

Commerce Committee

Monday, January 24, 2022
3:30 PM - 5:30 PM
Webster Hall (212 Knott)

Meeting Packet

Chris Sprowls
Speaker

Blaise Ingoglia
Chair

The Florida House of Representatives

Commerce Committee

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Meeting Agenda

Monday, January 24, 2022
3:30 PM – 5:30 PM
Webster Hall (212 Knott)

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. **Consideration of the following bill(s):**

- HB 33 Electronic Dissemination of Commercial Recordings and Audiovisual Works by Busatta Cabrera
- HB 145 Recreational Off-Highway Vehicle Weight Limits by Hage
- HB 489 Tourism Marketing by Chaney
- CS/HB 669 Alarm Systems by Regulatory Reform Subcommittee, Maggard
- CS/HB 723 Medical Treatment of Animals by Regulatory Reform Subcommittee, Buchanan

V. Closing Remarks

VI. Adjournment

303 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4870

HB 33

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 33 Electronic Dissemination of Commercial Recordings and Audiovisual Works
SPONSOR(S): Busatta Cabrera
TIED BILLS: **IDEN./SIM. BILLS:** SB 288

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	13 Y, 0 N	Wright	Anstead
2) Civil Justice & Property Rights Subcommittee	15 Y, 0 N	Mathews	Jones
3) Commerce Committee		Wright	Hamon

SUMMARY ANALYSIS

The True Origin of Digital Goods Act (Act) requires owners or operators of websites that electronically disseminate commercial recordings or audiovisual works to Florida consumers to clearly post on the website and make the following identifying information readily accessible to a consumer using or visiting the website:

- The true and correct name of the operator or owner;
- The operator or owner's physical address; and
- The operator or owner's telephone number or e-mail address.

Currently, "electronic dissemination" means initiating the transmission of, making available, or otherwise offering a commercial recording or audiovisual work for distribution through the Internet or other digital network, regardless of whether another person has previously electronically disseminated the same commercial recording or audiovisual work.

The Act gives owners, assignees, authorized agents, or licensees of a commercial recording or audio-visual work whose work appears on a website that has not posted identifying information in violation of the Act the right to seek injunctive relief.

The bill amends the definition of "electronic dissemination" to include "initiating a transmission of, making available, or otherwise offering a commercial recording or audiovisual work for distribution, **display, or performance** through the Internet or other digital network, regardless of whether another person has previously electronically disseminated the same commercial recording or audiovisual work."

As such, the bill requires a person who owns or operates a streaming service or other website dealing in substantial part in the display or performance of commercial recordings and audiovisual works, not subject to an exemption, to post their identifying information on the website.

The bill provides an effective date of July 1, 2022.

The bill has no fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

True Origin of Digital Goods Act

The True Origin of Digital Goods Act (Act) requires owners or operators of websites that deal in substantial part in the electronic dissemination of commercial recordings or audiovisual works to Florida consumers to clearly post on the website and make readily accessible to a consumer using or visiting the website the following identifying information:[1]

- The true and correct name of the operator or owner;
- The operator or owner's physical address; and
- The operator or owner's telephone number or e-mail address.

"Electronic dissemination" under the Act means initiating a transmission of, making available, or otherwise offering a commercial recording or audiovisual work for distribution through the Internet or other digital network, regardless of whether another person has previously electronically disseminated the same commercial recording or audiovisual work.[2]

The Act does not protect copyrighted material, but rather governs "commercial recordings or audiovisual works," defined broadly to include a recording or audiovisual work whose owner, assignee, authorized agent, or licensee has disseminated or intends to disseminate such work for sale, rental, or performance or exhibition to the public, regardless of whether the person seeks commercial advantage or private financial gain from the dissemination. The Act applies to websites that disseminate copyrighted material as well as any disseminated recording or audiovisual work, regardless of the disseminator's intent to seek commercial advantage or financial gain from the work.[3]

The Act gives a right to injunctive relief for owners, assignees, authorized agents, or licensees of a commercial recording or audio-visual work whose work appears on a website that has not posted identifying information in violation of the Act. Before initiating the civil action provided for in the Act, the aggrieved party must "make reasonable efforts" to place an individual alleged to be in violation of the section on notice that the owner or operator may be in violation of the Act, and that failure to cure the violation within 14 days may result in civil action. The prevailing party may also recover necessary expenses and reasonable attorney fees. These remedies are available as a supplement to other state and federal criminal and civil law provisions.[4]

The Act authorizes the court to make appropriate orders to compel compliance with the Act upon motion of the party instituting the action.[5]

The Act exempts:

- providers of interactive computer services, communication services, commercial mobile services, information services that provide transmission, storage, or caching of electronic communications or other related telecommunications service, and commercial mobile radio services;[6] and
- commercial recordings and audiovisual works that are video games, depictions of video game play, and streaming of video game activity.[7]

Streaming Services

[1] S. 501.155(4)(a), F.S.
[2] S. 501.155(3)(b), F.S.
[3] S. 501.155(3)(a), F.S.
[4] S. 501.155(5), F.S.
[5] *Id.*
[6] S. 501.155(2)(b), F.S.
[7] S. 501.155(3)(a), F.S.

Generally, a streaming service is an online provider of entertainment, including music and movies, that delivers the content via an Internet connection to a user or subscriber's computer, television, or mobile device.[8]

Federal Digital Millennium Copyright Act

The Digital Millennium Copyright Act (DMCA) updated federal copyright law to address the relationship between copyrighted material and the internet. The DMCA created the notice-and-takedown system,[9] which allows online service providers to expeditiously remove infringing content after receiving a notice from a copyright holder.[10] As the internet, related consumer activity, and specifically third party posting of copyrighted content have continued to grow, so have takedown notices.[11] For example, Google received takedown notices for approximately 3 million URLs in 2013, compared to approximately 5.3 billion as of October 21, 2021.[12]

The DMCA also requires online service providers to designate an agent to receive copyright owners' notices, and provide the agent's contact information on their websites.

Federal Protecting Lawful Streaming Act

The Consolidated Appropriations Act of 2021 created the Protecting Lawful Streaming Act (PLSA),[13] which increases the federal penalty for illegal streaming from a misdemeanor to a felony.[14] Specifically, the PLSA targets individuals who act (1) willfully, (2) for purposes of commercial advantage or private financial gain, and (3) offer or provide to the public a digital transmission service.

Effect of the Bill

The bill amends the definition of "electronic dissemination" within the True Origin of Goods Act to read: "initiating a transmission of, making available, or otherwise offering a commercial recording or audiovisual work for distribution, **display, or performance** through the Internet or other digital network, regardless of whether another person has previously electronically disseminated the same commercial recording or audiovisual work."

Therefore, the bill requires a person who owns or operates a streaming service or other website dealing in substantial part in the display or performance of commercial recordings and audiovisual works, not subject to an exemption, to post their identifying information on the website.

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[8] PC Mag Digital Group, *Streaming Service*, https://www.pcmag.com/encyclopedia/term/streaming-service (last visited Jan. 13, 2022).

[9] 17 U.S.C. § 512 (2)(b)-(d). U.S. Copyright Office, *The Digital Millennium Copyright Act: Section 1202- Copyright Management Information Protection*, https://www.copyright.gov/dmca/ (last visited Jan. 13, 2022). *See also* U.S. Copyright Office, *Section 512 Report*, pp. 1, 8 (May 2020), *available at* https://www.copyright.gov/policy/section512/section-512-full-report.pdf (last visited Jan. 13, 2022).

[10] U.S. Copyright Office, *Section 512 of Title 17: Resources on Online Service Provider Safe Harbors and Notice-and-Takedown System* (May 21, 2020), https://www.copyright.gov/512/ (last visited Jan. 13, 2022). *See also* 17 U.S.C. §§512(b)-(d)

[11] *See also* U.S. Copyright Office, *Section 512 Report*, pp. 10 (May 2020), *available at* https://www.copyright.gov/policy/section512/section-512-full-report.pdf (last visited Jan. 13, 2022).

[12] *Id*. at 31-32, *citing* Google, *How Google Fights Piracy* (2018), https://www.blog.google/documents/25/GO806_Google_FightsPiracy_eReader_final.pdf (last visited Nov. 23, 2021). *See also Google Transparency Report*, available at https://transparencyreport.google.com/copyright/overview (last visited Jan. 13, 2022).

[13] 18 U.S.C. 2319C, "Illicit Digital Transmission Services."

[14] The act of offering copyrighted material for download without specific license or authorization is separately classified a felony under the No Electronic Theft (NET) Act, but this provision did not cover streaming copyrighted material. 17 U.S.C. 506. *See also* Michael Antonucci, *New Legislation: CASE Act and Protecting Lawful Streaming Act* (Mar. 18, 2021), https://www.mondaq.com/unitedstates/trademark/1047506/new-legislation-case-act-and-protecting-lawful-streaming-act (last visited Jan. 13, 2022).

The bill provides an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1: Amends s. 501.155, F.S.; requiring certain information be provided on certain websites.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow more owners, assignees, authorized agents, or licensees of a commercial recording or audio-visual work to seek injunctive relief based on improper notice, and assist such parties in identifying illegal displays of their performances.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   Although the Act allows owners, assignees, authorized agents, and licensees of commercial recordings and audio-visual works to seek injunctive relief, it is uncertain whether they would be able to successfully bring such an action because Florida courts may not have jurisdiction over such bad actors or respondents.

