issuance or  
 55 renewal of local business tax receipts to locksmith  
 56 services businesses except under certain circumstances;

57 creating the Florida Locksmith Services Advisory Council  
 58 within the department; providing membership and terms;  
 59 providing operating procedures and duties; requiring the  
 60 department to provide administrative and staff support;  
 61 providing an effective date.

62

63 Be It Enacted by the Legislature of the State of Florida:

64

65 Section 1. Part XII of chapter 559, Florida Statutes,  
 66 consisting of sections 559.941, 559.942, 559.943, 559.944,  
 67 559.945, 559.946, 559.947, 559.948, 559.949, 559.95, 559.951,  
 68 559.952, 559.953, 559.954, 559.955, 559.956, 559.957, 559.958,  
 69 559.959, 559.96, 559.961, and 559.962, is created to read:

70

PART XII

71

LOCKSMITH SERVICES

72

559.941 Short title.--This part may be cited as the

73

"Florida Locksmith Services Act."

74

559.942 Findings and purpose.--The Legislature finds that:

75

(1) Locksmiths operate in the public trust to service,

76

secure, and protect persons and property.

77

(2) Locksmiths must be trained in regulations and laws

78

applicable to their profession, including, but not limited to,

79

the federal Americans with Disabilities Act, the Florida

80

Building Code, the Florida Fire Prevention Code, and the Life

81

Safety Code, and must be trained in the proper installation and

82

maintenance of security devices, motor vehicle locks, keys, and

83

built-in security systems.

84

(3) The purpose of this part is to provide for the

85 licensing and regulation of locksmith services businesses in  
 86 this state which are necessary to protect the public from the  
 87 misuse of locksmithing knowledge, supplies, manuals, and  
 88 equipment that threaten public safety and security.

89 559.943 Definitions.--As used in this part, the term:

90 (1) "Advertise" means to advise, announce, give notice of,  
 91 publish, or call attention to by use of oral, written, or  
 92 graphic statement made in a newspaper or other publication or on  
 93 radio or television; made in any other electronic medium;  
 94 contained in any notice, handbill, sign, including signage on  
 95 any vehicle, flyer, catalog, or letter; or printed on or  
 96 contained in any tag or label attached to or accompanying any  
 97 good.

98 (2) "Apprentice locksmith" means a natural person who  
 99 performs locksmith services on behalf of a locksmith services  
 100 business under the direct and continuous supervision of a  
 101 locksmith.

102 (3) "Automotive-only locksmith" means a locksmith who  
 103 performs only those locksmith services relating to motor  
 104 vehicles as described in paragraphs (11)(e)-(g) on behalf of a  
 105 locksmith services business.

106 (4) "Business location" means a physical location where a  
 107 licensee operates a locksmith services business or, if the  
 108 licensee is a mobile locksmith services business, the physical  
 109 location where the licensee's records are kept.

110 (5) "Department" means the Department of Agriculture and  
 111 Consumer Services.

112 (6) "Key duplication machine" means a device capable of

113 copying or reproducing keys.

114 (7) "Licensee" means a locksmith services business  
 115 licensed under this part.

116 (8) "Lock" means a mechanical, electromechanical,  
 117 electronic, or electromagnetic device or system, including, but  
 118 not limited to, any peripheral hardware such as, a closed-  
 119 circuit television system, wireless or infrared transmitter,  
 120 card reader, keypad, or biometric scanner, that is designed to  
 121 control access to and egress from a door, gate, safe, vault,  
 122 safe-deposit box, motor vehicle, or other enclosure or that is  
 123 designed to control the use of such an enclosure.

124 (9) "Locksmith" means a natural person who performs any  
 125 locksmith services on behalf of a locksmith services business.  
 126 The term includes an automotive-only locksmith but does not  
 127 include a person whose activities are limited to making  
 128 duplicate keys.

129 (10) "Locksmith referral service" means the advertisement  
 130 of locksmith services in this state by a person who does not  
 131 perform the locksmith services but who subcontracts with, or  
 132 refers the customer to, another locksmith services business for  
 133 the performance of the locksmith services.

134 (11) "Locksmith services" means:

135 (a) Selling, installing, servicing, repairing, repinning,  
 136 recombining, and adjusting locks, safes, vaults, or safe-  
 137 deposit boxes.

138 (b) Originating, duplicating, and copying keys.

139 (c) Opening, bypassing, and neutralizing locks, safes,  
 140 vaults, or safe-deposit boxes.

141 (d) Creating, documenting, selling, installing, managing,  
 142 and servicing master key systems.

143 (e) Unlocking, bypassing, or neutralizing motor vehicle  
 144 locks by means other than intended by the manufacturer.

145 (f) Originating keys for motor vehicles that includes, if  
 146 necessary, the programming, reprogramming, or bypassing of any  
 147 security, transponder, or immobilizer systems or subsequent  
 148 technology built in by the manufacturer.

149 (g) Keying, rekeying, or recombining motor vehicle  
 150 locks.

151  
 152 The term does not include contracting as defined in s. 489.505  
 153 for which a registration or certification is required under part  
 154 II of chapter 489.

155 (12) "Locksmith services business" means a person who  
 156 performs or offers to perform locksmith services for  
 157 compensation, advertises or represents himself or herself as a  
 158 locksmith services business, or operates a locksmith referral  
 159 service in this state.

160 (13) "Locksmith tool" means a tool that is designed, or  
 161 intended by the user to be used, to open a lock by any means  
 162 other than the specific method designed for the normal operation  
 163 of opening the lock. The term includes the locksmith tools  
 164 described in s. 559.953(2).

165 (14) "Master key system" means a system of locks in which  
 166 a lock is keyed so that it can be operated by its own individual  
 167 key as well as by a key that operates other locks in the system  
 168 that are also keyed to their own individual keys.

169           (15) "Mobile locksmith services business" means a  
 170 locksmith services business that operates exclusively from one  
 171 or more vehicles and not from a specific physical location.

172           (16) "Motor vehicle" has the same meaning as in s.  
 173 559.903(5).

174           559.944 Application of part; exemptions.--This part does  
 175 not apply to:

176           (1) A law enforcement officer, firefighter or voluntary  
 177 firefighter, emergency medical technician or paramedic, or other  
 178 government employee or agent who, in his or her official line of  
 179 duty, performs locksmith services in an emergency situation in  
 180 which the life of a person, livestock, or an animal generally  
 181 regarded as a pet is endangered.

182           (2) A sales representative who provides a bona fide sales  
 183 demonstration of products to locksmiths.

184           (3) An in-store employee of a hardware store, do-it-  
 185 yourself home products store, or other retail store who rekeys  
 186 locks being purchased in the store.

187           (4) An electrical or alarm system contractor registered or  
 188 certified under chapter 489 who is acting within the scope of  
 189 his or her practice.

190           (5) A person who lawfully acquires and uses a key  
 191 duplication machine or key blanks to duplicate keys.

192           (6) A property owner or agent of a property owner who  
 193 maintains a file of key cutting data for a master key system on  
 194 the property.

195           (7) An employee of a financial institution as defined in  
 196 s. 655.005 who provides safe, safe-deposit box, or vault

197 | services at the financial institution.

198 |       (8) A motor vehicle dealer as defined in s. 320.27, a  
 199 | motor vehicle repair shop as defined in s. 559.903, or a lock  
 200 | manufacturer or agent of a lock manufacturer who services,  
 201 | installs, repairs, or rebuilds motor vehicle locks or originates  
 202 | and duplicates motor vehicle keys.

203 |       (9) Building trades personnel who:

204 |           (a) Install locks or locking devices on a construction  
 205 | project that requires a building permit; or

206 |           (b) Install locks or locking devices for home repair or  
 207 | improvement, if the locks are designed for installation by the  
 208 | customer and such home repair or improvement is part of a larger  
 209 | repair or replacement project.

210 |       (10) A wrecker operator as defined in s. 1.01(15) who  
 211 | possesses or uses car-opening tools as described in s.  
 212 | 559.953(2)(b) which are necessary to unlock vehicles, if the  
 213 | wrecker operator does not advertise locksmith services or  
 214 | otherwise advertise himself or herself as a locksmith.

215 |       (11) An automobile club as defined in s. 627.8405(1) when  
 216 | towing a motor vehicle for a club member or assisting a club  
 217 | member to enter a locked motor vehicle.

218 |       (12) A hardware store, do-it-yourself home product store,  
 219 | or other retail store that sells locks and safes which are  
 220 | designed for use and installation by the customer without  
 221 | professional assistance.

222 |       559.945 Locksmith services business; licensure.--

223 |       (1) A person may not perform or offer to perform locksmith  
 224 | services for compensation, advertise or represent himself or

225 herself as a locksmith services business, or operate a locksmith  
 226 referral service in this state unless the person is licensed  
 227 under this part. However, a locksmith or apprentice locksmith  
 228 performing locksmith services on behalf of a licensee is not  
 229 required to obtain a separate license. An application for  
 230 licensure must be submitted to the department in the format  
 231 prescribed by the department and must include, at a minimum, the  
 232 following:

233 (a) The full legal name and mailing address of the  
 234 applicant.

235 (b) Each name under which the applicant does business in  
 236 this state and, if the applicant is doing business under a  
 237 fictitious name, the date on which the applicant registered the  
 238 fictitious name with the Department of State.

239 (c) The mailing address, street address, and telephone  
 240 number of the applicant's principal business location and, if  
 241 the applicant performs locksmith services or operates a  
 242 locksmith referral service at more than one business location,  
 243 the mailing address, street address, and telephone number of  
 244 each additional business location.

245 (d) If the applicant is not a natural person, a statement  
 246 of:

247 1. The applicant's type of business entity, such as a  
 248 corporation, partnership, or other limited liability  
 249 corporation.

250 2. The applicant's federal employer identification number.

251 3. Whether the applicant is a foreign or domestic business  
 252 entity, the state and date of incorporation, the charter number,



253 and the date that the applicant first registered with the  
 254 Department of State to do business in the state.

255 (e) Each corporate, fictitious, or other business or trade  
 256 name under which any owner of the locksmith services business  
 257 operated, was known, or did business as a locksmith services  
 258 business within 5 years before the date of the application.

259 (f) The full name, address, and telephone number of:

260 1. Each locksmith, automotive-only locksmith, and  
 261 apprentice locksmith who performs locksmith services on behalf  
 262 of the applicant.

263 2. Each officer and director of the corporation, their  
 264 official positions, and corporate offices, if the applicant is a  
 265 corporation.

266 3. Each general partner, if the applicant is a  
 267 partnership.

268 4. Each managing member, if the applicant is a limited  
 269 liability corporation.

270 5. The owner of the applicant, if the applicant is a  
 271 proprietorship.

272 6. The applicant's registered agent for service of process  
 273 in this state.

274 (g) The number of locksmiths that the applicant currently  
 275 employs or intends to employ.

276 (2) Each application must be accompanied by:

277 (a) Payment of a nonrefundable biennial license fee,  
 278 calculated as follows:

279 1. If the applicant employs one to five locksmiths, an  
 280 amount not to exceed \$800.

281 2. If the applicant employs six or more locksmiths, an  
282 amount not to exceed \$1,600.

283 3. If the applicant operates a locksmith referral service  
284 but does not employ any locksmiths, an amount not to exceed  
285 \$800.

286  
287 If the department determines that the biennial license fees  
288 established under this subsection for an initial or renewal  
289 application impose a significant financial hardship upon the  
290 applicant, the department may waive or reduce the fees to the  
291 amount necessary to alleviate the hardship.

292 (b) Proof of liability insurance coverage as required in  
293 s. 559.95.

294 (c) For each person listed in paragraph (1)(f), a set of  
295 fingerprints submitted in the manner prescribed by the  
296 department, an affidavit of the person's criminal history, if  
297 any, and payment of any fees or costs required under s. 559.946  
298 for background screening.

