

By the Committee on Governmental Reform and Oversight; and  
Senator Ostalkiewicz

302-2191-98

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A bill to be entitled  
An act relating to rules enforcement by state  
agencies; prohibiting state agencies from  
imposing certain penalties for rules violations  
under certain circumstances; providing defenses  
against certain enforcement actions;  
prohibiting certain agencies from enforcing  
certain rules; providing exceptions and  
applicability; providing an effective date.

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

Section 1. (1) A state agency that collects taxes or  
regulates the activities of any profession, occupation, or  
business and that has knowledge that a person has violated one  
of the rules applicable to the payment of those taxes or  
applicable to the profession, occupation, or business 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. This prohibition does not apply if the  
violator had actual or constructive knowledge of the  
requirements of the rule or if the prohibition would affect an  
agency's ability to obtain or retain a federally delegated or  
approved environmental program. This prohibition does not  
apply if the violator had actual or constructive knowledge of  
the requirements of the rule or if the agency determines that  
the violation constitutes an imminent detriment to the public  
health, safety, and welfare.

1           (2) In any criminal, civil, or administrative  
2 proceeding to impose a penalty for a violation of, or to  
3 compel compliance with, the rule, it is a defense that the  
4 state agency has a demonstrated pattern of failure to enforce  
5 the rule with respect to substantially the same violation  
6 committed by others.

7           Section 2. A state agency that collects taxes or  
8 regulates the activities of any profession, occupation, or  
9 business and that has actual knowledge that a person has  
10 violated one of the rules applicable to the payment of those  
11 taxes or applicable to the profession, occupation, or  
12 business, or, with the exercise of due diligence, should have  
13 known of the violation, is estopped from enforcing the rule  
14 against the person if the state agency had actual or imputed  
15 knowledge of the violation for a period of more than 1 year  
16 and did not give the violator notice of the requirements of  
17 the rule within that time.

18           Section 3. This act does not apply to taxes,  
19 penalties, fees, surcharges, or interest imposed by statute.

20           Section 4. This act does not apply to rules directly  
21 related to the practice of a profession, occupation, or  
22 business subject to licensure by the state.

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 632

The Committee Substitute requires that a person have actual or constructive knowledge of a rule application and exempts the application of the bill in the following instances: when it would be detrimental to public, health, welfare, or safety or when it would jeopardize a federal environmental program. The CS also does not apply to taxes, fees, penalties, or sucharges imposed by statute or to any state-licensed profession, occupation or business.