

FINAL REPORT

// 2021 LEGISLATIVE SESSION

+ FLORIDA PEST MANAGEMENT ASSOCIATION

MAY 16, 2021



// FINAL REPORT

CONTENTS

SB 72 // HB 7

Civil Liability for Damages
Relating to COVID-19

SB 1734 // HB 969

Consumer Data Privacy

SB 1120 // HB 857

Commercial Telephone
Solicitation

SB 1682 // HB 1307

Telephone Solicitation

SB 364

Discrimination on the Basis of
Personal Health Information

SB 1522 // HB 1225

Implementation of the
Recommendations of the Blue-
Green Algae Task Force

The 2021 Session is over, and though they did not settle the gaming issues they did finish on time. Of the 3,096 bills filed, 275 passed both chambers. The Governor has signed 11 bills and most of his priorities passed during the 2021 session:

- Imposing fines and penalties on social media companies that remove users
- Restricting mail-in voting
- The “anti-riot” legislation
- A bill to ban businesses, government and schools from requiring “vaccine passports”
- A ban on transgender athletes from competing in girls and women’s sports

The top 10 issues of the legislative session:

BUDGET: Due to federal stimulus money and rebounding state tax revenues, lawmakers passed a record \$101.5 billion budget. The budget includes bonuses for first responders, providing services for people with developmental and intellectual disabilities, and the effects of rising sea levels. Lawmakers did not pass the proposed cuts in Medicaid funding for hospitals and nursing homes.

COVID-19: Lawmakers passed a measure aimed at shielding businesses and health-care providers from lawsuits related to people getting sick or dying from COVID-19. Also, they approved making permanent a ban on COVID-19 vaccine “passports.”

EDUCATION: Republicans worked to expand school choice, and passed an overhaul of school-voucher programs. The plan would increase an income threshold so that a family of four making nearly \$100,000 a year could qualify for vouchers. In higher education, the attempt to change and cut the Bright Futures scholarship program was not passed due to the outcry from the public.

ELECTIONS: The Republicans passed a few elections bills that include placing new restrictions on voting by mail.

INSURANCE: The legislature passed legislation ending Florida’s no-fault auto insurance system. Motorists would no longer be required to carry personal-injury protection (PIP) coverage. They will have to carry

bodily-injury coverage. Lawmakers passed legislation that made changes to property-insurance, including allowing larger annual rate increases for customers of the state-backed Citizens Property Insurance Corp.

PROTESTS: DeSantis quickly signed a controversial law-and-order measure that was sparked by nationwide protests last year after the death of George Floyd in Minneapolis. The law creates a new crime of “mob intimidation,” enhances riot-related penalties and makes it harder for local officials to reduce spending on law enforcement.

SOCIAL MEDIA: The legislature passed a plan to crack down on social-media companies, barring social-media companies from removing political candidates from the companies’ platforms and threatens hefty fines.

TAXES: The legislature passed a plan that will require out-of-state online retailers to collect sales taxes on purchases made by Floridians. The \$1 billion a year generated by the change will be used to replenish a depleted unemployment trust fund. Later, it will be used to offset a cut in a commercial rent tax.

TOLL ROADS: Two years after then-Senate President Bill Galvano pushed through a law to build and expand toll roads, the legislature this year decimated the original plan. The legislature killed the idea of building a toll road from Collier County to Polk County. but will be moving forward with projects extending Florida’s Turnpike west from Wildwood to connect with the Suncoast Parkway.

TRANSGENDER ATHLETES: In the final days of session the legislature passed a bill that would ban transgender female athletes from competing on high-school girls’ and college women’s sports teams.

They **did not** pass abortion restrictions, an alimony overhaul, restriction to bright futures scholarships, data privacy, limitation of THC potency for medical marijuana, closure of the state pension system, term limits for school board members, increasing unemployment benefits, union dues, or restriction of vacations rentals. These bills were considered top priorities for the legislature or the governor’s office.

Covid Liability

A reminder that Covid Liability passed this session. Senate Bill 72 passed both chambers and was sent to the Governor for approval. The Governor signed the bill on April 5, 2021 and is now law.

Racketeering

SB776 and HB 783

As a reminder, the Senate bill passed on the Senate floor and was sent to the House, where it passed unanimously. It has been ordered enrolled and will be sent to the governor for approval.

The Enrolled version of SB 776 is included for your information. This bill was made difficult in dealing in negotiations with FWC this Session.

Legislative Review of Occupational Regulations

Senate Bill 344 was never heard in the Senate Appropriations Committee. After House Bill 471 had four committees of reference and was not heard in all it’s committees of reference. This legislation died in both chambers.

House Bill 471 General Bill by Rizo : Legislative Review of Occupational Regulations:

Establishes schedule for systematic review & repeal of occupational regulatory programs; provides for reversion of certain unexpended funds & refund of certain unencumbered revenue of repealed program;

preempts regulation of occupation to state if occupation's regulatory program has been repealed through this act. Died in committee.

Budget

The conference report on SB 2500 was officially filed and distributed to members at 12:06 p.m. on Tuesday, April 27, starting the mandatory 72-hour "cooling off" period before the report could be adopted by both chambers. The conference reports for the budget were accepted and passed out of both chambers.

This conference report is the resulting product of the budget conference process and once signed or vetoed by the governor, will become the state's budget for the 2021-22 Fiscal Year.

The Florida Senate was the host for the Budget Conference process this year. The final Appropriations Conference Report has a Senate bill number, SB 2500. The House of Representatives will host the Budget Conference next year. The House and Senate alternate being host every year.

Thank you again for allowing us to represent you in Tallahassee. The 2021 Legislative Session is over and the legislature will be returning May 17, 2021 for a special session on gaming.

A handwritten signature in black ink, appearing to read "Margaret Timmins", with a large, stylized flourish extending to the right.

Margaret "Missy" Timmins
President
Timmins Consulting, LLC

// CIVIL LIABILITY FOR DAMAGES RELATING TO COVID-19

Senate Bill 72 // Sen. Jeff Brandes // Referred to: Judiciary; Commerce and Tourism; Rules

House Bill 7 // Rep. Lawrence McClure // Referred to: Civil Justice & Property Rights Subcommittee; Pandemics & Public Emergencies Committee; Judiciary Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 72: CS/SB 72 is a combination of SB 72 and SB 74, with some additional changes. SB 72 creates civil liability protections for individuals, businesses, governmental entities, and other organizations against COVID-19-related claims. SB 74 provides lesser liability protections to health care providers, who are defined in the bill, and provides procedures for civil actions against them.

Liability Protections for COVID-19-Related Claims

The bill defines a COVID-19-related claim, against a person, business, or other entity, but generally not a health care provider, as a claim that arises from or is related to COVID-19. For claims against a person other than a health care provider, the bill establishes preliminary requirements that a plaintiff must complete before the case is allowed to proceed. A court must determine whether:

- The complaint was pled with particularity.
- A physician's affidavit was simultaneously submitted stating that, within a reasonable degree of medical certainty, the physician believed that the defendant caused, through acts or omissions, the plaintiff's damages, injury, or death. If the plaintiff did not meet these requirements, the court must dismiss the action, but the plaintiff is not barred from correcting the deficiencies and refile the claim.
- The defendant made a good faith effort to substantially comply with authoritative or controlling health standards when the action accrued. If the court determines that the defendant made the requisite good faith effort, the defendant is immune from civil liability. If, in contrast, the court determines that the defendant did not make the requisite good faith effort, the action may proceed.

If a plaintiff meets these preliminary requirements, then he or she bears the burden of proving that the defendant did not make the good faith effort. Additionally, the plaintiff must meet the heightened standard of proving that the defendant's acts or omissions were grossly negligent by the clear and convincing evidence standard.

Liability Protections for Health Care Providers

The liability protections for COVID-19-related claims against a health care provider mainly relate to claims:

- Arising from the diagnosis or treatment of a person for COVID-19;
- The provision of a novel or experimental COVID-19 treatment;
- The transmission of COVID-19; and
- The delay or cancellation of a surgery or medical procedure.

However, a claim by a person other than a patient or resident alleging that the health care provider caused the person to contract COVID-19 may be pursued under the provisions of the bill that primarily relate to claims against persons other than a health care provider.

A COVID-19-related lawsuit against any defendant must be brought within 1 year after a cause of action accrues unless the cause of action occurred before the effective date of the bill. However, if a cause accrues before the effective date of the bill, the plaintiff has 1 year from the effective date of the act to bring the claim.

The bill takes effect upon becoming a law and applies retroactively. However, the bill does not apply in a civil action against a particular defendant if the suit is filed before the bill's effective date.

Most Recent Action: Read Third Time; Passed (Vote: 83 Yeas / 31 Nays); Immediately Certified; Signed by Officers and presented to Governor; Approved by Governor; Chapter No. 2021-001

CS/House Bill 7: In the face of the COVID-19 outbreak in Florida, Governor Ron DeSantis declared a state of emergency and issued a series of executive orders directing Floridians to stay at home, with exceptions for essential services and activities. While some of the executive orders eventually expired or were modified, the Governor has continued to extend the state of emergency, with the most recent extension occurring on December 29, 2020.

As COVID-19 spread across the world, the United States, and the State of Florida, information about the virus evolved at a rapid pace. Official guidance came from multiple sources and sometimes changed on a daily basis. Business owners, schools, government leaders, religious organizations, and other entities scrambled to make the best decisions possible based on their knowledge at the time.

CS/HB 7 provides several COVID-19-related liability protections for businesses, educational institutions, government entities, religious organizations, and other entities. Under the bill, a covered entity that makes a good faith effort to substantially comply with applicable COVID-19 guidance is immune from civil liability from a COVID-19-related civil action. The bill also provides that for any COVID-19-related civil action against a covered entity, a plaintiff must:

- Plead his or her complaint with particularity.
- Submit, at the time of filing suit, a physician's affidavit confirming the physician's belief that the plaintiff's COVID-19-related injury occurred because of the defendant's conduct.
- Prove, by clear and convincing evidence, that the defendant was at least grossly negligent.

The bill's liability protections do not apply to a health care provider, such as a hospital, nursing home, assisted living facility, or other health care-related entity. The bill provides a one-year statute of limitations for COVID-19-related claims. For a plaintiff whose cause of action has already accrued, the one-year period does not begin to run until the bill becomes effective.

Most Recent Action: Read Third Time; Passed (Vote: 83 Yeas / 31 Nays); In Messages; Received; Referred to Rules

Attached documents: SB 72 (Enrolled) + Senate Bill Summary

// CONSUMER DATA PRIVACY

Senate Bill 1734 // Sen. Jennifer Bradley // Referred to: Commerce and Tourism; Appropriations; Rules

House Bill 969 // Rep. Fiona McFarland // Referred to: Regulatory Reform Subcommittee; Civil Justice & Property Rights Subcommittee; Commerce Committee

Senate Bill 1734: CS/SB 1734 creates the Florida Privacy Protection Act (Act) to grant Florida's consumers the ability to share their personal information as they wish, in a way that is safe and that they understand and control.

The Act generally applies to businesses that collect Florida consumers' personal information, and that either have a gross revenue of \$25 million or more; earn 50 percent of their revenue from the sale or sharing of personal information; or buy, receive, sell, or share the personal information of 50,000 or more consumers in a year.

