

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 522

INTRODUCER: Criminal Justice Committee and Senator Hill

SUBJECT: Radio Equipment Using Law Enforcement Frequencies

DATE: April 4, 2008 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
2.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
3.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill provides that the prohibition on unlawfully installing or transporting radio equipment using an assigned frequency of state or local law enforcement officers does not apply to:

- Any sworn law enforcement officer as defined in s. 943.10(1), F.S., or emergency service employee as defined in s. 496.404(9), F.S., while using personal transportation to and from work.
- An employee of a government agency that holds a valid Federal Communications Commission station license or a valid agreement or contract allowing access to another agency radio station.

This bill amends s. 843.16, F.S.

II. Present Situation:

Section 843.16, F.S., provides that it is a first degree misdemeanor for a person, firm, or corporation to install or transport in any motor vehicle or business establishment, except an emergency vehicle or crime watch vehicle or a place established by municipal, county, state, or

federal authority for governmental purposes, any frequency modulation radio receiving equipment so adjusted or tuned as to receive messages or signals on frequencies assigned by the Federal Communications Commission (FCC) to police or law enforcement officers or fire rescue personnel of any city or county of the state or to the state or any of its agencies.

The statute defines an “emergency vehicle” as:

- Any motor vehicle used by any law enforcement officer or employee of any city, any county, the state, the Federal Bureau of Investigation, or the Armed Forces of the United States while on official business.
- Any fire department vehicle of any city or county of the state or any state fire department vehicle.
- Any motor vehicle designated as an emergency vehicle by the Department of Highway Safety and Motor Vehicles when said vehicle is to be assigned the use of frequencies assigned to the state.
- Any motor vehicle designated as an emergency vehicle by the sheriff or fire chief of any county in the state when said vehicle is to be assigned the use of frequencies assigned to the said county.
- Any motor vehicle designated as an emergency vehicle by the chief of police or fire chief of any city in the state when said vehicle is to be assigned the use of frequencies assigned to the said city.

The statute defines a “crime watch vehicle” as any motor vehicle used by any person participating in a citizen crime watch or neighborhood watch program when such program and use are approved in writing by the appropriate sheriff or chief of police where the vehicle will be used and the vehicle is assigned the use of frequencies assigned to the county or city. This approval must be renewed annually.

The statute does not apply to:

- Any holder of a valid amateur radio operator or station license issued by the FCC.
- Any recognized newspaper or news publication engaged in covering the news on a full-time basis.
- Any alarm system contractor certified pursuant to part II of ch. 489, F.S., operating a central monitoring system.

The statute is silent on whether the prohibition applies to law enforcement officers or emergency service employees installing or transporting radio equipment while using personal transportation to and from work, or applies to an employee of a government agency that holds a valid FCC station license or a valid agreement or contract allowing access to another agency radio station. Therefore, the prohibition would presumably apply to them, though staff is unaware of any of these persons having been arrested for a violation of s. 843.16, F.S.

Section 943.10(1), F.S., defines “law enforcement officer” as “any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary

responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.”

Section 496.404(9), F.S., defines “emergency service employee” as “any employee who is a firefighter, as defined in s. 633.30, or ambulance driver, emergency medical technician, or paramedic, as defined in s. 401.23.”

III. Effect of Proposed Changes:

The bill amends s. 843.16, F.S., to provide that the prohibition on unlawfully installing or transporting radio equipment using an assigned frequency of state or local law enforcement officers does not apply to:

- Any sworn law enforcement officer as defined in s. 943.10(1), F.S., or emergency service employee as defined in s. 496.404(9), F.S., while using personal transportation to and from work.
- An employee of a government agency that holds a valid Federal Communications Commission station license or a valid agreement or contract allowing access to another agency radio station.

The effective date of the bill is July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on April 1, 2008:

- Provides that a sworn law enforcement officer excepted from s. 843.16, F.S., must be a sworn law enforcement officer as defined in s. 943.10(1), F.S.

- Provides that an emergency service employee as defined in s. 496.404(9), F.S., is excepted from s. 843.16, F.S. (and deletes reference to “emergency service personnel”).

- Provides that an employee of a government agency that holds a valid Federal Communications Commission station license or a valid agreement or contract allowing access to another agency radio station is excepted from s. 843.16, F.S.

B. **Amendments:**

None.