299 (3)(a) The department shall issue a license to each  
300 applicant in the format prescribed by the department in  
301 accordance with s. 120.60. The license must show at least the  
302 name, the street address of each business location listed in the  
303 application pursuant to paragraph (1)(c), and the license number  
304 of the locksmith services business. If the applicant is a mobile  
305 locksmith services business, the license must show the residence  
306 address of the owner, if different than the street address of  
307 the business location where the applicant's records are kept.

308 (b) A license issued under this part may not be

309 transferred or assigned and is valid only for the licensee and  
 310 the business locations for which it is issued.

311 (c) A locksmith services business license is valid for 2  
 312 years from the date of issuance. To provide for the biennial  
 313 renewal of licenses under s. 559.948, the department may adopt  
 314 rules to stagger the license expiration dates over a 2-year  
 315 period.

316 (4) (a) A licensee must notify the department in writing at  
 317 least 30 days before changing a locksmith services business  
 318 location. The department shall issue to the licensee an amended  
 319 license that shows the new business location.

320 (b) Within 10 days after a person listed in paragraph  
 321 (1) (f) begins his or her duties with a licensee, the licensee  
 322 must submit a set of the person's fingerprints in the manner  
 323 prescribed by the department, an affidavit of the person's  
 324 criminal history, if any, and payment of any fees or costs  
 325 required under s. 559.946 for background screening.

326 559.946 Locksmith services businesses; fingerprinting and  
 327 background screening; disqualification.--

328 (1) (a) Each person listed in s. 559.945(1) (f) must be  
 329 fingerprinted and undergo background screening for criminal  
 330 justice information as defined in s. 943.045. The department  
 331 shall submit each set of fingerprints to the Department of Law  
 332 Enforcement for statewide criminal records checks, and the  
 333 Department of Law Enforcement shall forward the fingerprints to  
 334 the Federal Bureau of Investigation for federal criminal records  
 335 checks. The cost of the fingerprint processing and criminal  
 336 records checks shall be borne by the locksmith services business

337 or the person required to be fingerprinted and shall be paid to  
 338 the department. The Department of Law Enforcement shall submit a  
 339 monthly invoice to the department for the fingerprint processing  
 340 and criminal records checks performed during the month, and the  
 341 department shall pay the invoice from the fees collected. The  
 342 results of the criminal records checks shall be returned to the  
 343 department, and the department shall screen the results to  
 344 determine whether the person is disqualified under subsection  
 345 (2).

346 (b) If a legible set of fingerprints, as determined by the  
 347 Department of Law Enforcement or the Federal Bureau of  
 348 Investigation, cannot be obtained after two attempts, the  
 349 department shall determine whether the person is disqualified  
 350 based upon criminal records checks under the person's name  
 351 conducted by the Department of Law Enforcement and the Federal  
 352 Bureau of Investigation.

353 (2) (a) A person required to undergo background screening  
 354 pursuant to this section must not have been convicted or  
 355 incarcerated as a result of having been convicted of a crime  
 356 involving trespass, burglary, theft, larceny, dealing in stolen  
 357 property, receiving stolen property, embezzlement, obtaining  
 358 property by false pretenses, possession of altered property, or  
 359 any other fraudulent or dishonest dealing within the previous 10  
 360 years.

361 (b) The department may grant a person disqualified under  
 362 paragraph (a) an exemption from disqualification for:

363 1. Any felony committed more than 3 years before the date  
 364 of disqualification.

365 2. Any misdemeanor.

366 3. Any misdemeanor or noncriminal offense that was a  
 367 felony when it was committed.

368 (c) In order for the department to grant an exemption, the  
 369 disqualified person must demonstrate by clear and convincing  
 370 evidence that he or she should not be disqualified. A  
 371 disqualified person seeking an exemption has the burden of  
 372 setting forth sufficient evidence of rehabilitation, including,  
 373 but not limited to, the circumstances surrounding the criminal  
 374 incident for which an exemption is sought, the time period that  
 375 has elapsed since the incident, the nature of the harm caused to  
 376 the victim, and the history of the disqualified person since the  
 377 incident, or any other evidence or circumstances indicating that  
 378 the disqualified person will not present a danger to the public  
 379 if an exemption is granted.

380 (3) (a) All fingerprints submitted to the Department of Law  
 381 Enforcement as required by this section shall be retained by the  
 382 Department of Law Enforcement in a manner provided by rule and  
 383 entered in the statewide automated fingerprint identification  
 384 system authorized by s. 943.05(2) (b). The fingerprints shall  
 385 thereafter be available for all purposes and uses authorized for  
 386 arrest fingerprints entered in the statewide automated  
 387 fingerprint identification system pursuant to s. 943.051.

388 (b) The Department of Law Enforcement shall search all  
 389 arrest fingerprints received under s. 943.051 against the  
 390 fingerprints retained in the statewide automated fingerprint  
 391 identification system under paragraph (a). Any arrest record  
 392 that is identified with the retained fingerprints of a person

393 subject to background screening under this section shall be  
 394 reported to the department. Each locksmith services business  
 395 must participate in the search process by notifying the  
 396 department of any change in a person's status as a person listed  
 397 s. 559.945(1)(f) if, as a result of the change, the person's  
 398 fingerprints are no longer required to be retained under  
 399 paragraph (a).

400 (c) Each licensee shall pay to the department a fee for  
 401 the cost of retaining the fingerprints and performing the  
 402 ongoing searches of arrest records under paragraph (b). The  
 403 Department of Law Enforcement shall submit an invoice to the  
 404 department for the fingerprints retained and searches performed,  
 405 and the department shall pay the invoice from the fees  
 406 collected. The Department of Law Enforcement shall adopt rules  
 407 establishing the amount of the fee and procedures for retaining  
 408 the fingerprints, performing the searches, and disseminating the  
 409 search results. The department shall notify the Department of  
 410 Law Enforcement of any change in a person's status as a person  
 411 listed s. 559.945(1)(f) if, as a result of the change, the  
 412 person's fingerprints are no longer required to be retained  
 413 under paragraph (a).

414 (4) Before expiration of the time limit in s. 120.60 for  
 415 approving an application, if the department does not receive  
 416 criminal justice information for any person listed in s.  
 417 559.945(1)(f), or receives criminal justice information that  
 418 includes a crime that may disqualify the person but does not  
 419 include a final disposition of the crime, the time limit in s.  
 420 120.60 for approving the application is extended until the

421 department receives final disposition of the crime or proof of  
 422 restoration of civil rights.

423 (5) The Department of Law Enforcement shall provide the  
 424 department, upon request, with any criminal justice information  
 425 in its possession of a person who is:

426 (a) A licensee or applicant for a license under this part;

427 or

428 (b) Employed by a licensee or applicant for a license  
 429 under this part.

430 559.947 Licensure by endorsement.--

431 (1) A person may be licensed as a locksmith services  
 432 business in this state upon applying to the department,  
 433 remitting the nonrefundable biennial license fee calculated as  
 434 required in s. 559.945(2)(a), and demonstrating to the  
 435 department that the applicant:

436 (a) Meets the qualifications for licensure in s. 559.945;

437 or

438 (b) Holds a valid locksmith services business license, or  
 439 the equivalent thereof, issued by another state, territory, or  
 440 possession of the United States, the District of Columbia, or  
 441 the Commonwealth of Puerto Rico with which the department has  
 442 established reciprocity.

443 (2) The department may establish reciprocity with other  
 444 states, territories, or possessions of the United States, the  
 445 District of Columbia, or the Commonwealth of Puerto Rico and may  
 446 adopt criteria for establishing reciprocity, subject to the  
 447 following:

448 (a) The licensing requirements of the other state,

449 territory, or possession must substantially meet or exceed the  
 450 requirements of s. 559.945.

451 (b) The other state, territory, or possession must issue a  
 452 license, or the equivalent thereof, to a locksmith services  
 453 business that is licensed in this state and seeks to do business  
 454 in the other state, territory, or possession.

455 559.948 License renewal.--Each locksmith services business  
 456 license must be renewed biennially on or before the license's  
 457 expiration date. To apply for renewal of a license, the licensee  
 458 must submit each of the following to the department:

459 (1) A renewal application in the format prescribed by the  
 460 department that includes the information required for initial  
 461 licensure in s. 559.945(1).

462 (2) Payment of the nonrefundable biennial license fee,  
 463 calculated as required in s. 559.945(2)(a).

464 (3) Proof of liability insurance coverage as required in  
 465 s. 559.95.

466 (4) For each person listed in s. 559.945(1)(f), an updated  
 467 affidavit of the person's criminal history, if any.

468 (5) For each person listed in s. 559.945(1)(f) who has not  
 469 undergone background screening, a set of fingerprints submitted  
 470 in the manner prescribed by the department, an affidavit of the  
 471 person's criminal history, if any, and payment of any fees or  
 472 costs required under s. 559.946.

473 559.949 Denial, suspension, revocation, or refusal to  
 474 renew license.--The department may deny, suspend, revoke, or  
 475 refuse to renew the license of a locksmith services business  
 476 based upon a determination that the locksmith services business



477 or any person listed in s. 559.945(1)(f):

478 (1) Failed to meet the requirements for licensure as  
 479 provided in this part;

480 (2) Is disqualified based upon background screening  
 481 pursuant to s. 559.946(2);

482 (3) Failed to satisfy a civil penalty, administrative  
 483 fine, or other penalty arising out of an administrative or  
 484 enforcement action brought by any governmental agency;

485 (4) Received any civil, criminal, or administrative  
 486 adjudication in any jurisdiction; or

487 (5) Has had a judgment entered against the business or  
 488 person in any action brought under the Florida Deceptive and  
 489 Unfair Trade Practices Act in part II of chapter 501.

490 559.95 Liability insurance.--

491 (1) A locksmith services business must maintain current  
 492 and valid liability insurance coverage of at least \$100,000 per  
 493 incident for loss or damages resulting from the negligence of  
 494 the locksmith services business or any of its locksmiths,  
 495 apprentice locksmiths, employees, or agents.

496 (2) The insurance coverage must be issued by an insurance  
 497 company or carrier licensed to transact business in this state  
 498 under the Florida Insurance Code. The department shall require a  
 499 locksmith services business to present a policy or certificate  
 500 of insurance of the required coverage before issuance or renewal  
 501 of a license. The department shall be named as a  
 502 certificateholder in the policy or certificate and must be  
 503 notified at least 30 days before any changes in insurance  
 504 coverage.

505 (3) If a locksmith services business does not maintain the  
 506 required insurance coverage, the department may immediately  
 507 suspend the business's license or eligibility for licensure and  
 508 the business shall immediately cease operating as a locksmith  
 509 services business. In addition, notwithstanding the availability  
 510 of administrative relief under chapter 120, the department may  
 511 seek an immediate injunction in the circuit court of the county  
 512 in which the business is located that prohibits the locksmith  
 513 services business from operating until the business complies  
 514 with this section and imposes a civil penalty not to exceed  
 515 \$10,000 and reasonable court costs.

516 559.951 Locksmiths; apprentice locksmiths; photo  
 517 identification cards; display of license and license number.--

518 (1) A person may not perform locksmith services on behalf  
 519 of a locksmith services business unless the person is the  
 520 licensee or one of the following:

521 (a) Locksmith.--Except as provided in paragraph (b) for an  
 522 automotive-only locksmith, a locksmith must be 18 years of age  
 523 or older and complete 16 hours of training, including training  
 524 in industry ethics, the federal Americans with Disabilities Act,  
 525 the Florida Building Code, the Florida Fire Prevention Code, and  
 526 the Life Safety Code.

527 (b) Automotive-only locksmith.--An automotive-only  
 528 locksmith must be 18 years of age or older and complete a  
 529 training course in industry ethics.