The Act grants consumers the right to:

- Opt-out of the sale of their personal information;
- Know what personal information a business has collected about them;
- Delete their personal information;
- Correct their personal information;
- More stringently control the sale of their minor child's personal information.

Businesses subject to the Act must give consumers notice of their privacy rights, that their personal information may be sold and collected, and that the consumer may opt-out of the sale of his or her personal information. A consumer's opt-out would prevent the sale of his or her data to third-party data brokers, data profiling procedures, and targeted advertisements based on the consumer's activity at more than one website. Additionally, the act requires covered businesses to implement data security measures to ensure the continued privacy of the personal information they hold.

A consumer may pursue a private civil action based on a business' violation of the Act. The Florida Department of Legal Affairs also has enforcement authority pursuant to the bill.

Most Recent Action: Read Second Time; Substituted for HB 0969; Laid on Table, Refer to HB 0969

House Bill 969: Florida, like most states, has laws requiring businesses to disclose to consumers when a breach of security occurs that affects consumers personal information. In 2014, Florida passed the Florida Information Protection Act (FIPA) that requires commercial and government entities which store or maintain a Floridians' personal information to take reasonable measures to protect such information and report data breaches.

The bill adds "biometric data" to the definition of "personal information" in FIPA. Thus, entities in possession of fingerprints, DNA, and other biological or physiological identifying information must take reasonable measures to protect the biometric data and report data breaches.

Due to the growth in the internet and specifically the growth in companies whose entire business model is the collection of personal information for the purpose of selling targeted advertising, many countries and states have adopted or updated their laws relating to the collection and use of personal information. Specifically, the European Union, and states like California, Virginia and Illinois, have enacted data privacy regulations to protect personal information and give consumers more control over how their information is used.

The bill requires certain businesses to publish a privacy policy for personal information.

The bill defines "personal information" as information that identifies, relates to, or describes a particular consumer or household, or is reasonably capable of being directly or indirectly associated or linked with, a particular consumer or household. The term does not include public information that is readily available to the public from government records or deidentified or aggregate consumer information.

The bill gives consumers certain rights related to personal information collected by a business, including:

- The right to access personal information collected,
- The right to delete or correct personal information, and
- The right to opt-out of the sale or sharing of personal information.

The bill requires businesses to comply with certain consumer requests and make certain information available on the business's website.

The bill allows the Department of Legal Affairs to bring an action against, and collect civil penalties from, a business who violates these requirements. Consumers whose personal information is the subject of a data breach may also bring a cause of action against the business in certain limited circumstances.

Most Recent Action: Died in returning Messages

Attached documents: None

// **COMMERCIAL TELEPHONE SOLICITATION**

Senate Bill 1120 // Sen. Audrey Gibson // Referred to: Commerce and Tourism; Regulated Industries; Rules

House Bill 857 // Rep. Daisy Morales // Referred to: Regulatory Reform Subcommittee; Commerce Committee

Senate Bill 1682 // Sen. Joe Gruters // Referred to: Commerce and Tourism; Regulated Industries; Rules

House Bill 1307 // Rep. Mike Beltran // Referred to: Regulatory Reform Subcommittee; Civil Justice & Property Rights Subcommittee; Commerce Committee

Senate Bill 1120: This bill requires all sales telephone calls, text messages, and direct-to-voicemail transmissions to have the receiving consumer's prior express written consent if the call will be made using an automated machine to dial the recipient's phone number, or will play a recorded message upon connection with the recipient.

The bill creates a rebuttable presumption that a sales call made to a Florida area code is made either to a Florida resident or to a person in this state at the time of the call.

The bill creates a private right of action to enforce the above provisions. An aggrieved party may petition a court to enjoin the violating party. A prevailing plaintiff may recover the greater sum of either their actual monetary damages or \$500. Additionally, a court may increase damages by up to three times, for a willful or knowing violation.

The bill amends the Florida Telemarketing Act to prohibit telephone sellers or salespersons from calling consumers outside of the hours between 8 a.m. and 8 p.m. in the consumer's time zone, and prohibits telephone sellers or salespersons from contacting consumer on the same subject matter more than three times in a 24-hour period. The bill clarifies that calls made through an automated dialer or recorded message are subject to the same prohibitions.

The bill also creates a crime punishable as a second-degree misdemeanor that prohibits telephone sellers or salespersons from using technology that displays a spoofed phone number in order to conceal the caller's identity from the call recipient.

If approved by the Governor, these provisions take effect on July 1, 2021.

Most Recent Action: Read Third Time; Passed (Vote: 115 Yeas / 0 Nays); Ordered enrolled; Enrolled Text (ER) Filed

House Bill 857: Prohibits commercial telephone seller or salesperson from using automated dialing or recorded messages to make certain commercial telephone solicitation phone calls; revises timeframe during which commercial telephone seller or salesperson may make commercial solicitation phone calls; prohibits commercial telephone sellers or salespersons from making specified number of commercial telephone solicitation phone calls to person over specified timeframe.

Most Recent Action: Died in Regulatory Reform Subcommittee

Senate Bill 1682: The bill requires all sales telephone calls, text messages, and direct-to-voicemail transmissions to have the receiving consumer's prior express written consent if the call will (1) be made using an automated machine to dial the recipient's phone number, or (2) play a recorded message upon connection with the recipient.

The bill creates a rebuttable presumption that a telephonic sales call that is made to a Florida area code is made either to a Florida resident or to a person in this state at the time of the call.

The bill creates a private right of action to enforce violations of s. 501.059, F.S.

Most Recent Action: Died in Regulated Industries

House Bill 1307: Chapter 501, part IV, the Florida Telemarketing Act (FTA), requires non-exempt businesses engaged in telemarketing and their salespeople to be licensed by the Florida Department of Agriculture and Consumer Services (DACs) before operating in Florida. The law prohibits telephonic sales calls that use an automated system for the selection or dialing of telephone numbers or the playing of a recorded message (robocall) when a connection is completed. However, the law allows the use of an automated telephone dialing system with live messages if:

- The calls are made or messages given solely in response to calls initiated by the persons to whom the automatic calls or live messages are directed;
- The telephone numbers selected for automatic dialing have been screened to exclude any telephone subscriber who is included on the department's then-current "no sales solicitation calls" listing or any unlisted telephone number; or
- The calls concern goods or services that have been previously ordered or purchased.

The bill prohibits robocalls when a connection is completed to a number called without the prior **express written consent** of the called party. Such consent must include a clear and conspicuous disclosure informing the called party that by executing the agreement, the called party is agreeing to receive automated telephonic sales calls, but is not required to sign or enter into such an agreement as a condition of purchasing any property, goods, or services.

In addition, the bill:

- Authorizes a called party to revoke their express written consent through any reasonable means clearly expressing a desire to receive no further calls, texts, or messages.
- Clarifies that the use of an automated telephone dialing system is not prohibited if the calls or messages are made in response to calls "originally" initiated by the persons to whom the calls or messages are directed, and clarifies that repeated calls in response to

a call originally initiated by a called party are not allowed.

- Clarifies that the use of an automated telephone dialing system is not prohibited if the calls concern the order, purchase, or delivery of goods or services that have previously been ordered by the called party, and prohibits calls made solely because the called party previously conducted business with the person initiating the call.
- Removes the requirement that calls be screened by using the DACS do not call list prior to making calls related to goods or services previously purchased.
- Provides a rebuttable presumption that such calls made to a Florida area code are considered to be made to a resident of, or person in, this state.

Most Recent Action: Laid on Table, refer to CS/SB 1120

Attached documents: SB 1120 (Enrolled) + Senate Bill Summary

// DISCRIMINATION ON THE BASIS OF PERSONAL HEALTH INFORMATION

Senate Bill 364 // Sen. Joe Gruters // Referred to: Commerce and Tourism; Governmental Oversight and Accountability; Rules

Senate Bill 364: Prohibiting business and governmental entities that require individuals to present driver licenses and identification cards for specified purposes from taking certain actions on the basis of individuals' vaccination status and proof of immunity from any virus; prohibiting public accommodations from discriminating against individuals on the basis of vaccination or immunity status, etc.

Most Recent Action: Died in Commerce and Tourism

Attached documents: None

// IMPLEMENTATION OF THE RECOMMENDATIONS OF THE BLUE-GREEN ALGAE TASK FORCE

Senate Bill 1522 // Sen. Linda Stewart // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 1225 // Rep. Joy Goff-Marcil // Referred to: Environment, Agriculture

& Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

Senate Bill 1522: CS/SB 1522, entitled the “Implementation of Governor DeSantis’ Blue-Green Algae Task Force Recommendations Act,” includes legislation intended to implement the recommendations of the Blue-Green Algae Task Force.

The bill includes provisions that require the Department of Environmental Protection (DEP) to:

- Administer an onsite sewage treatment and disposal system inspection program to inspect systems at least once every five years, beginning on July 1, 2024.
- Assess whether certain pollution reduction projects are effectively reducing nutrient pollution or water use.

The bill requires basin management action plans to identify and prioritize spatially focused suites of projects in areas likely to yield maximum pollutant reductions.

The DEP will incur indeterminate costs relating to the implementation and administration of the inspection program and monitoring required under the bill.

The bill takes effect July 1, 2021

Most Recent Action: Died in Appropriations

House Bill 1225: Requires DEP to implement stormwater system inspection & monitoring program; requires owners of onsite sewage treatment & disposal systems to have system periodically inspected; requires department to administer inspection program pursuant to certain standards, procedures, & requirements; provides for rulemaking; provides requirements for basin management action plans; provides notices requirements for certain notices of intent to implement pollution reduction measures; provides that verification of certain programs must have been completed by specified date to be presumed to be in compliance with state water quality standards; requires DEP to provide all records promptly & in unadulterated form.

Most Recent Action: Died in Environment, Agriculture & Flooding Subcommittee

Attached documents: None

// RACKETEERING

Senate Bill 776 // Sen. George Gainer // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 783 // Rep. Jenna Persons-Mulicka // Referred to: Environment, Agriculture & Flooding Subcommittee; Criminal Justice & Public Safety Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 776: The bill amends the definition of “racketeering activity” in the Florida RICO (Racketeer Influenced and Corrupt Organization) Act to include violations of ch. 379, F.S., and Title 68, F.A.C., relating to the illegal sale, purchase, collection, harvest, capture, or possession of wild animal life, freshwater aquatic life, or marine life, and related crimes. Chapter 379, F.S., and Title 68, F.A.C., are implemented by the Florida Fish and Wildlife Conservation Commission. The effect of this change is that it will allow such unlawful acts to be prosecuted as racketeering if the commission of the acts constitutes racketeering. A criminal violation of the Florida RICO Act is a first degree felony. The Florida RICO Act also provides for civil remedies.

Most Recent Action: Read Third Time; Passed (Vote: 116 Yeas / 0 Nays); Ordered enrolled; Enrolled Text (ER) Filed

House Bill 783: Chapter 379, F.S., outlines penalties and violations for laws relating to fish and wildlife conservation and provides the Florida Fish and Wildlife Commission (FWC) with rule-making authority. Violations of fish and wildlife laws and FWC rules are organized into a four-level system providing penalties based on the level of offense. The penalties for violating FWC laws and rules range from a noncriminal civil penalty to a third degree felony, which is punishable by up to five years in prison and a \$5,000 fine.

