

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CRJS 11-02 Seat Requirements

SPONSOR(S): Criminal Justice Subcommittee

TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee		Williams	Cunningham

SUMMARY ANALYSIS

Section 448.05, F.S., makes it a second degree misdemeanor for certain employers to fail to provide a seat for specified employees during business hours.

Since 2000, the Florida Department of Law Enforcement reported that there have been no arrests associated with this section of statute.

The proposed committee bill repeals s. 448.05, F.S.

The proposed committee bill is estimated to have no fiscal impact and is effective July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Section 448.05, F.S., was created in 1899.¹ The statute provides the following

If any merchant, storekeeper, employer of male or female clerks, salespeople, cash boys or cash girls, or other assistants, in mercantile or other business pursuits, requiring such employees to stand or walk during their active duties, neglect to furnish at his or her own cost or expense suitable chairs, stools or sliding seats attached to the counters or walls, for the use of such employees when not engaged in their active work, and not required to be on their feet in the proper performance of their several duties; or refuse to permit their said employees to make reasonable use of said seats during business hours, for purposes of necessary rest, and when such use will not interfere with humane or reasonable requirements of their employment, he or she shall be guilty of a misdemeanor of the second degree.²

Section 448.05, F.S., has not been amended in a substantive way since its creation. It was amended in 1971³ to update the associated penalty to a second degree misdemeanor from its original penalty of up to six months imprisonment or up to a \$1,000 fine. In 1997,⁴ the statute was amended again to remove gender-specific references.

Since 2000, the Florida Department of Law Enforcement reported that there have been no arrests associated with this section of statute.

Effect of the Proposed Committee Bill

The proposed committee bill repeals s. 448.05, F.S.

B. SECTION DIRECTORY:

Section 1. Repeals s. 448.05, F.S., relating to seats to be furnished for employees in stores; penalty.

Section 2. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

¹ Section 1, ch. 4762, 1899; GS 3235; RGS 5068; CGL 7170.

² A second degree misdemeanor is punishable by up to 60 days imprisonment and a \$500 fine. Sections 775.082 and 775.083, F.S.

³ Section 376, Ch. 71-136, L.O.F.

⁴ Section 166, Ch. 97-103, L.O.F.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The proposed committee bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES