

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 Commerce and Tourism

BILL: SB 1148

INTRODUCER: Senator Montford

SUBJECT: Self-service Gasoline Stations

DATE: February 19, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Pre-meeting
2.	_____	_____	AGG	_____
3.	_____	_____	FP	_____

I. Summary:

SB 1148 requires self-service gas station pumps to have a receipt printer that is in good working order, and capable of producing receipts. This requirement will be enforced by intermittent inspections of the self-service pumps by the Department of Agriculture and Consumer Services' (DACS), which may take a noncompliant gas pump out of service until it meets the applicable requirements.

II. Present Situation:

The DACS and Department of Financial Services' State Fire Marshal's Office investigate self-service gas stations to ensure consumer safety and protection. The Bureau of Standards within the DACS ensures the quality and quantity of gas sold to consumers by regulating and inspecting the amount and quality of liquid fuel sold at gas stations.¹ In this capacity, the DACS inspects 9,025 gas retail facilities, and inspects more than 60,000 commercial measuring devices each year.² The cost of the DACS' investigations are offset by a fee of 1/8th cent per gallon of gas that is sold by self-service gas stations.³ The State Fire Marshal's Office Inspections Section inspects over 14,000 facilities, including gas stations, per year.⁴

¹ Florida Department of Agriculture and Consumer Services, *Standards*, available at <http://www.freshfromflorida.com/Divisions-Offices/Consumer-Services/Business-Services/Standards> (last visited Feb. 19, 2016). See also, ss. 526.09, and 531.42, F.S.

² Florida Department of Agriculture and Consumer Services, *supra* at note 1.

³ Section 525.09, F.S.

⁴ Florida Department of Financial Services, Division of State Fire Marshal, *Inspections Section*, available at <http://www.myfloridacfo.com/Division/SFM/BFP/Inspections/default.htm> (last visited Feb. 19, 2016).

Regulation of Self-Service Gas Stations

Generally⁵

Self-service gas stations are defined as the portions of property where motor fuels are stored and subsequently dispensed from dispensing equipment (gas pumps) into a consumer's motor vehicle fuel tank. Generally, self-service gas stations are required to:

- Ensure that a gas station attendant is within 100 feet of the gas dispensing area at all times to ensure consumers properly dispense gas;⁶
- Place an emergency control within 100 feet of gas dispensers, and proper notification of such controls; and
- Provide self-service equipment used to dispense gas that has been approved by a nationally recognized testing agency for its intended use.⁷

These duties are administered and enforced by the Department of Financial Services' State Office of the Fire Marshal.⁸

Inspections⁹

A gas station is required to report the installation or repair of any measuring device (gas pump) to the DACS to facilitate efficient inspections.¹⁰ The DACS inspects self-service gas stations and their dispensing areas to ensure that the fuel dispensed meets specific requirements,^{11,12} and that the amount dispensed is accurately reflected to the consumer.^{13,14} Additionally, the DACS inspects to ensure that proper decals, notifying of a "Call for Assistance" function for individuals with disabilities, are properly displayed.¹⁵

The DACS' inspections occur approximately every 12 to 18 months, unless the DACS has reason to believe the pump may be in noncompliance, either because of prior issues with a pump, or a consumer complaint.¹⁶ DACS personnel have the ability to take a noncompliant gas pump out of service until proper repairs have been made.¹⁷

Adoption of National Safety and Standards Regulations

Chapter 531, F.S., allows the DACS to adopt the National Institute of Standards and Technology's National Conference on Weights and Measures Handbook 44 (NIST Handbook

⁵ Section 526.141, F.S.

⁶ Fla. Admin. Code R. 69A-49.004 (2001).

⁷ Fla. Admin. Code Rule 69A-49.003, Fla. Admin. Code (2001), requires self-service gas stations to comply with the National Fire Protection Association's Life Safety Code fire safety requirements.

⁸ Section 526.141(8), F.S.

⁹ Chapter 525, F.S.

¹⁰ Section 525.07 (8),(9), F.S.

¹¹ Sections 525.035-.037, F.S.

¹² Fla. Admin. Code R. 5J-21.001 (2014).

¹³ Section 525.07, F.S.

¹⁴ Fla. Admin. Code R. 5J-21.005 (2014).

¹⁵ Section 526.141(5), F.S.