Sections 895.01-895.06, F.S., are also known as the “Florida RICO (Racketeering Influenced and Corrupt Organization) Act.” A person convicted under this section commits a first degree felony, which is punishable by up to 30 years in prison and a \$10,000 fine. Section 895.03, F.S., provides that it is unlawful for any person:

- To receive, with criminal intent, any proceeds derived, directly or indirectly, from a pattern of racketeering activity or through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.
- Through a pattern of racketeering activity or through the collection of an unlawful debt, to acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.
- Employed by, or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of racketeering activity or the collection of an unlawful debt.
- To conspire or endeavor to violate any of the previously-described activity.

The trafficking of plant and animal life is one of the most profitable illegal trades in the world. Under current law, it is difficult to prosecute wildlife, freshwater aquatic life, and marine life traffickers in a manner that will disrupt the criminal enterprise and the activity associated therewith.

CS/CS/HB 783 amends the definition of “racketeering activity” to include violations of FWC laws and rules relating to the illegal sale, purchase, collection, harvest, capture, or possession of wild animal life, freshwater aquatic life, or marine life, and related crimes. Under the bill, any wildlife, freshwater aquatic life, or marine life trafficker convicted of a violation of the Florida RICO Act commits a first degree felony. Prosecuting such violations under the Florida RICO Act will enable the state to pursue asset forfeiture, which may help to undermine profitability of the underlying criminal enterprises.

The bill may have an indeterminate impact on state government.

Most Recent Action: Laid on Table, Refer to CS/SB 776

Attached documents: SB 776 (Enrolled) + Senate Bill Summary

202172er

1
2 An act relating to civil liability for damages
3 relating to COVID-19; creating s. 768.38, F.S.;
4 providing legislative findings and intent; defining
5 terms; specifying requirements for civil actions based
6 on COVID-19-related claims; requiring the court to
7 make certain determinations in such actions; providing
8 that plaintiffs have the burden of proof in such
9 actions; requiring plaintiffs to commence COVID-19-
10 related claims within specified timeframes; creating
11 s. 768.381, F.S.; defining terms; providing
12 preliminary procedures for civil actions based on
13 COVID-19-related claims; providing the standard of
14 proof required at trial for such claims; providing
15 affirmative defenses; requiring COVID-19-related
16 claims to commence within specified timeframes;
17 providing applicability; providing construction;
18 providing severability; providing applicability and
19 for retroactive application; providing an effective
20 date.

21
22 WHEREAS, an outbreak of the disease known as COVID-19,
23 which is caused by a novel coronavirus that was not previously
24 found in humans, occurred in Hubei province, China, in late
25 2019, and has currently been detected in more than 89 countries,
26 including the United States, and

27 WHEREAS, COVID-19 is a severe respiratory disease that can
28 result in illness or death and is caused by the person-to-person
29 spread of the novel coronavirus, and

202172er

30 WHEREAS, COVID-19, as a viral agent capable of causing
31 extensive loss of life or serious disability, is deadly, and

32 WHEREAS, the transmission of COVID-19 is a threat to human
33 health in this state, and

34 WHEREAS, the Secretary of the United States Department of
35 Health and Human Services declared on January 31, 2020, that a
36 public health emergency exists in the United States due to
37 confirmed cases of COVID-19 in this country, and

38 WHEREAS, on March 1, 2020, the State of Florida Department
39 of Health, in coordination with Governor Ron DeSantis, first
40 declared a public health emergency based on the spread of COVID-
41 19, and

42 WHEREAS, throughout the declared state of emergency, the
43 Governor's executive orders included industry-specific
44 restrictions to prevent the spread of COVID-19 based on the best
45 information available at the time, allowing and encouraging
46 certain businesses to continue to safely operate, and

47 WHEREAS, a strong and vibrant economy is essential to
48 ensure that Floridians may continue in their meaningful work and
49 ultimately return to the quality of life they enjoyed before the
50 COVID-19 outbreak, and

51 WHEREAS, Floridians must be allowed to earn a living and
52 support their families without unreasonable government
53 intrusion, and

54 WHEREAS, the United States Centers for Disease Control and
55 Prevention has issued health guidance to all state and local
56 governments and all citizens, and

57 WHEREAS, in March 2020, the Centers for Medicare and
58 Medicaid Services recommended the deferral of nonessential

202172er

59 surgeries and other procedures, and

60 WHEREAS, the guidance from the Centers for Medicare and
61 Medicaid Services to defer medical procedures was based in part
62 on its recognition that the conservation of critical health care
63 resources is essential, and

64 WHEREAS, on March 20, 2020, the Governor issued Executive
65 Order 20-72, which prohibited health care providers "from
66 providing any medically unnecessary, non-urgent or non-emergency
67 procedure or surgery which, if delayed, does not place a
68 patient's immediate health, safety, or well-being at risk, or
69 will, if delayed, not contribute to the worsening of a serious
70 or life-threatening medical condition," and

71 WHEREAS, on April 29, 2020, the Governor issued Executive
72 Order 20-112, which allowed health care providers to perform
73 procedures prohibited by the earlier order if the health care
74 provider had adequate supplies of personal protective equipment
75 and satisfied other conditions, and

76 WHEREAS, medical experts have been racing to develop
77 vaccines and to learn how COVID-19 is transmitted and how best
78 to treat those infected with the disease, and

79 WHEREAS, the Federal Government, along with state and local
80 governments, has sought to slow the spread of COVID-19 through
81 travel bans and restrictions, quarantines, lockdowns, social
82 distancing, and the closure of businesses or limitations on
83 business activities, including limitations on the provision of
84 medical services, and

85 WHEREAS, health care providers, including hospitals,
86 doctors, nurses, and other health care facilities and workers,
87 have struggled to acquire personal protective equipment and

202172er

88 other supplies to protect against the risk of COVID-19
89 transmission and medications used in the treatment of the
90 disease, and

91 WHEREAS, the circumstances of the COVID-19 pandemic have
92 made it difficult or impossible for health care providers to
93 maintain ideal levels of staffing, and

94 WHEREAS, health care providers are essential to the
95 residents of this state's survival of the pandemic, and health
96 care providers have continued to treat patients despite the
97 potential, and still not fully known, risks of exposure to
98 COVID-19, and

99 WHEREAS, while many actions may seem reasonable during the
100 pandemic, some may attempt to construe these actions differently
101 in hindsight when calm is restored, and

102 WHEREAS, as the pandemic continues and recovery begins,
103 health care providers must be able to remain focused on serving
104 the health care needs of their respective communities and not on
105 the potential for unfounded lawsuits, and

106 WHEREAS, the Legislature finds that it is an overpowering
107 public necessity to enact legislation that will deter unfounded
108 lawsuits against individuals, businesses, health care providers,
109 and other entities based on COVID-19-related claims, while
110 allowing meritorious claims to proceed, and

111 WHEREAS, the Legislature finds that the unprecedented and
112 rare nature of the COVID-19 pandemic, together with the
113 indefinite legal environment that has followed, requires the
114 Legislature to act swiftly and decisively, NOW, THEREFORE,

115
116 Be It Enacted by the Legislature of the State of Florida:

202172er

117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145

Section 1. Section 768.38, Florida Statutes, is created to read:

768.38 Liability protections for COVID-19-related claims.-

(1) The Legislature finds that the COVID-19 outbreak in this state threatens the continued viability of certain business entities, educational institutions, governmental entities, and religious institutions that contribute to the overall well-being of this state. The threat of unknown and potentially unbounded liability to such businesses, entities, and institutions, in the wake of a pandemic that has already left many of these businesses, entities, and institutions vulnerable, has created an overpowering public necessity to provide an immediate and remedial legislative solution. Therefore, the Legislature intends for certain business entities, educational institutions, governmental entities, and religious institutions to enjoy heightened legal protections against liability as a result of the COVID-19 pandemic. The Legislature also finds that there are no alternative means to meet this public necessity, especially in light of the sudden, unprecedented nature of the COVID-19 pandemic. The Legislature finds the public interest as a whole is best served by providing relief to these businesses, entities, and institutions so that they may remain viable and continue to contribute to this state.

(2) As used in this section, the term:

(a) "Business entity" has the same meaning as provided in s. 606.03. The term also includes a charitable organization as defined in s. 496.404 and a corporation not for profit as defined in s. 617.01401.

202172er

146 (b) "COVID-19-related claim" means a civil liability claim
147 against a person, including a natural person, a business entity,
148 an educational institution, a governmental entity, or a
149 religious institution, which arises from or is related to COVID-
150 19, otherwise known as the novel coronavirus. The term includes
151 any such claim for damages, injury, or death. Any such claim, no
152 matter how denominated, is a COVID-19-related claim for purposes
153 of this section. The term includes a claim against a health care
154 provider only if the claim is excluded from the definition of
155 COVID-19-related claim under s. 768.381, regardless of whether
156 the health care provider also meets one or more of the
157 definitions in this subsection.

158 (c) "Educational institution" means a school, including a
159 preschool, elementary school, middle school, junior high school,
160 secondary school, career center, or postsecondary school,
161 whether public or nonpublic.

162 (d) "Governmental entity" means the state or any political
163 subdivision thereof, including the executive, legislative, and
164 judicial branches of government; the independent establishments
165 of the state, counties, municipalities, districts, authorities,
166 boards, or commissions; or any agencies that are subject to
167 chapter 286.

168 (e) "Health care provider" means:

169 1. A provider as defined in s. 408.803.

170 2. A clinical laboratory providing services in this state
171 or services to health care providers in this state, if the
172 clinical laboratory is certified by the Centers for Medicare and
173 Medicaid Services under the federal Clinical Laboratory
174 Improvement Amendments and the federal rules adopted thereunder.

202172er

175 3. A federally qualified health center as defined in 42
176 U.S.C. s. 1396d(1)(2)(B), as that definition exists on the
177 effective date of this act.

178 4. Any site providing health care services which was
179 established for the purpose of responding to the COVID-19
180 pandemic pursuant to any federal or state order, declaration, or
181 waiver.

182 5. A health care practitioner as defined in s. 456.001.

183 6. A health care professional licensed under part IV of
184 chapter 468.

185 7. A home health aide as defined in s. 400.462(15).

186 8. A provider licensed under chapter 394 or chapter 397 and
187 its clinical and nonclinical staff providing inpatient or
188 outpatient services.

189 9. A continuing care facility licensed under chapter 651.

190 10. A pharmacy permitted under chapter 465.

191 (f) "Religious institution" has the same meaning as
192 provided in s. 496.404.

193 (3) In a civil action based on a COVID-19-related claim:

194 (a) The complaint must be pled with particularity.

195 (b) At the same time the complaint is filed, the plaintiff
196 must submit an affidavit signed by a physician actively licensed
197 in this state which attests to the physician's belief, within a
198 reasonable degree of medical certainty, that the plaintiff's
199 COVID-19-related damages, injury, or death occurred as a result
200 of the defendant's acts or omissions.

201 (c) The court must determine, as a matter of law, whether:

202 1. The plaintiff complied with paragraphs (a) and (b). If
203 the plaintiff did not comply with paragraphs (a) and (b), the

202172er

204 court must dismiss the action without prejudice.

205 2. The defendant made a good faith effort to substantially
206 comply with authoritative or controlling government-issued
207 health standards or guidance at the time the cause of action
208 accrued.

209 a. During this stage of the proceeding, admissible evidence
210 is limited to evidence tending to demonstrate whether the
211 defendant made such a good faith effort.

212 b. If the court determines that the defendant made such a
213 good faith effort, the defendant is immune from civil liability.
214 If more than one source or set of standards or guidance was
215 authoritative or controlling at the time the cause of action
216 accrued, the defendant's good faith effort to substantially
217 comply with any one of those sources or sets of standards or
218 guidance confers such immunity from civil liability.

219 c. If the court determines that the defendant did not make
220 such a good faith effort, the plaintiff may proceed with the
221 action. However, absent at least gross negligence proven by
222 clear and convincing evidence, the defendant is not liable for
223 any act or omission relating to a COVID-19-related claim.

224 (d) The burden of proof is upon the plaintiff to
225 demonstrate that the defendant did not make a good faith effort
226 under subparagraph (c)2.

227 (4) A plaintiff must commence a civil action for a COVID-
228 19-related claim within 1 year after the cause of action accrues
229 or within 1 year after the effective date of this act if the
230 cause of action accrued before the effective date of this act.

231 Section 2. Section 768.381, Florida Statutes, is created to
232 read:

202172er

233 768.381 COVID-19-related claims against health care
234 providers.—

235 (1) DEFINITIONS.—As used in this section, the term:

236 (a) "Authoritative guidance" means nonbinding instructions
237 or recommendations from a federal, state, or local governmental
238 entity, a clinical professional organization, or another
239 authoritative source of clinical guidance.

240 (b) "COVID-19" means the novel coronavirus identified as
241 SARS-CoV-2; any disease caused by SARS-CoV-2, its viral
242 fragments, or a virus mutating therefrom; and all conditions
243 associated with the disease which are caused by SARS-CoV-2, its
244 viral fragments, or a virus mutating therefrom.

245 (c) "COVID-19 emergency" means a public health emergency
246 relating to COVID-19 which is declared by an emergency
247 declaration of the Federal Government or an emergency order of
248 the State Surgeon General or a state of emergency due to COVID-
249 19 declared by executive order of the Governor.

250 (d) "COVID-19-related claim" means a civil liability claim
251 against a health care provider which arises from the:

- 252 1. Diagnosis or treatment of, or failure to diagnose or
253 treat, a person for COVID-19;
254 2. Provision of a novel or experimental COVID-19 treatment;
255 3. Transmission of COVID-19;
256 4. Delay or cancellation of a surgery or a delay or
257 cancellation of a medical procedure, a test, or an appointment
258 based on a health care provider's interpretation or application
259 of government-issued health standards or authoritative guidance
260 specifically relating to the COVID-19 emergency;
261 5. An act or omission with respect to an emergency medical

202172er

262 condition as defined in s. 395.002, and which act or omission
263 was the result of a lack of resources directly caused by the
264 COVID-19 pandemic; or

265 6. The provision of treatment to a patient diagnosed with
266 COVID-19 whose injuries were directly related to an exacerbation
267 of the patient's preexisting conditions by COVID-19.

268
269 The term does not include a claim alleging that an act or
270 omission by a health care provider caused a person to contract
271 COVID-19 or a derivative claim to such claim unless the person
272 was a resident or patient of the health care provider or a
273 person seeking care or treatment from the health care provider.

274 (e) "Government-issued health standards" means federal,
275 state, or local laws, rules, regulations, or orders that
276 describe the manner in which a health care provider must
277 operate.

278 (f) "Health care provider" means any of the following:

279 1. A provider as defined in s. 408.803.

280 2. A clinical laboratory providing services in this state
281 or services to health care providers in this state, if the
282 clinical laboratory is certified by the Centers for Medicare and
283 Medicaid Services under the federal Clinical Laboratory
284 Improvement Amendments and the federal rules adopted thereunder.

285 3. A federally qualified health center as defined in 42
286 U.S.C. s. 1396d(1)(2)(B), as that definition existed on the
287 effective date of this act.

288 4. Any site providing health care services which was
289 established for the purpose of responding to the COVID-19
290 pandemic pursuant to any federal or state order, declaration, or

202172er

291 waiver.

292 5. A health care practitioner as defined in s. 456.001.

293 6. A health care professional licensed under part IV of
294 chapter 468.

295 7. A home health aide as defined in s. 400.462(15).

296 8. A provider licensed under chapter 394 or chapter 397 and
297 its clinical and nonclinical staff providing inpatient or
298 outpatient services.

299 9. A continuing care facility licensed under chapter 651.

300 10. A pharmacy permitted under chapter 465.

301 (2) PRELIMINARY PROCEDURES.—

302 (a) In any civil action against a health care provider
303 based on a COVID-19-related claim, the complaint must be pled
304 with particularity by alleging facts in sufficient detail to
305 support each element of the claim. An affidavit of a physician
306 is not required as part of the pleading.

307 (b) If the complaint is not pled with particularity, the
308 court must dismiss the action.

309 (3) STANDARD OF PROOF.—A plaintiff who brings an action for
310 a COVID-19-related claim against a health care provider must
311 prove by the greater weight of the evidence that the health care
312 provider was grossly negligent or engaged in intentional
313 misconduct.

314 (4) AFFIRMATIVE DEFENSES.—If a health care provider proves
315 by the greater weight of the evidence the existence of an
316 affirmative defense that applies to a specific COVID-19-related
317 claim, the health care provider has no liability for that claim.
318 The affirmative defenses that may apply to a COVID-19-related
319 claim against a health care provider include, in addition to any

202172er

320 other affirmative defenses recognized by law, the health care
321 provider's:

322 (a) Substantial compliance with government-issued health
323 standards specifically relating to COVID-19 or other relevant
324 standards, including standards relating to the preservation or
325 prioritization of supplies, materials, or equipment;

326 (b) Substantial compliance with government-issued health
327 standards specific to infectious diseases in the absence of
328 standards specifically applicable to COVID-19;

329 (c) Substantial compliance with government-issued health
330 standards relating to COVID-19 or other relevant standards was
331 not possible due to the widespread shortages of necessary
332 supplies, materials, equipment, or personnel;

333 (d) Substantial compliance with any applicable government-
334 issued health standards relating to COVID-19 or other relevant
335 standards if the applicable standards were in conflict; or

336 (e) Substantial compliance with government-issued health
337 standards relating to COVID-19 or other relevant standards was
338 not possible because there was insufficient time to implement
339 the standards.

340 (5) LIMITATIONS PERIOD.—

341 (a) An action for a COVID-19-related claim against a health
342 care provider which arises out of the transmission, diagnosis,
343 or treatment of COVID-19 must commence within 1 year after the
344 later of the date of death due to COVID-19, hospitalization
345 related to COVID-19, or the first diagnosis of COVID-19 which
346 forms the basis of the action.

347 (b) An action for a COVID-19-related claim against a health
348 care provider which does not arise out of the transmission,

202172er

349 diagnosis, or treatment of COVID-19, such as a claim arising out
350 of a delayed or canceled procedure, must commence within 1 year
351 after the cause of action accrues.

352 (c) Notwithstanding paragraph (a) or paragraph (b), an
353 action for a COVID-19-related claim that accrued before the
354 effective date of this act must commence within 1 year after the
355 effective date of this act.

356 (6) APPLICATION PERIOD.—This section applies to claims that
357 have accrued before the effective date of this act and within 1
358 year after the effective date of this act.

359 (7) INTERACTION WITH OTHER LAWS.—

360 (a) This section does not create a new cause of action but
361 instead applies in addition to any other applicable provisions
362 of law, including, but not limited to, chapters 400, 429, 766,
363 and 768. This section controls over any conflicting provision of
364 law, but only to the extent of the conflict.

365 (b) This section does not apply to claims governed by
366 chapter 440.

367 Section 3. If any provision of this act or its application
368 to any person or circumstance is held invalid, the invalidity
369 does not affect other provisions or applications of the act
370 which can be given effect without the invalid provision or
371 application, and to this end the provisions of this act are
372 severable.

373 Section 4. This act applies retroactively and
374 prospectively. However, this act does not apply in a civil
375 action against a particular named defendant which is commenced
376 before the effective date of this act.

377 Section 5. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
2021 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/SB 72 — Civil Liability for Damages Relating to COVID-19

by Rules Committee and Senators Brandes, Perry, Baxley, and Hutson

The bill (Chapter 2021-1, L.O.F.) creates civil liability protections for individuals, businesses, governmental entities, and other organizations against COVID-19-related claims. The bill provides lesser liability protections to health care providers, who are defined in the bill, and provides procedures for civil actions against them.

Liability Protections for COVID-19-Related Claims

For a claim against a person, business, or other entity, but generally not a health care provider, the bill establishes preliminary requirements that a plaintiff must complete before the case may proceed. A court must determine whether:

- The complaint was pled with particularity.
- The complaint is supported by a physician’s affidavit attesting to the physician’s belief, within a reasonable degree of medical certainty, that the defendant caused, through acts of omissions, the plaintiff’s damages, injury, or death. If the plaintiff did not meet these requirements, the court must dismiss the action, but the plaintiff may correct the deficiencies and refile the claim.
- The defendant made a good faith effort to substantially comply with authoritative or controlling health standards when the actions accrued.

If the court determines that the defendant made the requisite good faith effort, the defendant is immune from civil liability. However, if the court determines that the defendant did not make the requisite good faith effort, the lawsuit may proceed.

If the defendant is not immune, the plaintiff must meet the heightened standard of proving that the defendant’s acts or omissions were grossly negligent by the clear and convincing evidence standard.

Liability Protections for Health Care Providers

The liability protections for COVID-19-related claims against a health care provider mainly relate to claims:

- Arising from the diagnosis or treatment of a person for COVID-19;
- The provision of a novel or experimental COVID-19 treatment;
- The transmission of COVID-19; and
- The delay or cancellation of a surgery or medical procedure.

To prevail in a claim against a health care provider, the plaintiff must plead the claim with particularity and generally must prove by the greater weight of the evidence that the health care provider was grossly negligent or engaged in intentional misconduct.

A COVID-19-related lawsuit against any type of defendant must be brought within 1 year after a cause of action accrues unless the cause of action occurred before the effective date of the bill. However, if a cause accrues before the effective date of the bill, the plaintiff has 1 year from the effective date of the act to bring the claim.

While the bill takes effect upon becoming a law, it applies retroactively. However, the bill does not apply in a civil action against a particular named defendant to a suit filed before the bill's effective date.

These provisions became law upon approval by the Governor on March 29, 2021.

Vote: Senate 24-15; House 83-31

20211120er

1
2 An act relating to telephone solicitation; amending s.
3 501.059, F.S.; defining terms; prohibiting certain
4 telephonic sales calls without the prior express
5 written consent of the called party; removing
6 provisions authorizing the use of certain automated
7 telephone dialing systems; providing a rebuttable
8 presumption for certain calls made to any area code in
9 this state; providing a cause of action for aggrieved
10 called parties; authorizing a court to increase an
11 award for willful and knowing violations; amending s.
12 501.616, F.S.; prohibiting a commercial telephone
13 seller or salesperson from using automated dialing or
14 recorded messages to make certain commercial telephone
15 solicitation phone calls; revising the timeframe
16 during which a commercial telephone seller or
17 salesperson may make commercial solicitation phone
18 calls; prohibiting commercial telephone sellers or
19 salespersons from making a specified number of
20 commercial telephone solicitation phone calls to a
21 person over a specified timeframe; prohibiting
22 commercial telephone sellers or salespersons from
23 using certain technology to conceal their true
24 identity; providing criminal penalties; reenacting s.
25 501.604, F.S., relating to exemptions to the Florida
26 Telemarketing Act, to incorporate the amendment made
27 to s. 501.616, F.S., in a reference thereto;
28 reenacting s. 648.44(1)(c), F.S., relating to
29 prohibitions regarding bail bond agent telephone

20211120er

30 solicitations, to incorporate the amendment made to s.
31 501.616, F.S., in a reference thereto; providing an
32 effective date.

