

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 641 CS

Animal Service Providers

**SPONSOR(S):** Russell

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 1654

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| REFERENCE                        | ACTION         | ANALYST | STAFF DIRECTOR |
|----------------------------------|----------------|---------|----------------|
| 1) Agriculture Committee         | 9 Y, 1 N, w/CS | Kaiser  | Reese          |
| 2) Business Regulation Committee |                |         |                |
| 3) State Resources Council       |                |         |                |
| 4) _____                         |                |         |                |
| 5) _____                         |                |         |                |

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### SUMMARY ANALYSIS

This legislation amends the list of exemptions currently contained in the Florida Veterinary Practice Act. The legislation expands the current exemption for owner's administering to their own animals to include the owner's regular or temporary employee or an independent contractor. It further expands the exemption to include farriery, nonmechanical floating of teeth, debeaking, and parasite control, which apply to livestock and flock animals, as well as herd animals.

The legislation expands the list of exemptions to include an independent contractor providing nonmedical health care service, under the supervision of the animal's owner. The bill limits its effects specifically to livestock, herd, or avian animals. The nonmedical services include, but are not limited to, acupressure, aromatherapy, animal communication, farriery, flower essence therapy, homeopathy, light therapy, magnet therapy, massage therapy, hydrotherapy, nutritional counseling, debeaking, dehorning, and manual equine teeth floating. The bill clarifies that the above-described services are nonmedical, meaning nonprescription and nonsurgical.

In addition, the legislation requires the independent contractor to:

- Obtain an occupational license from his/her county of residence;
- Advise each owner of an animal that will be treated of his/her knowledge or experience with the services that will be provided;
- Provide his/her credentials upon the request of each owner of an animal that will be treated;
- Refrain from engaging in animal cruelty;
- Refrain from advertising in any way that implies that he/she is a veterinarian; and,
- Refrain from diagnosing or prognosticating.

Finally, the bill provides for independent contractors offering nonmedical services to complete minimum required hours of training by July 1, 2008. The bill provides the minimum required hours for each service.

This bill does not appear to have a fiscal impact on state or local government. The effective date of this legislation is July 1, 2006.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Safeguard individual liberty:** The bill affords animal owners the ability to choose alternative means of health care for their animals.

#### B. EFFECT OF PROPOSED CHANGES:

The Florida Veterinary Practice Act (Chapter 424, F.S.), “finds that the practice of veterinary medicine is potentially dangerous to the public health and safety if conducted by incompetent and unlicensed practitioners.” However, every day in Florida farriers are trimming, shoeing and making decisions regarding horses’ hoof care; massage therapists are graduating from human and animal massage schools and providing massage services to animals, particularly those in competition; feed companies and feed store owners are giving advice on nutrition and animal health care; trained and experienced equine dentists are providing equine dentistry services that many veterinarians do not provide; and experienced herd management professionals are dehorning cattle.

Theoretically, all of these individuals could be charged with a felony if a complaint was filed against them and, after an investigation, the Department of Business and Professional Regulation (DBPR) found them to be practicing veterinary medicine without a license; even though all of these services are being provided with the consent of the animals’ owners.

Chapter 424, F.S., currently provides exemptions<sup>1</sup> relating to acts or conditions not in violation of the Florida Veterinary Practice Act. This legislation amends the list of exemptions currently contained in the Florida Veterinary Practice Act. The legislation expands the current exemption for owner’s administering to their own animals to include the owner’s regular or temporary employee or an independent contractor. It further expands the exemption to include farriery, nonmechanical floating of teeth, debeaking, and parasite control, which apply to livestock and flock animals, as well as herd animals.

The legislation expands the list of exemptions to include an independent contractor providing nonmedical health care service, under the supervision of the animal’s owner. The bill limits its effects specifically to livestock, herd, or avian animals. The nonmedical services include, but are not limited to, acupuncture, aromatherapy, animal communication, farriery, flower essence therapy, homeopathy, light therapy, magnet therapy, massage therapy, hydrotherapy, nutritional counseling, debeaking, dehorning, and manual equine teeth floating. The bill clarifies that the above-described services are nonmedical, meaning nonprescription and nonsurgical.

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Finally, the bill provides for independent contractors offering nonmedical services to complete minimum required hours of training by July 1, 2008. The bill provides the minimum required hours for each service.

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<sup>1</sup> s. 474.203, F.S.

The Florida Veterinary Medical Association opposes this legislation for the following reasons:

- It creates a new category of animal health care provider, who acts as an alternative to a veterinarian, but is not subject to the same educational or testing requirements as veterinarians;
- It attempts to define services that are medical as “nonmedical” health care services; and
- It provides an exemption for an independent contractor, which is, by definition, different than an employee.

After the 2005 legislative session, when concerns were raised by proponents of this legislation that the use of self-employed individuals on a part-time basis could be considered a violation of the “regular employee” requirements, the Board of Veterinary Medicine (Board) approved a new rule to address this issue. The Joint Administrative Procedures Committee (JAPC) staff completed a preliminary review of the rule and found some inconsistencies. The Board addressed some of the concerns expressed by JAPC staff and then proceeded with rule adoption, which took place on February 14, 2006. The remaining issues raised by JAPC staff (incorporating the term “spaying” and addressing the “regular employee” issue) will be discussed at the Board’s next meeting scheduled for March 14, 2006.

If the Board fails to address the remaining issues through the rule-making process, JAPC staff has the option of preparing an objection. The objection will go before JAPC, with both sides presenting oral arguments. If JAPC rules in favor of the objection, the Board will be given time to propose a new rule to meet the objection. If JAPC rules in favor of the Board, no further action is required.

C. SECTION DIRECTORY:

**Section 1:** Amends s. 474.203, F.S.; amends exemptions from the Florida Veterinary Practice Act.

**Section 2:** Provides an effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown

D. FISCAL COMMENTS:

None

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On Wednesday, February 22, 2006, the Committee on Agriculture adopted a strike-all amendment to HB 641. The amendment expands the current exemption for owner's administering to their own animals to include the owner's regular or temporary employee or an independent contractor. It further expands the exemption to include farriery, nonmechanical floating of teeth, debeaking, and parasite control, which apply to livestock and flock animals, as well as herd animals.

The amendment also provides for independent contractors offering nonmedical services to complete minimum required hours of training by July 1, 2008. The minimum required hours for each service are provided in the amendment.