

CS/SB 204 by **JU, Passidomo**; (Identical to CS/CS/H 00377) Limitations on Actions other than for the Recovery of Real Property

SB 512 by **Young (CO-INTRODUCERS) Rouson, Steube**; (Identical to H 00113) Greyhound Dogracing

169892 T S RCS RI, Young In title, delete L.2: 04/06 04:49 PM

SB 1398 by **Stewart (CO-INTRODUCERS) Baxley**; (Similar to CS/CS/H 00727) Accessibility of Places of Public Accommodation

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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

REGULATED INDUSTRIES
Senator Hutson, Chair
Senator Hukill, Vice Chair

MEETING DATE: Thursday, April 6, 2017
TIME: 1:00—2:00 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Hutson, Chair; Senator Hukill, Vice Chair; Senators Benacquisto, Bracy, Brandes, Braynon, Gibson, Perry, Steube, Thurston, and Young

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 204 Judiciary / Passidomo (Identical CS/CS/H 377)	Limitations on Actions other than for the Recovery of Real Property; Specifying the date of completion for specified contracts, etc. JU 03/14/2017 Fav/CS RI 04/06/2017 Favorable RC	Favorable Yeas 10 Nays 0
Consideration of this bill was completed on April 4, 2017			
2	SB 294 Bracy (Compare CS/CS/H 653, H 6027, CS/S 744)	Condominium, Cooperative, and Homeowners' Associations; Requiring associations to meet specified financial reporting requirements if they fail to provide unit owners or members with requested financial information; providing that associations that fail to provide such information may not exercise a specified reporting option for a specified period, etc. RI 04/04/2017 Favorable RI 04/06/2017 JU RC	
Consideration of this bill was completed on April 4, 2017			
3	SB 512 Young (Identical H 113, CS/H 743)	Greyhound Dogracing; Providing that a positive test result for anabolic steroids in certain samples taken from a greyhound violates the prohibition on the racing of animals that are impermissibly medicated or determined to have a prohibited substance present, etc. RI 04/06/2017 Fav/CS RC AP	Fav/CS Yeas 8 Nays 2
Consideration of this bill was completed on April 4, 2017.			
4	SB 822 Hutson (Identical H 473)	Intrusion and Burglar Alarms; Providing an exclusion from the requirement for a verification call prior to alarm dispatch for specified premises, etc. RI 04/04/2017 Favorable RI 04/06/2017 CM RC	
Consideration of this bill was completed on April 4, 2017.			

COMMITTEE MEETING EXPANDED AGENDA

Regulated Industries

Thursday, April 6, 2017, 1:00—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 1398 Stewart (Similar CS/CS/H 727)	Accessibility of Places of Public Accommodation; Requiring the Department of Business and Professional Regulation to establish a program to provide for the certification of certain experts; authorizing such experts to advise and provide certain inspections for places of public accommodation relating to the Americans with Disabilities Act; authorizing an owner of a place of public accommodation to request a facility to be inspected for specified purposes; specifying that such certificate is valid for 3 years, etc. RI 04/06/2017 Favorable AGG AP	Favorable Yeas 10 Nays 0
6	SB 1682 Garcia (Similar CS/H 1237)	Condominiums; Prohibiting an attorney from representing a board under certain conditions; providing board member term limits; authorizing, rather than requiring, the division to employ full-time attorneys to conduct certain arbitration hearings; providing that certain activities constitute fraudulent voting activities related to association elections, etc. JU 03/22/2017 Favorable RI 04/04/2017 Fav/CS RI 04/06/2017 RC	

Consideration of this bill was completed on April 4, 2017

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 204

INTRODUCER: Judiciary Committee and Senator Passidomo

SUBJECT: Limitations on Actions other than for the Recovery of Real Property

DATE: April 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	Fav/CS
2.	Kraemer	McSwain	RI	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 204 clarifies when the completion of a construction contract occurs. This date, in some cases, determines when the applicable 4-or 10-year limitations periods begin for bringing a lawsuit for a construction defect or latent construction defect.

Under current law, the start date of the limitations periods begins when both parties to a construction contract complete their obligations. The bill provides that the limitations periods begin at the later of the date of final performance of all the contracted services or the date that final payment for those services is due., for causes of action that accrue on or after July 1, 2017.

The bill has no fiscal impact on state government. See Section V.

The bill has an effective date of July 1, 2017.

II. Present Situation:

Florida law establishes a number of different time periods in which a person must file a lawsuit or is precluded from doing so.¹ Some of these time periods are governed by a statute of limitations, which precludes a person from filing a lawsuit after a specified time period after the

¹ See e.g., ch. 95, F.S.

cause of action otherwise accrues.² A cause of action typically accrues when a person sustains an injury or incurs damages.

Other time periods for filing a lawsuit are governed by a statute of repose, which precludes the filing of a lawsuit after a specified time after the occurrence of an event.³ The purpose for statutes of repose is to prevent a person from being subject to liability in perpetuity in a manner that is supportive of another public policy choice.⁴

Many of the statutes of repose, including a statute of repose for actions alleging a construction defect or latent construction defect, are set forth in s. 95.11, F.S. The statute provides a four-year statute of repose for actions alleging a construction defect based on the design, planning, or construction of an improvement to real property. A 10-year statute of repose is provided for actions alleging a latent construction defect. A latent defect is generally considered to be a hidden or concealed defect that is not discoverable by a reasonable and customary inspection, and of which the owner has no knowledge.⁵

In 2015, the Fifth District Court of Appeal determined in *Cypress Fairway Condominium Association v. Bergeron Construction Company, (Cypress)* when the 10-year limitations period, or statute of repose, for a lawsuit alleging a latent construction defect begins.⁶ The statute construed by the court, s. 95.11(3)(c), F.S., provides that the statute of repose for an action alleging a construction defect begins to run on the later of several events including the “date of completion . . . of the contract.”

In *Cypress*, the construction company argued that the contract was completed and the statute of repose began to run on January 31, 2001, when the Final Application for Payment was made.⁷ The condominium association argued that the contract was not completed until three days later, on February 2, 2001, when the final payment under the contract was made.⁸ This 3-day difference would determine whether the association could proceed with its \$15 million lawsuit,

² See *Kush v. Lloyd*, 616 So. 2d 415, 417-419 (Fla. 1992) (“A statute of limitation runs from the date the cause of action arises; that is, the date on which the final element (ordinarily, damages, but it may also be knowledge or notice) essential to the existence of a cause of action occurs.” (citing *Carr v. Broward County*, 505 So. 2d 568, 570 (Fla. 4th DCA 1987)).

³ See *Kush*, 616 So. 2d 415, at 419. (“The period of time established by a statute of repose commences to run from the date of an event specified in the statute, such as delivery of goods, closing on a real estate sale or the performance of a surgical operation. At the end of the time period the cause of action ceases to exist.” (citing *Carr v. Broward County*, 505 So. 2d 568, at 570 (Fla. 4th DCA 1987)).

⁴ See *Carr v. Broward County*, 541 So. 2d 92, at 95 (Fla. 1989). In *Carr*, the Supreme Court recognized the balancing of public interests that takes place when the Legislature enacts a statute of repose, stating: “[t]he legislature, in enacting this statute of repose, reasonably decided that perpetual liability places an undue burden on manufacturers, and it decided that twelve years from the date of sale is a reasonable time for exposure to liability for manufacturing of a product.” *Id.* at 95, (quoting *Pullum v. Cincinnati, Inc.*, 476 So. 2d 657, 659 (Fla. 1985)). See also *Damiano v. McDaniel*, 689 So. 2d 1059, 1061 (Fla. 1997) (stating that in a statute of repose governing medical malpractice actions, “the legislature attempted to balance the rights of injured persons against the exposure of health care providers to liability for endless periods of time.”).

⁵ See *Alexander v. Suncoast Builders*, 837 So. 2d 1056, 1058 (Fla. 3d DCA 2002).

⁶ *Cypress Fairway Condo. v. Bergeron Constr. Co.*, 164 So. 3d 706, 707 (Fla. 5th DCA 2015).

⁷ *Id.* at 707.

⁸ *Id.*

which was filed within the 10-year period that began February 2, 2001, but beyond the 10-year period that began January 31, 2001.⁹

The court found that the contract was not completed until the final payment was made under the contract, and explained:

Completion of the contract means completion of performance by both sides of the contract, not merely performance by the contractor. Had the legislature intended the statute to run from the time the contractor completed performance, it could have simply so stated. It is not our function to alter plain and unambiguous language under the guise of interpreting a statute.¹⁰

III. Effect of Proposed Changes:

The limitations period or statute of repose for bringing an action alleging a construction defect or latent construction defect is specified in existing s. 95.11(3)(c), F.S. These 4-year and 10-year time periods begin on the date of completion of a contract between the professional engineer, registered architect, or licensed contractor and his or her employer, whichever date is latest.”

The bill clarifies when a construction contract is complete and causes the limitations periods to begin. Specifically, the applicable 4-year statute of repose for construction defects and 10-year statute of repose for latent construction defects begins on the “later of the date of final performance of all the contracted services, or the date that final payment for those services becomes due.” As a result, the duration of a contractor’s liability will not be affected by the timing of a customer’s payments under a construction contract.

The bill provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁹ *Id.* at 707-708.

¹⁰ *Id.*

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

None.

B. Private Sector Impact:

CS/SB 204 provides more certainty in defining the duration of a contractor's liability for a construction defect. As a result, there may be less incentive to litigate whether the statute of repose bars particular construction defect lawsuits.

C. Government Sector Impact:

The Office of the State Courts Administrator anticipates that the bill may result in a small reduction in judicial workload by limiting the number of disputed matters before the courts.¹¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

CS/SB 204 substantially amends section 95.11, Florida Statutes.

This bill re-enacts s. 627.441, F.S., to incorporate the amendment to s. 95.11, F.S., made by the bill.

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 Judiciary on March 14, 2017:

The underlying bill defined the date of the completion of a construction contract as the date on which construction activities were completed, not including construction work to correct deficiencies. The committee substitute provides that the completion of a construction contract occurs on the later of the completion of construction activities or the date the final payment under the contract becomes due.

¹¹ Office of the State Courts Administrator, *2017 Judicial Impact Statement for SB 204* (Jan. 24, 2017).

B. Amendments:

None.

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

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Regulated Industries
ITEM: CS/SB 204
FINAL ACTION: Favorable
MEETING DATE: Thursday, April 6, 2017
TIME: 1:00—2:00 p.m.
PLACE: 110 Senate Office Building

Table with columns for FINAL VOTE (Yea, Nay), SENATORS, and multiple Yea/Nay columns for voting results. Includes names like Benacquisto, Bracy, Brandes, etc.

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

By the Committee on Judiciary; and Senator Passidomo

590-02434-17

2017204c1

1 A bill to be entitled

2 An act relating to limitations on actions other than
3 for the recovery of real property; amending s. 95.11,
4 F.S.; specifying the date of completion for specified
5 contracts; providing applicability; reenacting s.
6 627.441(2), F.S., relating to commercial general
7 liability policy coverage to contractors for completed
8 operations, to incorporate the amendment made by the
9 act to s. 95.11, F.S., in a reference thereto;
10 providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (c) of subsection (3) of section
15 95.11, Florida Statutes, is amended to read:

16 95.11 Limitations other than for the recovery of real
17 property.—Actions other than for recovery of real property shall
18 be commenced as follows:

19 (3) WITHIN FOUR YEARS.—

20 (c) An action founded on the design, planning, or
21 construction of an improvement to real property, with the time
22 running from the date of actual possession by the owner, the
23 date of the issuance of a certificate of occupancy, the date of
24 abandonment of construction if not completed, or the date of
25 completion or termination of the contract between the
26 professional engineer, registered architect, or licensed
27 contractor and his or her employer, whichever date is latest;
28 except that, when the action involves a latent defect, the time
29 runs from the time the defect is discovered or should have been

590-02434-17

2017204c1

30 discovered with the exercise of due diligence. In any event, the
31 action must be commenced within 10 years after the date of
32 actual possession by the owner, the date of the issuance of a
33 certificate of occupancy, the date of abandonment of
34 construction if not completed, or the date of completion or
35 termination of the contract between the professional engineer,
36 registered architect, or licensed contractor and his or her
37 employer, whichever date is latest. Completion of the contract
38 means the later of the date of final performance of all the
39 contracted services or the date that final payment for such
40 services becomes due without regard to the date final payment is
41 made.

42 Section 2. This act applies to causes of action that accrue
43 on or after July 1, 2017.

44 Section 3. For the purpose of incorporating the amendment
45 made by this act to section 95.11, Florida Statutes, in a
46 reference thereto, subsection (2) of section 627.441, Florida
47 Statutes, is reenacted to read:

48 627.441 Commercial general liability policies; coverage to
49 contractors for completed operations.—

50 (2) A liability insurer must offer coverage at an
51 appropriate additional premium for liability arising out of
52 current or completed operations under an owner-controlled
53 insurance program for any period beyond the period for which the
54 program provides liability coverage, as specified in s.
55 255.0517(2)(b). The period of such coverage must be sufficient
56 to protect against liability arising out of an action brought
57 within the time limits provided in s. 95.11(3)(c).

58 Section 4. This act shall take effect July 1, 2017.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

Date: March 14, 2017

I respectfully request that **Senate Bill #204**, relating to Actions Founded on Real Property Improvements, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "K. Passidomo", with a horizontal line extending to the right.

Senator Kathleen Passidomo
Florida Senate, District 28

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/06/2017

204

Meeting Date

Bill Number (if applicable)

Topic Limitation of Actions

Amendment Barcode (if applicable)

Name Warren Husband

Job Title

Address PO Box 10909

Phone (850) 205-9000

Street

Tallahassee

FL

32302

Email

City

State

Zip

Speaking: [] For [] Against [] Information

Waive Speaking: [x] In Support [] Against (The Chair will read this information into the record.)

Representing Florida Associated General Contractors Council

Appearing at request of Chair: [] Yes [x] No

Lobbyist registered with Legislature: [x] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17

Meeting Date

204

Bill Number (if applicable)

Topic Limitations on Actions other than Recovery of Real Property

Amendment Barcode (if applicable)

Name Carol Bowen

Job Title Deputy Chief Lobbyist

Address 3730 Coconut Creek Parkway, Suite 200

Phone (954) 984-0075

Street

Coconut Creek, FL 33006

Email cbowen@abwestflorida.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Builders and Contractors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/6/17

Meeting Date

201

Bill Number (if applicable)

Topic Statute Repeal

Amendment Barcode (if applicable)

Name Rusty Payton

Job Title CEO

Address 2600 Centennial Pkwy

Phone 567-1073

Street

Tallahassee FL

City

State

Zip

Email rpayton@fhba.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Home Builders Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17

Meeting Date

204

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Kari Hebrank

Job Title _____

Address 113 E College Ave. Suite 200

Phone 850-514-5183

Street

Tallahassee
City

FL
State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Home Builders Association / NUCA FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: CS/SB 512

INTRODUCER: Regulated Industries Committee and Senator Young and others

SUBJECT: Steroid Use in Racing Greyhounds

DATE: April 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	McSwain	RI	Fav/CS
2.			RC	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 512 amends s. 550.2415, F.S. to provide that a positive test result for anabolic steroids¹ in a racing greyhound based on samples taken from the greyhound before or after a race is a violation of s. 550.2415, F.S. That statute prohibits racing of an animal that has been impermissibly medicated or determined to have a prohibited substance present in urine or other samples taken from the animal before or immediately after a race. Under current law, testosterone, an anabolic steroid, is permitted to be used for the control of the reproductive cycle in female greyhounds.

CS/SB 512 has an indeterminate fiscal impact on state government. *See* Section V. Fiscal Impact Statement.

The bill provides an effective date of July 1, 2017.

II. Present Situation:

The racing of an animal (horse or greyhound) that has been impermissibly medicated or determined to have a prohibited substance present, is a violation of s. 550.2415, F.S. However, the Division of Pari-mutuel Wagering (division) of the Department of Business and Professional

¹ Steroids include drugs used to relieve swelling and inflammation, such as prednisone and cortisone; vitamin D; and some sex hormones, such as testosterone and estradiol. *See* <http://www.medicinenet.com/script/main/art.asp?articlekey=5556> (last visited Mar. 31, 2017).

Regulation (DBPR), may adopt rules specifying acceptable levels of naturally occurring substances in untreated animals, acceptable levels of environmental contaminants, and trace levels of substances in test samples.²

Classification of a substance in a sample as permissible or impermissible may be dependent upon whether:

- The substance is administered within or outside the allowed time frame before a race is scheduled to begin;
- The racing animal is approved for administration of the substance, or is qualified by gender to receive it;
- The level of the substance exceeds acceptable levels set by administrative rule; and
- The method of administration of the substance is prohibited.³

Certain medications may be administered to racing greyhounds in certain dosages under limited conditions, including the administration of:

- Testosterone or testosterone-like substances, when used for the control of estrus in female racing greyhounds, is permitted, subject to certain conditions;⁴ and
- Sulfa drugs (antibiotics)⁵ under certain conditions.⁶

Certain medications at certain urinary concentrations are not reportable by the state laboratory as violations.⁷

All prescription medication, regardless of method of administration, shall be safeguarded under lock and key when not being actively administered.⁸

Each racetrack permitholder must maintain a detention enclosure for securing urine, blood, or other samples from racing animals.⁹ The trainer of record for each animal is responsible for the

² See s. 550.2415(1)(b), F.S. and Rule 61D-6.007, F.A.C.

³ See Rule 61D-6.007, F.A.C.

⁴ Pursuant to Rule 61D-6.007, F.A.C., track veterinarians may administer injectable testosterone to female racing greyhounds to control their reproductive cycle (estrus control) (limited to administration that occurs on the ground of the pari-mutuel permitholder); kennel owners may use their regular Florida licensed veterinarian or may enter into a collective agreement for the services of a Florida licensed veterinarian to administer injectable testosterone as permitted; the administration of oral testosterone is permitted if it is validly prescribed and properly labeled; and veterinarians that administer injectable or oral testosterone are responsible for maintaining security, inventory, and a retrievable records/log in accordance with the Drug Enforcement Agency (DEA) regulations.

⁵ A “sulfa drug” is an antibiotic used to treat bacterial and some fungal infections. See <http://www.medicinenet.com/script/main/art.asp?articlekey=14498> (last visited Mar. 31, 2017).

⁶ Under Rule 61D-6.007(2), F.A.C., the racing greyhound must be under the care of a Florida licensed veterinarian who also holds an occupational license pursuant to s. 550.105(2)(a), F.S.; the sulfa drugs must be prescribed by a Florida licensed veterinarian who also holds an occupational license pursuant to s. 550.105(2)(a), F.S.; and the sulfa drug is/are not administered within 24 hours prior to the officially scheduled post time of the race.

⁷ These include the detection of (i) caffeine at a urinary concentration less than or equal to 200 nanograms per milliliter; (ii) theophylline and theobromine at a urinary concentration less than or equal to 400 nanograms per milliliter; (iii) procaine at a urinary concentration less than or equal to 2 micrograms per milliliter; and (iv) flunixin at a urinary concentration less than or equal to 250 nanograms per milliliter.

⁸ *Id.*

⁹ Rule 61D-6.002(2), F.A.C.

condition of the animals he or she enters to race,¹⁰ and for securing all prescribed medications, over-the-counter medicines, and natural or synthetic medicinal compounds.¹¹

Samples of blood, urine, saliva, or any other bodily fluid may be collected from a race animal immediately before and immediately after it has raced.¹² If racing officials find, through reasonably reliable evidence, that substances other than permissible substances have been administered, or that otherwise permissible substances have been administered during prohibited periods before the time of a race, evidence of illegal or impermissible substances may be confiscated and the racing animal may be prohibited from racing in the race (scratched).¹³

The winner of every race is sent to the detention enclosure for examination by an authorized representative of the division and the taking of samples to monitor and detect both permissible and impermissible substances.¹⁴ Any other animals that participated in the race may be designated for examination and testing by the stewards, judges, racetrack veterinarian, or a division representative.¹⁵

All samples are collected by staff of the Office of Operations of the division and sent to the University of Florida College of Medicine Racing Laboratory (state laboratory) for analysis.¹⁶ Blood specimens must be collected from racing animals by veterinarians employed by the division or any licensed veterinarian hired or retained by the division, and the collection must be witnessed by the animal's trainer, owner, or designee.¹⁷

The division, in its 85th Annual Report, noted that during Fiscal Year 2015-2016, the state laboratory processed 76,219 samples and performed 313,600 analyses:¹⁸

Sample Type	Horse Urine/Blood	Greyhound Urine	Investigative
Samples Received	16,945	58,274	2
Samples Analyzed	17,001	39,031	2
Number of Analyses	77,268	236,332	2
Positive Results	343	18	n/a

If a prohibited substance is found in a race-day specimen, it is evidence that the substance was administered to, and was in the racing animal while racing.¹⁹ Test results are confidential and exempt from public records for 10 days after the testing of all samples collected on a particular day have been completed and the positive results have been reported to the director of the

¹⁰ Rule 61D-6.002(1), F.A.C.

¹¹ Rule 61D-6.003, F.A.C. Prescription drugs must be prescribed by a licensed veterinarian who has a current veterinarian-patient relationship, and all substances must have a proper label.

¹² Section 550.2415(1)(a), F.S.

¹³ See s. 550.2415(7) and (8), F.S., and Rule 61D-6.005, F.A.C.

¹⁴ Rule 61D-6.005(1), F.A.C.

¹⁵ *Id.*

¹⁶ See *85th Annual Report, Fiscal Year 2015-2016*, (85th Annual Report) at page 31, at

<http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2015-2016--85th--20170125.pdf> last visited Mar. 31, 2017). The division annually contracts with the state laboratory for these services.

¹⁷ Rule 61D-6.005, F.A.C.

¹⁸ See *85th Annual Report*, *supra* note 14, at page 31.

¹⁹ Section 550.2415(1)(c), F.S.

division.²⁰ A prosecution by the division against a licensee for a violation must begin within ninety days after the violation.²¹

The division must notify the owner or trainer, the stewards, and the appropriate horsemen's association of all drug test results.²² At the request of either the affected owner or trainer, the division must send the sample to an independent laboratory for analysis.

If the positive result found by the state laboratory is not confirmed by the analysis made by the independent laboratory, no further administrative or disciplinary action may be pursued by the division.²³ If the positive result is confirmed, or if the volume of the secondary sample is insufficient to do so, then administrative action may proceed.²⁴ There must be a good faith attempt by the division to obtain a sufficient quantity of fluid specimens to allow both a primary test to be made by the state laboratory and a secondary test to be made by an independent laboratory.²⁵

The mere presence of a prohibited substance in a racing animal is evidence of the violation.²⁶ The fine for violations may be up to \$10,000 or the race winnings (purse or sweepstakes amount), whichever is greater.²⁷ Prosecutions must be started within 90 days of the race date.

The penalty schedule for violations incorporates the Uniform Classification Guidelines for Foreign Substances, Version 8.0, revised December 2014 (Uniform Classification Guidelines), by ARCI.²⁸ Pursuant to Florida Administrative Code Rule 61D-6.012, relating to penalty guidelines for drug violations in greyhounds, penalties are imposed when the division finds certain substances have been identified by the state laboratory in a urine sample or blood sample collected from a greyhound participating in a pari-mutuel event, which substances include any drug or medication (unapproved drugs or medications) that:

- Is not approved for veterinary use in the United States by the Food and Drug Administration;
- Cannot be detected by the state laboratory in a urine or blood sample unless the medication was administered within 24 hours of the race; or
- Is detected in urine or blood concentrations that indicate a dosage level that would constitute a threat to the health and safety of the greyhound.²⁹

A first violation may result in a fine between \$1,000 and \$2,500, and a license suspension up to one year or a license revocation. Any subsequent violation may result in a fine between \$2,500 and \$5,000 and a license revocation.³⁰

²⁰ See ss. 550.2415(1)(a), F.S.

²¹ See s. 550.2415(4), F.S.

²² Section 550.2415(5)(a), F.S.

²³ Section 550.2415(5)(b), F.S.

²⁴ Section 550.2415(5)(c), F.S.

²⁵ *Id.*

²⁶ See s. 550.2415(1)(c), F.S.

²⁷ See s. 550.2415(d)(a), F.S.

²⁸ See s. 550.2415(7)(c), F.S.

²⁹ See Rule 61D-6.012(1)(a), F.A.C..

³⁰ *Id.*

Penalties for the presence of other medications or drugs, other than unapproved drugs or medications described above, are based upon the classification of the medication or drug found in the Uniform Classification Guidelines.³¹

III. Effect of Proposed Changes:

CS/SB 512 amends s. 550.2415, F.S., to provide that a positive test result for anabolic steroids³² in a racing greyhound before or after a race is a violation of s. 550.2415, F.S. That statute prohibits racing of an animal that has been impermissibly medicated or determined to have a prohibited substance present in urine or other samples taken from the animal before or immediately after a race. Anabolic steroids (testosterone) are drugs whose uses include the control of the reproductive cycle in female greyhounds.³³

The administration of testosterone or testosterone-like substances for the control of estrus in female racing greyhounds, is permitted by rule of the division, subject to certain conditions.³⁴ Under the bill, no such use of those substances will be permissible.

The bill does not modify the existing procedures for determining violations. Any affected licensee would have the same due process rights, including the opportunity for a hearing, which law currently affords for alleged violations under s. 550.2415, F.S.

The bill provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³¹ See Rule 61D-6.012(2), F.A.C.

³² Steroids include drugs used to relieve swelling and inflammation, such as prednisone and cortisone; vitamin D; and some sex hormones, such as testosterone and estradiol. See <http://www.medicinenet.com/script/main/art.asp?articlekey=5556> (last visited Mar. 31, 2017).

³³ See Rule 61D-6.007, F.A.C.

³⁴ *Id.*

B. Private Sector Impact:

CS/SB 512 will have an indeterminate impact on greyhound tracks, and the owners and trainers of greyhounds. The impact will depend on the frequency that anabolic steroids are found to be present in greyhounds engaged in racing in Florida as a result of testing of samples taken from greyhounds before or immediately after a race.

C. Government Sector Impact:

The DBPR estimates the fiscal impact to state government to be minimal but indeterminate. The fiscal impact will depend upon the extent that violations and associated fines occur as a result of a greyhounds testing positive for the presence of anabolic steroids.³⁵

The DBPR reports that additional expenditures may be needed for the necessary testing. At present, the division contracts with the University of Florida, College of Medicine Racing Laboratory (state laboratory) to provide testing services. The current appropriation for that testing is \$2,266,000.³⁶ The state laboratory has indicated to the division that its testing procedures must be amended to include detection of anabolic steroids, it must purchase a liquid chromatography-mass spectrometer to test approximately 40,000 greyhound racing samples annually (a cost of approximately \$300,000 - \$350,000), and it may need to amend the existing contract to cover that cost.³⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

CS/SB 512 provides that s. 550.2415, F.S., is violated if a sample from a greyhound reflects the presence of anabolic steroids, resulting in a positive test. The term “greyhound” used in the bill is more expansive than the term “racing greyhounds,” defined in s. 550.002(29), F.S., to mean greyhounds used, or bred, raised, or trained to be used, in racing at a pari-mutuel facility and registered with the National Greyhound Association.

The testing of samples from male greyhounds may also result in positive tests if levels of naturally occurring testosterone are not considered and addressed.

VIII. Statutes Affected:

This bill substantially amends section 550.2415 of the Florida Statutes.

³⁵ See 2017 Agency Legislative Bill Analysis (AGENCY: Department of Business and Professional Regulation) for SB 512, dated Feb. 27, 2017 (on file with Senate Committee on Regulated Industries) at page 4.

³⁶ *Id.* at pages 4 -5.

³⁷ *Id.* at page 6.

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 Regulated Industries Committee on April 6, 2017:

The committee substitute revises the title of the bill to “Steroid Use in Racing Greyhounds” from “Greyhound Dogs.”

- B. **Amendments:**

None.

**The Florida Senate
COMMITTEE VOTE RECORD**

COMMITTEE: Regulated Industries
ITEM: SB 512
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Thursday, April 6, 2017
TIME: 1:00—2:00 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE		SENATORS	4/06/2017 Amendment 169892 ¹					
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
X		Benacquisto						
X		Bracy						
X		Brandes						
	X	Braynon						
X		Gibson						
X		Perry						
X		Steube						
	X	Thurston						
X		Young						
		Hukill, VICE CHAIR						
X		Hutson, CHAIR						
8	2							
Yea	Nay	TOTALS	RCS Yea	- Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting



169892

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2017	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Young) recommended the following:

Senate Amendment

In title, delete line 2
and insert:
An act relating to steroid use in racing greyhounds;
amending s.

By Senator Young

18-00388B-17

2017512__

1 A bill to be entitled

2 An act relating to greyhound dogracing; amending s.
3 550.2415, F.S.; providing that a positive test result
4 for anabolic steroids in certain samples taken from a
5 greyhound violates the prohibition on the racing of
6 animals that are impermissibly medicated or determined
7 to have a prohibited substance present; providing an
8 effective date.

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

11
12 Section 1. Paragraph (a) of subsection (1) of section
13 550.2415, Florida Statutes, is amended to read:

14 550.2415 Racing of animals under certain conditions
15 prohibited; penalties; exceptions.—

16 (1) (a) The racing of an animal that has been impermissibly
17 medicated or determined to have a prohibited substance present
18 is prohibited. It is a violation of this section for a person to
19 impermissibly medicate an animal or for an animal to have a
20 prohibited substance present resulting in a positive test for
21 such medications or substances based on samples taken from the
22 animal before or immediately after the racing of that animal. It
23 is a violation of this section for a greyhound to have anabolic
24 steroids present resulting in a positive test for such steroids
25 based on samples taken from the greyhound before or immediately
26 after the racing of that greyhound. Test results and the
27 identities of the animals being tested and of their trainers and
28 owners of record are confidential and exempt from s. 119.07(1)
29 and from s. 24(a), Art. I of the State Constitution for 10 days
30 after testing of all samples collected on a particular day has
31 been completed and any positive test results derived from such
32 samples have been reported to the director of the division or

18-00388B-17

2017512__

33 administrative action has been commenced.

34 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17
Meeting Date

SB 512
Bill Number (if applicable)

Topic steroids in greyhound racing

Amendment Barcode (if applicable)

Name Carey Theil

Job Title executive director

Address 7 Central Street, Suite 210
Street

Phone ~~617-501-6276~~ 617-501-6276

Arlington MA 02476
City State Zip

Email Carey@greyzkusa.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GREYZK USA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB512
Bill Number (if applicable)

Meeting Date _____

Topic Greyhound Racing

Amendment Barcode (if applicable) _____

Name JACK CORI

Job Title _____

Address 730 East Park Ave

Phone 850-893-9995

Jal Fl 32301
City State Zip

Email JACKCORI

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Greyhound Assn

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17

Meeting Date

512

Bill Number (if applicable)

Topic Greyhounds

Amendment Barcode (if applicable)

Name Kate MacFall

Job Title state director

Address 1624 Metropolitan Circle

Phone 800 508-1001

Street

Tallahassee FL

Email kmacfall@humane.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Humane Society of the United States

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

512

8/6/17
Meeting Date

Bill Number (if applicable)

Topic Greyhound Racing Steroids

Amendment Barcode (if applicable)

Name Jennifer Hobgood, PhD

Job Title State Legislative Director

Address PO BOX 20554

Phone 448 5245

TALLAHASSEE FL 32310
City State Zip

Email

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ASPCA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17
Meeting Date

512
Bill Number (if applicable)

1
Amendment Barcode (if applicable)

Topic Greyhounds Racing

Name Ramon Maury

Job Title Maury Management

Address PO Box 10245

Phone 850 222 1568

TALL FL 32302
City State Zip

Email mm99@aol.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Greyhounds Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

6

4/6/17
Meeting Date

512
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name JEFF KOTTKAMP

Job Title _____

Address _____

Phone _____

Street

TALLAHASSEE

FL

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Greyhound Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17

Meeting Date

SB 512

Bill Number (if applicable)

Topic GREYHOUND STEROID USE

Amendment Barcode (if applicable)

Name DON GOLDSTEIN

Job Title DIRECTOR

Address 12321 BRAMFIELD DR
Street

Phone 813-361-7146

RIVERVIEW FL 33579
City State Zip

Email DGOLDSTEIN@TAMPABAYFL.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing GREYHOUND RESCUE AND ADOPTIONS OF TAMPA BAY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-6-17

Meeting Date

SB 512

Bill Number (if applicable)

Topic Greyhound Racing

Amendment Barcode (if applicable)

Name BONNIE BASHAM

Job Title _____

Address 133 OAK ST, # 15

Street

Phone 850 933 7277

City

State

Zip

Email CapitalIdeas@ATT.net

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Vet Brands International

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17
Meeting Date

(4) SB 512
Bill Number (if applicable)

Topic steroids

Amendment Barcode (if applicable)

Name TODD BYERS

Job Title Kennel owner/trainer/ President of Daytona Beach Greyhounds Association

Address 1170 Forestwood st.
Street

Phone 386-299-4162

Daytona Beach FL 32119
City State Zip

Email surftbyers@aol.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Daytona Beach Greyhounds Association (President)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

5

4-06-17
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB-512
Bill Number (if applicable)

Topic STEROIDS BIRTH CONTROL

Amendment Barcode (if applicable)

Name FRED JOHNSON

Job Title KENNEL OWNER

Address 311 W. ASHLEY ST #1401
Street
JACKSONVILLE FL 32202
City State Zip

Phone 904-442-4185

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLA GREYHOUND ASS. JACKSONVILLE, FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17
Meeting Date

SB 512
Bill Number (if applicable)

Topic Steroids

Amendment Barcode (if applicable)

Name LaDonna Hampton

Job Title Greyhound Trainer / Adoption Volunteer

Address 900 Jasmine Ave
Street

Phone (386) 681-8352

Holly Hill FL 32117
City State Zip

Email businessladonna76@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Daytona Beach Greyhound Assoc, Florida Greyhound Assoc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/7/17
Meeting Date

(2)

SB 512
Bill Number (if applicable)

Topic Steroids

Amendment Barcode (if applicable)

Name Jim Blanchard

Job Title President - Florida Greyhound Assoc.

Address 111 E 1st St.

Phone 239-287-5026

JAX FL 32206

Email TBMEL@Comcast.net

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Greyhound Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Policy, *Chair*
Appropriations Subcommittee on Pre-K - 12
Education, *Vice Chair*
Commerce and Tourism
Communications, Energy, and Public Utilities
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR DANA YOUNG
18th District

February 13, 2017

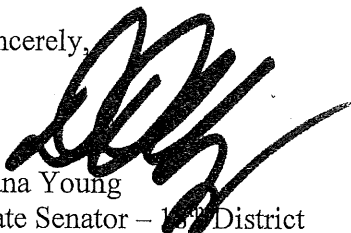
Senator Travis Hutson, Chair
Regulated Industries Committee
330 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399-1100

Dear Chair Hutson,

My Senate Bill 512, Greyhound Dogracing has been referred to your committee for a hearing. I respectfully request that this bill be placed on the next available agenda.

If I may provide any additional information, please do not hesitate to contact me.

Sincerely,


Dana Young
State Senator – 18th District

DY:mfh

cc: Ross McSwain, Staff Director – Regulated Industries Committee

REPLY TO:

- 1211 N. Westshore Blvd, Suite 409, Tampa, Florida 33607 (813) 281-5507
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SB 1398

INTRODUCER: Senator Stewart

SUBJECT: Accessibility of Places of Public Accommodation

DATE: April 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	McSwain	RI	Favorable
2.			AGG	
3.			AP	

I. Summary:

SB 1398 creates a voluntary certification process for experts who advise places of public accommodation regarding compliance with the federal Americans with Disabilities Act (ADA).

Certified experts may inspect places of public accommodation to determine if barriers to access are present in the facility within the meaning of the ADA and the applicable regulations. Under the bill, the Department of Business and Professional Regulation (DBPR) must establish requirements to qualify experts for certification. An owner of a place of public accommodation may request an inspection by a DBPR-certified expert, but is not required to use a DBPR-certified expert for such inspection.

The certified expert must provide the owner with a certification that the place of accommodation conforms to the ADA requirements. This certification is valid for three years after the date of issuance. If a place of public accommodation does not conform to ADA requirements, the bill provides a process for the owner to voluntarily submit a remediation plan to the DBPR. The remediation plan is valid for 10 years after submission. The DBPR is required to develop and maintain on its public website an electronic registry of certifications and remediation plans.

The bill requires the courts of this state to consider remediation plans filed with the DBPR to determine whether an ADA claim was filed in good faith and to evaluate the appropriateness of any award of attorney's fees.

The effective date of the bill is July 1, 2017.

The bill has a negative fiscal impact for Fiscal Year 2017-2018 of \$158,695. *See* Section V. Fiscal Impact Statement.

II. Present Situation:

The Americans with Disabilities Act

In 1990, the United States Congress (Congress) enacted the ADA. The purpose of the ADA is to prevent discrimination against individuals with disabilities in all areas of life, including jobs, schools, transportation, and all private and public areas that are open to the general public.¹

An individual is considered disabled for the purposes of the ADA if the individual has:

- A physical or mental impairment that substantially limits one or more major life activities including but not limited to:
 - Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working;
- A record of such impairment; or
- Being regarded as having such an impairment.²

The ADA consists of five titles:

- I-Employment;
- II-Public Entities;
- III-Public Accommodation;
- IV-Telecommunications; and
- V-Miscellaneous Provisions

Places of Public Accommodation

Title III of the ADA prohibits places of public accommodation (public places) from discriminating against individuals with disabilities. Places of public accommodation include:

- Most places of lodging such as an inn, motel, or hotel;
- Restaurants, bars, and other establishments serving food or drink;
- Movie theatres, stadiums, concert halls, and other places of entertainment;
- Sales or rental establishments, such as bakeries, grocery stores, clothing stores, etc.;
- Service establishments, such as banks, barber shops, beauty shops, gas stations, office of an accountant or lawyer, pharmacy, insurance offices, hospitals, etc.;
- A terminal, depot, or other station used for specified public transportation;
- A museum, library, gallery, or other place of public display or collection;
- A park, zoo, amusement park, or other place of recreation;
- Places of education, such as a nursery, elementary, secondary, undergraduate, or postgraduate private school, etc.;
- A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and
- A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.³

¹ ADA.gov National Network, https://www.ada.gov/ada_intro.htm (last visited on March 28, 2017).

² 42 U.S.C. § 12102 (2017).

³ 42 U.S.C. § 12131 (2017).

