

hbd-06

Amendment No. \_\_\_\_ (for drafter's use only)

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

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11 Representative(s) Brown offered the following:

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13 **Amendment (with title amendment)**

14 Remove from the bill: Everything after the enacting clause

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16 and insert in lieu thereof:

17 Section 1. Subsection (3) is added to section 120.695,  
18 Florida Statutes, to read:

19 120.695 Notice of noncompliance.--

20 (3)(a) An agency that collects taxes or regulates the  
21 activities of any profession, occupation, or business and that  
22 has knowledge that a person may have violated a rule  
23 applicable to the payment of those taxes or applicable to the  
24 profession, occupation, or business may not institute a  
25 criminal, civil, or administrative proceeding against the  
26 person to impose a penalty for, or to compel compliance with,  
27 a minor violation of the rule until it informs the person of  
28 the requirements of the rule and gives the person a reasonable  
29 time to comply.

30 (b) In any criminal, civil, or administrative  
31 proceeding to impose a penalty for, or to compel compliance

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Bill No. HB 1719

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1 with, a minor violation of a rule, it is a defense that the  
 2 agency has a pattern of failure to enforce the rule with  
 3 respect to substantially the same violation committed by  
 4 others. An agency may begin to enforce the rule prospectively  
 5 where it has failed to enforce the rule previously if it  
 6 provides notice to those affected, either directly when  
 7 possible, or if not, in the Florida Administrative Weekly, of  
 8 the agency's intent to begin enforcement of that rule.

9       (c) An agency that collects taxes or regulates the  
 10 activities of any profession, occupation, or business and that  
 11 has actual knowledge that a person may have committed a minor  
 12 violation of a rule applicable to the payment of those taxes  
 13 or applicable to the profession, occupation, or business or,  
 14 with the exercise of due diligence, should have known of the  
 15 violation, is estopped from enforcing the rule retroactively  
 16 against that person if the agency had actual or imputed  
 17 knowledge of the violation for a period of more than 1 year  
 18 and did not give the violator notice of the requirements of  
 19 the rule within that time.

20       (d) The prohibitions of this section do not apply if  
 21 the violation constitutes a violation of a federal regulation  
 22 or state statute, if the violation is a felony under state  
 23 law, if the violation imminently affects the health, safety,  
 24 or welfare of the public, or if the violator had prior  
 25 constructive knowledge of the requirements of the rule.

26       Section 2. This act shall take effect upon becoming a  
 27 law.

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

31 And the title is amended as follows:

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1           On page 1, line 3, after "businesses;"  
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3 insert:  
4           amending s. 120.695, F.S.;  
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