530 (c) Apprentice locksmith.--An apprentice locksmith must be  
 531 15 years of age or older and complete a minimum of 16 hours of  
 532 training, including training in industry ethics, the federal

533 Americans with Disabilities Act, the Florida Building Code, the  
 534 Florida Fire Prevention Code, and the Life Safety Code. An  
 535 apprentice locksmith may perform locksmith services only under  
 536 the direct and continuous supervision of a locksmith or  
 537 automotive-only locksmith. An apprentice locksmith may not  
 538 perform or contract to perform locksmith services without the  
 539 express approval of his or her supervising locksmith. The  
 540 supervising locksmith is responsible for any violation of this  
 541 part committed by the apprentice locksmith.

542 (2) (a) Except as provided in paragraph (b) for an  
 543 automotive-only locksmith, every 2 years, a locksmith must  
 544 complete at least 16 hours of training, including training on  
 545 the federal Americans with Disabilities Act, the Florida  
 546 Building Code, the Florida Fire Prevention Code, and the Life  
 547 Safety Code.

548 (b) Every 2 years, an automotive-only locksmith must  
 549 complete at least 8 hours of industry-related training. The  
 550 training must include, but is not limited to, training in  
 551 industry ethics.

552 (3) Each locksmith services business must maintain a  
 553 personnel record of each locksmith, automotive-only locksmith,  
 554 and apprentice locksmith who performs locksmith services on  
 555 behalf of the licensee. The personnel record must include:

556 (a) Two copies of a photograph taken of the locksmith,  
 557 automotive-only locksmith, or apprentice locksmith within 10  
 558 days after the date that he or she begins to perform locksmith  
 559 services on behalf of the licensee. One copy shall be used for  
 560 the locksmith's or apprentice's photo identification card. The

561 second copy shall be retained in his or her personnel record.  
 562 Both copies of the photograph shall be replaced with a current  
 563 photograph at least once every 2 calendar years.

564 (b) An affidavit of the locksmith's, automotive-only  
 565 locksmith's, or apprentice locksmith's criminal history, if any,  
 566 and the results of the background screening conducted pursuant  
 567 to s. 559.946.

568 (c) Documentation provided by the locksmith services  
 569 business that demonstrates completion of the training required  
 570 in subsections (1) and (2).

571 (4) Each locksmith services business shall issue a photo  
 572 identification card to each locksmith, automotive-only  
 573 locksmith, and apprentice locksmith performing locksmith  
 574 services on behalf of the licensee. A photo identification card  
 575 must contain the name and photograph of the locksmith or  
 576 apprentice, the name of the locksmith services business, and the  
 577 license number. The photo identification card must also include:

578 (a) For a locksmith, the word "Locksmith."

579 (b) For an automotive-only locksmith, the phrase  
 580 "Automotive-Only Locksmith."

581 (c) For an apprentice locksmith, the word "Apprentice."  
 582

583 Each locksmith, automotive-only locksmith, and apprentice  
 584 locksmith must display the photo identification card on his or  
 585 her person at all times while performing locksmith services.

586 (5) A locksmith services business must display a copy of  
 587 its locksmith services business license at each business  
 588 location in a manner easily readable by the general public. A

589 mobile locksmith services business shall keep a copy of the  
 590 license in each service vehicle for immediate presentation to  
 591 any law enforcement officer, state or local official, or member  
 592 of the general public upon request.

593 (6) Each advertisement or other form of advertising, each  
 594 service vehicle, and each work order, invoice, sales receipt, or  
 595 other business form of a licensee must include the license  
 596 number and name of the locksmith services business as they  
 597 appear on the license issued by the department.

598 559.952 Acceptable forms of payment; locksmith services  
 599 business records.--

600 (1) A locksmith services business shall accept at least  
 601 two of the following methods of payment:

602 (a) Cash, cashier's check, money order, or traveler's  
 603 check;

604 (b) Valid personal check, showing upon its face the name  
 605 and address of the person or an authorized representative for  
 606 whom the locksmith services were performed; or

607 (c) Valid credit card, which includes, but is not limited  
 608 to, Visa or MasterCard.

609 (2) A locksmith services business shall clearly and  
 610 conspicuously disclose to the person requesting locksmith  
 611 services in a work order, invoice, or sales receipt the methods  
 612 of payment that the locksmith services business accepts.

613 (3) (a) A locksmith services business must retain a copy of  
 614 each work order, invoice, and sales receipt for at least 2  
 615 years.

616 (b) Each work order, invoice, and sales receipt must

617 include the name of the person performing the service.  
 618 (c) A copy of each work order, invoice, and sales receipt  
 619 must be readily available for inspection at any time during  
 620 normal business hours by the department.

621 559.953 Locksmith tools; exemptions; prohibited acts.--

622 (1) This section does not apply to:

623 (a) A licensee.

624 (b) A locksmith or apprentice locksmith performing  
 625 locksmith services on behalf of a licensee.

626 (c) A recovery agent licensed under part IV of chapter  
 627 493.

628 (d) A wrecker operator as defined in s. 1.01(15).

629 (e) A lock manufacturer or the lock manufacturer's agent  
 630 who has a reasonable need to possess locksmith tools,  
 631 implements, or outfits for demonstration, testing, or research  
 632 purposes.

633 (2) Except as otherwise provided in subsection (1), a  
 634 person may not obtain, own, or possess locksmith tools,  
 635 implements, or outfits, in any format, either in person, through  
 636 an intermediary, through mail order, or by any other procurement  
 637 method. As used in this subsection, the term "locksmith tools"  
 638 includes, but is not limited to:

639 (a) A bump key, which is a fabricated, specially shaped or  
 640 modified key intended to be used to unlock a lock by any means  
 641 other than the specific method designed for the normal operation  
 642 of opening the lock.

643 (b) A car-opening tool, which is a metal, cloth, nylon,  
 644 rubber, or plastic tool or device designed to enter, bypass, or

645 otherwise overcome the locking systems or locking mechanisms of  
 646 a motor vehicle by any means other than the specific method  
 647 designed for the normal operation of opening the lock.

648 (c) A manual or codebook, which is a compilation, in any  
 649 form, of key codes.

650 (d) A code-grabbing device, which is a device that can  
 651 receive, record, or receive and record the code signal sent by  
 652 the transmitter of a motor vehicle's security, alarm, or  
 653 immobilizer system and play back the signal to disarm, bypass,  
 654 or neutralize the system.

655 (e) A lock pick, which is a manual, electric, or  
 656 electronic tool or device used to bypass, override, or  
 657 neutralize a lock by any means other than the specific method  
 658 designed for the normal operation of opening the lock.

659 (f) A manipulation key, which is a key other than a change  
 660 or master key that can be variably positioned or manipulated in  
 661 a keyway to bypass, override, or neutralize a lock by any means  
 662 other than the specific method designed for the normal operation  
 663 of opening the lock. As used in this paragraph, the term  
 664 "manipulation key" includes wiggle and bump keys.

665 (g) A safe-opening tool, which is a tool designed, or  
 666 intended by the user to be used, to open a safe, safe-deposit  
 667 box, or similar object by means other than that which is  
 668 intended by the manufacturer of the safe, vault, safe-deposit  
 669 box, or similar object for normal opening.

670 (h) A tryout key, which is a manipulation key that may or  
 671 may not be one of a set of similar keys used for a specific  
 672 series, keyway, or brand of lock to open, bypass, override, or

673 neutralize a lock by means other than intended by the  
 674 manufacturer.

675 559.954 Prohibited acts.--

676 (1) A person may not:

677 (a) Perform or offer to perform locksmith services without  
 678 having or acting under a valid license issued by the department  
 679 under this part.

680 (b) Advertise or represent himself or herself as a  
 681 locksmith services business without having a valid license  
 682 issued by the department under this part.

683 (c) Operate a locksmith referral service without having a  
 684 valid license issued by the department under this part.

685 (2) A licensee, or a locksmith, apprentice locksmith, or  
 686 other person acting on behalf of a licensee, may not:

687 (a) Fraudulently misuse any consumer's credit card.

688 (b) Require a consumer to waive his or her rights provided  
 689 in this part as a precondition to the performance of locksmith  
 690 services.

691 (c) Fail or refuse, after notice, to provide any law  
 692 enforcement officer or the department with any document or  
 693 record or disclose any information required to be produced or  
 694 disclosed.

695 (d) Employ or contract with any person disqualified under  
 696 s. 559.946 to perform locksmith services on behalf of the  
 697 licensee.

698 (e) Submit to the department the fingerprints of a person  
 699 other than the person for whom fingerprints must be submitted  
 700 pursuant to s. 559.946 or fail to submit replacement



701 | fingerprints for a locksmith or apprentice locksmith whose  
 702 | original fingerprint submissions are returned to the department  
 703 | as unclassifiable by the screening agency.

704 | (f) Use a mailing address, registration facility, drop  
 705 | box, or answering service in the promotion, advertisement,  
 706 | solicitation, or sale of locksmith services, unless the street  
 707 | address of the licensed business location is clearly disclosed  
 708 | during any telephone solicitation and is prominently and  
 709 | conspicuously disclosed in all advertisements and on the work  
 710 | orders, invoices, and sales receipts.

711 | (g) Operate as a locksmith services business at a business  
 712 | location other than the location that appears on the license  
 713 | issued by the department.

714 | (h) Make a false statement in response to a request or  
 715 | investigation by the department, the Department of Legal  
 716 | Affairs, a law enforcement officer, or a state attorney.

717 | (i) Make a material false statement in an application,  
 718 | document, or record required to be submitted or kept under this  
 719 | part.

720 | (j) Commit any other act of fraud or misrepresentation or  
 721 | fail to disclose a material fact.

722 | (k) Disclose or permit the disclosure of any consumer  
 723 | information without the consumer's written approval, except as  
 724 | authorized by this part.

725 | (l) Violate this part or any rule adopted or order issued  
 726 | under this part.

727 | 559.955 Civil penalties; remedies.--

728 | (1) A consumer injured by a violation of this part may

729 bring an action in the appropriate court for relief. The court  
 730 shall award reasonable costs and attorney's fees to the  
 731 prevailing party. The consumer may also bring an action for  
 732 injunctive relief in the circuit court.

733 (2) (a) The department may bring an action in a court of  
 734 competent jurisdiction to recover any penalties or damages  
 735 authorized in this part and for injunctive relief to enforce  
 736 this part.

737 (b) The department may seek a civil penalty of up to  
 738 \$10,000 for each violation of this part.

739 (c) The department may seek restitution for and on behalf  
 740 of any consumer injured by a violation of this part.

741 (3) An agreement or representation that waives, limits,  
 742 restricts, or avoids any duty, obligation, or requirement of a  
 743 locksmith services business, as provided in this part, is void.

744 (4) A remedy provided in this part is in addition to any  
 745 other remedy otherwise available for the same conduct.

746 559.956 Administrative remedies; penalties.--

747 (1) The department shall process a consumer complaint  
 748 against a locksmith services business in the manner described in  
 749 ss. 570.07 and 570.544.

750 (2) A locksmith services business shall allow department  
 751 personnel to enter its business locations for purposes of  
 752 determining whether the license is current. If department  
 753 personnel are refused entry or access to the premises, the  
 754 department may seek injunctive relief in circuit court to  
 755 enforce this subsection.

756 (3) If the department determines that a locksmith services

757 business has violated, or is operating in violation of, this  
 758 part or any rules adopted or orders issued under this part, the  
 759 department may enter an order doing one or more of the  
 760 following:

761 (a) Issuing a notice of noncompliance under s. 120.695.

762 (b) Imposing an administrative fine not to exceed \$10,000  
 763 for each act or omission.

764 (c) Directing that the locksmith services business cease  
 765 and desist specified activities.

766 (d) Refusing to issue or renew, suspending, or revoking a  
 767 license.

768 (e) Placing the licensee on probation for a specified  
 769 period, subject to conditions specified by the department.

770 (4) Administrative proceedings that may result in an order  
 771 imposing any of the penalties specified in subsection (3) are  
 772 governed by chapter 120.

