

Bill No. CS for CS for SB 660

Barcode 575340

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Lynn moved the following amendment:

**Senate Amendment (with title amendment)**

On page 13, between lines 17 and 18,

insert:

Section 5. Section 501.142, Florida Statutes, is amended to read:

501.142 Retail sales establishments; preemption; notice of refund policy; exceptions; penalty.--

(1) The regulation of refunds is preempted to the Department of Agriculture and Consumer Services notwithstanding any other law or local ordinance to the contrary. Every retail sales establishment offering goods for sale to the general public that offers no cash refund, credit refund, or exchange of merchandise must post a sign so stating at the point of sale. Failure of a retail sales establishment to exhibit a "no refund" sign under such circumstances at the point of sale shall mean that a refund or exchange policy exists, and the policy shall be presented in writing to the consumer upon request. Any retail establishment failing to

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1 comply with the provisions of this section shall grant to the  
2 consumer, upon request and proof of purchase, a refund on the  
3 merchandise, within 7 days of the date of purchase, provided  
4 the merchandise is unused and in the original carton, if one  
5 was furnished. Nothing herein shall prohibit a retail sales  
6 establishment from having a refund policy which exceeds the  
7 number of days specified herein. The department may adopt  
8 rules pursuant to ss. 120.536(1) and 120.54 to enforce the  
9 provisions of this section. However, this subsection does not  
10 prohibit a local government from enforcing the provisions  
11 established by this section or department rule.

12 (2) The provisions of this section shall not apply to  
13 the sale of food, perishable goods, goods which are custom  
14 made, goods which are custom altered at the request of the  
15 customer, or goods which cannot be resold by the merchant  
16 because of any law, rule, or regulation adopted by a  
17 governmental body.

18 (3) The department may enter an order doing one or  
19 more of the following if the department finds that a person  
20 has violated or is operating in violation of any of the  
21 provisions of this section or the rules or orders issued under  
22 this section:

23 (a) Issue a notice of noncompliance pursuant to s.  
24 120.695.

25 (b) Impose an administrative fine not to exceed \$100  
26 for each violation.

27 (c) Direct the person to cease and desist specified  
28 activities.

29 (4) The administrative proceedings that could result  
30 in the entry of an order imposing any of the penalties  
31 specified in subsection (3) are governed by chapter 120.

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1           (5) Any moneys recovered by the Department of  
 2 Agriculture and Consumer Services as a penalty under this  
 3 section shall be deposited in the General Inspection Trust  
 4 Fund.

5           (6) Upon the first violation of this section, a local  
 6 government may issue a written warning. Upon a second and any  
 7 subsequent violation, a local government may impose a fine of  
 8 up to \$50 per violation. Any moneys recovered by the local  
 9 government as a penalty under this section shall be deposited  
 10 in the appropriate local account.

11           Section 6. Section 506.5131, Florida Statutes, is  
 12 amended to read:

13           506.5131 Return of shopping carts; assessment of fees,  
 14 fines, and costs.--

15           (1) The rightful owner of any shopping cart with a  
 16 registered name or mark found on public property shall be  
 17 immediately notified of its recovery.

18           (2) Notwithstanding any other provision of law or  
 19 local ordinance, no fee, fine, or costs may be assessed  
 20 against the owner of a shopping cart unless the shopping cart  
 21 was found on public property and, unless the shopping cart was  
 22 removed from the premises or parking area of a retail  
 23 establishment by the owner of the shopping cart, or an  
 24 employee acting on the owner's behalf, and the such fee, fine,  
 25 or cost has been approved by the Department of Agriculture and  
 26 Consumer Services. This subsection shall not apply to any  
 27 ordinance adopted after January 31, 2002, and prior to June  
 28 30, 2002, that requires a business establishment to install a  
 29 retention system to retain shopping carts within the real  
 30 property boundaries of a business location.

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1 ===== T I T L E    A M E N D M E N T =====

2 And the title is amended as follows:

3            On page 1, line 26, after the first semicolon,

4

5 insert:

6            amending s. 501.142, F.S.; providing that the  
7            regulation of refunds in retail sales  
8            establishments is preempted to the department;  
9            authorizing the department to adopt rules;  
10            authorizing the department to enter orders for  
11            certain violations; requiring that any moneys  
12            recovered by the department as a penalty be  
13            deposited in the General Inspection Trust Fund;  
14            authorizing a local government to impose  
15            penalties; requiring that any moneys recovered  
16            by a local government as a penalty be deposited  
17            in the appropriate local account; amending s.  
18            506.5131, F.S.; revising provisions relating to  
19            assessment of fees, fines, and costs against  
20            the owner of a shopping cart; providing an  
21            exemption;

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