33
34 Be It Enacted by the Legislature of the State of Florida:

35
36 Section 1. Present paragraphs (a) through (e) and (f)
37 through (i) of subsection (1) and present subsections (10),
38 (11), and (12) of section 501.059, Florida Statutes, are
39 redesignated as paragraphs (b) through (f) and (i) through (l),
40 and subsections (11), (12), and (13), respectively, new
41 paragraphs (a), (g), and (h) are added to subsection (1), a new
42 subsection (10) is added to that section, and subsection (8) of
43 that section is amended, to read:

44 501.059 Telephone solicitation.—

45 (1) As used in this section, the term:

46 (a) "Called party" means a person who is the regular user
47 of the telephone number that receives a telephonic sales call.

48 (g) "Prior express written consent" means a written
49 agreement that:

50 1. Bears the signature of the called party;

51 2. Clearly authorizes the person making or allowing the
52 placement of a telephonic sales call by telephone call, text
53 message, or voicemail transmission to deliver or cause to be
54 delivered to the called party a telephonic sales call using an
55 automated system for the selection or dialing of telephone
56 numbers, the playing of a recorded message when a connection is
57 completed to a number called, or the transmission of a
58 prerecorded voicemail;

20211120er

59 3. Includes the telephone number to which the signatory
60 authorizes a telephonic sales call to be delivered; and

61 4. Includes a clear and conspicuous disclosure informing
62 the called party that:

63 a. By executing the agreement, the called party authorizes
64 the person making or allowing the placement of a telephonic
65 sales call to deliver or cause to be delivered a telephonic
66 sales call to the called party using an automated system for the
67 selection or dialing of telephone numbers or the playing of a
68 recorded message when a connection is completed to a number
69 called; and

70 b. He or she is not required to directly or indirectly sign
71 the written agreement or to agree to enter into such an
72 agreement as a condition of purchasing any property, goods, or
73 services.

74 (h) "Signature" includes an electronic or digital
75 signature, to the extent that such form of signature is
76 recognized as a valid signature under applicable federal law or
77 state contract law.

78 (8)(a) ~~A No~~ person may not ~~shall~~ make or knowingly allow a
79 telephonic sales call to be made if such call involves an
80 automated system for the selection or dialing of telephone
81 numbers or the playing of a recorded message when a connection
82 is completed to a number called without the prior express
83 written consent of the called party.

84 ~~(b) Nothing herein prohibits the use of an automated~~
85 ~~telephone dialing system with live messages if the calls are~~
86 ~~made or messages given solely in response to calls initiated by~~
87 ~~the persons to whom the automatic calls or live messages are~~

20211120er

88 ~~directed or if the telephone numbers selected for automatic~~
89 ~~dialing have been screened to exclude any telephone subscriber~~
90 ~~who is included on the department's then-current "no sales~~
91 ~~solicitation calls" listing or any unlisted telephone number, or~~
92 ~~if the calls made concern goods or services that have been~~
93 ~~previously ordered or purchased.~~

94 (e) It shall be unlawful for any person who makes a
95 telephonic sales call or causes a telephonic sales call to be
96 made to fail to transmit or cause not to be transmitted the
97 originating telephone number and, when made available by the
98 telephone solicitor's carrier, the name of the telephone
99 solicitor to any caller identification service in use by a
100 recipient of a telephonic sales call. However, it is ~~shall~~ not
101 be a violation to substitute, for the name and telephone number
102 used in or billed for making the call, the name of the seller on
103 behalf of which a telephonic sales call is placed and the
104 seller's customer service telephone number, which is answered
105 during regular business hours. If a telephone number is made
106 available through a caller identification service as a result of
107 a telephonic sales call, the solicitor must ensure that
108 telephone number is capable of receiving telephone calls and
109 must connect the original call recipient, upon calling such
110 number, to the telephone solicitor or to the seller on behalf of
111 which a telephonic sales call was placed. For purposes of this
112 section, the term "caller identification service" means a
113 service that allows a telephone subscriber to have the telephone
114 number and, where available, the name of the calling party
115 transmitted contemporaneously with the telephone call and
116 displayed on a device in or connected to the subscriber's

20211120er

117 telephone.

118 (c)~~(d)~~ It shall be unlawful for any person who makes a
119 telephonic sales call or causes a telephonic sales call to be
120 made to intentionally alter the voice of the caller in an
121 attempt to disguise or conceal the identity of the caller in
122 order to defraud, confuse, or financially or otherwise injure
123 the recipient of a telephonic sales call or in order to obtain
124 personal information from the recipient of a telephonic sales
125 call which may be used in a fraudulent or unlawful manner.

126 (d) There is a rebuttable presumption that a telephonic
127 sales call made to any area code in this state is made to a
128 Florida resident or to a person in this state at the time of the
129 call.

130 (10)(a) A called party who is aggrieved by a violation of
131 this section may bring an action to:

- 132 1. Enjoin such violation.
133 2. Recover actual damages or \$500, whichever is greater.

134 (b) If the court finds that the defendant willfully or
135 knowingly violated this section or rules adopted pursuant to
136 this section, the court may, in its discretion, increase the
137 amount of the award to an amount equal to not more than three
138 times the amount available under paragraph (a).

139 Section 2. Subsections (6) and (7) of section 501.616,
140 Florida Statutes, are amended to read:

141 501.616 Unlawful acts and practices.—

142 (6) A commercial telephone seller or salesperson may not
143 make any of the following types of phone calls, including calls
144 made through automated dialing or recorded messages:

145 (a) A commercial telephone solicitation phone call before 8

20211120er

146 a.m. or after 8 9 p.m. local time in at the called person's time
147 zone location.

148 (b) More than three commercial telephone solicitation phone
149 calls from any number to a person over a 24-hour period on the
150 same subject matter or issue, regardless of the phone number
151 used to make the call.

152 (7) A commercial telephone seller or salesperson making a
153 commercial telephone solicitation call may not:

154 (a) Intentionally act to prevent transmission of the
155 telephone solicitor's name or telephone number to the party
156 called when the equipment or service used by the telephone
157 solicitor is capable of creating and transmitting the telephone
158 solicitor's name or telephone number.

159 (b) Use technology that deliberately displays a different
160 caller identification number than the number the call is
161 originating from to conceal the true identity of the caller. A
162 commercial telephone seller or salesperson who makes a call
163 using such technology commits a misdemeanor of the second
164 degree, punishable as provided in s. 775.082 or s. 775.083.

165 Section 3. For the purpose of incorporating the amendment
166 made by this act to section 501.616, Florida Statutes, in a
167 reference thereto, section 501.604, Florida Statutes, is
168 reenacted to read:

169 501.604 Exemptions.—The provisions of this part, except ss.
170 501.608 and 501.616(6) and (7), do not apply to:

171 (1) A person engaging in commercial telephone solicitation
172 where the solicitation is an isolated transaction and not done
173 in the course of a pattern of repeated transactions of like
174 nature.

20211120er

175 (2) A person soliciting for religious, charitable,
176 political, or educational purposes. A person soliciting for
177 other noncommercial purposes is exempt only if that person is
178 soliciting for a nonprofit corporation and if that corporation
179 is properly registered as such with the Secretary of State and
180 is included within the exemption of s. 501(c)(3) or (6) of the
181 Internal Revenue Code.

182 (3) A person who does not make the major sales presentation
183 during the telephone solicitation and who does not intend to,
184 and does not actually, complete or obtain provisional acceptance
185 of a sale during the telephone solicitation, but who makes the
186 major sales presentation and completes the sale at a later face-
187 to-face meeting between the seller and the prospective purchaser
188 in accordance with the home solicitation provisions in this
189 chapter. However, if a seller, directly following a telephone
190 solicitation, causes an individual whose primary purpose it is
191 to go to the prospective purchaser to collect the payment or
192 deliver any item purchased, this exemption does not apply.

193 (4) A licensed securities, commodities, or investment
194 broker, dealer, or investment adviser, when soliciting within
195 the scope of his or her license, or a licensed associated person
196 of a securities, commodities, or investment broker, dealer, or
197 investment adviser, when soliciting within the scope of his or
198 her license. As used in this section, "licensed securities,
199 commodities, or investment broker, dealer, or investment
200 adviser" means a person subject to license or registration as
201 such by the Securities and Exchange Commission, by the Financial
202 Industry Regulatory Authority or other self-regulatory
203 organization as defined by the Securities Exchange Act of 1934,

20211120er

204 15 U.S.C. s. 781, or by an official or agency of this state or
205 of any state of the United States. As used in this section,
206 "licensed associated person of a securities, commodities, or
207 investment broker, dealer, or investment adviser" means an
208 associated person registered or licensed by the Financial
209 Industry Regulatory Authority or other self-regulatory
210 organization as defined by the Securities Exchange Act of 1934,
211 15 U.S.C. s. 781, or by an official or agency of this state or
212 of any state of the United States.

213 (5) A person primarily soliciting the sale of a newspaper
214 of general circulation.

215 (6) A book, video, or record club or contractual plan or
216 arrangement:

217 (a) Under which the seller provides the consumer with a
218 form which the consumer may use to instruct the seller not to
219 ship the offered merchandise.

220 (b) Which is regulated by the Federal Trade Commission
221 trade regulation concerning "use of negative option plans by
222 sellers in commerce."

223 (c) Which provides for the sale of books, records, or
224 videos which are not covered under paragraph (a) or paragraph
225 (b), including continuity plans, subscription arrangements,
226 standing order arrangements, supplements, and series
227 arrangements under which the seller periodically ships
228 merchandise to a consumer who has consented in advance to
229 receive such merchandise on a periodic basis.

230 (7) A supervised financial institution or parent,
231 subsidiary, or affiliate thereof operating within the scope of
232 supervised activity. As used in this section, "supervised

20211120er

233 financial institution" means a commercial bank, trust company,
234 savings and loan association, mutual savings bank, credit union,
235 industrial loan company, consumer finance lender, commercial
236 finance lender, or insurer, provided that the institution is
237 subject to supervision by an official or agency of this state,
238 of any state, or of the United States. For the purposes of this
239 exemption, "affiliate" means a person who directly, or
240 indirectly through one or more intermediaries, controls or is
241 controlled by, or is under common control with, a supervised
242 financial institution.

243 (8) Any licensed insurance broker, agent, customer
244 representative, or solicitor when soliciting within the scope of
245 his or her license. As used in this section, "licensed insurance
246 broker, agent, customer representative, or solicitor" means any
247 insurance broker, agent, customer representative, or solicitor
248 licensed by an official or agency of this state or of any state
249 of the United States.

