

<b>Tab 2 SB 1158 by Jones (CO-INTRODUCERS) Book; (Similar to CS/H 00707) Home Kitchen Operations</b>						
978672	D	S	RCS	RI, Jones	Delete everything after	02/08 01:52 PM

<b>Tab 3 SB 448 by Brodeur; (Similar to CS/CS/H 00723) Veterinary Telehealth</b>						
776064	D	S		RI, Brodeur	Delete everything after	02/03 02:52 PM
952970	SD	S		RI, Rouson	Delete everything after	02/07 12:42 PM
233706	A	S	WD	RI, Brodeur	Delete L.65 - 152:	02/08 01:55 PM

<b>Tab 4 SB 1852 by Bradley; (Compare to CS/CS/CS/H 01439) Hourly Rates at Public Lodging Establishments and Vacation Rentals</b>						
725846	D	S	RCS	RI, Bradley	Delete everything after	02/08 01:52 PM

<b>Tab 5 CS/SB 1564 by CM, Hutson; (Compare to CS/CS/H 01095) Telephone Solicitation</b>						
297394	A	S	RCS	RI, Hutson	Delete L.38 - 68:	02/08 02:55 PM

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

**REGULATED INDUSTRIES**  
**Senator Hutson, Chair**  
**Senator Book, Vice Chair**

**MEETING DATE:** Tuesday, February 8, 2022  
**TIME:** 12:30—2:30 p.m.  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Hutson, Chair; Senator Book, Vice Chair; Senators Albritton, Gruters, Hooper, Passidomo, Rodrigues, Rouson, and Stewart

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
<p><b>Senate Confirmation Hearing:</b> A public hearing will be held for consideration of the below-named executive appointment to the office indicated.</p> <p><b>Secretary of Business and Professional Regulation</b></p>			
1	Griffin, Melanie (Tampa)	Pleasure of Governor	Recommend Confirm Yeas 6 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
2	<b>SB 1158</b> Jones (Similar CS/H 707)	Home Kitchen Operations; Exempting home kitchen operations from food permitting requirements under certain circumstances; specifying requirements for the sale of home kitchen food products; preempting regulation of home kitchen operations to the state; authorizing the Department of Agriculture and Consumer Services to investigate complaints about a home kitchen operation, conduct inspections, and impose disciplinary actions, etc.  RI 02/08/2022 Fav/CS AP RC	Fav/CS Yeas 5 Nays 1
3	<b>SB 448</b> Brodeur (Similar CS/CS/H 723)	Veterinary Telehealth; Citing this act as the “Providing Equity in Telemedicine Services (PETS) Act”; defining the term “telemedicine”; authorizing veterinarians to practice telemedicine; requiring veterinarians using telemedicine to establish a veterinarian/client/patient relationship and meet certain professional standards; authorizing employees, agents, or contractors of animal control authorities to administer rabies vaccinations under certain circumstances; providing that a supervising veterinarian assumes responsibility for any person vaccinating animals at the supervising veterinarian’s discretion or under his or her supervision, etc.  RI 01/18/2022 Temporarily Postponed RI 02/08/2022 Temporarily Postponed AG RC	Temporarily Postponed

**COMMITTEE MEETING EXPANDED AGENDA**

Regulated Industries

Tuesday, February 8, 2022, 12:30—2:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1852</b> Bradley (Compare CS/CS/H 1439)	Hourly Rates at Public Lodging Establishments and Vacation Rentals; Prohibiting an operator of a public lodging establishment or a vacation rental from offering an hourly rate for an accommodation, etc.  RI 02/08/2022 Fav/CS CM RC	Fav/CS Yeas 6 Nays 0
5	<b>CS/SB 1564</b> Commerce and Tourism / Hutson (Similar CS/H 1095)	Telephone Solicitation; Authorizing the use of automated telephone dialing systems with live messages in response to certain inquiries; providing a limitation; revising provisions for the award of attorney fees and costs; providing for retroactive application, etc.  CM 01/24/2022 Fav/CS RI 02/08/2022 Fav/CS RC	Fav/CS Yeas 6 Nays 0

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Other Related Meeting Documents

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STATE OF FLORIDA  
DEPARTMENT OF STATE

Division of Elections

I, Laurel M. Lee, Secretary of State,  
do hereby certify that

*Melanie S. Griffin*

is duly appointed

Secretary,

Department of Business and Professional  
Regulation

for a term beginning on the Twenty-Second day of December,  
A.D., 2021, to serve at the pleasure of the Governor and is  
subject to be confirmed by the Senate during the next regular  
session of the Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Twenty-Sixth day of January, A.D., 2022.*



*Laurel M. Lee*

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2" x 11" document.



**RON DESANTIS**  
GOVERNOR

RECEIVED

2022 JAN 12 PM 2:37

OFFICIAL COLLECTIONS  
TALLAHASSEE, FL

December 22, 2021

Secretary Laurel M. Lee  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 20.165, Florida Statutes:

Mrs. Melanie Griffin  
4220 West Corona Street  
Tampa, Florida 33629

as Secretary of the Department of Business and Professional Regulation, succeeding Julie Brown, subject to confirmation by the Senate. This appointment is effective January 3, 2022, for a term ending at the pleasure of the Governor.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron DeSantis".

Ron DeSantis  
Governor

RD/kk

**OATH OF OFFICE**  
(Art. II, § 5(b), Fla. Const.)

RECEIVED  
DEPARTMENT OF STATE

2022 JAN 25 PM 12:12

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

STATE OF FLORIDA

County of Leon

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Secretary- Department of Business and Professional Regulation  
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Melanie P. Griffin  
Signature

Sworn to and subscribed before me by means of  physical presence or  
 online notarization, this 25<sup>th</sup> day of January, 2022.

Dixie Irene Parker  
Signature of Officer Administering Oath or of Notary Public



Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

**ACCEPTANCE**

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

2601 Blair Stone Road

Street or Post Office Box

Tallahassee, FL 32399-1000

City, State, Zip Code

Melanie S. Griffin

Print Name

Melanie P. Griffin  
Signature

ML126577

# QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

01/04/2022

1. Name: Mrs. Griffin Melanie Shoemaker  
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 2601 Blair Stone Road Tallahassee  
Street Office # City  
Florida 32399-1000 (850) 487-9512  
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 4220 West Corona Street Tampa Hillsborough  
Street City County  
Florida 33629 :  
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business  Residence  Fax # \_\_\_\_\_ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
N/A - have lived at residence listed above since July 1, 2014.			

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From
N/A		

5. Date of Birth: \_\_\_\_\_ Place of Birth: Bradenton, FL, Manatee County, USA

6. Social Security Number: \_\_\_\_\_

7. Driver License Number: \_\_\_\_\_ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes  No  If "Yes" Explain

Nee: Melanie Christine Shoemaker  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

RECEIVED  
 2022 JAN 20 AM 10:47  
 JUDICIAL ELECTIONS  
 TALLAHASSEE, FL

9. Are you a United States citizen? Yes  No  If "No" explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you are a naturalized citizen, date of naturalization: \_\_\_\_\_

10. Since what year have you been a continuous resident of Florida? 1980

11. Are you a registered Florida voter? Yes  No  If "Yes" list:

A. County of Registration: Hillsborough B. Current Party Affiliation: Republican

12. Education

A. High School: Manatee High School, Bradenton, FL Year Graduated: 1999  
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name &amp; Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>Florida State University, Tallahassee, FL</u>	<u>1999-2003</u>	<u>Bachelor of Science, Finance</u>
<u>Florida State University, Tallahassee, FL</u>	<u>2003-2006</u>	<u>Master of Business Administration</u>
<u>Florida State University, Tallahassee, FL</u>	<u>2003-2006</u>	<u>Juris Doctor</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes  No  If "Yes" list:

A. Dates of Service: \_\_\_\_\_

B. Branch or Component: \_\_\_\_\_

C. Date & type of discharge: \_\_\_\_\_

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes  No  If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name &amp; Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>DBPR - 2601 Blair Stone Rd, Tallahassee, FL</u>	<u>State Agency</u>	<u>Secretary</u>	<u>01/01/2022-Present</u>

\*Shumaker, Loop & Kendrick, LLP, 101 E. Kennedy Blvd, Ste 2800, Tampa, FL 33602 Law Firm/Attorney 07/09/2019-Present \*Solely for wrapping up matters that were open before appointment, once matters are wrapped up a full resignation will occur.

Shumaker Advisors Florida; 101 E. Kennedy Blvd, Ste 2800, Tampa, FL 33602 Senior Advisor 07/09/2019-12/31/2021

Please consult resume attached for additional employment information.

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes  No   
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>Please consult resume attached.</u>		

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Service as DBPR Secretary is a culmination of all of my educational and professional experiences. During undergrad and grad school, I focused on obtaining Finance, MBA, and Law Degrees, education focused on best serving the business community that makes up DBPR's constituency. During this time, I twice worked at DBPR as a Law Clerk and served as a Speaker's House Fellow in the Florida House of Representatives Business Regulation Committee in addition to other government employment. As a lawyer, my nearly 15-year law practice has centered almost exclusively on serving business clients. Additionally, for nearly the past three years, I have been a small business owner, allowing me to walk in the shoes of the constituents served by DBPR. The resume attached includes several additional experiences and achievements that have prepared me to best serve the State of Florida in this role.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes  No  If "Yes", list:

Florida Bar Member 0037841

Admitted to the US District Court Middle District of Florida

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes  No  If "Yes", list:

Please consult resume attached.

D. Identify all association memberships and association offices held by you that relate to this appointment:

Please consult resume attached.

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes  No  If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes  No  If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
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Tampa Bay Area Transit Authority (TBARTA), Policy Chair, Finance and Legislative Committee member	08/15/2017-10/25/2019		
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City of Orlando Civil Service Board, Vice Chair, 2008-2010			
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B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: See attached sheet.

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
<u>See attached sheet.</u>		

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes  No  If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes  No  If "Yes", list:

A. Title of office: \_\_\_\_\_ C. Reason for suspension: \_\_\_\_\_  
B. Date of suspension: \_\_\_\_\_ D. Result: Reinstated  Removed  Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes  No  If "Yes", list:

A. Title of Office: \_\_\_\_\_  
B. Term of Appointment: \_\_\_\_\_  
C. Confirmation results: \_\_\_\_\_

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes  No  If "Yes", explain:

\_\_\_\_\_  
\_\_\_\_\_

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes  No  If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate</u>	<u>Original</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
<u>Title &amp; Number</u>	<u>Issue Date</u>		
FL Bar - 0037841	05-14-2007	Florida Bar	No Disciplinary

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes  No  If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes  No  If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
See attached sheet.			

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes  No

A. Did you receive any compensation other than reimbursement for expenses? Yes  No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Jamal Allen Sowell,			
Speaker Chris Sprowls,			
Benjamin John Gibson, Esq.,			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held &amp; Term</u>	<u>Date(s) of Membership</u>
Please consult resume attached.			

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes  No  If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes  No

19. B.

Given the length of time that has passed since serving on these boards, exact attendance records would need to be requested from these entities. Such records will be obtained upon request; in the meantime, the attendance requirements for both boards were fully satisfied.

25. B.

My husband, Michael E. Griffin, is the Tampa Market Leader for Savills, Inc. ("Savills"), a global real estate services provider. Per Section 34, Chapter 2021-37 Laws of Florida, all state agencies shall engage one of two real estate brokers under contract (Contract #:DMS 12/13-007B, as amended) with the Florida Department of Management Services ("DMS") for their real estate needs. In 2014, Savills (which acquired Vertical Integration, Inc., the original contract holder in 2015) became one of such two tenant brokers. During the last four years, Savills has successfully completed various real estate brokerage and consulting assignments for DBPR with the last assignment completed more than two and a half years ago. There are no active or pending projects between Savills and DBPR. Additional information regarding transactions in which Savills engaged on behalf of DBPR or other state agencies will be provided upon request.

During the last four years, local government contracts include Hillsborough County, Hillsborough Community College, St. Petersburg College, and Miami-Dade College. Additional information regarding transactions in which Savills engaged on behalf of local governments and state colleges will be provided upon request.

# MELANIE S. GRIFFIN, ESQ.

4220 West Corona Street ▪ Tampa, Florida 33629 ▪ [melanie@spreadyoursunshine.com](mailto:melanie@spreadyoursunshine.com) ▪

## EXPERIENCE

**Shumaker, Loop & Kendrick, LLP; Shumaker Advisors Florida** July 2019 – Present  
*Of Counsel Attorney; Senior Advisor, Business-to-Business Relationships*

- Mastered the CARES Act, including the two main loans it addresses, the Paycheck Protection Program (“PPP”) and the Economic Injury Disaster Loan (“EIDL”); co-presented webinars on the stimulus package, including to nationwide audiences and on behalf of The Florida Bar, with more than 2,800 people registered for the latter event.
- Author articles with resources for small businesses and their employees; assist with fundraisers for and promotions of local Tampa businesses, including Fox13 Tampa Bay Feature; completed multiple 11- and 13-hour shifts for 24/7 Coronavirus Hotline, helping dozens of callers navigate and find solutions to their Coronavirus challenges; hosted Unemployment 101 Webinar regarding Florida’s application process.
- Advise clients regarding and litigate numerous business, governmental affairs, employment law and complex commercial litigation matters, including those involving trade secrets, non-competition, non-solicitation and confidentiality agreements, intellectual property, real estate, and a variety of additional contractual issues.
- Serve as a part of the Business Development Committee for the Tampa Office, the largest law firm in Tampa Bay and an Am Law 200 Firm, a ranking of the 200 highest-grossing law firms in the United States.
- Champion diversity and inclusion issues, such as by coordinating educational programming, including *Effective Solutions for Supporting & Promoting Women Lawyers* and *Bystander Intervention & Disrupting Unconscious Bias* and authoring and presenting *Sexual Harassment in the #MeToo Era* at The Florida Bar Annual Ethics Update and *Warning Signs: How to Spot and Help Someone Who Is In Trouble (and How to Know if You Are in Trouble Yourself)* at the Well Lawyer: How to Thrive as a Legal Professional Mental Health & Wellness Symposium.

**Spread Your Sunshine, LLC**  
*Founder/Owner*

July 2019 – Present

- Found and operate for-profit business with multiple employees that provides speaking and professional training services and designs, manufactures and sells inspirational products and gifts, including at national industry shows.
- Sought-after keynote speaker, webinar presenter, and podcast host and guest who has addressed thousands of audience members, including nationally and internationally at: Fortune 500 companies; Am Law 200 law firms; one of The Big Four accounting firms; ALFA International Client Seminar; Best Buddies International; Water & Wastewater Equipment, Treatment & Transport Show; US/Canada KNOW Women Summit; Women Empower X Los Angeles and Virtual International; Delta Zeta Sorority National Convention; American Bar Association; National Court Reporters Association; New York City Bar Association; Women’s Conference of Florida; Florida Association for Women Lawyers and several of its Chapters; The Florida Bar and several of its Sections, Divisions, Committees, and County Bar Associations; Paralegal Association of Florida, Inc.; multiple universities, including their Colleges of Business, Schools of Law, and Sports Teams; multiple Podcasts, Vlogcasts, and Social Media Shows; Tri-City Alumnae Panhellenic Association; Greater Orlando Builders Association; Working Women of Tampa Bay; multiple Florida Chapters of the Society for Human Resource Management, Junior League, and Inn of Court; Tampa Bay Chapters of the Association of Fundraising Professionals, Association for Corporate Counsel, and American Planning Association; Tampa Bay Chamber of Commerce; Pinellas County District of the Future Business Leaders of America; Lakeland Chapter of Girls, Inc.; and more.
- Host successful Blog featuring multiple resources and published articles that help small businesses, entrepreneurs, and additional professionals and students.

**Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.**  
*Equity Shareholder, Tampa Office Managing Partner (2014-19)*

May 2006 – August 2006 (Law Clerk)  
April 2007 – July 2019 (Attorney)

- Founded, managed and grew the firm’s Tampa Office from the ground up as the sole Shareholder in such location for more than five years, including recruiting and overseeing all talent, attracting clients to work with the Office, developing nearly all work completed by the Office’s employees, liaising with the firm’s Board on behalf of the Office, processing the Office’s billing, managing its budget, evaluating employee performance, cultivating positive employee morale, mentoring new associates, and completing all additional administrative tasks and substantive work generated by the Office.
- Successfully litigated numerous matters involving complex commercial litigation in state, federal and administrative courts, including first-chairing trials in the Complex Business Litigation Court (obtained six-figure

judgments and injunctive relief), first-chairing an administrative appeal before the Florida Department of Economic Opportunity, second-chairing a weeklong trial before Florida's Division of Administrative Hearings (significant Recommended Order entered in client's favor), and arguing multiple motion and evidentiary hearings, primarily in the Complex Business Litigation Court and Middle District of Florida Federal Court, including obtaining multiple rarely-granted preliminary injunctions, such as an injunction preventing the sale of commercial property valued at \$27 million and two injunctions preventing the use of highly-valuable intellectual property, protecting the clients from significant lost profits.

- Provided effective trust and probate litigation counsel to multiple prominent Florida families named in disputes each valued at several million dollars, negotiating favorable settlements in the best interests of the clients.
- Served as local counsel for several large corporate clients, advising on and litigating employment law and contract matters, serving as a trusted advisor, and strategizing best business practices and leadership strategies.
- Mentored and advocated on behalf of diversity and inclusion of underrepresented members of the profession, such as by creating *The Business Case for Mentoring* presentation and accompanying in-depth article first presented at the ALFA International Client Seminar and on behalf of The Florida Bar Center for Professionalism; serving as one of eleven international members of ALFA's Diversity & Inclusion Committee; keynoting the 2018 American Bar Association ("ABA") Tort Trial & Insurance Practice Group's ("TIPS") Fall Leadership Fellows Meeting, 2018 FAWL Annual Summit, and 2019 ABA TIPS Section Conference; and assisting with the launch of Nora Riva Bergman's book *50 Lessons for Women Lawyers from Women Lawyers* at the New York City Bar Association, including authoring *Dream Beyond Perfection!*, published as Lesson #20.

### **PROFESSIONAL AWARDS & HONORS**

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- Preeminent AV Rating, Martindale-Hubbell, 2010 – Present
- *Best Lawyers in America*, Commercial Litigation, 2017-2022
- *Super Lawyers*, Commercial Litigation, 2021; *Rising Stars*, Commercial Litigation, 2010–20
- *Legal Elite*, *Florida Trend*, Commercial Litigation, 2021, 2015-18; *Up & Comer*, 2010-14
- Alumni Association Service Award, Florida State University College of Law, 2020
- Mentor of the Year Award, The Florida Bar Solo & Small Firm Section, 2019
- *KNOW Tampa* Feature, 2018; *The Best of KNOW* Feature, 2019
- Outstanding Woman Lawyer of Achievement Award, The Florida Bar Young Lawyers Division, 2018
- *Attorney Succeeds by Spreading Her Sunshine* Year-End Feature Article, *Tampa Bay Times*, 2017
- *No More What Ifs*, Giving Issue Feature Article, *Business Observer*, 2017
- The Inspire Award, Florida State University Alumni Association, 2017
- Recent Alumni Achievement Award, Florida State University College of Business, 2017
- Woman of Promise Award, Girl Scouts of West Central Florida, 2017
- Inspiring Woman in Business, *Tampa Bay Metro*, 2016-17
- Notable 'Nole (Inaugural Class), Florida State University Alumni Association, 2016
- Alumni of the Month, Tampa Bay Seminole Club, 2016, 2020
- Business Woman of the Year Angie Joseph Excellence in Mentorship Award & Legal Services Finalist, *Tampa Bay Business Journal*, 2016
- Up & Comer Award, *Tampa Bay Business Journal*, 2015
- Featured Cover Story, Florida State University College of Law Biannual Alumni Magazine, Fall 2013
- 40 Under 40 Award, *Orlando Business Journal*, 2011
- Most Productive Board Member Award, The Florida Bar Young Lawyers Division, 2011
- Leader in the Law Award, Florida Association for Women Lawyers, 2010
- Most Productive Young Lawyer Award, The Florida Bar Young Lawyers Division, 2009

### **PROFESSIONAL LEADERSHIP & MEMBERSHIP**

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- The Florida Bar Young Lawyers Division Board of Governors, 2009-14
  - President, One of the Largest Young Lawyer Divisions in the US with 25K+ Members, 2013-14
- Central Florida Association for Women Lawyers, 2007 – Present
  - President, Then the Largest Women Lawyers Organization in FL with 500+ Members, 2011-12
  - State Chapter of the Year Award Bestowed to CFAWL at Conclusion of Presidency, 2012
- Hillsborough Association for Women Lawyers, 2014 - Present
  - Executive Board of Directors: President, 2021-22; President-Elect, 2020-21; Vice President of Programs, 2019-20; Treasurer, 2018-19; Director-at-Large, 2015-18
- Florida Association for Women Lawyers, 2007 – Present

- Board of Directors, 2016-17
- Hillsborough County Bar Association, 2014 – Present
  - Mentor, Mentoring Program, 2021-22
  - Trial & Litigation Section Executive Board, 2016-19
  - Programs Chair, 2015-16
- Orange County Bar Association, 2007-19
  - Young Lawyers Section Executive Board, 2008-14
- JD Advisor, Florida State University College of Law, 2019 – Present
- Board of Visitors, Florida State University College of Law, 2018 – Present
- Guest Lecturer, Florida State University College of Business, 2021
  - Guest Speaker, Inaugural Summit for the Advancement of Women in Business, 2021
- Guest Lecturer, Florida State University College of Law, 2017-19
- The Florida Bar Annual Convention Chair, 2017; Co-Chair, 2016
- The Florida Bar Leadership Academy Committee, 2014-18
  - Vice Chair, 2015-18
- Florida Supreme Court Historical Society, 2013-19
- Florida Supreme Court Commission on Professionalism, 2012-15
- The Florida Bar Foundation, Fellow, 2010 – Present
  - *Tampa Bay Times* Op Ed, “Investing in Civil Legal Aid Pays Off,” 2017
- Board of Visitors, Florida Agricultural & Mechanical University College of Law, 2008-12
  - Mentoring Committee Chair, 2011-12

#### **CIVIC LEADERSHIP & MEMBERSHIP**

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- Women for Florida State University, 2016 – Present
  - Tampa Chapter Leadership Team
- Tampa Bay Chamber of Commerce, 2014 – Present
  - Leadership Tampa, 2015-16 Class; Leadership Tampa Alumni, 2016 - Present
  - Emerge Protégé Mentor, 2014-18
- FSU Student Affairs Development Council f/k/a Torchbearers Board of Directors, 2010 – Present
- Annual Fund Class Agent, Florida State University College of Law, 2007 – Present
- Burning Spear, Inc., 2001 – Present
  - Corporate Board Chairwoman, 2017-21
  - Student President, 2004-05
- American Heart Association, 2022 Tampa Bay Heart Ball Co-Chair, 2021-22
- Working Women of Tampa Bay, 2015-21
  - Gratitude Celebration Panelist, 2019
  - Women with Impact Summit Panelist, 2018
  - Statewide Conference Speaker, 2017
- Tampa Bay Area Regional Transit Authority (“TBARTA”), 2017-19
  - Policy Committee, Chair, 2017-19
  - Finance Committee, 2017-19
  - Legislative Committee, 2018-19
- University of South Florida Women in Leadership & Philanthropy, 2013-19
  - American Marketing Association Keynote & Mentor Roundtable Featured Woman Leader, 2019
  - Leadership & Civic Engagement Leadership Series Keynotes, 2018-20
  - Mentoring Committee, 2014-17
- John Germany Young Readers “Read to Dream” Initiative Program Volunteer, 2016-2018
- Guest Leader, Florida State University LeaderShape Institute, 2017
- Featured Alumni, FSU Service Scholar 20-Year Reunion Celebration Roundtable Conversations, 2017
- Girl Scouts of West Central Florida Camp CEO Mentor, 2017
- Class of 2006 10-Year Reunion Chair, Florida State University College of Law, 2016
- Poynter Institute Community Outreach Board, 2015-16
- Frameworks of Tampa Bay Board of Directors, 2014–16
  - Board of Directors Vice Chair, 2015-16
  - Community Outreach & Development Committee Chair, 2015-16
- Class of 1999 10-Year Reunion Co-Chair, 20-Year Reunion Chair, Manatee High School, 2009, 2019
- ALS Association Orlando Walk to Defeat ALS Chair, 2009-10; Co-Chair, 2008-09

- Highest Fundraising & Walker Recruitment in the History of ALS Florida Walks
- Steven G. Guy Foundation - Inaugural Board of Directors
  - Treasurer, 2008-10
- City of Orlando Civil Service Board, Vice Chair, 2008-10
- Leadership Orlando, Class 76, 2008-09
- Junior League of Greater Orlando, 2007-11
  - Girls Advocacy Program Volunteer at the Orange Regional Juvenile Detention Center
- Tri-for-Guy, FSU College of Law Triathlon Team, Raised Over \$100,000 for ALS, 2007-09
- Orange County Regional History Center Young Professionals Advisory Board, 2007-09
  - Vice President of Philanthropy
- Great American Teach-In Volunteer, Multiple Years During Professional Career

## EDUCATION

**Florida State University College of Law, Tallahassee, FL** 82.9216/100 GPA  
Juris Doctor, December 2006

**Florida State University College of Business, Tallahassee, FL** 3.91/4.00 GPA  
Master of Business Administration, December 2006 *Summa Cum Laude*

## J.D./M.B.A. HONORS, ACTIVITIES AND ADDITIONAL WORK EXPERIENCE

- Moot Court – Intramural Competition Director; 2005 & 2006 Federal Securities Litigation Competition; 2005 Workers' Compensation Competition; Order of the Barristers
- Business Review - Editor-in-Chief
- Journal of Land Use & Environmental Law – Executive Editor; Published Book Review
- Journal of Transnational Law & Policy – Article & Notes Editor; Outstanding Editor Award
- Book Awards (Highest Grade in Class) – Legal Writing & Research II; Federal Securities Litigation Seminar
- Dept. of Business & Professional Regulation (Law Clerk), May – September 2004 & August 2006 – March 2007  
Drafted legal memoranda for district courts of appeal, agency opinions, and documents related to the Department's rule-making authority; completed legal research and analysis of the Florida Statutes; prepared appellate records.
- Stiles, Taylor & Grace, P.A. (Law Clerk), August 2005 – May 2006  
Learned workers' compensation law and defense; assisted in all aspects of administrative hearings, judicial proceedings, rule challenges and lobbying.
- US Staffing/US Labor, Inc., Consultant (M.B.A. Summer Externship), May – August 2005  
Created national marketing materials; analyzed company procedures from inception to signing major clients; produced flow charts of standard operating procedures; interviewed multiple levels of management.
- Florida House of Representatives (Speaker's House Fellowship), September 2004 – May 2005  
Researched and drafted proposed legislation and amendments and drafted memorandums analyzing the legal implications of legislation pending before the Business Regulation Committee.

