

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Brown offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. (1) A state agency that collects taxes and that has knowledge that a person has violated one of the rules applicable to the payment of those taxes may not institute a criminal, civil, or administrative proceeding against the person to impose a penalty for the violation or to compel compliance with the rule until it informs the person of the requirements of the rule and gives the person a reasonable time to comply. However, this prohibition does not apply to taxes, penalties, or interest imposed by statute or if the violation constitutes a felony under state law or if the violator had prior actual knowledge of the requirements of the rule.

(2) In any criminal, civil, or administrative proceeding to impose a penalty for a violation of, or to compel compliance with, the rule, it is a defense that the

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

1 state agency has a pattern of failure to enforce the rule with
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
6 rules applicable to the payment of those taxes or, with the
7 exercise of due diligence, should have known of the violation,
8 is estopped from enforcing the rule against the person if the
9 state agency had actual or imputed knowledge of the violation
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
14 shall not impose any penalty based on a policy interpretation
15 of a rule or statute for any action which occurred prior to
16 the development of the policy interpretation.

17 Section 3. Subsection (2) of section 120.695, Florida
18 Statutes, is amended to read:

19 120.695 Notice of noncompliance.--

20 (2)(a) Each agency shall issue a notice of
21 noncompliance as a first response to a minor violation of a
22 rule. A "notice of noncompliance" is a notification by the
23 agency charged with enforcing the rule issued to the person or
24 business subject to the rule. A notice of noncompliance may
25 not be accompanied with a fine or other disciplinary penalty.
26 It must identify the specific rule that is being violated,
27 provide information on how to comply with the rule, and
28 specify a reasonable time for the violator to comply with the
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

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

1 with, may result in a disciplinary penalty.

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~~
6 ~~subject to regulation.~~A violation of a rule is a minor
7 violation if it does not result in economic or physical harm
8 to a person or adversely affect the public health, safety, or
9 welfare or create a significant threat of such harm. If an
10 agency under the direction of a cabinet officer mails to each
11 licensee a notice of the designated rules at the time of
12 licensure and at least annually thereafter, the provisions of
13 paragraph (a) may be exercised at the discretion of the
14 agency. Such notice shall include a subject-matter index of
15 the rules and information on how the rules may be obtained.

16 (c) A state agency shall not impose any penalty based
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~~
20 ~~completed by December 1, 1995; each agency under the direction~~
21 ~~of the Governor shall make a report to the Governor, 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~~
25 ~~violation of which would be a minor violation.~~

26 (d) ~~The Governor or the Governor and Cabinet, as~~
27 ~~appropriate pursuant to paragraph (c), may evaluate the review~~
28 ~~and designation effects of each agency and may apply a~~
29 ~~different designation than that applied by the agency.~~

30 (d)(e) This section does not apply to the regulation
31 of law enforcement personnel or teachers.

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

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.
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7 ===== T I T L E A M E N D M E N T =====
8 And the title is amended as follows:
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:
13 A bill to be entitled
14 An act relating to state agencies that collect
15 taxes; prohibiting specified state agencies
16 from penalizing a person for violating
17 specified rules of which he had no knowledge;
18 prohibiting such agencies from enforcing rules
19 applicable to the collection of taxes when
20 specified conditions are met; providing a
21 defense for enforcement actions in specified
22 circumstances; amending s. 120.695, F.S.,
23 relating to notice of noncompliance;
24 prohibiting state agencies from imposing
25 certain penalties; providing an effective date.
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