   For a court to exercise jurisdiction over a respondent, it must have both subject matter jurisdiction and personal jurisdiction, which is determined by the court based on the respondent's contacts with

the state.[15] A non-resident respondent may have sufficient contacts with Florida if he or she commits acts expressly enumerated in Florida's long-arm statute.[16] Alternately, the non-resident respondent may be subject to a Florida court's personal jurisdiction because he or she has minimum contacts with the state that are otherwise unrelated to the matter that brings him or her into court.[17] Whether a non-resident Internet company that electronically disseminates commercial recordings or audiovisual works into Florida has sufficient minimum contacts with the state is a fact-specific question that would likely need to be addressed on a case-by-case basis by a court.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill captures a wide array of behaviors due to the broad definitions of the terms "commercial recording or audiovisual work," "electronic dissemination," "performance," and "display" used. As a result, many private individuals having a website may be required to disclose their true and correct name, physical address, and telephone number or e-mail address or be subject to the Act.

Also, the true target for the injunction and further consequences of the Act are likely those websites that do not provide the identifying information or that are located in another jurisdiction.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[15] *Caiazzo v. American Royal Arts Corp.*, 73 So. 3d 245, 250 (Fla. 4th DCA 2011).
[16] *Id*. S. 48.193, F.S.
[17] *Caiazzo v. American Royal Arts Corp.*, 73 So. 3d 245, 250 (Fla. 4th DCA 2011).

A bill to be entitled

An act relating to electronic dissemination of commercial recordings and audiovisual works; amending s. 501.155, F.S.; revising the definition of the term "electronic dissemination"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (3) of section 501.155, Florida Statutes, is amended to read:

501.155 Electronic dissemination of commercial recordings or audiovisual works; required disclosures; injunctive relief.—

(3) DEFINITIONS.—As used in this section, the term:

(b) "Electronic dissemination" means initiating a transmission of, making available, or otherwise offering a commercial recording or audiovisual work for distribution, display, or performance through the Internet or other digital network, regardless of whether another person has previously electronically disseminated the same commercial recording or audiovisual work.

Section 2. This act shall take effect July 1, 2022.

CODING: Words stricken are deletions; words underlined are additions.

HB 145

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 145 Recreational Off-Highway Vehicle Weight Limits
SPONSOR(S): Hage
TIED BILLS: **IDEN./SIM. BILLS:** SB 474

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	16 Y, 0 N	Walsh	Keating
2) Commerce Committee		Walsh	Hamon

SUMMARY ANALYSIS

In 2002, the T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act was passed, developing an off-highway vehicle recreational system of areas and trails on public lands within the state. Current law provides that the public land managing agency must avoid or minimize adverse impacts to the environment by repairing and maintaining areas and trails, preventing erosion, and rehabilitating lands from the use of off-highway vehicles. The public land managing agency may regulate or prohibit the use of off-highway vehicles on public lands to prevent destruction.

The Florida Department of Highway Safety and Motor Vehicles and its agents (tax collector offices) are responsible for issuing, handling, and recording off-highway vehicle titling applications and certificates, including the receipt and accounting of related fees.

Current law defines an off-highway vehicle as any all-terrain vehicle (ATV), two-rider ATV, recreational off-highway vehicle, or off-highway motorcycle that is used off the roads or highways of this state and that is not registered and licensed for highway use under ch. 320. The definition of recreational off-highway vehicle (ROV) found in Florida law distinguishes these vehicles by width, weight, and number of non-highway tires.

Some ROV manufacturers are adding hydrogen and electric models to their lineup. The weight of these new models has the potential to be greater than the traditional combustion engine models.

The bill increases the dry weight allowed for recreational off-highway vehicles from 2,500 pounds to 3,500 pounds.

The bill may have a positive indeterminate impact on state revenues. The bill does not appear to impact state or local government expenditures or local government revenues.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 2002, the Legislature found that off-highway vehicles were becoming increasingly popular in Florida and that the use of these vehicles should be controlled and managed to minimize negative effects on the environment, wildlife habitats, native wildlife, and native flora and fauna.[1] The T. Mark Schmidt Off-Highway Vehicle Safety and Recreation Act[2] was passed, developing an off-highway vehicle recreational system of areas and trails on public lands[3] within the state.

Current law provides that the public land managing agency[4] must avoid or minimize adverse impacts to the environment by repairing and maintaining areas and trails, preventing erosion, and rehabilitating lands from the use of off-highway vehicles. The public land managing agency may regulate or prohibit the use of off-highway vehicles on public lands to prevent destruction.[5]

Florida law requires all off-highway vehicles purchased after July 1, 2002, and all off-highway vehicles operated on public lands to be titled and be issued a certificate of title to allow for easy determination of ownership.[6] The Florida Department of Highway Safety and Motor Vehicles (DHSMV) and its agents (tax collector offices) are responsible for issuing, handling, and recording off-highway vehicle titling applications and certificates, including the receipt and accounting of related fees.[7] Two dollars in administrative costs per title transaction is deposited in the Highway Safety Operating Trust Fund, and the rest of the funds for these title transactions are deposited in the Incidental Trust Fund of the Florida Forest Service of the Department of Agriculture and Consumer Services.[8]

Current law defines an off-highway vehicle as any all-terrain vehicle (ATV), two-rider ATV, recreational off-highway vehicle, or off-highway motorcycle that is used off the roads or highways of this state and that is not registered and licensed for highway use under ch. 320.[9] The definition of recreational off-highway vehicle (ROV) found in Florida law distinguishes these vehicles by width, weight, and number of non-highway tires.[10] Under current law, an ROV must:

- Be 80 inches or less in width;
- Have a dry weight of 2,500 pounds or less;
- Be designed to travel on four or more non-highway tires; and
- Be manufactured for recreational use by one or more persons.[11, 12]

Any person who commits one of the following violations commits a noncriminal infraction, is subject to a fine of not less than $100, and may have their privilege to operate an ROV on public lands revoked:[13]

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[1] S. 261.02(1), F.S.

[2] S. 261.01, F.S.

[3] The term "public lands" means lands within the state that are available for public use and that are owned, operated, or managed by a federal, state, county, or municipal governmental entity. S. 261.03(7), F.S.

[4] Generally, the Florida Department of Environmental Protection operates as the public land managing agency. *See* Email from Alex Bickley, Director of Legislative and Governmental Affairs, Florida Department of Environmental Protection, RE: HB 145 (Oct. 14, 2021); *see generally* s. 261.08(3), F.S.

[5] S. 261.08, F.S.

[6] S. 317.0006, F.S.; *See* Fla. CS/HB 1681 (2002), p. 75, available at https://www.flsenate.gov/Session/Bill/2002/1681/BillText/er/HTML (last visited Jan. 14, 2022).

[7] Florida Department of Highway Safety and Motor Vehicles, Agency Analysis of 2022 House Bill 145, p. 2 (Nov. 30, 2021); S. 317.1114(1), F.S.

[8] Agency Analysis of 2022 House Bill 145 at 2.

[9] S. 261.03(5), F.S.

[10] S. 261.03(8), F.S.

[11] *Id.*

[12] The term "ROV" does not include a golf cart or a low-speed vehicle as defined by current law. *See* S. 261.03(8), F.S.

[13] S. 261.20(6), F.S

- Carrying more passengers on an off-highway vehicle than the machine is specifically designed by the manufacturer to carry;
- Operating an ROV while under the influence of alcohol, a controlled substance, or any prescription or over-the-counter drug that impairs vision or motor condition;
- A person, who has not attained 16 years of age, operating an ROV without wearing eye protection, over-the-ankle boots, and a safety helmet that is approved by the United States Department of Transportation or Snell Memorial Foundation; and
- Operating an ROV in a careless or reckless manner that endangers or causes injury or damage to another person or property.[14]

Some ROV manufacturers are adding hydrogen and electric models to their lineup. The weight of these new models has the potential to be greater than the traditional combustion engine models. For example, Polaris produces the electric powered Ranger EV (dry weight of 1,762 pounds)[15] and Ranger XP Kinetic (dry weight of 1,980 pounds)[16] models; Nikola produces the NTZ model (dry weight of 2,300 to 4,400 pounds depending on motor and battery capacity);[17] and Lexus has revealed a new ROV hydrogen concept model.[18]

Effect of Proposed Changes

The bill increases the dry weight allowed for recreational off-highway vehicles from 2,500 pounds to 3,500 pounds.

The bill has an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1: Revises the definition of "ROV" in Section 261.03, F.S.

Section 2: Revises the definition of "ROV" in Section 317.0003, F.S.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill may have a positive indeterminate impact to the Highway Safety Operating Trust, since the bill allows ROVs with a higher dry weight to be titled.[19]

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

[14] S. 261.20(5), F.S.
[15] Polaris, *Ranger EV*, https://ranger.polaris.com/en-us/ranger-ev/ (last visited Jan. 14, 2022).
[16] Polaris, *Ranger XP Kinetic*, https://ranger.polaris.com/en-us/ranger-xp-kinetic-ultimate-polaris-pursuit-camo/specs/ (last visited Jan. 14, 2022).
[17] Nikola Motor, *NZT*, https://nikolamotor.com/nzt (last visited Jan. 14, 2022); Lucas Cooney, *590-Horsepower Electric Nikola NZT Specs*, ATV.com, https://www.atv.com/manufacturer/nikola/590-horsepower-electric-nikola-nzt-specs (last visited Jan. 14, 2022).
[18] *Lexus Unveils Hydrogen-Engined ROV Concept*, Green Car Congress, https://www.greencarcongress.com/2021/12/20211204-lexusrov.html (last visited Jan. 14, 2022).
[19] Agency Analysis of 2022 House Bill 145 at 4.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There could be a positive impact on private sector revenues, since the bill allows ROVs with a higher dry weight to be titled, and as permitted by the public land management agency, to operate on public lands.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to affect county or municipal governments.

