

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1077 Convenience Business Security

SPONSOR(S): Stone

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1302

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	10 Y, 0 N	Malcolm	Bond
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

The Convenience Business Security Act (Act) requires a convenience business open between 11 p.m. and 5 a.m. to comply with minimum security standards. If a specified crime has occurred at the business, the business must also implement enhanced security measures between 11 p.m. and 5 a.m.

The Act also requires all employees of a convenience business to receive robbery deterrence and safety training within 60 days of employment. A training provider must submit a proposed training curriculum to the Department of Legal Affairs for review and approval. The training curriculum must be resubmitted biennially. The Department of Legal Affairs may charge up to \$100 for review of a curriculum, but currently the department does not charge the fee.

Currently, the term "convenience business" is defined to exclude any business in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m. An excluded business is exempt from minimum security standards, enhanced security standards, and employee training requirements.

The bill:

- requires all employees of an exempt convenience business to attend the robbery deterrence and safety training course;
- changes the dollar value on the required sign at the entrance of a convenience business from \$50 to \$100; and
- eliminates the training curriculum review fees (initial and renewal) that the Department of Legal Affairs may charge.

This bill does not appear to have a fiscal impact on state or local governments.

The effective date of the bill is May 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Convenience Business Security Act

In 1990, the Legislature passed the Convenience Business Security Act (Act)¹ to prevent violent crime and provide uniform statewide security standards for late night convenience businesses.² The provisions of the Act are enforced by the Department of Legal Affairs (Department).³

Definition of a "Convenience Business"

The term "convenience business" is defined as any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, and that is open for business at any time between the hours of 11 p.m. and 5 a.m.⁴ The term does not include:

- A business that is solely or primarily a restaurant;
- A business that always has at least five employees on the premises after 11 p.m. and before 5 a.m.; or
- A business that has at least 10,000 square feet of retail floor space.⁵

The term also does not include any business in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m.⁶

Minimum Security Standards

The Act requires a convenience business to have the following security devices and standards:

- A security camera system that is capable of recording and retrieving an image to assist in offender identification and apprehension;
- A drop safe or cash management device for restricted access to cash receipts;
- A lighted parking lot illuminated at a specified intensity;
- A conspicuous notice at the entrance stating that the cash register contains \$50 or less;
- Window signage that allows a clear and unobstructed view from outside the building and in a normal line of sight of the cash register and sales transaction area;
- Height markers at the entrance of the convenience business that display height measures;
- A cash management policy that limits cash on hand after 11 p.m.;
- Windows that are not tinted in a way that reduces exterior or interior view; and
- A silent alarm to law enforcement or a private security agency.⁷

Enhanced Security Standards

The Act requires any convenience business at which a murder, robbery, sexual battery, aggravated assault, aggravated battery, kidnapping, or false imprisonment has occurred, to implement additional security measures. These additional security measures must be in place at all times between 11 p.m. and 5 a.m., and include:

- Providing at least two employees on the premises;
- Installing a transparent secured safety enclosure for use by the employees;
- Providing a security guard on the premises;
- Locking the premises and transacting business through an indirect pass-through window; or
- Closing the business.⁸

¹ ch. 90-346, L.O.F.

² s. 812.172, F.S.

³ s. 812.175, F.S. The Department may also enter into agreements with local governments to assist in enforcement. s. 812.175(4), F.S.

⁴ s. 812.171, F.S.

⁵ *Id.*

⁶ *Id.*

⁷ ss. 812.173(1), (2), and (3), F.S.

⁸ s. 812.173(4), F.S.

After complying with these provisions for 24 months with no additional occurrences of the above-described crimes, a convenience business may file a notice of exemption from the enhanced security measures with the Department.⁹

Training Requirements

The Act requires all employees of a convenience business to complete a robbery deterrence and safety training within 60 days of employment.¹⁰ Convenience businesses must submit a proposed training curriculum to the Department, along with an administrative fee not to exceed \$100, for review and approval.¹¹ The training curriculum must be submitted to the Department biennially, along with the appropriate administrative fee, for reapproval.¹²

Enforcement

The statute provides for enforcement of the Act by the Department. Upon learning of a violation, the Department must provide the convenience business a notice of violation which the business has 30 days to correct.¹³ If the convenience business fails to correct the violation within 30 days, the Department may impose a civil fine of up to \$5,000.¹⁴ If the violation is determined to be a threat to health, safety, and public welfare, the Department is authorized to pursue an injunction against the convenience business.¹⁵

Effect of the Bill

The bill amends the definition of “convenience business” to repeal the exemption of a business in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m. By itself, this change in definitions would require compliance with the minimum security measures, enhanced security measures, and training requirements. However, the bill adds an exemption for such business from the minimum security measures and enhanced security measures. Thus, the impact of this bill on a convenience business in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m. is only to require the employees of such businesses to complete a training course.

As to a convenience business subject to the minimum safety standards, the bill changes the requirement regarding a conspicuous notice at the entrance stating that the cash register contains \$50, changing the sum to \$100.

The bill also repeals the requirement that a convenience business pay a \$100 fee to submit a safety training curriculum to the Department for approval, and repeals the biennial re-review requirement.

B. SECTION DIRECTORY:

Section 1 amends s. 812.171, F.S., relating to definitions.

Section 2 amends s. 812.193, F.S., relating to convenience business security.

Section 3 amends s. 812.174, F.S., relating to training of employees.

Section 4 provides an effective date of May 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

⁹ s. 812.173(5), F.S.

¹⁰ s. 812.174, F.S.

¹¹ *Id.*

¹² *Id.*

¹³ s. 812.175(1), F.S.

¹⁴ *Id.*

¹⁵ s. 812.175(3), F.S.

1. Revenues:

The bill removes the requirement that convenience businesses must submit a fee to the Department for review of training curriculum. However, the Department reports that they are not currently collecting the fee, and that accordingly the bill will not have a revenue impact.¹⁶

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.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill appears to have a direct economic impact on the private sector. Affected convenience business operators will be required to send all employees to a robbery deterrence and safety training course.

D. FISCAL COMMENTS:

The Department of Legal Affairs does not currently fully enforce the Convenience Business Security Act as insufficient funds are appropriated for such enforcement. The department estimates that it would require approximately \$1.2 million annually to fully implement the Act.¹⁷

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

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:

A similar bill passed in the 2015 legislative session, but was vetoed by the Governor. The significant difference between this bill and the vetoed bill is that the vetoed bill would have required a convenience business in which the owner or members of his or her family work between the hours of 11 p.m. and 5 a.m. to comply with the minimum security standards.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

¹⁶ Conversation with Andrew Fay, Florida Department of Legal Affairs, January 22, 2015.

¹⁷ Correspondence from Dept. of Legal Affairs dated January 7, 2016 (on file with the Civil Justice Subcommittee).