

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4111 Cotton or Leaf Tobacco

SPONSOR(S): Trujillo

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Krol	Cunningham
2) Judiciary Committee			

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. The statute has not been amended in a substantive way since its creation in 1866.

The Florida Department of Law Enforcement reports that there have been no arrests associated with this section of statute since 1995.

The bill repeals s. 865.08, F.S.

The bill is estimated to have no fiscal impact and is effective July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Section 865.08, F.S., was created in 1866.¹ It provides whoever trades, traffics for, or buys, except from the producer or the producer's authorized agent, any cotton or leaf tobacco, unless the same be baled or boxed in the usual manner, or unless upon some exhibition of evidence in writing that the producer has parted with her or his interest therein, is guilty of a misdemeanor of the second degree.²

Section 865.08, F.S., has not been amended in a substantive way since its creation. It was amended in 1971 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.³ In 1997, the statute was amended again to remove gender-specific references.⁴

The Florida Department of Law Enforcement reports that there have been no arrests associated with this section of statute since 1995.⁵

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, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

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

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

³ Section 1120, ch. 71-136, L.O.F.

⁴ Section 1396, ch. 97-102, L.O.F.

⁵ E-mail from Lynn Dodson with the Florida Department of Law Enforcement. November 30, 2011. (On file with Criminal Justice Subcommittee staff).

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:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES