

<b>Tab 1</b>	<b>CS/SB 282 by BI, Truenow;</b> Similar to CS/H 00367 Warranty Associations				
<b>Tab 2</b>	<b>SB 678 by Truenow;</b> Identical to H 00139 Pawnbroker Transaction Forms				
307946	D	S	CM, Truenow	Delete everything after	03/07 10:34 AM
<b>Tab 3</b>	<b>SB 1132 by Truenow;</b> Identical to H 00235 Digital Right to Repair				
120574	A	S	CM, Truenow	btw L.170 - 171:	03/07 12:52 PM
<b>Tab 4</b>	<b>SB 676 by Martin;</b> Identical to H 00541 Minimum Wage Requirements				
<b>Tab 5</b>	<b>SB 702 by Burgess;</b> Similar to H 00369 Provenance of Digital Content				
196458	D	S	CM, Burgess	Delete everything after	03/07 01:18 PM
<b>Tab 6</b>	<b>SB 1244 by Calatayud;</b> Identical to H 01377 Research and Development Tax Credit				

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**COMMERCE AND TOURISM**  
**Senator Leek, Chair**  
**Senator Arrington, Vice Chair**

**MEETING DATE:** Monday, March 10, 2025  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Building

**MEMBERS:** Senator Leek, Chair; Senator Arrington, Vice Chair; Senators Davis, DiCeglie, Gruters, McClain, Smith, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 282</b> Banking and Insurance / Truenow (Similar H 367)	Warranty Associations; Revising the circumstances under which certain service warranty associations are not required to establish unearned premium reserves or to maintain contractual liability insurance and are authorized to allow their premiums to exceed specified ratios; requiring that contracts that include coverage for accidental damage from handling be covered by a specified policy, etc.	BI 03/03/2025 Fav/CS CM 03/10/2025 RC
2	<b>SB 678</b> Truenow (Identical H 139)	Pawnbroker Transaction Forms; Authorizing pawnbroker transaction forms to be in digital or printed formats, etc.	CM 03/10/2025 AEG RC
3	<b>SB 1132</b> Truenow (Identical H 235)	Digital Right to Repair; Providing a directive to the Division of Law Revision; creating the "Portable Wireless Device Repair Act"; requiring portable wireless device manufacturers to make certain items available to device owners and independent repair providers; prohibiting certain manufacturers from requiring authorized repair providers to continue purchasing certain information in a proprietary format, etc.	CM 03/10/2025 JU RC
4	<b>SB 676</b> Martin (Identical H 541)	Minimum Wage Requirements; Providing that an employer is not subject to certain minimum wage requirements for specified employees; authorizing employees to opt out of the minimum wage requirements in a specified manner, etc.	CM 03/10/2025 GO RC

**COMMITTEE MEETING EXPANDED AGENDA**

Commerce and Tourism

Monday, March 10, 2025, 1:30—3:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 702</b> Burgess (Similar H 369)	Provenance of Digital Content; Creating a digital content provenance pilot program within the Division of Emergency Management; requiring the division to submit an annual report to the Legislature by a specified date; requiring that provenance data be included on specified data; requiring providers of certain artificial intelligence tools to make application tools and provenance readers available to the public, etc.	CM 03/10/2025 ATD FP
6	<b>SB 1244</b> Calatayud (Identical H 1377)	Research and Development Tax Credit; Increasing the total amount of tax credits that may be provided to business enterprises under the research and development tax credit; deleting an obsolete provision, etc.	CM 03/10/2025 FT AP

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 282

INTRODUCER: Banking and Insurance Committee and Senator Truenow

SUBJECT: Warranty Associations

DATE: March 7, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 282 revises the financial requirements of service warranty associations and home warranty associations, which are regulated by the Office of Insurance Regulation.

Current law allows a service warranty association licensed under Part III of ch. 634, F.S., but holding no other license under ch. 634, F.S., to forego securing contractual liability insurance, establishing unearned premium reserves, and complying with premium writing ratios if the service warranty association, or its parent company, has a net worth of at least \$100 million and provides the Office of Insurance Regulation (OIR) specified audited financial statements *and* specified filings made with the Securities and Exchange Commission or other documents which must be filed with a recognized exchange. Under the bill, such a service warranty association may qualify for the exemption if it provides specified audited financial statements *or* provides specified filings made with the Securities and Exchange Commission or other documents which must be filed with a recognized exchange. The effect of this change is to allow a service warranty association that is not publicly traded to be eligible for the exemption because it can qualify by only providing audited financial statements.

The bill clarifies that a service warranty association selecting the \$100 million net worth option is not required to purchase contractual liability insurance coverage if the association includes “accidental damage from handling” coverage in its extended warranty contracts.

The bill clarifies that a home warranty association or a service warranty association may use multiple contractual liability insurance policies issued from multiple insurers, rather than a single policy issued from a single insurer, to cover 100 percent of their claim exposure as an alternative to establishing an unearned premium reserve.

The bill takes effect July 1, 2025.

The bill has no fiscal impact on state or local governments.

## II. Present Situation:

### Regulation of Warranty Associations

The Office of Insurance Regulation (OIR)<sup>1</sup> is responsible for the regulation of all activities of insurers and other risk-bearing entities, including the regulation of warranty associations pursuant to ch. 634, F.S. The scope of the regulation under ch. 634, F.S.,<sup>2</sup> includes motor vehicle service agreement companies,<sup>3</sup> home warranty associations,<sup>4</sup> and service warranties.<sup>5</sup> Motor vehicle service agreements provide vehicle owners with protection when the manufacturer's warranty expires. Home warranty associations indemnify warranty holders against the cost of repairs or replacement of any structural component or appliance in a home. Service warranty contracts for consumer electronics and appliances allow consumers to extend the product protection beyond the manufacturer's warranty terms.

While a warranty is not considered a traditional insurance product, it is intended to protect purchasers from future risks and associated costs. The OIR's regulatory authority of warranty associations includes approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, the OIR does not approve rates for warranty association products.

### *Home Warranty Associations*

A home warranty association is licensed by OIR to sell these warranties. For a home warranty association to be licensed, it must be a solvent corporation, provide evidence to OIR of competent and trustworthy management, and comply with the requirements of section 634.305, F.S. relating to required deposits or bonds.<sup>6</sup> A home warranty association must follow the financial requirements established in section 634.3077, F.S., which include:

- Maintaining a funded, unearned premium reserve account, consisting of unencumbered assets, equal to a minimum of 25 percent of the gross written premiums received from all

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<sup>1</sup> OIR is an office under the Financial Services Commission (commission), which is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. The commission is not subject to control, supervision, or direction by the Department of Financial Services in any manner, including purchasing, transactions involving real or personal property, personnel, or budgetary matters. Section 20.121(3), F.S.

<sup>2</sup> The Department of Financial Services regulates sales representative pursuant to s. 634.402, F.S.

<sup>3</sup> Part I, ch. 634, F.S.

<sup>4</sup> Part II, ch. 634, F.S.

<sup>5</sup> Part III, ch. 634, F.S.

<sup>6</sup> Section 634.304, F.S.

warranty contracts in force in Florida. Assets must be held in the form of cash or securities and in a separate account that can be audited.<sup>7</sup>

- Maintaining a minimum of net assets equal to one-sixth of the written premiums for any warranty in force. Net assets may be less than one-sixth of the premiums written, provided the association has net assets of not less than \$500,000 and maintains a funded, unearned premium reserve account with unencumbered assets of at least 40 percent of the gross written premiums from all warranty contracts in force in Florida. Assets must be held in the form of cash or securities and in a separate account that can be audited.<sup>8</sup>

A home warranty association is not required to set up an unearned premium reserve if it has purchased contractual liability insurance policy covering 100 percent of its claim exposure with specified policy provisions. A home warranty association cannot utilize both the unearned premium reserve and contractual liability policy coverage simultaneously.<sup>9</sup>

A home warranty association is not required to establish unearned premium reserves or maintain a contractual liability policy if the association or its parent corporation maintains at least \$100 million in net worth and provides proof to OIR in the form of either:<sup>10</sup>

- Audited financial statements of the association or consolidated audited financial statements of the parent corporation, if applicable, demonstrating such net worth, or
- Documents filed with the Securities and Exchange Commission or a recognized stock exchange.

If the net worth of the parent corporation is used to satisfy the net worth requirements of the warranty association, the parent corporation must guarantee all service warranty obligations of the association. The parent corporation must provide written notice to the OIR at least 90 days before the effective date of the cancellation, termination, or modification of the guarantees. Otherwise, such a change is not effective. Further, the home warranty association must demonstrate to OIR compliance with all applicable provisions of Part II of ch. 634, F.S., including whether the association will meet the financial requirements of s. 634.3077, F.S., by the purchase of contractual liability insurance, establishment of reserves or other methods allowed under this section. The home warranty association must maintain net assets of at least \$750,000.<sup>11</sup>

### ***Service Warranty Associations***

Generally, a service warranty association (association) must be licensed by OIR<sup>12</sup> and comply with certain financial requirements<sup>13</sup> and other provisions<sup>14</sup> to conduct warranty business in Florida. An association licensed under Part III, ch. 634, F.S., must maintain a funded, unearned premium reserve account, consisting of unencumbered assets equal to a minimum of 25 percent of the gross written premiums received on all warranty contracts in force in Florida with

<sup>7</sup> Section 634.3077(1), F.S.

<sup>8</sup> Section 634.3077(2), F.S.

<sup>9</sup> Section 634.3077(3), F.S.

<sup>10</sup> Section 634.3077(5), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 634.403, F.S.

<sup>13</sup> Section 634.406, F.S.

<sup>14</sup> Section 634.404, F.S.

exceptions.<sup>15</sup> Such reserve account must be a separate account, which can be audited, for contracts in force in Florida. An association using an unearned premium reserve must deposit with the Department of Financial Services a reserve deposit equal to 10 percent of the gross written premium received on all warranty contracts in force in Florida.<sup>16</sup>

Pursuant to s. 634.406(3), F.S., an association licensed under Part III, F.S., is not required to establish an unearned premium reserve if the association secures contractual liability insurance from an authorized insurer that demonstrates to OIR that it provides coverage for 100 percent of claim exposure is covered by such policy.

In addition, Florida law requires a service warranty association that holds a license under Part III of ch. 634, F.S., to maintain a writing ratio of gross written premiums to net assets of seven-to-one, meaning for every one dollar of net assets held by the association, the association can write seven dollars of premium.<sup>17</sup> A service warranty association can avoid this minimum writing ratio requirement by meeting the following criteria:

- Maintains net assets of at least \$750,000; and
- Secures a contractual liability insurance policy from an authorized insurer that reimburses the association for 100 percent of its claim liability. The insurer must maintain a minimum policyholder surplus of at least \$100 million and an “A” or higher credit rating.<sup>18</sup> As an alternative, a service warranty association can comply with s. 634.406(3), F.S., secure contractual liability insurance through an authorized insurer with an “A” or higher rating, and maintains policyholder surplus of at least \$200 million, and provides quarterly and annual reports to OIR documenting compliance with these provisions.<sup>19</sup>

An association that is licensed under Part III and does not hold a license under Parts I or II, of ch. 634, F.S., is not required to establish an unearned premium reserve or maintain contractual liability insurance and may allow its premiums to exceed the ratio to net assets limitation if the association, or its parent cooperation, has and maintains a minimum net worth of at least \$100 million and provides OIR with the following:<sup>20</sup>

- The annual audited financial statements of the association or the annual audited consolidated financial statements of the association’s parent corporation, if applicable, demonstrating compliance with the net worth requirements and provides the OIR with quarterly written certification regarding compliance with the net worth requirement; and
- The association’s or its parent corporation’s Form 10K, Form 10-Q, or Form 20-F filings made with the Securities and Exchange Commission or such other documents that are required to be filed with the applicable stock exchange.<sup>21</sup>

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<sup>15</sup> Section 634.406(1), F.S.

<sup>16</sup> Section 634.406(2), F.S.

<sup>17</sup> Section 634.406 (4) and (6), F.S.

<sup>18</sup> Section 634.406(6), F.S. The credit rating is provided by A.M. Best Company or another national rating service acceptable to OIR.

<sup>19</sup> *Id.*

<sup>20</sup> Section 634.406(7), F.S. If the net worth of a parent corporation is used to satisfy the net worth requirements of the association, additional requirements must be met, as provided in s. 634.406(7)(b), F.S.

<sup>21</sup> These reporting requirements apply to public companies, which has public reporting obligations. Companies are subject to public reporting requirements if they sell securities in a public offering, allow their investor base to reach a certain size, which triggers public reporting obligations, or voluntarily register with the Securities and Exchange Commission. [Public Companies | Investor.gov](#) (last visited March 7, 2025).

If the net worth of a parent corporation is used to satisfy the net worth provisions described above, the following requirements must be met:<sup>22</sup>

- The parent corporation must guarantee all service warranty obligations of the association, wherever written, on a form approved in advance by OIR. No cancellation, termination, or modification of the guarantee is effective unless the parent corporation provides 90 days prior written notice to the OIR. Further, the association must demonstrate to OIR compliance with all applicable provisions of Part III, ch. 634, F.S., including whether the association will meet the financial requirements of s. 634.406, F.S., by the purchase of contractual liability insurance, establishment of reserves or other methods allowed under this section. If the parent corporation or association does not demonstrate compliance with all the applicable provisions of Part III, the association or parent corporation must cease writing new and renewal business upon the effective date of the cancellation, termination, or modification.
- The association must maintain net assets of at least \$750,000.

### III. Effect of Proposed Changes:

**Sections 1** amends s. 634.3077, F.S., relating to home warranty associations, to clarify that a warranty association may secure contractual liability coverage through one or more policies from one or more insurers to cover 100 percent of their claim exposure as an alternative to establishing an unearned premium reserve.

**Section 2** amends s. 634.406, F.S., relating to service warranty associations, to clarify that a home warranty association may secure contractual liability coverage through one or more policies from one or more insurers to cover 100 percent of their claim exposure as an alternative to establishing an unearned premium reserve.

The bill revises the financial requirements for an applicant or licensee. The bill exempts a service warranty association (association) licensed under Part III of ch. 634, F.S., and that holds no other license under ch. 634, F.S., from securing contractual liability insurance, establishing unearned premium reserves, and complying with premium writing ratios if the association or, if the association is a direct or indirect wholly owned subsidiary of a parent corporation, its parent corporation has, and maintains, a minimum net worth of at least \$100 million and provides OIR with one of the following:

- Submits to the Office of Insurance Regulation (OIR) the association's annual audited financial statements or the parent corporation's annual consolidated audited financial statements, if applicable, demonstrating compliance with the net worth requirement. The association or the parent company must also submit a quarterly written certification of compliance with the net worth requirement; *or*
- Submits to OIR the association's or its parent corporation's Form 10K, Form 10-Q, or Form 20-F filings made with the Securities and Exchange Commission or such other documents that are required to be filed with the applicable stock exchange.

**Section 3** amends s. 634.414, F.S., relating to service warranty associations, to clarify that all contracts that include coverage for accidental damage from handling must be covered by the

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<sup>22</sup> Section 634.406(7)(b), F.S.



contractual liability policy specified in s. 634.406(3), F.S., unless such coverage is issued by an association not required to establish an unearned premium reserve or maintain contractual liability insurance under s. 634.406(7), F.S.

**Section 4** provides the bill takes effect July 1, 2025.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides an option for a non-publicly traded service warranty association to forego securing contractual liability insurance, establishing unearned premium reserves, and complying with premium writing ratios if the service warranty association, or its parent corporation, has a net worth of at least \$100 million and provides the Office of Insurance Regulation specified audited financial statements, and meets other requirements of s. 634.406(7), F.S.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Sections 1 and 2 of CS/SB 282 provide that a home warranty association or a service warranty association, respectively, may secure contractual liability coverage through an insurer or insurers for a policy or policies. Section 1.01(1), F.S., provides that the singular (e.g., policy or insurer) includes the plural (policies or insurers) and vice versa. To the extent that the OIR is interpreting current references to policy and insurer in the statutes to mean only a single policy, or a single insurer, presumably OIR has determined that context in which these terms are used does not allow for the application of the plural.

**VIII. Statutes Affected:**

This bill substantially amends sections 634.3077, 634.406, and 634.414 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Banking and Insurance on March 3, 2025:**

The CS:

- Clarifies that all service warranty contracts that include coverage for accidental damage from handling must be covered by the contractual liability policy specified in s. 634.406(3), F.S., unless such coverage is issued by an association not required to establish an unearned premium reserve or maintain contractual liability insurance under s. 634.406(7), F.S., because such service warranty association, or its parent corporation, has a net worth of at least \$100 million and meets other requirements.
- Revises the title of the bill to be entitled “An act relating to warranty associations.”
- Provides technical changes.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Truenow

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A bill to be entitled

An act relating to warranty associations; amending s. 634.3077, F.S.; making technical changes; amending s. 634.406, F.S.; revising the circumstances under which certain service warranty associations are not required to establish unearned premium reserves or to maintain contractual liability insurance and are authorized to allow their premiums to exceed specified ratios; amending s. 634.414, F.S.; requiring that contracts that include coverage for accidental damage from handling be covered by a specified policy; providing an exception; providing an effective date.