773 (5) In a final order imposing an administrative fine or  
 774 refusing to issue or renew, suspending, or revoking a license,  
 775 the department may assess against the sanctioned party the cost  
 776 of conducting the administrative proceedings, unless the  
 777 department determines that the offense was inadvertent or done  
 778 in a good faith belief that the act or omission did not violate  
 779 a state law or rule. An assessment is limited to the reasonable  
 780 hourly rate of the hearing officer and the actual cost of  
 781 recording or transcribing the proceedings.

782 (6) (a) The department shall prominently post a "Closed by  
 783 Order of the Department" sign on a locksmith services business  
 784 whose license is suspended or revoked. The department shall also

785 post a sign on a locksmith services business that is judicially  
 786 or administratively determined to be operating without a  
 787 license.

788 (b) A person who defaces or removes the sign without  
 789 written authorization from the department, or a locksmith  
 790 services business that opens for operation without a license or  
 791 opens for operation as a locksmith services business while its  
 792 license is suspended or revoked, commits a misdemeanor of the  
 793 second degree, punishable as provided in s. 775.082 or s.  
 794 775.083.

795 (c) A criminal penalty imposed under this subsection shall  
 796 be in addition to any administrative sanction imposed by the  
 797 department under subsection (3).

798 559.957 Deceptive and unfair trade practices.--A person  
 799 who violates any provision of this part commits an unfair or  
 800 deceptive trade practice and is subject to the penalties and  
 801 remedies provided in part II of chapter 501.

802 559.958 Criminal penalties.--

803 (1) A person who violates s. 559.953 or s. 559.954 commits  
 804 a misdemeanor of the first degree, punishable as provided in s.  
 805 775.082 or s. 775.083.

806 (2) A person who violates s. 559.953 with the intent of  
 807 committing burglary, robbery, or larceny commits a felony of the  
 808 third degree, punishable as provided in s. 775.082, s. 775.083,  
 809 or s. 775.084.

810 559.959 Rulemaking authority.--The department shall adopt  
 811 rules pursuant to ss. 120.536(1) and 120.54 to administer this  
 812 part. The rules shall include, but are not limited to, the

813 following:

814 (1) Requirements and procedures for the licensure of  
 815 locksmith services businesses.

816 (2) Requirements and procedures for the fingerprinting and  
 817 background screening of persons listed in s. 559.945(1)(f) for  
 818 criminal justice information.

819 (3) Forms required to implement this part, including  
 820 license applications, renewal applications, fingerprint  
 821 submissions, affidavits of criminal history, and photo  
 822 identification cards.

823 (4) Establishment of application, license, renewal, and  
 824 other reasonable and necessary fees based upon the department's  
 825 estimate of the costs of administering this part.

826 (5) Establishment and periodic update of a background  
 827 screening fee schedule to incorporate fee changes by the Federal  
 828 Bureau of Investigation, the Department of Law Enforcement, and  
 829 other entities involved in conducting the background screenings.

830 (6) Methods of obtaining and renewing photographs for  
 831 photo identification.

832 (7) Use and display of licenses and license numbers.

833 559.96 Deposit and use of revenues from fees, civil  
 834 penalties, and fines.--Any fees, civil penalties, administrative  
 835 finances, or other funds collected by the department pursuant to  
 836 this part shall be deposited in the General Inspection Trust  
 837 Fund and used to administer this part.

838 559.961 Preemption; local business tax receipts.--

839 (1) Effective July 1, 2011, this part preempts any local  
 840 act, law, ordinance, or regulation of a county or municipality

841 that relates to locksmith services, locksmiths, or locksmith  
 842 services businesses.

843 (2) A county or municipality may not issue or renew a  
 844 local business tax receipt for a locksmith services business  
 845 unless the person applying for or renewing the local business  
 846 tax receipt exhibits a valid license issued by the department.

847 559.962 Florida Locksmith Services Advisory Council.--The  
 848 Florida Locksmith Services Advisory Council is created within  
 849 the department to advise and assist the department in carrying  
 850 out this part.

851 (1) The council shall be composed of nine members  
 852 appointed by the Commissioner of Agriculture, as follows:

853 (a) Six industry members must be owners or employees of  
 854 locksmith services businesses licensed under this part, as  
 855 follows:

856 1. Five members must be locksmiths who are owners or  
 857 employees of separate, licensed locksmith services businesses  
 858 who do not perform automotive-only locksmith services.

859 2. One member must be an automotive-only locksmith who is  
 860 an owner or employee of a licensed locksmith services business.

861 (b) One member must be an electrical contractor certified  
 862 under part II of chapter 489.

863 (c) One member must have private investigative, private  
 864 security, motor vehicle recovery, or law enforcement experience  
 865 or expertise.

866 (d) One member must be a consumer who is not affiliated  
 867 with any locksmith services business.

868

869 Each member must be a resident of the state. Each member, except  
 870 the consumer member, must have at least 3 years of experience  
 871 and be currently engaged in the profession. Initial industry  
 872 members must be owners or employees of locksmith services  
 873 businesses but, notwithstanding paragraph (a), the locksmith  
 874 services businesses of the initial members are not required to  
 875 be licensed.

876 (2) Members shall be appointed for 4-year terms and must  
 877 be geographically representative of the state. A member whose  
 878 term expires shall continue to serve until his or her successor  
 879 is appointed. A vacancy occurring before the expiration of a  
 880 member's term shall be filled by the commissioner for the  
 881 remainder of the term.

882 (3) (a) The council shall annually elect a chair and a vice  
 883 chair from among its appointed members.

884 (b) The council shall meet at the call of the chair, upon  
 885 the request of a majority of its membership, or upon the request  
 886 of the Commissioner of Agriculture.

887 (c) In conducting its meetings, the council shall use  
 888 accepted rules of procedure. The department shall keep a  
 889 complete record of each meeting, which must show the names of  
 890 the members present and actions taken. The department shall keep  
 891 the records of the council.

892 (4) Members of the council shall serve without  
 893 compensation but are entitled to per diem and travel expenses as  
 894 provided in s. 112.061.

895 (5) The department shall provide administrative and staff  
 896 support for the council.

HB 301

2010

897        (6) The council may review any rules adopted by the  
898 department pursuant to this part and may advise the department  
899 on matters relating to advancements in industry standards,  
900 practices, and other issues that require technical expertise and  
901 consultation or that promote consumer protection in the  
902 locksmith services industry.

903            Section 2. This act shall take effect July 1, 2010.





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 569

Landfills

SPONSOR(S): Poppell

TIED BILLS:

IDEN./SIM. BILLS: SB 1052

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee		Cunningham <i>RC</i>	Reese <i>SR</i>
2)	Military & Local Affairs Policy Committee			
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Current law<sup>1</sup> prohibits the deposit of yard trash in lined landfills classified by the Florida Department of Environmental Protection rule as Class I landfills. The bill allows Class I landfills that are designed to utilize an active gas collection system, and that provide or arrange for reuse of the landfill gas collected at such facilities, to accept yard trash.

The bill has an effective date of July 1, 2010.

The bill appears to have no fiscal impact on state government; however, local governments and the private sector may be affected. See Section II of this analysis for further fiscal information.

<sup>1</sup> section 403.708, Florida Statutes,

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0569.ANR.doc

DATE: 2/5/2010

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

According to chapter 62-701.340, Florida Administrative Code, landfills or solid waste disposal units are classified into one of three categories by the amount or types of wastes received.

- Class I landfills are those that receive an average of 20 tons or more of Class I waste<sup>2</sup> per day. There are 53 Class I landfills in Florida.
- Class II landfills (which are no longer being permitted in Florida because most facilities opt to be permitted as a Class I landfill) are those that receive an average of less than 20 tons of Class I waste per day.
- Class III landfills are those that receive only Class III waste<sup>3</sup>. Class III landfills cannot accept putrescible (likely to become putrid<sup>4</sup>) household waste. The Department of Environmental Protection (DEP) shall exempt Class III landfills from some or all of the requirements for liners, leachate controls, and water quality monitoring if the applicant demonstrates that no significant threat to the environment will result from the exemption based upon the types of waste received, methods for controlling types of waste disposed of, and the results of hydrogeological and geotechnical investigations.

Currently, section 403.708, F.S., prohibits the deposit of yard trash<sup>5</sup> in lined landfills classified by DEP rule as Class I landfills. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where separate yard trash composting facilities are provided and maintained. According to DEP, many local governments have expended significant money on implementing separate collection programs for yard trash. Due to the rising cost of purchasing additional land for landfill purposes, depositing yard trash in landfills has been discouraged. There are businesses that turn yard trash into mulch and other products and cities and municipalities are encouraged to recycle yard trash. Section 403.706, F.S., requires each county to implement a plan to achieve a goal of

<sup>2</sup> Class I waste means solid waste that is not hazardous waste, and that is not prohibited from disposal in a lined landfill. (rule 62-701.200, F.A.C.)

<sup>3</sup> Class III waste means yard trash, construction and demolition debris, processed tires, asbestos, carpet, cardboard, paper, glass, plastic, furniture other than appliances, or other materials approved by DEP that are not expected to produce leachate that poses a threat to public health or the environment.

<sup>4</sup> [www.thefreedictionary.com](http://www.thefreedictionary.com)

<sup>5</sup> Yard trash is defined in rule 62-701.200, F.A.C., as vegetative matter resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps.

composting no less than 5% and up to 10% of organic materials that would otherwise be disposed of in a landfill.

The Energy, Climate Change and Economic Security Act of 2008 established a new statewide recycling goal of 75% by 2020. The Act directed the Florida Department of Environmental Protection (DEP) to submit to the Florida Legislature a comprehensive program to achieve this goal. On January 4, 2010, the DEP submitted the required report to the Legislature.

The information and recommendations in the report were developed based on extensive research and the contributions of stakeholders who participated in four public workshops. An even wider range of ideas were submitted through DEP's Web forum and e-mails.

According to the report, Florida generates more than 32 million tons of municipal solid waste annually, almost two tons per resident per year. Today, more than two decades after the Legislature passed Florida's first 30% recycling goal, Floridians collectively recycle only 28% of their solid waste. The report explores ways to change that fact through heightened public awareness, state leadership, development and expansion of recycling markets, and more investments throughout the local government and commercial sectors.<sup>6</sup>

### Effect of Proposed Changes

This bill allows Class I landfills, that have an active gas collection system and provide or arrange for reuse of the landfill gas, to accept yard trash. Counties and municipalities that implement separate collection programs may save money; however, this may inadvertently impact the availability of jobs.

According to DEP, 44 landfills have active gas collection systems. There are currently about 12 active landfills with active gas collection systems that beneficially use the gas. Those landfills would be affected by this bill. This bill would allow those landfills to accept yard trash for disposal. There are also about 32 landfills that actively collect landfill gas but do not beneficially use the gas. Some of those landfills could install a system to beneficially use the gas, and those landfills would then also be allowed to accept yard trash.

The elimination of the lined landfill yard trash ban could impact several different fronts. Combined collection with household waste might, in some cases, result in more efficient collection and possibly fewer waste-hauling trucks on the road. This, in turn, may result in a cost savings. Decreased vehicle traffic would positively impact energy consumption and greenhouse gas emissions. On the other hand, when yard trash is disposed of in a landfill, it decomposes under anaerobic conditions and generates methane, a greenhouse gas that has a global warming potential 21 times greater than carbon dioxide. If this methane is captured very efficiently and utilized to produce energy, it may result in energy savings and reduced greenhouse gas emissions. If the methane produced by the yard trash is not captured very efficiently, total greenhouse gas emissions would be expected to increase. It is not yet clear whether the active gas collection systems currently in place will operate efficiently enough to result in an overall decrease in greenhouse gas emissions.

Combining collection of household waste and yard trash would have a major impact on the waste management industry, and may impact local governments, landfill operators, haulers, yard trash facilities, biomass facilities, and compost/top soil producers. A study is currently underway as part of a DEP-funded research effort under contract with the University of Florida to evaluate the overall impacts of allowing yard trash disposal in some lined landfills. Allowing these landfills to accept yard trash will, most likely, increase the amount of landfill gas generated, resulting in greater efficiency and more alternative fuel produced. However, the amount of yard trash that is available for mulch or compost would be reduced. Allowing yard trash to be disposed of in Class I landfills may also impede the local government's composting requirement provided for in s. 403.706, F.S.