In order to prohibit discrimination in public places, the United States Department of Justice (DOJ) publishes standards for minimum requirements for newly designed, constructed, or altered public places. The standards ensure public places are readily accessible and usable by individuals with disabilities. The current standards are the 2010 ADA Standards for Accessible Design.⁴

Accessibility Requirements in Florida

The Florida Building Code (building code) is established by part IV of ch. 553, F.S., also known as the “Florida Building Codes Act.” The purpose and intent of the Florida Building Codes Act is to provide a mechanism for the uniform adoption, updating, amendment, interpretation, and enforcement of a single, unified state building code.⁵

In 1993, the Legislature enacted the Florida Americans with Disabilities Accessibility Implementation Act (Florida ADA) to incorporate the accessibility requirements of the ADA.⁶ The intent of the Florida ADA is to ensure the state’s construction standards and codes receive and maintain certification by the DOJ as equivalent to federal standards for accessibility of buildings, structures, and facilities.⁷ Enforcement of the Florida ADA is the responsibility of local governments and code enforcement agencies.⁸ Federal ADA regulations are incorporated into the Florida Accessibility Code for Building Construction (Florida’s ADA code), as adopted by the Florida Building Commission.⁹ Florida’s ADA code is also incorporated into the building code.¹⁰

Compliance with the building code creates a presumption of compliance with Title III of the ADA.¹¹ However, the Code only applies to new construction, new alteration, buildings where the original construction or any former renovation or alteration was in violation of the permit, or buildings being converted from residential to non-residential or mixed use. The code does not apply to existing buildings that may not be in compliance with the ADA.¹²

Title III ADA lawsuits

If an individual with a disability who believes a public place is in violation of Title III of the ADA, the individual may:

- File a complaint with the Disability Rights Section of the DOJ, and the DOJ may enter into mediation with the public place to resolve any complaints.

⁴ United States Department of Justice, *2010 ADA Standards for Accessible Design*, https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards_prt.pdf (last visited on Mar. 28, 2017).

⁵ The current edition of the code is the Florida Building Code, 5th Edition (2014), available at: https://www.floridabuilding.org/bc/bc_default.aspx (last visited March 28, 2017).

⁶ Ch. 93-183, Laws of Fla., codified as part II of ch. 553, F.S.

⁷ Section 553.502, F.S.

⁸ Section 553.513, F.S.

⁹ See s. 553.503, F.S. The federal ADA regulations are at 28 C.F.R. parts 35 and 36 and 49 C.F.R. part 37.

¹⁰ Section 553.73(1)(a), F.S.

¹¹ Florida Building Commission, Preface, *Florida Building Code Accessibility*, 5th Edition (2014), at: <http://floridabuilding2.iccsafe.org/app/book/toc/2014/Florida/Accessibility%20Code/index.html> (last visited on March 28, 2017).

¹² Section 553.507, F.S.

- File suit in court against the public place for a violation of Title III of the ADA, or
- File suit as a plaintiff against the public place in court.¹³

Title III of the ADA does not require a plaintiff to give notice to the public place before filing suit.¹⁴

A public place is considered to be discriminating against an individual with a disability if the public place fails to make reasonable modifications under the Standards for Accessible Design, unless the modifications would fundamentally alter the nature of the public place.¹⁵

In order for a plaintiff to prevail against a defendant in such lawsuit, the plaintiff must prove three elements:

1. The plaintiff is disabled under the ADA;
2. The defendant owns, leases, or operates a place of public accommodation; and
3. The defendant discriminated against the plaintiff.¹⁶

If a plaintiff prevails in a Title III ADA claim, the plaintiff is entitled to injunctive relief, but is not entitled to damages for past discriminations.¹⁷ However, the ADA grants a court discretion to award attorney's fees to the prevailing party.¹⁸ The U.S. District Court for the Southern District of Florida has previously indicated that a prevailing plaintiff in an ADA claim is "ordinarily awarded attorney's fees in all but special circumstances."¹⁹ However, a prevailing defendant is not entitled to attorney's fees unless the court finds that the plaintiff's claim was brought or litigated in bad faith, i.e., the claim was frivolous, groundless, unreasonable, or the claim became frivolous, groundless, or unreasonable.²⁰

Since 2013, the number of Title III ADA suits filed in federal court has risen by 138 percent. In 2016, Florida ranked second in the nation with 1,663 Title III ADA lawsuits; there were 816 such lawsuits in 2013.²¹ Some of the increase is attributed to serial plaintiffs who file multiple lawsuits, also known as "ADA testers." One Florida resident is reported to have filed more than 1,000 separate ADA lawsuits against Florida businesses, which is approximately 20 percent of all of the ADA compliance lawsuits filed in Florida since 2012.²²

¹³ ADA.gov, *How to file an ADA complaint with the US Department of Justice*, https://www.ada.gov/filing_complaint.htm#5 (last visited Mar. 20, 2017).

¹⁴ *Ass'n of Disabled Ams. v. Neptune Designs, Inc.*, 469 F. 3d, 1357, 1360 (11th Cir. 2006).

¹⁵ *Alumni, LLC v. Carnival Corp.*, 987 F. Supp. 2d 1290, 1303 (S.D. Fla. 2013).

¹⁶ *Norkunas v. Seahorse NB, LLC*, 444 Fed. Appx. 412, 416 (11th Cir. 2011).

¹⁷ *Id.*

¹⁸ 42 U.S.C. s. 12205; *See also, Ass'n of Disabled Ams. v. Neptune Designs, Inc.*, 469 F. 3d, 1359, 1360 (11th Cir. 2006).

¹⁹ *Goodman v. Tatton Enters*, 2012 U.S. Dist. Lexis 189060 79-80 (S.D. Fla. 2012).

²⁰ *Id.*

²¹ See Minh Vu, Kristina M. Launey, and Susan Ryan, *ADA Title III Lawsuits Increase by 37 Percent in 2016*, The Seyfarth ADA Title III News & Insights Blog, January 29, 2017, at: <http://www.adatitleiii.com/2017/01/ada-title-iii-lawsuits-increase-by-37-percent-in-2016/> (last visited on March 29, 2017); and Minh Vu, Kristina M. Launey, and Susan Ryan, *ADA Title III Lawsuits Continue to Rise: 8% Increase in 2015*, The Seyfarth ADA Title III News & Insights Blog, January 15, 2016, at: <http://www.adatitleiii.com/2016/01/ada-title-iii-lawsuits-continue-to-rise-8-increase-in-2015/> (last visited on March 29, 2017).

²² Katie Lagrone and Matthew Apthorp, *Crippled Florida Businesses seek help over serial Americans with Disabilities Act suers*, ABC Action News Tampa Bay, November 21, 2016, at: <http://www.abcactionnews.com/longform/crippled-florida-businesses-seek-help-over-serial-americans-with-disabilities-act-suers>, (last visited on March 29, 2017).

Although the Florida ADA does not provide a cause of action for violations, federal ADA compliance lawsuits may be filed in either federal or state courts; state courts have concurrent jurisdiction over ADA claims.²³

California's Attempt to Curb Title III ADA Claims

In 2003, California, in which over 2,400 Title III ADA lawsuits were filed in 2016,²⁴ created the voluntary Certified Access Specialist program (CAsp) to meet the public's need for qualified individuals to inspect buildings and sites for compliance with accessibility standards including those in the ADA. If a California business chooses to hire a CAsp-certified person to assess ADA compliance, the CAsp will issue a report listing any improvements that need to be made in order to become compliant with federal and state accessibility laws, or state that the business meets applicable standards.²⁵ Participation in the CAsp may offer the property owner "qualified defendant" status in a construction-related accessibility lawsuit if the owner received an inspection of the existing facility, received a report from a CAsp, and has a compliance schedule in place before a construction-related accessibility claim is filed. Benefits for a "qualified defendant" include reduced statutory damages.²⁶

Florida Department of Business & Professional Regulation

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has 12 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;
- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Pari-mutuel Wagering;
- Professions;
- Real Estate;
- Regulation;
- Service Operations; and
- Technology.

²³ See *Hapgood v. City of Warren*, 127 F.S.3d 490 (6th Cir. 1997).

²⁴ See Minh Vu, Kristina M. Launey, and Susan Ryan, *ADA Title III Lawsuits Continue to Rise: 8% Increase in 2015*, The Seyfarth ADA Title III News & Insights Blog, January 15, 2016, at: <http://www.adatitleiii.com/2016/01/ada-title-iii-lawsuits-continue-to-rise-8-increase-in-2015/> (last visited on March 29, 2017).