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

Section 1. Subsection (3) of section 634.3077, Florida Statutes, is amended to read:

634.3077 Financial requirements.—

(3) An association may not be required to set up an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by such insurance. Such contractual liability insurance ~~must shall~~ be obtained from an insurer or insurers that hold a certificate of authority to do business within this the state or from an insurer or insurers approved by the office as financially capable of meeting the obligations incurred pursuant to the policy or policies. For purposes of this subsection, the contractual liability policy or policies must shall contain the

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

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following provisions:

(a) In the event that the home warranty association is unable to fulfill its obligation under its contracts issued in this state for any reason, including insolvency, bankruptcy, or dissolution, the contractual liability insurer or insurers will pay losses and unearned premiums under such plans directly to persons making claims under such contracts.

(b) The insurer or insurers issuing the policy or policies shall assume full responsibility for the administration of claims in the event of the inability of the association to do so.

(c) The policy or policies may not be canceled or not renewed by the insurer or insurers or the association unless 60 days' written notice thereof has been given to the office by the insurer or insurers before the date of such cancellation or nonrenewal.

(d) The contractual liability insurance policy or policies must shall insure all home warranty contracts that were issued while the policy or policies were was in effect regardless of whether ~~or not~~ the premium has been remitted to the insurer or insurers.

Section 2. Subsections (3) and (4), paragraphs (b) and (c) of subsection (6), and paragraph (a) of subsection (7) of section 634.406, Florida Statutes, are amended to read:

634.406 Financial requirements.—

(3) An association will not be required to establish an unearned premium reserve if it has purchased contractual liability insurance which demonstrates to the satisfaction of the office that 100 percent of its claim exposure is covered by

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59 such policy or policies. The contractual liability insurance  
 60 ~~must shall~~ be obtained from an insurer or insurers that hold  
 61 ~~holds~~ a certificate of authority to do business within the  
 62 state. For the purposes of this subsection, the contractual  
 63 liability policy or policies must shall contain the following  
 64 provisions:

65 (a) In the event that the service warranty association does  
 66 not fulfill its obligation under contracts issued in this state  
 67 for any reason, including insolvency, bankruptcy, or  
 68 dissolution, the contractual liability insurer or insurers will  
 69 pay losses and unearned premium refunds under such plans  
 70 directly to the person making a claim under the contract.

71 (b) The insurer or insurers issuing the contractual  
 72 liability policy or policies shall assume full responsibility  
 73 for the administration of claims in the event of the inability  
 74 of the association to do so.

75 (c) The policy or policies may not be canceled or not  
 76 renewed by either the insurer or insurers or the association  
 77 unless 60 days' written notice thereof has been given to the  
 78 office by the insurer or insurers before the date of such  
 79 cancellation or nonrenewal.

80 (d) The contractual liability insurance policy or policies  
 81 ~~must shall~~ insure all service warranty contracts which were  
 82 issued while the policy or policies were ~~was~~ in effect  
 83 regardless of whether ~~or not~~ the premium has been remitted to  
 84 the insurer or insurers.

85 (e) In the event the issuer or issuers of the contractual  
 86 liability policy or policies ~~is~~ fulfilling the service  
 87 warranty covered by policy or policies and in the event the

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88 service warranty holder cancels the service warranty, it is the  
 89 responsibility of the contractual liability policy issuer or  
 90 issuers to effectuate a full refund of unearned premium to the  
 91 consumer. This refund ~~is shall be~~ subject to the cancellation  
 92 fee provisions of s. 634.414. The salesperson or agent shall  
 93 refund to the contractual liability policy issuer or issuers the  
 94 unearned pro rata commission.

95 (f) An association may not use utilize both the unearned  
 96 premium reserve and contractual liability insurance  
 97 simultaneously. However, an association ~~is shall be~~ allowed to  
 98 have contractual liability coverage on service warranties  
 99 previously sold and sell new service warranties covered by the  
 100 unearned premium reserve, and the converse of this ~~is shall~~ also  
 101 ~~be~~ allowed. An association must be able to distinguish how each  
 102 individual service warranty is covered.

103 (4) No warrantor may allow its gross written premiums in  
 104 force to exceed a 7-to-1 ratio to net assets; however, a company  
 105 may exceed this requirement if:

106 (a) The company:

107 1.(a) Holds licenses issued pursuant to the provisions of  
 108 part I and this part; ~~and~~

109 2.(b) Maintains net assets of at least \$2.5 million; ~~and~~

110 3.(c) ~~Uses Utilizes~~ contractual liability insurance which  
 111 reimburses the service warranty association for 100 percent of  
 112 its paid claims; ~~and~~

113 (b)(d) The insurer or insurers issuing the contractual  
 114 liability insurance policy or policies ~~maintain maintains~~ a  
 115 policyholder surplus of at least \$100 million and ~~are is~~ rated  
 116 "A" or higher by A.M. Best Company.

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117 (6) An association that holds a license under this part may  
 118 allow its premiums for service warranties written under this  
 119 part to exceed the ratio to net assets limitations of this  
 120 section if the association meets all of the following:

121 (b) Uses a contractual liability insurance policy or  
 122 policies approved by the office that:

123 1. ~~Reimburse~~ Reimburses the service warranty association  
 124 for 100 percent of their ~~its~~ claims liability and are ~~is~~ issued  
 125 by an insurer or insurers that maintain ~~maintains~~ a policyholder  
 126 surplus of at least \$100 million; or

127 2. Comply ~~Complies~~ with subsection (3) and are ~~is~~ issued by  
 128 an insurer or insurers that maintain ~~maintains~~ a policyholder  
 129 surplus of at least \$200 million.

130 (c) The insurer or insurers issuing the contractual  
 131 liability insurance policy or policies:

132 1. Are ~~Is~~ rated "A" or higher by A.M. Best Company or an  
 133 equivalent rating by another national rating service acceptable  
 134 to the office.

135 2. In conjunction with the warranty association's filing of  
 136 the quarterly and annual reports, provide ~~provides~~, on a form  
 137 prescribed by the commission, a statement certifying the gross  
 138 written premiums in force reported by the warranty association  
 139 and a statement that all of the warranty association's gross  
 140 written premium in force is covered under the contractual  
 141 liability policy or policies, regardless of whether it has been  
 142 reported.

143 (7) An association licensed under this part and holding no  
 144 other license under part I or part II of this chapter is not  
 145 required to establish an unearned premium reserve or maintain

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146 contractual liability insurance and may allow its premiums to  
 147 exceed the ratio to net assets limitation of this section if the  
 148 association complies with the following:

149 (a) The association or, if the association is a direct or  
 150 indirect wholly owned subsidiary of a parent corporation, its  
 151 parent corporation has, and maintains at all times, a minimum  
 152 net worth of at least \$100 million and provides the office with  
 153 one of the following:

154 1. A copy of the association's annual audited financial  
 155 statements or the audited consolidated financial statements of  
 156 the association's parent corporation, prepared by an independent  
 157 certified public accountant in accordance with generally  
 158 accepted accounting principles, which clearly demonstrate the  
 159 net worth of the association or its parent corporation to be  
 160 \$100 million and a quarterly written certification to the office  
 161 that such entity continues to maintain the net worth required  
 162 under this paragraph.

163 2. The association's, or its parent corporation's, Form 10-  
 164 K, Form 10-Q, or Form 20-F as filed with the United States  
 165 Securities and Exchange Commission or such other documents  
 166 required to be filed with a recognized stock exchange, which  
 167 shall be provided on a quarterly and annual basis within 10 days  
 168 after the last date each such report must be filed with the  
 169 Securities and Exchange Commission, the National Association of  
 170 Security Dealers Automated Quotation system, or other recognized  
 171 stock exchange.

172  
 173 Failure to timely file the documents required under this  
 174 paragraph may, at the discretion of the office, subject the

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175 association to suspension or revocation of its license under  
176 this part.

177 Section 3. Subsection (5) is added to section 634.414,  
178 Florida Statutes, to read:

179 634.414 Forms; required provisions.—

180 (5) All contracts that include coverage for accidental  
181 damage from handling must be covered by the contractual  
182 liability policy specified in s. 634.406(3), unless such  
183 coverage is issued by an association not required to establish  
184 an unearned premium reserve or maintain contractual liability  
185 insurance under s. 634.406(7).

186 Section 4. This act shall take effect July 1, 2025.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 678

INTRODUCER: Senator Truenow

SUBJECT: Pawnbroker Transaction Forms

DATE: March 7, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	<b>Pre-meeting</b>
2.			AEG	
3.			RC	

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**I. Summary:**

SB 678 authorizes pawnbroker transaction forms, which are approved by the Department of Agriculture and Consumer Services (DACS) and are used to record pawns and purchases by pawnbrokers, to be in digital or print format instead of only print format.

The bill is not anticipated to have a fiscal impact on state or local government revenues or expenditures.

The bill takes effect July 1, 2025.

**II. Present Situation:**

Pawnbrokers<sup>1</sup> must apply for and obtain a license from the DACS annually.<sup>2</sup> To be eligible for the license, each pawnshop must maintain a net worth of at least \$50,000 or file security in the form of a surety bond, letter of credit, or certificate of deposit in the amount of \$10,000 for each license.<sup>3</sup> DACS is authorized to impose penalties of up to \$5,000 for noncompliance with the law.<sup>4</sup>

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<sup>1</sup> A “pawnbroker” is a person who is engaged in the business of making pawns; who makes a public display containing the term “pawn,” “pawnbroker,” or “pawnshop” or any derivative thereof; or who publicly displays a sign or symbol historically identified with pawns. Pawnbrokers may also engage in purchasing goods which includes consignment and trade. Section 539.001(1)(i), F.S. A “pawn” is any advancement of funds on the security of pledged goods on condition that the pledged goods are left in the possession of the pawnbroker for the duration of the pawn and may be redeemed by the pledgor on certain terms and conditions. Section 539.001(1)(h), F.S.

<sup>2</sup> Section 539.001(3), F.S.

<sup>3</sup> Section 539.001(4), F.S.

<sup>4</sup> Fla. Admin. Code R. 5J-13.004 (2016).

## Pawnbroker Transaction Forms

When a pawnbroker enters into any pawn or purchase transaction, the pawnbroker must complete a pawnbroker transaction form, indicating whether the transaction is a pawn or a purchase. The pledgor<sup>5</sup> or seller must sign the completed form. The DACS must approve the design and format of the pawnbroker transaction form, which must be 8.5 inches x 11 inches in size.<sup>6</sup> The pawnbroker must record the following identifying information on the front of the form, which must be typed or written indelibly and legibly in English:<sup>7</sup>

- The name and address of the pawnshop.
- A complete and accurate description of the pledged goods or purchased goods including certain identifying information.
- The name, address, home, telephone number, place of employment, date of birth, physical description, and right thumbprint of the pledgor or seller.
- The date and time of the transaction.
- The type of identification accepted from the pledgor or seller, including the issuing agency and the identification number.
- In the case of a pawn:
  - The amount of money advanced, which must be designated as the amount financed.
  - The maturity date of the pawn, which must be 30 days after the date of the pawn.
  - The default date of the pawn and the amount due on the default date.
  - The total pawn service charge payable on the maturity date, which must be designated as the finance charge.
  - The amount financed plus the finance charge that must be paid to redeem the pledged goods on the maturity date, which must be designated as the total of payments.
  - The annual percentage rate.
  - The front or back of the pawnbroker transaction form must include certain information specific to pawns.
- In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.
- A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction.

The front or back of the transaction form must include the following statements:

- Any personal property pledged to a pawnbroker in Florida that is not redeemed within 39 days following the maturity date of the pawn is automatically forfeited to the pawnbroker, and absolute right, title, and interest in and to the property vests in and is deemed conveyed to the pawnbroker by operation of law, and no further notice is necessary.
- The pledgor is not obligated to redeem the pledged goods.
- If the pawnbroker transaction form is lost, destroyed, or stolen, the pledgor must immediately advertise the issuing pawnbroker in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt.

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<sup>5</sup> A “pledgor” is the person pledging the goods into the possession of a pawnbroker in connection with a pawn. Section 539.001(2)(p), F.S.

<sup>6</sup> Section 539.001(8)(a), F.S.

<sup>7</sup> Section 539.001(8)(b), F.S.



- A pawn can be extended upon mutual agreement of the parties.
- A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction. Any person who knowingly gives false verification of ownership or gives a false or altered identification and who receives money from a pawnbroker for goods sold or pledged commits:
  - A third degree felony<sup>8</sup> if the value of money is less than \$300; or
  - A second degree<sup>9</sup> felony if the value of the money received is \$300 or more.

### **Pawnbroker Transaction Form Recordkeeping**

A pawnbroker must provide a pledgor or seller with a copy of a pawnbroker transaction form at the time of the pawn or sale. Pawnbroker transaction forms must be kept on the pawnshop's premises for at least one year after the transaction's date.<sup>10</sup>

Before the end of each business day, a pawnbroker must deliver the original pawnbroker transaction forms to the appropriate official<sup>11</sup> for the local law enforcement agency for all of the transactions during the previous business day unless other arrangements have been agreed upon by the pawnbroker and the appropriate law enforcement agency.<sup>12</sup>

In lieu of physically delivering the original pawnbroker transaction forms, a local law enforcement agency may supply software to a pawnbroker so the pawnbroker may electronically transfer the transaction forms to the law enforcement agency. If a pawnbroker does not have a computer to use such software, the law enforcement agency may provide a computer to the pawnbroker. The law enforcement agency retains ownership of the computer unless otherwise agreed upon. The pawnbroker must maintain the computer in good working order, ordinary wear and tear excepted.<sup>13</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 539.001, F.S., to authorize pawnbroker transaction forms to be in digital or print format instead of only print format.

The bill takes effect July 1, 2025.

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<sup>8</sup> A third degree felony is punishable by up to 5 years and a \$5,000 fine. Sections 775.082, 775.083, or 775.084, F.S.

<sup>9</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

<sup>10</sup> Section 539.001(9), F.S.

<sup>11</sup> The appropriate law enforcement official is the sheriff of the county in which a pawnshop is located or, in case of a pawnshop located within a municipality, the police chief of the municipality in which the pawnshop is located. Any sheriff or police chief may designate any law enforcement officer working within the county or municipality as the appropriate law enforcement official. Section 539.001(1)(b), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The bill may have a positive fiscal impact on pawnbrokers by providing them the option to use digital pawnbroker transaction forms.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill specifies a particular size for the form in a digital format, but physical measurements may not be applicable in a digital format.

**VIII. Statutes Affected:**

This bill substantially amends section 539.001 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Commerce and Tourism (Truenow) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (8) and paragraphs (a) and (b) of subsection (9) of section 539.001, Florida Statutes, are amended to read:

539.001 The Florida Pawnbroking Act.—

(8) PAWNBROKER TRANSACTION FORM.—

(a) At the time the pawnbroker enters into any pawn or



purchase transaction, the pawnbroker shall complete a pawnbroker transaction form for such transaction, including an indication of whether the transaction is a pawn or a purchase, and the pledgor or seller shall sign such completed form. The agency must approve the design and format of the pawnbroker transaction form, which must be 8 1/2 inches x 11 inches in size for printed forms and be in a font size of at least 12 points for digital forms and elicit the information required under this section in a digital or printed format. The pawnbroker may use either format. In completing the pawnbroker transaction form, the pawnbroker shall record the following information, which must be typed or written indelibly and legibly in English.

(b) The front of a printed ~~the~~ pawnbroker transaction form and the first page of a digital form must include:

1. The name and address of the pawnshop.
2. A complete and accurate description of the pledged goods or purchased goods, including the following information, if applicable:
  - a. Brand name.
  - b. Model number.
  - c. Manufacturer's serial number.
  - d. Size.
  - e. Color, as apparent to the untrained eye.
  - f. Precious metal type, weight, and content, if known.
  - g. Gemstone description, including the number of stones.
  - h. In the case of firearms, the type of action, caliber or gauge, number of barrels, barrel length, and finish.
  - i. Any other unique identifying marks, numbers, names, or letters.



Notwithstanding sub-subparagraphs a.-i., in the case of multiple items of a similar nature delivered together in one transaction which do not bear serial or model numbers and which do not include precious metal or gemstones, such as musical or video recordings, books, and hand tools, the description of the items is adequate if it contains the quantity of items and a description of the type of items delivered.

3. The name, address, home telephone number, place of employment, date of birth, physical description, and right thumbprint of the pledgor or seller.

4. The date and time of the transaction.

5. The type of identification accepted from the pledgor or seller, including the issuing agency and the identification number.

6. In the case of a pawn:

a. The amount of money advanced, which must be designated as the amount financed;

b. The maturity date of the pawn, which must be 30 days after the date of the pawn;

c. The default date of the pawn and the amount due on the default date;

d. The total pawn service charge payable on the maturity date, which must be designated as the finance charge;

e. The amount financed plus the finance charge that must be paid to redeem the pledged goods on the maturity date, which must be designated as the total of payments;

f. The annual percentage rate, computed according to the regulations adopted by the Federal Reserve Board under the



federal Truth in Lending Act; and  
g. The front or back of a printed ~~the~~ pawnbroker transaction form and the first or second page of a digital pawnbroker transaction form must include a statement that:

(I) Any personal property pledged to a pawnbroker within this state which is not redeemed within 30 days following the maturity date of the pawn, if the 30th day is not a business day, then the following business day, is automatically forfeited to the pawnbroker, and absolute right, title, and interest in and to the property vests in and is deemed conveyed to the pawnbroker by operation of law, and no further notice is necessary;

(II) The pledgor is not obligated to redeem the pledged goods; and

(III) If the pawnbroker transaction form is lost, destroyed, or stolen, the pledgor must immediately advise the issuing pawnbroker in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt.

(IV) A pawn may be extended upon mutual agreement of the parties.

7. In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.

8. A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction. Any person who knowingly gives false



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98 verification of ownership or gives a false or altered  
 99 identification and who receives money from a pawnbroker for  
 100 goods sold or pledged commits:  
 101 a. If the value of the money received is less than \$300, a  
 102 felony of the third degree, punishable as provided in s.  
 103 775.082, s. 775.083, or s. 775.084.  
 104 b. If the value of the money received is \$300 or more, a  
 105 felony of the second degree, punishable as provided in s.  
 106 775.082, s. 775.083, or s. 775.084.  
 107 (c) A pawnbroker transaction form must provide a space for  
 108 the imprint of the right thumbprint of the pledgor or seller and  
 109 a blank line for the signature of the pledgor or seller.  
 110 (d) At the time of the pawn or purchase transaction, the  
 111 pawnbroker shall deliver to the pledgor or seller an exact copy  
 112 of the completed pawnbroker transaction form.  
 113 (9) RECORDKEEPING; REPORTING; HOLD PERIOD.—  
 114 (a) A pawnbroker must maintain a copy of each completed  
 115 pawnbroker transaction form on the pawnshop premises for at  
 116 least 1 year after the date of the transaction. On or before the  
 117 end of each business day, the pawnbroker must deliver to the  
 118 appropriate law enforcement official the original printed  
 119 pawnbroker transaction forms or printed copies of the digital  
 120 pawnbroker transaction forms for each of the transactions  
 121 occurring during the previous business day, unless other  
 122 arrangements have been agreed upon between the pawnbroker and  
 123 the appropriate law enforcement official. If an ~~the~~ original  
 124 printed transaction form is lost or destroyed by the appropriate  
 125 law enforcement official, a copy may be used by the pawnbroker  
 126 as evidence in court. When an electronic image of a pledgor or



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127 seller identification is accepted for a transaction, the  
 128 pawnbroker must maintain the electronic image in order to meet  
 129 the same recordkeeping requirements as for the original printed  
 130 transaction form. If a criminal investigation occurs, the  
 131 pawnbroker shall, upon request, provide a clear and legible copy  
 132 of the image to the appropriate law enforcement official.  
 133 (b) If the appropriate law enforcement agency supplies the  
 134 appropriate software and the pawnbroker presently has the  
 135 computer ability, pawn transactions shall be electronically  
 136 transferred. If a pawnbroker does not presently have the  
 137 computer ability, the appropriate law enforcement agency may  
 138 provide the pawnbroker with a computer and all necessary  
 139 equipment for the purpose of electronically transferring pawn  
 140 transactions. The appropriate law enforcement agency shall  
 141 retain ownership of the computer, unless otherwise agreed upon.  
 142 The pawnbroker shall maintain the computer in good working  
 143 order, ordinary wear and tear excepted. In the event the  
 144 pawnbroker transfers pawn transactions electronically, the  
 145 pawnbroker is not required to also deliver to the appropriate  
 146 law enforcement official the original or copies of the  
 147 pawnbroker transaction forms. The appropriate law enforcement  
 148 official may, for the purposes of a criminal investigation,  
 149 request that the pawnbroker produce an original of a printed  
 150 transaction form that has been electronically transferred. The  
 151 pawnbroker shall deliver this form to the appropriate law  
 152 enforcement official within 24 hours of the request.  
 153 Section 2. This act shall take effect July 1, 2025.  
 154  
 155 ===== T I T L E A M E N D M E N T =====



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156 And the title is amended as follows:  
 157 Delete everything before the enacting clause  
 158 and insert:  
 159 A bill to be entitled  
 160 An act relating to pawnbroker transaction forms;  
 161 amending s. 539.001, F.S.; authorizing pawnbroker  
 162 transaction forms to be in digital or printed formats;  
 163 authorizing a pawnbroker to use either format;  
 164 revising recordkeeping requirements; providing an  
 165 effective date.

By Senator Truenow

13-01658-25

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1                           A bill to be entitled  
2       An act relating to pawnbroker transaction forms;  
3       amending s. 539.001, F.S.; authorizing pawnbroker  
4       transaction forms to be in digital or printed formats;  
5       providing an effective date.  
6  
7   Be It Enacted by the Legislature of the State of Florida:  
8  
9       Section 1. Paragraph (a) of subsection (8) of section  
10    539.001, Florida Statutes, is amended to read:  
11       539.001 The Florida Pawnbroking Act.—  
12       (8) PAWNBROKER TRANSACTION FORM.—  
13       (a) At the time the pawnbroker enters into any pawn or  
14    purchase transaction, the pawnbroker shall complete a pawnbroker  
15    transaction form for such transaction, including an indication  
16    of whether the transaction is a pawn or a purchase, and the  
17    pledgor or seller shall sign such completed form. The agency  
18    must approve the design and format of the pawnbroker transaction  
19    form, which must be 8 1/2 inches x 11 inches in size and elicit  
20    the information required under this section in a digital or  
21    printed format. In completing the pawnbroker transaction form,  
22    the pawnbroker shall record the following information, which  
23    must be typed or written indelibly and legibly in English.  
24       Section 2. This act shall take effect July 1, 2025.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 1132

INTRODUCER: Senator Truenow

SUBJECT: Digital Right to Repair

DATE: March 7, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dike	McKay	CM	<b>Pre-meeting</b>
2.			JU	
3.			RC	

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## I. Summary:

SB 1132 creates the Portable Wireless Device Repair Act, which requires manufacturers of portable wireless devices purchased or used in this state to make documentation, parts, and tools available to owners and independent repair providers.

The bill also provides civil remedies, and remedies and penalties under the Florida Deceptive and Unfair Trade Practices Act.

The bill takes effect on July 1, 2025.

## II. Present Situation:

### Right to Repair Laws

In recent years, state legislatures across the country have been contemplating “right to repair” laws, requiring manufacturers to share repair information and tools so that consumers may repair their products more easily and less costly.<sup>1</sup> This type of legislation is founded on the idea that consumers should be able to choose how to repair their products.<sup>2</sup> Advocates are concerned due to the amount of products that are utilizing computer chips and advanced technology, which are becoming increasingly difficult to repair without sending the entire product back to the manufacturer.<sup>3</sup> Many products, ranging from cars and appliances to wheelchairs, use proprietary

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<sup>1</sup> Luyi Wang, et al., HARV. BUS. REV., *Research: The Unintended Consequences of Right-to-Repair Laws*, available at <https://hbr.org/2023/01/research-the-unintended-consequences-of-right-to-repair-laws> (last visited Mar. 7, 2025).

<sup>2</sup> Mike Serra, *Looking Under the Hood on the Right to Repair*, 101 MICH. B.J. 34 (May 2022), available at <https://www.michbar.org/journal/Details/Looking-under-the-hood-on-the-right-to-repair?ArticleID=4428> (last visited Mar. 7, 2025).

<sup>3</sup> Thorin Klosowski, *What You Should Know About Right to Repair*, available at <https://www.nytimes.com/wirecutter/blog/what-is-right-to-repair/> (last visited Mar. 7, 2025).

tools and parts.<sup>4</sup> Manufacturers may decline to publish documents necessary for a third party or consumer to repair.<sup>5</sup> The policy objectives of these laws are to ensure customers have access to manuals, schematics, and software updates, as well as diagnostic tools needed to service the product themselves.<sup>6</sup> Moreover, proponents of digital right to repair legislation are concerned about reducing repair costs for consumers, minimizing electronic waste in landfills, and increasing the longevity of products.<sup>7</sup>

While there is a push for this type of legislation, manufacturers are concerned about electronic privacy and preservation of intellectual property.<sup>8</sup> Technological advances in electronic equipment, such as fitness monitors, home security devices, and smart home appliances, have led to consumer data being collected at a higher volume.<sup>9</sup> Opponents of right to repair legislation are worried that proprietary access to tools and information needed to repair these electronic products may undermine consumers' digital privacy, as diagnostic tools may provide access to an entire device and improper repair can disable security features.<sup>10</sup> Additionally, there is a concern that unrestricted access into product software design may compromise intellectual property protections.<sup>11</sup> If proprietary knowledge is embedded in the products they sell, some manufacturers worry that trade secrets will become public knowledge when required to disclose digital locks and other information.<sup>12</sup>

### Smartphone Repair and Prevalence

Cell phone repair is intentionally limited by manufacturers who do not wish to share proprietary information on their electronic products.<sup>13</sup> As such, consumers with broken devices are limited to disposing the phone and purchasing a new one; mailing the phone back to the manufacturer to be repaired; attempting to repair the phone themselves; or seeking out an independent repair provider.<sup>14</sup> If the consumer mails their cell phone to a manufacturer, it could take weeks to receive the fixed product back.<sup>15</sup> If the consumer would rather spend their money locally, they also face barriers—many small repair shops cannot fix older digital devices due to manufacturer restrictions.<sup>16</sup>

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Brian T. Yeh, CONG. RSCH. SERV., *Repair, Modification, or Resale of Software-Enabled Consumer Electronic Devices: Copyright Law Issues*, <https://crsreports.congress.gov/product/pdf/R/R44590/3> (last visited Mar. 7, 2025).

<sup>8</sup> Ike Brannon, CATO INST., *A Criticism of Right to Repair Laws*, available at <https://www.cato.org/regulation/spring-2024/criticism-right-repair-laws> (last visited Mar. 7, 2025).

<sup>9</sup> *See id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *See* Elaine S. Povich, *Pandemic Drives Phone, Computer 'Right-to-Repair' Bills*, available at <https://stateline.org/2021/03/11/pandemic-drives-phone-computer-right-to-repair-bills/> (last visited Mar. 7, 2025).

<sup>14</sup> Yeh, *supra* note 7.

<sup>15</sup> Povich, *supra* note 13.

<sup>16</sup> Povich, *supra* note 13.



Currently, over 98% of Americans own a cellphone, and nine out of ten of all cell phone owners have a smartphone.<sup>17</sup> Smartphones are not only prevalent but necessary for many people, as 15% of U.S. adults only access the internet from their smartphone because they do not subscribe to a home broadband service.<sup>18</sup> The majority of those smartphone-dependent users are young adults and the elderly.<sup>19</sup> Moreover, smartphone dependency most greatly affects people who make less than \$30,000 per year.<sup>20</sup>

### III. Effect of Proposed Changes:

#### Requirements

**Section 7** creates s. 559.976, F.S., providing that this part applies to portable wireless devices<sup>21</sup> sold or in use on or after July 1, 2025, except for such devices approved by the U.S. Food and Drug Administration.

**Section 4** creates s. 559.973, F.S., mandating that a manufacturer<sup>22</sup> must make documentation,<sup>23</sup> parts,<sup>24</sup> and tools<sup>25</sup> available to owners<sup>26</sup> and independent repair providers<sup>27</sup> on fair and reasonable terms.<sup>28</sup> Manufacturers are not required to provide parts that are no longer available.

<sup>17</sup> PEW RSCH. CTR., *Mobile Fact Sheet*, available at <https://www.pewresearch.org/internet/fact-sheet/mobile/> (last visited Mar. 7, 2025).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*; see also FED. TRADE COMM'N, *Nixing the Fix: An FTC Report to Congress on Repair Restrictions*, available at [https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing\\_the\\_fix\\_report\\_final\\_5521\\_630pm-508\\_002.pdf?ref=cecna-io](https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf?ref=cecna-io) (last visited Mar. 7, 2025) (“This smartphone dependency makes repair restrictions on smartphones more likely to affect these communities adversely.”).

<sup>21</sup> “Portable wireless device” means a product that includes a battery, microphone, speaker, and display designed to send and receive transmissions through a cellular radio-telephone service.

<sup>22</sup> “Manufacturer” means an individual or a business that sells, leases, or otherwise supplies new portable wireless devices, or parts of new portable wireless devices, manufactured by or on behalf of the individual or business to another individual or business.

<sup>23</sup> “Documentation” means a manual, a diagram, a reporting output, a service code description, a schematic, a security code or a password, or any other information used in the diagnosis, maintenance, or repair of portable wireless devices.

<sup>24</sup> “Part” means any replacement component made available by or to a manufacturer for the purpose of maintaining or repairing portable wireless devices manufactured by or on behalf of, sold by, or otherwise supplied by the manufacturer.

<sup>25</sup> “Tool” means any software program, hardware implement, or other apparatus used for diagnosing, maintaining, or repairing portable wireless devices, including software or other mechanisms that program or repair a part, calibrate functionality, or perform any other function required to bring portable wireless devices back to fully functional condition.

<sup>26</sup> “Owner” means an individual or a business that lawfully acquires a portable wireless device purchased or used in this state.

<sup>27</sup> “Independent repair provider” means an individual or a business that does not have an arrangement with a manufacturer as an authorized repair provider and that is not affiliated with any other individual or business that has such an arrangement with the manufacturer when that individual or business diagnoses, maintains, or repairs portable wireless devices. The term includes a manufacturer or an independent repair provider that diagnoses, maintains, or repairs portable wireless devices that are not manufactured by or on behalf of, or sold or otherwise supplied by, the manufacturer.

<sup>28</sup> “Fair and reasonable terms,” for purposes of obtaining a part, a tool, or documentation, means costs and terms that are equivalent to the most favorable costs and terms under which the manufacturer offers the part, tool, or documentation to an authorized repair provider, accounting for any discount, rebate, convenient and timely means of delivery, means of enabling fully restored and updated functionality, rights of use, or other incentive or preference that the manufacturer offers to an authorized repair provider or any additional cost, burden, or impediment that the manufacturer imposes on an owner or independent repair provider. For documentation, including any relevant updates, the term also means at no charge, except that, when the documentation is requested in printed form, a charge may be included for the reasonable actual costs of preparing and mailing the documentation.

Additionally, a manufacturer that sells diagnostic, service, or repair information to third parties in a standard format may not require an authorized repair provider<sup>29</sup> to continue purchasing diagnostic, service, or repair information in a proprietary format, unless otherwise specified.

### Enforcement

**Section 5** creates s. 559.974, F.S., requiring that an independent repair provider or owner who believes that the manufacturer failed to provide documentation, parts, or tools for diagnosis, maintenance, or repair, must notify the manufacturer in writing of this failure. The manufacturer has 30 days following receipt of notice to correct the failure. If the manufacturer responds to the notice and corrects the failure within 30 days of notice, damages in any subsequent litigation are limited to actual damages.

If the manufacturer does not respond to the notice or corrects the failure unsatisfactorily, the owner or independent repair provider may file a complaint in a specified circuit court. The complaint must include:

- Written information confirming that the independent repair provider has attempted to acquire and use, through the then-available standard support function provided by the manufacturer, relevant documentation, parts, and tools, including communicating with customer assistance; and
- Evidence of the owner or independent repair provider's written notification to the manufacturer.

Additionally, violations of this bill are punishable under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA), ss. 501.201-501.213, F.S. It is unlawful under the FDUTPA for a party to take part in "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts of practices in the conduct of any trade or commerce."<sup>30</sup> Such practices include fraudulent billing,<sup>31</sup> misleading a consumer or misrepresenting a product's characteristics,<sup>32</sup> or other behavior determined to be unfair by a court.<sup>33</sup> Under the FDUTPA, the office of the state attorney or Department of Legal Affairs, either by their own inquiry or through complaints, may investigate violations of the FDUTPA.<sup>34</sup> In addition to other remedies under state and federal law, the enforcing authority may bring actions for declaratory judgment, injunctive relief, actual damages on behalf of consumers and businesses, cease and desist orders, and civil penalties up to

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<sup>29</sup> "Authorized repair provider" means an individual or a business that is unaffiliated with the manufacturer and has an arrangement with the manufacturer under which the manufacturer grants to the individual or business a license to use a trade name, service mark, or other proprietary identifier for the diagnosis, maintenance, or repair of portable wireless devices under the name of the manufacturer, or any other arrangement with the manufacturer to offer services on behalf of the manufacturer. A manufacturer that offers the services of diagnosis, maintenance, or repair of portable wireless devices manufactured by the manufacturer or on the manufacturer's behalf, or sold or otherwise supplied by the manufacturer, and that does not do so exclusively through one or more arrangements as described in this subsection with an unaffiliated individual or business, is deemed to be an authorized repair provider of portable wireless devices.

<sup>30</sup> Section 501.204, F.S.

<sup>31</sup> *State Farm Mut. Auto. Ins. Co. v. Medical Service Center of Florida, Inc.*, 103 F. Supp. 3d 1343 (S.D. Fla. 2015).

<sup>32</sup> *Lewis v. Mercedes-Benz USA, LLC*, 530 F. Supp. 3d 1183 (S.D. Fla. 2021); *Marty v. Anheuser-Busch Companies, LLC*, 43 F. Supp. 3d 1333 (S.D. Fla. 2014).

<sup>33</sup> *See Siever v. BWGaskets, Inc.*, 669 F. Supp. 2d 1286, 1292-93 (M.D. Fla. 2009).

<sup>34</sup> The enforcing authority under the FDUTPA may "administer oaths and affirmations, subpoena witnesses or matter, and collect evidence." Section 501.206, F.S.