2. Other:

Not applicable.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to recreational off-highway vehicle weight limits; amending ss. 261.03 and 317.0003, F.S.; revising the weight limit of a vehicle defined as an "ROV"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (8) of section 261.03, Florida Statutes, is amended to read:

261.03 Definitions.—As used in this chapter, the term:

(8) "ROV" means any motorized recreational off-highway vehicle 80 inches or less in width which has a dry weight of 3,500 ~~2,500~~ pounds or less, is designed to travel on four or more nonhighway tires, and is manufactured for recreational use by one or more persons. The term does not include a golf cart as defined in ss. 316.003 and 320.01 or a low-speed vehicle as defined in s. 320.01.

Section 2. Subsection (9) of section 317.0003, Florida Statutes, is amended to read:

317.0003 Definitions.—As used in this chapter, the term:

(9) "ROV" means any motorized recreational off-highway vehicle 80 inches or less in width which has a dry weight of 3,500 ~~2,500~~ pounds or less, is designed to travel on four or more nonhighway tires, and is manufactured for recreational use

by one or more persons. The term does not include a golf cart as defined in ss. 316.003 and 320.01 or a low-speed vehicle as defined in s. 320.01.

Section 3. This act shall take effect July 1, 2022.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HB 489

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 489 Tourism Marketing
SPONSOR(S): Chaney
TIED BILLS: **IDEN./SIM. BILLS:** SB 434

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	17 Y, 0 N	Walsh	Keating
2) Commerce Committee		Walsh	Hamon

SUMMARY ANALYSIS

The Florida Tourism Industry Marketing Corporation, better known as VISIT FLORIDA, is a state-funded non-profit corporation that serves as Florida's destination marketing organization, in conjunction with the Division of Tourism Marketing within Enterprise Florida, Inc.

VISIT FLORIDA is authorized by statute and requires an annual appropriation to support its operations. The current statutory authorization is scheduled for repeal on October 1, 2023, unless reviewed and saved from repeal by the Legislature.

Under the bill, the scheduled repeal date for VISIT FLORIDA and the Division of Tourism Marketing is extended from October 1, 2023, to October 1, 2028.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Enterprise Florida Inc. and VISIT FLORIDA

Enterprise Florida, Inc., (EFI) is a non-profit corporation created to act as the state's economic development organization, using expertise from both the private and public sectors. EFI is not a unit or entity of state government.[1]

EFI is statutorily required to maintain divisions related to the following areas:

- International Trade and Business Development;
- Business Retention and Recruitment;
- Tourism Marketing;
- Minority Business Development; and
- Sports Industry Development.[2]

EFI's Division of Tourism Marketing is the entity created through statute that interacts and contracts with its direct support organization,[3] the Florida Tourism Industry Marketing Corporation. The Florida Tourism Industry Marketing Corporation was created by the legislature in 1996 and is otherwise known by the service mark "VISIT FLORIDA," which operates as a non-profit corporation that serves as Florida's statewide destination marketing organization, representing the state's tourism industry.[4] In practice, VISIT FLORIDA (VF) is EFI's tourism marketing division. The division is staffed by VF, but that staff is not employed by EFI.[5] VF's primary responsibilities include:

- Administering domestic and international advertising campaigns;
- Coordinating domestic and international marketing activities;
- Coordinating marketing efforts with local tourism marketing organizations;
- Managing Florida's four welcome centers;
- Conducting research on tourism and travel trends;
- Administering marketing activities for Veterans Florida;[6] and
- Marketing to assist the state following critical events, such as storms.[7]

Through a contractual relationship with the Department of Economic Opportunity (DEO), VF is held to performance measures and standards. VF's 31-member board of directors is appointed by DEO in conjunction with EFI and meets three times a year to provide guidance, input, and insight to, and work directly with VF executive staff.[8] VF's board of directors is composed of 16 regional members, with at least two representing each of six statutorily designated geographic areas of the state, and 15 additional tourism industry related members that serve two-year terms, including:

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[1] S. 288.901(1) and (2), F.S.

[2] S. 288.92(1), F.S.

[3] "Direct support organization" means a not-for-profit Florida corporation incorporated under the provisions of chapter 617, F.S., and authorized by Florida law to exist as a direct support organization to benefit or provide assistance to a governmental entity. *See* State of Florida Auditor General, *Audits of Certain Nonprofit Organizations*, Rules of the Auditor General (Jun. 30, 2021), available at https://flauditor.gov/pages/pdf_files/10_700.pdf (last visited Jan. 6, 2022).

[4] S. 288.1226, F.S. The fictitious name "VISIT FLORIDA" is registered with the Department of State, registration no. G18000088414.

[5] S. 288.923(5), F.S.

[6] Veterans Florida is a non-profit corporation created by the State of Florida to help military veterans transition to civilian life and to promote Florida's status as the nation's most veteran-friendly state. *See* Veterans Florida, *About Us*, https://www.veteransflorida.org/about/ (last visited Jan. 14, 2022).

[7] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 8*, 13 (December 2020), available at https://oppaga.fl.gov/Documents/Reports/20-08.pdf (last visited Jan. 6, 2022).

[8] *Id.* at 12.

- One from the statewide rental car industry;
- Seven from tourist-related statewide associations;[9]
- Three from county destination marketing organizations;
- One from the cruise industry;
- One from an automobile and travel services membership organization;[10]
- One from the airline industry; and
- One from the space tourism industry.[11]

VF is required to develop a four-year marketing plan[12] for the state that addresses issues such as continuation of tourism growth in Florida, expansion to new or underrepresented markets, coordination with local and private sector partners on tourism advertising, and addressing emergency responses to disasters from a marketing standpoint.[13]

VF also administers a number of grant programs that provide organizations and state agencies funding for certain tourism-related activities. In the 2018-2019 fiscal year, grant funds averaged $2,250,087, which is nearly $2.0 million more than in the 2017-2018 fiscal year. However, this is primarily due to the $1.9 million spent on two special grant programs for Hurricane Michael and red tide in fiscal year 2018-2019.[14]

For the 2021-2022 fiscal year, VF received a total appropriation of $75 million.[15] Payments are made to VF through EFI from DEO. VF enters into a funding agreement with EFI and DEO and an operating agreement with EFI.[16]

As a public-private partnership, VF is required to obtain private sector contributions to match public contributions. Eligible matching contributions come from four categories:

- Direct cash contributions;
- Fees for services;
- Cooperative advertising, which is limited to partner expenditures for paid media placement and actual market value of contributed products, air time, and print space; and
- In-kind contributions, which is limited to the actual market value of promotional contributions of partner-supplied benefits or of non-partner supplied airtime or print space.[17]

Both VF and the Division of Tourism Marketing will sunset on October 1, 2023, unless reviewed and saved from repeal by the Legislature.[18]

Economic Development Programs Evaluations

Pursuant to s. 288.001(2) (b), F.S., the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) must provide a detailed analysis of certain economic development programs according to a recurring schedule established by

[9] This includes tourist-related associations that represent hotels, campgrounds, county destination marketing organizations, museums, restaurants, retail, and attractions. *See* S. 288.1226(4) (b).
[10] Such organization must have at least 2.8 million members in Florida. *See Id.*
[11] S. 288.1226(4), F.S.
[12] This plan is annual in construction and ongoing in nature. *See* S. 288.923(4)(c), F.S.
[13] S. 288.923(4)(c), F.S.
[14] *Florida Economic Development Program Evaluations – Year 8* at 15.
[15] Specific Appropriation 2244, s. 6, ch. 2021-36, Laws of Fla.; S.A. 2244, s. 152, ch. 2021-36, Laws of Fla.
[16] *See Funding Agreement SB22-003 - Agreement between the Department of Economic Opportunity, Enterprise Florida, Inc., and the Florida Tourism Industry Marketing Corporation*, executed October 4, 2021, available at https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=400000&ContractId=S0165 (last visited Jan. 7, 2022); *Funding Agreement SB22-002 – Grant Agreement* , executed November 19, 2021, available at https://facts.fldfs.com/Search/ContractDetail.aspx?AgencyId=400000&ContractId=S0170 (last visited Jan. 7, 2022).
[17] S. 288.1226(6), F.S.
[18] Ss. 288.1226(14) and 288.923(6), F.S.

law. VF's most recent evaluation was completed in January 2021 and covered fiscal years 2016-2017, 2017-2018, and 2018-2019.[19]

OPPAGA Review

OPPAGA evaluates programs for effectiveness and value to the state taxpayers and to provide recommendations for consideration by the Legislature. The most recent OPPAGA review determined that between 2010 and 2019 Florida outpaced several other states in tourism growth, showing a significant competitive advantage compared to other states with strong tourism industries, such as California, Nevada, New York and Texas.[20]

VF continually met the statutorily required one-to-one match of public and private funding. Over the review period, 83 percent of private sector contributions were in the form of industry-contributed promotional value.[21] On average, 59 percent of VF's expenditures are on media and industry cooperative advertising, with most of the remaining expenditures comprised of fees and services and salaries and benefits.[22]

VF's paying partners, which include members of the hospitality, entertainment, and outdoor recreation industries, have expressed overall support for the agency's mission and services.[23]

EDR Review

EDR is required to analyze the economic benefits of the programs included in OPPAGA's program evaluation. EDR's most recent analysis found that, from the state's investment of $228 million over the review period of 2016 to 2019, VF contributed approximately $15.85 billion to Florida's GDP and $744.64 million in state revenue.[24]

Although it is difficult to determine VF's precise influence on the state's tourism industry compared to that of other marketing efforts, EDR approximated that VF was responsible for 9.05 percent of all marketing-influenced tourists over the review period.[25] This amounted to an estimated 19.92 million tourists being accredited to VF's marketing efforts over the review period.[26]

Effect of the Bill

The bill extends the scheduled repeal date for the Florida Tourism Industry Marketing Corporation (VISIT FLORIDA) and Enterprise Florida's Division of Tourism Marketing from October 1, 2023, to October 1, 2028.