¹⁶ Karen Voyles, Ocala Star Banner, *Keeping Your Gas Pumps Accurate* (April 11, 2011), available at <http://www.ocala.com/article/20110411/ARTICLES/110419968> (last visited Feb. 19, 2016).

¹⁷ Fla. Admin. Code R. 5J-21.006 (2014).

44), and conform Florida's self-service gas station and gas pump regulations to its technical requirements. Generally, the Handbook 44 "secures uniformity of weights and measures laws and methods for inspection."¹⁸ Of note, the NIST Handbook 44 requires that all gas pump equipment, and any attached or related devices be maintained in proper operating condition, including proper representation of the value of gas provided on any printed receipt.¹⁹ The DACS interprets this requirement as currently requiring that receipt printers, and any other fixture attached to gas pumps, be in proper working order.²⁰

Section 526.141, F.S., currently requires the State Fire Marshal's Office to provide for approval of self-service equipment used to dispense gas by a nationally recognized testing agency. In this capacity, the State Fire Marshall adopted the National Fire Protection Association Life Safety Code standards.²¹ These standards generally provide safety protocols governing dispensing devices (gas pumps), and nearby areas to ensure prevention of fire hazards.²²

III. Effect of Proposed Changes:

Section 1 requires self-service gas stations to ensure that all of their gas pumps have receipt printers that are in good working order, and capable of producing receipts. The bill further requires the DACS to inspect all pumps at a self-service gas station, and take noncompliant pumps out of service until the receipt printer is repaired to good working order.

Additionally, the bill grants the DACS rulemaking authority for implementation and enforcement of the bill.

Lastly, the bill transfers authority to adopt rules providing for the approval of self-service equipment used to dispense gas by a nationally recognized testing agency from the State Fire Marshal's Office to the DACS.

Section 2 makes conforming changes to s. 320.0848, F.S.

Section 3 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁸ U.S. Department of Commerce, National Institute of Standards and Technology, *Handbook 44, Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, at iii (Oct. 2013), available at <http://www.nist.gov/pml/wmd/pubs/upload/hb44-2016-final2.pdf> (last visited Feb. 19, 2016).

¹⁹ U.S. Department of Commerce, National Institute of Standards and Technology, *Supra*, Note 18, Rule G-UR.4.1., "Maintenance Requirements;" Rule S.6, "Printer."

²⁰ DACS, *SB 1148 Agency Analysis*, (Jan. 12, 2016) (on file with the Committee on Commerce and Tourism).

²¹ Fla. Admin. Code R. 69A-49.003 (2001); Fla. Admin. Code R. 69A-3.012 (2014).

²² National Fire Prevention Association, *NFPA 30A: Code for Motor Fuel Dispensing Facilities and Repair Garages*, available at <http://www.nfpa.org/codes-and-standards/document-information-pages?mode=code&code=30A> (last visited Feb. 19, 2016).

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:

Gas stations may incur costs related to retrofitting gas pumps to ensure that all gas pumps have a receipt printer affixed to them.

C. Government Sector Impact:

The DACS reports that a negative fiscal impact may occur if the bill's regulations result in an increased number of consumer complaints that must be investigated by DACS personnel.²³

VI. Technical Deficiencies:

None.

VII. Related Issues:

Inconsistent terminology to refer to a gas pump is used throughout s. 526.141, F.S., including "pumps used to dispense flammable and combustible liquids used as motor fuels," "dispensers," and "self-service pumps." The bill introduces an additional term, "pumps." This may result in inconsistent application of the bill.

Administrative rule defines "pump" in relation to s. 525.141(5)(b), F.S., fueling assistance for disabled provisions, but this specific definition may not apply to the bill.²⁴

It is unclear whether s. 526.141(7), F.S., of the bill intends self-service equipment used to dispense gas be approved by a nationally recognized testing agency for purposes of fire safety or consumer protection. Therefore, it is unclear whether the DACS will be able to properly adopt and enforce rules relating to this requirement.

²³ DACS, *SB 1148 Agency Analysis*, (Jan. 12, 2016) (on file with the Committee on Commerce and Tourism).

²⁴ Fla. Admin. Code R. 5J-21.007(5)(a), defines "pump" as "the face of a motor fuel dispenser or a stand-alone unit as described in paragraph (b) of this subsection."

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 526.141 and 320.0848.

IX. Additional Information:

A. **Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