250 (9) A person soliciting the sale of services provided by a
251 cable television system operating under authority of a franchise
252 or permit.

253 (10) A business-to-business sale where:

254 (a) The commercial telephone seller has been lawfully
255 operating continuously for at least 3 years under the same
256 business name and has at least 50 percent of its dollar volume
257 consisting of repeat sales to existing businesses;

258 (b) The purchaser business intends to resell or offer for
259 purposes of advertisement or as a promotional item the property
260 or goods purchased; or

261 (c) The purchaser business intends to use the property or

20211120er

262 goods purchased in a recycling, reuse, remanufacturing, or
263 manufacturing process.

264 (11) A person who solicits sales by periodically publishing
265 and delivering a catalog of the seller's merchandise to
266 prospective purchasers, if the catalog:

267 (a) Contains a written description or illustration of each
268 item offered for sale.

269 (b) Includes the business address or home office address of
270 the seller.

271 (c) Includes at least 20 pages of written material and
272 illustrations and is distributed in more than one state.

273 (d) Has an annual circulation by mailing of not less than
274 150,000.

275 (12) A person who solicits contracts for the maintenance or
276 repair of goods previously purchased from the person making the
277 solicitation or on whose behalf the solicitation is made.

278 (13) A commercial telephone seller licensed pursuant to
279 chapter 516 or part III of chapter 520. For purposes of this
280 exemption, the seller must solicit to sell a consumer good or
281 service within the scope of his or her license and the completed
282 transaction must be subject to the provisions of chapter 516 or
283 part III of chapter 520.

284 (14) A telephone company subject to chapter 364, or
285 affiliate thereof or its agents, or a telecommunications
286 business that is regulated by the Florida Public Service
287 Commission, or a Federal Communications Commission licensed
288 cellular telephone company or other bona fide radio
289 telecommunication services provider. For the purposes of this
290 exemption, "affiliate" means a person who directly, or

20211120er

291 indirectly through one or more intermediaries, controls or is
292 controlled by, or is under common control with, a telephone
293 company subject to chapter 364.

294 (15) A person who is licensed pursuant to chapter 497 and
295 who is soliciting within the scope of the license.

296 (16) An issuer or a subsidiary of an issuer that has a
297 class of securities which is subject to s. 12 of the Securities
298 Exchange Act of 1934, 15 U.S.C. s. 781, and which is either
299 registered or exempt from registration under paragraph (A),
300 paragraph (B), paragraph (C), paragraph (E), paragraph (F),
301 paragraph (G), or paragraph (H) of subsection (g)(2) of that
302 section.

303 (17) A business soliciting exclusively the sale of
304 telephone answering services provided that the telephone
305 answering services will be supplied by the solicitor.

306 (18) A person soliciting a transaction regulated by the
307 Commodity Futures Trading Commission if the person is registered
308 or temporarily licensed for this activity with the Commodity
309 Futures Trading Commission under the Commodity Exchange Act, 7
310 U.S.C. ss. 1 et seq., and the registration or license has not
311 expired or been suspended or revoked.

312 (19) A person soliciting the sale of food or produce as
313 defined in chapter 500 or chapter 504 if the solicitation
314 neither intends to result in, or actually results in, a sale
315 which costs the purchaser in excess of \$500.

316 (20) A person who is registered pursuant to part XI of
317 chapter 559 and who is soliciting within the scope of the
318 registration.

319 (21) A person soliciting business from prospective

20211120er

320 consumers who have an existing business relationship with or who
321 have previously purchased from the business enterprise for which
322 the solicitor is calling, if the solicitor is operating under
323 the same exact business name.

324 (22) A person who has been operating, for at least 1 year,
325 a retail business establishment under the same name as that used
326 in connection with telemarketing, and both of the following
327 occur on a continuing basis:

328 (a) Either products are displayed and offered for sale or
329 services are offered for sale and provided at the business
330 establishment.

331 (b) A majority of the seller's business involves the buyer
332 obtaining such products or services at the seller's location.

333 (23) A person who is a registered developer or exchange
334 company pursuant to chapter 721 and who is soliciting within the
335 scope of the chapter.

336 (24) Any person who has been lawfully providing
337 telemarketing sales services continuously for at least 5 years
338 under the same ownership and control and who derives 75 percent
339 of its gross telemarketing sales revenues from contracts with
340 persons exempted in this section.

341 (25) A person licensed pursuant to chapter 475 and who is
342 soliciting within the scope of the chapter.

343 (26) A publisher, or an agent of a publisher by written
344 agreement, who solicits the sale of his or her periodical or
345 magazine of general, paid circulation. The term "paid
346 circulation" shall not include magazines that are only
347 circulated as part of a membership package or that are given as
348 a free gift or prize from the publisher or agent of the

20211120er

349 publisher by written agreement.

350 (27) A person who is a licensed operator or an
351 identification cardholder as defined in chapter 482, and who is
352 soliciting within the scope of the chapter.

353 (28) A licensee, or an affiliate of a licensee, regulated
354 under chapter 560, the Money Transmitters' Code, for foreign
355 currency exchange services.

356 Section 4. For the purpose of incorporating the amendment
357 made by this act to section 501.616, Florida Statutes, in a
358 reference thereto, paragraph (c) of subsection (1) of section
359 648.44, Florida Statutes, is reenacted to read:

360 648.44 Prohibitions; penalty.—

361 (1) A bail bond agent or temporary bail bond agent may not:

362 (c) Initiate in-person or telephone solicitation after 9:00
363 p.m. or before 8:00 a.m., in the case of domestic violence
364 cases, at the residence of the detainee or the detainee's
365 family. Any solicitation not prohibited by this chapter must
366 comply with the telephone solicitation requirements in ss.
367 501.059(2) and (4), 501.613, and 501.616(6).

368 Section 5. This act shall take effect July 1, 2021.

Committee on Commerce and Tourism

CS/SB 1120 — Telephone Solicitation

by Regulated Industries Committee and Senators Gibson, Powell, and Gruters

This bill requires all sales telephone calls, text messages, and direct-to-voicemail transmissions to have the receiving consumer's prior express written consent if the call will be made using an automated machine to dial the recipient's phone number, or will play a recorded message upon connection with the recipient.

The bill creates a rebuttable presumption that a sales call made to a Florida area code is made either to a Florida resident or to a person in this state at the time of the call.

The bill creates a private right of action to enforce the above provisions. An aggrieved party may petition a court to enjoin the violating party. A prevailing plaintiff may recover the greater sum of either their actual monetary damages or \$500. Additionally, a court may increase damages by up to three times, for a willful or knowing violation.

The bill amends the Florida Telemarketing Act to prohibit telephone sellers or salespersons from calling consumers outside of the hours between 8 a.m. and 8 p.m. in the consumer's time zone, and prohibits telephone sellers or salespersons from contacting consumer on the same subject matter more than three times in a 24-hour period. The bill clarifies that calls made through an automated dialer or recorded message are subject to the same prohibitions.

The bill also creates a crime punishable as a second-degree misdemeanor that prohibits telephone sellers or salespersons from using technology that displays a spoofed phone number in order to conceal the caller's identity from the call recipient.

If approved by the Governor, these provisions take effect on July 1, 2021.

Vote: Senate 40-0; House 115-0

2021776er

1
2 An act relating to racketeering; amending s. 895.02,
3 F.S.; revising the definition of the term
4 "racketeering activity" to include certain actions
5 relating to wild animal life, freshwater aquatic life,
6 or marine life; providing an effective date.
7

8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Paragraph (a) of subsection (8) of section
11 895.02, Florida Statutes, is amended, and a new paragraph (c) is
12 added to that subsection, to read:

13 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

14 (8) "Racketeering activity" means to commit, to attempt to
15 commit, to conspire to commit, or to solicit, coerce, or
16 intimidate another person to commit:

17 (a) Any crime that is chargeable by petition, indictment,
18 or information under the following provisions of the Florida
19 Statutes:

20 1. Section 210.18, relating to evasion of payment of
21 cigarette taxes.

22 2. Section 316.1935, relating to fleeing or attempting to
23 elude a law enforcement officer and aggravated fleeing or
24 eluding.

25 3. Chapter 379, relating to the illegal sale, purchase,
26 collection, harvest, capture, or possession of wild animal life,
27 freshwater aquatic life, or marine life, and related crimes.

28 4. Section 403.727(3)(b), relating to environmental
29 control.

2021776er

30 5.4. Section 409.920 or s. 409.9201, relating to Medicaid
31 fraud.

32 6.5. Section 414.39, relating to public assistance fraud.

33 7.6. Section 440.105 or s. 440.106, relating to workers'
34 compensation.

35 8.7. Section 443.071(4), relating to creation of a
36 fictitious employer scheme to commit reemployment assistance
37 fraud.

38 9.8. Section 465.0161, relating to distribution of
39 medicinal drugs without a permit as an Internet pharmacy.

40 10.9. Section 499.0051, relating to crimes involving
41 contraband, adulterated, or misbranded drugs.

42 11.10. Part IV of chapter 501, relating to telemarketing.

43 12.11. Chapter 517, relating to sale of securities and
44 investor protection.

45 13.12. Section 550.235 or s. 550.3551, relating to
46 dogracing and horseracing.

47 14.13. Chapter 550, relating to jai alai frontons.

48 15.14. Section 551.109, relating to slot machine gaming.

49 16.15. Chapter 552, relating to the manufacture,
50 distribution, and use of explosives.

51 17.16. Chapter 560, relating to money transmitters, if the
52 violation is punishable as a felony.

53 18.17. Chapter 562, relating to beverage law enforcement.

54 19.18. Section 624.401, relating to transacting insurance
55 without a certificate of authority, s. 624.437(4)(c)1., relating
56 to operating an unauthorized multiple-employer welfare
57 arrangement, or s. 626.902(1)(b), relating to representing or
58 aiding an unauthorized insurer.

2021776er

59 ~~20.19.~~ Section 655.50, relating to reports of currency
60 transactions, when such violation is punishable as a felony.

61 ~~21.20.~~ Chapter 687, relating to interest and usurious
62 practices.

63 ~~22.21.~~ Section 721.08, s. 721.09, or s. 721.13, relating to
64 real estate timeshare plans.

65 ~~23.22.~~ Section 775.13(5)(b), relating to registration of
66 persons found to have committed any offense for the purpose of
67 benefiting, promoting, or furthering the interests of a criminal
68 gang.

69 ~~24.23.~~ Section 777.03, relating to commission of crimes by
70 accessories after the fact.

71 ~~25.24.~~ Chapter 782, relating to homicide.

72 ~~26.25.~~ Chapter 784, relating to assault and battery.

73 ~~27.26.~~ Chapter 787, relating to kidnapping or human
74 trafficking.

75 ~~28.27.~~ Chapter 790, relating to weapons and firearms.

76 ~~29.28.~~ Chapter 794, relating to sexual battery, but only if
77 such crime was committed with the intent to benefit, promote, or
78 further the interests of a criminal gang, or for the purpose of
79 increasing a criminal gang member's own standing or position
80 within a criminal gang.

81 ~~30.29.~~ Former s. 796.03, former s. 796.035, s. 796.04, s.
82 796.05, or s. 796.07, relating to prostitution.

83 ~~31.30.~~ Chapter 806, relating to arson and criminal
84 mischief.

85 ~~32.31.~~ Chapter 810, relating to burglary and trespass.