**Florida State University, Tallahassee, FL** 3.732/4.00 GPA  
Bachelor of Science, Finance, May 2003 *Academic Honors Program, Magna Cum Laude*

## UNDERGRADUATE HONORS, ACTIVITIES AND WORK EXPERIENCE

- FSU Hall of Fame – One of five seniors inducted in 2003
- 2003 College of Business Humanitarian of the Year after service as a Service Scholar from 1999-2003
- Student Government – Student Body Treasurer; Senate Majority Leader
- Delta Zeta Sorority – President; Recipient of National Awards and Scholarships
- TechSource International, Inc. (Summer Internship), May – August 2003
- British Parliament (Internship – Research Assistant to M.P. Jim Knight), January – May 2003
- Executive Office of the Governor (Staff Assistant to the Lt. Governor), September 2001 – December 2002
- Florida House of Representatives (Intern/Committee Staff), September 1999 – May 2000

## BEYOND THE PROFESSION

Native Floridian; Wife of 12 years to Mike Griffin, Mom to 3-year-old son Maverick, and Best Friend to Golden Labrador Molly, an early retiree from Southeastern Guide Dogs; Diehard FSU Seminole, especially during college football; Honorary USF Bull through marriage; Former Marathon Runner; Peloton Athlete; Powered by Diet Coke; Hallmark Movie Channel's #1 Fan; Loves laughter, positivity, Florida sunshine and our State's beautiful beaches.



CERTIFICATION

STATE OF FLORIDA

COUNTY OF Leon

Before me, the undersigned Notary Public of Florida, personally appeared Melanie S. Griffin, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Melanie S. Griffin  
Signature of Applicant-Affiant

Sworn to and subscribed before me this 4th day of January, 2022.

Dixie Irene Parker  
Signature of Notary Public-State of Florida

Dixie Irene Parker  
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: April 13, 2023

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_



(seal)

RECEIVED  
2022 JAN 20 AM 10:47  
DIVISION OF ELECTIONS  
TALLAHASSEE, FL

## Senate Confirmation Questionnaire

*Please mail to: Room 316, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250*

The information from this page has been requested and will be used exclusively for Minority Statistics.

**Please type or use blue ink.**

1. Board of Interest: Secretary - Florida Business and Professional Regulation

2. Current Employer and Occupation: Department of Business and Professional Regulation

3. Are you applying for reappointment: Yes  No

4. \*Do you have a disability? Yes  No  If "Yes", please describe your disability that would qualify you for this appointment, if applicable.

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5. \*Sex: Male  Female

6. \*Race: White  African-American   
Hispanic-American  Asian/Pacific Islander   
Native-American/Alaskan Native

7. Do you now, or have you, within the last three years, been a member of any club or organization that, to your knowledge, in practice or policy, restricts membership or restricted membership during the time that you belonged on the basis of race, religion, national origin, or gender? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and state whether you intend to continue as a member if you appointed by the Governor.

8. One of the Governor's top priorities is to improve the conditions of the children living in our state. Would you be willing to spend an hour a week with a child in need in your community? If so, please identify the type of program and/or activity you would be willing to participate in as a mentor.

MELANIE S. GRIFFIN

Applicant's Name, including name commonly used  
(Please print)

\* This information will be used to provide demographic statistics and is not requested for the purpose of discriminating on any basis

126591

RECEIVED  
DEPARTMENT OF STATE  
2022 JAN 25 PM 12:12  
DIVISION OF ELECTIONS  
TALLAHASSEE, FL

### CERTIFICATION

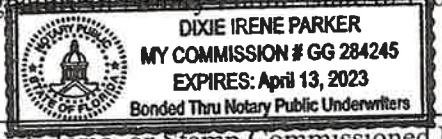
STATE OF FLORIDA  
COUNTY OF Leon

Before me, the undersigned Notary Public of Florida, personally appeared Melanie S. Griffin, who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Melanie S. Griffin  
Signature of Applicant-Affiant

Sworn to and subscribed before me this 25<sup>th</sup> day of January, 2022.

Dixie Irene Parker  
Signature of Notary Public State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: April 13, 2023

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

(seal)

The Florida Senate  
**Committee Notice Of Hearing**

IN THE FLORIDA SENATE  
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of  
Melanie Griffin  
Secretary of Business and Professional Regulation

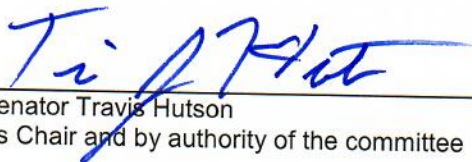
**NOTICE OF HEARING**

TO: Mrs. Melanie Griffin

YOU ARE HEREBY NOTIFIED that the Committee on Regulated Industries of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, February 8, 2022, in the Pat Thomas Committee Room, 412 Knott Building, commencing at 12:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.  
DATED this the 3rd day of February, 2022

Committee on Regulated Industries

  
\_\_\_\_\_  
Senator Travis Hutson  
As Chair and by authority of the committee

cc: Members, Committee on Regulated Industries  
Office of the Sergeant at Arms

The Florida Senate

APPEARANCE RECORD

2/8/22

Meeting Date

Regulated Industries

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Confirmation

Bill Number or Topic

Amendment Barcode (if applicable)

Name Melane Griffin - Secretary

Phone

of DBPR

Address

Email

Street

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

THE FLORIDA SENATE

# COMMITTEE WITNESS OATH

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**CHAIR:**

**Please raise your right hand and be sworn in as a witness.**

**Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?**

**WITNESS'S NAME:** Melanie S. Griffin

**ANSWER:** yes

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

**COMMITTEE NAME:** Regulated Industries

**DATE:** February 8, 2022

**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 Regulated Industries

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BILL: CS/SB 1158

INTRODUCER: Regulated Industries Committee and Senator Jones

SUBJECT: Home Kitchen Operations

DATE: February 9, 2022

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.			AP	
3.			RC	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1158 allows “home kitchen operations” to sell and offer for sale home kitchen food products. Under the bill, a home kitchen operation means a natural person or an entity that stores, handles, prepares, and packages food products at the residence of the natural person or at the residence of a natural person who has an ownership interest in the entity and sells such products in accordance with the requirements in the bill.

The bill defines a “home kitchen product” to mean food that is:

- Stored, handled, prepared, and packaged by a home kitchen operation;
- Not raw milk, a product of raw milk, raw oysters, or raw shellfish.

A home kitchen operation is not required to have a food establishment permit issued by the Department of Agriculture and Consumer Services (department) if it complies with the home kitchen operation requirements in the bill and has annual gross sales of home kitchen food products that do not exceed \$250,000.

In addition, a home kitchen operation may:

- Only sell or provide home kitchen food products directly to consumers and may not sell or provide home kitchen food products to any food reseller; and
- Sell home kitchen food products to consumers in person or remotely by telephone, e-mail, or website, including through a third-party website or mobile application.

The bill:

- Limits food preparation and service to 10 individual meals per day;
- Requires food to be prepared, cooked, and served on the same calendar day;
- Authorizes sales via the Internet or in person;
- Authorizes deliveries to be made directly to the consumer, to a specific event venue, or to the consumer by the home kitchen operation or a third party delivery service;
- Prohibits sales and deliveries of home kitchen food products at wholesale or retail;
- Requires home kitchen operation owners and employees to successfully complete a food safety education certificate training program;
- Specifies labeling requirements;
- Requires home kitchen operations to give the department access to records within 24 hours of a request;
- Allows the department to inspect home kitchen operations without a complaint;
- Requires the department to investigate complaints and makes a refusal to permit entry and inspection grounds for disciplinary action;
- Authorizes immediate closures by the department if it determines that the continued operation of a food establishment presents an immediate danger to the public health, safety, and welfare;
- Preempts the regulation of home kitchen operations to the state; and
- Authorizes the department to impose an administrative fine not to exceed \$5,000 for a violation.

The bill takes effect July 1, 2022.

## II. Present Situation:

### Food Safety Laws

The Division of Food Safety within the Department of Agriculture and Consumer Services (department) ensures that safe, wholesome, and properly labeled food is available to the public through the permitting and inspection of “food establishments,”<sup>1</sup> and inspection of food products that are sold or produced in Florida.<sup>2</sup> The department works in cooperation with the United States Department of Agriculture and the Food and Drug Administration to help ensure compliance with both state and federal regulations.<sup>3</sup>

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<sup>1</sup> Section 500.03(1)(p), F.S., defines the term “food establishment” to mean:

...a factory, food outlet, or other facility manufacturing, processing, packing, holding, or preparing food or selling food at wholesale or retail. The term does not include a business or activity that is regulated under s. 413.051, [F.S.], s. 500.80, [F.S.], chapter 509, [F.S.], or chapter 601, [F.S.] The term includes tomato packinghouses and repackers but does not include any other establishments that pack fruits and vegetables in their raw or natural states, including those fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled, natural form before they are marketed.

<sup>2</sup> Florida Department of Agriculture and Consumer Services, *Division of Food Safety*, available at: <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety> (last visited Feb. 3, 2022). *See also* ch. 500, F.S., the Florida Food Safety Act.

<sup>3</sup> Florida Department of Agriculture and Consumer Services, *Food Establishments*, available at: <https://www.fdacs.gov/Business-Services/Food/Food-Establishments> (last visited Feb. 3, 2022).



A food establishment permit from the department is required to open a food establishment. The department issues three different types of food establishment permits, including retail, wholesale/manufactured, and medical marijuana treatment center edibles.<sup>4</sup>

A food establishment permit holder must allow access by the department or its duly authorized agent during all reasonable hours to any food establishment, any food records, or any vehicle being used to transport or hold food in commerce for the purpose of inspecting such establishment, records, or vehicle to determine compliance with ch. 500, F.S., and any rule adopted under that chapter<sup>5</sup>.

### **Cottage Food Operations**

A cottage food operation is a natural person or entity that produces or packages food that is not potentially hazardous in the residence of the natural person or at the residence of a natural person who has an ownership interest in the entity and sells such products in accordance with cottage food operation requirements of s. 500.80, F.S.<sup>6</sup>

Cottage food operations are not required to have a food establishment permit under s. 500.12, F.S., dealing with the permit requirements for operators of food establishments and retail food stores.<sup>7</sup> Cottage food operations must comply with the cottage food law in s. 500.80, F.S., and limit annual gross sales of cottage food products to less than \$250,000 based on all sales of cottage food products at any location, regardless of the types of products sold or the number of persons involved in the operation. A cottage food operation must provide the department with written documentation to verify its annual gross sales upon the department's request to do so.<sup>8</sup>

Cottage food operations may sell, offer for sale, and accept payments for cottage food products over the Internet or by mail order. Cottage food products may be delivered in person directly to the consumer, to a specific event venue, or by United States Postal Service or commercial mail delivery service. A cottage food operation may not sell, offer for sale, or deliver cottage food products at wholesale.<sup>9</sup> A cottage food operation may only sell cottage food products that are stored on the premises of the operation.<sup>10</sup>

Cottage foods operations may only sell cottage food products which are prepackaged with a label affixed that contains:<sup>11</sup>

- The name and address of the cottage food operation;
- The name of the cottage food product;
- The ingredients of the cottage food product, in descending order of predominance by weight;
- The net weight or net volume of the cottage food product;

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<sup>4</sup> See Florida Department of Agriculture and Consumer Services, *Food Establishments*, available at: <https://www.fdacs.gov/Business-Services/Food/Food-Establishments> (last visited Feb. 3, 2022).

<sup>5</sup> Section 500.147, F.S.

<sup>6</sup> Sections 500.03(j), F.S.

<sup>7</sup> See ss. 500.03(p) and (bb), F.S., defining the terms “food establishment” and “retail food store,” respectively.

<sup>8</sup> Section 500.80(1), F.S.

<sup>9</sup> Section 500.80(2), F.S.

<sup>10</sup> Section 500.80(4), F.S.

<sup>11</sup> Section 500.80(3), F.S.

- Allergen information as specified by federal labeling requirements; and
- If any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements.

In addition, the label must have the following statement printed in at least 10-point type in a color that provides a clear contrast to the background of the label: “Made in a cottage food operation that is not subject to Florida's food safety regulations.”<sup>12</sup>

Section 500.80, F.S., does not exempt cottage food operations from any other state or federal tax law, rule, regulation, or certificate.<sup>13</sup>

### ***Cottage Food Products***

A cottage food product is any food that is not a potentially hazardous food defined by department rule which is sold by a cottage food operation in accordance with s. 500.80, F.S.<sup>14</sup> The department has not adopted a rule defining the term “potentially hazardous food,” but it has adopted the U.S. Food and Drug Administration’s 2017 Food Code (Food Code).<sup>15</sup>

The Food Code defines the term “time/temperature controlled for safety food,” formerly referred to as “potentially hazardous food,” as a “food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.” The term includes:

- Animal food that is raw or heat-treated;
- Plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and
- Garlic-in-oil mixtures that are not modified so that they are unable to support pathogenic micro-organism growth or toxin formation.<sup>16</sup>

The department has identified the following foods as not potentially hazardous and therefore permitted to be produced by a cottage food operation:

- Loaf breads, rolls, biscuits;
- Cakes, pastries, and cookies;
- Honey;
- Jams, jellies, and preserves made from high acid-fruits only;
- Fruit pies and dried fruits;
- Dry herbs, seasonings, and mixtures;
- Homemade pasta;
- Cereals, trail mixes, and granola;
- Coated or uncoated nuts;

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

<sup>13</sup> Section 500.80(5), F.S.

<sup>14</sup> Section 500.03(k), F.S.

<sup>15</sup> Fla. Admin. Code R. 5K-4.002(4)(a).

<sup>16</sup> U.S. Food and Drug Administration, 2017 Food Code, subpart 1-201.10, defining “Time/Temperature Control for Safety Food (formerly “potentially hazardous food” (PHF))” Certain foods may be designated as “product assessment required” due to the interaction of their water content and pH values after heat treatment or packaging to control vegetative cells and spores. Such foods are considered TCS food until further study proves otherwise.

- Vinegar and flavored vinegars;
- Popcorn and popcorn balls; and
- Nut butters, including almond, peanut, cashew, etc.<sup>17</sup>

### ***Cottage Food Operations Investigations and Complaints***

The department may only investigate a cottage food operation if it receives a complaint that a cottage food operation has violated an applicable provision of state food products law<sup>18</sup> or rule adopted under such law.<sup>19</sup> Upon a complaint, an officer or employee of the department may enter and inspect the cottage food operation's premises to determine compliance with applicable state law and departmental rules. A cottage food operation's refusal to permit an authorized officer or employee to enter and inspect the premises is grounds for administrative disciplinary action under s. 500.121, F.S.<sup>20</sup>

The cottage food operation provisions in s. 500.80, F.S., do not apply to any person operating under a food permit issued pursuant to s. 500.12, F.S.<sup>21</sup>

### ***Preemption***

The regulation of cottage food operations is preempted to the state.<sup>22</sup> A local law, ordinance, or regulation may not prohibit a cottage food operation or regulate the preparation, processing, storage, or sale of cottage food products by a cottage food operation; however, a cottage food operation must comply with the conditions for the operation of a home-based business under s. 559.955, F.S.<sup>23</sup>

### ***Home-Based Businesses***

Section 559.955, F.S., preempts the regulation of home-based businesses to the state. Counties and municipalities may not enact or enforce any ordinance, regulation, or policy, or take any action to license or otherwise regulate a home-based business.

A home-based business may operate in an area zoned for residential use and may not be prohibited, restricted, regulated, or licensed in a manner different from other businesses in a local government's jurisdiction, except as provided in s. 559.955, F.S. However, home-based businesses are subject to applicable business taxes under ch. 205, F.S., in the county and municipality in which the home-based business is located.<sup>24</sup>

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<sup>17</sup> See Department of Agriculture and Consumer Services, Division of Food Safety, *Cottage Food Operations (July 2021)*, available at: <https://www.fdacs.gov/Business-Services/Food/Food-Establishments/Cottage-Foods> (last visited Feb. 2, 2022).

<sup>18</sup> Chapter 500, F.S.

<sup>19</sup> Section 500.80(8), F.S.

<sup>20</sup> Section 500.121, F.S., provides disciplinary procedures for violations of ch. 500, F.S., and applicable rules, including the imposition of Class II administrative fines against a cottage food operation that violates ch. 500, F.S. A violation in the Class II category carries a fine not to exceed \$5,000 for each violation. See s. 570.971(1)(b), F.S.

<sup>21</sup> Section 500.12, F.S., requires a permit issued by the department for any person operating a food establishment or retail food store.

<sup>22</sup> Section 500.80(4), F.S.

<sup>23</sup> Section 500.80(6), F.S.

<sup>24</sup> Section 559.955(2), F.S.

A business is considered a home-based business if it operates, in whole or in part, from a residential property and meets the following criteria:<sup>25</sup>

- The activities of the home-based business are secondary to the property's use as a residential dwelling.
- The business employees who work at the residential dwelling also reside in the residential dwelling, except that up to two employees or independent contractors who do not reside at the residential dwelling may work at the business.
- Parking related to the business activities of the home-based business complies with local zoning requirements. The business may not generate a need for parking greater in volume than a similar residence where no business is conducted. Local governments may regulate the parking or storage of heavy equipment at the business which is visible from the street.
- As viewed from the street, the residential property is consistent with the uses of the residential areas surrounding the property. Any external modifications to a home-based business must conform to the residential character and architectural aesthetics of the neighborhood. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property.
- All business activities comply with any relevant local or state regulations concerning signage and equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. However, such regulations on a business, absent signage, may not be more stringent than those that apply to a residence where no business is conducted.
- All business activities comply with any relevant local, state, and federal regulations concerning the use, storage, or disposal of hazardous materials. However, such regulations on a business may not be more stringent than those applicable to a residence where no business is conducted.

Any adversely affected current or prospective home-based business owner may recover reasonable attorney fees and costs incurred instituting or defending a legal action concerning the validity of a local government's home-based business regulations.<sup>26</sup>

The home-based business requirements of s. 559.955, F.S., do not supersede any current or future declaration of condominium adopted pursuant to ch. 718, F.S., cooperative document adopted pursuant to ch. 719, F.S., or declaration of covenants adopted pursuant to ch. 720, F.S. Any local laws, ordinances, or regulations related to transient public lodging establishments that are not otherwise preempted under ch. 509, F.S., are not affected by s. 559.955, F.S.<sup>27</sup>

### **Public Food Service Establishments**

The Division of Hotels and Restaurants within the Department of Business and Professional Regulation licenses, inspects, and regulates public food service establishments in Florida under ch. 509, F.S.<sup>28</sup> The term “public food service establishment” means:

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<sup>25</sup> Section 559.955(3), F.S.

<sup>26</sup> Section 559.955(4), F.S.

<sup>27</sup> See 509.032(7), F.S., relating to the state preemption of vacation rental regulation and providing exceptions.

<sup>28</sup> The Division of Hotels and Restaurants also licenses and regulates public lodging establishments, elevators, escalators, and other vertical conveyance devices. See Department of Business and Professional Regulation, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Feb. 3, 2022).

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.<sup>29</sup>

Several food service places are exempted from the definition of public food service establishment, such as certain schools and universities operated for students and faculty, and places maintained by certain religious, fraternal, and civic organizations.<sup>30</sup>

Establishments regulated under ch. 509, F.S., must be licensed and inspected by the Division of Hotels and Restaurants, and are subject to sanitary standards, staff training and test requirements, administrative rules, and immediate closure upon a finding that continued operation presents a severe and immediate threat to the public health.<sup>31</sup>

### III. Effect of Proposed Changes:

The bill amends s. 500.80, F.S., to allow “home kitchen operations” to sell and offer for sale home kitchen food products in a manner similar to cottage food operations.

The bill creates s. 500.03(1)(t), F.S., to define the term “home kitchen operation” to mean a natural person or an entity that stores, handles, prepares, and packages food products at the residence of the natural person or at the residence of a natural person who has an ownership interest in the entity and sells such products in accordance with s. 500.80, F.S. Under the bill, a home kitchen operation does not include:

- A public food service establishment as defined in s. 509.013(5), F.S.;
- A catering operation licensed under ch. 509, F.S.;<sup>32</sup> and
- A cottage food operation, as defined in s. 500.03, F.S.

The bill creates s. 500.03(1)(s), F.S., to define the term “home kitchen product” to mean food that is:

- Stored, handled, prepared, and packaged by a home kitchen operation; and
- Not raw milk, a product of raw milk, raw oysters, or raw shellfish.

The bill creates s. 500.82, F.S., to provide for the regulation of home kitchen operations.

A home kitchen operation is not required to have a food establishment permit, as required in s. 500.12, F.S., if the home kitchen operation complies with this section and:

<sup>29</sup> See s. 509.013(5), F.S.

<sup>30</sup> *Id.*

<sup>31</sup> See s. 509.035, F.S.

<sup>32</sup> Chapter 509, F.S., does not provide for licensure of “catering operations.” However, a public food service establishment licensed under ch. 509, F.S., may offer catering services. For example, s. 509.241, F.S., requires a public food service establishments that offer catering services to display its license number on all advertising for catering services.

- Has annual gross sales of home kitchen food products that do not exceed \$250,000;
- Limits the preparation and service of home kitchen food products to no more than 10 individual means per calendar day or the approximate equivalent of meal components when sold separately;
- Prepares, cooks, and serves home kitchen food products on the same calendar day; and
- Processes home kitchen food products in compliance with state and federal regulations and s. 500.80, F.S., relating to cottage food operations.

A cottage food operation's annual gross sales include all sales of home kitchen food products at any location, regardless of the types of products sold or the number of persons involved in the operation. A cottage food operation must provide the department, upon request, with written documentation verifying the operation's annual gross sales. These provisions are identical to the requirements for cottage food operations in s. 500.80, F.S.

A home kitchen operation must allow the department to access the operation's records within 24 hours of the department's request.

In addition, a home kitchen operation may:

- Sell, offer for sale, and accept payment for home kitchen food products over the Internet or in person;
- Deliver home kitchen food products in person directly to the consumer, to a specific venue, or by a third party delivery service; and
- Not sell, offer for sale, or deliver home kitchen food products to any wholesaler or retailer.

The bill requires all home kitchen operation owners and employees to successfully complete a food safety certificate training program that complies with United States Food and Drug Administration Food Safety Modernization Act.<sup>33</sup> The course, at a minimum, must include information and training on cross-contamination, temperature control, and personal hygiene.

The bill requires home kitchen operations to:

- Take steps to avoid any potential contamination to food, equipment, utensils, and unwrapped single-service and single-use articles;
- Prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:
  - Symptoms associated with acute gastrointestinal illness; or
  - A communicable disease that is transmissible through food;
- Ensure a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located in food preparation, food dispensing, and "warewashing" areas;
- Ensure that the kitchen sink is fully operational and has hot and cold water and a sanitizing agent, and that dishes are sanitized between each use;
- Ensure that ready-to-eat home kitchen food products are protected from contamination during storage, preparation, handling, transport, and display;
- Ensure that home kitchen food products are maintained at proper holding temperatures;

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<sup>33</sup> See United States Food and Drug Administration, *Food Safety Modernization Act (FSMA)*, <https://www.fda.gov/food/guidance-regulation-food-and-dietary-supplements/food-safety-modernization-act-fsma> (last visited Feb. 8, 2022).

- Ensure that utensils and equipment used in the home kitchen operation:
  - Retain their characteristic qualities under normal use conditions;
  - Are properly sanitized after each use; and
  - Are maintained in a sanitary manner between uses;
- Ensure that kitchen equipment is cleaned and sanitized between uses;
- Ensure that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;
- Ensure that temperature measuring devices or holding equipment for the time or temperature control of food properly used for hot and cold holding of home kitchen food products during storage, serving, and cooling; and
- Ensure that home kitchen food product preparation and service is discontinued if there is a disruption of potable water service.

The bill provides that home kitchen operations may only sell home kitchen food products which are affixed with a label that contains the following information:

- The name and address of the home kitchen operation;
- The name of the home kitchen food product;
- The ingredients of the home kitchen food product, in descending order of predominance by weight;
- The net weight or net volume of the home kitchen food product;
- Allergen information as specified by federal labeling requirements;
- Appropriate nutritional information as specified by federal labeling requirements if any nutritional claim is made; and
- A statement printed in at least 10-point type in a color that provides a clear contrast to the background of the label and reads: "Made in a home kitchen operation that is not subject to Florida's food safety regulations."

The labeling requirements for home kitchen food products are identical to those required for cottage food products in s. 500.80(3), F.S.

In addition, the bill provides that s. 500.82, F.S., as created by this act, does not:

- Exempt a home kitchen operation from any state or federal tax law, rule, regulation, or certificate that applies to all home kitchen operations;
- Prevent the department or a local health department from enforcing an order to cease and desist operation of a home kitchen if the department or the local health department has a valid reason to suspect that the home kitchen operation is the source of an adulterated food or of an outbreak of illness caused by contaminated food; and
- Apply to a person operating under a food establishment permit issued pursuant to s. 500.12, F.S.

Under the bill, the regulation of home kitchen operations is preempted to the state. A local law, ordinance, or regulation may not prohibit a home kitchen operation or regulate the preparation, processing, storage, or sale of home kitchen food products by a home kitchen operation; however, a home kitchen operation must comply with the conditions for the operation of a home-based business under s. 559.955, F.S.

The bill requires the department to investigate any complaint which alleges that a home kitchen operation has violated an applicable provision or rule.

Upon receipt of a complaint, the bill requires an authorized officer or employee of the department to enter and inspect the premises of a home kitchen operation to determine compliance with the Florida Food Safety Act<sup>34</sup> and department rules, as applicable. A home kitchen operation's refusal to permit such entry to the premises or to conduct the inspection is grounds for disciplinary action pursuant to s. 500.121, F.S.

Under the bill, the department may inspect a home kitchen operation for compliance with the Florida Food Safety Act without an underlying complaint. Section 500.80, F.S., permits the department to inspect a cottage food operation only if there is a complaint.

The bill amends s. 500.121, F.S., to apply the disciplinary procedures for violations of ch. 500, F.S., to home kitchen operations.<sup>35</sup> Under the bill, the department may impose a Class II administrative fine pursuant to s. 570.971, F.S.,<sup>36</sup> against a home kitchen operation that violates ch. 500, F.S., the Florida Food Safety Act. For each violation in the Class II category, a fine not to exceed \$5,000 may be imposed.<sup>37</sup>

The bill takes July 1, 2022.

#### **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.

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<sup>34</sup> Chapter 500, F.S.

<sup>35</sup> *Supra* n. 24.

<sup>36</sup> Section 570.971, F.S., provides the administrative fines the department may impose for Class I through Class IV violations of a chapter or section of the Florida Statutes within the jurisdiction of the department.

<sup>37</sup> Section 570.971(1)(b), F.S.



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

None.

**B. Private Sector Impact:**

The bill allows persons to sell or offer for sale home kitchen food products, which may provide additional income for such persons.

**C. Government Sector Impact:**

The department has not provided a fiscal analysis for CS/SB 1158, but in its bill analysis for SB 1158 estimated a negative fiscal impact of \$1,435,310 for Fiscal Year 2022-2023, Fiscal Year 2023-2024, and Fiscal Year 2024-2025.<sup>38</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 500.82 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 500.03 and 500.121.

**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 on February 8, 2022:**

The committee substitute:

- Does not amend s. 500.80, F.S., relating to the cottage food operations;
- Removes the provision allowing home kitchen food products to be consumed at the location of a home kitchen operation;
- Provides how the amount of annual gross sales of a home kitchen operation is calculated;
- Limits food preparation and service to 10 individual meals per day;
- Requires food to be prepared, cooked, and served on the same calendar day;

<sup>38</sup> Department of Agriculture and Consumer Services, *Agency Analysis for SB 1158*, p. 4, Dec. 22, 2022 (on file with the Senate Committee on Regulated Industries).

- Requires home kitchen operation owners and employees to successfully complete a food safety certificate training program.
- Requires home kitchen operations to give the department access to records within 24 hours of a request;
- Requires home kitchen operations to ensure that they comply with specified food safety procedures and equipment, including preventing individuals with gastrointestinal illness and communicable diseases from entering the food preparation areas, and providing hand washing stations and kitchen sinks;
- Requires discontinuation of preparation and service if there is a disruption of potable water service;
- Revises the labeling requirements for home kitchen food products;
- Allows the department or a local health department to enforce an order to cease and desist if the home kitchen operation is the source of an adulterated or contaminated food;
- Requires the department to investigate complaints and makes a refusal to permit entry and inspection grounds for disciplinary action;
- Authorizes immediate closures by the department if the home kitchen operation presents an immediate danger to the public health, safety, and welfare; and
- Changes the effective date of the bill from upon becoming law to July 1, 2022.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2022	.	
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The Committee on Regulated Industries (Jones) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present paragraphs (s) through (cc) of  
subsection (1) of section 500.03, Florida Statutes, are  
redesignated as paragraphs (u) through (ee), respectively, new  
paragraphs (s) and (t) are added to that subsection, and  
paragraph (r) of that subsection is amended, to read:

500.03 Definitions; construction; applicability.-



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11 (1) For the purpose of this chapter, the term:

12 (r) "Food service establishment" means any place where food  
13 is prepared and intended for individual portion service, and  
14 includes the site at which individual portions are provided. The  
15 term includes any such place regardless of whether consumption  
16 is on or off the premises and regardless of whether there is a  
17 charge for the food. The term includes delicatessens that offer  
18 prepared food in individual service portions. The term does not  
19 include schools, institutions, fraternal organizations, private  
20 homes where food is prepared or served for individual family  
21 consumption, retail food stores, the location of food vending  
22 machines, cottage food operations, home kitchen operations, and  
23 supply vehicles, nor does the term include a research and  
24 development test kitchen limited to the use of employees and  
25 which is not open to the general public.

26 (s) "Home kitchen food product" means food that is:

27 1. Stored, handled, prepared, and packaged by a home  
28 kitchen operation.

29 2. Not raw milk, raw milk products, raw oysters, or raw  
30 shellfish.

31 (t) "Home kitchen operation" means a natural person or an  
32 entity that stores, handles, and prepares home kitchen food  
33 products at the residence of the natural person or at the  
34 residence of a natural person who has an ownership interest in  
35 the entity and sells such products in accordance with s. 500.82.

36 A home kitchen operation is not:

37 1. A public food service establishment as defined in s.  
38 509.013(5).

39 2. A catering services operation licensed under chapter



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40 509.

41 3. A cottage food operation.

42 Section 2. Section 500.82, Florida Statutes, is created to  
43 read:

44 500.82 Home kitchen operations.-

45 (1) (a) A home kitchen operation must comply with the  
46 applicable requirements of this chapter but is exempt from the  
47 permitting requirements of s. 500.12 if the home kitchen  
48 operation complies with this section and:

49 1. Has annual gross sales of home kitchen food products  
50 that do not exceed \$250,000.

51 2. Limits preparation and service of home kitchen food  
52 products to no more than 10 individual meals per day or the  
53 approximate equivalent of meal components when sold separately.

54 3. Prepares, cooks, and serves home kitchen food products  
55 on the same calendar day.

56 4. Processes home kitchen food products in compliance with  
57 state and federal regulations and this section.

58 (b) For purposes of this subsection, a home kitchen  
59 operation's annual gross sales include all sales of home kitchen  
60 food products at any location, regardless of the types of  
61 products sold or the number of persons involved in the  
62 operation. A home kitchen operation must provide the department,  
63 upon request, with written documentation to verify the  
64 operation's annual gross sales, and the department shall be  
65 granted access to such records within 24 hours after the  
66 request.

67 (2) A home kitchen operation may sell, offer for sale, and  
68 accept payment for home kitchen food products over the Internet



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69 or in person. Such products may be delivered in person directly  
70 to the consumer, to a specific event venue, or to the consumer  
71 by the home kitchen operation or a third party delivery service.  
72 A home kitchen operation may not sell, offer for sale, or  
73 deliver home kitchen food products to any wholesaler or  
74 retailer.

75 (3) All home kitchen operation owners and employees must  
76 successfully complete a food safety certificate training program  
77 that complies with the United States Food and Drug  
78 Administration's Food Safety Modernization Act. The course, at a  
79 minimum, must include information and training on cross-  
80 contamination, temperature control, and personal hygiene.

81 (4) A home kitchen operation must:

82 (a) Take steps to avoid any potential contamination to:

83 1. Food.

84 2. Equipment.

85 3. Utensils.

86 4. Unwrapped single-service and single-use articles.

87 (b) Prevent an individual from entering the food

88 preparation area while food is being prepared if the individual  
89 is known to be suffering from:

90 1. Symptoms associated with acute gastrointestinal illness;

91 or

92 2. A communicable disease that is transmissible through

93 food.

94 (c) Ensure a handwashing station supplied with warm water,  
95 soap, and disposable hand towels is conveniently located in food  
96 preparation, food dispensing, and warewashing areas.

97 (d) Ensure that the kitchen sink is fully operational and



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98 has hot and cold water and a sanitizing agent, and that dishes  
99 are sanitized between each use.

100 (e) Ensure that ready-to-eat home kitchen food products are  
101 protected from contamination during storage, preparation,  
102 handling, transport, and display.

103 (f) Ensure that home kitchen food products are maintained  
104 at proper holding temperatures.

105 (g) Ensure that utensils and equipment used in the home  
106 kitchen operation:

107 1. Retain their characteristic qualities under normal use  
108 conditions.

109 2. Are properly sanitized after each use.

110 3. Are maintained in a sanitary manner between uses.

111 (h) Ensure that kitchen equipment is cleaned and sanitized  
112 between uses.

113 (i) Ensure that gases, odors, steam, heat, grease, vapors,  
114 and smoke are able to escape the kitchen.

115 (j) Ensure that temperature measuring devices or holding  
116 equipment for the time or temperature control of food is  
117 properly used for hot and cold holding of home kitchen food  
118 products during storage, serving, and cooling.

119 (k) Ensure that home kitchen food product preparation and  
120 service is discontinued if there is a disruption of potable  
121 water service.

122 (5) A home kitchen operation may sell home kitchen food  
123 products which are affixed with a label that contains the  
124 following information:

125 (a) The name and address of the home kitchen operation.

126 (b) The name of the home kitchen food product.



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127       (c) The ingredients of the home kitchen food product, in  
128 descending order of predominance by weight.

129       (d) The net weight or net volume of the home kitchen food  
130 product.

131       (e) Allergen information as specified by federal labeling  
132 requirements.

133       (f) If any nutritional claim is made, appropriate  
134 nutritional information as specified by federal labeling  
135 requirements.

136       (g) The following statement printed in at least 10-point  
137 type in a color that provides a clear contrast to the background  
138 of the label: "Made in a home kitchen operation that is not  
139 subject to Florida's food safety regulations."

140       (6) This section does not:

141       (a) Exempt a home kitchen operation from any state or  
142 federal tax law, rule, regulation, or certificate that applies  
143 to all home kitchen operations.

144       (b) Prevent the department or a local health department  
145 from enforcing an order to cease and desist operation of a home  
146 kitchen if the department or the local health department has a  
147 valid reason to suspect that the home kitchen operation is the  
148 source of an adulterated food or of an outbreak of illness  
149 caused by contaminated food.

150       (c) Apply to a person operating under a food permit issued  
151 pursuant to s. 500.12.

152       (7) The regulation of home kitchen operations is preempted  
153 to the state. A local law, ordinance, or regulation may not  
154 prohibit a home kitchen operation or regulate the preparation,  
155 processing, storage, or sale of home kitchen food products by a





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156 home kitchen operation; however, a home kitchen operation must  
157 comply with the conditions for the operation of a home-based  
158 business under s. 559.955.

159 (8)(a) The department must investigate any complaint which  
160 alleges that a home kitchen operation has violated an applicable  
161 provision of this chapter or a rule adopted under this chapter.

162 (b) Upon receipt of a complaint, the department's  
163 authorized officer or employee must enter and inspect the  
164 premises of a home kitchen operation to determine compliance  
165 with this chapter and department rules, as applicable. A home  
166 kitchen operation's refusal to allow the department's authorized  
167 officer or employee entry to the premises or to conduct the  
168 inspection is grounds for disciplinary action pursuant to s.  
169 500.121.

170 (9) A home kitchen operation is subject to the disciplinary  
171 procedures under s. 500.121(7).

172 Section 3. Subsection (1) of section 500.121, Florida  
173 Statutes, is amended to read:

174 500.121 Disciplinary procedures.—

175 (1) In addition to the suspension procedures provided in s.  
176 500.12, if applicable, the department may impose an  
177 administrative fine in the Class II category pursuant to s.  
178 570.971 against any retail food store, food establishment, home  
179 kitchen operation, or cottage food operation that violates this  
180 chapter, which fine, when imposed and paid, shall be deposited  
181 by the department into the General Inspection Trust Fund. The  
182 department may revoke or suspend the permit of any such retail  
183 food store or food establishment if it is satisfied that the  
184 retail food store or food establishment has:



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185 (a) Violated this chapter.

186 (b) Violated or aided or abetted in the violation of any  
187 law of this state governing or applicable to retail food stores  
188 or food establishments or any lawful rules of the department.

189 (c) Knowingly committed, or been a party to, any material  
190 fraud, misrepresentation, conspiracy, collusion, trick, scheme,  
191 or device whereby another person, lawfully relying upon the  
192 word, representation, or conduct of a retail food store or food  
193 establishment, acts to her or his injury or damage.

194 (d) Committed any act or conduct of the same or different  
195 character than that enumerated which constitutes fraudulent or  
196 dishonest dealing.

197 Section 4. This act shall take effect July 1, 2022.

198

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

200 And the title is amended as follows:

201 Delete everything before the enacting clause  
202 and insert:

203 A bill to be entitled  
204 An act relating to home kitchen operations; amending  
205 s. 500.03, F.S.; defining terms; creating s. 500.82;  
206 exempting home kitchen operations from food permitting  
207 requirements; providing requirements for home kitchen  
208 operations; providing requirements for the sale of  
209 home kitchen food products; prohibiting home kitchen  
210 operations from selling, offering for sale, or  
211 delivering home kitchen food products to wholesalers  
212 or retailers; providing construction and  
213 applicability; preempting the regulation of home



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214 kitchen operations to the state; requiring the  
215 Department of Agriculture and Consumer Services to  
216 investigate complaints and conduct inspections as  
217 necessary; providing that home kitchen operations are  
218 subject to certain disciplinary procedures; amending  
219 s. 500.121, F.S.; providing that home kitchen  
220 operations are subject to specified administrative  
221 fines; providing an effective date.

By Senator Jones

35-01083A-22

20221158\_\_

1 A bill to be entitled  
 2 An act relating to home kitchen operations; amending  
 3 s. 500.03, F.S.; redefining and defining terms;  
 4 amending s. 500.80, F.S.; exempting home kitchen  
 5 operations from food permitting requirements under  
 6 certain circumstances; specifying requirements for the  
 7 sale of home kitchen food products; providing  
 8 construction; preempting regulation of home kitchen  
 9 operations to the state; authorizing the Department of  
 10 Agriculture and Consumer Services to investigate  
 11 complaints about a home kitchen operation, conduct  
 12 inspections, and impose disciplinary actions; amending  
 13 s. 500.121, F.S.; providing disciplinary procedures  
 14 for home kitchen operations; providing an effective  
 15 date.  
 16  
 17 Be It Enacted by the Legislature of the State of Florida:  
 18  
 19 Section 1. Present paragraphs (s) through (cc) of  
 20 subsection (1) of section 500.03, Florida Statutes, are  
 21 redesignated as paragraphs (u) through (ee), respectively, new  
 22 paragraphs (s) and (t) are added to that subsection, and  
 23 paragraph (r) of that subsection is amended, to read:  
 24 500.03 Definitions; construction; applicability.—  
 25 (1) For the purpose of this chapter, the term:  
 26 (r) "Food service establishment" means any place where food  
 27 is prepared and intended for individual portion service, and  
 28 includes the site at which individual portions are provided. The  
 29 term includes any such place regardless of whether consumption

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

35-01083A-22

20221158\_\_

30 is on or off the premises and regardless of whether there is a  
 31 charge for the food. The term includes delicatessens that offer  
 32 prepared food in individual service portions. The term does not  
 33 include schools, institutions, fraternal organizations, private  
 34 homes where food is prepared or served for individual family  
 35 consumption, retail food stores, the location of food vending  
 36 machines, cottage food operations, home kitchen operations, and  
 37 supply vehicles, nor does the term include a research and  
 38 development test kitchen limited to the use of employees and  
 39 which is not open to the general public.  
 40 (s) "Home kitchen food product" means food that is:  
 41 1. Stored, handled, prepared, and packaged by a home  
 42 kitchen operation.  
 43 2. Not raw milk, a product of raw milk, or raw oysters.  
 44 3. Prepared, cooked, and served within 24 hours.  
 45 4. Consumed onsite at a home kitchen operation or offsite  
 46 if the food is picked up by the consumer or delivered within a  
 47 safe time period based on holding equipment capacity.  
 48 (t) "Home kitchen operation" means a natural person or an  
 49 entity that stores, handles, prepares, and packages food  
 50 products at the residence of the natural person or at the  
 51 residence of a natural person who has an ownership interest in  
 52 the entity and sells such products in accordance with s. 500.80.  
 53 A home kitchen operation is not a public food service  
 54 establishment as defined in s. 509.013(5).  
 55 Section 2. Section 500.80, Florida Statutes, is amended to  
 56 read:  
 57 500.80 Cottage food and home kitchen operations.—  
 58 (1) (a) A cottage food operation must comply with the

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

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59 applicable requirements of this chapter but is exempt from the  
60 permitting requirements of s. 500.12 if the cottage food  
61 operation complies with this section and has annual gross sales  
62 of cottage food products that do not exceed \$250,000.

63 (b) For purposes of this subsection, a cottage food  
64 operation's annual gross sales include all sales of cottage food  
65 products at any location, regardless of the types of products  
66 sold or the number of persons involved in the operation. A  
67 cottage food operation must provide the department, upon  
68 request, with written documentation to verify the operation's  
69 annual gross sales.

70 (c)(2) A cottage food operation may sell, offer for sale,  
71 and accept payment for cottage food products over the Internet  
72 or by mail order. Such products may be delivered in person  
73 directly to the consumer, to a specific event venue, or by  
74 United States Postal Service or commercial mail delivery  
75 service. A cottage food operation may not sell, offer for sale,  
76 or deliver cottage food products at wholesale.

77 (d)(3) A cottage food operation may only sell cottage food  
78 products which are prepackaged with a label affixed to the  
79 cottage food product that contains the following information:

80 1.(a) The name and address of the cottage food operation.

81 2.(b) The name of the cottage food product.

82 3.(c) The ingredients of the cottage food product, in  
83 descending order of predominance by weight.

84 4.(d) The net weight or net volume of the cottage food  
85 product.

86 5.(e) Allergen information as specified by federal labeling  
87 requirements.

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88 ~~6.(f)~~ If any nutritional claim is made, appropriate  
89 nutritional information as specified by federal labeling  
90 requirements.

91 ~~7.(g)~~ The following statement printed in at least 10-point  
92 type in a color that provides a clear contrast to the background  
93 of the label: "Made in a cottage food operation that is not  
94 subject to Florida's food safety regulations."

95 ~~(e)(4)~~ A cottage food operation may only sell cottage food  
96 products that it stores on the premises of the cottage food  
97 operation.

98 (2)(a) A home kitchen operation must comply with the  
99 applicable requirements of this chapter but is exempt from the  
100 permitting requirements of s. 500.12 if the home kitchen  
101 operation complies with this section and has annual gross sales  
102 of home kitchen food products that do not exceed \$250,000.

103 (b) A home kitchen operation may only sell or provide home  
104 kitchen food products directly to consumers and may not sell or  
105 provide home kitchen food products to any food reseller.

106 (c) A home kitchen operation may sell home kitchen food  
107 products to consumers in person or remotely by telephone, e-  
108 mail, or website, including through a third-party website or  
109 mobile application. Home kitchen food products may be delivered  
110 to consumers by the home kitchen operation, by an employee or  
111 agent of the home kitchen operation, or by a third-party  
112 delivery service.

113 (d) A home kitchen operation shall provide the following  
114 information to the consumer in a clear and conspicuous manner on  
115 a label affixed to a kitchen food product that is sold in a  
116 package or container; on a sign at the point of sale if the home

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117 kitchen food product is not sold in a package or container; and  
 118 on any food-ordering website or mobile application on which the  
 119 home kitchen operation advertises:

120 1. The name and telephone number of the home kitchen  
 121 operation that prepared the home kitchen food product.

122 2. The common or usual name of the home kitchen food  
 123 product.

124 3. If a home kitchen food product contains more than one  
 125 ingredient, a list of the ingredients in descending order of  
 126 predominance by weight.

127 4. The following statement: "Made in a home kitchen."

128 ~~(3)(5)~~ This section does not exempt a cottage food or home  
 129 kitchen operation from any state or federal tax law, rule,  
 130 regulation, or certificate that applies to all cottage food and  
 131 home kitchen operations.

132 ~~(4)(6)~~ The regulation of cottage food and home kitchen  
 133 operations is preempted to the state. A local law, ordinance, or  
 134 regulation may not prohibit a cottage food or home kitchen  
 135 operation or regulate the preparation, processing, storage, or  
 136 sale of cottage and home kitchen food products ~~by a cottage food~~  
 137 ~~operation~~; however, a cottage food or home kitchen operation  
 138 must comply with the conditions for the operation of a home-  
 139 based business under s. 559.955.

140 ~~(5)(7)~~(a) The department may investigate any complaint  
 141 which alleges that a cottage food or home kitchen operation has  
 142 violated an applicable provision of this chapter or rule adopted  
 143 under this chapter.

144 (b) Only upon receipt of a complaint, the department's  
 145 authorized officer or employee may enter and inspect the

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146 premises of a cottage food or home kitchen operation to  
 147 determine compliance with this chapter and department rules, as  
 148 applicable. A cottage food or home kitchen operation's refusal  
 149 to permit the department's authorized officer or employee entry  
 150 to the premises or to conduct the inspection is grounds for  
 151 disciplinary action pursuant to s. 500.121.

152 ~~(6)(8)~~ This section does not apply to a person operating  
 153 under a food permit issued pursuant to s. 500.12.

154 Section 3. Subsection (1) of section 500.121, Florida  
 155 Statutes, is amended to read:

156 500.121 Disciplinary procedures.—

157 (1) In addition to the suspension procedures provided in s.  
 158 500.12, if applicable, the department may impose an  
 159 administrative fine in the Class II category pursuant to s.  
 160 570.971 against any retail food store, food establishment, or  
 161 cottage or home kitchen food operation that violates this  
 162 chapter, which fine, when imposed and paid, shall be deposited  
 163 by the department into the General Inspection Trust Fund. The  
 164 department may revoke or suspend the permit of any such retail  
 165 food store or food establishment if it is satisfied that the  
 166 retail food store or food establishment has:

167 (a) Violated this chapter.

168 (b) Violated or aided or abetted in the violation of any  
 169 law of this state governing or applicable to retail food stores  
 170 or food establishments or any lawful rules of the department.

171 (c) Knowingly committed, or been a party to, any material  
 172 fraud, misrepresentation, conspiracy, collusion, trick, scheme,  
 173 or device whereby another person, lawfully relying upon the  
 174 word, representation, or conduct of a retail food store or food

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175 establishment, acts to her or his injury or damage.