---

<sup>6</sup> [http://www.dep.state.fl.us/waste/quick\\_topics/publications/shw/recycling/75percent/75\\_recycling\\_report.pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/shw/recycling/75percent/75_recycling_report.pdf)

B. SECTION DIRECTORY:

**Section 1.** Amends s. 403.708, F.S., to allow the disposal of yard trash in Class I landfills that are designed to utilize an active gas collection system to collect landfill gas generated at the Class I facility and that provide or arrange for reuse of the landfill gas collected may accept yard trash for disposal.

**Section 2.** Gives an effective date of July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments section below.

2. Expenditures:

See fiscal comments section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Privately owned landfills may benefit from the allowance of yard trash in landfills that collect the gas and reuse it or sell it. Businesses that operate yard trash processing facilities may see a reduction in the availability of yard trash. Businesses that operate Class III landfills or construction and demolition disposal facilities could see a decrease in tipping fees if yard trash is diverted to Class I landfills. Businesses that operate a Class I landfill and elect to install a system to collect landfill gas and reuse it would incur start-up costs of the system and its installation.

D. FISCAL COMMENTS:

Non-recurring Effects: If a local government is operating a Class I landfill and elects to put in a system to beneficially use landfill gas, there would be start-up costs of installing such a system. Otherwise, none.

Recurring Effects: Many local governments have expended significant money on implementing separate collection programs for yard trash. In some cases the local government might save money if it could do away with separate collection and just take all the yard trash to the Class I landfill. In other cases the local government might find it more difficult or expensive to collect enough yard trash to continue supplying a mulching, or fuel-making operation.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to

raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to landfills; amending s. 403.708, F.S.;  
 3           authorizing specified landfills to accept yard trash for  
 4           disposal; providing an effective date.

5  
 6   Be It Enacted by the Legislature of the State of Florida:

7  
 8           Section 1. Paragraph (c) of subsection (12) of section  
 9   403.708, Florida Statutes, is amended to read:

10           403.708 Prohibition; penalty.—

11           (12) A person who knows or should know of the nature of  
 12   the following types of solid waste may not dispose of such solid  
 13   waste in landfills:

14           (c) Yard trash in lined landfills classified by department  
 15   rule as Class I landfills. However, Class I landfills that are  
 16   designed to utilize an active gas collection system to collect  
 17   landfill gas generated at the Class I disposal facility and that  
 18   provide or arrange for reuse of the landfill gas collected may  
 19   accept yard trash for disposal. Yard trash that is source  
 20   separated from solid waste may be accepted at a solid waste  
 21   disposal area where separate yard trash composting facilities  
 22   are provided and maintained. The department recognizes that  
 23   incidental amounts of yard trash may be disposed of in Class I  
 24   landfills. In any enforcement action taken pursuant to this  
 25   paragraph, the department shall consider the difficulty of  
 26   removing incidental amounts of yard trash from a mixed solid  
 27   waste stream.

28           Section 2. This act shall take effect July 1, 2010.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Amendment No.

COUNCIL/COMMITTEE ACTION

ADOPTED           \_\_\_ (Y/N)  
ADOPTED AS AMENDED       \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION   \_\_\_ (Y/N)  
FAILED TO ADOPT         \_\_\_ (Y/N)  
WITHDRAWN           \_\_\_ (Y/N)  
OTHER                \_\_\_\_\_

---

1 Council/Committee hearing bill: Agriculture & Natural Resources  
2 Policy Committee  
3 Representative Poppell offered the following:  
4

5       **Amendment (with title amendment)**

6       Remove everything after the enacting clause and insert:  
7       Section 1. Paragraph (c) of subsection (12) of section  
8       403.708, Florida Statutes, is amended to read:

9       403.708 Prohibition; penalty.—

10       (12) A person who knows or should know of the nature of  
11 the following types of solid waste may not dispose of such solid  
12 waste in landfills:

13       (c) Yard trash in lined landfills classified by department  
14 rule as Class I landfills, unless the Class I landfill uses an  
15 active gas-collection system to collect landfill gas generated  
16 at the disposal facility and provides or arranges for a  
17 beneficial use of the gas. A qualifying permitted Class I  
18 landfill shall obtain a minor permit modification to its  
19 operating permit which describes the beneficial use being made



Amendment No.

20 of the landfill gas and modifies the facility's operation plan  
21 before receiving yard trash as authorized by this paragraph. The  
22 permittee must certify that gas collection and beneficial use  
23 will continue after closure of the disposal facility that is  
24 accepting yard trash. Yard trash that is source separated from  
25 solid waste may be accepted at a solid waste disposal area where  
26 separate yard trash composting facilities are provided and  
27 maintained. The department recognizes that incidental amounts of  
28 yard trash may be disposed of in Class I landfills. In any  
29 enforcement action taken pursuant to this paragraph, the  
30 department shall consider the difficulty of removing incidental  
31 amounts of yard trash from a mixed solid waste stream.

32 Section 2. This act shall take effect July 1, 2010.  
33  
34  
35

36 -----  
37 **T I T L E A M E N D M E N T**

38 Remove the entire title and insert:

39 An act relating to landfills; amending s. 403.708, F.S.;  
40 authorizing the disposal of yard trash at specified Class I  
41 landfills; requiring such landfills to obtain a modified  
42 operating permit; requiring permittees to certify certain  
43 collection and beneficial use of landfill gas; providing an  
44 effective date.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 753  
**SPONSOR(S):** Saunders  
**TIED BILLS:**

Monroe County

**IDEN./SIM. BILLS:** SB 1226, SB 422

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	10 Y, 0 N	Nelson	Hoagland
2)	Agriculture & Natural Resources Policy Committee		Kliner <i>W</i>	Reese <i>RP</i>
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

**SUMMARY ANALYSIS**

This bill amends an uncodified section of law relating to sewage requirements in Monroe County. The bill provides criteria for the use of shallow injection wells to backup deep primary injection wells in wastewater facilities with the design capacity of one million gallons or greater per day.

Use of the shallow backup well is allowed only when the primary injection well is out of service as the result of equipment failure, power failure, or the need for mechanical integrity testing or repair. Operation of the backup well is limited to no more than 500 hours in any five-year period unless specifically authorized in writing by the Department of Environmental Protection, and fluid injected into the well must meet applicable treatment standards.

This bill does not appear to have a fiscal impact on state government. The bill appears to have a positive fiscal impact on wastewater facilities in Monroe County and the customers of such facilities.

This bill has an effective date of upon becoming a law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Injection Wells

The Department of Environmental Protection (DEP) is charged with protecting the State of Florida's underground sources of drinking water (USDW).<sup>1</sup> Billions of gallons of wastewater are produced in Florida every day, the improper disposal of which could impact public health and the environment.<sup>2</sup> One method employed for disposing of treated domestic wastewater is the underground injection well. An injection well is an open vertical hole at least 90 feet in depth, cased<sup>3</sup> and grouted to at least 60 feet in depth, which is used to dispose of effluent from an onsite sewage treatment and disposal system.<sup>4</sup> Injection wells are required to be constructed, maintained and operated so that the injected fluid remains in the injection zone, and the unapproved interchange of water between aquifers is prohibited.

There are five classes of injection wells:

- Class I wells are used to inject hazardous waste, nonhazardous waste, or municipal waste far below the lowermost USDW. The injection zone is deep (typically from 1,700 to more than 10,000 in depth) and separated from the USDWs by an impermeable "confining layer."<sup>5</sup> There are more than 125 active Class I wells in Florida. The majority of these facilities dispose of nonhazardous, secondary-treated effluent from domestic wastewater treatment plants.
- Class II wells inject fluids associated with the production of oil and natural gas or fluids used to enhance hydrocarbon recovery.
- Class III wells inject fluids for extraction of minerals. There are no Class III wells in Florida.

---

<sup>1</sup> Pursuant to Rule 62.528.200(66), F.A.C, a USDW is defined as an aquifer which supplies drinking water for human consumption, or contains a total dissolved solids concentration of less than 10,000 milligrams per liter of water.

<sup>2</sup> <http://www.dep.state.fl.us/water/wastewater/index.htm>.

<sup>3</sup> Pursuant to Rule 62-528.200(8), F.A.C., "casing" means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling mud into porous ground, or to prevent water, gas, or other fluid from entering or leaving the hole.

<sup>4</sup> Section 381.0065(2)(f), F.S.

<sup>5</sup> [Http://www.epa.gov/safewater/uic/wells\\_class1.html](http://www.epa.gov/safewater/uic/wells_class1.html).

- Class IV wells are used to dispose of hazardous or radioactive wastes into or above USDW. These wells are banned in Florida.
- Class V injection wells generally inject nonhazardous fluid into or above a USDW. The fluid injected must meet appropriate criteria as determined by the classification of the receiving aquifer. Common types of Class V wells include air conditioning return flow wells, swimming pool drainage wells, storm water drainage wells, lake level control wells, domestic waste wells, and aquifer storage and recovery wells. There are more than 8,000 Class V wells in this state.<sup>6</sup>

The depth of the various classes of injection wells is not specified in law or rule. Rather, these wells are characterized by how they relate to the underground geology, how they are constructed in order to protect groundwater, what they discharge, and other defining criteria.

DEP requires sewage treatment plants—depending on the size, complexity and type(s) of their discharge—to meet certain reliability standards, including the ability to operate under emergency circumstances or during other conditions when normal operation is not possible. Thus, all facilities must have an adequate “backup” discharge system, whether it is a secondary well(s), or the ability to utilize surface water discharge or reuse methods.<sup>7</sup>

### Monroe County (The Florida Keys)

In 1979, the Legislature enacted s. 380.0552, F.S., designating the Florida Keys (Keys) as an area of critical state concern. This law requires state, regional, and local agencies and units of government in the Keys area to coordinate their plans and conduct their programs and regulatory activities consistent with a number of principles for guiding development that include the protection of the environment and the quality of water.

Chapter 99-395, L.O.F., originally was passed, in large measure, to bolster the area of critical state concern requirements. It was designed to improve nearshore water quality—which has been demonstrated to suffer from poor wastewater management practices—and to provide improved protection for the Keys’ reef system given the uncertain affect of wastewater discharges.<sup>8</sup> Wastewater in the Keys currently is subjected to advanced wastewater treatment, which includes the reduction of nutrients, toxicity, suspended solids and organics.

Section 6 of ch. 99-395, L.O.F., applies to all sewage treatment, reuse, and disposal facilities and all onsite sewage treatment and disposal systems in Monroe County. This uncodified section of law requires, in relevant part, that facilities discharging at least one million gallons per day utilizing Class V injection wells use wells that are cased to at least 2,000 feet deep or to such greater depth as may be required by DEP rule. Smaller facilities, with a design capacity of less than one million gallons per day, are authorized to use shallow Class V disposal wells that are at least 90 feet deep and cased to a minimum depth of 60 feet or to such greater cased depth and total well depth as required by DEP rule.

As a result of the limited amount of land surface, wastewater facilities in Monroe County have few disposal options. Water discharges are prohibited, and reuse and other land disposal possibilities are generally unavailable. Consequently, injection wells often serve as the single practical option.

Class V injection wells are the prevailing domestic sewage disposal method for residential and commercial facilities in the Keys. A typical Class V well in the Keys has 60 feet of casing and a depth of 90 feet. The injection formation is a very permeable limestone, either the Miami Oolite or Key Largo Limestone. The injected water, whether it is domestic effluent or stormwater, is much less dense than the native groundwater (which is sea water quality) and thus rises due to buoyancy. Potential effects on surface water are the reason that deep—or Class I—wells (which have confining strata between the

<sup>6</sup> <http://www.dep.state.fl.us/water/uic/>.