\$10,000 per violation.<sup>35</sup> Moreover, consumers may bring private actions against parties for violating the FDUTPA, resulting in either:

- Declaratory judgment and injunctive relief when the consumer is aggrieved by a FDUTPA violation; or
- Actual damages, attorney fees, and court costs, when the consumer has suffered a loss due to the FDUTPA violation.<sup>36</sup>

### **Limitations**

**Section 6** creates s. 559.975, F.S., providing that this bill does not require:

- A manufacturer to divulge a trade secret,<sup>37</sup> except when necessary to provide required materials on fair and reasonable terms.
- A manufacturer or an authorized repair provider to provide an owner or independent repair provider access to nondiagnostic and nonrepair information which was provided by the manufacturer to the authorized repair provider.

### **Other Provisions**

**Section 1** creates Part XIV of ch. 559, F.S., “Digital Right to Repair.”

**Section 2** creates s. 559.971, F.S., providing that this part may be cited as the Portable Wireless Device Repair Act.

**Section 3** creates s. 559.972, F.S., defining terms used throughout the bill.

### **Effective Date**

**Section 8** creates an effective date of July 1, 2025.

## **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

<sup>35</sup> Sections 501.207, 501.2077, 501.2075, 501.208, F.S.

<sup>36</sup> Sections 501.2105, 501.211, F.S.

<sup>37</sup> “Trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, or process that: (a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. Manufacturers may have to adjust costs due to making repair information and tools available to customers. Repair costs may be affected by increased competition for independent repair providers.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 559.971, 559.976, 559.972, 559.973, 559.974, 559.975.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
	.	
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	.	
	.	

The Committee on Commerce and Tourism (Truenow) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 170 and 171

insert:

Section 8. Section 686.35, Florida Statutes, is created to read:

686.35 Agricultural Equipment Fair Repair Act.—

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

(a) "Authorized repair provider" means an individual or entity that has an arrangement for a definite or indefinite



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period in which an original equipment manufacturer grants to a separate individual or entity a license to use a trade name, service mark, or related characteristic for the purpose of offering repair services under the name of the original equipment manufacturer.

(b) "Embedded software" means any programmable instructions provided on firmware delivered with equipment for the purpose of equipment operation, including all relevant patches and fixes made by the original equipment manufacturer for this purpose. The term includes, but is not limited to, a basic internal operating system, an internal operating system, machine code, assembly code, robot code, or microcode.

(c) "Equipment" means digital electronic equipment, or a part for such equipment, which is originally manufactured for farm equipment, including combines, tractors, implements, self-propelled equipment, and related attachments and implements, and which is manufactured for distribution and sale in this state.

(d) "Fair and reasonable terms" means an equitable price in light of relevant factors, including, but not limited to:

1. The net cost to the authorized repair provider for similar information obtained from an original equipment manufacturer, excluding any applicable discount, rebate, or other incentive program;

2. The cost to the original equipment manufacturer for preparing and distributing the information, excluding any research and development costs incurred in designing and implementing, upgrading, or altering the product, but including amortized capital costs for the preparation and distribution of the information;



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3. The price charged by other original equipment manufacturers for similar information;

4. The price charged by original equipment manufacturers for similar information before the launch of original equipment manufacturer websites;

5. The ability of aftermarket technicians or shops to afford the information;

6. The means by which the information is distributed;

7. The extent to which the information is used, including the number of users and the frequency, duration, and volume of use; and

8. Inflation.

(e) "Firmware" means a software program or set of instructions programmed on a hardware device to allow the device to communicate with other computer hardware.

(f) "Independent repair provider" means a person or business operating in this state which is not affiliated with an original equipment manufacturer or an original equipment manufacturer's authorized repair provider and which is engaged in the diagnosis, service, maintenance, or repair of equipment. However, an original equipment manufacturer meets the definition of an independent repair provider if such original equipment manufacturer engages in the diagnosis, service, maintenance, or repair of equipment that is not affiliated with the original equipment manufacturer.

(g) "Motor vehicle" means any vehicle that is designed for transporting persons or property on a street or highway and is certified by the motor vehicle manufacturer under all applicable federal safety and emissions standards and requirements for



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distribution and sale in the United States. The term does not include a motorcycle or a recreational vehicle or manufactured home equipped for habitation.

(h) "Motor vehicle dealer" means a person or business that, in the ordinary course of business, is engaged in the selling or leasing of new motor vehicles to a person or business pursuant to a franchise agreement; is engaged in the diagnosis, service, maintenance, or repair of motor vehicles or motor vehicle engines pursuant to such franchise agreement; and has obtained a license under s. 320.27.

(i) "Motor vehicle manufacturer" means a person or business engaged in the manufacturing or assembling of new motor vehicles.

(j) "Original equipment manufacturer" means a person or business that, in the ordinary course of business, is engaged in the selling or leasing of new equipment to a person or business and is engaged in the diagnosis, service, maintenance, or repair of such equipment.

(k) "Owner" means a person or business that owns or leases a digital electronic product purchased or used in this state.

(l) "Part" means a replacement part, either new or used, which the original equipment manufacturer makes available to the authorized repair provider for the purpose of effecting repair.

(m) "Trade secret" means anything, whether tangible or intangible or electronically stored or kept, which constitutes, represents, evidences, or records intellectual property, including secret or confidentially held designs, processes, procedures, formulas, inventions, or improvements or secret or confidentially held scientific, technical, merchandising,



98 production, financial, business, or management information. The  
 99 term also includes any other trade secret as defined in 18  
 100 U.S.C. s. 1839.  
 101 (2) For equipment sold and used in this state, the original  
 102 equipment manufacturer shall make available diagnostic and  
 103 repair information, including repair technical updates and  
 104 updates and corrections to embedded software, to any independent  
 105 repair provider or owner of equipment manufactured by such  
 106 original equipment manufacturer. The information must be made  
 107 available for no charge or must be provided in the same manner  
 108 as the original equipment manufacturer makes such diagnostic and  
 109 repair information available to an authorized repair provider.  
 110 Thereafter, the original equipment manufacturer is not  
 111 responsible for the content and functionality of such  
 112 aftermarket diagnostic tools, diagnostics, or service  
 113 information systems.  
 114 (3) Original equipment manufactured by the original  
 115 equipment manufacturer which is sold or used in this state to  
 116 provide security-related functions may not exclude from  
 117 information provided to an owner or an independent repair  
 118 provider any diagnostic, service, and repair information  
 119 necessary to reset a security-related electronic function. If  
 120 such information is excluded under this section, the information  
 121 necessary to reset an immobilizer system or a security-related  
 122 electronic module must be obtainable by an owner or an  
 123 independent repair provider through the appropriate secure data  
 124 release system.  
 125 (4) This section may not be construed to do any of the  
 126 following:



127 (a) Require an original equipment manufacturer to divulge a  
 128 trade secret.  
 129 (b) Abrogate, interfere with, contradict, or alter the  
 130 terms of an agreement executed and in force between an  
 131 authorized repair provider and an original equipment  
 132 manufacturer, including, but not limited to, the performance or  
 133 provision of warranty or recall repair work by an authorized  
 134 repair provider on behalf of an original equipment manufacturer  
 135 pursuant to such authorized repair agreement, except that any  
 136 provision in such an authorized repair agreement which purports  
 137 to waive, avoid, restrict, or limit an original equipment  
 138 manufacturer's compliance with this section is void and  
 139 unenforceable.  
 140 (c) Require original equipment manufacturers or authorized  
 141 repair providers to provide an owner or an independent repair  
 142 provider access to nondiagnostic and repair information provided  
 143 by an original equipment manufacturer to an authorized repair  
 144 provider pursuant to the terms of an authorized repair  
 145 agreement.  
 146 (5) This section does not apply to motor vehicle  
 147 manufacturers, any product or service of a motor vehicle  
 148 manufacturer, or motor vehicle dealers.  
 149 (6) An original equipment manufacturer found in violation  
 150 of this section is liable for a civil penalty of not more than  
 151 \$500 for each violation.  
 152  
 153 ===== T I T L E A M E N D M E N T =====  
 154 And the title is amended as follows:  
 155 Delete lines 2 - 15



156 and insert:  
 157 An act relating to consumers' right to repair certain  
 158 equipment; providing a directive to the Division of  
 159 Law Revision; creating s. 559.971, F.S.; providing a  
 160 short title; creating s. 559.972, F.S.; defining  
 161 terms; creating s. 559.973, F.S.; requiring portable  
 162 wireless device manufacturers to make certain items  
 163 available to device owners and independent repair  
 164 providers; prohibiting certain manufacturers from  
 165 requiring authorized repair providers to continue  
 166 purchasing certain information in a proprietary  
 167 format; providing an exception; creating s. 559.974,  
 168 F.S.; providing for enforcement; creating s. 559.975,  
 169 F.S.; providing construction; creating s. 559.976,  
 170 F.S.; providing applicability; creating s. 686.35,  
 171 F.S.; defining terms; requiring original equipment  
 172 manufacturers of agricultural equipment to make  
 173 certain diagnostic and repair information available to  
 174 independent repair providers and owners; prohibiting  
 175 original equipment manufacturers from excluding  
 176 certain information concerning security-related  
 177 functions; providing construction and applicability;  
 178 providing civil liability; providing an effective  
 179 date.

By Senator Truenow

13-01670-25

20251132\_\_

A bill to be entitled

An act relating to digital right to repair; providing a directive to the Division of Law Revision; creating s. 559.971, F.S.; providing a short title; creating s. 559.972, F.S.; defining terms; creating s. 559.973, F.S.; requiring portable wireless device manufacturers to make certain items available to device owners and independent repair providers; prohibiting certain manufacturers from requiring authorized repair providers to continue purchasing certain information in a proprietary format; providing an exception; creating s. 559.974, F.S.; providing for enforcement; creating s. 559.975, F.S.; providing construction; creating s. 559.976, F.S.; providing applicability; providing an effective date.

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

Section 1. The Division of Law Revision is directed to create part XIV of chapter 559, Florida Statutes, consisting of ss. 559.971-559.976, Florida Statutes, to be entitled "Digital Right to Repair."

Section 2. Section 559.971, Florida Statutes, is created to read:

559.971 Short title.—This part may be cited as the "Portable Wireless Device Repair Act."

Section 3. Section 559.972, Florida Statutes, is created to read:

559.972 Definitions.—As used in this act, the term:

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

13-01670-25

20251132\_\_

(1) "Authorized repair provider" means an individual or a business that is unaffiliated with the manufacturer and has an arrangement with the manufacturer under which the manufacturer grants to the individual or business a license to use a trade name, service mark, or other proprietary identifier for the diagnosis, maintenance, or repair of portable wireless devices under the name of the manufacturer, or any other arrangement with the manufacturer to offer services on behalf of the manufacturer. A manufacturer that offers the services of diagnosis, maintenance, or repair of portable wireless devices manufactured by the manufacturer or on the manufacturer's behalf, or sold or otherwise supplied by the manufacturer, and that does not do so exclusively through one or more arrangements as described in this subsection with an unaffiliated individual or business, is deemed to be an authorized repair provider of portable wireless devices.

(2) "Documentation" means a manual, a diagram, a reporting output, a service code description, a schematic, a security code or a password, or any other information used in the diagnosis, maintenance, or repair of portable wireless devices.

(3) "Fair and reasonable terms," for purposes of obtaining a part, a tool, or documentation, means costs and terms that are equivalent to the most favorable costs and terms under which the manufacturer offers the part, tool, or documentation to an authorized repair provider, accounting for any discount, rebate, convenient and timely means of delivery, means of enabling fully restored and updated functionality, rights of use, or other incentive or preference that the manufacturer offers to an authorized repair provider or any additional cost, burden, or

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

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59 impediment that the manufacturer imposes on an owner or  
 60 independent repair provider. For documentation, including any  
 61 relevant updates, the term also means at no charge, except that,  
 62 when the documentation is requested in print form, a charge may  
 63 be included for the reasonable actual costs of preparing and  
 64 mailing the documentation.

65 (4) "Independent repair provider" means an individual or a  
 66 business that does not have an arrangement with a manufacturer  
 67 as an authorized repair provider and that is not affiliated with  
 68 any other individual or business that has such an arrangement  
 69 with the manufacturer when that individual or business  
 70 diagnoses, maintains, or repairs portable wireless devices. The  
 71 term includes a manufacturer or an independent repair provider  
 72 that diagnoses, maintains, or repairs portable wireless devices  
 73 that are not manufactured by or on behalf of, or sold or  
 74 otherwise supplied by, the manufacturer.

75 (5) "Manufacturer" means an individual or a business that  
 76 sells, leases, or otherwise supplies new portable wireless  
 77 devices, or parts of new portable wireless devices, manufactured  
 78 by or on behalf of the individual or business to another  
 79 individual or business.

80 (6) "Owner" means an individual or a business that lawfully  
 81 acquires a portable wireless device purchased or used in this  
 82 state.

83 (7) "Part" means any replacement component made available  
 84 by or to a manufacturer for the purpose of maintaining or  
 85 repairing portable wireless devices manufactured by or on behalf  
 86 of, sold by, or otherwise supplied by the manufacturer.

87 (8) "Portable wireless device" means a product that

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88 includes a battery, microphone, speaker, and display designed to  
 89 send and receive transmissions through a cellular radio-  
 90 telephone service.

91 (9) "Tool" means any software program, hardware implement,  
 92 or other apparatus used for diagnosing, maintaining, or  
 93 repairing portable wireless devices, including software or other  
 94 mechanisms that program or repair a part, calibrate  
 95 functionality, or perform any other function required to bring  
 96 portable wireless devices back to fully functional condition.

97 (10) "Trade secret" has the same meaning as in s. 688.002.  
 98 Section 4. Section 559.973, Florida Statutes, is created to  
 99 read:

100 559.973 Requirements.-

101 (1) A manufacturer must make available to an owner of a  
 102 portable wireless device, and to an independent repair provider  
 103 of such device, on fair and reasonable terms, documentation,  
 104 parts, and tools, inclusive of any updates, for diagnosing,  
 105 maintaining, or repairing such device. This subsection does not  
 106 require a manufacturer to provide a part that is no longer  
 107 available to the manufacturer.

108 (2) A manufacturer that sells diagnostic, service, or  
 109 repair information to an independent repair provider or any  
 110 other third-party provider in a format that is standardized with  
 111 other manufacturers, and in a manner and on terms and conditions  
 112 more favorable than the manner and terms and conditions pursuant  
 113 to which an authorized repair provider obtains the same  
 114 diagnostic, service, or repair information, may not require an  
 115 authorized repair provider to continue purchasing diagnostic,  
 116 service, or repair information in a proprietary format, unless



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117 such proprietary format includes diagnostic, service, repair, or  
 118 dealership operations information or functionality that is not  
 119 available in such standardized format.

120 Section 5. Section 559.974, Florida Statutes, is created to  
 121 read:

122 559.974 Enforcement.—

123 (1) (a) An independent repair provider or owner who believes  
 124 that a manufacturer has failed to provide documentation, parts,  
 125 or tools for diagnosing, maintaining, or repairing a portable  
 126 wireless device, as required by this part, must notify the  
 127 manufacturer, in writing, and give the manufacturer 30 days  
 128 following receipt of notice to cure the failure. If the  
 129 manufacturer responds to the notice and cures the failure within  
 130 the cure period, damages are limited to actual damages in any  
 131 subsequent litigation.

132 (b) If a manufacturer fails to respond to the notice  
 133 provided under paragraph (a), or if an independent repair  
 134 provider or owner is not satisfied with the manufacturer's cure,  
 135 the independent repair provider or owner may file a complaint in  
 136 the circuit court of the county in which the independent repair  
 137 provider has his, her, or its principal place of business or in  
 138 which the owner resides. The complaint must include the  
 139 following:

140 1. Written information confirming that the independent  
 141 repair provider or owner has attempted to acquire and use,  
 142 through the then-available standard support function provided by  
 143 the manufacturer, relevant documentation, parts, and tools,  
 144 including communicating with customer assistance.

145 2. Evidence of manufacturer notification as required by

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146 paragraph (a).

147 (2) In addition to the remedy provided under subsection  
 148 (1), a violation of this part is a deceptive and unfair trade  
 149 practice under the Florida Deceptive and Unfair Trade Practices  
 150 Act. All remedies, penalties, and authority granted to the  
 151 enforcing authority by that act are available for the  
 152 enforcement of this part.

153 Section 6. Section 559.975, Florida Statutes, is created to  
 154 read:

155 559.975 Limitations.—

156 (1) This part does not require a manufacturer to divulge a  
 157 trade secret, except as necessary to provide documentation,  
 158 parts, and tools on fair and reasonable terms.

159 (2) This part does not require a manufacturer or an  
 160 authorized repair provider to provide an owner or independent  
 161 repair provider access to nondiagnostic and nonrepair  
 162 information provided by a manufacturer to an authorized repair  
 163 provider.

164 Section 7. Section 559.976, Florida Statutes, is created to  
 165 read:

166 559.976 Applicability.—

167 (1) This part applies to portable wireless devices sold or  
 168 in use on or after July 1, 2025.

169 (2) This part does not apply to portable wireless devices  
 170 approved by the United States Food and Drug Administration.

171 Section 8. This act shall take effect July 1, 2025.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 676

INTRODUCER: Senator Martin

SUBJECT: Minimum Wage Requirements

DATE: March 7, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dike	McKay	CM	<b>Pre-meeting</b>
2.			GO	
3.			RC	

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## I. Summary:

SB 676 amends the Florida Minimum Wage Act to allow employees to opt out of receiving the minimum wage for work-study, internship, preapprenticeship, apprenticeship program, or other similar work-based learning opportunities.

The bill takes effect July 1, 2025.