The bill takes effect upon becoming law.

B. SECTION DIRECTORY:

Section 1: Changes the repeal date for the Florida Tourism Industry Marketing Corporation.

Section 2: Changes the repeal date for the Division of Tourism Marketing.

Section 3: Provides that the bill shall take effect upon becoming law.

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[19] Office of Economic and Demographic Research, *Return on Investment for VISIT FLORIDA*, 1 (January 2021), available at http://edr.state.fl.us/Content/returnoninvestment/Tourism2021.pdf (last visited Jan. 7, 2022).
[20] *Florida Economic Development Program Evaluations – Year 8* at 11.
[21] *Id.* at 14.
[22] *Id.* at 15.
[23] *Id.* at 20.
[24] *Return on Investment for VISIT FLORIDA* at 30.
[25] *Id.* at 24.
[26] *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The five-year average of appropriations to VF is $65.4 million.[27] If VF's authorization is repealed on October 1, 2023, the dissolved entity's assets, after all legal liabilities and obligations have been paid or adequate provisions have been made, will revert to the state.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

[27] Chapter 2021-036, s. 152, Specific Appropriation 2251, Laws of Fla.; Ch. 2020-111, SA 2294, s. 6, Laws of Fla.; Ch. 2019-115, SA 2328, s. 6, Laws of Fla.; Ch. 2018-9, SA 2239, s. 6, Laws of Fla.; Ch. 2017-233, s. 26, Laws of Fla.

A bill to be entitled

An act relating to tourism marketing; amending s. 288.1226, F.S.; revising the scheduled repeal date of the Florida Tourism Industry Marketing Corporation; amending s. 288.923, F.S.; revising the scheduled repeal date of the Division of Tourism Marketing within Enterprise Florida, Inc.; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (14) of section 288.1226, Florida Statutes, is amended to read:

288.1226 Florida Tourism Industry Marketing Corporation; use of property; board of directors; duties; audit.—

(14) REPEAL.—This section is repealed October 1, 2028 ~~2023~~, unless reviewed and saved from repeal by the Legislature.

Section 2. Subsection (6) of section 288.923, Florida Statutes, is amended to read:

288.923 Division of Tourism Marketing; definitions; responsibilities.—

(6) This section is repealed October 1, 2028 ~~2023~~, unless reviewed and saved from repeal by the Legislature.

Section 3. This act shall take effect upon becoming a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 669 Alarm Systems
SPONSOR(S): Regulatory Reform Subcommittee, Maggard
TIED BILLS: **IDEN./SIM. BILLS:** SB 1140

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	17 Y, 0 N, As CS	Brackett	Anstead
2) Commerce Committee		Brackett	Hamon

SUMMARY ANALYSIS

Electrical contractors and alarm system contractors are certified by or registered with the Electrical Contractors' Licensing Board (ECLB) housed within the Department of Business and Professional Regulation.

An "alarm system" is defined as "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency."

A fire alarm system agent is a person who is employed by a licensed fire alarm contractor or certified electrical contractor, and performs duties that requires licensure as a fire alarm system contractor or certified electrical contractor. A fire alarm system agent must have an identification card that must be renewed every two years.

A "low-voltage alarm system project" is a project related to work on a new or existing alarm system that is hardwired and operating at low voltage or a new or existing low-voltage electric fence, and ancillary components or equipment attached to such system or fence. Instead of needing a permit to work on a low-voltage alarm system project, licensed electrical contractors and alarm system contractors need a uniform basic permit label, which does not require building plans and can be purchased in bulk.

The bill:

- Reduces the training to become a fire alarm system agent and the training to renew a identification card, if the person or agent has a certain fire alarm system certification from the National Institute of Certification in Engineering Technologies or the Electronic Security Association.
- Clarifies that low-voltage alarm system project includes closed-circuit television systems used to signal or detect a burglary, fire, robbery, or medical emergency.
- Provides that a local building department may not require a licensed electrical or alarm system contractor to provide plans in order to obtain a building permit for a "fire alarm system project."
    - A local building department may require a licensed electrical or alarm system contractor to submit a completed permit application and payment in order to obtain such permit.
- Defines "fire alarm system project" as:
    - A fire alarm system alteration of a total of 20 or fewer initiating and notification devices; or
    - The installation or replacement of a fire communicator connected to an existing fire alarm control panel in an existing commercial, residential, apartment, cooperative, or condominium building.
- Requires a building department that issues a permit for a fire alarm system project to require at least one inspection to ensure the work complies with the applicable codes.
- Requires an electrical contractor or alarm system contractor to keep plans for a fire alarm system project at the worksite and available for the inspector.

The bill does not appear to have a fiscal impact on state and local governments.

The bill provides for an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Electrical and Alarm System Contractors – Current Situation

Contractors are regulated by ch. 489, F.S., which outlines the law pertaining to contractors in the state of Florida. Part I of ch. 489, F.S., covers contracting regulated by the Construction Industry Licensing Board (CILB) and pt. II of ch. 489, F.S., covers contracting regulated by the Electrical Contractors' Licensing Board (ECLB). Both boards are housed in the Department of Business and Professional Regulation (DBPR).

Electrical contractors, alarm system contractors, and electrical specialty contractors are certified by or registered with the ECLB. Certified contractors can practice statewide and are licensed and regulated by ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may practice within that locality.[1]

Electrical contractors may work on electrical wiring, fixtures, appliances, apparatus, raceways, and conduits which generate, transmit, transform, or utilize electrical energy in any form.[2]

Alarm system contractors may lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems. An "alarm system" is defined as "any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, **fire**, robbery, or medical emergency."[3]

There are two types of alarm system contractors:[4]

- Alarm system contractor I:
  - An alarm system contractor I is a contractor whose business includes all types of alarm systems for all purposes, **including fire alarms**.
- Alarm system contractor II:
  - An alarm system contractor II is a contractor whose business includes all types of alarm systems for all purposes, **except fire alarms**.

Electrical certified specialty contractors are contractors whose scope of work is limited to a particular phase of electrical contracting, such as electrical signs. Certified electrical specialty contractors can practice statewide. The ECLB creates electrical certified specialty contractor licenses through rulemaking, and has created the following certified specialty contractor licenses:[5]

- Lighting maintenance specialty contractor;
- Sign specialty electrical contractor;
- Residential electrical contractor;
- Limited energy systems specialty contractor; and
- Utility line electrical contractor.

The scope of work for **certified electrical contractors** includes any work that an alarm system contractor is able to perform.[6]

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[1] *See generally* s. 489.505, F.S.
[2] Ss. 489.505(12) & 489.537(7), F.S.
[3] S. 489.505(1)-(2), F.S.
[4] S. 489.505(2)(a) and (b), F.S.; Email from Conner Mann, Legislative Affairs Coordinator, Department of Business and Professional Regulation, RE: Alarm System Contractors (Jan. 4, 2022).
[5] S. 489.505(19), & 489.511(4), F.S; Rule 61G6-7.001, F.A.C.
[6] S. 489.537(7), F.S.

Registered electrical contractors may install raceways for alarm systems.[7] They may also bid on electrical contracts, which include alarm systems as part of the contract, but they must subcontract the work on such alarm systems to an alarm system contractor.[8]

Fire Alarm System Agents

A "fire alarm system agent" is a person:[9]

- Who is employed by a licensed fire alarm contractor or certified electrical contractor;
- Who is performing duties which are an element of an activity that constitutes fire alarm system contracting requiring licensure as an alarm contractor or certified electrical contractor; and
- Whose specific duties include any of the following: altering, installing, maintaining, moving, repairing, replacing, servicing, selling, or monitoring a fire alarm system for compensation.

In order to be a fire alarm system agent, a person must:[10]

- Be at least 18 years of age or have evidence of a court-approved declaration of emancipation;
- Have not been convicted within the last 3 years of a crime that directly relates to the business for which employment is being sought.
    - A certified electrical contractor or licensed fire alarm contractor must obtain a completed fingerprint and criminal background check from the Department of Law Enforcement (DLE) for each applicant for employment as a fire alarm system agent.
- Have not been committed for controlled substance abuse or been found guilty of a crime related to controlled substances within the 3-year period immediately preceding the date of application for employment, unless the person establishes that he or she is not currently abusing any controlled substance and has successfully completed a rehabilitation course.
- Have **completed a minimum of 14 hours** of training from an ECLB approved provider.
    - The training must include basic fire alarm system technology in addition to related training in National Fire Protection Association (NFPA) codes and standards and access control training, with **at least 2 hours** of training in the prevention of false alarms.

A person is not required to complete the required training to be a fire alarm system agent if they are:

- A certified electrical contractor;
- A registered electrical contractor who is doing electrical work up to the alarm panel;
- A certified or registered fire alarm system contractor;
- A journeyman electrician licensed by a local government;
- An alarm technician licensed by a local government that requires an examination and experience/training as a qualification for licensure;
- A non-supervising employee working as a helper or apprentice under direct, onsite, supervision by one of the above licensed individuals;
- A burglar alarm system agent employed by a fire alarm system contractor or certified electrical contractor; or
- Only monitoring a fire alarm.

[7] A "raceway" is an enclosed channel designed to hold wires, cables, or busbars. Mike Holt, Understanding Raceways, EC&M (Feb. 13, 2018) https://www.ecmweb.com/national-electrical-code/code-basics/article/20903368/understanding-raceways#:~:text=The%20NEC%20defines%20a%20raceway,permitted%20in%20this%20Code%20%5BArt. (last visited Jan. 4, 2022).
[8] S. 489.537(2)(b), F.S.
[9] S. 489.505(28), F.S.
[10] S. 489.5185(1), F.S.

A certified electrical contractor or licensed fire alarm contractor must furnish each of his or her fire alarm system agents with an identification card. A fire alarm system agent must have their identification card in their possession while engaged in fire alarm system agent duties.[11]

The card shall must be in a format approved by the ECLB, and must include:[12]

- a picture of the agent;
- the name of the agent;
- the name and license number of the certified unlimited electrical contractor or licensed fire alarm contractor;
- name and address of the business organization; and
- the signature of the contractor and the agent.

Each identification card is valid for 2 years after the date of issuance, and must be renewed every 2 years. In order to renew an identification card a fire alarm system agent must:[13]

- Have an updated criminal background check from DLE.
- Complete **6 hours of continuing education** on fire alarm system installation and repair and false alarm prevention every 2 years from an ECLB approved sponsor and training course.

National Institute of Certification in Engineering Technologies (NICET)

NICET is an organization that was established in 1961 to create certification for engineering technicians and technologists. According to NICET's website, over 148,000 technicians and technologists have received NICET certification.[14]

Currently, NICET offers engineering technician certification in the following fire protections areas:[15]

- **Fire alarm systems**;
- **Inspection and testing of fire alarm systems;**
- Inspection and testing of water-based systems;
- Special hazards systems; and
- Water-based systems layout.

Currently, there are four levels of fire alarm system certification with Level I being the lowest and Level IV being the highest, and there are two levels of inspection and testing of fire alarm systems with Level I being the lowest and Level II being the highest.

In order to obtain a Level II fire alarm certification, a person must:[16]

- Pass an exam; and
- Have at least 2 years of fire detection and signaling systems experience, which must include at least 12 months of fire alarm systems experience, including alarm and detection, notification, sprinkler monitoring, and interfaces and controls for agent releasing.

[11] S. 489.5185(4), F.S.
[12] S. 489.5185(4), F.S.; R. 61G6-12.003, F.A.C.
[13] S. 489.5185(4) and (5), F.S.
[14] NICET, *About Us*, https://www.nicet.org/about-us/ (last visited Dec. 30, 2021).
[15] NICET, *Certification Programs*, https://www.nicet.org/certification-programs/ (last visited Dec. 30, 2021).
[16] NICET, *Certification Requirements*, https://www.nicet.org/certification-programs/electrical-and-mechanical-systems/fire-alarm-systems/certification-requirements/ (last visited on Dec. 30, 2021).

In order to obtain a Level II inspection and testing of fire alarm systems certification, a person must:[17]

- Pass an exam; and
- Have at least 18 months of experience in the inspection and testing of fire alarm and suppression systems.

NICET certifications must be recertified every three years. Recertification is completed by upgrading a certification or completing at least two of the following:[18]

- Performing the associated technical tasks of the certification practice area as part of a person's main job;
- Completing additional education;
- Performing activities that advance the profession such as being a course instructor or serving on a committee;
- Working towards upgrading a certification or obtaining an additional NICET certification in a related area; or
- Passing a special recertification exam.

Electronic Security Association (ESA)

ESA is an organization that was established in 1948 to represent the electronic security and life safety industry. According to ESA's website, they are the largest trade association in the U.S., with more than 500,000 industry professionals employed by ESA member companies.[19]

Currently, ESA offers certification in the following fire protection areas:[20]

- Certified Alarm Technician Level I;
- **Certified Fire Alarm Technician Level II Fire**;
- **Certified Fire Alarm Designer Level III Fire**; and
- Certified Residential Fire Alarm Inspector.

In order to obtain certification as a Fire Alarm Technician Level II, a person must:[21]

- Be certified as an ESA Alarm Technician Level I;
- Have 24 months of work history or have been certified as an ESA Alarm Technician Level I for 24 months or more; and
- Have completed the following two courses within the previous five years:
  - Fire Alarm Installation Methods course and pass the examination.
  - Life Safety Code course or International Building Code course and pass examination.

In order to obtain certification as a Fire Alarm Designer Technician Level III, a person must:[22]

- Be certified as an ESA Fire Alarm Technician Level II;
- Have 60 months of work history in the field of fire alarms;
- Have a personal recommendation; and
- Have completed the Fire Alarm Designer course and pass the examination.

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[17] NICET, *Certification Requirements*, https://www.nicet.org/certification-programs/electrical-and-mechanical-systems/inspection-and-testing-of-fire-alarm-systems/certification-requirements/ (last visited Dec. 30, 2021).
[18] NICET, *Recertify*, https://www.nicet.org/recertify/ (last visited Dec. 30, 2021).
[19] ESA, *About Us*, https://esaweb.org/about/ (last visited Jan. 3, 2022).
[20] ESA, *ESA Certifications for Security, Sales and Fire*, https://esaweb.org/training/certifications/certification-types/ (last visited Jan. 3, 2022).
[21] ESA, *ESA Certified Fire Alarm Technician Level 2 (CFAT)*, https://esaweb.org/training/certifications/cfat/ (last visited Jan. 3, 2022).
[22] ESA, *Certified Fire Alarm Designer (CFAD) Level III Fire Certification*, https://esaweb.org/training/certifications/cfad/ (last visited Jan. 3, 2022).

ESA certifications must be renewed every two years. Renewal is completed by completing 24 ESA approved continuing education hours.[23]

Electrical and Alarm System Contractors – Effect of the Bill

The bill reduces the number of hours an applicant for employment as **a fire alarm system agent** is required to complete to 2 hours of training in the prevention of false alarms, from 14 hours of training, if the person holds a:

- Current Level II or higher NICET certification in Fire Alarm Systems or Inspection and Testing in Fire Alarm Systems; or
- Current ESA Fire Alarm Technician or Fire Alarm Designer certification.

The bill also reduces the number of hours a fire alarm system agent is required to complete, in order to renew their identification card, to 2 hours of training in the prevention of false alarms from 6 hours of training, if the agent holds one of the above certifications.

Alarm System Building Permits – Current Situation

State Fire Marshal

Florida's fire prevention and control law, ch. 633, F.S., designates the state's Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal (Division) located within the Department of Financial Services (DFS), is charged with enforcing the provisions of ch. 633, F.S., and all other applicable laws relating to fire safety, and has the responsibility to minimize the loss of life and property in this state due to fire.[24] Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel and fire safety inspectors; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts fire safety inspections of state property; and operates the Florida State Fire College.

The State Fire Marshal also adopts by rule the Florida Fire Prevention Code (Fire Prevention Code), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities, and the enforcement of such fire safety laws and rules.[25]

The State Fire Marshall adopts a new edition of the Fire Prevention Code every three years. When adopting a new edition of the Fire Prevention Code, the State Fire Marshal must adopt the most recent version of the National Fire Protection Association (NFPA) Standard 1, Fire Prevention Code, and the NFPA 101 Life Safety Code.[26]

[23] ESA, *How to Renew Your ESA Certification*, https://esaweb.org/training/certification-renewal/#qualifying (last visited Dec. 31, 2021).
[24] S. 633.104, F.S.
[25] S. 633.202(1) and (2), F.S.
[26] *Id.* The NFPA is the National Fire Protection Association. Founded in 1896, the NFPA delivers information and knowledge through no more than 300 consensus codes and standards, research, training, education, outreach and advocacy. NFPA, *About NFPA*, https://www.nfpa.org/about-nfpa (last visited Jan. 4, 2022).

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Prevention Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code.[27] Each county, municipality, and special district with fire safety enforcement responsibilities must employ or contract with a fire safety inspector (certified by the State Fire Marshal) to conduct all fire safety inspections required by law.

