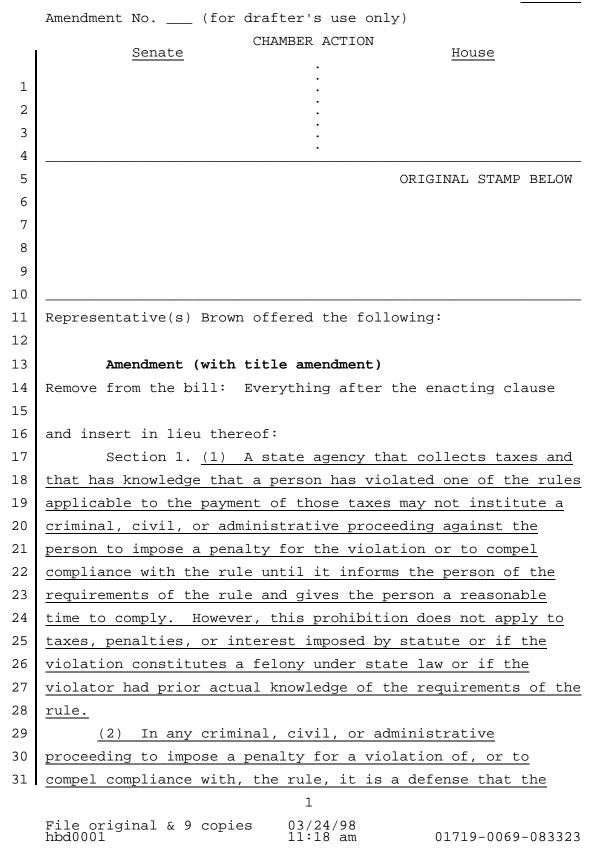
HOUSE AMENDMENT

Bill No. HB 1719



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Amendment No. ____ (for drafter's use only)

state agency has a pattern of failure to enforce the rule with 1 2 respect to substantially the same violation committed by 3 others. 4 Section 2. A state agency that collects taxes and that 5 has actual knowledge that a person has violated one of the rules applicable to the payment of those taxes or, with the б 7 exercise of due diligence, should have known of the violation, 8 is estopped from enforcing the rule against the person if the state agency had actual or imputed knowledge of the violation 9 10 for a period of more than 1 year and did not give the violator 11 notice of the requirements of the rule within that time. This 12 prohibition does not apply if the violator had prior actual 13 knowledge of the requirements of the rule. A state agency shall not impose any penalty based on a policy interpretation 14 15 of a rule or statute for any action which occurred prior to the development of the policy interpretation. 16 17 Section 3. Subsection (2) of section 120.695, Florida 18 Statutes, is amended to read: 120.695 Notice of noncompliance.--19 20 (2)(a) Each agency shall issue a notice of noncompliance as a first response to a minor violation of a 21 rule. A "notice of noncompliance" is a notification by the 22 agency charged with enforcing the rule issued to the person or 23 24 business subject to the rule. A notice of noncompliance may 25 not be accompanied with a fine or other disciplinary penalty. It must identify the specific rule that is being violated, 26 provide information on how to comply with the rule, and 27 specify a reasonable time for the violator to comply with the 28 29 rule. A rule is agency action that regulates a business, 30 occupation, or profession, or regulates a person operating a 31 business, occupation, or profession, and that, if not complied 2

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with, may result in a disciplinary penalty. 1 2 (b) Each agency shall review all of its rules and 3 designate those for which a violation would be a minor 4 violation and for which a notice of noncompliance must be the 5 first enforcement action taken against a person or business subject to regulation. A violation of a rule is a minor б 7 violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or 8 welfare or create a significant threat of such harm. 9 If an 10 agency under the direction of a cabinet officer mails to each licensee a notice of the designated rules at the time of 11 12 licensure and at least annually thereafter, the provisions of 13 paragraph (a) may be exercised at the discretion of the agency. Such notice shall include a subject-matter index of 14 15 the rules and information on how the rules may be obtained. (c) A state agency shall not impose any penalty based 16 17 on a policy interpretation of a rule or statute for any action 18 which occurred prior to the development of the policy 19 interpretation. The agency's review and designation must be completed by December 1, 1995; each agency under the direction 20 of the Governor shall make a report to the Governor, 21 and each 22 agency under the joint direction of the Governor and Cabinet 23 shall report to the Governor and Cabinet by January 1, 1996, 24 on which of its rules have been designated as rules the violation of which would be a minor violation. 25 The Governor or the Governor and Cabinet, as 26 $\left(d \right)$ 27 appropriate pursuant to paragraph (c), may evaluate the review and designation effects of each agency and may apply a 28 29 different designation than that applied by the agency. (d)(e) This section does not apply to the regulation 30 31 of law enforcement personnel or teachers.

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1 (e) (f) Designation pursuant to this section is not 2 subject to challenge under this chapter. 3 Section 4. This act shall take effect upon becoming a 4 law. 5 6 ======== TITLE AMENDMENT ========== 7 And the title is amended as follows: 8 9 On page 1, lines 1-12, 10 remove from the title of the bill: the entire title 11 12 and insert in lieu thereof: A bill to be entitled 13 An act relating to state agencies that collect 14 15 taxes; prohibiting specified state agencies 16 from penalizing a person for violating 17 specified rules of which he had no knowledge; prohibiting such agencies from enforcing rules 18 applicable to the collection of taxes when 19 20 specified conditions are met; providing a defense for enforcement actions in specified 21 22 circumstances; amending s. 120.695, F.S., relating to notice of noncompliance; 23 24 prohibiting state agencies from imposing 25 certain penalties; providing an effective date. 26 27 28 29 30 31 4

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