86 ~~33.32.~~ Chapter 812, relating to theft, robbery, and related
87 crimes.

2021776er

88 ~~34.33~~. Chapter 815, relating to computer-related crimes.

89 ~~35.34~~. Chapter 817, relating to fraudulent practices, false
90 pretenses, fraud generally, credit card crimes, and patient
91 brokering.

92 ~~36.35~~. Chapter 825, relating to abuse, neglect, or
93 exploitation of an elderly person or disabled adult.

94 ~~37.36~~. Section 827.071, relating to commercial sexual
95 exploitation of children.

96 ~~38.37~~. Section 828.122, relating to fighting or baiting
97 animals.

98 ~~39.38~~. Chapter 831, relating to forgery and counterfeiting.

99 ~~40.39~~. Chapter 832, relating to issuance of worthless
100 checks and drafts.

101 ~~41.40~~. Section 836.05, relating to extortion.

102 ~~42.41~~. Chapter 837, relating to perjury.

103 ~~43.42~~. Chapter 838, relating to bribery and misuse of
104 public office.

105 ~~44.43~~. Chapter 843, relating to obstruction of justice.

106 ~~45.44~~. Section 847.011, s. 847.012, s. 847.013, s. 847.06,
107 or s. 847.07, relating to obscene literature and profanity.

108 ~~46.45~~. Chapter 849, relating to gambling, lottery, gambling
109 or gaming devices, slot machines, or any of the provisions
110 within that chapter.

111 ~~47.46~~. Chapter 874, relating to criminal gangs.

112 ~~48.47~~. Chapter 893, relating to drug abuse prevention and
113 control.

114 ~~49.48~~. Chapter 896, relating to offenses related to
115 financial transactions.

116 ~~50.49~~. Sections 914.22 and 914.23, relating to tampering

2021776er

117 with or harassing a witness, victim, or informant, and
118 retaliation against a witness, victim, or informant.

119 ~~51.50.~~ Sections 918.12 and 918.13, relating to tampering
120 with jurors and evidence.

121 (c) Any violation of Title 68, Florida Administrative Code,
122 relating to the illegal sale, purchase, collection, harvest,
123 capture, or possession of wild animal life, freshwater aquatic
124 life, or marine life, and related crimes.

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

Committee on Criminal Justice

CS/SB 776 — Racketeering

by Criminal Justice Committee and Senator Gainer

The bill amends the definition of “racketeering activity” in the Florida RICO (Racketeer Influenced and Corrupt Organization) Act to include violations of ch. 379, F.S., and Title 68, F.A.C., relating to the illegal sale, purchase, collection, harvest, capture, or possession of wild animal life, freshwater aquatic life, or marine life, and related crimes. Chapter 379, F.S., and Title 68, F.A.C., are implemented by the Florida Fish and Wildlife Conservation Commission. The effect of this change is that it will allow such unlawful acts to be prosecuted as racketeering if the commission of the acts constitutes racketeering. A criminal violation of the Florida RICO Act is a first degree felony. The Florida RICO Act also provides for civil remedies.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 116-0

HB 0007 Civil Liability for Damages Relating to COVID-19 by McClure

Civil Liability for Damages Relating to COVID-19: Provides requirements for civil action based on COVID-19-related claim; provides that plaintiff has burden of proof in such action; provides statute of limitations. Effective Date: upon becoming a law

Current Committee of Reference: Senate Rules

Actions

04/30/2021 SENATE Died in Rules

Compare

SB 0072 Civil Liability for Damages Relating to COVID-19 (Brandes)

HB 1617 Public Emergencies and Assistance (Jenne)

HB 0021 Construction Defects by Andrade

Construction Defects: Revises cause of action requirements for statutory civil actions relating to certain violations; requires that person submit construction defect claim to warranty provider before serving notice of claim; provides requirements for claimant & warranty provider; provides that certain actions do not constitute admission of liability & may not be admissible in action; revises provisions relating to construction defects & notice of claim requirements; authorizes claimant to request that independent qualified third party make repairs; tolls statute of limitations in certain circumstances; requires claimant to notify mortgagee or assignee within specified timeframe after service of notice of construction defect claim; requires claimant to send second notice within specified timeframe under certain circumstances. Effective Date: July 1, 2021

Current Committee of Reference: House Judiciary Committee

Actions

04/30/2021 HOUSE Died in Judiciary Committee

Compare

SB 0270 Construction Defects (Perry)

SB 0072 Civil Liability for Damages Relating to COVID-19 by Brandes

Civil Liability for Damages Relating to COVID-19; Specifying requirements for civil actions based on COVID-19-related claims; requiring the court to make certain determinations in such actions; providing that plaintiffs have the burden of proof in such actions; providing preliminary procedures for civil actions based on COVID-19-related claims; requiring COVID-19-related claims to commence within specified timeframes, etc. Effective Date: Upon becoming a law

Current Committee of Reference: No Current Committee

Actions

03/29/2021 Approved by Governor; Chapter No. 2021-001

Compare

HB 0007 Civil Liability for Damages Relating to COVID-19 (McClure)

SB 0074 COVID-19-related Claims Against Health Care Providers (Brandes)

HB 1617 Public Emergencies and Assistance (Jenne)

HB 7005 Civil Liability for Covid-19-related Claims Against Certain Health Care Providers (Health & Human Services Committee)

SB 0094 Water Storage North of Lake Okeechobee by Brodeur

Water Storage North of Lake Okeechobee; Requiring the South Florida Water Management District to

request that the United States Army Corps of Engineers seek congressional approval of a project implementation report for the Lake Okeechobee Watershed Restoration Project by a specified date; requiring the district, in partnership with the corps, to expedite the development and implementation of aquifer storage and recovery wells; requiring the district to expedite implementation of the aquifer storage and recovery science plan developed by the district and the corps, etc. Effective Date: Upon becoming a law

Current Committee of Reference: Senate Appropriations

Actions

04/30/2021 SENATE Died in Appropriations

Compare

SB 2516 Water Storage North of Lake Okeechobee (Appropriations)

HB 0115 Local Licensing by Fabricio

Local Licensing: Authorizes individuals who hold valid, active local licenses to work within scope of such licenses in any local government jurisdiction without needing to meet additional licensing requirements; provides local governments have disciplinary jurisdiction over licensees; requires local governments to forward any disciplinary orders to licensee's original licensing jurisdiction for further action; requires DBPR to create & maintain local licensing information system. Effective Date: October 1, 2021

Current Committee of Reference: House Regulatory Reform Subcommittee

Actions

02/05/2021 HOUSE Withdrawn prior to introduction

HB 0217 Conservation Area Designations by Hunschofsky

Conservation Area Designations: Designates Southeast Florida Coral Reef Ecosystem Conservation Area as Kristin Jacobs Coral Reef Ecosystem Conservation Area; directs DEP to erect suitable markers. Effective Date: July 1, 2021

Current Committee of Reference: No Current Committee

Actions

04/07/2021 HOUSE Enrolled Text (ER) Filed

Identical

SB 0588 Conservation Area Designations/Kristin Jacobs Coral Reef Ecosystem Conservation Area (Book)

SB 0256 Discrimination in Labor and Employment by Stewart

Discrimination in Labor and Employment; Creating the "Senator Helen Gordon Davis Fair Pay Protection Act"; prohibiting an employer from providing less favorable employment opportunities to employees based on their sex; prohibiting an employer from engaging in certain activities relating to wages and benefits; prohibiting an employer from requiring employees to sign certain waivers and documents, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Commerce and Tourism

Actions

04/30/2021 SENATE Died in Commerce and Tourism

Compare

HB 1077 Employee Wage and Salary History (Woodson)

Identical

HB 0107 Discrimination in Labor and Employment (Thompson)

SB 0270 Construction Defects by Perry

Construction Defects; Defining the term “material violation”; requiring that a person submit a construction defect claim to the warranty provider before bringing a cause of action; requiring that a claimant submit a construction defect claim to the warranty provider before serving a notice of claim; authorizing a person served with a copy of a notice of claim to perform a reasonable inspection of the property subject to the claim; requiring, instead of authorizing, a person served with a notice to serve a copy of the notice to specified persons under certain circumstances, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Community Affairs

Actions

04/30/2021 SENATE Died in Community Affairs

Compare

HB 0021 Construction Defects (Andrade)

SB 0304

Wage and Employment Benefits Requirements by Taddeo

Wage and Employment Benefits Requirements; Repealing provisions relating to restrictions on the establishment of minimum wage and employment benefits requirements by political subdivisions, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Commerce and Tourism

Actions

04/30/2021 SENATE Died in Commerce and Tourism

Identical

HB 6031 Wage and Employment Benefits Requirements (Smith (C))

SB 0338

Specialty Contracting Services by Gruters

Specialty Contracting Services; Revising the types of buildings for which individuals who are not required to obtain certain registrations or certifications may perform contracting services without a local license under certain circumstances; authorizing certain persons under the supervision of specified licensed contractors to perform certain specialty contracting services for commercial or residential swimming pools, hot tubs or spas, or interactive water features; providing that such supervision does not require a direct contract between those persons, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Community Affairs

Actions

04/30/2021 SENATE Died in Community Affairs

Similar

HB 1431 Swimming Pool Specialty Contracting Services (McClure)

SB 0344

Legislative Review of Occupational Regulations by Diaz

Legislative Review of Occupational Regulations; Citing this act as the "Occupational Regulation Review Act"; establishing a schedule for the systematic review of occupational regulatory programs, etc. Effective Date: Upon becoming a law

Current Committee of Reference: Senate Appropriations

Actions

04/30/2021 SENATE Died in Appropriations

Compare

HB 0717 Consumer Protection (Clemons)

SB 1598 Consumer Protection (Gruters)

Similar

HB 0471 Legislative Review of Occupational Regulations (Rizo)

SB 0364 **Discrimination on the Basis of Personal Health Information** by Gruters

Discrimination on the Basis of Personal Health Information; Prohibiting business and governmental entities that require individuals to present driver licenses and identification cards for specified purposes from taking certain actions on the basis of individuals' vaccination status and proof of immunity from any virus; prohibiting public accommodations from discriminating against individuals on the basis of vaccination or immunity status, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Commerce and Tourism

Actions

04/30/2021 SENATE Died in Commerce and Tourism

SB 0384 **Unlawful Employment Practices** by Rodriguez (A)

Unlawful Employment Practices; Expanding the list of unlawful employment practices to include certain actions against employees and job applicants with medical needs related to pregnancy; requiring employers to provide a written notice of certain rights relating to pregnancy to employees and to post such notice in conspicuous places on the premises; requiring the Florida Commission on Human Relations to develop certain education and outreach programs, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Commerce and Tourism

Actions

04/30/2021 SENATE Died in Commerce and Tourism

Compare

HB 1245 Employment Practices for Family and Medical Leave (Nixon)

SB 1596 Employment Practices for Family and Medical Leave (Cruz)

Similar

HB 0581 Unlawful Discrimination Against Pregnant Employees (Joseph)

HB 0471 **Legislative Review of Occupational Regulations** by Rizo

Legislative Review of Occupational Regulations: Establishes schedule for systematic review & repeal of occupational regulatory programs; provides for reversion of certain unexpended funds & refund of certain unencumbered revenue of repealed program; preempts regulation of occupation to state if occupation's regulatory program has been repealed through this act. Effective Date: upon becoming a law