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.[28]

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.[29] The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.[30]

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.[31]

The Florida Building Commission (Commission) was statutorily created to implement the Building Code. The Commission, which is housed within DBPR, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,[32] the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.[33]

Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.[34] Every local government must enforce the Building Code and issue building permits.[35]

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the local government or from such persons as

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[27] The Florida Building Code is the statewide building code for all construction in the state. Every local government must enforce the Florida Building Code and issue building permits. *See generally* ch. 553, F.S.
[28] The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs,* p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 4, 2022).
[29] *Id.*
[30] Florida Building Commission Homepage, https://floridabuilding.org/c/default.aspx (last visited Jan. 4, 2022).
[31] *See* s. 553.72(1), F.S.
[32] The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, https://www.iccsafe.org/about/who-we-are/ (last visited Jan. 4, 2022).
[33] Ss. 553.73, and 553.74, F.S.
[34] S. 553.72, F.S.
[35] Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.[36]

To obtain a building permit an applicant must complete an application for the proposed work on the form furnished by the government entity.[37] A local government that issues building permits must post each type of building permit application on its website.[38]

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.[39] A building official is a local government employee or a person contracted by a government entity who supervises building code activities, including plans review, enforcement, and inspection.[40]

Any construction work that requires a building permit also requires building plans and inspections by the building official to ensure the work complies with the Building Code.[41] Generally speaking, a permitted project that passes the required inspections is considered completed or closed.[42]

Uniform Fire Alarm Permit

Fire protection systems, including fire alarms, must be installed, repaired, operated, and maintained in accordance with the Fire Prevention Code and the Building Code.[43]

An electrical or alarm system contractor must file a uniform fire alarm permit application with a local government in order to obtain a fire alarm permit.[44]

The Uniform Fire Alarm Permit Application must include the following information:[45]

- The name and address of the owner of the property;
- The name, address, and license number of the contractor;
- A description sufficient to identify the property to be improved, including the property's address and legal description;
- A description of the work being performed; and
- The owner and the contractor's signature.

An electrical or alarm system contractor cannot install or replace a fire alarm until they obtain a fire alarm permit. However, an electrical or alarm system contractor may make repairs on a fire alarm **without a fire alarm permit**, as long as they have applied for the permit.[46]

Time-Period to Review Building Permit Applications

Current law requires local governments to review the following building permit applications within a specific time-period of receiving the applications:[47]

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[36] *See* ss. 125.56(4)(a) and 553.79(1), F.S.
[37] S. 713.135(5) and (6), F.S.
[38] Ss. 125.56(4)(b) and 553.79(1), F.S.
[39] S. 468.603(2), F.S; Section 202 of the Seventh edition of the Florida Building Code (Building).
[40] S. 468.603(2), F.S.; Section 202 of the Seventh edition of the Florida Building Code (Building).
[41] Sections 107, 110.1, and 110.3 of the Seventh edition of the Florida Building (Building).
[42] Doug Wise, *Closing Inactive & Excluded Building Permits*, Palm Beach County Planning, Zoning & Building Department, Building Division, http://discover.pbcgov.org/pzb/building/BuildingCodes/PBO-126%20%E2%80%93%20Closing%20Inactive%20and%20Excluded%20Building%20Permits.pdf (last visited Jan. 4, 2022).
[43] Sections 202 and 901.2 of the Seventh edition of the Florida Building Code (Building).
[44] S. 553.7921(1); Ch. 19-140, Laws of Fla.
[45] S. 553.7921(3), F.S.
[46] S. 553.7921(1) and (2), F.S.
[47] S. 553.792(2), F.S.

- accessory structure;
- **alarm permit**;
- nonresidential buildings less than 25,000 square feet;
- electric;
- irrigation permit;
- landscaping;
- mechanical;
- plumbing;
- residential units other than a single family unit;
- multifamily residential not exceeding 50 units;
- roofing;
- signs;
- site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- lot grading and site alteration associated with a permit application.

When a local government receives an application for one of the above building permits, it must:[48]

- Inform the applicant within **10 days** of receiving the application, what information, if any, is needed to complete the application.
    - If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed.
- Notify the applicant within **45 days** of the application being deemed complete, if additional information is necessary to determine the sufficiency of the application;
    - If additional information is needed the local government must specify what additional information is necessary.
    - The applicant may submit the additional information to the local government or request that the local government act on the application without the additional information.
- Approve, approve with conditions, or deny the application within **120 days** following receipt of the completed application.
    - This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

Over-the-Counter Permits

Generally, over-the-counter permits are building permits that need minimal or no plans reviewed by the local building official. However, an applicant must still fill out an application, and inspections are still required to close or complete the permit. Local government officials typically determine what types of permits qualify as over-the-counter permits for their jurisdictions. Over-the-counter permits can issued in person or online depending on the jurisdiction.[49]

Typically, an application for a permit must include building plans. A local enforcing agency may not issue a permit until the building official or plans examiner has reviewed the building plans and determined that they comply with the Building Code, unless the project is not required to have plans reviewed by the local building official.[50]

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[48] S. 553.792(1), F.S.

[49] City of Boca Raton, *Building Permits and Inspections*, https://www.myboca.us/157/Building-Permits-and-Inspections (last visited Jan. 4, 2022); Charlotte County, *Permits*, https://www.charlottecountyfl.gov/departments/community-development/building-construction/permits/ (last visited Jan. 4, 2022); Nassau County, *Over the Counter Building Permit Application*, https://www.nassaucountyfl.com/DocumentCenter/View/13935/Over-the-Counter-Permit (last visited Jan. 4 2022); City of Sarasota, *Building and Permitting Online Services*, https://ftgportal.sarasotafl.gov/Permits/Home.aspx?microapp=c (last visited on Jan. 4, 2022).

[50] S. 553.79(2), F.S.

Permits for the following projects are not required to have plans reviewed by the local building official:[51]

- Replacing existing equipment such as mechanical units, water heaters, etc.
- Reroofs.
- Minor electrical, plumbing and mechanical repairs.
- Annual maintenance permits.
- Prototype plans:
  - Except for local site adaptions, siding, foundations and/or modifications, and structures that require a waiver.
- Manufactured buildings plan except for foundations and modifications of buildings on site.

Alarm System Building Permits – Effect of the Bill

The bill provides that a local enforcement agency may not require a contractor to submit building plans or specifications in order to obtain a permit for a fire alarm system project. A local enforcement may require a contractor to submit a completed application and a payment for such permit.

The bill defines, "contractor" as a licensed electrical or alarm system contractor.

The bill defines, "fire alarm system project" to mean a fire alarm system alteration of a total of 20 or fewer initiating devices and notification devices, or the installation or replacement of a fire communicator[52] connected to an existing fire alarm control panel[53] in an existing commercial, residential, apartment, cooperative, or condominium building.

The bill provides that a local enforcement agency may issue a permit for a fire alarm system project in person or electronically.

The bill requires a local enforcement agency to require at least one inspection of a fire alarm system project to ensure the work complies with the applicable codes and standards. The contractor must keep a copy of the plans and specifications at the worksite, and make them available to the inspector at each inspection.

Low-Voltage Alarm Systems – Current Situation

A "low-voltage alarm system project" is a project related to the installation, maintenance, inspection, replacement, or service of a new or existing alarm system, and attached ancillary components, that is hardwired and operating at low voltage, or a new or existing low-voltage electric fence, and ancillary components or equipment attached to such a system or fence, **including, but not limited to**, home-automation equipment, thermostats, **closed-circuit television systems**, access controls, battery recharging devices, and video cameras.[54]

Current law streamlines the permitting process for the installation of low-voltage alarm system projects that require a building permit. Instead of being required to obtain a building permit, licensed electrical and alarm system contractors may purchase uniform basic permit labels from local governments without providing detailed information about a project.[55]

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[51] S. 107.3.5 of the Seventh edition of the Florida Building Code (Building).
[52] A "fire alarm communicator" is a device that automatically contacts first responders, if a fire is detected. Norris Inc., https://norrisinc.com/2016/08/12/alarm-system-communicators/ (last visited Jan. 5, 2022).
[53] A "fire alarm control unit" serves as the brain of the fire alarm system. It is a component of a fire alarm system that receives signals from initiating devices or other fire alarm control units, and processes these signals to determine part or all of the required fire alarm system output. National Fire Protection Association, *A Guide to Fire Alarm Basics*, https://www.nfpa.org/News-and-Research/Publications-and-media/Blogs-Landing-Page/NFPA-Today/Blog-Posts/2021/03/03/A-Guide-to-Fire-Alarm-Basics (last visited Jan. 3, 2022).
[54] S. 553.793(1), F.S.
[55] S. 553.793(5), F.S.

A contractor may purchase labels in bulk for one or more unspecified current or future projects. Permit labels are valid for one year and may only be used in the jurisdiction of the local government that issued the permit label.[56]

Local governments may not charge more than $40 per permit label per project, and may not request any information in order to obtain permit labels except a contractor's identification information and proof of licensure. A local government may not require any other charge associated with the installation or replacement of a new or existing hardwired, low-voltage alarm system project.[57]

Licensed electrical and alarm system contractors do not have to notify a local government about a low-voltage alarm system project prior to commencing work on the project. However, a contractor must post an unused permit label in a conspicuous place on the premises before commencing work on the project.[58]

After completion of a low-voltage alarm system project, a contractor must submit a Uniform Notice of a Low Voltage Alarm System Project to the local government. A local enforcement government may take disciplinary action against a contractor who fails to timely submit the required notice.[59]

A local enforcement agency may coordinate directly with the property owner or customer for inspection of a low-voltage alarm system project. If a project fails an inspection, the contractor must take corrective action in order to pass the inspection.[60]

A permit label is not required for any subsequent maintenance, inspection, or service of a low-voltage alarm system project that has a permit label.[61]

Low-Voltage Alarm Systems – Effect of the Bill

The bill clarifies that a low-voltage alarm system project includes closed-circuit television systems used to signal or detect a burglary, fire, robbery, or medical emergency.

