

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 Committee on Children, Families, and Elder Affairs

BILL: CS/SB 618

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Ring

SUBJECT: Gasoline Stations

DATE: March 18, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Hendon	CF	Fav/CS
2.			TR	
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:	
A. COMMITTEE SUBSTITUTE.....	<input checked="" type="checkbox"/> Statement of Substantial Changes
B. AMENDMENTS.....	<input type="checkbox"/> Technical amendments were recommended
	<input type="checkbox"/> Amendments were recommended
	<input type="checkbox"/> Significant amendments were recommended

I. Summary:

CS/SB 618 expands a requirement for gasoline stations with self-service pumps to provide refueling assistance to persons with disabilities and for signage that contains contact information for requesting the assistance and deletes the second degree misdemeanor penalty for violating this statute.

This bill is not expected to have a fiscal impact on the state and has an effective date of July 1, 2013.

This bill substantially amends section 526.141 of the Florida Statutes.

II. Present Situation:

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) is a comprehensive civil rights law for people with disabilities. The ADA recognizes and protects the civil rights of people with disabilities and is modeled after earlier landmark laws prohibiting discrimination on the basis of race and gender.

The ADA covers a wide range of disability, from physical conditions affecting mobility, stamina, sight, hearing, and speech to conditions such as emotional illness and learning disorders. The ADA addresses access to the workplace (title I), state and local government services (title II), and places of public accommodation and commercial facilities (title III). It also requires phone companies to provide telecommunications relay services for people who have hearing or speech impairments (title IV) and miscellaneous instructions to Federal agencies that enforce the law (title V). Regulations issued under the different titles by various Federal agencies set requirements and establish enforcement procedures. Physical barriers in existing places of public accommodation must be removed if readily achievable, i.e. easily accomplishable and able to be carried out without much difficulty or expense. If not, alternative methods of providing services must be offered, if those methods are readily achievable.¹ Gasoline stations are specifically defined by the ADA as public accommodations when they are operated in commerce.² Guidance provided by the Department of Justice, which is responsible for enforcement, finds that people with disabilities may be unable to use the controls, hose, or nozzle of a self-serve gas pump. This means that, at facilities which offer both full-service and self-service gasoline, individuals with disabilities might be forced to purchase more expensive gasoline from a full-service pump; at facilities with self-service gasoline, only, people with disabilities may be unable to purchase gasoline at all.³ To accommodate the requirement to provide equal access to their customers with disabilities, gasoline stations must:

- Provide refueling assistance upon the request of an individual with a disability. A service station or convenience store is not required to provide such service at any time that it is operating on a remote control basis with a single employee, but is encouraged to do so, if feasible.
- Let patrons know through appropriate signage or other means that customers with disabilities can obtain refueling assistance by either honking or otherwise signaling an employee.
- Provide the refueling assistance without any charge beyond the self-serve price.⁴

Florida

Section 526.141, F.S., authorizes the establishment of self-service gasoline stations and requires them to have at least one attendant on duty at all times. At any full-service gasoline station that offers self-service at a reduced price, the attendant is required to dispense self-service gasoline to any motor vehicle properly displaying a handicap exemption parking permit or license plate when the person to whom the permit has been issued is operating the vehicle. These gasoline stations are required to display a decal of up to 8 square inches on the front of each self-service pump informing the consumer of this requirement and the penalties if the gasoline station fails to comply.

Violations of the pumping and signage requirements are a second degree misdemeanor, punishable by up to 60 days in jail or a fine of \$500. The Department of Agriculture and Consumer Services (DACS) is responsible for enforcing the requirements.

¹ 28 CFR ss. 36.304, 36.305.

² 42 U.S.C. s. 12181(7)(F).

³ U.S. Department of Justice, Civil Rights Division, *Americans with Disabilities Act: Assistance at Self-Serve Gas Stations* (May 1999), available at <http://www.ada.gov/gasserve.pdf> (last visited Mar. 13, 2013).

⁴ *Id.*

In 2011, Hillsborough County adopted an ordinance requiring stickers on all gas pumps that contain the phone number of the gasoline station, wording such as “Call for Assistance,” and the international symbol of accessibility (ISA).⁵ Similar measures have been adopted in other jurisdictions. Proponents of the original Hillsborough County ordinance (and this bill) indicate that honking or signaling for assistance does not work in circumstances where the attendant is located inside out of hearing or direct sight. While some stations have installed electronic call buttons, typically these require the driver to exit the vehicle, which may not be a workable option for many with disabilities.⁶

According to DACS, Florida has 9,025 gasoline stations, of which approximately 350 provide both full service and self-service.⁷

III. Effect of Proposed Changes:

Section 1 amends s. 526.141, F.S. to require all gasoline stations that have self-service pumps to provide fueling assistance when requested by individuals who have been issued a disabled parking permit or license plate and to post a 15 inch square sign or sticker on each pump that contains the following information printed on blue background:

- The telephone number for the station, which must be operational and answered during normal business hours.
- The ISA.
- Wording such as “Call for Assistance.”
- The hours that two attendants are on duty.
- The requirements of the law and penalties for violations.

A gasoline station that has self-service pumps, only, is not required to provide pumping assistance if it has only one attendant on duty at the time requested. The bill removes current penalties for violations of the pumping or signage requirements.

The effect is to conform Florida law to the requirements of the ADA with respect to pumping assistance and to revise the signage requirements of current law to add more detailed information, including a contact number, for posting on all self-service pumps.

Section 2 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁵ Hillsborough County, Fla., Code of Ordinances Art.XI (Dec. 7, 2011).

⁶ Conversation with Ben Ritter, Paralyzed Veterans of America, Florida Gulf Coast Chapter (Feb. 26, 2013).

⁷ Florida Department of Agriculture & Consumer Services, *Senate Bill 618* (Feb. 11, 2013) (on file with the Senate Committee on Children, Families and Elder Affairs).

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:

Gasoline stations will be required to pay for signs or stickers that are compliant with the law and will need to be updated if required information, such as the phone number or hours of operation, change. This will result in a nominal cost. The sticker required by this bill will be in addition to any other stickers that may currently be required, such as the inspection sticker, or that may be placed on a pump voluntarily, such as marketing or promotional materials.

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 Children, Families, and Elder Affairs on March 18, 2013:

- The CS eliminated a distinction in current law that created an apparent inconsistency with the requirements of the ADA. The ADA requires stations to provide pumping assistance at self-service pumps when there is more than one attendant on duty, and encourages stations to provide assistance even if only one attendant is on duty. This requirement encompasses full service, limited full-service (stations with both full and self-service), and self-service, only, stations. Current Florida law requires pumping assistance at limited full service stations only and only when the cost of gasoline at the limited service station's self-service pumps is lower than the price at its full-

service pumps. By contrast, the ADA uses the price differential as an example of why assistance is needed, but does not limit the requirement to provide pumping assistance to those circumstances, only. The bill as filed did not clearly eliminate this distinction. The CS removed the reference to full service stations that offer self-service at a lesser cost and more clearly applied the pumping assistance and signage requirements to all gasoline stations that offer self-service.

- The CS also removed the penalties from current law that are applicable to violations of these requirements.

B. Amendments:

None.