

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 603 CS Gasoline Stations
SPONSOR(S): Flores
TIED BILLS: **IDEN./SIM. BILLS:** SB 530

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee	8 Y, 0 N, w/CS	Kaiser	Reese
2) Domestic Security Committee			
3) Governmental Operations Committee			
4) State Resources Council			
5) _____			

SUMMARY ANALYSIS

HB 603 with CS requires each motor fuel terminal facility and wholesaler that sells fuel in Florida to be capable of operating its distribution loading racks using an alternative power source for a minimum of 72 hours. No later than 36 hours following a major disaster, and pending a postdisaster examination of equipment to determine the equipment’s operability, each facility must have an alternate power source available for operation.

Each newly constructed or substantially renovated motor fuel retail outlet with a certificate of occupancy issued on or after July 1, 2007, must be prewired with an appropriate transfer switch and capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment acceptance equipment using an alternate power source. The bill provides, no later than December 31, 2006, any motor fuel retail outlet that has 16 or more fueling positions or had a minimum monthly average motor fuel sales volume of 125,000 gallons for any 6-month period during calendar year 2005 must be prewired with an appropriate transfer switch and be capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment using an alternate power source.

The bill further stipulates that any person or corporation owning or operating more than 10 motor fuel retail outlets within a single county shall maintain at least one portable generator, for every 10 retail outlets, that is capable of providing an alternate generated power source.

The bill provides a severability clause stating that if any provision of this act, or its application to any person or circumstance, is held invalid the invalidity does not affect other provisions or applications of this act.

The bill also preempts regulation of and requirements for the siting and placement of an alternate power source at motor fuel terminal facilities, wholesalers, and retail sales outlets to the state.

The bill expands the information in the statewide public educational campaign on emergency preparedness to include:

- The personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster.
- Relevant information on statewide disaster plans, evacuation routes, fuel suppliers, and shelters.

While the bill has little to no fiscal impact on state government, there is a significant impact on the private sector. The effective date of this legislation is June 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill requires all gasoline stations to be equipped with a backup power system or other alternative pumping system.

Promote personal responsibility:

The bill specifies that the intensive public educational campaign must focus on emergency preparedness issues promoting self-sufficiency of citizens for up to 72 hours following a disaster. It encourages the public to make arrangements for the care of individuals with special needs or who may need assistance, to be familiar with evacuation routes, disaster plans, shelter information, and fuel and consumer supplies.

Empower families: The bill provides options to families during a disaster by providing information regarding fuel, evacuation routes, shelters, etc. It decreases the dependence of families upon government support or assistance by educating the public about disaster preparedness.

Maintain public security: The bill provides a means for consumers to access fuel after disaster related events.

B. EFFECT OF PROPOSED CHANGES:

Motor Fuel Terminal Facilities and Retail Outlets

In light of the active hurricane seasons Florida suffered over the past few years, it became apparent that certain holes existed in emergency preparedness plans in the state. While many motor fuel retail outlets had fuel in their storage tanks during widespread power outages, they lacked the power to pump the fuel. This situation created numerous difficulties.

HB 603 with CS requires each motor fuel terminal facility and wholesaler that sells fuel in Florida to be capable of operating its distribution loading racks using an alternative power source for a minimum of 72 hours. No later than 36 hours following a major disaster¹, and pending a postdisaster examination of equipment to determine the equipment's operability, each facility must have an alternate power source available for operation. The bill provides for initial inspection for proper installation and operation to be done by a local building inspector. Verification of the inspection must be submitted to the local county emergency management agency. The bill provides for the Department of Agriculture and Consumer Services (department) to perform a periodic visual inspection of the alternate power source to ensure the auxiliary electrical equipment is installed.

Each newly constructed or substantially renovated² motor fuel retail outlet with a certificate of occupancy issued on or after July 1, 2007, must be prewired with an appropriate transfer switch and capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment acceptance equipment using an alternate power source. The bill provides for local building inspectors to include an equipment and operations check for compliance in the normal inspection process before issuing a certificate of occupancy.

For both motor fuel terminal facilities and newly constructed or substantially renovated motor fuel retail outlets, the bill requires each facility to perform annual inspections to ensure the equipment is in good working order.

¹ As defined in s. 252.34, F.S.

² Meaning a renovation that results in an increase of greater than 50 percent in the assessed value of the motor fuel retail outlet.

The bill provides, no later than December 31, 2006, that any motor fuel retail outlet that has 16 or more fueling positions or had a minimum monthly average motor fuel sales volume of 125,000 gallons for any 6-month period during calendar year 2005 must be prewired with an appropriate transfer switch and be capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment using an alternate power source.

The bill further stipulates that any person or corporation owning or operating more than 10 motor fuel retail outlets within a single county shall maintain at least one portable generator, for every 10 retail outlets, that is capable of providing an alternate generated power source as described by s. 526.143(2), F.S.

The bill requires installation and wiring to be completed by a certified electrical contractor, with owners of motor fuel retail outlets keeping documentation of such installation on site or at its corporate headquarters. Additionally, each retail outlet must maintain written records confirming periodic testing and ensured operational capacity of the equipment. These records must be made available, upon request, to the Division of Emergency Management and the county emergency management agency.

The requirement for motor fuel retail outlets to be pre-wired does not apply to:

- Automobile dealers;
- Persons who operate a fleet of motor vehicles; or
- Persons who sell motor fuel exclusively to a fleet of motor vehicles.

The bill provides a severability clause stating that if any provision of s. 526.143, F.S., or its application to any person or circumstance, is held invalid the invalidity does not affect other provisions or applications of s. 526.143, F.S.

The bill also preempts regulation of and requirements for the siting and placement of an alternate power source at motor fuel terminal facilities, wholesalers, and retail sales outlets to the state.

Public Awareness Campaign

Florida law creates the Division of Emergency Management (division) within the Department of Community Affairs. One of the duties of the division is to institute a statewide public awareness campaign on emergency preparedness issues.³

In furthering that cause, the bill expands the information in the campaign to include:

- The personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster.
- Relevant information on statewide disaster plans, evacuation routes, fuel suppliers, and shelters.

The bill provides for all educational materials to be available in alternative formats and mediums to ensure they're available to persons with disabilities.

The bill requires the division and the Department of Education to coordinate with the Agency for Persons with Disabilities to provide an educational outreach program on disaster preparedness and readiness to individuals who have limited English skills and identify persons who are in need of assistance but are not defined under special-needs criteria.

C. SECTION DIRECTORY:

Section 1: Creates s. 526.143, F.S.; requiring motor fuel terminal facilities to be equipped with an alternate power source; providing requirements for operation of equipment following a major disaster; providing inspection requirements for equipment; requiring newly constructed or substantially renovated motor fuel retail outlets to be capable of operation using an alternate power source; providing a definition;

³ s. 252.35(2)(i), F.S.

providing inspection requirements; requiring certain motor fuel retail outlets to be capable of operation using an alternate power source by a specified date; providing certain motor fuel retail outlets to have a generator on hand; providing inspection and recordkeeping requirements; providing applicability; providing severability; and, preempting authority to the state for the regulation of and requirements for siting and placement of an alternate power source and any related equipment at motor fuel terminal facilities, wholesalers, and retail sales outlets.

Section 2: Amends s. 252.35, F.S.; expanding the duty of the Division of Emergency Management to conduct a public educational campaign on emergency preparedness issues; and, providing an additional duty of the division with respect to educational outreach concerning disaster preparedness.

Section 3: Provides an effective date of June 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The Department of Agriculture and Consumer Services states that inspections required by this legislation can be handled within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The direct economic impact on the private sector will include the purchase and installation of a transfer switch for each building unit or the purchase and installation of a generator. The transfer switch must be able to accept an alternate power source. The cost of the transfer switch is approximately \$6,000 to \$10,000 depending on the specifications of the building. The purchase of a generator is approximately \$300 to \$500 per kilowatt.⁴ Cost estimates will vary depending on the size and needs of each building. Businesses can choose to contract with a service provider if they do not want to incur the cost of purchasing a generator. The service contract costs will vary depending on the need, size, and specification of the building.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

⁴ www.northerntool.com

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Committee on Agriculture adopted a strike-all amendment to HB 603. While the analysis reflects the bill as amended, the basic changes are:

- The requirements for installation of transfer switch for newly constructed, substantially renovated and existing motor retail fuel outlets.
- The requirements for installation of transfer switch for motor fuel terminal facility.
- Providing for severability.
- Providing for preemption to the state of the regulation of and requirements for siting and placement of an alternate power source at motor fuel terminal facilities, wholesalers, and retail sales outlets.
- Expanding the information to be distributed by the Division of Emergency Preparedness in regards to the public educational campaign on emergency preparedness.