²⁵ See Division of the State Architect, Voluntary Certified Access Program, <http://www.dgs.ca.gov/dsa/Programs/programCert/casp.aspx> (last visited on Mar. 24, 2017).

²⁶ *Id.*

Fifteen boards and programs exist within the Division of Professions, two boards are within the Division of Real Estate,²⁷ and one board exists in the Division of Certified Public Accounting.²⁸ Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes:

- Board of Architecture and Interior Design, part I of ch. 481, F.S.;
- Florida Board of Auctioneers, part VI of ch. 468, F.S.;
- Barbers' Board, ch. 476, F.S.;
- Florida Building Code Administrators and Inspectors Board, part XII of ch. 468, F.S.;
- Construction Industry Licensing Board, part I of ch. 489, F.S.;
- Board of Cosmetology, ch. 477, F.S.;
- Electrical Contractors' Licensing Board, part II of ch. 489, F.S.;
- Board of Employee Leasing Companies, part XI of ch. 468, F.S.;
- Board of Landscape Architecture, part II of ch. 481, F.S.;
- Board of Pilot Commissioners, ch. 310, F.S.;
- Board of Professional Engineers, ch. 471, F.S.;
- Board of Professional Geologists, ch. 492, F.S.;
- Board of Veterinary Medicine, ch. 474, F.S.;
- Home Inspection Services Licensing Program, part XV of ch. 468, F.S.; and
- Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

The Florida State Boxing Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.²⁹ The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law pursuant to parts I and III of ch. 450, F.S.

III. Effect of Proposed Changes:

Experts

The bill creates s. 553.5141, F.S., to provide a voluntary certification process for experts who advise places of public accommodation regarding compliance with the ADA. Certified experts may inspect places of public accommodation to determine if barriers to access are present in the facility within the meaning of the ADA and the applicable regulations.

Under the bill, the DBPR must establish requirements for experts to qualify for certification. The bill provides that the experts must have sufficient experience, knowledge, or training to advise places of public accommodation regarding the ADA compliance guidelines applicable to places of public accommodation. The bill does not provide a certification fee.

Owners of Places of Public Accommodation

An owner of a place of public accommodation may request an inspection of a facility by a DBPR-certified expert, but is not required to use a DBPR-certified expert.

²⁷ See s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

²⁸ See s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

²⁹ Section 548.003(1), F.S.

If a place of public accommodation conforms to ADA requirements, the certified expert must provide the owner with a certification of conformity, which is valid for three years after the date of issuance. If a place of public accommodation does not conform to ADA requirements, the owner may submit a remediation plan with:

- The date of inspection.
- The name of the certified expert or other person who performed the inspection.
- The specific remedial measures that the place of public accommodation will undertake.
- The anticipated dates each remedial measure will be initiated and completed.

A remediation plan submitted to the DBPR is valid for 10 years after its submission.

The bill requires the DBPR to develop and maintain on its public website an electronic registry of certifications of conformity and remediation plans.

The bill requires the DBPR to adopt rules to administer the certification program.

Court Consideration of Remediation Plans

The bill requires the courts of this state to consider remediation plans filed with the DBPR to determine whether an ADA claim was filed in good faith and to evaluate the appropriateness of any award of attorney's fees.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 1398 does not specify fees for certification as an expert or registration of remediation plans.

C. Government Sector Impact:

The DBPR anticipates that the electronic registry created by the bill will be housed in the computer application for the Florida Building Commission (commission). The computer vendor for the commission estimates costs of \$83,000 for contract services to modify the system for the electronic registry remediation plans and \$70,000 for contracted services related to the registration of experts. The DBPR also anticipates additional software licensing and maintenance costs for the administration of the new expert certification of \$4,490 non-recurring expenditures and \$1,205 recurring expenditures, resulting in a negative fiscal impact of \$158,695 for Fiscal Year 2017-2018.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 553.5141 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.

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

³⁰ See 2017 Agency Legislative Bill Analysis issued by the DBPR for SB 1398, dated March 7, 2017 (on file with Senate Committee on Regulated Industries) at pages 6-7.

**The Florida Senate
COMMITTEE VOTE RECORD**

COMMITTEE: Regulated Industries
ITEM: SB 1398
FINAL ACTION: Favorable
MEETING DATE: Thursday, April 6, 2017
TIME: 1:00—2:00 p.m.
PLACE: 110 Senate Office Building

FINAL VOTE								
Yea	Nay		SENATORS	Yea	Nay	Yea	Nay	Yea
X		Benacquisto						
X		Bracy						
X		Brandes						
X		Braynon						
X		Gibson						
X		Perry						
X		Steube						
X		Thurston						
X		Young						
		Hukill, VICE CHAIR						
X		Hutson, CHAIR						
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Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

By Senator Stewart

13-01016D-17

20171398__

1 A bill to be entitled
2 An act relating to the accessibility of places of
3 public accommodation; creating s. 553.5141, F.S.;
4 providing definitions; requiring the Department of
5 Business and Professional Regulation to establish a
6 program to provide for the certification of certain
7 experts; authorizing such experts to advise and
8 provide certain inspections for places of public
9 accommodation relating to the Americans with
10 Disabilities Act; requiring the department to
11 establish certification requirements; authorizing an
12 owner of a place of public accommodation to request a
13 facility to be inspected for specified purposes;
14 requiring a certified expert to provide the owner of a
15 place of public accommodation a certification of
16 conformity if the facility conforms to specified
17 provisions of the Americans with Disabilities Act;
18 specifying that such certificate is valid for 3 years;
19 specifying that an owner of a place of public
20 accommodation may submit a remediation plan to the
21 department under certain circumstances; providing that
22 a remediation plan is only valid for a certain period
23 of time; requiring a court to consider certain
24 information in specified actions; requiring the
25 department to develop and maintain a website for
26 specified purposes; requiring the department to adopt
27 rules; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

13-01016D-17

20171398__

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Section 1. Section 553.5141, Florida Statutes, is created to read:

553.5141 Americans with Disabilities Act; certification of experts.-

(1) For purposes of this section:

(a) "Certified expert" means a person certified by the department under subsection (2).

(b) "Commerce" means communication, trade, traffic, transportation, or travel:

1. Among the several states;

2. Between any foreign country or any territory or possession and any state; or

3. Between points in the same state but through another state or foreign country.

(c) "Department" means the Department of Business and Professional Regulation.

(d) "Facility" means all or any portion of buildings, complexes, equipment, parking lots, passageways, roads, rolling stock or other conveyances, sites, structures, walks, or other real or personal property, including the site where the building, equipment, property, or structure is located.

(e) "Place of public accommodation" means a facility operated by a private entity whose operations affect commerce and is a private entity as described in 42 U.S.C. s. 12181(7).

(f) "Private entity" means any nongovernmental entity, such as a company or nonprofit organization, corporation, partnership, any other legal entity, or any natural person.

(g) "Registry" means the registry of certified experts and

13-01016D-17

20171398__

59 of remediation plans filed by places of public accommodation and
60 maintained by the department.

61 (2) (a) The department shall establish a program to provide
62 certification for experts who have sufficient experience,
63 knowledge, or training to advise places of public accommodation
64 regarding the compliance guidelines applicable to places of
65 public accommodation under subchapter III of the Americans with
66 Disabilities Act, 42 U.S.C. s. 12182. The certified experts may
67 provide inspections of places of public accommodation to
68 determine if barriers to access are present in the facility
69 within the meaning of 42 U.S.C. s. 12182 and the applicable
70 regulations interpreting that chapter.

71 (b) The department shall establish requirements for experts
72 to qualify for certification under this section.

73 (3) (a) An owner of a place of public accommodation may
74 request that a facility be inspected by a certified expert.
75 However, use of an expert certified under this section is not
76 required.

77 (b) If a place of public accommodation conforms to
78 subchapter III of the Americans with Disabilities Act, the
79 certified expert must provide the owner with a certification of
80 conformity which is valid for 3 years after the date of
81 issuance.

82 (c) If a place of public accommodation does not conform to
83 subchapter III of the Americans with Disabilities Act, the owner
84 may submit a remediation plan to the department which includes:

85 1. The date the place of public accommodation was
86 inspected.

87 2. The name of the certified expert or other person who

13-01016D-17

20171398__

88 inspected the place of public accommodation.

89 3. Identification of specific remedial measures that the
90 place of public accommodation will undertake.

91 4. The anticipated dates of initiation and completion for
92 each remedial measure that the place of public accommodation has
93 agreed to undertake.

94 (d) A remediation plan submitted under paragraph (c) is
95 only valid for 10 years after its submission to the department.

96 (e) In any action brought in this state alleging a
97 violation of subchapter III of the Americans with Disabilities
98 Act, 42 U.S.C. s. 12182, the courts shall consider any
99 remediation plan filed by the place of public accommodation
100 before the filing of the plaintiff's complaint in determining if
101 the plaintiff's complaint was filed in good faith and if the
102 plaintiff is entitled to attorney fees and costs.

103 (4) The department shall develop and maintain on its
104 website, accessible to the public, an electronic registry of
105 certifications of conformity and remediation plans.

106 (5) The department shall adopt rules to administer this
107 section.

108 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17

Meeting Date

1398

Bill Number (if applicable)

Topic ADA Compliance

Amendment Barcode (if applicable)

Name Rusty Patton

Job Title CEO

Address 2600 Centennial Drwy

Phone 567-1073

Street

Tally

City

FL

State

32308

Zip

Email rpatton@fhba.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FL Home Builders Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17
Meeting Date

1398
Bill Number (if applicable)

Topic Accessibility of Places of Public Accommodation Amendment Barcode (if applicable)

Name Carol Bowen

Job Title Deputy Chief Lobbyist

Address 3730 Coconut Creek Pkwy, Ste 200 Phone (954) 4105-6811
Street

Coconut Creek, FL 33006 Email cbowen@cbowenfronda.com
City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Associated Builders & Contractors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/6/17

Meeting Date

1398

Bill Number (if applicable)

Topic ADA Compliance

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title VP General Counsel

Address 227 S. Adams St.

Phone 222-4082

Street

Tallahassee, FL 32301

City

State

Zip

Email samantha@frf.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

6 APR 17

Meeting Date

1398

Bill Number (if applicable)

Topic ACCESSIBILITY OF PLACES OF PUBLIC ACCOMMODATIONS

Amendment Barcode (if applicable)

Name RICHARD TURNER

Job Title GEN COUNSEL: V.P. GOVERNMENTAL RELATIONS

Address 230 S ADAMS ST
Street

Phone 850. 224. 2250

TALLAHASSEE FL 32301
City State Zip

Email rturner@fla.gov

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA RESTAURANT & LODGING ASSOC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04-06-2017
Meeting Date

1398
Bill Number (if applicable)

Topic ADA - Accessibility of Places
of Public Accommodation Amendment Barcode (if applicable)

Name Michael Daniels

Job Title Executive Director

Address 3333 W Pensacola Street

Phone 950-487-3278

Tallahassee FL 32304
City State Zip

Email mdaniels@faast.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FAAST

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

4/6/17

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 1398

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Chief

Address 136 S. Brandywine
Tallahassee, FL 32301

Phone 850-521-1200

Email cjohnson@flchamber.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA CHAMBER of COMMERCE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



The Florida Senate

Committee Agenda Request

To: Senator Travis Hutson, Chair
Committee on Regulated Industries

Subject: Committee Agenda Request

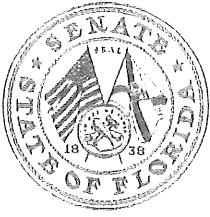
Date: March 15, 2017

I respectfully request that **Senate Bill # 1398**, relating to Places of Public Accommodation, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Linda Stewart".

Senator Linda Stewart
Florida Senate, District 13



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on the Environment
and Natural Resources
Education
Environmental Preservation and Conservation
Governmental Oversight and Accountability

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR LINDA STEWART
13th District

March 15, 2017

Chair Hutson:

I am writing today to request that SB 1398, and act relating to Places of Public Accommodation, be heard in the Regulated Industries Committee. This good bill would expand compliance with the Americans with Disabilities Act while cracking down on a class of unscrupulous attorneys seeking to profit on Florida's small business community for highly technical violations of the ADA.

SB1398 would provide business owners with a resource – a remediation plan developed by certified ADA inspectors – to make their stores compliant, while providing the courts with a tool to reject so-called “drive-by” lawsuits of these premises while they work toward implementing that plan.

Because the Americans with Disabilities Act should be used for its intended purposes rather than profiteering attorneys, I would ask for your committee to hear SB1398. Thank you for your kind consideration. I am,

Sincerely Yours,

A handwritten signature in cursive script that reads "Linda Stewart".

Senator Linda Stewart
District 13

REPLY TO:

- 1726 S. Bumby Avenue, Orlando, Florida 32806 (407) 893-2422 FAX: (888) 263-3680
- 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

CourtSmart Tag Report

Room: EL 110

Caption: Senate Regulated Industries

Case No.:

Judge:

Type:

Started: 4/6/2017 1:03:11 PM

Ends: 4/6/2017 1:51:40 PM Length: 00:48:30

1:03:09 PM Call to order
1:03:31 PM Roll call
1:03:35 PM Quorum is present
1:03:56 PM Senator Hukill is excused
1:04:23 PM CS/SB 204 by Senator Passidomo
1:04:31 PM Sen. Passidomo to explain the bill
1:05:14 PM Kari Hebrank waives in support
1:05:20 PM Rusty Payton waives in support
1:05:24 PM Carol Bowen waives in support
1:05:29 PM Warren Husband waives in support
1:05:41 PM Sen. Passiomo waives close
1:05:45 PM CS/SB 204 is reported favorably
1:06:02 PM SB 1398 by Senator Stewart
1:06:13 PM Sen. Stewart to explain the bill
1:06:59 PM Carolyn Johnson waives in support
1:07:05 PM Michael Daniels speaking in support
1:08:02 PM Richard Turner waives in support
1:08:07 PM Samantha Padgett waives in support
1:08:13 PM Carol Bowen waives in support
1:08:17 PM Rusty Payton waives in support
1:08:25 PM Sen. Stewart waives close on the bill
1:08:35 PM SB 1398 is reported favorably
1:08:55 PM SB 512 by Senator Young
1:09:04 PM Sen. Young to explain the bill
1:10:26 PM Amendment barcode 169892 by Sen. Young
1:10:37 PM Sen. Young to explain the amendment
1:10:47 PM Amendment is approved
1:11:19 PM Don Goldstein waives in support
1:11:37 PM Jim Blanchard speaking in opposition
1:14:10 PM Sen. Benacquisto with a question
1:14:45 PM LaDonna Hampton speaking in opposition
1:16:41 PM Todd Byers speaking in opposition
1:19:15 PM Sen. Thurston with a series of questions
1:22:21 PM Sen. Gibson with a series of questions
1:26:39 PM Fred Johnson speaking in opposition
1:28:14 PM Sen. Steube with a series of questions
1:30:14 PM Bonnie Basham waive in opposition
1:30:25 PM Jeff Kottkamp speaking in opposition
1:32:11 PM Sen. Thurston with a series of questions
1:33:53 PM Ramon Maury waiving in opposition
1:34:03 PM Jennifer Hobgood waives in support
1:34:12 PM Kate MacFall speaking in support
1:35:09 PM Sen. Thurston with a series of questions
1:38:01 PM Sen. Gibson with a question
1:39:31 PM Jack Cory speaking in opposition
1:41:42 PM Chair Hutson with a question
1:43:50 PM Carey Theil speaking in support
1:46:33 PM Chair Hutson with a question
1:47:05 PM Sen. Thurston with a question
1:48:28 PM Debate on the bill
1:48:32 PM Sen. Gibson in debate on the bill
1:49:54 PM Sen. Young to close on the bill

1:51:02 PM CS for SB 512 is reported favorably

1:51:29 PM Meeting adjourned