176 (d) Committed any act or conduct of the same or different  
177 character than that enumerated which constitutes fraudulent or  
178 dishonest dealing.

179 Section 4. This act shall take effect upon becoming a law.



The Florida Senate

## Committee Agenda Request

Senator Shevrin D. "Shev" Jones  
214 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

**To:** Chair Travis Hutson  
Committee on Regulated Industries

**Subject:** Committee Agenda Request

**Date:** February 7, 2022

---

I respectfully request that **SB 1158: Home Kitchen Operations**, be placed on the:

- Committee agenda at your earliest possible convenience.
- Next committee agenda.

A handwritten signature in blue ink, appearing to be "Shev Jones".

---

Senator Shevrin Jones  
Florida Senate, District 35



The Florida Senate

APPEARANCE RECORD

2/8/22

Meeting Date

1158

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name Philip Suderman Phone

Address Street Email

City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

~~Home~~ Prosperity

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/5/20  
Meeting Date

1158  
Bill Number (if applicable)

Topic Home Kitchen Operations

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title VP Government Relations / General Counsel

Address 230 S Adams St  
Street

Phone 850-224-2250

Tallahassee FL 32301  
City State Zip

Email spadgett@fla.org

Speaking:  For  Against  Information

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

Representing Florida Restaurant & Lodging 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.

# APPEARANCE RECORD

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

2/8/22

Meeting Date

1158

Bill Number (if applicable)

Topic KITCHENS

Amendment Barcode (if applicable)

Name Sal Nuzzo

Job Title Vice President of Policy

Address 100 N Duval Street

Phone 850-322-9941

Street

Tallahassee

FL

32301

Email snuzzo@jamesmadison.org

City

State

Zip

Speaking:  For  Against  Information

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

Representing The James Madison Institute

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.**

2/8/2022

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB 1158

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

REGULATED INDUSTRIES

Committee

Amendment Barcode (if applicable)

Name

CHRISTIAN CAMARA

Phone

305 608 4300

Address

PO Box 122

Email

CHRISTIAN@CHAMBERCONSULTANTSFL.COM

Street

YALAHASSEE FL 32302

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

INSTITUTE FOR JUSTICE

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

2/8/22

# The Florida Senate APPEARANCE RECORD

1158

Meeting Date  
**Regulated Industries**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Committee  
**Tim Nungesser**

Amendment Barcode (if applicable)

Name  
**110 East Jefferson St**

Phone  
**445-5367**

Address  
**Tallahassee**                      **FL**                      **32301**  
Street                                      State                                      Zip

Email  
**Tim.nungesser@nfib.org**

**Reset Form**

Speaking:  For  Against  Information      **OR**      Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**NFIB (National Federation of Independent Business)**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

**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 Regulated Industries

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BILL: SB 448

INTRODUCER: Senator Brodeur

SUBJECT: Veterinary Telehealth

DATE: January 14, 2022

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AG</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 448 revises the veterinarian practice act to authorize a veterinarian, consistent with prevailing professional standards of care, to establish a patient/client relationship with an animal and its owner remotely by a two-way, real-time interactive communication, and to treat and prescribe prescription drugs in limited circumstances to an animal. The bill prohibits a veterinarian from prescribing controlled substances if the veterinarian has not previously performed an in-person physical examination or medically appropriate and timely visits to the premises where the animal is kept.

The bill allows employees, agents, or contractors of an animal control authority to administer rabies vaccinations to impounded dogs, cats, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. Such persons may administer rabies vaccinations under the indirect supervision of a veterinarian, who must be available for consultation, but need not be at the premises where the vaccinations are administered. Under the bill, the supervising veterinarian assumes responsibility for the veterinary care given to the animal by any person working under the veterinarian's direction and supervision.

According to the Department of Business and Professional Regulation, the bill has no fiscal impact on local or state government.<sup>1</sup>

The bill is effective July 1, 2022.

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<sup>1</sup> See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 448* at 4 (Oct. 21, 2021) (on file with the Senate Committee on Regulated Industries).

## II. Present Situation:

### Veterinary Medicine, the Practice of Veterinary Medicine, and Exempted Persons

In 1979, the Legislature determined the practice of veterinary medicine to be potentially dangerous to public health and safety if conducted by incompetent and unlicensed practitioners and that minimum requirements for the safe practice of veterinary medicine are necessary.<sup>2</sup> The Board of Veterinary Medicine (board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., on Veterinary Medical Practice.<sup>3</sup> A veterinarian is a health care practitioner licensed to engage in the practice of veterinary medicine in Florida under ch. 474, F.S.<sup>4</sup>

Veterinary medicine includes, with respect to animals:<sup>5</sup>

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine);<sup>6</sup> and
- Other branches or specialties of veterinary medicine.

The practice of veterinary medicine is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.<sup>7</sup> Veterinarians who are incompetent or present a danger to the public are subject to discipline and may be prohibited from practicing in the state.<sup>8</sup>

Nine categories of persons are exempt from complying with ch. 474, F.S.:<sup>9</sup>

- Faculty veterinarians with assigned teaching duties at accredited<sup>10</sup> institutions;

<sup>2</sup> See s. 474.201, F.S.

<sup>3</sup> See ss. 474.204 through 474.2125, F.S., concerning the powers and duties of the board.

<sup>4</sup> See s. 474.202(11), F.S.

<sup>5</sup> See s. 474.202(13), F.S. Section 474.202(1), F.S., defines “animal” as “any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead.”

<sup>6</sup> The Society for Theriogenology, established in 1954, is composed of veterinarians dedicated to standards of excellence in animal reproduction. See <https://www.therio.org/> (last visited Jan. 10, 2022).

<sup>7</sup> See s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy, fertility, or infertility of animals.

<sup>8</sup> See s. 474.213, F.S., on prohibited acts, and s. 474.214, F.S., on disciplinary proceedings.

<sup>9</sup> See s. 474.203, F.S.

<sup>10</sup> Sections 474.203(1) and (2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary Graduates. The AVMA Council on Education is recognized by the Council for Higher Education Accreditation (CHEA) as the accrediting body for schools and programs that offer the professional Doctor of Veterinary Medicine degree (or its equivalent) in the United States and Canada, and may also approve foreign veterinary colleges. See <https://www.avma.org/professionaldevelopment/education/accreditation/colleges/pages/coe-pp-overview-of-the-coe.aspx> (last visited Jan. 10, 2022). The AVMA Commission for Foreign Veterinary Graduates assists graduates of foreign, non-accredited schools to meet the requirement of most states that such foreign graduates successfully complete an educational

- Intern/resident veterinarians at accredited institutions who are graduates of an accredited institution, but only until they complete or terminate their training;
- Students in a school or college of veterinary medicine who perform assigned duties by an instructor (no accreditation of the institution is required), or work as preceptors<sup>11</sup> (if the preceptorship is required for graduation from an accredited institution);
- Doctors of veterinary medicine employed by a state agency or the United States Government while actually engaged in the performance of official duties at the installations for which the services were engaged;
- Persons or their employees caring for the persons' own animals, as well as part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks (excluding immunization or treatment of diseases that are communicable to humans and significant to public health) for herd/flock animals, with certain limitations; however, the exemption is not available to a person licensed as a veterinarian in another state and temporarily practicing in Florida, or convicted of violating ch. 828, F.S., on animal cruelty, or of any similar offense in another jurisdiction, and employment may not be provided for the purpose of circumventing ch. 474, F.S.;
- Certain entities or persons<sup>12</sup> that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods of treatment or techniques to diagnose or treatment of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine;
- Veterinary aides, nurses, laboratory technicians, preceptors, or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision<sup>13</sup> of a licensed veterinarian;
- Certain non-Florida veterinarians who are licensed and actively practicing veterinary medicine in another state, are board certified in a specialty recognized by the Florida Board of Veterinary Medicine, and are assisting upon request of a Florida-licensed veterinarian to consult on the treatment of a specific animal or on the treatment on a specific case of the animals of a single owner; and
- Employees, agents, or contractors of public or private animal shelters, humane organizations, or animal control agencies operated by a humane organization, county, municipality, or incorporated political subdivision, whose work is confined solely to implanting radio frequency identification device microchips in dogs and cats in accordance with s. 823.15, F.S.<sup>14</sup>

equivalency assessment certification program. *See*

<https://www.avma.org/professionaldevelopment/education/foreign/pages/ecfvg-about-us.aspx> (last visited Jan. 10, 2022). In turn, the Council for Higher Education Accreditation, a national advocate for regulation of academic quality through accreditation, is an association of degree-granting colleges and universities. *See* <http://chea.org/about> (last visited Jan. 10, 2022).

<sup>11</sup> A preceptor is a skilled practitioner or faculty member, who directs, teaches, supervises, and evaluates student in a clinical setting to allow practical experience with patients. *See* <https://www.merriam-Webster.com/dictionary/preceptor#medicalDictionary> (last visited Jan. 10, 2022).

<sup>12</sup> *See* s. 474.203(6), F.S., which states that the exemption applies to “[state agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof . . . .”

<sup>13</sup> The term “responsible supervision” is defined in s. 474.202(10), F.S., as the “control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services” delegated to unlicensed personnel.

<sup>14</sup> *See* s. 823.15(5), F.S., which authorizes such persons to perform microchipping of dogs and cats.



## **Veterinarian/Client/Patient Relationship**

Section 474.202(12), F.S., defines a “veterinarian/client/patient relationship” as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment. The term “patient” means any animal “for which a veterinarian practices veterinary medicine.”<sup>15</sup>

The term “valid veterinarian-client-patient relationship” used in federal regulations issued by the federal Food and Drug Administration (FDA), an agency within the United State Department of Health and Human Services, is similar to the term defined in s. 474.202(12), F.S.<sup>16</sup>

The FDA temporarily suspended the enforcement of portions of the federal veterinarian-client-patient relationship (VCPR) requirements under the FDA regulations. The FDA noted that “[t]he VCPR is the professional relationship between the veterinarian, client (e.g., animal owner or caretaker), and the animal patient(s).”<sup>17</sup> The federal VCPR definition requires that veterinarians physically examine animal patients and make medically appropriate and timely visits to the location where the animals are kept.<sup>18</sup> The FDA indicated that it would not be enforcing the animal examination and premises visit VCPR requirements involving the FDA regulations governing Extralabel Drug Use in Animals and Veterinary Feed Directive drugs (VFD).<sup>19</sup> This change would allow veterinarians to prescribe drugs in an extralabel manner or authorize the use of VFD drugs without direct emanation or visiting the patients.<sup>20</sup>

The FDA warned that even though the federal requirements were suspended, veterinarians still needed to consider state VCPR requirements.<sup>21</sup>

## **Requirements for Prescribing Medicinal Drugs and Controlled Substances**

Section 474.214(1)(y), F.S., sets forth the acts that may subject a veterinarian to disciplinary proceedings, related to the prescribing of drugs. A veterinarian may not order, prescribe, or make available medicinal drugs or drugs commonly known as “prescription” or “legend” drugs which are required by federal or state law to be dispensed only by a prescription, or controlled substances as defined in ch. 893, F.S.,<sup>22</sup> for use other than for the specific treatment of animal patients for which there is a documented veterinarian/client/patient relationship. The veterinarian must:

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<sup>15</sup> See s. 474.202(8), F.S.

<sup>16</sup> See 21 C.F.R. s. 530.3.

<sup>17</sup> See *Coronavirus (COVID-19) Update: FDA Helps Facilitate Veterinary Telemedicine During Pandemic*, FDA News Release, March 24, 2020 available at [Coronavirus \(COVID-19\) Update: FDA Helps Facilitate Veterinary Telemedicine During Pandemic | FDA](#) (last visited Jan. 10, 2022).

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

<sup>19</sup> *Id.* See 21 C.F.R. s. 530 and 21 C.F.R. part 558. A VFD drug is intended for use in animal feeds, and use is permitted only under the professional supervision of a licensed veterinarian. See U.S. Food and Drug Administration, *Veterinary Feed Directive (VFD)* <https://www.fda.gov/animal-veterinary/development-approval-process/veterinary-feed-directive-vfd> (last visited Jan. 10, 2022).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> See s. 893.03, F.S., for the listing of controlled substances regulated under Florida law.

- Have sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the animal's medical condition, meaning the veterinarian is personally acquainted with the keeping and caring of the animal and has recently seen the animal or has made medically appropriate and timely visits to the premises where the animal is kept;
- Be available or provide for follow up care and treatment if there are adverse reactions or the regimen of therapy fails; and
- Maintain documentation of patient visits, diagnosis, treatment, and other relevant information required under the veterinary practice act, ch. 474, F.S.<sup>23</sup>

### **Rabies Vaccinations**

In Florida, all dogs, cats, and ferrets<sup>24</sup> four months of age or older must be vaccinated against rabies at the expense of their owners by a licensed veterinarian.<sup>25</sup> Rabies is a fatal but preventable viral disease that can spread to people and pets bitten or scratched by a rabid animal.<sup>26</sup> According to the Centers for Disease Control and Prevention (CDC), a component of the United States Department of Health and Human Services, most rabies deaths in people around the world are caused by dog bites.<sup>27</sup> Because of laws in the United States requiring dogs to be vaccinated for rabies, dogs make up only about one percent of rabid animals reported nationally each year.<sup>28</sup>

Rabies vaccines are licensed by the United States Department of Agriculture, and revaccinations are required 12 months after the initial vaccine.<sup>29</sup> Thereafter, the interval between vaccinations is set by the vaccine manufacturer.<sup>30</sup>

A dog, cat, or ferret is exempt from vaccination against rabies if a licensed veterinarian has examined the animal and certified that vaccination at that time would endanger the animal's health because of its age, infirmity, disability, illness, or other medical considerations; however, an exempt animal must be vaccinated against rabies as soon as its health permits.<sup>31</sup>

After administering a rabies vaccination, the licensed veterinarian must provide a certificate to the animal's owner and the animal control authority, using the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV), or an equivalent form approved by the local government that contains the same information as the NASPHV certificate.<sup>32</sup> A signature stamp may be used in lieu of the veterinarian's actual signature.

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<sup>23</sup> See s. 474.214(1)(y), F.S.

<sup>24</sup> Ferrets that are vaccinated as required must be quarantined when necessary, in accordance with administrative rules of the Florida Department of Health. See s. 828.30(4), F.S., and Fla. Admin. Code R. 64D-3.040.

<sup>25</sup> See s. 828.30, F.S.

<sup>26</sup> See <https://www.cdc.gov/rabies/index.html> (last visited Jan. 10, 2022). In the United States, rabies is mostly found in wild animals like bats, raccoons, skunks, and foxes. *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> See s. 828.30(1), F.S.

<sup>30</sup> *Id.* Evidence of rabies antibodies may not be substituted for a current vaccination in managing rabies exposure or determining the need for booster vaccinations.

<sup>31</sup> See s. 828.30(2), F.S.

<sup>32</sup> See s. 828.30(3), F.S.

An animal owner's name, street address, phone number, and animal tag number in a rabies vaccination certificate provided to an animal control authority is a public record exempt from the inspection and copying requirements of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.<sup>33</sup> However, all information in a rabies vaccination certificate for a particular animal biting, scratching, or otherwise causing exposure, may be provided to a:

- Person who has been bitten, scratched, or otherwise exposed to a disease such as rabies that spreads between animals and people (zoonotic disease),<sup>34</sup> or that person's physician;
- Veterinarian treating an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease; or
- The owner of an animal that has been bitten, scratched, or otherwise exposed to a zoonotic disease.<sup>35</sup>

In addition, any person with an animal tag number may receive vaccination certificate information with regard to that animal. The following entities must be provided the information in rabies vaccination certificates for the purpose of controlling the transmission of rabies, but may not release the exempt information to third parties:

- Law enforcement and prosecutorial agencies;
- Other animal control authorities;
- Emergency and medical response and disease control agencies; or
- Other governmental health agencies.<sup>36</sup>

Release of exempt information contained in a rabies vaccine certificate is a civil infraction that could subject those cited for a violation to a civil penalty of up to \$500.<sup>37</sup>

Municipalities and counties are not prohibited from establishing similar or more stringent requirements than those described above for rabies control ordinances; however, local governments may not mandate revaccination of currently vaccinated animals except in instances involving treatment for rabies after an exposure.<sup>38</sup>

### III. Effect of Proposed Changes:

**Section 1** provides the act may be cited as the "Providing Equity in Telemedicine Services (PETS) Act."

**Section 2** amends s. 474.202, F.S., to define "telemedicine" as the practice of veterinary medicine, including "diagnosis, consultation, evaluation, treatment, or transfer of medical data," with a "two-way, real-time interactive communication" between a client and patient and a

<sup>33</sup> See s. 828.30(5), F.S.

<sup>34</sup> See information from the CDC about zoonotic diseases that are caused by germs that spread between animals and people at <https://www.cdc.gov/onehealth/basics/zoonotic-diseases.html#:~:text=Zoonotic%20means%20infectious%20diseases%20that%20are%20spread%20between,lives,%20both%20at%20home%20and%20away%20from%20home> (last visited Jan. 10, 2022).

<sup>35</sup> See s. 828.30(5), F.S.

<sup>36</sup> *Id.*

<sup>37</sup> See s. 828.30(6), F.S., and s. 828.27(2), F.S., authorizing the governing body of a county or municipality to enact ordinances relating to animal control or cruelty, and setting forth requirements for penalties, citations, and related procedures, respectively.

<sup>38</sup> See s. 828.30(7), F.S.

veterinarian who has access to and the ability to review the patient's relevant information before the visit.

**Section 3** creates s. 474.2021, F.S., to:

- Authorize veterinarians with a current Florida license to practice veterinary telemedicine;
- Provide the practice of medicine occurs at the location site where the veterinarian, the patient, or both are located at the time the veterinarian practices telemedicine;
- Authorize a veterinarian to practice telemedicine, if the veterinarian:
  - Takes appropriate steps to establish a veterinarian/client/patient relationship; and
  - Conducts all appropriate evaluations and collects appropriate histories of the patient, consistent with prevailing professional standards of care.
- Specify that a veterinarian may not prescribe controlled substances if the veterinarian has not performed an in-person physical examination or made medically appropriate and timely visits to the premises where the animal is kept; however, a consulting veterinarian using telemedicine may prescribe controlled substances for a terminal patient transferred to hospice care from a veterinarian who performed an in-person physical examination and provided the patient's medical records to the consulting veterinarian;
- Grant the board jurisdiction over a veterinarian practicing telemedicine in Florida, regardless of where the veterinarian's physical offices are located;
- Specify the practice of telemedicine in accordance with the above requirements is not a standard of care violation, and a veterinarian may not be disciplined solely for practicing telemedicine.

**Section 4** amends s. 828.30, F.S., relating to rabies vaccinations of dogs, cats, and ferrets, to allow employees, agents, or contractors of an animal control authority to administer rabies vaccinations to impounded dogs, cats, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner.

However, persons eligible to administer rabies vaccinations in this limited circumstance must be acting under a veterinarian's indirect supervision. The bill defines the term "indirect supervision," to mean the supervising veterinarian is available for consultation through telecommunications,<sup>39</sup> but is not required to be on the premises during the consultation. In addition, the supervising veterinarian assumes responsibility for the veterinary care given to the animal by any person working under the direction and supervision of the veterinarian.

**Section 5** amends s. 474.203(5)(a), F.S., to create an exception to the requirement that only a veterinarian may immunize or treat an animal for diseases that are communicable to people and that are significant to public health. The exception, limited to the administration of rabies vaccinations under specific conditions, is discussed in **Section 4** above.

**Section 6** amends s. 474.214, F.S., relating to the grounds for disciplinary action against a veterinarian, to require that a veterinarian ordering, prescribing, or making available medicinal

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<sup>39</sup> The term "telecommunications" is not defined in the bill, but Florida's Information Technology Management Act, part I of ch. 282, F.S., related to Communications and Data Processing (ss. 282.003 to 283.318, F.S.), defines that term to mean "the science and technology of communication at a distance, including electronic systems used in the transmission or reception of information." See s. 282.0041(35), F.S.

drugs or controlled substances for an animal patient, must have recently performed a physical examination of the animal or group of animals, either in person or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically.

**Section 7** provides the bill is effective July 1, 2022.

The bill includes technical drafting changes and conforming changes.

#### **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.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Animal owners may be able to obtain care for an animal from a veterinarian through the telemedicine procedure outlined in the bill. These new practices may improve availability, timeliness, and expense associated with veterinary care.

C. Government Sector Impact:

Certain rabies vaccinations may be administered by employees, agents, or contractors of an animal control authority to impounded dogs, cat, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. This vaccination method may

allow vaccination of impounded animals to occur more quickly and reduce costs to animal control authorities.

According to the DBPR, there is no impact to state government by the bill, although costs incurred by animal control authorities for rabies vaccinations provided by veterinarians may be reduced by an indeterminate amount.<sup>40</sup>

**VI. Technical Deficiencies:**

A technical amendment is recommended to insert “veterinary” into the phrase “the practice of medicine occurs” to properly refer to the practice of veterinary medicine. *See* line 65 of the bill.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 474.202, 474.203, 474.214, and 828.30.

This bill creates section 474.2021 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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<sup>40</sup> See Department of Business and Professional Regulation, *2022 Agency Legislative Bill Analysis for SB 448* at 5 (Oct. 21, 2021) (on file with the Senate Committee on Regulated Industries).



776064

LEGISLATIVE ACTION

Senate

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House

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. This act may be cited as the "Providing Equity  
in Telemedicine Services (PETS) Act."

Section 2. Subsection (14) is added to section 474.202,  
Florida Statutes, to read:

474.202 Definitions.—As used in this chapter:

(14) "Veterinary telemedicine" means the use of synchronous



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11 telecommunications technology by a veterinarian who has an  
12 established veterinarian/client/patient relationship or has  
13 access to and has reviewed the patient's relevant medical  
14 records from a veterinarian who has an established  
15 veterinarian/client/patient relationship, to provide veterinary  
16 services, including, but not limited to, consultation,  
17 evaluation, diagnosis, and treatment of a patient; transfer of  
18 medical records; and exchange of information with a client.

19 Section 3. Section 474.2021, Florida Statutes, is created  
20 to read:

21 474.2021 Veterinary telemedicine.-

22 (1) A veterinarian may practice telemedicine.

23 (2) A veterinarian practicing veterinary telemedicine shall  
24 take the appropriate steps, as defined by the Board of  
25 Veterinary Medicine, to establish the  
26 veterinarian/client/patient relationship and provide quality of  
27 care consistent with the prevailing professional standards of  
28 care for a veterinarian in this state. The board may not require  
29 a veterinarian practicing veterinary telemedicine to perform an  
30 in-person physical examination of a patient in order to  
31 establish the veterinarian/client/patient relationship or  
32 prescribe medicine or other treatment to the patient.

33 (3) A veterinarian practicing veterinary telemedicine may  
34 order, prescribe, or make available medicinal drugs or drugs as  
35 defined in chapter 465.

36 (4) A veterinarian practicing veterinary telemedicine may  
37 not use veterinary telemedicine to order, prescribe, or make  
38 available controlled substances listed in Schedule II of s.  
39 893.03 unless the controlled substance is ordered, prescribed,





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40 or made available for the treatment of a terminal patient that  
41 is transferred to a consulting veterinarian practicing  
42 veterinary telemedicine for hospice care services by a  
43 veterinarian who has previously performed an in-person physical  
44 examination of the patient and provided or made medically  
45 appropriate and timely visits to the premises where the animal  
46 is kept, and the veterinarian has reviewed the patient's medical  
47 records with the consulting veterinarian practicing veterinary  
48 telemedicine.

49 (5) A veterinarian must hold a current license to practice  
50 veterinary medicine in this state in order to practice  
51 veterinary telemedicine. The practice of veterinary medicine is  
52 deemed to occur at the premises where the patient is located at  
53 the time the veterinarian practices veterinary telemedicine.

54 (6) The board has jurisdiction over a veterinarian  
55 practicing veterinary telemedicine in this state, regardless of  
56 where the veterinarian's physical office is located. The  
57 practice of veterinary telemedicine in accordance with this  
58 section is not a standard of care violation, and a veterinarian  
59 may not be disciplined solely for practicing veterinary  
60 telemedicine.

61 Section 4. Paragraph (a) of subsection (5) of section  
62 474.203, Florida Statutes, is amended to read:

63 474.203 Exemptions.—This chapter does not apply to:

64 (5) (a) Any person, or the person's regular employee,  
65 administering to the ills or injuries of her or his own animals,  
66 including, but not limited to, castration, spaying, and  
67 dehorning of herd animals, unless title is transferred or  
68 employment provided for the purpose of circumventing this law.