## II. Present Situation:

### Federal Minimum Wage

In 1938, the Fair Labor Standards Act (FLSA) was enacted to prescribe federal standards for minimum wage, overtime, recordkeeping, and child labor.<sup>1</sup> As of 2009, the minimum wage that all covered, nonexempt employees must earn is \$7.25.<sup>2</sup> No state may enforce a minimum wage that is below the federal minimum.<sup>3</sup> As of 2021, around 85% of all wage and salary workers in the U.S. were covered by the FLSA.<sup>4</sup>

The FLSA applies to employees in two categories:

- Enterprise coverage—employees who work for enterprises, businesses or organizations doing at least \$500,000 of business per year, and hospitals, businesses providing medical or nursing care for residents, schools and preschools, and government agencies; or

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<sup>1</sup> 29 U.S.C. § 206; U.S. DEPT. OF LABOR, *Fact Sheet #14: Coverage Under the Fair Labor Standards Act (FLSA)*, available at <https://www.dol.gov/agencies/whd/fact-sheets/14-flsa-coverage> (last visited Mar. 7, 2025).

<sup>2</sup> 29 U.S.C. § 206.

<sup>3</sup> See U.S. Const. art. VI (the Supremacy Clause of the U.S. Constitution); U.S. DEPT. OF LABOR, *Minimum Wage*, available at <https://www.dol.gov/general/topic/wages/minimumwage> (last visited Mar. 7, 2025).

<sup>4</sup> Sarah A. Donovan, CONG. RSCH. SERV., *The Federal Minimum Wage: In Brief*, available at <https://crsreports.congress.gov/product/pdf/R/R43089> (last visited Mar. 7, 2025).

- Individual coverage—Employees whose work involves the production of goods for commerce or engagement in interstate commerce and domestic workers.<sup>5</sup>

The FLSA includes several exemptions from the federal minimum hourly wage, that are not legally required to be paid at the minimum hourly wage rate, including:

- Executive, administrative and professional employees (including teachers and academic administrative personnel in elementary and secondary schools), outside sales employees, and employees in certain computer-related occupations;
- Employees in certain seasonal amusement or recreational establishments, employees in certain small newspapers, seamen employed on foreign vessels, employees engaged in fishing operations, and employees engaged in newspaper delivery;
- Farm workers employed by anyone who used no more than 500 “man-days” of farm labor in any calendar quarter of the preceding calendar year;
- Causal babysitters and persons employed as companions for the elderly or infirm;
- Border patrol agents; and
- Baseball players who are compensated pursuant to a contract that provides for a weekly salary for services performed during the league’s championship season at a rate that is not less than a weekly salary equal to the minimum wage.<sup>6</sup>

Under the FLSA, employers may pay subminimum wages for certain classes of workers, including:

- Youth employees under 20 years old for their first 90 days of employment.
- Student employees who receive a special certificate from the Department of Labor to work part-time in a vocational training program.
- Full time students who receive a special certificate from the Department of Labor, who are employed in retail/service establishments, agricultural occupation, or an institution of higher education.
- Individuals with disabilities who receive a special certificate from the Department of Labor, whose earning capacity is impaired by a disability.
- Employees who customarily receive tips as part of their job.<sup>7</sup>

## **Florida Minimum Wage**

### ***Constitutional Amendment***

On November 2, 2004, Floridians voted to amend the Florida Constitution by adding a minimum wage provision that established the state minimum wage.<sup>8</sup> Under Fla. Const. art. X, § 24, “all working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and that does not force them to rely on taxpayer-funded public services in order to avoid economic hardship.”

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<sup>5</sup> U.S. DEPT. OF LABOR, *supra* note 1.

<sup>6</sup> 29 U.S.C. § 213.

<sup>7</sup> Donovan, *supra* note 4.

<sup>8</sup> *See* Fla. Const. art. X, § 24.

On November 3, 2020, citizens voted to amend the Florida Constitution to gradually increase the state minimum wage each year, starting at \$10.00 per hour and rising until it reaches \$15.00 per hour on September 30, 2026.<sup>9</sup> Currently, the Florida minimum wage is \$13.00 per hour.<sup>10</sup> Pursuant to the amendment, on September 30, 2027, and each following year on that date, Florida’s Department of Commerce must increase the minimum wage using a specified inflation calculation.<sup>11</sup>

Under Fla. Const. art. X, § 24, the definitions of “employer,” “employee,” and “wage” have the same meaning as those established under the FLSA. This constitutional provision also states that the case law, administrative interpretations, and other guiding standards under the FLSA must guide the construction and implementation of Florida’s constitutional minimum wage.<sup>12</sup> Resultingly, the FLSA and its exceptions and exemptions are incorporated into the Florida minimum wage amendment.<sup>13</sup>

### ***Florida Statute***

In 2005, Florida Legislature enacted the Florida Minimum Wage Act (Act), s. 448.110, F.S., to implement the requirements of the constitutional amendment in statute. The Act only applies to individuals entitled to receive federal minimum wage under the FLSA.<sup>14</sup> It is also specified that ss. 213 and 214 of the FLSA, which set forth exceptions and exemptions to the minimum wage, are incorporated into Florida minimum wage law.<sup>15</sup>

Additionally, the Act provides a cause of action for individuals against employers who do not follow minimum wage requirements, retaliate against an employee for exercising their rights, or otherwise violate the Act.<sup>16</sup> The Attorney General is also authorized to bring civil actions against employers violating it, which may result in injunctive relief or fines paid to the state.<sup>17</sup>

### **Work-Based Learning Opportunities**

The federal government provides part-time employment to certain students who are attending institutions of higher education through its federal work-study program.<sup>18</sup> A student is eligible to take part in this program if they meet the eligibility requirements of 34 C.F.R. 668.32, have a demonstrated financial need, and are enrolled at an institution of higher education.<sup>19</sup> The student may work for qualifying employers or the education institution itself.<sup>20</sup> Further, the student

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<sup>9</sup> *Id.*

<sup>10</sup> U.S. DEPT. OF LABOR, *State Minimum Wage Laws*, available at <https://www.dol.gov/agencies/whd/minimum-wage/state> (last visited Mar. 7, 2025).

<sup>11</sup> Fla. Const. art. X, § 24.

<sup>12</sup> Fla. Const. art. X, § 24(f).

<sup>13</sup> Op. Att’y Gen. Fla. 2005-64 (2005); *see also In re Advisory Opinion to the Atty. Gen. re Fla. Minimum Wage Amend.*, 880 So. 2d 636 (Fla. 2004).

<sup>14</sup> Section 448.110(3), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 448.110(5)-(6), F.S.

<sup>17</sup> Section 448.110(7), F.S.

<sup>18</sup> 20 U.S.C. § 1087-51; 34 C.F.R. § 675.1.

<sup>19</sup> 34 C.F.R. § 675.9.

<sup>20</sup> 34 C.F.R. §§ 675.20-675.21.

participating in a work-study program must be paid at least the minimum wage rate under the FLSA.<sup>21</sup>

Additionally, the federal government sets forth labor standards and governs registration of apprenticeship programs under the National Apprenticeship Act.<sup>22</sup> Each state has a registered apprentice program which must be approved by the Office of Apprenticeship at the U.S. Department of Labor.<sup>23</sup> Florida's apprenticeship program carves out work-based learning opportunities for people who are at least 16 years old to gain trade skills while still in school.<sup>24</sup> The Florida Department of Education has developed standards for apprenticeable trades to establish programs with public schools and the Florida College System.<sup>25</sup> These trades include plumbing, heating and air conditioning technicians, teaching, cybersecurity, and more.<sup>26</sup> Each employer registered with a state apprenticeship program must pay at least the minimum wage under the FLSA, or a higher wage if required by applicable state law.<sup>27</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 448.110, F.S., to provide that an employer is not subject to the minimum wage requirements of this section for certain employees who choose to opt out of the minimum wage. The covered employees are those who are employed in a structured work-study, internship, preapprenticeship program, apprenticeship program, or other similar work-based learning opportunity. Such employees may opt out of receiving the minimum wage by either:

- checking a box on an application form to opt out of the minimum wage requirements; or
- providing the employer with a written acknowledgement that the employee is opting out of the minimum wage requirements.

See Section IV, Constitutional Issues, for a discussion of the constitutionality of the bill.

**Section 2** provides an effective date of July 1, 2025.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>21</sup> 34 C.F.R. § 675.24.

<sup>22</sup> See 29 U.S.C. §§50 et seq; 29 C.F.R. 29.

<sup>23</sup> 29 C.F.R. 29.3.

<sup>24</sup> See ss. 446.011-446.092, F.S.

<sup>25</sup> Section 446.011, F.S.

<sup>26</sup> Florida Dept. of Education, *Florida's Annual Apprenticeship and Preapprenticeship Report 2023-2024*, available at <https://www.fldoe.org/core/fileparse.php/9904/urlt/2024ApprenticeFL-Annual.pdf> (last visited Mar. 7, 2025).

<sup>27</sup> 29 C.F.R. § 29.5.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

Under Fla. Const. art. X, § 24, “employers shall pay Employee Wages no less than the Minimum Wage for all hours worked in Florida.” When interpreting the meaning of a statute or constitutional provision, courts will abide by the plain language of the text if it is unambiguous.<sup>28</sup> The language of the constitutional mandate is clear that employers must pay the established, hourly minimum wage to employees. If an employee signs a waiver stating that they opt out of minimum wage requirements, the employer is still bound by the minimum wage requirements of the state constitution. There is no exception or exemption from the minimum wage specified in the state constitution, other than those incorporated from the FLSA.<sup>29</sup>

Further, in a Florida appellate decision<sup>30</sup> on an appeal from a denial of unemployment compensation benefits, the court found that since “the Florida Statutes expressly adopt the FLSA, as interpreted and implemented by federal law, ‘[n]o one can doubt but that to allow waiver of statutory [minimum] wages by agreement would nullify the purposes of the [FLSA].’”<sup>31</sup>

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

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<sup>28</sup> *McCloud v. State*, 260 So. 3d 911, 914-15 (Fla. 2018); *Garcia v. Andonie*, 101 So. 3d 339 (Fla. 2012) (“Constitutional analysis must begin with examination of explicit language of provisions in question and, where the language is unambiguous and addresses the matter at issue, the provision should be enforced as written.”).

<sup>29</sup> *See* Fla. Const. art. X, § 24(f) (“It is intended that case law, administrative interpretations, and other guiding standards developed under the federal FLSA shall guide the construction of this amendment and any implementing statutes or regulations.”).

<sup>30</sup> *Martinez v. Ford Midway Mall, Inc.*, 59 So. 3d 168 (Fla 3d DCA 2011).

<sup>31</sup> *Id.* at 173, citing *Brooklyn Savings Bank v. O’Neill*, 324 U.S. 697, 707 (1945).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill does not provide for parent or guardian to participate in the minimum wage opt-out by a minor.

“Internship” does not appear to have a standardized definition in Florida law, so it may be unclear what types of internships would be eligible for the minimum wage opt-out.

**VIII. Statutes Affected:**

This bill substantially amends s. 448.110, F.S.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

By Senator Martin

33-01587-25

2025676\_\_

A bill to be entitled

An act relating to minimum wage requirements; amending s. 448.110, F.S.; providing that an employer is not subject to certain minimum wage requirements for specified employees; authorizing employees to opt out of the minimum wage requirements in a specified manner; providing an effective date.

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

Section 1. Subsection (3) of section 448.110, Florida Statutes, is amended to read:

448.110 State minimum wage; annual wage adjustment; enforcement.—

(3) (a) Employers shall pay employees a minimum wage at an hourly rate of \$6.15 for all hours worked in Florida. Only those individuals entitled to receive the federal minimum wage under the federal Fair Labor Standards Act, as amended, and its implementing regulations shall be eligible to receive the state minimum wage pursuant to s. 24, Art. X of the State Constitution and this section. The provisions of ss. 213 and 214 of the federal Fair Labor Standards Act, as interpreted by applicable federal regulations and implemented by the Secretary of Labor, are incorporated herein.

(b) An employer is not subject to the minimum wage requirements of this section for an employee who is in a structured work-study, internship, preapprenticeship, or apprenticeship program or other similar work-based learning opportunity and such employee opts out of receiving the minimum

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

33-01587-25

2025676\_\_

wage. The employee may opt out of receiving the minimum wage by:

1. Checking a box on an application form to opt out of the minimum wage requirements; or

2. Providing the employer with a written acknowledgment signed by the employee that the employee is opting out of the minimum wage requirements.

Section 2. This act shall take effect July 1, 2025.

Page 2 of 2

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



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 702

INTRODUCER: Senator Burgess

SUBJECT: Provenance of Digital Content

DATE: March 7, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McMillan	McKay	CM	<b>Pre-meeting</b>
2.			ATD	
3.			FP	

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**I. Summary:**

SB 702 creates a number of provisions relating to information about the origin and modification of digital content. The bill defines “provenance data” as information that records the origin of a piece of visual or audio digital content and the history of modifications to such content which is in a format that is compliant with widely adopted guidelines or specifications promulgated by an established standard-setting body. The term includes, but is not limited to, information identifying whether some or all of the content has been derived through generative artificial intelligence and, if so, the name of the generative artificial intelligence tool used to generate such content and the organization that developed such tool.

The bill requires any content regarding an election or purporting to feature a candidate which can be viewed, heard, or accessed online to carry digital provenance data.

The bill creates a digital content provenance pilot program within the Division of Emergency Management (DEM), to enhance the security and authenticity of digital content used in emergency management operations through the inclusion of provenance data.

The bill requires provenance data to be included on any synthetic data wholly created by a generative artificial intelligence tool. The provider of such tool must make the following available to the public:

- An application tool; and
- A free provenance reader.

The bill requires a social media platform to retain all available provenance data of visual or audio digital content provided to or posted on such platform and make such data available to users of the platform through a conspicuous indicator. Additionally, a capture device sold in Florida is required to allow an option to include provenance data on any visual or audio digital content recorded with such device. The manufacturer of a capture device must ensure that such

provenance data can be read by third-party applications. A violation of s. 501.9741, F.S., constitutes an unfair or deceptive act or practice.

The bill takes effect July 1, 2025.

## II. Present Situation:

### Artificial Intelligence

#### *Generally*

Artificial intelligence (AI) is the development of computer systems to perform tasks that normally require human intelligence, such as learning and decision-making.<sup>1</sup> It enables computer systems to receive information that is either provided to them by others or gathered by them (e.g. through camera lenses or other sensors), which they can then process and respond to in some meaningful way. To a certain extent, AI systems can adapt their behavior by analyzing the effects of previous actions and working autonomously.<sup>2</sup>

Investments in AI have led to many of the transformative advancements that U.S. consumers rely upon every day,<sup>3</sup> including mapping technologies, voice-assisted smartphones, handwriting recognition for mail delivery, financial trading, smart logistics, spam filtering, and language translation. AI advances have also provided significant social benefits in areas such as precision medicine, environmental sustainability, education, and public welfare.<sup>4</sup>

#### *Types of AI*

AI may be generally classified in one of three classes based on its capabilities or its functionalities:<sup>5</sup>

- *Artificial Narrow AI*. Also known as Weak AI, machines using Weak AI can only perform specific tasks using human-like capabilities. They can do nothing more than what they are programmed to do. Examples of Artificial Narrow AI include Siri, Alexa, and ChatGPT.<sup>6</sup>
- *General AI*. Also known as Strong AI, and any machine or application using Strong AI in the future would be able to use what they have learned in the past to accomplish new tasks in different contexts without the need for additional training by human beings. In other words, they would be able to learn, perceive, understand, and function completely like a human beings.<sup>7</sup>

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<sup>1</sup> National Conference of State Legislatures (NCSL), *Artificial Intelligence 2023 Legislation*, Jan. 12, 2024, available at <https://www.ncsl.org/technology-and-communication/artificial-intelligence-2023-legislation> (last visited Mar. 7, 2025).

<sup>2</sup> European Parliament, *What is artificial intelligence and how is it used?*, E.U. News, Jun. 20, 2023, available at <https://www.europarl.europa.eu/topics/en/article/20200827STO85804/what-is-artificial-intelligence-and-how-is-it-used> (last visited Mar. 7, 2025).

<sup>3</sup> U.S. Department of State, *Artificial Intelligence (AI)*, available at <https://www.state.gov/artificial-intelligence/> (last visited Mar. 7, 2025).

<sup>4</sup> *Id.*

<sup>5</sup> Naveen Joshi, *7 Types of Artificial Intelligence*, Jun. 19, 2019, Forbes, available at <https://www.forbes.com/sites/cognitiveworld/2019/06/19/7-types-of-artificial-intelligence/?sh=7b5ddf4d233e> (last visited Mar. 7, 2025).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

- *Super AI*. Also known as artificial superintelligence, Super AI is strictly theoretical. If ever realized, machines using Super AI would think, reason, learn, make judgments, and possess cognitive abilities surpassing those of human beings. Machines possessing Super AI capabilities would have evolved beyond the point of understanding human sentiments and experiences to feeling emotions, having needs, and possessing beliefs and desires of their own.<sup>8</sup>

Under the umbrella of Artificial Narrow AI or Weak AI, there are four kinds of AI based upon functionalities:<sup>9</sup>

- *Reactive Machine AI*. Reactive machines are AI systems with no memory. They are designed to perform very specific tasks. They can only work with presently available data because they cannot recollect previous outcomes or decisions. Reactive Machine AI stems from statistical math and can analyze vast amounts of data to produce a seemingly intelligent output. Examples of machines and applications that rely upon Reactive Machine AI include IBM Deep Blue (IBM's chess-playing supercomputer) and the Netflix recommendation engine.<sup>10</sup>
- *Limited Memory AI*. In addition to having the capabilities of purely reactive machines, Limited Memory AI machines and applications are also capable of learning from historical data to make decisions. Almost all present-day Limited Memory AI applications, including Generative AI tools (e.g. chatbots and virtual assistants) and self-driving vehicles, are Limited Memory AI machines and applications.<sup>11</sup>
- *Theory of Mind AI*. Theory of Mind AI is a kind of General AI that exists only in concept. It is the “next level” of AI systems that researchers are currently developing. Machines and applications using a Theory of Mind level AI will be able to understand the thoughts and emotions of other entities. In theory, this will allow them to simulate humanlike relationships and to contextualize artwork and essays, which today's Generative AI tools are unable to do.<sup>12</sup>
- *Self-Aware AI*. Self-Aware AI is a kind of Super AI that exists only in concept. It is strictly theoretical. If ever achieved, it will have the ability to understand its own internal conditions and traits along with human emotions and thoughts. It will also have its own set of emotions, needs, and beliefs.<sup>13</sup>

### ***Generative AI***

Generative AI is a type of Limited Memory AI technology<sup>14</sup> that can produce high-quality

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* Emotion AI is a kind of Theory of Mind AI that is currently under development. Researchers hope that it will one day have the ability to analyze voices, images, and other kinds of data to recognize, simulate, monitor, and respond appropriately to humans on an emotional level. To date, Emotion AI is unable to understand and respond to human feelings. *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> George Lawton, *What is generative AI? Everything you need to know*, TechTarget, Jan. 2024, available at <https://www.techtarget.com/searchenterpriseai/definition/generative-AI> (last visited Mar. 7, 2025).

content, including text, images, audio, or video, within seconds when prompted by a user.<sup>15</sup> Although it was first introduced in the 1960s, it was not until 2014, with the introduction of generative adversarial networks, or GANs (a type of machine learning algorithm),<sup>16</sup> that Generative AI could convincingly create authentic images, videos, and audio of real people.<sup>17</sup>

Generative AI systems learn patterns and relationships from massive amounts of data, which enables them to process and create new content that may be similar, but not identical, to the underlying training data. Such systems rely upon sophisticated machine learning algorithms and statistical models to work.<sup>18</sup>

In order to generate new content, Generative AI users are required to submit prompts that guide the generation of new content. Many iterations may be required to produce the intended result because Generative AI is sensitive to the wording of prompts.<sup>19</sup>

Because Generative AI can do so much, it has many potential applications, including in education, government, medicine, and law. Applications include:

- Writing a speech in a particular tone.
- Summarizing complex research.
- Assessing legal documents.
- Creating images for different applications.
- Composing music.
- Composing poems.
- Designing molecules for new drugs.
- Generating programming codes.
- Translating languages.
- Implementing chatbots.
- Deploying “deepfakes.”
- Improving dubbing for movies.

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<sup>15</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (June 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf>; (last visited Mar. 7, 2025). George Lawton, *What is generative AI? Everything you need to know*, TechTarget, Jan. 2024, available at <https://www.techtarget.com/searchenterpriseai/definition/generative-AI> (last visited Mar. 7, 2025).

<sup>16</sup> “A generative adversarial network (GAN) is a deep learning architecture. It trains two neural networks to compete against each other to generate more authentic new data from a given training dataset. For instance, you can generate new images from an existing image database or original music from a database of songs. A GAN is called adversarial because it trains two different networks and pits them against each other. One network generates new data by taking an input data sample and modifying it as much as possible. The other network tries to predict whether the generated data output belongs in the original dataset. In other words, the predicting network determines whether the generated data is fake or real. The system generates newer, improved versions of fake data values until the predicting network can no longer distinguish fake from original.” Amazon Web Services (AWS), *What is a GAN?*, available at <https://aws.amazon.com/what-is/gan/> (last visited Mar. 7, 2025). GAN can generate images, training data for other models, complete missing information, and generate 3D models from 2D data. *Id.*

<sup>17</sup> George Lawton, *What is generative AI? Everything you need to know*, TechTarget, Jan. 2024, available at <https://www.techtarget.com/searchenterpriseai/definition/generative-AI> (last visited Mar. 7, 2025).

<sup>18</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (June 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf> (last visited Mar. 7, 2025). Training data can include opensource information, such as text and images from the internet. *Id.*

<sup>19</sup> *Id.*

- Designing physical products and buildings.<sup>20</sup>

The U.S. Government Accountability Office has identified several opportunities and challenges in connection with the proliferation of Generative AI systems.<sup>21</sup> With respect to opportunities, Generative AI can quicken access to ideas and knowledge by helping people more efficiently gather new information; help automate a wide variety of administrative and repetitive tasks; and enhance the productivity of many industries.<sup>22</sup> With respect to challenges, because Generative AI systems can respond to harmful instructions, they can increase the speed and scale of many real world harms, such as facilitating the development and proliferation of false information; facilitating the use of copyrighted, proprietary, or sensitive data, without the owner's or subject's knowledge; reducing privacy for users, including minors, through the retention of personally identifiable information without consent; and facilitating the storage and use of sensitive information by foreign adversaries.<sup>23</sup>

### **Regulation**

Concerns about the potential misuse or unintended consequences of AI have prompted efforts to examine and develop standards at the federal and state levels.<sup>24</sup>

In the 2024 legislative session, at least 45 states, Puerto Rico, the Virgin Islands and Washington, D.C., introduced AI bills, and 31 states, Puerto Rico and the Virgin Islands adopted resolutions or enacted legislation. Examples of those actions include the following:<sup>25</sup>

- Colorado enacted comprehensive AI legislation requiring developers and deployers of high-risk AI systems to use reasonable care to avoid algorithmic discrimination and requires disclosures to consumers.
- Hawaii required the University of Hawaii to implement a program to develop a wildfire forecast system to forecast the risk of wildfire statewide using AI.
- Indiana created an AI task force.
- Maryland required the Department of Information Technology to adopt policies and procedures concerning the development, procurement, deployment, use and assessment of systems that employ AI by units of state government.
- New Hampshire created the crime of the fraudulent use of deepfakes and establishes a cause of action.
- Tennessee required the governing boards of public institutions of higher education to promulgate rules and required local education boards and public charter schools to adopt policies, regarding the use of AI by students, teachers, faculty and staff for instructional purposes.

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<sup>20</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (Jun. 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf>; (last visited Mar. 7, 2025), George Lawton, *What is generative AI? Everything you need to know*, TechTarget, Oct. 2024, available at <https://www.techtarget.com/searchenterpriseai/definition/generative-AI> (last visited Mar. 7, 2025).

<sup>21</sup> Government Accountability Office (GAO), Science, Technology Assessment, and Analytics, *Science & Tech Spotlight: Generative AI* (Jun. 2023), available at <https://www.gao.gov/assets/gao-23-106782.pdf> (last visited Mar. 7, 2025).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> NCSL, *Artificial Intelligence 2024 Legislation*, Sep. 9, 2024, available at <https://www.ncsl.org/technology-and-communication/artificial-intelligence-2024-legislation> (last visited Mar. 7, 2025).

<sup>25</sup> *Id.*

- Utah created the Artificial Intelligence Policy Act.
- West Virginia created a select committee on AI.<sup>26</sup>

### **Government Technology Modernization Council**

In 2024, the Legislature established the Government Technology Modernization Council within the Department of Management Services to study and monitor the development and deployment of new technologies and provide reports on recommendations for procurement and regulation of such systems to the Governor, the President of the Senate, and the Speaker of the House of representatives.<sup>27</sup> By December 31, 2024, and each December 31 thereafter, the council is required to submit to the President of the Senate and the Speaker of the House of Representatives any legislative recommendations considered necessary by the council to modernize government technology, including:

- Recommendations for policies necessary to:
  - Accelerate adoption of technologies that will increase productivity of state enterprise information technology systems, improve customer service levels of government, and reduce administrative or operating costs;
  - Promote the development and deployment of artificial intelligence systems, financial technology, education technology, or other enterprise management software in Florida; and
  - Protect Floridians from bad actors who use artificial intelligence.
- Any other information the council considers relevant.<sup>28</sup>

### **Florida Cybersecurity Advisory Council**

In 2021, the Legislature established the Florida Cybersecurity Advisory Council within the Department of Management Services to assist state agencies in protecting their information technology resources from cyber threats and incidents. The council is required to submit to the President of the Senate and the Speaker of the House of Representatives any legislative recommendations considered by the council to address cybersecurity beginning June 30, 2022 and each June 30th thereafter.<sup>29</sup>

### **Disclaimer Requirements for Political Advertising**

Current law defines “political advertisement” to mean a paid expression in a communications medium,<sup>30</sup> whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue.<sup>31</sup>

However, the term does not include:

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<sup>26</sup> *Id.*

<sup>27</sup> Ch. 2024-118, Laws of Fla.

<sup>28</sup> Section 282.802, F.S.

<sup>29</sup> Department of Management Services, *Cybersecurity Advisory Council*, available at [https://www.dms.myflorida.com/other\\_programs/cybersecurity\\_advisory\\_council](https://www.dms.myflorida.com/other_programs/cybersecurity_advisory_council) (last visited Mar. 7, 2025).

<sup>30</sup> Section 106.011(4), F.S., defines “communications medium” to include broadcasting stations, newspapers, magazines, outdoor advertising facilities, printers, direct mail, advertising agencies, the Internet, and telephone companies.

<sup>31</sup> Section 106.011(15), F.S.

- A statement by an organization, in existence before the time during which a candidate qualifies or an issue is placed on the ballot for that election, in support of or in opposition to a candidate or issue, in that organization's newsletter, which newsletter is distributed only to the members of that organization.
- Editorial endorsements by a newspaper, a radio or television station, or any other recognized news medium.<sup>32</sup>

An "electioneering communication" is a text message or communication that is publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone which:

- Refers to or depicts a clearly identified candidate for office without expressly advocating the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate;
- Is made within 30 days before a primary or special primary election or 60 days before any other election for the office sought by the candidate; and
- Is targeted to the relevant electorate in the geographic area the candidate would represent if elected.<sup>33</sup>

Specified types of communications are exempted from the definition.<sup>34</sup>

Political advertisements, electioneering communications, and certain text message and telephone solicitations must disclose who approved and paid for the advertisement or communication.<sup>35</sup> Voter guides must also include the required disclaimers, as applicable, and be marked "Voter Guide."<sup>36</sup> In addition, any advertisement, other than a political advertisement, independent expenditure,<sup>37</sup> or electioneering communication, on billboards, bumper stickers, radio, or television, or in a newspaper, a magazine, or a periodical, intended to influence public policy or the vote of a public official, must clearly designate the sponsor of such advertisement by including a statement of sponsorship.<sup>38</sup>

Generally, penalties for failure to include a required disclaimer apply to a "person" as defined in s. 106.011(14), F.S. – an individual or a corporation, association, firm, partnership, joint venture,

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<sup>32</sup> *Id.*

<sup>33</sup> Section 106.011(8)(a), F.S.

<sup>34</sup> *See* s. 106.011(8)(b), F.S.

<sup>35</sup> Sections 106.071, 106.143, 106.1439, and 106.147, F.S. A failure to include a required disclaimer for an electioneering communication or for a political advertisement paid for by independent expenditure constitutes a first-degree misdemeanor (ss. 106.1439(2) and 106.071(4), F.S.). A willful failure to include a required disclaimer for other political advertisements is subject to prescribed civil penalties (s. 106.143(11), F.S.). A willful violation of text message and telephone solicitation requirements constitutes a first-degree misdemeanor (s. 106.147(4), F.S.).

<sup>36</sup> Section 106.1436, F.S. The term "voter guide" means direct mail that is either an electioneering communication or a political advertisement sent for the purpose of advocating for or endorsing particular issues or candidates by recommending specific electoral choices to the voter or by indicating issue or candidate selections on an unofficial ballot (s. 106.1436(1), F.S.). In addition to any other penalties provided by law, a person who fails to include the required disclaimer commits a first-degree misdemeanor (s. 106.1436(4), F.S.).

<sup>37</sup> Section 106.011(12)(a), F.S., defines "independent expenditure" to mean an expenditure by a person for the purpose of expressly advocating the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee.

<sup>38</sup> Section 106.1437, F.S. The section does not specify a penalty for failure to include the required statement.

joint stock company, club, organization, estate, trust, business trust, syndicate or other combination of individuals having collective capacity. The term includes a political party, affiliated party committee, or political committee. Examples of past cases relating to existing Florida Election Code<sup>39</sup> requirements that apply to a “person:”

- Allowed for an officer of a political committee to be held personally liable for failure to include a required disclaimer on a political advertisement;<sup>40</sup>
- Imposed penalties on a political consulting firm and the president of the firm for failing to include disclaimers in, and report expenditures for, certain independent political advertisements;<sup>41</sup>
- Imposed penalties on a political committee for exceeding contribution limits;<sup>42</sup> and
- Allowed a corporation to be criminally charged for exceeding a contribution limit.<sup>43</sup>

### **Election-Related Use of Artificial Intelligence**

The proliferation of Generative AI use and its outpacing of government regulation has created concern among policymakers about its potentially negative effect on the electoral process. Specific concerns include, but are not limited to, voter misinformation by chatbots,<sup>44</sup> phishing scams on election officials through AI-generated voices, and the use of deepfakes<sup>45</sup> to deceive voters and damage political rivals. Over time, the use of AI may also erode trust in authentic information.<sup>46</sup>

In 2024, the Legislature enacted a law to regulate the use of AI in political advertising.<sup>47</sup> If a political advertisement, an electioneering communication, or other miscellaneous advertisement of a political nature contains images, video, audio, graphics, or other digital content created in whole or in part with the use of Generative AI, if the generated content appears to depict a real person performing an action that did not actually occur, and if the generated content was created with intent to injure a candidate or to deceive regarding a ballot issue, the political advertisement, electioneering communication, or other miscellaneous advertisement must prominently state the following disclaimer: “Created in whole or in part with the use of Generative Artificial Intelligence (AI).”<sup>48</sup> Additionally, the disclaimer must:

- For a printed communication, be stated in bold font with a font size of at least 12 points.

<sup>39</sup> Chapters 97-106, F.S., are known as “The Florida Election Code.” Section 97.011, F.S.

<sup>40</sup> See *Fulton v. Division of Elections*, 689 So.2d 1180 (Fla. Dist. Ct. App. 1997).

<sup>41</sup> See *Guetzloe v. Florida Elections Commission*, 927 So.2d 942 (Fla. Dist. Ct. App. 2006).

<sup>42</sup> See *Florida PBA-PAC v. Division of Elections*, 430 So.2d 483 (Fla. Dist. Ct. App. 1983).

<sup>43</sup> See *Winn-Dixie Stores, Inc., v. State of Florida*, 408 So.2d 211 (Fla. 1982).

<sup>44</sup> IBM defines “chatbot” to mean a computer program that simulates human conversation with an end user (see *What is a Chatbot?*, available at <https://www.ibm.com/topics/chatbots> (last visited Mar. 7, 2025)).

<sup>45</sup> Although exact definitions of “deepfake” vary, all reflect a depiction of something that has not actually occurred. Merriam-Webster, for example, defines “deepfake” to mean an image or recording that has been convincingly altered and manipulated to misrepresent someone as doing or saying something that was not actually said or done (see <https://www.merriam-webster.com/dictionary/deepfake>, last visited March 7, 2025).

<sup>46</sup> National Conference of State Legislatures, *Challenges Ahead for Lawmakers Seeking to Legislate AI in Campaigns*, available at [https://www.ncsl.org/state-legislatures-news/details/challenges-ahead-for-lawmakers-seeking-to-legislate-ai-in-campaigns?utm\\_source=national+conference+of+state+legislatures&utm\\_term=0\\_-61bea1f450-%5blist\\_email\\_id%5d&utm\\_campaign=8fbf8e40e8-canvass-jan-4&utm\\_medium=email](https://www.ncsl.org/state-legislatures-news/details/challenges-ahead-for-lawmakers-seeking-to-legislate-ai-in-campaigns?utm_source=national+conference+of+state+legislatures&utm_term=0_-61bea1f450-%5blist_email_id%5d&utm_campaign=8fbf8e40e8-canvass-jan-4&utm_medium=email) (last visited Mar. 7, 2025).

<sup>47</sup> Ch. 2024-126, Laws of Fla.

<sup>48</sup> Section 106.145(2), F.S.



- For a television or video communication, be clearly readable throughout the communication and occupy at least 4 percent of the vertical picture height.
- For an Internet public communication that includes text or graphic components, be viewable without the user taking any action and be large enough to be clearly readable.
- For any audio component of a communication, be at least 3 seconds in length and spoken in a clearly audible and intelligible manner at either the beginning or the end of the audio component of the communication.
- For a graphic communication, be large enough to be clearly readable but no less than 4 percent of the vertical height of the communication.<sup>49</sup>

### Florida Elections Commission

The Florida Elections Commission (commission) has jurisdiction<sup>50</sup> to investigate and determine violations of campaign finance laws and other specified provisions of the Florida Election Code<sup>51</sup> upon receipt of a report by the Division of Elections<sup>52</sup> or a sworn complaint.<sup>53</sup> Upon a finding of a violation of one of the laws under its jurisdiction, the commission, or in cases referred to the Division of Administrative Hearings, an administrative law judge, may impose fines up to \$2,500 per count.<sup>54</sup>

### Provenance Data

There are various methods to make AI outputs more identifiable and traceable, which include the following:

- Provenance refers to the origin of data or AI system outputs;
- Authentication is a method of establishing provenance via verifiable assertions about the origins of the content;
- Watermarking is a method of establishing provenance through “the act of embedding information, which is typically difficult to remove, into outputs created by AI;” and
- Content labeling refers to informing people as part of the user interface about the source of the information they are receiving.<sup>55</sup>

<sup>49</sup> Section 106.145(3), F.S.