<sup>7</sup> February 11, 2010, telephone conversation with Geof Mansfield, Florida Department of Environmental Protection, Director of Compliance & Enforcement.

<sup>8</sup> February 10, 2010, e-mail from Geof Mansfield, Florida Department of Environmental Protection, Director of Compliance & Enforcement

injection zone—about 2500 feet deep—and the surface) have been installed at Key West and Key Largo.

### Effect of bill

This bill amends s. 6, ch.99-395, L.O.F., relating to Monroe County. It provides the criteria for the use of shallow backup Class V injection wells at wastewater facilities with the design capacity of a million or more gallons per day. Such a backup injection well must meet the following criteria:

- The well may be used only when the primary injection well is out of service because of equipment failure, power failure, or the need for mechanical integrating testing or repair.
- The well may not be used for a total of more than 500 hours during any five-year period, unless specifically authorized in writing by the DEP.
- It must be at least 90 feet deep and cased to a minimum depth of 60 feet, or to such greater cased depth and total well depth as may be required by DEP rule.
- Fluids injected into the well must meet the same sewage discharge requirements as the primary injection well.

According to the DEP, the bill will provide significant cost savings as deep wells are extremely expensive to construct. By limiting the time period during which a shallow back-up well can be used, no adverse affects are expected to occur in adjacent ground or surface waters.<sup>9</sup>

It appears that this bill primarily will affect the Key Largo Wastewater Treatment District by allowing a shallow Class V well to be used as backup to the new Class I well. The district intends to have its Class I well operational by August of this year.<sup>10</sup> The Key West facility should not be impacted by the bill as it currently has a deep injection backup well in place.

The Florida Keys Aqueduct Authority, the entity that supplies all potable water to the Keys through a pipeline from Dade County, currently has an advanced wastewater treatment plant project in the design phase (Cudjoe Regional) which may benefit from this legislation in the future. Potentially, the bill could also provide relief to other wastewater facilities as these entities are reconfigured and built in response to the changing dynamics in the Keys.

The bill provides an effective date of upon becoming law.

### B. SECTION DIRECTORY:

Section 1: Amends s. 6, ch.99-395, L.O.F., relating to sewage requirements in Monroe County.

Section 2: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 7, 2009

WHERE? *The Key West Citizen*, a daily newspaper of general circulation published in Monroe County.

B. REFERENDUM(S) REQUIRED? Yes  No

<sup>9</sup> Department of Environmental Protection Draft Bill Analysis for HB 1053 (2009).

<sup>10</sup> February 10, 2010, telephone conversation with Chuck Fishburn, general manager of the Key Largo Wastewater Treatment District.

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

According to DEP's estimates, local governments that own domestic wastewater facilities could experience savings of more than \$4 million in backup injection well construction costs and \$5,000 per year in reduced well testing costs.

There currently are no private utilities in the Florida Keys operating disposal wells associated with a wastewater treatment facility with a design capacity of greater than one million gallons per day. However, a private utility that installs or takes ownership of such a system will benefit from the reduced construction costs. A private utility also will benefit from the reduced testing requirements for a shallow well compared to a deep well.<sup>11</sup>

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

#### **Drafting Issues**

None.

#### **Other Comments**

HB 1053 (2009), a general bill that was identical to HB 753, was unanimously passed by both the Agriculture & Natural Resources Policy Committee and the General Government Policy Council, and passed the House on April 27, 2009. That bill died in Messages.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

---

<sup>11</sup> Department of Environmental Protection Draft Bill Analysis for HB 1053 (2009).

1                   A bill to be entitled  
 2           An act relating to Monroe County; amending chapter 99-395,  
 3           Laws of Florida; providing exceptions to requirements of  
 4           the Department of Environmental Protection regarding  
 5           minimum casing for injection wells used by facilities that  
 6           have a specified design capacity; providing requirements  
 7           for an injection well used as a backup to a primary  
 8           injection well; providing an effective date.

9

10   Be It Enacted by the Legislature of the State of Florida:

11

12           Section 1. Subsection (7) of section 6 of chapter 99-395,  
 13           Laws of Florida, is amended to read:

14

          Section 6. Sewage requirements in Monroe County.-

15

          (7) Class V injection wells, as defined by Department of  
 16           Environmental Protection or Department of Health rule, shall  
 17           meet the following requirements and shall otherwise comply with  
 18           Department of Environmental Protection or Department of Health  
 19           rules, as applicable:

20

          (a) If the design capacity of the facility is less than  
 21           1,000,000 gallons per day, the injection well shall be at least  
 22           90 feet deep and cased to a minimum depth of 60 feet or to such  
 23           greater cased depth and total well depth as may be required by  
 24           Department of Environmental Protection rule.

25

          (b) Except as provided in paragraph (c) for backup wells,  
 26           if the design capacity of the facility is equal to or greater  
 27           than 1,000,000 gallons per day, the injection well shall be  
 28           cased to a minimum depth of 2,000 feet or to such greater depth





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 765 Unlawful Slaughter of Horses

SPONSOR(S): Garcia and others

TIED BILLS: IDEN./SIM. BILLS: SB 1708

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture & Natural Resources Policy Committee		Thompson <i>ST</i>	Reese <i>RR</i>
2) Criminal & Civil Justice Appropriations Committee			
3) General Government Policy Council			
4)			
5)			

SUMMARY ANALYSIS

It has recently been reported that South Florida has experienced an increase in the illegal horse meat market. In response, in 2009, the Miami-Dade County Board of County Commissioners issued a resolution<sup>1</sup> urging the Florida Legislature to increase the criminal penalties related to the unlawful slaughter of horses.

The bill, in part:

- Creates four new horse meat for human consumption offenses: transporting, distributing, purchasing, or possessing.
- Increases the penalties for said offenses to a third degree unranked felony.
- Authorizes the sentencing of violent career criminals, habitual felony and habitual violent felony offenders, and three-time violent felony offenders of the horse meat for human consumption provision.
- Provides for a minimum mandatory fine of \$3,500 and a minimum mandatory period of incarceration of one year for violations of said offenses.
- Authorizes the suspension of any license of any restaurant, store, or other business, as provided for in the applicable licensing law, upon the conviction of an owner or employee of said business for a violation of the horse meat for human consumption provision.
- Expands the classification of protection for registered breeds of horses to include any animal of the genus Equus (horse) and provides for a minimum mandatory fine of \$3,500 and period of incarceration of one year for violations of the horse killing or aggravated abuse provision.

Although the bill creates a new third degree felony, the Department of Corrections anticipates an insignificant fiscal impact. The Criminal Justice Impact Conference determined that the bill will have an insignificant impact on prison admissions and populations. It is impossible to forecast how many violations might occur, thus the actual fiscal impact on state and local governments is unknown. Associated medical and insurance costs to the private sector may be reduced. (See Fiscal Comments section for additional details)

The bill has an effective date of October 1, 2010.

<sup>1</sup> Miami-Dade Resolution No. R.-1215-09

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Generally, horse meat is consumed in parts of Europe, Asia and South America. In 2007, three horse slaughter plants operated in the United States (U.S.), two in Texas and one in Illinois, all owned by French and Belgian firms,<sup>2</sup> whereby the meat was primarily exported to foreign markets. Although a commercial market for horsemeat as food has never emerged in the U.S., it is reported that areas of South Florida are currently experiencing an increase in demand for such meat.<sup>3</sup>

During the 1996 regular session, the Legislature enacted laws<sup>4</sup> repealing the State Meat Inspection Program within the Florida Department of Agriculture and Consumer Services (DACs). The repeal transferred the entire state program over to the federal government to be regulated by the U.S. Department of Agriculture (USDA). Currently, the DACs only provides inspection and testing programs for retail food stores, food processing plants, food storage and distribution points, and other locations in Florida where food is sold to the public.

The Federal Meat Inspection Act (FMIA)<sup>5</sup> requires the USDA to inspect all "amenable species" such as, cattle, sheep, goats, and horses when slaughtered for processing into products for human consumption. This act, administered by USDA's Food Safety and Inspection Service (FSIS), aims to ensure that meat and meat products from these animals are safe, wholesome, and properly labeled. FSIS safety inspection is mandatory, and most costs are covered by appropriated funds.<sup>6</sup> Without these inspections, there can be no legal sale or slaughter of horses for human consumption.

In 2005, Congress passed a provision<sup>7</sup> that would have stopped the USDA appropriation paying for the inspections of horses sold for slaughter. In response, the USDA issued a rule<sup>8</sup>, amending the Congressional provision, creating a "fee-for-service" inspection program that allowed slaughterhouses

---

<sup>2</sup> Dallas Crown, Inc. in Kaufman, Texas; Beltex Corporation in Fort Worth, Texas; and Cavel International, Inc. in DeKalb, Illinois

<sup>3</sup> USA Today, South Florida sees rise in illegal horse meat market; Gomez, Alan; [http://www.usatoday.com/news/nation/2009-10-05-horse-meat\\_N.htm](http://www.usatoday.com/news/nation/2009-10-05-horse-meat_N.htm)

<sup>4</sup> 96-423, Laws of Florida

<sup>5</sup> 21 U.S.C., s. 603

<sup>6</sup> Congressional Research Service, Horse Slaughter Prevention Bills and Issues; Becker, Geoffrey S.; May 8, 2009

<sup>7</sup> Section 794, an amendment to the FY 2006 Agricultural Appropriations Act

<sup>8</sup> 9 C.F.R. 352.19

to continue with inspections if the costs were borne by the slaughterhouses. Consequently, several national animal welfare organizations filed suit<sup>9</sup> against the USDA for accepting private payments. On March 28, 2007, a United States District Court ruled that private (fee-for-service) payment to government entities is unconstitutional. This effectively cut the funding for inspections of horses sold for slaughter, thus, eliminating any legal means for the processing or sale of horse meat for human consumption in the U.S.

### **Present Situation**

It has recently been reported that areas of South Florida have experienced an increase in the illegal horse meat market.<sup>10</sup> In 2009, South Florida experienced approximately twenty illegal horse slaughtering cases. According to the South Florida Society for the Prevention of Cruelty to Animals (SPCA),<sup>11</sup> many of these horses are butchered for meat. According to the Miami-Dade Agricultural Patrol Unit, many of the resulting carcasses are left at the scene of the crime or on the roadside.<sup>12</sup> In response, on October 20, 2009, the Miami-Dade County Board of County Commissioners issued a resolution<sup>13</sup> urging the Florida Legislature to increase the criminal penalties related to the unlawful slaughter of horses.

Section 500.452, F.S., prohibits the sale of horse meat for human consumption in the markets of the state unless the meat is clearly stamped, marked, and described as horse meat for human consumption. Violations of this section are a misdemeanor of the second degree, punishable by a fine of not more than \$500 or sixty days in jail, or both.

Section 828.125, F.S., prohibits the willful and unlawful killing, maiming, mutilating or causing of great bodily harm or permanent breeding disability to any animal of any registered breed of horse or cattle. Violations of this section are a second degree felony, punishable by a fine of not more than \$10,000 or 15 years in prison, or both.

### **Proposed Changes**

HB 765 amends s. 500.451, F.S., to include four additional horse meat offenses: transporting, distributing, purchasing, or possessing. The bill expands the branding requirement<sup>14</sup> to include the phrase "horsemeat that is not acquired from a licensed slaughterhouse." The bill increases violations to a third degree felony punishable by a \$5,000 fine and up to five years in jail plus applicable administrative fees and court costs.<sup>15</sup> Additionally, the bill authorizes the sentencing of violent career criminals, habitual felony and habitual violent felony offenders, and three-time violent felony offenders<sup>16</sup> of the horse meat for human consumption provision. The bill provides for a minimum mandatory fine of \$3,500 and a minimum mandatory period of incarceration of one year for horse meat for human consumption offenses. Additionally, the bill authorizes the suspension of any license of any restaurant, store, or other business, as provided for in the applicable licensing law, upon the conviction of an owner or employee of said business for a violation of this section.