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69 This exemption does not apply to any person licensed as a  
70 veterinarian in another state or foreign jurisdiction and  
71 practicing temporarily in this state. However, except as  
72 provided in s. 828.30, only a veterinarian may immunize or treat  
73 an animal for diseases that are communicable to humans and that  
74 are of public health significance.

75  
76 For the purposes of chapters 465 and 893, persons exempt  
77 pursuant to subsection (1), subsection (2), or subsection (4)  
78 are deemed to be duly licensed practitioners authorized by the  
79 laws of this state to prescribe drugs or medicinal supplies.

80 Section 5. Paragraph (y) of subsection (1) of section  
81 474.214, Florida Statutes, is amended to read:

82 474.214 Disciplinary proceedings.—

83 (1) The following acts shall constitute grounds for which  
84 the disciplinary actions in subsection (2) may be taken:

85 (y) Using the privilege of ordering, prescribing, or making  
86 available medicinal drugs or drugs as defined in chapter 465, or  
87 controlled substances as defined in chapter 893, for use other  
88 than for the specific treatment of animal patients for which  
89 there is a documented veterinarian/client/patient relationship.

90 ~~Pursuant thereto,~~ The veterinarian shall:

91 1. Have sufficient knowledge of the animal or group of  
92 animals to initiate at least a general or preliminary diagnosis  
93 of the medical condition of the animal or group of animals,  
94 which means that the veterinarian is personally acquainted with  
95 the keeping and caring of the animal or group of animals and has  
96 recently performed an examination of the animal or group of  
97 animals either in person or by the use of veterinary



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98 telemedicine in compliance with s. 474.2021, ~~seen the animal~~ or  
99 has made medically appropriate and timely visits to the premises  
100 where the animal or group of animals is kept.

101 2. Be available or provide for follow-up ~~followup~~ care and  
102 treatment in case of adverse reactions or failure of the regimen  
103 of therapy.

104 3. Maintain records which document patient visits,  
105 diagnosis, treatment, and other relevant information required  
106 under this chapter.

107 Section 6. Subsections (1) and (3) of section 828.30,  
108 Florida Statutes, are amended to read:

109 828.30 Rabies vaccination of dogs, cats, and ferrets.—

110 (1) (a) All dogs, cats, and ferrets 4 months of age or older  
111 must be vaccinated by a licensed veterinarian or, in the case of  
112 impounded animals, a person authorized under paragraph (b),  
113 against rabies with a vaccine ~~that is~~ licensed by the United  
114 States Department of Agriculture for use in those species.

115 (b) An employee, an agent, or a contractor of an animal  
116 control authority acting under the indirect supervision of a  
117 veterinarian may vaccinate impounded dogs, cats, and ferrets  
118 that will be transferred, rescued, fostered, adopted, or  
119 reclaimed by the owner. The supervising veterinarian assumes  
120 responsibility for any person vaccinating animals at his or her  
121 direction or under his or her supervision. As used in this  
122 paragraph, the term "indirect supervision" means that the  
123 supervising veterinarian is required to be available for  
124 consultation through telecommunications but is not required to  
125 be physically present during such consultation.

126 (c) The owner of every dog, cat, and ferret shall have the



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127 animal revaccinated 12 months after the initial vaccination.  
128 Thereafter, the interval between vaccinations shall conform to  
129 the vaccine manufacturer's directions. The cost of vaccination  
130 must be borne by the animal's owner. Evidence of circulating  
131 rabies virus neutralizing antibodies may ~~shall~~ not be used as a  
132 substitute for current vaccination in managing rabies exposure  
133 or determining the need for booster vaccinations.

134 (3) Upon vaccination against rabies, the licensed  
135 veterinarian shall provide the animal's owner and the animal  
136 control authority with a rabies vaccination certificate. Each  
137 animal control authority and veterinarian shall use the "Rabies  
138 Vaccination Certificate" of the National Association of State  
139 Public Health Veterinarians (NASPHV) or an equivalent form  
140 approved by the local government which ~~that~~ contains ~~all~~ the  
141 information required by the NASPHV Rabies Vaccination  
142 Certificate. The veterinarian who administers the rabies  
143 vaccination, or who supervises the administration of the rabies  
144 vaccination as provided in paragraph (1) (b), ~~vaccine~~ to an  
145 animal as authorized ~~required~~ under this section may affix his  
146 or her signature stamp in lieu of an actual signature.

147 Section 7. This act shall take effect July 1, 2022.

148  
149 ===== T I T L E A M E N D M E N T =====

150 And the title is amended as follows:

151 Delete everything before the enacting clause  
152 and insert:

153 A bill to be entitled  
154 An act relating to the medical treatment of animals;  
155 providing a short title; amending s. 474.202, F.S.;



776064

156 defining the term "veterinary telemedicine"; creating  
157 s. 474.2021, F.S.; authorizing the use of veterinary  
158 telemedicine; requiring veterinarians to take certain  
159 appropriate steps to establish a  
160 veterinarian/client/patient relationship and meet  
161 certain professional standards to practice veterinary  
162 telemedicine; authorizing a veterinarian practicing  
163 veterinary telemedicine to order, prescribe, or make  
164 available certain drugs; prohibiting a veterinarian  
165 practicing veterinary telemedicine from ordering,  
166 prescribing, or making available specified controlled  
167 substances; providing an exception; providing  
168 licensure requirements to practice veterinary  
169 telemedicine; providing jurisdiction of the Florida  
170 Board of Veterinary Medicine; providing construction;  
171 amending s. 474.203, F.S.; providing an exception to  
172 who may immunize or treat an animal for certain  
173 diseases; amending s. 474.214, F.S.; revising grounds  
174 for disciplinary action against a veterinarian;  
175 amending s. 828.30, F.S.; authorizing certain  
176 employees, agents, or contractors to administer rabies  
177 vaccinations under certain circumstances; providing  
178 that a supervising veterinarian assumes responsibility  
179 for any person vaccinating animals at the supervising  
180 veterinarian's discretion or under his or her  
181 supervision; defining the term "indirect supervision";  
182 authorizing a veterinarian who indirectly supervises  
183 the administration of the rabies vaccination to affix  
184 his or her signature stamp on a rabies vaccination



776064

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certificate; providing an effective date.



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LEGISLATIVE ACTION

Senate

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House

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

1           **Senate Substitute for Amendment (776064) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

6           Section 1. This act may be cited as the "Providing Equity  
7 in Telemedicine Services (PETS) Act."

8           Section 2. Subsection (14) is added to section 474.202,  
9 Florida Statutes, to read:

10           474.202 Definitions.—As used in this chapter:



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11           (14) "Veterinary telemedicine" means the use of synchronous  
12 telecommunications technology by a veterinarian who has an  
13 established veterinarian/client/patient relationship to provide  
14 veterinary services, including, but not limited to,  
15 consultation, evaluation, diagnosis, and treatment of a patient;  
16 transfer of medical records; and exchange of information with a  
17 client.

18           Section 3. Section 474.2021, Florida Statutes, is created  
19 to read:

20           474.2021 Veterinary telemedicine.-

21           (1) A veterinarian may practice telemedicine.

22           (2) A veterinarian practicing veterinary telemedicine shall  
23 take the appropriate steps, as defined by the Board of  
24 Veterinary Medicine, to establish the  
25 veterinarian/client/patient relationship and provide quality of  
26 care consistent with the prevailing professional standards of  
27 care for a veterinarian in this state.

28           (3) A veterinarian practicing veterinary telemedicine may  
29 order, prescribe, or make available medicinal drugs or drugs as  
30 defined in chapter 465.

31           (4) A veterinarian practicing veterinary telemedicine may  
32 use veterinary telemedicine to order, prescribe, or make  
33 available controlled substances in compliance with chapter 893  
34 and the federal Controlled Substances Act.

35           (5) A veterinarian must hold a current license to practice  
36 veterinary medicine in this state in order to practice  
37 veterinary telemedicine. The practice of veterinary medicine is  
38 deemed to occur at both the premises where the patient is  
39 located and the premises where the veterinarian is located at





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40 the time the veterinarian practices veterinary telemedicine.

41 (6) The board has jurisdiction over a veterinarian  
42 practicing veterinary telemedicine in this state, regardless of  
43 where the veterinarian's physical office is located. The  
44 practice of veterinary telemedicine in accordance with this  
45 section is not a standard of care violation, and a veterinarian  
46 may not be disciplined solely for practicing veterinary  
47 telemedicine.

48 Section 4. Paragraph (a) of subsection (5) of section  
49 474.203, Florida Statutes, is amended to read:

50 474.203 Exemptions.—This chapter does not apply to:

51 (5) (a) Any person, or the person's regular employee,  
52 administering to the ills or injuries of her or his own animals,  
53 including, but not limited to, castration, spaying, and  
54 dehorning of herd animals, unless title is transferred or  
55 employment provided for the purpose of circumventing this law.  
56 This exemption does not apply to any person licensed as a  
57 veterinarian in another state or foreign jurisdiction and  
58 practicing temporarily in this state. However, except as  
59 provided in s. 828.30, only a veterinarian may immunize or treat  
60 an animal for diseases that are communicable to humans and that  
61 are of public health significance.

62  
63 For the purposes of chapters 465 and 893, persons exempt  
64 pursuant to subsection (1), subsection (2), or subsection (4)  
65 are deemed to be duly licensed practitioners authorized by the  
66 laws of this state to prescribe drugs or medicinal supplies.

67 Section 5. Paragraph (y) of subsection (1) of section  
68 474.214, Florida Statutes, is amended to read:



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69 474.214 Disciplinary proceedings.—

70 (1) The following acts shall constitute grounds for which  
71 the disciplinary actions in subsection (2) may be taken:

72 (y) Using the privilege of ordering, prescribing, or making  
73 available medicinal drugs or drugs as defined in chapter 465, or  
74 controlled substances as defined in chapter 893, for use other  
75 than for the specific treatment of animal patients for which  
76 there is a documented veterinarian/client/patient relationship.  
77 ~~Pursuant thereto,~~ The veterinarian shall:

78 1. Have sufficient knowledge of the animal or group of  
79 animals to initiate at least a general or preliminary diagnosis  
80 of the medical condition of the animal or group of animals,  
81 which means that the veterinarian is personally acquainted with  
82 the keeping and caring of the animal or group of animals and has  
83 recently performed an in-person examination of the animal or  
84 group of animals ~~seen the animal~~ or has made medically  
85 appropriate and timely visits to the premises where the animal  
86 or group of animals is kept.

87 2. Be available or provide for follow-up ~~followup~~ care and  
88 treatment in case of adverse reactions or failure of the regimen  
89 of therapy.

90 3. Maintain records which document patient visits,  
91 diagnosis, treatment, and other relevant information required  
92 under this chapter.

93 Section 6. Subsections (1) and (3) of section 828.30,  
94 Florida Statutes, are amended to read:

95 828.30 Rabies vaccination of dogs, cats, and ferrets.—

96 (1) (a) All dogs, cats, and ferrets 4 months of age or older  
97 must be vaccinated by a licensed veterinarian or, in the case of



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98 impounded animals, a person authorized under paragraph (b),  
99 against rabies with a vaccine ~~that is~~ licensed by the United  
100 States Department of Agriculture for use in those species.

101 (b) An employee, an agent, or a contractor of an animal  
102 control authority acting under the indirect supervision of a  
103 veterinarian may vaccinate impounded dogs, cats, and ferrets  
104 that will be transferred, rescued, fostered, adopted, or  
105 reclaimed by the owner. The supervising veterinarian assumes  
106 responsibility for any person vaccinating animals at his or her  
107 direction or under his or her supervision. As used in this  
108 paragraph, the term "indirect supervision" means that the  
109 supervising veterinarian is required to be available for  
110 consultation through telecommunications but is not required to  
111 be physically present during such consultation.

112 (c) The owner of every dog, cat, and ferret shall have the  
113 animal revaccinated 12 months after the initial vaccination.  
114 Thereafter, the interval between vaccinations shall conform to  
115 the vaccine manufacturer's directions. The cost of vaccination  
116 must be borne by the animal's owner. Evidence of circulating  
117 rabies virus neutralizing antibodies ~~may shall~~ not be used as a  
118 substitute for current vaccination in managing rabies exposure  
119 or determining the need for booster vaccinations.

120 (3) Upon vaccination against rabies, the licensed  
121 veterinarian shall provide the animal's owner and the animal  
122 control authority with a rabies vaccination certificate. Each  
123 animal control authority and veterinarian shall use the "Rabies  
124 Vaccination Certificate" of the National Association of State  
125 Public Health Veterinarians (NASPHV) or an equivalent form  
126 approved by the local government which ~~that~~ contains ~~all~~ the



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127 information required by the NASPHV Rabies Vaccination  
128 Certificate. The veterinarian who administers the rabies  
129 vaccination, or who supervises the administration of the rabies  
130 vaccination as provided in paragraph (1) (b), vaccine to an  
131 animal as authorized ~~required~~ under this section may affix his  
132 or her signature stamp in lieu of an actual signature.

133 Section 7. This act shall take effect July 1, 2022.

134  
135 ===== T I T L E A M E N D M E N T =====

136 And the title is amended as follows:

137 Delete everything before the enacting clause  
138 and insert:

139 A bill to be entitled

140 An act relating to the medical treatment of animals;  
141 providing a short title; amending s. 474.202, F.S.;  
142 defining the term "veterinary telemedicine"; creating  
143 s. 474.2021, F.S.; authorizing the use of veterinary  
144 telemedicine; requiring veterinarians to take certain  
145 appropriate steps to establish a  
146 veterinarian/client/patient relationship and meet  
147 certain professional standards to practice veterinary  
148 telemedicine; authorizing a veterinarian practicing  
149 veterinary telemedicine to order, prescribe, or make  
150 available certain drugs and controlled substances;  
151 providing licensure requirements to practice  
152 veterinary telemedicine; providing jurisdiction of the  
153 Florida Board of Veterinary Medicine; providing  
154 construction; amending s. 474.203, F.S.; providing an  
155 exception to who may immunize or treat an animal for



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156 certain diseases; amending s. 474.214, F.S.; revising  
157 grounds for disciplinary action against a  
158 veterinarian; amending s. 828.30, F.S.; authorizing  
159 certain employees, agents, or contractors to  
160 administer rabies vaccinations under certain  
161 circumstances; providing that a supervising  
162 veterinarian assumes responsibility for any person  
163 vaccinating animals at the supervising veterinarian's  
164 direction or under his or her supervision; defining  
165 the term "indirect supervision"; authorizing a  
166 veterinarian who indirectly supervises the  
167 administration of the rabies vaccination to affix his  
168 or her signature stamp on a rabies vaccination  
169 certificate; providing an effective date.



233706

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/08/2022	.	
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The Committee on Regulated Industries (Brodeur) recommended the following:

**Senate Amendment**

Delete lines 65 - 152  
and insert:  
medicine in this state. The practice of veterinary medicine occurs where the veterinarian or the patient, or both, are located at the time the veterinarian practices telemedicine.

(3) The board has jurisdiction over a veterinarian practicing telemedicine in this state, regardless of where the veterinarian's physical offices are located. The practice of



233706

11 telemedicine in accordance with this section is not a standard  
12 of care violation, and a veterinarian may not be disciplined  
13 solely for practicing telemedicine.

14 Section 4. Subsections (1) and (3) of section 828.30,  
15 Florida Statutes, are amended to read:

16 828.30 Rabies vaccination of dogs, cats, and ferrets.—

17 (1) (a) All dogs, cats, and ferrets 4 months of age or older  
18 must be vaccinated by a licensed veterinarian or, in the case of  
19 impounded animals, a person authorized under paragraph (b),  
20 against rabies with a vaccine that is licensed by the United  
21 States Department of Agriculture for use in those species.

22 (b) An employee, an agent, or a contractor of an animal  
23 control authority acting under the indirect supervision of a  
24 veterinarian may vaccinate impounded dogs, cats, and ferrets  
25 that will be transferred, rescued, fostered, adopted, or  
26 reclaimed by the owner. The supervising veterinarian assumes  
27 responsibility for any person vaccinating animals at his or her  
28 direction or under his or her supervision. As used in this  
29 paragraph, the term "indirect supervision" means that the  
30 supervising veterinarian is required to be available for  
31 consultation through telecommunications but is not required to  
32 be physically present during such consultation.

33 (c) The owner of every dog, cat, and ferret shall have the  
34 animal revaccinated 12 months after the initial vaccination.  
35 Thereafter, the interval between vaccinations shall conform to  
36 the vaccine manufacturer's directions. The cost of vaccination  
37 must be borne by the animal's owner. Evidence of circulating  
38 rabies virus neutralizing antibodies ~~may~~ shall not be used as a  
39 substitute for current vaccination in managing rabies exposure



233706

40 or determining the need for booster vaccinations.

41 (3) Upon vaccination against rabies, the licensed  
42 veterinarian shall provide the animal's owner and the animal  
43 control authority with a rabies vaccination certificate. Each  
44 animal control authority and veterinarian shall use the "Rabies  
45 Vaccination Certificate" of the National Association of State  
46 Public Health Veterinarians (NASPHV) or an equivalent form  
47 approved by the local government which ~~that~~ contains ~~all~~ the  
48 information required by the NASPHV Rabies Vaccination  
49 Certificate. The veterinarian who administers the rabies  
50 vaccination, or who supervises the administration of the rabies  
51 vaccination as provided in paragraph (1) (b), vaccine to an  
52 animal as authorized ~~required~~ under this section may affix his  
53 or her signature stamp in lieu of an actual signature.

54 Section 5. Paragraph (a) of subsection (5) of section  
55 474.203, Florida Statutes, is amended to read:

56 474.203 Exemptions.—This chapter does not apply to:

57 (5) (a) Any person, or the person's regular employee,  
58 administering to the ills or injuries of her or his own animals,  
59 including, but not limited to, castration, spaying, and  
60 dehorning of herd animals, unless title is transferred or  
61 employment provided for the purpose of circumventing this law.  
62 This exemption does not apply to any person licensed as a  
63 veterinarian in another state or foreign jurisdiction and  
64 practicing temporarily in this state. However, except as  
65 provided in s. 828.30, only a veterinarian may immunize or treat  
66 an animal for diseases that are communicable to humans and that  
67 are of public health significance.

68





233706

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

73 Section 6. Paragraph (y) of subsection (1) of section  
74 474.214, Florida Statutes, is amended to read:

75 474.214 Disciplinary proceedings.—

76 (1) The following acts shall constitute grounds for which  
77 the disciplinary actions in subsection (2) may be taken:

78 (y) Using the privilege of ordering, prescribing, or making  
79 available medicinal drugs or drugs as defined in chapter 465, or  
80 controlled substances as defined in chapter 893, for use other  
81 than for the specific treatment of animal patients for which  
82 there is a documented veterinarian/client/patient relationship.

83 ~~Pursuant thereto,~~ The veterinarian shall:

84 1. Have sufficient knowledge of the animal to initiate at  
85 least a general or preliminary diagnosis of the medical  
86 condition of the animal, which means that the veterinarian is  
87 personally acquainted with the keeping and caring of the animal,  
88 is in compliance with s. 474.2021(2)(b), and has recently seen  
89 the animal or has made medically appropriate and timely visits  
90 to

By Senator Brodeur

9-00429C-22

2022448\_\_

1 A bill to be entitled  
 2 An act relating to veterinary telehealth; providing a  
 3 short title; amending s. 474.202, F.S.; defining the  
 4 term "telemedicine"; creating s. 474.2021, F.S.;  
 5 authorizing veterinarians to practice telemedicine;  
 6 requiring veterinarians using telemedicine to  
 7 establish a veterinarian/client/patient relationship  
 8 and meet certain professional standards; prohibiting  
 9 such veterinarians from prescribing controlled  
 10 substances under certain circumstances; providing an  
 11 exception; providing licensure requirements to  
 12 practice telemedicine; providing jurisdiction of the  
 13 Florida Board of Veterinary Medicine; providing  
 14 construction; amending s. 828.30, F.S.; authorizing  
 15 employees, agents, or contractors of animal control  
 16 authorities to administer rabies vaccinations under  
 17 certain circumstances; providing that a supervising  
 18 veterinarian assumes responsibility for any person  
 19 vaccinating animals at the supervising veterinarian's  
 20 discretion or under his or her supervision; defining  
 21 the term "indirect supervision"; authorizing a  
 22 veterinarian who indirectly supervises the  
 23 administration of the rabies vaccination to affix his  
 24 or her signature stamp on a rabies vaccination  
 25 certificate; amending ss. 474.203 and 474.214, F.S.;  
 26 conforming provisions to changes made by the act;  
 27 providing an effective date.  
 28  
 29 Be It Enacted by the Legislature of the State of Florida:

Page 1 of 6

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

9-00429C-22

2022448\_\_

30  
 31 Section 1. This act may be cited as the "Providing Equity  
 32 in Telemedicine Services (PETS) Act."  
 33 Section 2. Present subsections (11), (12), and (13) of  
 34 section 474.202, Florida Statutes, are redesignated as  
 35 subsections (12), (13), and (14), respectively, and a new  
 36 subsection (11) is added to that section, to read:  
 37 474.202 Definitions.—As used in this chapter:  
 38 (11) "Telemedicine" means the practice of veterinary  
 39 medicine, including diagnosis, consultation, evaluation,  
 40 treatment, or transfer of medical data, by means of a two-way,  
 41 real-time interactive communication between a client and patient  
 42 and a veterinarian who has access to and the ability to review  
 43 the patient's relevant information before the telemedicine  
 44 visit.  
 45 Section 3. Section 474.2021, Florida Statutes, is created  
 46 to read:  
 47 474.2021 Veterinary telemedicine.—  
 48 (1) A veterinarian may practice telemedicine.  
 49 (2) A veterinarian who uses telemedicine:  
 50 (a) Shall take appropriate steps to establish a  
 51 veterinarian/client/patient relationship and conduct all  
 52 appropriate evaluations and collect appropriate histories of the  
 53 patient, consistent with prevailing professional standards of  
 54 care for the specific patient presentation.  
 55 (b) May not prescribe controlled substances if he or she  
 56 has not previously performed an in-person physical examination  
 57 or made medically appropriate and timely visits to the premises  
 58 where the animal is kept. However, a consulting veterinarian

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

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59 using telemedicine may prescribe controlled substances for a  
 60 terminal patient transferred to the consulting veterinarian for  
 61 hospice care from a veterinarian who performed an in-person  
 62 physical examination of the patient and provided medical records  
 63 to the consulting veterinarian.

64 (c) Must hold a current license to practice veterinary  
 65 medicine in this state. The practice of medicine occurs where  
 66 the veterinarian or the patient, or both, are located at the  
 67 time the veterinarian practices telemedicine.

68 (3) The board has jurisdiction over a veterinarian  
 69 practicing telemedicine in this state, regardless of where the  
 70 veterinarian's physical offices are located. The practice of  
 71 telemedicine in accordance with this section is not a standard  
 72 of care violation, and a veterinarian may not be disciplined  
 73 solely for practicing telemedicine.

74 Section 4. Subsections (1) and (3) of section 828.30,  
 75 Florida Statutes, are amended to read:

76 828.30 Rabies vaccination of dogs, cats, and ferrets.—

77 (1) (a) All dogs, cats, and ferrets 4 months of age or older  
 78 must be vaccinated by a licensed veterinarian or, in the case of  
 79 impounded animals, a person authorized under paragraph (b),  
 80 against rabies with a vaccine ~~that is~~ licensed by the United  
 81 States Department of Agriculture for use in those species.

82 (b) An employee, an agent, or a contractor of an animal  
 83 control authority acting under the indirect supervision of a  
 84 veterinarian may vaccinate impounded dogs, cats, and ferrets  
 85 that will be transferred, rescued, fostered, adopted, or  
 86 reclaimed by the owner. The supervising veterinarian assumes  
 87 responsibility for any person vaccinating animals at his or her

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88 direction or under his or her supervision. As used in this  
 89 paragraph, the term "indirect supervision" means that the  
 90 supervising veterinarian is required to be available for  
 91 consultation through telecommunications but is not required to  
 92 be physically present during such consultation.

93 (c) The owner of every dog, cat, and ferret shall have the  
 94 animal revaccinated 12 months after the initial vaccination.  
 95 Thereafter, the interval between vaccinations shall conform to  
 96 the vaccine manufacturer's directions. The cost of vaccination  
 97 must be borne by the animal's owner. Evidence of circulating  
 98 rabies virus neutralizing antibodies may ~~shall~~ not be used as a  
 99 substitute for current vaccination in managing rabies exposure  
 100 or determining the need for booster vaccinations.