Current Committee of Reference: House Regulatory Reform Subcommittee

Actions

04/30/2021 HOUSE Died in Regulatory Reform Subcommittee

Compare

HB 0717 Consumer Protection (Clemons)

SB 1598 Consumer Protection (Gruters)

Similar

SB 0344 Legislative Review of Occupational Regulations (Diaz)

SB 0588 **Conservation Area Designations/Kristin Jacobs Coral Reef Ecosystem Conservation Area** by Book

Conservation Area Designations/Kristin Jacobs Coral Reef Ecosystem Conservation Area; Designating the Southeast Florida Coral Reef Ecosystem Conservation Area as the Kristin Jacobs Coral Reef Ecosystem Conservation Area; directing the Department of Environmental Protection to erect suitable markers, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Appropriations

Actions

04/07/2021 SENATE Read Second Time; Substituted for HB 0217; Laid on Table, Refer to HB 0217

Identical

HB 0217 Conservation Area Designations (Hunschofsky)

HB 0717 Consumer Protection by Clemons

Consumer Protection: Removes provision requiring department to automatically convert registrations of approved registered insurance agencies to insurance agency licenses; prohibits entity from unlicensed activity as adjusting firm unless entity complies with specified requirement; authorizes department to disapprove use of insurance agency names containing words "Medicare" or "Medicaid"; revises timeframe in which insured or claimant may cancel public adjuster's contract to adjust claim without penalty or obligation; specifies requirements for written estimates of loss provided by public adjusters to claimants or insureds; revises timeframe in which insurer must begin investigation after receipt of proof of loss statements; requires insurer to keep records of adjusters interacting with policyholders; requires insurer to include specified notices when providing damage estimates or claim payments. Effective Date: upon becoming a law

Current Committee of Reference: No Current Committee

Actions

04/27/2021 HOUSE Laid on Table, refer to CS/CS/SB 1598

Compare

SB 0076 Insurance (Boyd)

HB 0305 Insurance (Rommel)

SB 0344 Legislative Review of Occupational Regulations (Diaz)

HB 0471 Legislative Review of Occupational Regulations (Rizo)

Similar

SB 1598 Consumer Protection (Gruters)

SB 0854 Minimum Wage Rate by Brandes

Minimum Wage Rate; Proposing an amendment to the State Constitution to authorize the Legislature to provide a reduced minimum wage rate for prisoners in the state correctional system, for employees convicted of a felony, for employees under 21 years of age, and for other hard-to-hire employees, etc.

Current Committee of Reference: Senate Commerce and Tourism

Actions

04/30/2021 SENATE Died in Commerce and Tourism

Similar

HB 1485 Minimum Wage Rate (Gregory)

HB 0857 Commercial Telephone Solicitation by Morales

Commercial Telephone Solicitation: Prohibits commercial telephone seller or salesperson from using automated dialing or recorded messages to make certain commercial telephone solicitation phone calls; revises timeframe during which commercial telephone seller or salesperson may make commercial solicitation phone calls; prohibits commercial telephone sellers or salespersons from making specified number of commercial telephone solicitation phone calls to person over specified timeframe. Effective Date: July 1, 2021

Current Committee of Reference: House Regulatory Reform Subcommittee

Actions

04/30/2021 HOUSE Died in Regulatory Reform Subcommittee

Compare

SB 1120 Telephone Solicitation (Gibson)

HB 1307 Telephone Solicitation (Beltran)

HB 0969 Consumer Data Privacy by McFarland

Consumer Data Privacy: Requires collectors to provide notice to consumers about data collection & selling practices; provides consumers right to request data be disclosed, deleted, or corrected & to opt-in or opt-out of sale or sharing of such data; provides nondiscrimination measures, methods for requesting data & opting-in or opting-out of sale or sharing of such data, private cause of action, enforcement, & jurisdiction. Effective Date: July 1, 2022

Current Committee of Reference: No Current Committee

Actions

04/30/2021 HOUSE Died in returning Messages

Compare

SB 1734 Consumer Data Privacy (Bradley)

Linked

HB 0971 Pub.Rec./Consumer Data Privacy (McFarland)

HB 0971 Pub.Rec./Consumer Data Privacy by McFarland

Pub.Rec./Consumer Data Privacy: Provides exemption from public records requirements for information relating to investigations by DLA & law enforcement agencies of certain data privacy violations; provides for future legislative review & repeal of exemption; provides statement of public necessity. Effective Date: on the same date that CS/CS/CS/HB 969 or similar legislation takes effect

Current Committee of Reference: No Current Committee

Actions

04/30/2021 HOUSE Died in returning Messages

Similar

SB 7064 Public Records/Investigations by the Department of Legal Affairs (Commerce and Tourism)

Linked

HB 0969 Consumer Data Privacy (McFarland)

SB 1120 Telephone Solicitation by Gibson

Telephone Solicitation; Prohibiting certain telephonic sales calls without the prior express written consent of the called party; removing provisions authorizing the use of certain automated telephone dialing systems; providing a cause of action for aggrieved called parties; prohibiting a commercial telephone seller or salesperson from using automated dialing or recorded messages to make certain commercial telephone solicitation phone calls, etc. Effective Date: 7/1/2021

Current Committee of Reference: No Current Committee

Actions

04/28/2021 SENATE Enrolled Text (ER) Filed

Compare

HB 0857 Commercial Telephone Solicitation (Morales)

SB 1682 Telephone Solicitation (Gruters)

Similar

HB 1307 Telephone Solicitation (Beltran)

HB 1225 Implementation of the Recommendations of the Blue-Green Algae Task Force by Goff-Marcil

Implementation of the Recommendations of the Blue-Green Algae Task Force: Requires DEP to implement stormwater system inspection & monitoring program; requires owners of onsite sewage treatment & disposal systems to have system periodically inspected; requires department to administer inspection program pursuant to certain standards, procedures, & requirements; provides for rulemaking; provides requirements for basin management action plans; provides notices requirements for certain notices of intent to implement pollution reduction measures; provides that verification of certain programs must have been completed by specified date to be presumed to be in compliance with state water quality standards; requires DEP to provide all records promptly & in unadulterated form. Effective Date: July 1, 2021

Current Committee of Reference: House Environment, Agriculture & Flooding Subcommittee

Actions

04/30/2021 HOUSE Died in Environment, Agriculture & Flooding Subcommittee

Similar

SB 1522 Implementation of the Recommendations of the Blue-Green Algae Task Force (Stewart)

HB 1307 Telephone Solicitation by Beltran

Telephone Solicitation: Prohibits telephonic sales calls without prior express written consent of called party; provides requirements for written consent agreements; provides that called party may revoke express written consent; provides rebuttable presumption for telephonic sales calls made to specified area codes; removes requirement that telephone numbers be excluded from calls made by automated telephone dialing systems with live messages; prohibits commercial telephone solicitation phone calls. Effective Date: July 1, 2021

Current Committee of Reference: No Current Committee

Actions

04/27/2021 HOUSE Laid on Table, refer to CS/SB 1120

Compare

HB 0857 Commercial Telephone Solicitation (Morales)

SB 1682 Telephone Solicitation (Gruters)

Similar

SB 1120 Telephone Solicitation (Gibson)

SB 1522 Implementation of the Recommendations of the Blue-Green Algae Task Force by Stewart

Implementation of the Recommendations of the Blue-Green Algae Task Force; Citing this act as the "Implementation of Governor DeSantis' Blue-Green Algae Task Force Recommendations Act"; requiring owners of onsite sewage treatment and disposal systems to have the system periodically inspected, beginning on a specified date; requiring the Department of Health to administer the inspection program; requiring the department to implement program standards, procedures, and requirements; providing for rulemaking; requiring new or revised basin management action plans to include an identification and prioritization of certain spatially focused projects, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Appropriations

Actions

04/30/2021 SENATE Died in Appropriations

Similar

HB 1225 Implementation of the Recommendations of the Blue-Green Algae Task Force (Goff-Marcil)

SB 1594 Public Records/Inspector of the Department of Agriculture and Consumer Services by Cruz

Public Records/Inspector of the Department of Agriculture and Consumer Services; Exempting personal identifying and location information of certain current or former inspectors of the Department of

Agriculture and Consumer Services, and personal identifying and location information of spouses and children of such personnel, from public records requirements; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Governmental Oversight and Accountability

Actions

04/30/2021 SENATE Died in Governmental Oversight and Accountability

Similar

HB 1539 Pub. Rec./Department of Agriculture and Consumer Services (Jenne)

SB 1598 Consumer Protection by Gruters

Consumer Protection; Deleting authorization for consumer reporting agencies to charge a fee for reissuing or providing a new unique personal identifier to a consumer; revising a requirement for persons licensed or authorized by the Department of Financial Services or the Office of Insurance Regulation to respond to the department's Division of Consumer Services regarding consumer complaints; deleting a fee for adjusting firm licenses; authorizing the department to disapprove the use of insurance agency names containing the word "Medicare" or "Medicaid"; revising the timeframes in which an insured or a claimant may cancel a public adjuster's contract to adjust a claim without penalty or obligation; revising disclosure requirements for certain classes of insurance before being eligible for export under the Surplus Lines Law, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law

Current Committee of Reference: No Current Committee

Actions

04/28/2021 SENATE Enrolled Text (ER) Filed

Compare

SB 0076 Insurance (Boyd)

HB 0305 Insurance (Rommel)

SB 0344 Legislative Review of Occupational Regulations (Diaz)

HB 0471 Legislative Review of Occupational Regulations (Rizo)

Similar

HB 0717 Consumer Protection (Clemons)

SB 1634 Public Records/Aquaculture/Department of Agriculture and Consumer Services by Brodeur

Public Records/Aquaculture/Department of Agriculture and Consumer Services; Providing a public records exemption for certain aquaculture records held by the Department of Agriculture and Consumer Services; providing that the records may be disclosed to other governmental entities under certain circumstances; providing for retroactive application of the exemption; providing for future legislative review and repeal under the Open Government Sunset Review Act; providing a statement of public necessity, etc. Effective Date: 7/1/2021

Current Committee of Reference: No Current Committee

Actions

04/28/2021 SENATE Enrolled Text (ER) Filed

Similar

HB 1399 Pub. Rec./Aquaculture Records (Learned)

SB 1646 Background Screening by Powell

Background Screening; Prohibiting employers from excluding applicants from an initial interview for employment under certain conditions; providing a civil penalty for violations of the act; requiring the Department of Economic Opportunity to enforce the act, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Commerce and Tourism

Actions

04/30/2021 SENATE Died in Commerce and Tourism

Compare

[SB 1026](#) Background Screening (Bracy)

Identical

[HB 1331](#) Conviction History of an Applicant for Employment (Casello)

SB 1682 Telephone Solicitation by Gruters

Telephone Solicitation; Prohibiting certain telephonic sales calls without the prior express written consent of the called party; removing provisions authorizing the use of certain automated telephone dialing systems; authorizing a court to increase an award for willful and knowing violations, etc. Effective Date: 7/1/2021

Current Committee of Reference: Senate Regulated Industries

Actions

04/30/2021 SENATE Died in Regulated Industries

Compare

[SB 1120](#) Telephone Solicitation (Gibson)

[HB 1307](#) Telephone Solicitation (Beltran)