<sup>50</sup> For the purposes of commission jurisdiction, a violation means the willful performance of an act prohibited by ch. 104 or 106, F.S., or the willful failure to perform an act required by such chapters. Willfulness is a determination of fact. Section 106.25(3), F.S.

<sup>51</sup> Section 106.25(2), F.S. The commission is housed within the Department of Legal Affairs, but is not subject to the department’s control, supervision, or direction. Section 106.24(1), F.S.

<sup>52</sup> The Division of Elections is an administrative unit of the Department of State. Section 97.021(9), F.S.

<sup>53</sup> Section 106.25(4), F.S.

<sup>54</sup> Section 106.265, F.S. The fine may be multiplied by a factor of 3, not to exceed \$7,500, after a person commits three counts of the same category of offense. If applicable, the commission or administrative law judge may instead impose a civil penalty as provided in s. 104.271 or s. 106.19, F.S.

<sup>55</sup> National Telecommunications and Information Administration, *AI Output Disclosures: Use, Provenance, Adverse Incidents*, Mar. 27, 2024, available at <https://www.ntia.gov/issues/artificial-intelligence/ai-accountability-policy-report/developing-accountability-inputs-a-deeper-dive/information-flow/ai-output-disclosures#:~:text=Watermarking%20is%20a%20method%20for,output%20or%20the%20identity%20or> (last visited Mar. 7, 2025).

Data Provenance aims to help people make informed decisions about what data or content can be confidently trusted. To do this, Data Provenance platforms track metadata while making it immutable, transparent, and verifiable.<sup>56</sup>

The Coalition for Content Provenance and Authenticity (C2PA) is an industry-led organization that creates technical standards to verify the origin and history of media.<sup>57</sup> The C2PA’s goal is to provide a mechanism for producers and custodians of any given content to assert, in a verifiable manner, any information they wish to disclose about the creation of such content, as well as any actions taken since the content’s creation.<sup>58</sup>

In 2020, the “Data & Trust Alliance” was established by a group of CEOs of major companies, which is based on a shared conviction that the future of business will be powered by the responsible use of data and AI.<sup>59</sup> The Data & Trust Alliance created the first cross-industry metadata standards to bring transparency to the origin of datasets used for both traditional data and AI applications.<sup>60</sup>

### **Division of Emergency Management**

Under the leadership of the Governor, the Florida Division of Emergency Management (DEM) plans for and responds to both natural and man-made disasters.<sup>61</sup> The disasters include floods, hurricanes, and incidents involving hazardous materials or nuclear power.<sup>62</sup> Additionally, the DEM prepares and implements a statewide Comprehensive Emergency Management Plan, and conducts exercises to test state and county emergency response capabilities.<sup>63</sup>

### **Florida Deceptive and Unfair Trade Practices Act**

#### *History and Purpose*

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) became law in 1973.<sup>64</sup> The FDUTPA is a consumer and business protection measure that prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in trade or commerce.<sup>65</sup> The FDUTPA is based on federal law, and s. 501.204(2), F.S., provides that it is the

<sup>56</sup> Data Trails, *What is Data Provenance*, Jan. 30, 2024, available at <https://www.datatrails.ai/what-is-data-provenance/> (last visited Mar. 7, 2025).

<sup>57</sup> Coalition for Content Provenance and Authenticity, *Overview*, available at <https://c2pa.org/#:~:text=The%20Coalition%20for%20Content%20Provenance,media%20creation%2C%20publication%20and%20sharing>, (last visited Mar. 7, 2025).

<sup>58</sup> Coalition for Content Provenance and Authenticity, *Guiding Principles*, available at <https://c2pa.org/principles/> (last visited Mar. 7, 2025).

<sup>59</sup> The Data & Trust Alliance, *About D&TA*, available at <https://dataandtrustalliance.org/about> (last visited Mar. 7, 2025).

<sup>60</sup> The Data & Trust Alliance, *Latest Work*, available at <https://dataandtrustalliance.org/work> (last visited Mar. 7, 2025).

<sup>61</sup> Florida Division of Emergency Management, *About the Division*, available at <https://www.floridadisaster.org/dem/about-the-division/> (last visited Mar. 7, 2025).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> Ch. 73-124, Laws of Fla.; codified at part II of ch. 501, F.S.

<sup>65</sup> See s. 501.202, F.S. Trade or commerce means the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article, commodity, or thing of value, wherever situated. “Trade or commerce” shall include the conduct of any trade or commerce, however denominated, including any nonprofit or not-for-profit person or activity. See s. 501.203(8), F.S.

intent of the Legislature that due consideration and great weight must be given to the interpretations of the Federal Trade Commission and the federal courts relating to section 5 of the Federal Trade Commission Act.<sup>66</sup>

The State Attorney or the Department of Legal Affairs may bring actions when it is in the public interest on behalf of consumers or governmental entities.<sup>67</sup> The Office of the State Attorney may enforce violations of the FDUTPA if the violations take place in its jurisdiction.<sup>68</sup> The Department of Legal Affairs has enforcement authority if the violation is multi-jurisdictional, the state attorney defers in writing, or the state attorney fails to act within 90 days after a written complaint is filed.<sup>69</sup> Consumers may also file suit through private actions.<sup>70</sup>

### ***Remedies under the FDUTPA***

The Department of Legal Affairs and the State Attorney, as enforcing authorities, may seek the following remedies:

- Declaratory judgments.
- Injunctive relief.
- Actual damages on behalf of consumers and businesses.
- Cease and desist orders.
- Civil penalties of up to \$10,000 per willful violation.<sup>71</sup>

Remedies for private parties are limited to the following:

- A declaratory judgment and an injunction where a person is aggrieved by a FDUTPA violation.
- Actual damages, attorney fees, and court costs, where a person has suffered a loss due to a FDUTPA violation.<sup>72</sup>

## **III. Effect of Proposed Changes:**

### **Provenance Data Definition**

**Section 1** of the bill amends s. 106.145, F.S., to define “provenance data” as information that records the origin of a piece of visual or audio digital content and the history of modifications to such content which is in a format that is compliant with widely adopted guidelines or specifications promulgated by an established standard-setting body. The term includes, but is not limited to, information identifying whether some or all of the content has been derived through generative artificial intelligence and, if so, the name of the generative artificial intelligence tool used to generate such content and the organization that developed such tool.

<sup>66</sup> See s 501.204(2), F.S.

<sup>67</sup> See ss. 501.203(2), 501.206, and 501.207, F.S.

<sup>68</sup> Section 501.203(2), F.S.

<sup>69</sup> *Id.*

<sup>70</sup> Section 501.211, F.S.

<sup>71</sup> Sections 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Section 501.2075, F.S. Enforcing authorities may also request attorney fees and costs of investigation or litigation. Section 501.2105, F.S.

<sup>72</sup> Section 501.211(1) and (2), F.S.

## Election Campaign Content

The bill requires any content regarding an election or purporting to feature a candidate which can be viewed, heard, or accessed online to carry digital provenance data.

## Digital Content Provenance Pilot Program

**Section 2** of the bill creates s. 252.353, F.S., to establish a digital content provenance pilot program within the DEM. The purpose of the pilot program is to enhance the security and authenticity of digital content used in emergency management operations through the inclusion of provenance data.

The bill requires the DEM to adopt rules necessary to implement s. 252.353, F.S. Additionally, by December 1 of each year, the DEM must submit to the President of the Senate and the Speaker of the House of Representatives a report that includes information concerning the pilot program and whether any changes should be made to the pilot program which would increase its effectiveness. In the report submitted by December 1, 2029, the DEM must include a recommendation of whether the pilot program should be continued, terminated, or expanded. The pilot program will be repealed on June 30, 2030, unless reviewed and saved from repeal through reenactment by the Legislature.

## Provenance Data of Digital Content

**Section 3** of the bill creates s. 501.9741, F.S., and provides the following definitions:

- “Application tool” means a tool or service that enables the user to apply provenance data, either directly or through the use of third-party technology, to any data that has been modified to include synthetic content.
- “Capture device” means a device that can record any visual or audio digital content, including, but not limited to, a camera, a cellular phone with a camera, a microphone, or an audio or video recorder.
- “Generative artificial intelligence” has the same meaning as in s. 106.145(1), F.S.<sup>73</sup>
- “Generative artificial intelligence tool” means a product or feature that uses generative artificial intelligence to create visual or audio digital content.
- “Provenance data” has the same meaning as in s. 106.145(1), F.S.<sup>74</sup>
- “Provenance reader” means a tool or service that allows users to identify the provenance data of visual or audio digital content.

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<sup>73</sup> Section 106.145(1), F.S., defines “generative artificial intelligence” as a machine-based system that can, for a given set of human-defined objectives, emulate the structure and characteristics of input data in order to generate derived synthetic content including images, videos, audio, text, and other digital content.

<sup>74</sup> “Provenance data” is defined as information that records the origin of a piece of visual or audio digital content and the history of modifications to such content which is in a format that is compliant with widely adopted guidelines or specifications promulgated by an established standard-setting body. The term includes, but is not limited to, information identifying whether some or all of the content has been derived through generative artificial intelligence and, if so, the name of the generative artificial intelligence tool used to generate such content and the organization that developed such tool.

The bill requires provenance data to be included on any synthetic data wholly created by a generative artificial intelligence tool. The provider of such an artificial intelligence tool must make an application tool and a free provenance reader available to the public.

The bill requires a social media platform<sup>75</sup> to retain all available provenance data of visual or audio digital content provided to or posted on such platform and make such data available to users of the platform through a conspicuous indicator.

The bill requires any capture device sold in Florida to allow an option to include provenance data on any visual or audio digital content recorded with such device. Additionally, the manufacturer of a capture device must ensure that such provenance data can be read by third-party applications.

The bill provides that a violation of this section constitutes an unfair or deceptive act or practice.

The bill takes effect July 1, 2025.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The First Amendment of the U.S. Constitution promotes the free exchange of ideas and information by prohibiting the government from restricting speech because of the message expressed.<sup>76</sup> Content-based restrictions are presumptively invalid.<sup>77</sup> Among

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<sup>75</sup> Section 501.2041(1), F.S., defines “social media platform” as any information service, system, Internet search engine, or access software provider that: (1) provides or enables computer access by multiple users to a computer server, including an Internet platform or a social media site; (2) operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity; (3) does business in Florida; and (4) satisfies at least one of the following thresholds: (1) has annual gross revenues in excess of \$100 million, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index; or (2) has at least 100 million monthly individual platform participants globally.

<sup>76</sup> See, e.g., *Texas v. Johnson* (491 U.S. 397 (1989)); *State v. T.B.D.*, 656 So.2d 479 (Fla. 1995).

<sup>77</sup> See, e.g., *Police Dept. of Chicago v. Mosley*, 408 U.S. 92 (1972).

specific rights, the First Amendment protects the right to associate for expressive or political activity. The government may infringe upon this right only if it has a compelling interest unrelated to the suppression of speech and if the interest cannot be achieved through significantly less restrictive means.<sup>78</sup>

This bill does not prohibit or restrict the content of speech generated by AI. Instead, it requires the use of provenance data that records the origin of a piece of visual or audio digital content, as well as the history of the modification of such content.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Social media platforms will be required to retain all available provenance data of visual or audio digital content provided to or posted on such platform, as well as make the provenance data available to users of the platform through a conspicuous indicator.

Sellers of a capture device in Florida will be required to allow an option to include provenance data on any visual or audio digital content recorded with such device. Additionally, manufacturers of a capture device must ensure that such provenance data can be read by third-party applications, and may be implemented differently across platforms.

C. Government Sector Impact:

The Division of Emergency Management will be responsible for implementing the Digital Content Provenance Pilot Program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill requires social media platforms to retain all available provenance data of visual or audio digital content provided to or posted to such platforms and make such data available to users of the platform through a conspicuous indicator. However, the meaning of “conspicuous indicator” may not be clear, and may be interpreted differently across platforms.

The definition of “capture device” is broad enough to include many types of consumer electronic devices.

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<sup>78</sup> *City of Dallas v. Stanglin*, 490 U.S. 19 (1989).

Provenance data must be included on any synthetic data “wholly created” by a generative AI tool; any synthetic data not “wholly created” by a generative AI would not be required to include provenance data.

**VIII. Statutes Affected:**

This bill substantially amends section 106.145 of the Florida Statutes.

The bill creates the following sections of the Florida Statutes: 252.353 and 501.9741.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Commerce and Tourism (Burgess) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Present subsection (4) of section 106.145, Florida Statutes, is redesignated as subsection (5), a new subsection (4) is added to that section, and subsection (1) and paragraph (a) of present subsection (4) are amended, to read:

- 106.145 Use of artificial intelligence.—
- (1) As used in this section, the term:



(a) "Generative artificial intelligence" means a machine-based system that can, for a given set of human-defined objectives, emulate the structure and characteristics of input data in order to generate derived synthetic content including images, videos, audio, text, and other digital content.

(b) "Provenance data" means information identifying whether some or all of the content has been derived through generative artificial intelligence and, if so, the name of the generative artificial intelligence tool used to generate such content and the organization that developed such tool.

(4) Any content purporting to feature an electoral candidate which can be viewed, heard, or accessed online must include digital provenance data if such content was created by generative artificial intelligence, as defined in s. 106.145(1).

(5)(4)(a) In addition to any civil penalties provided by law, a person identified pursuant to another disclaimer required under this chapter as paying for, sponsoring, or approving a political advertisement, an electioneering communication, or an other miscellaneous advertisement of a political nature which is required to contain the disclaimer prescribed under subsection (2) in this section and who fails to include the required disclaimer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Section 252.353, Florida Statutes, is created to read:

252.353 Digital content provenance pilot program.—

(1) There is established within the division a digital content provenance pilot program. The purpose of the pilot program is to enhance the security and authenticity of digital



content used in emergency management operations through the inclusion of provenance data.

(2) For all digital images and videos created by the division on or after July 1, 2025, the division shall include a conspicuous indicator with an encoded link allowing a user to access provenance data.

(3) By November 15, 2026, the division shall submit to the President of the Senate and the Speaker of the House of Representatives a report that includes information concerning the pilot program, including whether the integration of provenance data can be scaled effectively within the division's digital content library and recommendations for other valuable uses of provenance data and credentialing that could be implemented within other agencies.

(4) This section shall stand repealed on June 30, 2027.

Section 3. Section 501.9741, Florida Statutes, is created to read:

501.9741 Provenance data of digital content.—

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

(a) "Application tool" means a tool or service that enables the user to apply provenance data, either directly or through the use of third-party technology, to any digital content that has been modified to include synthetic content.

(b) "Capture device" means a device that can record any visual or audio digital content, including, but not limited to, a camera, a cellular phone with a camera, a microphone, or an audio or video recorder.

(c) "Generative artificial intelligence" has the same meaning as in s. 106.145(1).



(d) "Generative artificial intelligence tool" means a product or feature that uses generative artificial intelligence to create visual or audio digital content.

(e) "Provenance data" has the same meaning as in s. 106.145(1).

(f) "Provenance reader" means a tool or service that allows users to identify provenance data of visual or audio digital content.

(g) "Synthetic content" means any visual or audio content that has been produced or modified by a generative artificial intelligence tool.

(2) The provider of a generative artificial intelligence tool must apply provenance data, either directly or through the use of third-party technology, to synthetic content wholly generated by the provider's generative artificial intelligence tool.

(3) The provider of a generative artificial intelligence tool must make available to the public:

(a) An application tool that can determine whether an image, a video, or audio content, or content that is any combination thereof, is synthetic content.

(b) A free provenance reader that can view provenance information for synthetic content.

(4) Provenance data may not include any personal identifying information or any unique device, system, or service information which is reasonably capable of being associated with a particular user, unless directed by the user.

(5) A social media platform as defined in s. 501.2041 shall retain all available provenance data of any suspected synthetic





98 content. Social media platforms shall make such data available  
99 to platform users through a conspicuous indicator with an  
100 encoded link on such content.

101 (6) A capture device sold in this state must have an option  
102 to record provenance data of any suspected synthetic content.  
103 The manufacturer of a capture device sold in this state must  
104 ensure that such provenance data can be read by third-party  
105 applications.

106 (7) A violation of this section constitutes an unfair or  
107 deceptive act or practice as described in s. 501.204. The  
108 Attorney General shall enforce this section. The Department of  
109 Legal Affairs shall notify the provider of the generative  
110 artificial intelligence system, the manufacturer of a capture  
111 device, or the social media platform of any suspected violation,  
112 and allow the provider 30 calendar days to cure the alleged  
113 violation before initiating enforcement action.