101 (3) Upon vaccination against rabies, the licensed  
 102 veterinarian shall provide the animal's owner and the animal  
 103 control authority with a rabies vaccination certificate. Each  
 104 animal control authority and veterinarian shall use the "Rabies  
 105 Vaccination Certificate" of the National Association of State  
 106 Public Health Veterinarians (NASPHV) or an equivalent form  
 107 approved by the local government which ~~that~~ contains all the  
 108 information required by the NASPHV Rabies Vaccination  
 109 Certificate. The veterinarian who administers the rabies  
 110 vaccination, or who supervises the administration of the rabies  
 111 vaccination as provided in paragraph (1) (b), ~~vaccine~~ to an  
 112 animal as authorized ~~required~~ under this section may affix his  
 113 or her signature stamp in lieu of an actual signature.

114 Section 5. Paragraph (a) of subsection (5) of section  
 115 474.203, Florida Statutes, is amended to read:

116 474.203 Exemptions.—This chapter does not apply to:

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117 (5) (a) Any person, or the person's regular employee,  
 118 administering to the ills or injuries of her or his own animals,  
 119 including, but not limited to, castration, spaying, and  
 120 dehorning of herd animals, unless title is transferred or  
 121 employment provided for the purpose of circumventing this law.  
 122 This exemption does not apply to any person licensed as a  
 123 veterinarian in another state or foreign jurisdiction and  
 124 practicing temporarily in this state. However, except as  
 125 provided in s. 828.30, only a veterinarian may immunize or treat  
 126 an animal for diseases that are communicable to humans and that  
 127 are of public health significance.

128  
 129 For the purposes of chapters 465 and 893, persons exempt  
 130 pursuant to subsection (1), subsection (2), or subsection (4)  
 131 are deemed to be duly licensed practitioners authorized by the  
 132 laws of this state to prescribe drugs or medicinal supplies.

133 Section 6. Paragraph (y) of subsection (1) of section  
 134 474.214, Florida Statutes, is amended to read:

135 474.214 Disciplinary proceedings.—

136 (1) The following acts shall constitute grounds for which  
 137 the disciplinary actions in subsection (2) may be taken:

138 (y) Using the privilege of ordering, prescribing, or making  
 139 available medicinal drugs or drugs as defined in chapter 465, or  
 140 controlled substances as defined in chapter 893, for use other  
 141 than for the specific treatment of animal patients for which  
 142 there is a documented veterinarian/client/patient relationship.

143 ~~Pursuant thereto~~, The veterinarian shall:

144 1. Have sufficient knowledge of the animal to initiate at  
 145 least a general or preliminary diagnosis of the medical

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146 condition of the animal, which means that the veterinarian is  
 147 personally acquainted with the keeping and caring of the animal  
 148 and has recently performed an examination of the animal or group  
 149 of animals either physically in person or by the use of  
 150 instrumentation and diagnostic equipment through which images  
 151 and medical records may be transmitted electronically ~~seen the~~  
 152 ~~animal~~ or has made medically appropriate and timely visits to  
 153 the premises where the animal is kept.

154 2. Be available or provide for follow-up ~~followup~~ care and  
 155 treatment in case of adverse reactions or failure of the regimen  
 156 of therapy.

157 3. Maintain records which document patient visits,  
 158 diagnosis, treatment, and other relevant information required  
 159 under this chapter.

160 Section 7. This act shall take effect July 1, 2022.

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Travis Hutson, Chair  
Committee on Regulated Industries

**Subject:** Committee Agenda Request

**Date:** November 2, 2021

---

I respectfully request that **Senate Bill 448**, relating to **Veterinary Telehealth**, be placed on the:

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

A handwritten signature in black ink that reads "Jason Brodeur".

---

Senator Jason Brodeur  
Florida Senate, District 9



## 2022 AGENCY LEGISLATIVE BILL ANALYSIS

### AGENCY: Department of Business & Professional Regulation

#### BILL INFORMATION

<b>BILL NUMBER:</b>	<u>SB 448</u>
<b>BILL TITLE:</b>	<u>Veterinary Telehealth</u>
<b>BILL SPONSOR:</b>	<u>Sen. Brodeur</u>
<b>EFFECTIVE DATE:</b>	<u>07/01/2022</u>

#### COMMITTEES OF REFERENCE

1) Regulated Industries
2) Agriculture
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

#### CURRENT COMMITTEE

1) Regulated Industries
-------------------------

#### SIMILAR BILLS

<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	Click or tap here to enter text.

#### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	HB 911CS2
<b>SPONSOR:</b>	Buchanan; Arrington; Barnaby; Bartleman; Chaney; Gottlieb; Morales
<b>YEAR:</b>	2021
<b>LAST ACTION:</b>	April 30, 2021 died in rules

#### IDENTICAL BILLS

<b>BILL NUMBER:</b>	N/A
<b>SPONSOR:</b>	Click or tap here to enter text.

#### Is this bill part of an agency package?

No

#### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	October 21, 2021
<b>LEAD AGENCY ANALYST:</b>	Renee Alsobrook, Deputy Director, Division of Professions
<b>ADDITIONAL ANALYST(S):</b>	Tracy Dixon, Service Operations Robin Jordan, Technology Jerry Wilson, Regulation

	Jake Whealdon, Acting OGC Rules
<b>LEGAL ANALYST:</b>	Click or tap here to enter text.
<b>FISCAL ANALYST:</b>	Raleigh Close, Budget Office

## **POLICY ANALYSIS**

### **1. EXECUTIVE SUMMARY**

The bill authorizes veterinarians to practice “telemedicine”; regulates prescribing of controlled substances; authorizes employees, agents, or contractors of animal control authorities to administer rabies vaccinations under veterinarian’s “indirect supervision;” provides jurisdiction to the Florida Board of Veterinary Medicine; provides conforming provisions to changes made by the bill; and provides and effective date.

### **2. SUBSTANTIVE BILL ANALYSIS**

#### **1. PRESENT SITUATION:**

Currently “telemedicine” in the practice of veterinary medicine is not defined and is not specifically authorized in chapter 474, Florida Statutes. Employees, agents, or contractors of animal control authorities are not authorized to vaccinate impounded dogs, cats, and ferrets for rabies.

#### **2. EFFECT OF THE BILL:**

Division of Professions

Section 1

The bill creates the title to the act and cites the act as the “Providing Equity in Telemedicine Services (PETS) Act.”

Section 2

The bill re-designates subsections (11), (12), and (13) of section 474.202, Florida Statutes to (12), (13), and (14) respectively and creates a new subsection (11) that provides a definition of “telemedicine.”

The new subsection 474.202(11), Florida Statutes defines “Telemedicine” as the practice of veterinary medicine, including diagnosis, consultation, evaluation, treatment, or transfer of medical data, by means of a two-way, real-time interactive communication between a client and patient and a veterinarian who has access to and ability to review the patient’s relevant information before the telemedicine visit.

Section 3

The bill creates a new section 474.2021 providing for Veterinary telemedicine. The new section provides in subsections below:

- (1) A veterinarian may practice telemedicine.
- (2) A veterinarian who uses telemedicine:
  - (a) Shall take appropriate steps to establish a veterinarian/client/patient relationship and conduct all appropriate evaluations and collect appropriate histories of the patient, consistent with prevailing professional standards of care for the specific patient presentation.
  - (b) May not prescribe controlled substances if he or she has not previously performed an in-person physical examination or made medically appropriate and timely visits to the premises where the animal is kept. However, a consulting veterinarian using telemedicine may prescribe controlled substances for a terminal patient transferred to the consulting veterinarian for hospice care from a veterinarian who performed an in-person physical examination of the patient and provided medical records to the consulting veterinarian.
  - (c) Must hold a current license to practice veterinary medicine in the state. The practice of medicine occurs where the veterinarian or the patient, or both, are located at the time the veterinarian practices telemedicine.
- (3) The board has jurisdiction over a veterinarian practicing telemedicine in this state, regardless of where the veterinarian’s physical offices are located. The practice of telemedicine in accordance with this section is not a *standard of care violation*, and a veterinarian may not be disciplined solely for practicing telemedicine.

Section 4

The bill provides amendments to section 828.30, Florida Statutes, related to rabies vaccination of dogs, cats, and ferrets.

Specifically, the bill amends subsection (1) and (3) of section 828.30, Florida Statutes.

Subsection 828.30(1)(a) is amended by the bill to read: All dogs, cats, and ferrets 4 months of age or older must be vaccinated by a licensed veterinarian or, in the case of impounded animals, a person authorized under paragraph (b), against rabies with a vaccine licensed by the United States Department of Agriculture for use in those species.

The bill creates subsection 828.30(1)(b) which reads: An employee, an agent, or contractor of an animal control authority acting under the indirect supervision of a veterinarian may vaccinate impounded dogs, cats, and ferrets that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. The supervising veterinarian assumes responsibility for any person vaccinating animals at his or her direction or under his or her supervision. As used in this paragraph, the term “indirect supervision” means that the supervising veterinarian is required to be available for consultation through telecommunications but is not required to be physically present during such consultation.

Subsection 828.30(3), Florida Statutes is amended by the bill to allow for the veterinarian who supervises the administration of the rabies vaccination as well as the veterinarian who administers the rabies vaccination to use a signature stamp in lieu of an actual signature.

**Section 5**

The bill amends paragraph (a) of subsection (5) of 474.203, Florida Statutes to incorporate the exception authorized by section 828.30, Florida Statutes. The amendment provides that an employee, an agent, or contractor of an animal control authority acting under the indirect supervision of a veterinarian and in compliance with the provisions of section 828.30, Florida Statutes may immunize or treat an animal for disease that are communicable to humans and that are of public health significance.

**Section 6**

474.214, Florida Statutes, Disciplinary Proceedings.

The bill amends subsection 474.214(1)(y)1., Florida Statutes, pertaining to medicinal drugs, drugs as defined in chapter 465 or controlled substance as defined in chapter 893, for use other than for the specific treatment of an animal for which there is a documented veterinarian/client/patient relationship. The amendment defines sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal to mean personally acquainted with the keeping and caring of the animal and has recently performed an examination of the animal or group of animals either physically in person or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or has made medically appropriate and timely visits to the premises where the animal is kept.

**Section 7**

The bill provides an effective date of July 1, 2022.

**3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y  N**

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	If the bill becomes law, an amendment to existing Rule 61G18-17.006, Florida Administrative Code will be required as the rule currently states that you must be a licensed veterinarian to provide rabies vaccinations.

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?**

Y  N



If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?** Y  N

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

## FISCAL ANALYSIS

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**

Y  N 

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	Click or tap here to enter text.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?**

Y  N 

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation contain a State Government appropriation?	Click or tap here to enter text.
If yes, was this appropriated last year?	Click or tap here to enter text.

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?**

Y  N

Revenues:	Click or tap here to enter text.
Expenditures:	The bill would reduce the costs of animal control authorities hiring veterinarians to provide rabies vaccinations to dogs, cats, and ferrets 4 months of age or older. The cost reduction is indeterminate.
Other:	Click or tap here to enter text.

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?**

Y  N

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

## TECHNOLOGY IMPACT

**1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y  N

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A
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## FEDERAL IMPACT

**1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y  N

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
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## ADDITIONAL COMMENTS

Lines 50-54 of the bill are somewhat unclear. It states that a veterinarian “shall take appropriate steps to establish a veterinarian/client/patient relationship and conduct all appropriate evaluations and collect appropriate histories of the patient, consistent with prevailing professional standards of care for the specific patient presentation.” The terms “appropriate” and “prevailing professional standards” are not defined.

Lines 55-63, regarding prescribing controlled substances:

The bill authorizes the prescribing of controlled substances by a consulting veterinarian using telemedicine for a terminal patient from a veterinarian who performed an in-person physical examination. There is nothing in the bill addressing how long/the amount of time that may have passed since the treating veterinarian performed the in-person physical examination or made medically appropriate and timely visits to the premises where the animal is kept.

Line 65 reads: “The practice of medicine occurs where...” It should read “The practice of veterinary medicine occurs where...”

Lines 82-83, the term “animal control authority” is not defined.

Line 84, the term “impounded” is not defined.

Lines 124-125 states “except as provided in s. 828.30, only a veterinarian may immunize or treat an animal for diseases that are communicable to humans and that are of public health significance.” It is unclear whether employees, agents and contractors of animal control authorities are also authorized to “treat animals for diseases that are communicable to humans and that are of public health significance.”

If the bill becomes law, an amendment to existing Rule 61G18-17.006, Florida Administrative Code will be required as the rule currently states that you must be a licensed veterinarian to provide rabies vaccinations.

**DSO:** No impact.

**Regulation:** The Division handles the intake of complaints, investigation of those complaints and inspections of veterinarians and their establishment. The Division does not see an increase in these activities that would impact the Division.

**OGC Rules:** No additional comments.

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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments:	Click or tap here to enter text.
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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 Regulated Industries

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BILL: CS/SB 1852

INTRODUCER: Regulated Industries Committee and Senator Bradley

SUBJECT: Reduction of Human Trafficking

DATE: February 9, 2022

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.	_____	_____	CM	_____
3.	_____	_____	RC	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1852 prohibits public lodging establishments from offering an hourly rate for an accommodation.

The bill increases the criminal penalties for a violation of the prohibition against soliciting, enticing, or procuring another person to commit prostitution, lewdness, or assignation, and the prohibition against purchasing the services of any person engaged in prostitution. Under the bill, a first offense for either crime is a third degree felony. Under current law, a person who solicits, induces, or procures another person to commit prostitution, lewdness, or assignation commits a first degree misdemeanor for a first violation, and a person who purchases the services of another person engaged in prostitution commits a second degree misdemeanor for a first violation. The bill also increases the criminal penalties for a second violation to a second degree felony, and a third or subsequent violation to a first degree felony.

The bill creates the Statewide Data Repository for Anonymous Human Trafficking Data (repository) to be housed in and operated by University of South Florida Trafficking in Persons – Risk to Resilience Lab (TIP Lab). The TIP Lab must work with law enforcement and required reporting entities to collect, analyze, and distribute data relating to human trafficking in Florida.

The bill takes effect upon becoming law.

## II. Present Situation:

### Public Lodging Establishments

The Division of Hotels and Restaurants (DHR) within the Department of Business and Professional Regulation licenses, inspects, and regulates public lodging and food service establishments in Florida. The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices.<sup>1</sup>

A public lodging establishment includes establishments that are transient or nontransient.<sup>2</sup> A “transient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.<sup>3</sup>

A “nontransient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.<sup>4</sup>

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family,

<sup>1</sup> DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Jan. 14, 2022).

<sup>2</sup> See s. 509.013(4)(a), F.S., which provides “license classifications of public lodging establishments, and the definitions therefor,” are set out in s. 509.242, F.S. For the purpose of licensure, the term does not include condominium common elements,” as defined in s. 718.103, F.S.

<sup>3</sup> *Id.* Section s. 509.013(11), F.S., further provides the term “transient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that such guests’ occupancy will be temporary.” Section s. 509.013(14), F.S., further provides the term “nontransient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole resident of the guest.”

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

two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895, F.S.;

6. Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;

7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public;

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and

9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

A public lodging establishment is classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.<sup>5</sup>

A "vacation rental" is defined in s. 509.242(1)(c), F.S., as:

...any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

Public lodging establishments must be licensed and inspected by the DHR, and are subject to sanitary standards, staff training and test requirements, administrative rules, and immediate closure upon a finding that continued operation presents a severe and immediate threat to the public health.<sup>6</sup>

Operators of public lodging establishments or public food service establishments may establish rules for guests and employees which must be printed in English and posted prominently within the establishment.<sup>7</sup>

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<sup>5</sup> Section 509.242(1), F.S.

<sup>6</sup> See ss. 509.032 and 509.035, F.S.

<sup>7</sup> See s. 509.101, F.S.

In addition, operators of transient establishments must maintain a register in chronological order, signed by or for guests who occupy rental units in the establishment, indicating the dates of occupancy and the rates charged.<sup>8</sup> Registers must be available for inspection by the DHR at any time, but need not be made available if they are more than two years old.<sup>9</sup>

Section 509.241(1), F.S., requires each public lodging establishment and public food service establishment to obtain a license from the DHR and to renew it annually in order to operate. Further, the DHR has adopted an administrative rule establishing a staggered schedule for license issuance and renewal, in which renewal dates are determined by the county in which the establishment is located.<sup>10</sup>

Licenses must be conspicuously displayed in the establishment's office or lobby.<sup>11</sup>

Section 509.251, F.S., provides the method of determining the license fees payable by public lodging establishments. For a public lodging establishment, the aggregate fee may not exceed \$1,000, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.<sup>12</sup>

By the end of Fiscal Year 2020-2021 there were 53,492 licensed public lodging establishments, including hotels, motels, transient and nontransient apartments, bed and breakfasts, and vacation rentals.<sup>13</sup>

### **Soliciting or Purchasing Prostitution**

Section 796.07(1)(a), F.S., defines the term "prostitution" to mean the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.

The term "lewdness" is defined in s. 796.07(1)(b), F.S., to mean any indecent or obscene act. Section 796.07(1)(c), F.S., defines "assignation" to mean the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of an appointment or engagement.

It is unlawful:<sup>14</sup>

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution;
- To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act;

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<sup>8</sup> See s. 509.101, F.S.

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

<sup>10</sup> *Id.* See Fla. Admin. Code R. 61C-1.002(6).

<sup>11</sup> See s. 509.241(3), F.S.

<sup>12</sup> See s. 509.251(1), F.S. Vacation rental units or timeshare projects within separate buildings or at separate locations that are managed by one licensed agent may be combined in a single license application, and the DHR must charge a license fee as if all units in the application are in a single licensed establishment. *Id.*

<sup>13</sup> Department of Business and Professional Regulation, *Division of Hotels and Restaurants Annual Report for FY 2020-2021* at page 8, available at [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2020\\_21.pdf](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2020_21.pdf) (last visited Feb. 4, 2022).

<sup>14</sup> Sections 796.07(2)(a)-(e) and (g)-(i), F.S.



- To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose;
- To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;
- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation;
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation;
- To aid, abet, or participate in any of the acts or things listed above; or
- To purchase the services of any person engaged in prostitution.

The penalty for a violation listed above is punishable as a second degree misdemeanor<sup>15</sup> for a first violation, a first degree misdemeanor<sup>16</sup> for a second violation, and a third degree felony<sup>17</sup> for any third or subsequent violation.<sup>18</sup>

Additionally, s. 796.07(2)(f), F.S., provides that it is unlawful for a person to solicit, induce, or procure another person to commit prostitution, lewdness,<sup>19</sup> or assignation.<sup>20</sup> A person who violates this prohibition commits a first degree misdemeanor for a first violation, a third degree felony for a second violation, and a second degree felony<sup>21</sup> for a third or subsequent violation.<sup>22</sup>

### **Statewide Data Repository for Anonymous Human Trafficking Data**

Currently, human trafficking data is collected across multiple agencies and entities, but there is no singular, uniform statewide data repository for human trafficking data.

The Florida Department of Law Enforcement's (FDLE) Uniform Crime Report (Florida UCR) system provides standardized reports on crime statistics based on statewide data.<sup>23</sup> The fundamental objectives of the Florida UCR program are to:<sup>24</sup>

<sup>15</sup> Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S. provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

<sup>16</sup> Section 775.082, F.S., provides that a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year. Section 775.083, F.S. provides that a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

<sup>17</sup> Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

<sup>18</sup> Section 796.07(4), F.S.

<sup>19</sup> Section 796.07(1)(b), F.S., defines the term "lewdness" to mean any indecent or obscene act.

<sup>20</sup> Section 796.07(1)(c), F.S., defines the term "assignation" to mean the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

<sup>21</sup> Section 775.082, F.S., provides that a felony of the second degree is punishable by a term of imprisonment not exceeding 15 years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not exceeding \$10,000.

<sup>22</sup> Section 796.07(5), F.S.

<sup>23</sup> FDLE, *Uniform Crime Report*, <https://www.fdle.state.fl.us/FSAC/Uniform-Crime-Report> (last visited Feb. 7, 2022).

<sup>24</sup> FDLE, *Uniform Crime Reports Guide Manual*, Nov. 2018, p.1, available at: <https://www.fdle.state.fl.us/FSAC/UCR/UCRGuideManual.aspx> (last visited Feb. 7, 2022).

- Collect accurate summary crime data from all law enforcement agencies in the state;
- Maintain agency crime statistics in a statewide database and provide a barometer of the frequency and clearance rates of certain crimes;
- Publish semi-annual and annual reports to the FDLE Commissioner, Florida Governor, Florida Legislature, and the public of the various crime trends in the state;
- Collect the number of offenses known to UCR Program contributors for murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft, arson, simple assault, domestic violence, and other offenses and related arrest information.

The Florida Incident Based Reporting System (FIBRS) is a statewide database for incident based reporting. FIBRS streamlines several data collection efforts into one system which includes data collections from:<sup>25</sup>

- National Incident Based Reporting System (NIBRS);
- Hate Crimes;
- Cargo Theft;
- Human Trafficking;
- Use-of-Force;
- Law Enforcement Information Exchange (LInX); and
- Police Employee Counts.

The University of South Florida recently established its Trafficking in Persons – Risk to Resilience Lab (TIP Lab), which is dedicated to eradicating human trafficking in the Tampa Bay area.<sup>26</sup> The TIP Lab conducts innovative and interdisciplinary research to address human trafficking issues and trends and shares knowledge and resources with the community through the establishment of a data depository for use by human trafficking researchers.<sup>27</sup> Prior to the creation of the TIP Lab, Florida did not have a unified data center for human trafficking.<sup>28</sup>

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

#### **Public Lodging Establishments**

The bill creates s. 509.098, F.S., to prohibit public lodging establishments from offering an hourly rate for an accommodation.

#### **Soliciting or Purchasing Prostitution**

The bill amends s. 796.07(2), F.S., to increase the criminal penalties for the offenses of:

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<sup>25</sup> FDLE, *Florida Incident-Based Reporting System (FIBRS)*, <https://www.fdle.state.fl.us/UCR/QR/FIBRS> (last visited Feb. 7, 2022).

<sup>26</sup> See University of South Florida, *USF Trafficking in Persons - Risk to Resilience Lab*, <https://tiplab.cbcs.usf.edu/index.php> (last visited Feb. 7, 2022).

<sup>27</sup> *Id.*

<sup>28</sup> University of South Florida, St. Petersburg Campus, *Grand Opening of New Research Lab to Combat Human Trafficking in Florida*, Sept. 15, 2021, <https://www.stpetersburg.usf.edu/news/2021/grand-opening-human-trafficking-lab.aspx> (last visited Feb. 7, 2022).

- Soliciting, enticing, or procuring another person to commit prostitution, lewdness, or assignation; and
- Purchasing the services of any person engaged in prostitution.

Under the bill, the criminal penalties for soliciting, inducing, enticing, or procuring another person to commit prostitution, lewdness, or assignation increase from a:

- First degree misdemeanor to a third degree felony for a first violation;
- Third degree felony to a second degree felony for a second violation; and
- Second degree felony to a first degree felony for a third or subsequent violation.

The criminal penalties for purchasing the services of any person engaged in prostitution increase from a:

- Second degree misdemeanor to a third degree felony for a first violation;
- First degree misdemeanor to a second degree felony for a second violation; and
- Third degree felony to a first degree felony for a third or subsequent violation.

The bill includes enhanced penalties for habitual felony offenders under s. 775.084, F.S., for any person purchasing the services of any person engaged in prostitution.

### **Statewide Data Repository for Anonymous Human Trafficking Data**

The bill creates s. 1004.343, F.S., to create the Statewide Data Repository for Anonymous Human Trafficking Data (repository) to be housed in and operated by the University of South Florida Trafficking in Persons – Risk to Resilience Lab (TIP Lab).

The bill requires the repository to:

- Collect and analyze anonymous data on human trafficking to identify trends in the state over time;
- Evaluate the effectiveness of various state initiatives and interventions;
- Disseminate relevant data to law enforcement agencies, state agencies, and other entities to assist in combatting human trafficking and apprehending and prosecuting persons responsible for conducting human trafficking; and
- Evaluate the effectiveness of interventions and services provided to assist human trafficking victims.

Under the bill, the TIP Lab is responsible for designing, operating, maintaining and protecting the integrity of the repository and the data collected. The bill requires the TIP Lab to work with the FDLE and other law enforcement partners to launch a user-friendly reporting system by which reporting entities may make reports at no additional cost to the reporting entities.

The TIP Lab must also analyze human trafficking data to identify initiatives and interventions that are effective in addressing the various aspects of human trafficking, including assisting human trafficking victims. The lab is required to report relevant data collected on human trafficking law enforcement agencies, state agencies, and other entities to assist in combating human trafficking and apprehending and prosecuting persons responsible for conducting human trafficking.

The bill requires the following agencies and entities to report anonymous human trafficking data:

- Law enforcement agencies operating with state or local government tax proceeds, including, but not limited to, municipal police departments, county sheriffs, and state attorneys;
- FDLE and any other state agency that holds data related to human trafficking; and
- Service providers and other nongovernmental organizations that serve human trafficking victims and receive state or federal funding to do so.

The bill exempts from the reporting requirement any entity that submits relevant data to FDLE through the Uniform Crime Report System (UCR) or through the FIBRS. The bill requires the FDLE to provide human trafficking data to the repository on a quarterly basis.

An entity that is required to report to the repository must submit the following data:

- The alleged human trafficking offense and description of the prohibited conduct;
- The age, gender, and race or ethnicity of each suspect or defendant;
- The age, gender, and race or ethnicity of the victim;
- The date, time, and location of the alleged offense;
- The type of human trafficking involved, whether for labor or services or commercial sexual activity;
- Any other alleged offense related to the human trafficking offense;
- Information about any victim services referrals provided to the victim, if available; and
- The disposition of the investigation or prosecution.

The bill requires reporting entities in a county with a population of 500,000 or more to begin reporting to the repository or the FDLE by July 1, 2023 and at least quarterly thereafter. Required reporting entities in a county with a population of 500,000 or fewer must begin reporting to the Repository by July 1, 2024 and at least biannually each year thereafter.

#### **Effective Date**

The bill takes effect July 1, 2022.

#### **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.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Public lodging establishments that offer accommodations for an hourly rate may be negatively affected by this bill.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 796.07 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 509.098 and 1004.343.

**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 on February 8, 2022:**

The committee substitute:

- Changes the title from an act relating to hourly rates at public lodging establishments to an act relating to the reduction of human trafficking;
- Amends s. 796.07, F.S., to increase criminal penalties;
- Creates s. 1004.343, F.S., to create the Statewide Data Repository for Anonymous Human Trafficking Data at the University of South Florida; and
- Changes the effective date of the bill from July 1, 2022 to upon becoming law.

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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725846

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2022	.	
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The Committee on Regulated Industries (Bradley) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. This act may be cited as the "Human Trafficking Reduction Act."

Section 2. Section 509.098, Florida Statutes, is created to read:

509.098 Prohibition of hourly rates.—An operator of a public lodging establishment may not offer an hourly rate for an



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11 accommodation.

12 Section 3. Paragraph (a) of subsection (5) of section  
13 796.07, Florida Statutes, is amended, and paragraphs (f) and (i)  
14 of subsection (2) of that section are republished, to read:

15 796.07 Prohibiting prostitution and related acts.—

16 (2) It is unlawful:

17 (f) To solicit, induce, entice, or procure another to  
18 commit prostitution, lewdness, or assignation.

19 (i) To purchase the services of any person engaged in  
20 prostitution.

21 (5) (a) A person who violates paragraph (2) (f) or paragraph  
22 (2) (i) commits:

23 1. A felony of the third ~~misdemeanor of the first~~ degree  
24 for a first violation, punishable as provided in s. 775.082, ~~or~~  
25 s. 775.083, or s. 775.084.

26 2. A felony of the second ~~third~~ degree for a second  
27 violation, punishable as provided in s. 775.082, s. 775.083, or  
28 s. 775.084.

29 3. A felony of the first ~~second~~ degree for a third or  
30 subsequent violation, punishable as provided in s. 775.082, s.  
31 775.083, or s. 775.084.

32 Section 4. Section 1004.343, Florida Statutes, is created  
33 to read:

34 1004.343 Statewide Data Repository for Anonymous Human  
35 Trafficking Data.—

36 (1) There is created the Statewide Data Repository for  
37 Anonymous Human Trafficking Data. The repository shall be housed  
38 in and operated by the University of South Florida Trafficking  
39 in Persons - Risk to Resilience Lab.





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40 (a) The Statewide Data Repository for Anonymous Human  
41 Trafficking Data shall:

42 1. Collect and analyze anonymous human trafficking data to  
43 identify trends in human trafficking in the state over time.

44 2. Evaluate the effectiveness of various state-funded  
45 initiatives to combat human trafficking to enable the state to  
46 make evidence-based decisions in funding future initiatives.

47 3. Disseminate relevant data to law enforcement agencies,  
48 state agencies, and other entities to assist in combatting human  
49 trafficking and apprehending and prosecuting persons responsible  
50 for conducting human trafficking.

51 4. Evaluate the effectiveness of interventions and services  
52 provided to assist human trafficking victims.

53 (b) The University of South Florida Trafficking in Persons  
54 - Risk to Resilience Lab shall:

55 1. Design, operate, maintain, and protect the integrity of  
56 the Statewide Data Repository for Anonymous Human Trafficking  
57 Data.

58 2. Design, in consultation with the Department of Law  
59 Enforcement and other law enforcement partners, and launch a  
60 user-friendly system for efficiently reporting anonymous human  
61 trafficking data to the Statewide Data Repository for Anonymous  
62 Human Trafficking Data at no additional cost to reporting  
63 entities.

64 3. Analyze anonymous human trafficking data to identify  
65 initiatives and interventions that are effective in combatting  
66 human trafficking, apprehending and prosecuting persons  
67 responsible for conducting human trafficking, and assisting  
68 human trafficking victims.



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69 4. Work with law enforcement agencies and state agencies to  
70 report data on human trafficking investigations and prosecutions  
71 which can aid such agencies in combatting human trafficking and  
72 apprehending and prosecuting persons responsible for conducting  
73 human trafficking.

74 (2) (a) Except as provided in paragraph (b), the following  
75 agencies and entities shall report anonymous human trafficking  
76 data required under this section:

77 1. Law enforcement agencies operating with state or local  
78 government tax proceeds, including, but not limited to,  
79 municipal police departments, county sheriffs, and state  
80 attorneys.

81 2. The Department of Law Enforcement and any other state  
82 agency that holds data related to human trafficking.

83 3. Service providers and other nongovernmental  
84 organizations that serve human trafficking victims and receive  
85 state or federal funding for such purpose.

86 (b) A required reporting entity that submits the data  
87 required under subsection (3) to the Department of Law  
88 Enforcement's Uniform Crime Report system or Florida Incident-  
89 Based Reporting System may, but is not required to, submit any  
90 additional data to the Statewide Data Repository for Anonymous  
91 Human Trafficking Data. The Department of Law Enforcement shall  
92 report to the Statewide Data Repository for Anonymous Human  
93 Trafficking Data, at least quarterly, the data required under  
94 subsection (3) that has been reported by a required reporting  
95 entity to the department.

96 (3) A required reporting entity shall submit the following  
97 data to the Statewide Data Repository for Anonymous Human



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98 Trafficking Data unless such entity is exempt from the reporting  
99 requirement under paragraph (2) (b) :

100 (a) The alleged human trafficking offense that was  
101 investigated or prosecuted and a description of the alleged  
102 prohibited conduct.

103 (b) The age, gender, and race or ethnicity of each suspect  
104 or defendant and victim.

105 (c) The date, time, and location of the alleged offense.

106 (d) The type of human trafficking involved, whether for  
107 labor or services or commercial sexual activity.

108 (e) Any other alleged offense related to the human  
109 trafficking offense that was investigated or prosecuted.

110 (f) Information regarding any victim services organization  
111 or related program to which the victim was referred, if  
112 available.

113 (g) The disposition of the investigation or prosecution,  
114 regardless of the manner of disposition.

115 (4) (a) A required reporting entity located in a county with  
116 a population of more than 500,000 must begin reporting data  
117 required by this section to the Statewide Data Repository for  
118 Anonymous Human Trafficking Data, or to the Department of Law  
119 Enforcement as authorized under paragraph (2) (b), on or before  
120 July 1, 2023, and at least quarterly each year thereafter.

121 (b) A required reporting entity located in a county with a  
122 population of 500,000 or fewer must begin reporting data  
123 required by this section to the Statewide Data Repository for  
124 Anonymous Human Trafficking Data, or to the Department of Law  
125 Enforcement as authorized under paragraph (2) (b), on or before  
126 July 1, 2024, and at least biannually each year thereafter.



725846

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

128

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

130 And the title is amended as follows:

131 Delete everything before the enacting clause

132 and insert:

133 A bill to be entitled

134 An act relating to the reduction of human trafficking;

135 providing a short title; creating s. 509.098, F.S.;

136 prohibiting an operator of a public lodging

137 establishment from offering an hourly rate for an

138 accommodation; amending s. 796.07, F.S.; increasing

139 criminal penalties for soliciting or procuring another

140 person to commit prostitution or other specified

141 offenses or purchasing the services of a person

142 engaged in prostitution; creating s. 1004.343, F.S.;

143 creating the Statewide Data Repository for Anonymous

144 Human Trafficking Data at the University of South

145 Florida; providing purposes of the data repository;

146 specifying duties of the university; designating

147 required reporting entities; requiring specified

148 information to be reported; providing timeframes for

149 reporting; providing an effective date.

By Senator Bradley

5-01758B-22

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A bill to be entitled

An act relating to hourly rates at public lodging establishments and vacation rentals; creating s. 509.098, F.S.; prohibiting an operator of a public lodging establishment or a vacation rental from offering an hourly rate for an accommodation; providing an effective date.

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

Section 1. Section 509.098, Florida Statutes, is created to read:

509.098 Prohibition of hourly rates.—An operator of a public lodging establishment or a vacation rental may not offer an hourly rate for an accommodation.

Section 2. This act shall take effect July 1, 2022.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR JENNIFER BRADLEY**  
5th District

**COMMITTEES:**  
Community Affairs, *Chair*  
Agriculture, *Vice Chair*  
Appropriations Subcommittee on Agriculture,  
Environment, and General Government  
Education  
Ethics and Elections  
Judiciary  
Reapportionment

**SELECT SUBCOMMITTEE:**  
Select Subcommittee on Congressional  
Reapportionment, *Chair*

**JOINT COMMITTEES:**  
Joint Legislative Auditing Committee  
Joint Select Committee on Collective Bargaining

February 7, 2022

Senator Travis Hutson, Chairman  
Senate Regulated Industries Committee  
416 Senate Office Building  
404 South Monroe Street  
Tallahassee, Florida 32399-1100

Dear Mr. Chairman:

I respectfully request that Vice-Chair Book be allowed to present Senate Bill 1852 to the Regulated Industries Committee on my behalf. I am unable to attend the meeting to present the bill as I am needed in another committee at that time.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Mr. Booter Imhof, Staff Director  
Ms. Susan Datres, Administrative Assistant

REPLY TO:

- 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore



**SENATOR JENNIFER BRADLEY**  
5th District

## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Community Affairs, *Chair*  
Agriculture, *Vice Chair*  
Appropriations Subcommittee on Agriculture,  
Environment, and General Government  
Education  
Ethics and Elections  
Judiciary  
Reapportionment

**SELECT SUBCOMMITTEE:**  
Select Subcommittee on Congressional  
Reapportionment, *Chair*

**JOINT COMMITTEES:**  
Joint Legislative Auditing Committee  
Joint Select Committee on Collective Bargaining

January 12, 2022

Senator Travis Hutson, Chairman  
Senate Committee on Regulated Industries  
416 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Hutson:

I respectfully request that Senate Bill 1852 be placed on the committee's agenda at your earliest convenience. This bill relates to hourly rates at public lodging establishments and vacation rentals.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Jennifer Bradley".

Jennifer Bradley

cc: Booter Imhof, Staff Director  
Susan Datre, Administrative Assistant

REPLY TO:

- 1279 Kingsley Avenue, Kingsley Center, Suite 117, Orange Park, Florida 32073 (904) 278-2085
- 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

2/8/22

Meeting Date

Regulated Industries

Committee

# The Florida Senate APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1852

Bill Number or Topic

725846

Amendment Barcode (if applicable)

Name Christie Arnold

Phone 850 339 7750

Address 201 W. Park Ave.  
Street

Email carnold@flaccb.org

Tallahassee  
City

FL  
State

32301  
Zip

Speaking:  For  Against  Information

**OR**

Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing: FL  
Conference of Catholic  
Bishops

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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)

2/8/22  
Meeting Date

1852  
Bill Number (if applicable)

Topic Hourly Rates at Public Lodging Establishments & Vacation Rentals  
Name Samantha Padgett  
Amendment Barcode (if applicable)

Job Title VP Government Relations / General Counsel

Address 230 S Adams St  
Street  
Tallahassee FL 32301  
City State Zip

Phone 850-224-2250

Email spadgett@fla.org

Speaking:  For  Against  Information

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

Representing Florida Restaurant & Lodging 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.

2/8/2022

Meeting Date

# The Florida Senate APPEARANCE RECORD

SB 1852

Bill Number or Topic

REGULATED INDUSTRIES

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

725846

Amendment Barcode (if applicable)

Name

MARK WALSH

Phone

850 228 8236

Address

4202 E FOWLER AVE CGS 401

Email

mw@usf.edu

TAMPA

City

FL

State

33620

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

USF

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

2/8/22

Meeting Date

Regulated Industries

Committee

# The Florida Senate APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1852

Bill Number or Topic

Name Christie Arnold

Amendment Barcode (if applicable)

Phone 850-339-7750

Address 201 W. Park Ave

Street

Email carnold@flaccb.org

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information

**OR**

Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist,  
representing: FL  
Conference of  
Catholic Bishops

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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.)

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

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BILL: CS/CS/SB 1564

INTRODUCER: Commerce and Tourism Committee and Senator Hutson

SUBJECT: Telephone Solicitation

DATE: February 10, 2022

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harmsen</u>	<u>McKay</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Sharon</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</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/CS/SB 1564 amends s. 501.059, F.S., relating to telephone solicitation using an automated system for the selection *or* dialing of telephone numbers.

The bill amends the definition of “prior express written consent” to add transmission of a text message, and prerecorded voicemails to the methods of telephonic solicitation requiring prior written authorization from the called party.

The bill narrows the scope of telephonic sales calls requiring the called party’s prior express written consent to those that select *and* dial telephone numbers, rather than those that select *or* dial telephone numbers.

The bill amends the term “unsolicited telephonic sales call” to exclude telephonic sales calls:

- Made within 120 days after an express request of the called party, rather than “in response to the request;” and
- For the purpose of polling or soliciting the expression of ideas, opinions, or votes, including polling or soliciting by text message.

The bill allows the use of an automated telephone dialing system with live messages or text messages if made solely in response to an inquiry initiated by the called party. The bill limits this to three calls or messages in response to each inquiry.

The bill replaces the term “person called” with the term “called party,” consistent with existing law.

The bill clarifies that the award of attorney fees and costs to a prevailing party from a non-prevailing party in a civil case must result from a violation of s. 501.059, F.S., instead of a transaction involving a violation.

The bill provides that it is remedial in nature and applies retroactively to July 1, 2021, and to any proceeding pending or commenced on or after July 1, 2021.

The bill takes effect upon becoming law.

## II. Present Situation:

### Unsolicited Phone Calls

Consumers are often inundated with unwanted calls. In Fiscal Year 2021, the Federal Trade Commission (FTC) received 388,227 complaints from Florida consumers about unwanted telephone calls.<sup>1</sup> The Federal Communications Commission (FCC) reports that unwanted calls constitute their top consumer complaint.<sup>2</sup> Unwanted calls can come in many forms, including robocalls,<sup>3</sup> which use an “automatic telephone dialing system”<sup>4</sup> or “autodialer” that plays a recorded message upon connection; “spoofing” or “spoofed calls,” which transmit falsified information to a consumer’s caller ID to disguise the solicitor’s identity; and unwanted telemarketing calls.<sup>5</sup>

State and federal action to combat these issues are limited because there are legitimate and legal uses of this technology. For example, a doctor’s office may legally use a robocall to remind someone of an upcoming appointment.<sup>6</sup> Additionally, some solicitors act outside the scope of federal or state enforcement authority.

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<sup>1</sup> Federal Trade Commission, *Do Not Call Data Book 2020* (Nov. 2021), [https://www.ftc.gov/system/files/documents/reports/national-do-not-call-registry-data-book-fiscal-year-2021/dnc\\_data\\_book\\_2021.pdf](https://www.ftc.gov/system/files/documents/reports/national-do-not-call-registry-data-book-fiscal-year-2021/dnc_data_book_2021.pdf) (last visited Feb. 4, 2022).

<sup>2</sup> Federal Communications Commission, *Stop Unwanted Robocalls and Texts* (Mar. 17, 2021), <https://www.fcc.gov/consumers/guides/stop-unwanted-robocalls-and-texts> (last visited Feb. 4, 2022).

<sup>3</sup> The FCC uses the term “robocalls” to refer to prerecorded calls and “also autodialed calls, regardless of whether the call is live or prerecorded.” *Stopping Fraudulent Robocall Scams: Can More Be Done?*, Hearing Before the S. Subcomm. on Consumer Protection, Product Safety, and Insurance of the Comm. on Commerce, Science, and Transportation, 130th Cong. (July 10, 2013) (Statement of Eric J. Bash, Associate Chief, Enforcement Bureau, Federal Communications Commission) <https://www.govinfo.gov/content/pkg/CHRG-113shrg85765/pdf/CHRG-113shrg85765.pdf> (last visited Feb. 4, 2022).

<sup>4</sup> “Automatic telephone dialing system” or “autodialer” refers to equipment capable of producing or storing phone numbers using a random or sequential number generator and can call those numbers. 47 U.S.C. § 227(a)(1).

<sup>5</sup> “Fraudsters have also further exploited caller ID spoofing, which induces the consumer to pick up the phone, while at the same time enabling the scammer to hide its identity and location.” *Hearing, supra* note 3, at p. 5 (Statement of Lois Greisman, Associate Director, Division of Marketing Practices, Bureau of Consumer Protection).

<sup>6</sup> Federal Communication Commission, Consumer and Governmental Affairs Bureau, *Report on Robocalls* (Feb. 2019), CG Docket No. 17-59, <https://www.fcc.gov/document/fcc-issues-report-illegal-robocalls> (last visited Feb. 4, 2022). *See also*, FCC, *supra* note 2.

## Florida Senate Bill 1120 (2021)

In 2021, the Florida Legislature updated s. 501.059, F.S., and the Florida Telemarketing Act (FTSA)<sup>7</sup>, to further address some of these issues facing consumers.<sup>8</sup>

Current law requires all sales telephone calls, text messages, and direct-to-voicemail transmissions made with an autodialer that is capable of either selecting *or* dialing the recipient's number to have the receiving consumer's prior express written consent.<sup>9</sup> Additionally, such calls require prior consent if they will play a recorded message upon connection with the recipient. Aggrieved parties can sue to recover actual monetary damages or \$500, plus attorney fees and costs.<sup>10</sup> Additionally, a court may triple these damages if the underlying violation is willfully or knowingly performed.

One entity reports that this 2021 change to the FTSA has resulted in at least 100 class action complaints against those who make telephone sales calls since July 2021.<sup>11</sup>

## Florida Law (Section 501.059, F.S.)

### *Generally*

Section 501.059, F.S., governs telephone solicitors, i.e., persons who make or cause to be made telephonic sales calls in this state.<sup>12</sup> A telephonic sales call includes solicitations via telephone calls, text messages, and direct-to-voicemail transmissions.<sup>13</sup>

For example, s. 501.059, F.S., requires telephone solicitors to:

- Identify themselves and the businesses on whose behalf they make a telephone solicitation call immediately upon making contact with the person called;
- Adhere to the Do Not Call lists maintained by the Florida Department of Agriculture Consumer Services (DACs)<sup>14</sup> and the FTC;<sup>15</sup>
- Honor a consumer's request not to receive further telephone calls, text messages, or voice mail transmissions. However, this prohibition applies only to calls made by or on behalf of a seller who offers goods or services or a charity that solicits a charitable contribution.<sup>16</sup>

Additionally, s. 501.059(8), F.S., prohibits telephonic sales calls that:

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<sup>7</sup> Section 501.601, F.S., et. seq.

<sup>8</sup> Chapter 2021-185, s. 1, Laws of Fla.

<sup>9</sup> Section 501.059, F.S.

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

<sup>11</sup> Eric Troutman, TCPAWorld, *The FTSA Claims are Still Pouring In: Florida Mini TCPA Continues to Generate Huge Volume of Litigation* (Dec. 13, 2021), <https://tcpaworld.com/2021/12/13/the-fts-a-claims-are-still-pouring-in-florida-mini-tcpa-continues-to-generate-huge-volume-of-litigation/> (last visited Feb. 4, 2022).

<sup>12</sup> Section 501.059(1)(i), F.S.

<sup>13</sup> Section 501.059(1)(j), F.S.

<sup>14</sup> Florida Department of Agriculture and Consumer Services, *Florida Do Not Call*, <https://www.fdacs.gov/Consumer-Resources/Florida-Do-Not-Call> (last visited Feb. 4, 2022).

<sup>15</sup> *See*, ss. 501.059(3)-(4), F.S.; Federal Trade Commission, *National Do Not Call Registry*, <https://www.donotcall.gov/> (last visited Feb. 4, 2022).

<sup>16</sup> Section 501.059(5), F.S.

- Use an automated system for the selection *or* dialing of telephone numbers or playing a recorded message to a number without the prior express written consent<sup>17</sup> of the called party;
- Fail to transmit the originating telephone number and, when possible, name of the solicitor; or
- Alter the voice of the caller in order to defraud, confuse, or injure the telephone call recipient.

### ***Florida Do Not Call Act***

#### ***Do Not Call List***

The DACS also administers the Florida Do Not Call Act or the “Do Not Call List,” which prohibits unsolicited phone calls and text messages.<sup>18</sup> Residents who do not wish to receive sales calls may request to have their residential, mobile, or paging device telephone number included on the DACS list.<sup>19</sup>

A communication is unsolicited, and therefore prohibited under the Do Not Call List, unless the contact is made:

- At the consumer’s request;
- By a charitable or political organization that is seeking donations;
- As part of a survey, or for the purpose of research seeking an opinion;
- To a person with whom the telephone solicitor has a prior existing business relationship;
- In connection with an existing debt or contract for which payment is due; or
- By a newspaper publisher, or his or her agent or employee, in connection with the publisher’s business.<sup>20</sup>

#### ***Continued Solicitations***

Section 501.059, F.S., further prohibits a telephone solicitor<sup>21</sup> from calling, text messaging, sending a direct voicemail transmission, or using automated telephone equipment to contact any consumer who has previously communicated to the solicitor that he or she does not wish to receive a telephone call, whether or not he or she is part of the Do Not Call List. However, this prohibition applies only to calls made by or on behalf of a seller who offers goods or services or a charity that solicits a charitable contribution.

### ***Penalties***

The DACS or the Office of the Attorney General may bring an action against a telephone solicitor who violates the provisions of s. 501.059, F.S. Each violation is subject to a civil

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<sup>17</sup> “Prior express written consent” is defined by s. 501.059(1)(g), F.S., as a written agreement: (1) Bearing the signature of the called party; (2) Clearly authorizing the person making the telephonic sales call to deliver it while using an automated system to select or dial telephone numbers, playing a recorded message, or transmitting a prerecorded voicemail; (3) Including the authorized telephone number; and (3) Including a clear and conspicuous disclosure statement.

<sup>18</sup> See s. 501.059, F.S.; DACS, *supra*, n.12.

<sup>19</sup> Sections 501.059(3)-(4), F.S.

<sup>20</sup> Section 501.059(1)(k), F.S.

<sup>21</sup> Section 501.059(1)(i), F.S., defines a “telephone solicitor” as a natural person or business that does business in this state by making or causing to be made a telephone sales call.

penalty with a maximum fine of \$10,000 per violation, or an administrative fine with a maximum of \$1,000 per violation, in addition to attorney's fees and costs.<sup>22</sup>

In addition, a private citizen may file a private civil action to either enjoin the violation or recover actual damages, or \$500, whichever is greater, in addition to attorney's fees and costs. This civil penalty may be tripled by the court if it finds that the defendant knowingly or willfully committed the violation.<sup>23</sup>

## **Federal Law**

### ***Telephone Consumer Protection Act***

The Telephone Consumer Protection Act of 1991<sup>24</sup> (TCPA) protects U.S. consumers from unwanted communications by restricting the use of autodialers, prerecorded sales messages, and unsolicited sales calls, text messages, or faxes.

The TCPA prohibits telephone solicitations that:

- Are made to residences before 8 a.m. and after 9 p.m.;
- Fail to provide the consumer with the solicitor's identity, including his or her true phone number via caller identification service,<sup>25</sup> and an opportunity to opt out of the current call, and all future calls, made by that solicitor;
- Send prerecorded messages to a residential line without the consumer's prior express consent, which may be on paper or through electronic means, including website forms or a telephone keypress;<sup>26</sup> and
- Use an autodialer or prerecorded messages to a cellular, emergency, or hospital room line without prior express consent.

Any telemarketing calls made to a cellular telephone number require written prior express consent. All others require either oral or written consent.<sup>27</sup> This specific provision does not apply to residential phone lines.<sup>28</sup>

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<sup>22</sup> Section 501.059(9), F.S.

<sup>23</sup> Sections 501.059(10)-(11), F.S.

<sup>24</sup> 47 U.S.C. § 227. *See also*, 47 CFR § 64.1200 (2012).

<sup>25</sup> 47 U.S.C. § 227(b)(2)(d). *See also*, 47 C.F.R. § 64.1601(e). *See also*, Federal Communications Commission, *Public Notice: FCC's Caller ID Rules for Telemarketers Become Effective* (Jan. 29, 2004)

[https://apps.fcc.gov/edocs\\_public/attachmatch/DA-04-206A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DA-04-206A1.pdf) (last visited Feb. 4, 2022).

<sup>26</sup> FCC, *supra* note 2. *See also*, 47 CFR § 64.1200(a)(7)(i)(B), (b)(3). Certain calls made to a residential line, such as those by a tax-exempt nonprofit organization or calls that are subject to Health Insurance Portability and Accountability Act may be made without prior express consent.

<sup>27</sup> FCC, *2015 TCPA Declaratory Ruling and Order*, 30 FCC Rcd at 7999, para. 4 (Jun. 18, 2015).

<sup>28</sup> In 2015, language was added to the TCPA to allow robocalls and autodialed calls to cell phones for the purpose of collecting a debt owed to the U.S. government. *See* 47 U.S.C. § 227(b)(1)(A)(iii). This provision was severed from the law by the U.S. Supreme Court in 2020 based on their finding that it was a content-specific speech regulation in violation of the first amendment. The Court left the TCPA's prohibition of robocalls and autodialed calls to cell phones intact. *Barr v. American Assc. of Political Consultants, Inc.*, 140 S. Ct. 2335 (2020). *See also*, 47 CFR § 64.1200(f)(8).



The TCPA's protections extend to text messaging in the same manner that they apply to telephone calls.<sup>29</sup>

The TCPA defines autodialers as “equipment which has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator; and to dial such numbers.”<sup>30</sup> The U.S. Supreme Court recently limited the effect of the TCPA by clarifying that it only regulates autodialers that have the capacity either to store, or to produce, a telephone number using a random or sequential number generator.<sup>31</sup> This limits the TCPA's regulations to the now obsolete sequential number dialer style of autodialer, versus the predictive dialing technology that most businesses use today.<sup>32</sup>

The TCPA grants a private right of action to pursue actual monetary damages or up to \$500 per violation.<sup>33</sup> State attorneys general and the FCC also have jurisdiction to investigate and file civil claims based on violations of the TCPA.<sup>34</sup>

### ***Federal Do Not Call Program***

The FTC, in concert with the FCC, administers the National Do Not Call Program.<sup>35</sup> Telephone solicitors may not contact a consumer who participates in the National Do Not Call Program, unless the calls are:

- Made with a consumer's prior, express permission;
- Informational in nature, such as those made to convey a utility outage, school closing, or flight information; or
- Made by a tax-exempt organization.<sup>36</sup>

### ***Truth in Caller ID Act***

The Truth in Caller ID Act of 2009<sup>37</sup> protects consumers by prohibiting any person from transmitting misleading or inaccurate caller ID information, known as call spoofing, with the intent to defraud, cause harm, or wrongfully obtain anything of value. The FCC investigates and prosecutes violations of the act under its rules.<sup>38</sup> In recent years, the FCC has taken enforcement actions totaling \$450 million in fines against telemarketers for call spoofing violations. Notably, the FCC imposed its largest fine ever against a Florida-based timeshare marketing operation.<sup>39</sup>

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<sup>29</sup> FCC, *2015 TCPA Declaratory Ruling and Order*, 30 FCC Rcd at 7999, para. 2 (Jun. 18, 2015); FCC, *FCC Strengthens Consumer Protections Against Unwanted Calls and Texts* (Jun. 18, 2015)

[https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-333993A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-333993A1.pdf) (last visited Feb. 4, 2022).

<sup>30</sup> 47 U.S.C. § 227(b)(1)(A).

<sup>31</sup> *Facebook, Inc. v. Duguid*, 141 S. Ct. 193 (2020).

<sup>32</sup> Amanda Shanor, SCOTUSblog, *Supreme Court Sides with Facebook in Narrowing the Federal Robocall Ban* (Apr. 1, 2021), <https://www.scotusblog.com/2021/04/supreme-court-sides-with-facebook-in-narrowing-the-federal-robocall-ban/> (last visited Feb. 4, 2022).

<sup>33</sup> 47 U.S.C. § 227 (c)(5).

<sup>34</sup> 47 U.S.C. § 227 (f). *See*, 15 U.S.C. § 6101.

<sup>35</sup> Federal Communications Commission, *Stop Unwanted Calls and Texts* (Mar. 2, 2021), <https://www.fcc.gov/consumers/guides/stop-unwanted-calls-and-texts> (last visited Feb. 4, 2022).

<sup>36</sup> 47 U.S.C. § 227(a)(4); *See also*, 47 C.F.R. § 64.1200 (2012).

<sup>37</sup> 47 U.S.C. § 227 (e).

<sup>38</sup> *See*, 47 CFR § 64.1604.

<sup>39</sup> Federal Communications Commission, *The FCC's Push to Combat Robocalls & Spoofing*, <https://www.fcc.gov/spoofed-robocalls> (last visited Feb. 4, 2022). *See also*, Federal Communications Commission, *FCC Fines Massive Neighbor Spoofing*

To protect individual privacy concerns, an individual caller may request to hide his or her phone number when making a call.<sup>40</sup>

### III. Effect of Proposed Changes:

The bill amends the definition of “prior express written consent,” in s. 501.059(1)(g), F.S., to add transmission of a text message, and prerecorded voicemails to the methods of telephonic solicitation requiring prior written authorization from the called party.

The bill narrows the scope of telephonic sales calls requiring the called party’s prior express written consent to those that select *and* dial telephone numbers, rather than those that select *or* dial telephone numbers.

The bill amends the term “unsolicited telephonic sales call,” s. 501.059(1)(k), F.S., to exclude telephonic sales calls:

- Made within 120 days after an express request of the called party, rather than “in response to the request;” and
- For the purpose of polling or soliciting the expression of ideas, opinions, or votes, including polling or soliciting by text message.

The bill allows the use of an automated telephone dialing system with live messages or text messages if made solely in response to an inquiry initiated by the called party. The bill limits this to three calls or messages in response to each inquiry.

The bill replaces the term “person called” with the term “called party,” consistent with existing law.

The bill clarifies that the award of attorney fees and costs to a prevailing party from a non-prevailing party in a civil case must result from a violation of s. 501.059, F.S., instead of a transaction involving a violation.

The bill provides that it is remedial in nature and applies retroactively to July 1, 2021, and to any proceeding pending or commenced on or after July 1, 2021.

The bill takes effect upon becoming law.

### IV. Constitutional Issues:

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

None.

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*Robocall Operation \$120 Million* (May 10, 2018) <https://www.fcc.gov/document/fcc-fines-massive-neighbor-spoofing-robocall-operation-120-million> (last visited Feb. 4, 2022).

<sup>40</sup> 47 CFR § 64.1601.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

**Retroactive Application of Law and Expression of Remedial Nature**

Under Florida law, statutes are presumed to operate prospectively, not retroactively. Statutes generally apply only to actions that occur on or after the effective date of the legislation, not before the legislation becomes effective.

The Florida Supreme Court has noted that, under the rules of statutory construction, if statutes are to operate retroactively, the Legislature must clearly express that intent for the statute to be valid.<sup>41</sup> When expressly retroactive statutes have been litigated and appealed, the courts have been asked to determine whether the statute is remedial in nature so as to require application to cases that were pending at the time the statute went into effect. Generally, “the presumption applied to procedural and remedial statutes is that they are to apply to pending cases.”<sup>42</sup> Conversely, a law that affects substantive rights by creating substantive new rights or imposing new legal burdens is presumed to apply prospectively.<sup>43</sup>

In a recent Florida Supreme Court case, the Court acknowledged that “[t]he distinction between substantive and procedural (remedial) law is neither simple nor certain.”<sup>44</sup> The Court further acknowledged that their previous pronouncements regarding the retroactivity of procedural laws have been less than precise and have been unclear.<sup>45</sup>

Courts, however, have invalidated the retroactive application of a statute if the statute impairs vested rights, creates new obligations, or imposes new penalties.<sup>46</sup> Still, in other cases, the courts have permitted statutes to be applied retroactively if they do not create

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<sup>41</sup> *Walker & LaBerge, Inc., v. Halligan*, 344 So. 2d 239 (Fla. 1977). *See also, Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So.2d 1352 (Fla. 1994). “Just because the Legislature labels something as being remedial, however, does not make it so.” *See also, State v. Smith*, 547 So2d 613 (Fla. 1989); *State, Dep’t of Transp. v. Knowles*, 402 So.2d 1155 (Fla. 1981).

<sup>42</sup> *Love v. State*, 286 So. 3d 177, 181 (Fla. 2019), *citing Arrow Air, Inc. v. Walsh*, 645 So.2d 422, 424 (Fla. 1994).

<sup>43</sup> *Arrow Air, Inc.*, at 424.

<sup>44</sup> *Love* at 183, *quoting Caple v. Tuttle’s Design-Build, Inc.*, 753 So. 2d 49, 53 (Fa. 2000).

<sup>45</sup> *Love* at 184.

<sup>46</sup> *R.A.M. of South Florida, Inc. v. WCI Communities, Inc.*, 869 So. 2d 1210 (Fla 2004).

new, or take away, vested rights, but only operate to further a remedy or confirm rights that already exist.<sup>47</sup>

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 501.059 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 Commerce and Tourism on January 24, 2022:**

- Adds clarifying language that “prior express written consent” is an agreement that authorizes a telephonic sales call, which includes text messages;
- Exempts from the definition of an “unsolicited telephonic sales call” those calls and text messages that are made to poll or solicit the expression of ideas, opinions, or votes;
- Re-instates the 2021 requirement that a consumer’s prior express written consent is needed to place a telephonic sales call that uses an automated system for the selection and dialing of telephone numbers, or playing of a recorded message;
- Expresses that s. 501.059(8), F.S.’s prohibited actions do not prohibit the use of an automated telephone dialing system with live messages or text messages if the call or message is made solely in response to an inquiry initiated by the called party. However, only two calls or messages are permitted in response to each inquiry;

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<sup>47</sup> *Ziccardi v. Strother*, 570 So. 2d 1319 (Fla. 1990).

- Narrows the provision that permits an award of attorney fees and costs from those civil actions “resulting from a transaction involving a violation of this section” to those “resulting from a violation of this section;” and
- Makes the proposed language retroactive to July 1, 2021, and specifically applies to “any proceeding pending or commenced on or after July 1, 2021.”

**CS by Regulated Industries on February 8, 2022:**

- Adds prerecorded voicemails to the methods of telephonic solicitation that require prior written authorization from a called party;
- Rephrases the exception to “unsolicited telephonic sales calls” to include telephonic sales calls “for the purpose of” polling or soliciting the expression of ideas, opinions, or votes, rather than the exception being “limited to” such purpose;
- Increases the limitation on automated telephone dialing systems with live messages or text messages made in response to an inquiry initiated by the called party to three calls or messages, rather than two.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/08/2022	.	
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The Committee on Regulated Industries (Hutson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 38 - 68

and insert:

selection and ~~or~~ dialing of telephone numbers, the playing of a recorded message when a connection is completed to a number called, the transmission of a text message, or the transmission of a prerecorded voicemail; and

b. He or she is not required to directly or indirectly sign the written agreement or to agree to enter into such an



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11 agreement as a condition of purchasing any property, goods, or  
12 services.

13 (k) "Unsolicited telephonic sales call" means a telephonic  
14 sales call other than a call made:

15 1. Within 120 days after ~~In response to~~ an express request  
16 of the ~~person~~ called party;

17 2. Primarily in connection with an existing debt or  
18 contract, if payment or performance of such debt or contract has  
19 not been completed at the time of such call;

20 3. To a person with whom the telephone solicitor has a  
21 prior or existing business relationship; ~~or~~

22 4. By a newspaper publisher or his or her agent or employee  
23 in connection with his or her business; or

24 5. For the purpose of polling or soliciting the expression  
25 of ideas, opinions, or votes, including when such polling or  
26 soliciting is made by text message.

27 (8) (a) A person may not make or knowingly allow a  
28 telephonic sales call to be made if such call involves an  
29 automated system for the selection and ~~or~~ dialing of telephone  
30 numbers, ~~or~~ the playing of a recorded message when a connection  
31 is completed to a number called, the transmission of a text  
32 message, or the transmission of a prerecorded voicemail without  
33 the prior express written consent of the called party.

34 (e) This subsection does not prohibit the use of an  
35 automated system for the selection and dialing of telephone  
36 numbers with live messages or text messages if the call or  
37 message is made solely in response to an inquiry initiated by  
38 the called party. However, only three such  
39



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

41 And the title is amended as follows:

42 Delete lines 4 - 6

43 and insert:

44 provision to changes made by the act; prohibiting the  
45 use of automated telephone dialing systems using  
46 certain types of messages under certain circumstances;  
47 authorizing such use in response to certain inquiries;  
48 providing a



By the Committee on Commerce and Tourism; and Senator Hutson

577-02247-22

20221564c1

A bill to be entitled

An act relating to telephone solicitation; amending s. 501.059, F.S.; redefining terms; conforming a provision to changes made by the act; authorizing the use of automated telephone dialing systems with live messages in response to certain inquiries; providing a limitation; revising provisions for the award of attorney fees and costs; providing for retroactive application; providing an effective date.

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

Section 1. Paragraphs (g) and (k) of subsection (1), paragraph (a) of subsection (8), and subsection (11) of section 501.059, Florida Statutes, are amended, and paragraph (e) is added to subsection (8) of that section, to read:

501.059 Telephone solicitation.—

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

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

1. Bears the signature of the called party;

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

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

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

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

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

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

(k) "Unsolicited telephonic sales call" means a telephonic sales call other than a call made:

1. Within 120 days after ~~in response to~~ an express request of the ~~person~~ called party;

2. Primarily in connection with an existing debt or contract, if payment or performance of such debt or contract has not been completed at the time of such call;

3. To a person with whom the telephone solicitor has a prior or existing business relationship; ~~or~~

4. By a newspaper publisher or his or her agent or employee in connection with his or her business; or

5. Limited to polling or soliciting the expression of ideas, opinions, or votes, including when such polling or soliciting is made by text message.

Page 2 of 4

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

577-02247-22

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59 (8) (a) A person may not make or knowingly allow a  
60 telephonic sales call to be made if such call involves an  
61 automated system for the selection ~~and~~ ~~or~~ dialing of telephone  
62 numbers or the playing of a recorded message when a connection  
63 is completed to a number called without the prior express  
64 written consent of the called party.

65 (e) This subsection does not prohibit the use of an  
66 automated telephone dialing system with live messages or text  
67 messages if the call or message is made solely in response to an  
68 inquiry initiated by the called party. However, only two such  
69 calls or messages may be made in response to each inquiry.

70 (11) (a) In any civil litigation resulting from a  
71 ~~transaction involving a~~ violation of this section, the  
72 prevailing party, after judgment in the trial court and  
73 exhaustion of all appeals, if any, shall receive his or her  
74 reasonable ~~attorney attorney's~~ fees and costs from the  
75 nonprevailing party.

76 (b) The attorney for the prevailing party shall submit a  
77 sworn affidavit of his or her time spent on the case and his or  
78 her costs incurred for all the motions, hearings, and appeals to  
79 the trial judge who presided over the civil case.

80 (c) The trial judge shall award the prevailing party the  
81 sum of reasonable costs incurred in the action plus a reasonable  
82 legal fee for the hours actually spent on the case as sworn to  
83 in an affidavit.

84 (d) Any award of ~~attorney attorney's~~ fees or costs shall  
85 become a part of the judgment and subject to execution as the  
86 law allows.

87 (e) In any civil litigation initiated by the department or

Page 3 of 4

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

577-02247-22

20221564c1

88 the Department of Legal Affairs, the court may award to the  
89 prevailing party reasonable ~~attorney attorney's~~ fees and costs  
90 if the court finds that there was a complete absence of a  
91 justiciable issue of either law or fact raised by the losing  
92 party or if the court finds bad faith on the part of the losing  
93 party.

94 Section 2. The amendments made by this act to s. 501.059,  
95 Florida Statutes, are remedial in nature and apply retroactively  
96 to July 1, 2021, and to any proceeding pending or commenced on  
97 or after July 1, 2021.

98 Section 3. This act shall take effect July 1, 2022.

Page 4 of 4

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

February 8, 2022

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB 1564

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Regulated Industries

Committee

Amendment Barcode (if applicable)

Name **Timothy J. Meenan**

Phone **8502849240**

Address **PO Box 11247**

Email **tim@meenanlawfirm.om**

Street

**Tallahassee**

**FL**

**32302**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Asurion**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rule 1.pdf \(flsenate.gov\)](#)*

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

# APPEARANCE RECORD

1564

Bill Number or Topic

Meeting Date

2/8/22

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Regulated Industries  
Committee

Amendment Barcode (if applicable)

Name

Adam Basford

Phone

224 7174

Address

516 N Adams  
Street

Email

~~ad~~ abasford@aif.com

City

Jallahassae FL 32301

State

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Associated Industries of FL

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

2-8

The Florida Senate

# APPEARANCE RECORD

1564

Meeting Date

Reg Industry  
Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name

TED SMITH

Phone

Address

Street

400 N. Meridian St

Email

City

Tallah

State

FL

Zip

32301

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1, [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

2-8-22

Meeting Date

Regulated Industries

Committee

1564

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Debra Koebel

Phone

305-981-1077

Address

25 NE 124th St.

Email

Street

N. Miami

FL

33161

City

State

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

## Datres, Susan

---

**From:** Liebert, Andrew  
**Sent:** Tuesday, February 8, 2022 2:32 PM  
**To:** Datres, Susan  
**Subject:** RE: Excusal Letter or email needed for Sen. Albritton

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Susan,

Please let this email serve as a request for Sen. Albritton to be excused from today's Regulated Industries meeting.

Best regards,

### Andrew Liebert

Legislative Aide to Senator Ben Albritton  
Senate District 26  
150 North Central Avenue  
Bartow, Florida 33830  
850-487-5026 – Office  
239-595-5990 – Cell



*Florida has a very broad public records law. As a result, any written communication created or received is subject to disclosure to the public and the media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.*

**From:** Datres, Susan <Datres.Susan@flsenate.gov>  
**Sent:** Tuesday, February 8, 2022 1:40 PM  
**To:** Hinchee, John <Hinchee.John@flsenate.gov>; Liebert, Andrew <Liebert.Andrew@flsenate.gov>; Whaley, Karen <Whaley.Karen@flsenate.gov>; Williams, Jae <Williams.Jae@flsenate.gov>  
**Cc:** Imhof, Booter <Imhof.Booter@flsenate.gov>  
**Subject:** Excusal Letter or email needed for Sen. Albritton  
**Importance:** High

Good afternoon! Please send us an excusal letter or an email saying that Sen. Albritton needed to be absent from today's Regulated Industries meeting. I'll need to get that published by the end of the afternoon.

Thank you for your help!

*Susan Datres*

Committee on Regulated Industries  
850-487-5957



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Regulated Industries, *Chair*  
Appropriations  
Appropriations Subcommittee on Education  
Commerce and Tourism  
Community Affairs  
Education  
Rules

### SENATOR TRAVIS HUTSON

7th District

February 8, 2022

Booter Imhof, Staff Director  
Senate Committee on Regulated Industries  
525 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Mr. Imhof,

I am writing to request to be excused from today's Regulated Industries Committee meeting. I am unable to attend the meeting as I am needed in another committee at that time. Thank you for your consideration of this request.

Respectfully,

A handwritten signature in blue ink that reads "Travis Hutson". The signature is written in a cursive, flowing style.

Travis Hutson

REPLY TO:

- 4875 Palm Coast Parkway, NW, Suite 5, Palm Coast, Florida 32137 (386) 446-7610 FAX: (888) 263-3475
- 416 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Appropriations  
Appropriations Subcommittee on Education  
Banking and Insurance  
Education  
Regulated Industries  
Rules  
Joint Leg. Budget Committee

## SENATOR KATHLEEN PASSIDOMO

*Rules Chair*

February 8, 2022

Senator Travis Hutson, Chair  
Senate Regulated Industries  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chair Hutson:

I respectfully ask to be excused from the Regulated Industries Committee meeting scheduled for Tuesday, February 8, 2022.

Sincerely,

Kathleen Passidomo



cc: Booter Imhof

### REPLY TO:

- 3299 East Tamiami Trail, Suite 203, Naples, Florida 34112 (239) 417-6205
- 25 East Hickpoochee Avenue, Room J-126, LaBelle, Florida 33935 (863) 674-7122
- 400 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5028

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**Wilton Simpson**  
President of the Senate

**Aaron Bean**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** KB 412                      **Case No.:** -  
**Caption:** Senate Regulated Industries Committee

**Type:**  
**Judge:**

**Started:**                      **2/8/2022 12:31:01 PM**  
**Ends:** **2/8/2022 12:59:03 PM**    **Length: 00:28:03**

**12:31:00 PM** Roll Call  
**12:32:00 PM** Vice Chair Book  
**12:32:11 PM** Opening Remarks  
**12:32:17 PM** SB 448 by Senator Brodeur will be TP.  
**12:32:39 PM** Tab 1 - Confirmation of Melanie Griffin, Secretary of DBPR  
**12:36:36 PM** Vice Chair Book  
**12:37:51 PM** Senator Hooper with comments  
**12:38:03 PM** Vice Chair Book  
**12:38:05 PM** Senator Rouson with questions  
**12:38:07 PM** Secretary Griffin to respond  
**12:39:10 PM** Vice Chair with comments  
**12:39:19 PM** Melanie Griffin closing remarks  
**12:39:32 PM** Senator Hooper recommends confirmation of Secretary Griffin  
**12:39:45 PM** Roll Call  
**12:40:07 PM** Confirmation is reported favorably  
**12:40:14 PM** Tab 5 SB 1564 by Senator Hutson presented by Senator Rodriques  
**12:42:02 PM** Senator Rodriques explains the bill  
**12:43:08 PM** Amendment 297394  
**12:43:09 PM** Amendment adopted  
**12:43:21 PM** Timothy J. Meenan, Asurion, speaking for  
**12:43:25 PM** Adam Basford, Associated Industries of Florida, waives in support  
**12:43:29 PM** Ted Smith waiving in support  
**12:43:34 PM** Debra Koebel waiving in support  
**12:43:54 PM** Senator Rodriques waives close  
**12:43:57 PM** Roll call  
**12:43:58 PM** SB 1564 reported favorably  
**12:44:04 PM** Gavel turned over to Senator Gruters  
**12:44:29 PM** Tab 4 SB 1852 by Senator Bradley presented by Vice Chair Book  
**12:45:05 PM** Vice Chair Book explains the bill  
**12:45:30 PM** amendment 725846 by Senator Bradley  
**12:45:34 PM** Vice Chair Book explains the amendment  
**12:46:03 PM** Senator Gruters  
**12:46:12 PM** Christie Arnold, FL Conference of Catholic Bishops waives in support  
**12:46:19 PM** Amendment adopted  
**12:46:23 PM** Senator Gruters  
**12:46:37 PM** Samantha Padgett, Florida Restaurant & Lodging Association speaking for the bill  
**12:46:39 PM** Mark Walsh, USF waives in support  
**12:46:41 PM** Christie Arnold waives in support  
**12:46:57 PM** Senator Stewart in debate  
**12:47:16 PM** Vice Chair Book waives close  
**12:47:20 PM** roll call  
**12:47:37 PM** Bill is reported favorably

**12:47:42 PM** Tab 2 - SB 1158 by Senator Jones  
**12:47:54 PM** Amendment 978672 by Senator Jones  
**12:48:56 PM** Vice Chair Book  
**12:48:58 PM** Phillip Suderman, Americans for Prosperity waives in support  
**12:49:02 PM** Samatha Padgett, Florida Restaurant & Lodging Association- speaking against  
**12:53:13 PM** Sal Nuzzo, The James Madison Institute speaking for  
**12:53:20 PM** Christian Camara, Institute for Justice waiving in support  
**12:53:21 PM**  
**12:53:34 PM** Tim Nungesser, NFIB - speaking in support  
**12:54:11 PM** Senator Hooper in debate  
**12:54:15 PM** Vice Chair Book  
**12:54:19 PM** Amendment adopted  
**12:54:35 PM** Back on bill as amended  
**12:54:35 PM** Vice Chair Book  
**12:54:38 PM** Senator Hooper in debate  
**12:55:55 PM** Vice Chair Book  
**12:55:57 PM** Senator Jones closing on bill  
**12:57:19 PM** Vice Chair Book  
**12:58:20 PM** Roll Call  
**12:58:35 PM** SB 1158 reported favorably  
**12:58:44 PM** Vice Chair with closing remarks meeting adjourned