

**STORAGE NAME:** h1073s1.hcl

**DATE:** April 1, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
HEALTH CARE LICENSING & REGULATION  
ANALYSIS**

**BILL #:** CS/HB 1073

**RELATING TO:** Recreational Sport Diving

**SPONSOR(S):** Committee on Health Care Licensing & Regulation and Representative Edwards

**COMPANION BILL(S):** SB 278(s)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) HEALTH CARE LICENSING & REGULATION YEAS 9 NAYS 1
- (2) WATER & RESOURCE MANAGEMENT
- (3) GOVERNMENTAL RULES & REGULATIONS
- (4) HEALTH & HUMAN SERVICES APPROPRIATIONS
- (5)

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I. SUMMARY:

CS/HB 1073 requires the Department of Health to establish maximum levels of contaminants in compressed air used for recreational sport diving. Compressed air can be at dive shops, on dive boats, marinas, and at some bait shops. Compressed air vendors will be required to collect a sample of air from their equipment and submit it to a laboratory certified by either the American Industrial Hygiene Association or the American Association for Laboratory Accreditation. If the air sample meets the Grade "E" Recreational Diving Standards of the Compressed Gas Association, the Department of Health will issue a certificate to the vendor. There is no funding mechanism for the department's certification.

The bill provides a civil penalty not to exceed \$500.

Exemptions from this legislation are provided for any government agency who has their own source of compressed air for work related activities, any person providing compressed air for their own use; and foreign registered vessels upon which a compressor is used to provide compressed air for work related to the operation of the vessel.

The Department of Health expects first-year, non-recurring expenditures to equal \$3,010 for rule promulgation and the development of curriculum training. Continuation costs are estimated to equal \$18,010 in the second year. The bill does not provide a revenue source.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Compressed air for recreational sport diving is not presently required to be sampled and analyzed. The department's laboratory does not provide the analytical services required for this type of analysis. Three laboratories, including one in Florida, are presently the only laboratories certified for this type of testing.

At least one voluntary certifying association, the Professional Association of Diving Instructors, requires its Five Star facilities to test compressed air quarterly. It is estimated that 500 compressed air vendors are located in Florida. Air compressors for divers may be found at dive shops, marinas, on dive boats, and at some bait shops.

B. EFFECT OF PROPOSED CHANGES:

The Department of Health is authorized to adopt rules establishing maximum allowable levels for contaminants in compressed air that is used for recreational sport diving. In developing the standards, the department must take into consideration the levels of contaminants allowed by the Grade "E" Recreational Diving Standards of the Compressed Gas Association. The Department of Health is required to analyze compressed air samples from each compressed air vendor in the state and issue a certificate if the air meets the standards. The bill provides a civil penalty not to exceed \$500.

This legislation does not provide fee authority for the Department of Health.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. This bill gives the Department of Health the authority to set the safety guidelines for the maximum allowable levels of contaminants in compressed air being sold, the procedures for the submission of test results, and the procedures for the issuance of certificates and notices for failed tests.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The Department of Health is required to review the test results of compressed air and if the results meet the safety limitations, issue a certificate.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

None.

(2) what is the cost of such responsibility at the new level/agency?

None.

(3) how is the new agency accountable to the people governed?

None.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not Applicable.

(2) Who makes the decisions?

Not Applicable.

(3) Are private alternatives permitted?

Not Applicable.

(4) Are families required to participate in a program?

Not Applicable.

(5) Are families penalized for not participating in a program?

Not Applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not Applicable.

(2) service providers?

Not Applicable.

(3) government employees/agencies?

Not Applicable.

D. STATUTE(S) AFFECTED:

None.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Requires the Department of Health to adopt rules establishing maximum allowable levels for contaminants in compressed air used for recreational sport diving; provides for contaminant testing; provides for exemptions; requires certification of compressed air vendors; and provides for penalties.

Section 2. Provides an effective date of January 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

<b>Expenditures:</b>	1999-00
Department of Health	
Rule promulgation and form development for 90 hours @ \$17 per hour	\$1,530
Development of training curriculum for 40 hours @ \$37 per hour	<u>\$1,480</u>
Total Non-recurring Expenditures	\$3,010

2. Recurring Effects:

<b>Expenditures:</b>	1999-00	2000-01
Department of Health		
Processing Certificates @ \$30 each facility/year (4 analyses per year)	\$15,000	\$15,450

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

<b>Expenditures:</b>		
Department of Health	\$18,010	\$15,450
<b>Revenues:</b>		
Department of Health	\$0	\$0

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

According to the Department of Health, the total cost to the regulated community, compressed air vendors, would be approximately \$160,000 (\$80 sample fee x 4 times per year x 500 facilities = \$160,000).

2. Direct Private Sector Benefits:

According to the Professional Association of Diving Instructors, three individuals have died in the United States in the past nine years from unsafe compressed air. The department issued certificate will only assure that the compressed air was safe at the time it was sampled. Benefits to recreational sport divers are unclear.

The laboratories in the United States that are certified to perform these tests should see a substantial financial benefit due to this legislation.

3. Effects on Competition, Private Enterprise and Employment Markets:

Should a business fail to provide satisfactory air, it may be forced to close as it could not meet certification requirements. It is possible more laboratories will open to take advantage of this market.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The department has suggested amendments to correct the following problems:

- ◆ The legislation does not allow the department to charge fees to recover the costs of administering the program (suggest a fee not to exceed \$50 per year for each premises).
- ◆ Vendors who receive compensation for providing compressed air may attempt to circumnavigate the sampling requirement by providing compressed air *free* to individuals who rent scuba tanks.
- ◆ Quarterly sampling does not provide a significantly increased level of safety to the consumer over semi-annual sampling. Semi-annual sampling would cut costs to vendors and to the department in half.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 23, 1999, the Health Care Licensing & Regulation Committee adopted a strike everything amendment and the bill passed as a committee substitute (CS). The original bill required the Department of Health to:

- ◆ Test the level of contaminants that is used for recreational sport diving.
- ◆ Provide a container to the compressed air vendors to collect a sample of air from their equipment.
- ◆ Analyze the sample

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VII. SIGNATURES:

COMMITTEE ON HEALTH CARE LICENSING & REGULATION:

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