114 Section 4. This act shall take effect July 1, 2025.

115 ===== T I T L E A M E N D M E N T =====

116 And the title is amended as follows:

117 Delete everything before the enacting clause  
118 and insert:

119 A bill to be entitled  
120 An act relating to provenance of digital content;  
121 amending s. 106.145, F.S.; defining the term  
122 "provenance data"; requiring that certain content  
123 created by generative artificial intelligence  
124 purporting to depict an electoral candidate include  
125 digital provenance data; amending s. 252.353, F.S.;  
126



127 creating a digital content provenance pilot program  
128 within the Division of Emergency Management; providing  
129 the pilot program's purpose; requiring the division to  
130 include a conspicuous indicator with an encoded link  
131 on the digital images and videos it creates after a  
132 specified date to allow users to access provenance  
133 data; requiring the division to submit an annual  
134 report to the Legislature by a specified date;  
135 specifying requirements for the report; providing for  
136 future repeal; creating s. 501.9741, F.S.; defining  
137 terms; requiring a provider of a generative artificial  
138 intelligence tool to apply provenance data, either  
139 directly or through a third-party technology, to  
140 synthetic content wholly generated by the provider's  
141 generative artificial intelligence tool; requiring a  
142 provider of a generative artificial intelligence tool  
143 to make available to the public specified tools and  
144 readers to determine whether certain content was  
145 created by the provider's generative artificial  
146 intelligence tool; prohibiting the inclusion of  
147 certain information in provenance data which is  
148 reasonably capable of being associated with a  
149 particular user, unless directed by the user;  
150 requiring social media platforms to retain provenance  
151 data of synthetic content provided to or posted on its  
152 platform; requiring social media platforms to make  
153 such data available to platform users through a  
154 conspicuous indicator on such content; requiring that  
155 a capture device sold in this state have an option to



156 record provenance data of certain content; requiring  
157 manufacturers of such capture devices to ensure  
158 provenance data can be read by third-party  
159 applications; providing that a violation of this  
160 section is an unfair or deceptive act or practice;  
161 requiring the Attorney General to enforce this  
162 section; requiring the Department of Legal Affairs to  
163 notify any person suspected of violating this section  
164 and allow them to cure such violations within a  
165 specified timeframe before initiating enforcement  
166 action; providing an effective date.

By Senator Burgess

23-00603A-25

2025702\_\_

1 A bill to be entitled  
 2 An act relating to provenance of digital content;  
 3 amending s. 106.145, F.S.; defining the term  
 4 "provenance data"; requiring that certain content  
 5 include provenance data; creating s. 252.353, F.S.;  
 6 creating a digital content provenance pilot program  
 7 within the Division of Emergency Management; providing  
 8 the pilot program's purpose; requiring the division to  
 9 adopt rules; requiring the division to submit an  
 10 annual report to the Legislature by a specified date;  
 11 specifying requirements for the report; providing for  
 12 future repeal; creating s. 501.9741, F.S.; defining  
 13 terms; requiring that provenance data be included on  
 14 specified data; requiring providers of certain  
 15 artificial intelligence tools to make application  
 16 tools and provenance readers available to the public;  
 17 requiring certain social media platforms to retain and  
 18 make available certain provenance data; requiring that  
 19 certain capture devices allow an option to include  
 20 provenance data on certain content; providing a  
 21 requirement for the manufacturer of such devices;  
 22 providing that a violation constitutes an unfair or  
 23 deceptive act or practice; providing an effective  
 24 date.

25  
 26 Be It Enacted by the Legislature of the State of Florida:

27  
 28 Section 1. Present subsection (4) of section 106.145,  
 29 Florida Statutes, is redesignated as subsection (5), a new

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

23-00603A-25

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30 subsection (4) is added to that section, and subsection (1) and  
 31 present subsection (4) of that section are amended, to read:  
 32 106.145 Use of artificial intelligence.—  
 33 (1) As used in this section, the term:  
 34 (a) "Generative artificial intelligence" means a machine-  
 35 based system that can, for a given set of human-defined  
 36 objectives, emulate the structure and characteristics of input  
 37 data in order to generate derived synthetic content including  
 38 images, videos, audio, text, and other digital content.  
 39 (b) "Provenance data" means information that records the  
 40 origin of a piece of visual or audio digital content and the  
 41 history of modifications to such content which is in a format  
 42 that is compliant with widely adopted guidelines or  
 43 specifications promulgated by an established standard-setting  
 44 body. The term includes, but is not limited to, information  
 45 identifying whether some or all of the content has been derived  
 46 through generative artificial intelligence and, if so, the name  
 47 of the generative artificial intelligence tool used to generate  
 48 such content and the organization that developed such tool.  
 49 (4) Any content regarding an election or purporting to  
 50 feature a candidate which can be viewed, heard, or accessed  
 51 online must carry digital provenance data.  
 52 (5) (a) (4) (a) In addition to any civil penalties provided by  
 53 law, a person identified pursuant to another disclaimer required  
 54 under this chapter as paying for, sponsoring, or approving a  
 55 political advertisement, an electioneering communication, or any  
 56 other ~~an other~~ miscellaneous advertisement of a political nature  
 57 which is required to contain the disclaimer prescribed under  
 58 subsection (2) in this section and who fails to include the

Page 2 of 5

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

23-00603A-25

2025702\_\_

59 required disclaimer commits a misdemeanor of the first degree,  
60 punishable as provided in s. 775.082 or s. 775.083.

61 (b) Any person may file a complaint with the Florida  
62 Elections Commission pursuant to s. 106.25 alleging a violation  
63 of this section. The commission shall adopt rules to provide an  
64 expedited hearing of complaints filed under this section, or, in  
65 cases referred to the Division of Administrative Hearings  
66 pursuant to s. 106.25(5), the director shall assign an  
67 administrative law judge to provide an expedited hearing.

68 Section 2. Section 252.353, Florida Statutes, is created to  
69 read:

70 252.353 Digital content provenance pilot program.-

71 (1) There is established within the division a digital  
72 content provenance pilot program. The purpose of the pilot  
73 program is to enhance the security and authenticity of digital  
74 content used in emergency management operations through the  
75 inclusion of provenance data as defined in s. 106.145(1).

76 (2) The division shall adopt rules necessary to implement  
77 the pilot program.

78 (3) By December 1 of each year, the division shall submit  
79 to the President of the Senate and the Speaker of the House of  
80 Representatives a report that includes information concerning  
81 the pilot program and whether any changes should be made to the  
82 pilot program which would increase its effectiveness. In the  
83 report submitted by December 1, 2029, the division shall include  
84 a recommendation of whether the pilot program should be  
85 continued, terminated, or expanded.

86 (4) This section shall stand repealed on June 30, 2030,  
87 unless reviewed and saved from repeal through reenactment by the

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88 Legislature.

89 Section 3. Section 501.9741, Florida Statutes, is created  
90 to read:

91 501.9741 Provenance data of digital content.-

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

93 (a) "Application tool" means a tool or service that enables  
94 the user to apply provenance data, either directly or through  
95 the use of third-party technology, to any data that has been  
96 modified to include synthetic content.

97 (b) "Capture device" means a device that can record any  
98 visual or audio digital content, including, but not limited to,  
99 a camera, a cellular phone with a camera, a microphone, or an  
100 audio or video recorder.

101 (c) "Generative artificial intelligence" has the same  
102 meaning as in s. 106.145(1).

103 (d) "Generative artificial intelligence tool" means a  
104 product or feature that uses generative artificial intelligence  
105 to create visual or audio digital content.

106 (e) "Provenance data" has the same meaning as in s.  
107 106.145(1).

108 (f) "Provenance reader" means a tool or service that allows  
109 users to identify the provenance data of visual or audio digital  
110 content.

111 (2) Provenance data must be included on any synthetic data  
112 wholly created by a generative artificial intelligence tool. The  
113 provider of such artificial intelligence tool shall make  
114 available to the public:

115 (a) An application tool.

116 (b) A free provenance reader.

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117 (3) A social media platform as defined in s. 501.2041(1)  
118 shall retain all available provenance data of visual or audio  
119 digital content provided to or posted on such platform and make  
120 such data available to users of the platform through a  
121 conspicuous indicator.

122 (4) A capture device sold in this state must allow an  
123 option to include provenance data on any visual or audio digital  
124 content recorded with such device. The manufacturer of a capture  
125 device must ensure that such provenance data can be read by  
126 third-party applications.

127 (5) A violation of this section constitutes an unfair or  
128 deceptive act or practice as specified in s. 501.204.

129 Section 4. This act shall take effect July 1, 2025.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 1244

INTRODUCER: Senator Calatayud

SUBJECT: Research and Development Tax Credit

DATE: March 7, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	<b>Pre-meeting</b>
2.			FT	
3.			AP	

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**I. Summary:**

SB 1244 increases the combined amount of tax credits which may be awarded to qualified businesses for research and development under s. 220.196, F.S., from \$9 million to \$50 million in any calendar year and provides that the increase first applies to the 2026 allocation of tax credits for expenses incurred in the 2025 calendar year.

The Revenue Estimating Conference (REC) has not considered the bill. However, the REC reviewed a substantially similar bill in 2022, and it was determined that the bill would reduce General Revenue receipts by \$41 million in Fiscal Year 2022-2023 and by \$41 million in future years.

The bill takes effect July 1, 2025.

**II. Present Situation:**

**Federal Tax Credit**

The U.S. Research and Experimentation Tax Credit (R&D)<sup>1</sup> was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage American taxpayers' investment and savings during an

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<sup>1</sup> The U.S. Research and Experimentation Tax Credit is also known as the Research and Development Tax Credit, 26 U.S.C. § 41, Credit for increasing research activities.

economic recession.<sup>2</sup> In 2015, the Protecting Americans from Tax Hikes (PATH) Act permanently extended the R&D after 16 temporary extensions.<sup>3</sup>

In September 2021, the Internal Revenue Service (IRS) issued a *Memorandum* containing new guidance for taxpayers applying for a research credit refund. The memorandum described new requirements for increased documentation and more detailed information, including a declaration under the penalty of perjury verifying that the information and facts provided by the taxpayer are accurate.<sup>4</sup> To qualify as a valid research credit claim request, the taxpayer, at a minimum must:

- Identify all the business components to which the I.R.C. § 41 research credit claim relates for that year.
- For each business component,
  - Identify all research activities performed;
  - Identify all individuals who performed each research activity; and
  - Identify all the information each individual sought to discover.
- Provide the total qualified employee wage expenses, total qualified supply expenses, and total qualified contract research expenses for the claim year.<sup>5</sup>

These changes remained in a grace period until January 10, 2022. Then, they transitioned to a one-year transition period, which was subsequently extended for an additional two years through January 10, 2025. During this period, the IRS provided taxpayers 45 days to perfect research credit claims for refund prior to a final determination by the IRS.<sup>6</sup>

### Florida Tax Credit

Florida law authorizes an R&D tax credit against state corporate income taxes for certain businesses with qualified research expenses.<sup>7</sup> Under the federal definition, a qualified research expense includes in-house research expenses, including any wages paid or incurred to employees, supplies used in the conduct of qualified research, and any amounts paid or incurred to another person for the right to use computers in the conduct of qualified research.<sup>8</sup>

A business is eligible for the tax credit if it:

- Has qualified research expenses in Florida in the taxable year exceeding the base amount;<sup>9</sup>

<sup>2</sup> Francisco Moris, National Science Foundation Report, *The U.S. Research and Experimentation Tax Credit in the 1990s* (July 2005), available at <https://wayback.archive-it.org/5902/20150627200929/http://www.nsf.gov/statistics/infbrief/nsf05316/> (last visited March 7, 2025).

<sup>3</sup> U.S. Department of Treasury, Office of Tax Analysis, *Research and Experimentation (R&E) Credit*, Oct. 12, 2016, available at <https://home.treasury.gov/system/files/131/RE-Credit.pdf> (last visited March 7, 2025).

<sup>4</sup> Internal Revenue Service, Office of the Chief Counsel, *Memorandum Relating to I.R.C. § 41 Research Credit Refund Claims* (September 17, 2021), available at <https://www.irs.gov/pub/irs-lafa/20214101f.pdf> (last visited March 7, 2025).

<sup>5</sup> *Id.*

<sup>6</sup> Internal Revenue Service, *Research Credit Claims (Section 41) on Amended Returns Frequently Asked Questions*, available at <https://www.irs.gov/businesses/corporations/research-credit-claims-section-41-on-amended-returns-frequently-asked-questions#:~:text=The%20IRS%20provided%20a%20grace,Research%20Credit%20claims%20for%20refund.> (last visited March 7, 2025).

<sup>7</sup> Section 220.196(1)(c), F.S. “Qualified research expenses” is defined as research expenses qualifying for the credit under federal law for in-house research expenses incurred in Florida or contract research expenses incurred in Florida.

<sup>8</sup> See 26 U.S.C. § 41(b). Credit for increasing qualified research; qualified research expenses.

<sup>9</sup> “Base amount” means the average of the business’ qualified research expenses in Florida allowed under 26 U.S.C s. 41 for the preceding 4 taxable years. Section 220.196(1)(a), F.S.

- Claims, and is allowed, a research credit for such qualified expenses under federal law for the same taxable year; and
- Is a qualified target industry as defined in former s. 288.106(2)(n) (2022), F.S.,<sup>10</sup> specifically manufacturing, life sciences, information technology, aviation and aerospace, homeland security and defense, cloud information technology, marine sciences, materials sciences, or nanotechnology.<sup>11</sup>

The tax credit is 10 percent of the difference between the current tax year's R&D expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed for fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.<sup>12</sup> The state tax credit taken in any taxable year may not exceed 50 percent of the company's remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied.<sup>13</sup> Any unused credits may be carried forward by the business for up to five years following the year in which the qualified research expenses were incurred.<sup>14</sup>

Currently, the maximum amount of R&D credits that may be approved by the Department of Revenue (DOR) during any calendar year is \$9 million. Applications for the credit may be filed with the DOR on or after March 20 and before March 27 for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are allocated on a prorated basis.<sup>15</sup> Eligible taxpayers are notified of the amount of credit allocated to them and the year for which the credit may be claimed.

According to the DOR's 2024 R&D Allocation Report (the latest report available), for calendar year 2023, the DOR received 153 applications requesting a total of \$88,468,627 in credit. Of the 153 applications, 141 were approved, with the applicants receiving an allocation of the available \$9 million in credit. Each applicant received approximately 10.9 percent of the amount of credit determined in their applications. The 141 approved applications requested \$82,659,847 in credit.<sup>16</sup>

### III. Effect of Proposed Changes:

The bill amends s. 220.196, F.S., to increase the total amount of annual R&D credits available each calendar year from \$9 million to \$50 million in any calendar year and provides that the increase first applies to the 2026 allocation of tax credits for expenses incurred in the 2025 calendar year.

The bill removes obsolete language relating to the 2018 calendar year.

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<sup>10</sup> A target industry business is defined as a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to criteria developed by the Department of Commerce. Former s. 288.106(2)(n), F.S. The Qualified Target Industry Tax Refund Program was repealed in 2023 by ch. 2023-173, Laws of Fla.

<sup>11</sup> See s. 220.196(2)(a)3., F.S.

<sup>12</sup> Section 220.196(2)(b), F.S.

<sup>13</sup> Section 220.196(2)(c), F.S.

<sup>14</sup> Section 220.196(2)(d), F.S.

<sup>15</sup> Section 220.196(2)(e), F.S.

<sup>16</sup> Department of Revenue, *Research and Development Tax Credit for Florida Corporate Income Tax, 2024 Allocation Report*, available at <https://floridarevenue.com/taxes/Documents/flCitRDCredit.pdf> (last visited March 7, 2025).

The bill takes effect July 1, 2025.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

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

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

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

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

The REC has not reviewed the bill. However, a substantially similar bill was reviewed in 2022. The REC estimated that the bill would reduce General Revenue Fund receipts by \$41 million in Fiscal Year 2022-2023 and \$41 million in future years.<sup>17</sup>

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

None.

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<sup>17</sup> Revenue Estimating Conference, CS/SB 952, Increase of R&D Tax Credit Cap (2022), available at [https://edr.state.fl.us/Content/conferences/revenueimpact/archives/2022/\\_pdf/page273-274.pdf](https://edr.state.fl.us/Content/conferences/revenueimpact/archives/2022/_pdf/page273-274.pdf) (last visited March 7, 2025).



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 220.196 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

By Senator Calatayud

38-00902-25

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1                           A bill to be entitled  
2           An act relating to the research and development tax  
3           credit; amending s. 220.196, F.S.; increasing the  
4           total amount of tax credits that may be provided to  
5           business enterprises under the research and  
6           development tax credit; deleting an obsolete  
7           provision; providing applicability; providing an  
8           effective date.

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

11  
12           Section 1. Paragraph (e) of subsection (2) of section  
13   220.196, Florida Statutes, is amended to read:

14           220.196 Research and development tax credit.—

15           (2) TAX CREDIT.—

16           (e) The combined total amount of tax credits which may be  
17   granted to all business enterprises under this section during  
18   any calendar year is \$50 ~~\$9~~ million, ~~except that the total~~  
19   ~~amount that may be awarded in the 2018 calendar year is \$16.5~~  
20   ~~million~~. Applications may be filed with the department on or  
21   after March 20 and before March 27 for qualified research  
22   expenses incurred within the preceding calendar year. If the  
23   total credits for all applicants exceed the maximum amount  
24   allowed under this paragraph, the credits must ~~shall~~ be  
25   allocated on a prorated basis.

26           Section 2. The amendment made by this act to s. 220.196,  
27   Florida Statutes, first applies to the 2026 allocation of tax  
28   credits for expenses incurred in calendar year 2025.

29           Section 3. This act shall take effect July 1, 2025.