

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7135 PCB CRJS 11-04 Cotton or Leaf Tobacco

**SPONSOR(S):** Criminal Justice Subcommittee, Trujillo

**TIED BILLS:** None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee	13 Y, 0 N	Krol	Cunningham
1) Judiciary Committee	12 Y, 0 N	Krol	Havlicak

### SUMMARY ANALYSIS

Section 865.08, F.S., makes it a second degree misdemeanor for a person to trade, traffic, or buy any unpackaged cotton or leaf tobacco without written authorization from the producer of such crops.

Since 2000, the Florida Department of Law Enforcement has reported that there have been no arrests associated with this section of statute.

The bill repeals s. 865.08, F.S.

The bill is estimated to have no fiscal impact and is effective July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Section 865.08, F.S., was created in 1866.<sup>1</sup> It provides that it is a second degree misdemeanor<sup>2</sup> if a person does not trade, traffic, or buy cotton or leaf tobacco from a producer or a producer's authorized agent, unless the cotton or leaf tobacco is baled or boxed in the usual manner or exhibits evidence in writing that the producer has parted with his or her interest therein.

Section 865.08, F.S., has not been amended in a substantive way since its creation. It was amended in 1971<sup>3</sup> to update the associated penalty to a second degree misdemeanor from its original penalty of up to six months imprisonment or up to a \$1,000 fine. Later in 1997,<sup>4</sup> the statute was amended again to remove gender-specific references.

Since 2000, the Florida Department of Law Enforcement has reported that there have been no arrests associated with this section of statute.

##### **Effect of the Bill**

The bill repeals s. 865.08, F.S.

#### B. SECTION DIRECTORY:

Section 1. Repeals s. 865.08, F.S., relating to purchase of cotton or leaf tobacco.

Section 2. Provides an effective date of July 1, 2011.

### 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.

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<sup>1</sup> Section 11, ch. 1466, 1866; RS 2711; GS 3707; RGS 5658; CGL 7861.

<sup>2</sup> A second degree misdemeanor is punishable by up to 60 days imprisonment and a \$500 fine. Sections 775.082 and 775.083, F.S.

<sup>3</sup> Section 1120, ch. 71-136, L.O.F.

<sup>4</sup> Section 1396, ch. 97-102, L.O.F.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**