

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 1302

INTRODUCER: Senator Legg

SUBJECT: Convenience Businesses

DATE: January 22, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harmsen	McKay	CM	Favorable
2.			ACJ	
3.			FP	

I. Summary:

SB 1302 revises the Convenience Business Security Act (the act). The bill amends the act to subject certain family-owned and operated convenience businesses to employee robbery deterrence and safety training requirements, but maintains their exemption from other required safety standards. The bill repeals administrative fees associated with the approval of a mandated safety training curriculum, and repeals the requirement that the safety-training curriculum be submitted biennially for re-approval. The bill also deletes obsolete language, and modernizes certain provisions.

The fiscal impact of this bill is indeterminate, but likely minimal (see Section V.).

II. Present Situation:

Convenience Business Security Act¹

In 1990, the Legislature passed the Convenience Business Security Act (the act) to deter violent crime, and provide uniform, statewide protection for employees and patrons of convenience businesses, especially late at night.²

The act generally applies to “convenience businesses,” which are 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 point during the hours of 11 p.m. and 5 a.m.³ Certain

¹ Sections 812.1701-812.175, F.S.

² See, s. 812.172, F.S.

³ Section 812.171, F.S. However, a “convenience business” does not include businesses that are primarily restaurants; businesses that always have at least 5 employees on the premises during the hours of 11 p.m. and 5 a.m.; businesses that have at least 10,000 square feet of retail floor space; or to businesses that have a member of the owner’s family working between the hours of 11 p.m. and 5 a.m.

businesses are exempt from the act; notably, family owned businesses at which the owner or a member of his or her family works between 11 p.m. and 5 a.m. are expressly excluded.

The Department of Legal Affairs (Office of the Attorney General, or “the office”) enforces the act.

Minimum Security Standards

The act requires a convenience business to implement and use the following minimum security standards:⁴

- A security camera system that is capable of recording and retrieving an image to assist in identification and apprehension of an offender;
- A drop safe or management device for restricted access to cash receipts;
- A lighted parking lot;
- A conspicuous notice at the entrance that states 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 business entrance that display height measures;
- A cash management policy that limits cash on hand between 11 p.m. and 5 a.m.;
- Window tinting that allows for identification of all persons in the sales transaction area from outside the business; and
- A silent alarm.⁵

Enhanced Security Standards⁶

The act requires any convenience business at which a murder, robbery, sexual battery, aggravated assault, aggravated battery, kidnapping, or false imprisonment has occurred to comply with at least one additional security measure. These security measures must be provided at all times between 11 p.m. and 5 a.m., and must include the following:

- Provide at least two employees on the premises;
- Install a transparent security enclosure for employee use;
- Provide a security guard on the premises; or
- Lock the premises and transact business through an indirect pass-through window.

After a 24-month period of compliance with these provisions, a business may file a notice of exemption from the enhanced security measures with the office, as long as no additional occurrence of the type of crimes indicated above occurred at the business during that period.

⁴ See Office of the Attorney General, *Convenience Business Security Act – Helping to Create Safer Florida Convenience Businesses* (rev. Aug. 2010), available at [http://www.fcpti.com/fcpti.nsf/pics/01029BCED8A92DD0852578BD0062499E/\\$file/2011_Revised_Convenience_Store_Brochure.pdf](http://www.fcpti.com/fcpti.nsf/pics/01029BCED8A92DD0852578BD0062499E/$file/2011_Revised_Convenience_Store_Brochure.pdf) (last visited Jan. 22, 2016). See also, ss. 812.173(1)-(3), F.S.

⁵ Section 812.173(3), F.S., allows convenience businesses to apply for an exemption to the silent alarm requirement with the Office of the Attorney General. The application for exemption must be in writing and include a \$25 administrative fee for each store at which the exemption is requested.

⁶ Sections 812.173(4) and (5), F.S.

Training Requirements⁷

The act requires all employees of a convenience business to receive robbery deterrence and safety training within 60 days of their employment. The convenience business must submit a proposed training curriculum to the office for review and approval. The training curriculum must be submitted biennially for re-approval. The statute provides for submission of an administrative fee of no more than \$100 for the initial and renewal approvals. However, the office does not currently charge any such fee.

Enforcement⁸

The office enforces the act.⁹ Upon finding a violation, the convenience business is given notice of the violation and has 30 days to cure the violation. If the convenience business fails to correct the violation within such time period, it may be subject to a civil fine of up to \$5,000. If the violation is determined to threaten health, safety, or public welfare, the office is authorized to pursue an injunction against the convenience business.

III. Effect of Proposed Changes:

Section 1 amends s. 812.171, F.S., to repeal the “family business exception” that specifically excludes a business in which the owner or member of the owner’s family works during 11 p.m. and 5 a.m., from the definition of “convenience business” that applies throughout the Convenience Business Security Act.

Section 2 amends s. 812.173, F.S., to modify the standard security requirements. The bill now requires a convenience business to post a notice stating that their cash register contains \$100 or less, compared to the current requirement that the business notice that its cash register contains \$50 or less.

The bill also exempts family-owned convenience businesses at which the owner or members of the owner’s immediate family work on the premises between the hours of 11 p.m. and 5 a.m., from both the minimum and enhanced security standards provided for in ss. 812.173(1)-(4), F.S. This retains the current exemption from the requirement for security measures that would otherwise be lost because of the deletion of the exemption in Section 1 of the bill.

The transfer of the family business exemption to s. 812.173(5), F.S., has the effect of requiring new employees of those specific convenience businesses to receive robbery deterrence and safety training. Such businesses are currently exempt from this training requirement.

Section 3 amends s. 812.174, F.S., to repeal:

- The requirement that a convenience business resubmit a safety training curriculum to the office biennially;

⁷ Section 812.174, F.S.

⁸ Section 812.175, F.S.

⁹ Section 812.175(4), F.S., authorizes the Office of the Attorney General to enter into agreements with local governments to assist in the enforcement of the act.

- Authorization for the office to charge administrative fees associated with initial submission and review of a convenience business' safety training curriculum (\$100 for each); and
- Obsolete language related to the enactment of the act.

Section 4 reenacts s. 893.13(1)(e), F.S., to incorporate the new definition of “convenience business” under s. 812.171, F.S., made in Section 1 of the bill.

Sections 5, 6, and 7 reenact ss. 768.0705, 812.1725, and 812.176, F.S., respectively, to incorporate the amendments to the convenience business security and employee training requirements in ss. 812.173-812.174, F.S., made in Sections 2 and 3 of the bill.

Section 8 provides an effective date of May 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

The bill will affect convenience businesses at which the owner or a member of the owner's family works during the hours between 11 p.m. and 5 a.m. to the extent that the business must make modifications to comply with employee training requirements of the act.

C. Government Sector Impact:

The fiscal impact of this bill is indeterminate, but likely minimal. The office does not currently collect the administrative fees for original and biennial review of training curriculum that are repealed by the bill. However, the bill's repeal of the requirement for biennial submission of training curriculum re-approval may have a positive fiscal impact

due to the reduction of costs expended by the office as a result of their reduced curriculum approval processes.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 812.171, 812.173, and 812.174. This bill reenacts the following sections of the Florida Statutes: 893.13, 768.0705, 812.1725, 812.176.

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.

¹⁰ The Department of Legal Affairs has not yet provided an analysis of the bill.