B. SECTION DIRECTORY:

Section 1. Amends s. 489.5185, F.S., relating to fire alarm system agents.

Section 2. Amends s. 553.793, F.S., relating to streamlined low-voltage alarm system installation permitting.

Section 3. Creates s. 553.7932, F.S., relating to simplified permitting process for fire alarm system alterations.

Section 4. Providing an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

[56] *Id.*
[57] *Id.*
[58] S. 553.793(6) & (7), F.S.
[59] *Id.*
[60] S. 553.793(9), F.S.
[61] S. 553.793(11), F.S.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive economic impact on persons applying to be employed as a fire alarm agents, and fire alarm agents, who have a current Level II or higher NICET certification in Fire Alarm Systems or Inspection and Testing in Fire Alarm Systems or a current ESA Fire Alarm Technician or Fire Alarm Designer certification. Such persons or fire alarm agents will not have to pay for more than 2 training hours in order to be employed as a fire alarm agent or to renew a fire alarm agent identification card.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 12, 2021, the Regulatory Reform Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Clarifies that a low-voltage closed-circuit television system used to signal or detect a fire, robbery, or medical emergency is a low-voltage alarm system project.
- Provides that a local building department may not require a licensed electrical or alarm system contractor to provide plans in order to obtain a building permit for a “fire alarm system project.”
    - A local building department may require a licensed electrical or alarm system contractor to submit a completed permit application and payment.
- Defines “fire alarm system project” as:
    - A fire alarm system alteration of a total of 20 or fewer initiating devices and notification devices; or

    - The installation or replacement of a fire communicator connected to an existing fire alarm control panel in an existing commercial, residential, apartment, cooperative, or condominium building.
- Requires a local government that issues a building permit for a fire alarm system project to require at least one inspection to ensure the work complies with the applicable building and fire prevention codes.
- Requires an electrical contractor or alarm system contractor to keep plans for a fire alarm system project at the worksite and available for the inspector.

A bill to be entitled

An act relating to alarm systems; amending s. 489.5185, F.S.; authorizing individuals with certain fire alarm certifications to complete a reduced number of training and continuing education hours for the prevention of false alarms; requiring the training and continuing education sponsors and courses to be approved by the Electrical Contractors' Licensing Board; amending s. 553.793, F.S.; revising the definition of the term "low-voltage alarm system project" to include certain closed-circuit television systems; creating s. 553.7932, F.S.; providing definitions; authorizing a local enforcement agency to require a contractor to submit certain documentation for a fire alarm system project; prohibiting a local enforcement agency from requiring plans and specifications as a condition for obtaining a permit for a fire alarm system project; authorizing a local enforcement agency to issue certain permits in person or electronically; requiring a local enforcement agency to perform at least one inspection for a fire alarm system project; requiring a contractor to keep certain documentation at a worksite for a fire alarm system project; providing an effective date.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 489.5185, Florida Statutes, is amended, and paragraph (f) is added to subsection (2) of that section, to read:

489.5185 Fire alarm system agents.—

(2)

(f) If a person holds a current National Institute of Certification in Engineering Technologies (NICET) Level II certification or higher in Fire Alarm Systems or Inspection and Testing of Fire Alarm Systems, a current certification as an Electronic Security Association (ESA) Certified Fire Alarm Technician, or a current certification as an ESA Certified Fire Alarm Designer, he or she is required to complete only the 2 hours of training in the prevention of false alarms required by paragraph (1)(b) from a board-approved sponsor of training and through a board-approved training course.

(5)(a) Except as provided in paragraph (b), each fire alarm system agent must receive 6 hours of continuing education on fire alarm system installation and repair and false alarm prevention every 2 years from a board-approved sponsor of training and through a board-approved training course.

(b) A person holding a current NICET Level II certification or higher in Fire Alarm Systems or Inspection and Testing of Fire Alarm Systems, certification as an ESA Certified

Fire Alarm Technician, or certification as an ESA Certified Fire Alarm Designer is required to complete only 2 hours of continuing education training in the prevention of false alarms every 2 years from a board-approved sponsor of training and through a board-approved training course.

Section 2. Paragraph (b) of subsection (1) of section 553.793, Florida Statutes, is amended to read:

553.793 Streamlined low-voltage alarm system installation permitting.—

(1) As used in this section, the term:

(b) "Low-voltage alarm system project" means a project related to the installation, maintenance, inspection, replacement, or service of a new or existing alarm system, as defined in s. 489.505, including closed-circuit television systems used to signal or detect a burglary, fire, robbery, or medical emergency, that is hardwired and operating at low voltage, as defined in the National Electrical Code Standard 70, Current Edition, or a new or existing low-voltage electric fence. The term also includes~~, and~~ ancillary components or equipment attached to ~~such~~ a low-voltage alarm system or low-voltage electric fence, including, but not limited to, home-automation equipment, thermostats, closed-circuit television systems, access controls, battery recharging devices, and video cameras.

Section 3. Section 553.7932, Florida Statutes, is created

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

to read:

553.7932 Simplified permitting process for fire alarm system projects.—

(1) As used in this section, the term:

(a) "Contractor" means a person who is qualified to engage in the business of electrical or alarm system contracting pursuant to a certificate or registration issued by the department under part II of chapter 489.

(b) "Fire alarm system project" means a fire alarm system alteration of a total of 20 or fewer initiating devices and notification devices, or the installation or replacement of a fire communicator connected to an existing fire alarm control panel in an existing commercial, residential, apartment, cooperative, or condominium building.

(2)(a) A local enforcement agency may require a contractor, as a condition of obtaining a permit for a fire alarm system project, to submit a completed application and payment.

(b) A local enforcement agency may not require a contractor to submit plans or specifications as a condition of obtaining a permit for a fire alarm system project.

(3) A local enforcement agency may issue a permit for a fire alarm system project in person or electronically.

(4) A local enforcement agency must require at least one inspection of a fire alarm system project to ensure compliance

with applicable codes and standards. If a fire alarm system project fails an inspection, the contractor must take corrective action as necessary to pass inspection.

(5) A contractor must keep a copy of the plans and specifications at a fire alarm system project worksite and make such plans and specifications available to the inspector at each inspection.

Section 4. This act shall take effect July 1, 2022.

COMMERCE COMMITTEE

HB 669 by Rep. Maggard
Alarm Systems

AMENDMENT SUMMARY
January 24, 2022

Amendment 1 by Rep. Maggard (line 64):

- Clarifies that a low-voltage video camera used to signal or detect a fire, robbery, or medical emergency is a low-voltage alarm system project.

Amendment 2 by Rep. Maggard (line 97):

- Requires a local building department to issue a building permit for a fire alarm system project in person or electronically.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Commerce Committee
Representative Maggard offered the following:

Amendment (with title amendment)

Remove line 64 and insert:
defined in s. 489.505, including video cameras and closed-circuit television

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T I T L E A M E N D M E N T

Remove line 11 and insert:
project" to include certain video cameras and closed-circuit television

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Commerce Committee

Representative Maggard offered the following:

Amendment (with title amendment)

Remove line 97 and insert:

(3) A local enforcement agency must issue a permit for a

T I T L E A M E N D M E N T

Remove line 18 and insert:

for a fire alarm system project; requiring a local

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 723 Medical Treatment of Animals
SPONSOR(S): Regulatory Reform Subcommittee, Buchanan
TIED BILLS: **IDEN./SIM. BILLS:** SB 448

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform Subcommittee	17 Y, 0 N, As CS	Thompson	Anstead
2) Commerce Committee		Thompson	Hamon

SUMMARY ANALYSIS

In Florida, the practice of "veterinary medicine" means the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease. Veterinarians are regulated by the Board of Veterinary Medicine (Board) in the Department of Business and Professional Regulation (DBPR) pursuant to ch. 474, F.S., relating to veterinary medical practice (practice act). The purpose of the practice act is to ensure that every veterinarian practicing in this state meets minimum requirements for safe practice to protect public health and safety.

Current law defines a "veterinarian/client/patient relationship" (VCPR) as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment. Veterinarians are permitted to prescribe drugs in the course of veterinary practice; however, the veterinarian must be either personally acquainted with the keeping and caring of the animal and have recently seen the animal, or have made medically appropriate and timely visits to the premises where the animal is kept before prescribing drugs in the course of practice.

The use of electronic communications to facilitate patient health care (telemedicine) is not addressed in the practice act and is not specifically prohibited or authorized in Florida. However, medical doctors may practice telemedicine in Florida and may establish a patient relationship with a patient evaluation via telemedicine under certain circumstances.

The bill:

- Establishes a framework for the practice of veterinary telemedicine.
- Limits a veterinarian's ability to prescribe controlled substances while practicing telemedicine to situations where:
  - The veterinarian has previously performed an in-person physical examination or made medically appropriate and timely visits to the premises where the animal is kept; or
  - The veterinarian is treating a terminal patient transferred to the veterinarian for hospice care by a veterinarian who previously performed an in-person physical examination of the patient and such veterinarian has reviewed the patient's medical records.
- Specifies that only Florida licensed veterinarians may practice veterinary telemedicine, and grants the Board jurisdiction over the practice of veterinary telemedicine.
- Allows an animal control authority under the "indirect supervision" of a veterinarian to administer rabies vaccinations.