The bill amends s. 828.125, F.S., to expand the classification of protection for registered breeds of horses to include any animal of the genus *Equus* (horse). Also, the bill provides for a minimum mandatory fine of \$3,500 and a minimum mandatory period of incarceration of one year for violations of this section.

---

<sup>9</sup> Westlaw: 520 F.Supp.2d 8; Civil Action No. 06265

<sup>10</sup> USA Today, South Florida sees rise in illegal horse meat market; Gomez, Alan; [http://www.usatoday.com/news/nation/2009-10-05-horse-meat\\_N.htm](http://www.usatoday.com/news/nation/2009-10-05-horse-meat_N.htm)

<sup>11</sup> <http://www.sPCA-sofla.org/>

<sup>12</sup> Per phone communication with Detective Mario Fernandez, Miami-Dade P.D. 305-252-8311

<sup>13</sup> Miami-Dade Resolution No. R.-1215-09

<sup>14</sup> s. 500.451(1), F.S.

<sup>15</sup> ss. 775.082, 775.083, F.S.

<sup>16</sup> s. 775.084, F.S.

The bill provides for conforming technical changes in the titles of both sections named above.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 500.451, F.S.; providing for four additional horse meat for consumption offenses; providing for increased violations and penalties; providing for suspension of licenses of certain businesses; providing for mandatory minimum penalties; providing for conforming technical changes in the section title.

Section 2. Amends s. 828.125, F.S.; providing for an expanded classification of protected horses to apply to all horses regardless of breed; providing for mandatory minimum penalties; providing for conforming technical changes in the section title.

Section 3. Providing an effective date of October 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

To the extent that the bill may improve the health of horses in Florida by reducing illegal slaughtering deaths, associated medical and insurance costs to the private sector may be decreased.

**D. FISCAL COMMENTS:**

The bill creates 4 new horse meat for human consumption offenses. It is impossible to predict how many additional violations will occur relating to these new offenses. The related fiscal impact is indeterminate.

Unless the bill expressly ranks the new felony offense on the state's offense severity ranking chart, s. 921.0022, F.S., the new felony will be "unranked." According to the Criminal Justice Impact Conference, this is not uncommon. An unranked, 3rd degree felony, defaults to Level 1 on the ranking chart, which is the least severe, thus imposing a lower percentage of related prison sentences.

According to the Department of Corrections (DOC), one conviction of the current horse meat provision has occurred in the last two years. Also according to DOC, it costs the state approximately \$20,000 per year for an incarcerated adult male. Consequently, the fiscal impact of increasing the classification of the current horse meat provision to a third degree unranked felony on the state may likely be insignificant.

Pursuant to s. 216.136(5), F.S., a function of the Criminal Justice Impact Conference (CJIC) is the development of official forecasts of prison admissions and population as they relate to new felonies. Typically, a new felony is not created until a consensus has been reached within the CJIC process. On February 23, 2010, the CJIC met and concluded that the effects of HB 765 will have an insignificant impact on prison admissions and populations.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

According to the State Constitution, a bill imposes a mandate if the substance of the bill requires counties or municipalities to spend funds or take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of a state tax shared with counties or municipalities.<sup>17</sup>

The mandates provision appears to apply because the bill requires a minimum incarceration of one year that would be served in county jail, thus requiring the county to spend related funds; however, an exemption applies because Article VII, Section 18(d) of the Florida Constitution, exempts criminal laws from the mandate requirement.

##### 2. Other:

None

#### B. RULE-MAKING AUTHORITY:

None

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### Minimum Mandatory Incarceration

The bill requires a minimum incarceration of one year. Pursuant to s. 922.051, F.S., a felony sentence of one year or less may be served in county jail if the total of the defendant's cumulative sentences is one year or less. Also, s. 775.08, F.S., distinguishing between felonies and misdemeanors, requires a person convicted of a felony to be imprisoned in the state penitentiary for a sentence exceeding one year.

If a person is sentenced to just the minimum mandatory, it would be served in county jail because that is where sentences of a year or less are served. If the judge sentences the person to longer than the minimum mandatory sentence, the time would be served in state prison. If the intent of the bill is to make sure that the person goes to state prison, rather than county jail, for the minimum mandatory, the sentence will have to be longer than a year.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

---

<sup>17</sup> Article VII, Section 18; Florida Constitution

1                                   A bill to be entitled  
 2           An act relating to the unlawful slaughter of horses;  
 3           amending s. 500.451, F.S.; prohibiting specified acts  
 4           relating to horsemeat for human consumption; providing  
 5           penalties; increasing the classification of offenses  
 6           relating to horsemeat for human consumption; providing for  
 7           suspension of licenses of certain businesses for offenses  
 8           relating to horsemeat; providing mandatory minimum  
 9           penalties; amending s. 828.125, F.S.; revising provisions  
 10          prohibiting certain acts relating to horses to apply to  
 11          all horses regardless of breed; providing mandatory  
 12          minimum penalties; providing an effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:  
 15

16           Section 1. Section 500.451, Florida Statutes, is amended  
 17   to read:

18           500.451 Horse meat; offenses ~~sale for human consumption.~~

19           (1) It is unlawful for any person to:

20           (a) Sell in the markets of this state horse meat for human  
 21           consumption unless the horse meat is clearly stamped, marked,  
 22           and described as horse meat for human consumption.

23           (b) Knowingly transport, distribute, sell, purchase, or  
 24           possess horsemeat for human consumption that is not clearly  
 25           stamped, marked, and described as horsemeat for human  
 26           consumption or horsemeat that is not acquired from a licensed  
 27           slaughterhouse.

28           (2) A person that violates this section commits ~~is guilty~~

29 as may be required by Department of Environmental Protection  
 30 rule.

31 (c) If the injection well is used as a backup to a primary  
 32 injection well, the following conditions apply:

33 1. The backup well may be used only when the primary  
 34 injection well is out of service because of equipment failure,  
 35 power failure, or the need for mechanical integrity testing or  
 36 repair;

37 2. The backup well may not be used for a total of more  
 38 than 500 hours during any 5-year period, unless specifically  
 39 authorized in writing by the Department of Environmental  
 40 Protection;

41 3. The backup well shall be at least 90 feet deep and  
 42 cased to a minimum depth of 60 feet, or to such greater cased  
 43 depth and total well depth as may be required by rule of the  
 44 Department of Environmental Protection; and

45 4. Fluid injected into the backup well shall meet the  
 46 requirements of subsections (5) and (6).

47 Section 2. This act shall take effect upon becoming a law.



COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 765 (2010)

Amendment No.

COUNCIL/COMMITTEE ACTION

ADOPTED                   \_\_\_ (Y/N)  
ADOPTED AS AMENDED       \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION   \_\_\_ (Y/N)  
FAILED TO ADOPT           \_\_\_ (Y/N)  
WITHDRAWN                \_\_\_ (Y/N)  
OTHER                     \_\_\_\_\_

---

1 Council/Committee hearing bill: Agriculture & Natural Resources  
2 Policy Committee  
3 Representative Garcia offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 474.203, Florida Statutes, is amended  
8 to read:

9 474.203 Exemptions.—This chapter does ~~shall~~ not apply to:

10 (1) Any faculty member practicing only in conjunction with  
11 teaching duties at a school or college of veterinary medicine  
12 located in this state and accredited by the American Veterinary  
13 Medical Association Council on Education. However, this  
14 exemption applies ~~shall~~ only ~~apply~~ to such a faculty member who  
15 does not hold a valid license issued under this chapter, but who  
16 is a graduate of a school or college of veterinary medicine  
17 accredited by the American Veterinary Medical Association  
18 Council on Education or a school or college recognized by the  
19 American Veterinary Medical Association Commission for Foreign

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 765 (2010)

Amendment No.

20 Veterinary Graduates. The faculty member exemption ~~shall~~  
21 automatically expires ~~expire~~ when such school or college  
22 terminates the faculty member from such teaching duties. On  
23 December 31 of each year, such school or college shall provide  
24 the board with a written list of all faculty who are exempt from  
25 this chapter. Such school or college shall also notify the board  
26 in writing of any additions or deletions to such list.

27 (2) A person practicing as an intern or resident  
28 veterinarian who does not hold a valid license issued under this  
29 chapter and who is a graduate in training at a school or college  
30 of veterinary medicine located in this state and accredited by  
31 the American Veterinary Medical Association Council on Education  
32 or a school or college recognized by the American Veterinary  
33 Medical Association Commission for Foreign Veterinary Graduates.  
34 Such intern or resident must be a graduate of a school or  
35 college of veterinary medicine accredited by the American  
36 Veterinary Medical Association Council on Education. This  
37 exemption expires when such intern or resident completes or is  
38 terminated from such training. Each school or college at which  
39 such intern or resident is in training shall, on July 1 of each  
40 year, provide the board with a written list of all such interns  
41 or residents designated for this exemption, and the school or  
42 college shall also notify the board of any additions or  
43 deletions to the list.

44 (3) A student in a school or college of veterinary  
45 medicine while in the performance of duties assigned by her or  
46 his instructor or when working as a preceptor under the  
47 immediate supervision of a licensee, if ~~provided that~~ such

Amendment No.

48 | preceptorship is required for graduation from an accredited  
49 | school or college of veterinary medicine. The licensed  
50 | veterinarian is ~~shall be~~ responsible for all acts performed by a  
51 | preceptor under her or his supervision.

52 | (4) Any doctor of veterinary medicine in the employ of a  
53 | state agency or the United States Government while actually  
54 | engaged in the performance of her or his official duties;  
55 | however, this exemption does ~~shall~~ not apply to such person when  
56 | the person is not engaged in carrying out her or his official  
57 | duties or is not working at the installations for which her or  
58 | his services were engaged.

59 | (5) (a) Any person, or the person's regular employee,  
60 | administering to the ills or injuries of her or his own animals,  
61 | including, but not limited to, castration, spaying, and  
62 | dehorning of herd animals, unless title has been transferred or  
63 | employment provided for the purpose of circumventing this law.  
64 | This exemption does ~~shall~~ not apply to out-of-state  
65 | veterinarians practicing temporarily in the state. However, only  
66 | a veterinarian may immunize or treat an animal for diseases that  
67 | ~~which~~ are communicable to humans and that ~~which~~ are of public  
68 | health significance.

69 | (b) A person hired on a part-time or temporary basis, or  
70 | as an independent contractor, by an owner to assist with herd  
71 | management and animal husbandry tasks for herd and flock  
72 | animals, including castration, dehorning, parasite control, and  
73 | debeaking, or a person hired on a part-time or temporary basis,  
74 | or as an independent contractor, by an owner to provide farriery  
75 | and manual hand floating of teeth on equines. This exemption

Amendment No.

76 does not apply to any person who has been convicted of a  
77 violation of chapter 828 that relates to animal cruelty or a  
78 similar offense in another jurisdiction.

79 (6) State agencies, accredited schools, institutions,  
80 foundations, business corporations or associations, physicians  
81 licensed to practice medicine and surgery in all its branches,  
82 graduate doctors of veterinary medicine, or persons under the  
83 direct supervision thereof, which or who conduct experiments and  
84 scientific research on animals in the development of  
85 pharmaceuticals, biologicals, serums, or methods of treatment,  
86 or techniques for the diagnosis or treatment of human ailments,  
87 or when engaged in the study and development of methods and  
88 techniques directly or indirectly applicable to the problems of  
89 the practice of veterinary medicine.

90 (7) Any veterinary aide, nurse, laboratory technician,  
91 preceptor, or other employee of a licensed veterinarian who  
92 administers medication or who renders auxiliary or supporting  
93 assistance under the responsible supervision of a licensed  
94 veterinarian, including those tasks identified by rule of the  
95 board requiring immediate supervision. However, the licensed  
96 veterinarian is shall be responsible for all such acts performed  
97 under this subsection by persons under her or his supervision.  
98 This exemption does not apply to any person whose license to  
99 practice veterinary medicine is revoked, suspended, inactive, or  
100 delinquent, whether in this state, another state, the District  
101 of Columbia, any possession or territory of the United States,  
102 or any foreign jurisdiction.

