

By the Committee on Commerce and Consumer Services; and
Senators Garcia and Fasano

577-1699-05

1 A bill to be entitled
2 An act relating to consumer protection;
3 amending s. 501.160, F.S.; providing criminal
4 penalties for any person who fails to possess
5 an occupational license and offers goods and
6 services for sale to the public during a
7 declared state of emergency; providing that
8 this provision shall not apply to certain
9 organizations; providing that failure to
10 possess such a license constitutes reasonable
11 cause to detain such person for a reasonable
12 amount of time and in a reasonable manner;
13 amending s. 252.36, F.S.; providing the
14 Governor with certain emergency management
15 powers; providing an effective date.
16
17 Be It Enacted by the Legislature of the State of Florida:
18
19 Section 1. Subsection (9) is added to section 501.160,
20 Florida Statutes, to read:
21 501.160 Rental or sale of essential commodities during
22 a declared state of emergency; prohibition against
23 unconscionable prices.--
24 (9) Upon a declaration of a state of emergency by the
25 Governor, in order to protect the health, safety, and welfare
26 of residents, any person who offers goods and services for
27 sale to the public during the duration of the emergency and
28 who does not possess an occupational license under s. 205.032
29 or s. 205.042 commits a misdemeanor of the second degree,
30 punishable as provided in s. 775.082 or s. 775.083. During a
31 declared emergency, this subsection does not apply to

1 religious, charitable, fraternal, civic, educational, or
2 social organizations. During a declared emergency and when
3 there is an allegation of price gouging, failure to possess a
4 license constitutes reasonable cause to detain the person,
5 provided that the detention shall only be made in a reasonable
6 manner and only for a reasonable period of time sufficient for
7 an inquiry into the circumstances surrounding the failure to
8 possess a license.

9 Section 2. Paragraphs (m) and (n) are added to
10 subsection (5) of section 252.36, Florida Statutes, to read:

11 252.36 Emergency management powers of the Governor.--

12 (5) In addition to any other powers conferred upon the
13 Governor by law, she or he may:

14 (m) Authorize businesses and their employees who sell
15 commodities as defined in s. 501.160(1)(a) to exceed the times
16 of curfews for the purpose of ensuring that the supplies of
17 commodities are made available to the public and direct local
18 law enforcement to assist and accommodate those businesses and
19 their employees in ensuring that commodities are available in
20 coping with the emergency.

21 (n) Direct local governments to open and operate
22 landfills, including extending operating hours, so that
23 businesses providing commodities may dispose of contaminated
24 or spoiled goods in a reasonable and timely manner in order to
25 protect the health, safety, and welfare of residents and
26 businesses coping with the emergency.

27 Section 3. This act shall take effect July 1, 2005.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 572

This committee substitute replaces the bill as filed with the following:

1. Provides that upon the Governor's declaration of a state of emergency, it is a second-degree misdemeanor for any person to offer goods and services for sale to the public during the duration of the emergency unless person possesses an occupational license. Religious, charitable, fraternal, civic, educational or social organizations are exempt;
2. Authorizes the Governor, in the emergency declaration, to exempt businesses who sell essential commodities from curfew restrictions; and
3. Authorizes the Governor to direct local governments to open landfills and operate with extended hours to allow for disposal of contaminated or spoiled goods.