Amendment No.

103 (8) A veterinarian, licensed by and actively practicing  
104 veterinary medicine in another state, who is board certified in  
105 a specialty recognized by the board and who responds to a  
106 request of a veterinarian licensed in this state to assist with  
107 the treatment on a specific case of a specific animal or with  
108 the treatment on a specific case of the animals of a single  
109 owner, as long as the veterinarian licensed in this state  
110 requests the other veterinarian's presence. A veterinarian who  
111 practices under this subsection is not eligible to apply for a  
112 premises permit under s. 474.215.

113  
114 For the purposes of chapters 465 and 893, persons exempt  
115 pursuant to subsection (1), subsection (2), or subsection (4)  
116 are deemed to be duly licensed practitioners authorized by the  
117 laws of this state to prescribe drugs or medicinal supplies.

118 Section 2. Effective October 1, 2010, section 500.451,  
119 Florida Statutes, is amended to read:

120 500.451 Horse meat; offenses ~~sale for human consumption.~~

121 (1) It is unlawful for any person to:

122 (a) Sell in the markets of this state horse meat for human  
123 consumption unless the horse meat is clearly stamped, marked,  
124 and described as horse meat for human consumption.

125 (b) Knowingly transport, distribute, sell, purchase, or  
126 possess horsemeat for human consumption that is not clearly  
127 stamped, marked, and described as horsemeat for human  
128 consumption or horsemeat that is not acquired from a licensed  
129 slaughterhouse.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 765 (2010)

Amendment No.

130 (2) A person that violates this section commits is guilty  
131 of a felony misdemeanor of the third ~~second~~ degree, punishable  
132 as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084, except  
133 that any person who commits a violation of this section shall be  
134 sentenced to a minimum mandatory fine of \$3,500 and a minimum  
135 mandatory period of incarceration of 1 year.

136 (3) In addition to any penalties provided in subsection  
137 (2), any license of any restaurant, store, or other business may  
138 be suspended as provided in the applicable licensing law upon  
139 conviction of an owner or employee of that business for a  
140 violation of this section in connection with that business.

141 Section 3. Subsections (2) and (3) and paragraph (c) of  
142 subsection (4) of section 828.073, Florida Statutes, are amended  
143 to read:

144 828.073 Animals found in distress; when agent may take  
145 charge; hearing; disposition; sale.—

146 (2) Any law enforcement officer or any agent of any county  
147 or of any society or association for the prevention of cruelty  
148 to animals appointed under the provisions of s. 828.03 may:

149 (a) Lawfully take custody of any animal found neglected or  
150 cruelly treated by removing the animal from its present  
151 location, or

152 (b) Order the owner of any animal found neglected or  
153 cruelly treated to provide certain care to the animal at the  
154 owner's expense without removal of the animal from its present  
155 location,

156

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 765 (2010)

Amendment No.

157 and shall file a ~~forthwith~~ petition seeking relief under this  
158 section in the county court judge of the county in which ~~wherein~~  
159 the animal is found within 10 days after the animal is seized or  
160 an order to provide care is issued. The court shall schedule and  
161 commence ~~for~~ a hearing on the petition, ~~to be set~~ within 30 days  
162 after the petition is filed ~~date of seizure of the animal or~~  
163 ~~issuance of the order to provide care and held not more than 15~~  
164 ~~days after the setting of such date,~~ to determine whether the  
165 owner, if known, is able to provide adequately for the animal  
166 and is fit to have custody of the animal. The hearing shall be  
167 concluded and the court order entered thereon within 60 days  
168 after the date the hearing is commenced. The county court shall  
169 establish procedures to expedite the commencement of hearings on  
170 petitions filed under this subsection. The timeframes set forth  
171 in this subsection are not jurisdictional. However, if a failure  
172 to meet such timeframes is attributable to the officer or agent,  
173 the owner is not required to pay the officer or agent for care  
174 of the animal during any period of delay caused by the officer  
175 or agent. A ~~No~~ fee may not shall be charged for the filing of  
176 the petition. This subsection does not ~~Nothing herein is~~  
177 ~~intended to~~ require court action for the taking into custody and  
178 making proper disposition of stray or abandoned animals as  
179 lawfully performed by animal control agents.

180 (3) The officer or agent of any county or of any society  
181 or association for the prevention of cruelty to animals taking  
182 charge of any animal pursuant to the provisions of this section  
183 shall have written notice served, at least 3 5 days before ~~prior~~  
184 ~~to~~ the hearing scheduled under ~~set forth in~~ subsection (2), upon

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 765 (2010)

Amendment No.

185 the owner of the animal, if he or she is known and is residing  
186 in the county where the animal was taken, in conformance with  
187 the provisions of chapter 48 relating to service of process. The  
188 sheriff of the county shall not charge a fee for service of such  
189 notice. ~~If the owner of the animal is known but is residing~~  
190 ~~outside of the county wherein the animal was taken, notice of~~  
191 ~~the hearing shall be by publication in conformance with the~~  
192 ~~provisions of chapter 49.~~

193 (4)

194 (c) Upon the court's judgment that the owner of the animal  
195 is unable or unfit to adequately provide for the animal:

196 1. The court may: ~~shall~~

197 a. Order that the animal ~~to~~ be sold by the sheriff at  
198 public auction, ~~and shall provide in its order that the current~~  
199 ~~owner shall have no further custody of the animal,~~ and that any  
200 animal not bid upon ~~shall~~ be remanded to the custody of the  
201 Society for the Prevention of Cruelty to Animals, the Humane  
202 Society, the county, or any agency or person the judge deems  
203 appropriate, to be disposed of as the agency or person sees fit;  
204 or

205 ~~b.2.~~ ~~The court may~~ Order that the animal be destroyed or  
206 remanded directly to the custody of the Society for the  
207 Prevention of Cruelty to Animals, the Humane Society, the  
208 county, or any agency or person the judge deems appropriate, to  
209 be disposed of as the agency or person sees fit, ~~upon the~~  
210 ~~testimony of the agent who took custody of the animal, or upon~~  
211 ~~the testimony of other qualified witnesses, that the animal~~



COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 765 (2010)

Amendment No.

212 ~~requires destruction or other disposition for humanitarian~~  
213 ~~reasons or is of no commercial value.~~

214 2.3. The court, upon proof of costs incurred by the  
215 officer or agent ~~or officer, the court~~ may require that the  
216 owner pay for the care of the animal while in the custody of the  
217 officer or agent ~~or officer~~. A separate hearing may be held.

218 3.4. The court may order that other animals that are in  
219 the custody of the owner and that were not seized by the officer  
220 or agent be turned over to the officer or agent, if the court  
221 determines that the owner is unable or unfit to adequately  
222 provide for the animals. The court may enjoin the owner's  
223 further possession or custody of other animals.

224 Section 4. Effective October 1, 2010, section (1) of  
225 section 828.125, Florida Statutes, is amended to read:

226 828.125 Killing or aggravated abuse of ~~registered breed~~  
227 horses or cattle; offenses; penalties.—Any other provisions of  
228 this chapter to the contrary notwithstanding:

229 (1) Any person who willfully and unlawfully, by any means  
230 whatsoever, kills, maims, mutilates, or causes great bodily harm  
231 or permanent breeding disability to any animal of the genus  
232 Equus (horse) or any animal of any registered breed or  
233 recognized registered hybrid of the genus ~~Equus (horse) or genus~~  
234 ~~Bos (cattle) commits, or any recognized registered hybrid of the~~  
235 ~~specified genera, shall be guilty of a felony of the second~~  
236 ~~degree, punishable as provided by s. 775.082, s. 775.083, or s.~~  
237 ~~775.084, except that any person who commits a violation of this~~  
238 subsection shall be sentenced to a minimum mandatory fine of

Amendment No.

239 \$3,500 and a minimum mandatory period of incarceration of 1  
240 year.

241 Section 5. Except as otherwise expressly provided in this  
242 act, act shall take effect July 1, 2010.

243

244

-----

245

**T I T L E A M E N D M E N T**

246

Remove the entire title and insert:

247

A bill to be entitled

248

An act relating to animal protection; amending s. 474.203,

249

F.S.; providing circumstances that render inapplicable

250

certain veterinary licensure exemptions pertaining to

251

part-time and independent contractors; providing

252

circumstances that render inapplicable an exemption for

253

certain employees under supervision; amending s. 500.451,

254

F.S.; prohibiting specified acts relating to horsemeat for

255

human consumption; providing penalties; increasing the

256

classification of offenses related to horsemeat for human

257

consumption; providing for suspension of licenses of

258

certain businesses for offenses related to horsemeat;

259

providing mandatory minimum penalties; amending s.

260

828.073, F.S.; revising procedures for law enforcement

261

officers and certain animal cruelty prevention agents to

262

file petitions in custody proceedings involving neglected

263

animals; directing county courts to expedite the

264

commencement of such proceedings; exempting animal owners

265

from payment of the care provided for their animals during

266

such proceedings under certain circumstances; revising the

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 765 (2010)

Amendment No.

267 | period within which written notice of such proceedings  
268 | must be served; deleting a provision requiring publication  
269 | of notices of such proceedings under certain  
270 | circumstances; revising provisions relating to remand of  
271 | neglected animals directly to the seizing officer or agent  
272 | for disposition; amending s. 828.125, F.S.; revising  
273 | provisions prohibiting certain acts relating to horses to  
274 | apply to all horses regardless of breed; providing  
275 | mandatory minimum penalties for violations involving  
276 | horses or certain cattle; providing effective dates.



**AGRISCIENCE EDUCATION**  
Caitlyn Prichard, State FFA President

**inmotion**  
FLORIDA FFA ASSOCIATION

**Agriscience Education** **inmotion**  
FLORIDA FFA ASSOCIATION

- Classroom/Laboratory Instruction
- Work-based Learning (Supervised Agricultural Experience)
- Leadership and Career Development (FFA)

**Total Agriscience Program** **inmotion**  
FLORIDA FFA ASSOCIATION

**Classroom/Laboratory Instruction** **inmotion**  
FLORIDA FFA ASSOCIATION

- Integrates academic concepts with technical agriculture skills
- Prepares students for work and postsecondary education in more than 300 careers
  - Animal Systems
  - Plant Systems
  - Food Products and Processing Systems
  - Power, Structural and Technical Systems
  - Natural Resource Systems
  - Environmental Service Systems
  - Agricultural Systems

**Supervised Agricultural Experience** **inmotion**  
FLORIDA FFA ASSOCIATION

- Practical application of classroom/laboratory concepts conducted outside of class time
- Explore careers
  - Research
  - Placement
  - Ownership
- Earn money
- Learn work place skills
  - Team work
  - Responsibility
  - Communication skills

**National FFA Organization** **inmotion**  
FLORIDA FFA ASSOCIATION

- Founded in 1928
- Chartered by U.S. Congress
- Approximately 500,000 members nationwide
  - 34% Urban and Suburban
  - 39% Rural, Non-Farm
  - 27% Rural, Farm
- Integral part of a school's agricultural education program

## FFA



- Builds leadership skills for life
- Reinforces instruction
- Recognizes excellence
- Gives students opportunities to make a positive difference in their schools and communities

**inmotion**  
FLORIDA FFA ASSOCIATION

## FFA Mission

FFA makes a positive difference in the lives of students by developing their potential for *premier leadership, personal growth, and career success* through agricultural education.

**inmotion**  
FLORIDA FFA ASSOCIATION

## Florida FFA

- Over 14,000 middle and high school members
- In 320 chapters
- With 450 teachers



**inmotion**  
FLORIDA FFA ASSOCIATION

## Thank You!

On behalf of every Florida FFA member and agriscience student, thank you for all that you do for Florida FFA and agriscience education.

**inmotion**  
FLORIDA FFA ASSOCIATION