The bill is not expected to have a fiscal impact on state or local government, and may have a positive fiscal impact on the private sector.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Practice of Veterinary Medicine

The Board of Veterinary Medicine (Board) in the Department of Business and Professional Regulation (DBPR) implements the provisions of ch. 474, F.S., relating to veterinary medical practice (practice act). The purpose of the practice act is to ensure that every veterinarian practicing in this state meets minimum requirements for safe practice to protect public health and safety.[1]

A "veterinarian" is a health care practitioner licensed by the Board to engage in the practice of veterinary medicine in Florida[2] and subject to disciplinary action from the Board for various violations of the practice act.[3]

The practice of "veterinary medicine" is the diagnosis of medical conditions of animals, and the prescribing or administering of medicine and treatment to animals for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease, or holding oneself out as performing any of these functions.[4]

Veterinary medicine includes, with respect to animals:[5]

- Surgery;
- Acupuncture;
- Obstetrics;
- Dentistry;
- Physical therapy;
- Radiology;
- Theriogenology (reproductive medicine);[6] and
- Other branches or specialties of veterinary medicine.

The practice act does not apply to the following categories of persons:

- Veterinary aides, nurses, laboratory technicians, preceptors,[7] or other employees of a licensed veterinarian, who administer medication or provide help or support under the responsible supervision[8] of a licensed veterinarian;
- Certain non-Florida licensed veterinarians who are consulting upon request of a Florida-licensed veterinarian on the treatment of a specific animal or on the treatment on a specific case of the animals of a single owner.
- Faculty veterinarians when they have assigned teaching duties at accredited[9] institutions;
- Certain graduated intern/resident veterinarians of accredited institutions;

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[1] S. 474.201, F.S.
[2] S. 474.202(11), F.S.
[3] Ss. 474.213 & 474.214, F.S.
[4] *See* s. 474.202(9), F.S. Also included is the determination of the health, fitness, or soundness of an animal, and the performance of any manual procedure for the diagnosis or treatment of pregnancy or fertility or infertility of animals.
[5] *See* s. 474.202(13), F.S. Section 474.202(1), F.S., which defines "animal" as "any mammal other than a human being or any bird, amphibian, fish, or reptile, wild or domestic, living or dead."
[6] The Society for Theriogenology, established in 1954, is composed of veterinarians dedicated to standards of excellence in animal reproduction. *See* https://www.therio.org/ (last visited Jan. 5, 2022).
[7] A preceptor is a skilled practitioner or faculty member who directs, teaches, supervises, and evaluates students in a clinical setting to allow practical experience with patients. *See also* https://www.merriam-webster.com/dictionary/preceptor#medicalDictionary (last visited Jan. 5, 2022).
[8] The term "responsible supervision" is defined in s. 474.202(10), F.S., as the "control, direction, and regulation by a licensed doctor of veterinary medicine of the duties involving veterinary services" delegated to unlicensed personnel.
[9] Ss. 474.203(1) and (2), F.S., provide that accreditation of a school or college must be granted by the American Veterinary Medical Association (AVMA) Council on Education, or the AVMA Commission for Foreign Veterinary Graduates.

- Certain students in a school or college of veterinary medicine who perform assigned duties by an instructor or work as preceptors;
- Certain doctors of veterinary medicine employed by a state agency or the United States Government;
- Persons or their employees caring for the persons' own animals, as well as certain part-time or temporary employees, or independent contractors, who are hired by an owner to help with herd management and animal husbandry tasks; and
- Certain entities or persons[10] that conduct experiments and scientific research on animals as part of the development of pharmaceuticals, biologicals, serums, or treatment methods of treatment or techniques to diagnose or treatment of human ailments, or in the study and development of methods and techniques applicable to the practice of veterinary medicine.[11]

Any permanent or mobile establishment where a licensed veterinarian practices must have a premises permit issued by DBPR.[12] Each person to whom a veterinary license or premises permit is issued must conspicuously display such document in her or his office, place of business, or place of employment in a permanent or mobile veterinary establishment or clinic.[13]

By virtue of accepting a license to practice veterinary medicine in Florida, a veterinarian consents to:
- Render a handwriting sample to an agent of the department and, further, to have waived any objections to its use as evidence against her or him.
- Waive the confidentiality and authorize the preparation and release of medical reports pertaining to the mental or physical condition of the licensee when the department has reason to believe that a violation of this chapter has occurred and when the department issues an order, based on the need for additional information, to produce such medical reports for the time period relevant to the complaint.[14]

For Fiscal Year 2020-2021, there were 12,156 actively licensed veterinarians in Florida. DBPR received 472 complaints, which resulted in 17 disciplinary actions.[15]

Veterinarian/Client/Patient Relationship

The practice act defines a "patient" as any animal for which the veterinarian practices veterinary medicine.[16]

The practice act defines a "veterinarian/client/patient relationship" (VCPR) as one in which a veterinarian has assumed responsibility for making medical judgments about the health of an animal and its need for medical treatment.[17]

Veterinarians are permitted to prescribe drugs in the course of veterinary practice, but may be disciplined by the Board for certain related violations, including ordering, prescribing, or making available medicinal drugs or drugs[18] or controlled substances[19] for use other than for the specific treatment of animal patients for which there is a documented VCPR and without:
- Having sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, which means that the veterinarian is personally

[10] *See* s. 474.203(6), F.S., which states that the exemption applies to "[s]tate agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof. . . ."
[11] *See* s. 474.203, F.S.
[12] S. 474.215(1), F.S.
[13] S. 474.216, F.S.
[14] S. 474.2185, F.S.
[15] Department of Business and Professional Regulation, *Division of Professions Annual Report Fiscal Year 2020-2021*, http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 5, 2022).
[16] S. 474.202(8), F.S.
[17] S. 474.202(12), F.S.
[18] S. 465.003(8), F.S.
[19] S. 893.02(4), F.S.

acquainted with the keeping and caring of the animal and has recently seen the animal or has made medically appropriate and timely visits to the premises where the animal is kept;
- Being available to provide for follow-up care and treatment in case of adverse reactions or failure of the regimen of therapy; and
- Maintaining records which document patient visits, diagnosis, treatment, and other relevant information required under the practice act.[20]

Veterinary Telemedicine

The use of electronic communications to facilitate patient health care (telemedicine) is not addressed in the practice act and is not specifically prohibited or authorized for practitioners of veterinary medicine in Florida.[21]

Veterinary Telemedicine During the Pandemic

On March 24, 2020, the U.S. Food and Drug Administration (FDA) announced that it would temporarily suspend enforcement of certain prescription limitations in order to allow veterinarians to better utilize telemedicine to address animal health needs during the COVID-19 pandemic. Specifically, the FDA has provided guidance related to suspending the enforcement of the animal examination and premises visit VCPR requirements relevant to FDA regulations governing **Extralabel Drug Use in Animals**[22] and **Veterinary Feed Directive Drugs**.[23] This allows veterinarians to prescribe or authorize the use of drugs without direct examination or making visits to patients, which will limit human-to-human interaction and potential spread of COVID-19 in the community.[24]

According to the FDA, veterinarians are licensed by their state veterinary licensing board and must meet the requirements of the licensing board to practice in that state. FDA regulates the devices and drugs that veterinarians use, and the conditions under which veterinarians may **prescribe drugs for extra-label uses**. When an approved drug is used in a manner other than what is stated on the label, it is an extra-label use. This is commonly called an "off-label" use because the drug is used in a way that is "off the label."[25]

On March 27, 2020, DBPR issued emergency order EO 2020-04, which suspends any restriction of ch. 474, F.S., or ch. 61G-18, F.A.C., which would prohibit an active Florida-licensed veterinarian from practicing telemedicine on a patient. The order specifies that attending veterinarians must be comfortable assessing the patient remotely and feel able to exercise good clinical judgment to assist the patient.[26] The emergency order ended with the expiration of Florida's COVID-19 state of emergency (EO 20-52) on Saturday June 26, 2021.[27]

Veterinary Telemedicine in Other States

The use of telemedicine by veterinarians varies by state. Some states allow telemedicine to be used at the veterinarian's discretion, others allow it after the establishment of a VCPR, some do not allow it at

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[20] S. 474.214(1)(y)., F.S.
[21] R. 64B8-9.0141, F.A.C. Currently, medical doctors may practice telemedicine in Florida in a patient relationship with a patient evaluation, under certain circumstances.
[22] 21 C.F.R. part 530.
[23] 21 C.F.R. § 558.6.
[24] U.S. Food and Drug Administration, *Coronavirus (COVID-19) Update: FDA Helps Facilitate Veterinary Telemedicine During Pandemic*, https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-helps-facilitate-veterinary-telemedicine-during-pandemic (last visited Jan. 25, 2022).
[25] .S. Food and Drug Administration, *What FDA Does and Does Not Regulate*, https://www.fda.gov/animal-veterinary/animal-health-literacy/what-fda-does-and-does-not-regulate#top (last visited Jan. 5, 2022).
[26] Department of Business and Professional Regulation, *Emergency Order EO 2020-04*, Mar. 27, 2020, http://www.myfloridalicense.com/dbpr/os/documents/EO_2020-04.pdf (last visited Jan. 5, 2022).
[27] On March 9, 2020, Governor DeSantis issued Executive Order 20-52 which declared a state of emergency for the entire state due to COVID-19. The Executive Order was extended several times. Executive Order 21-94 extended the state of emergency for sixty days from April 27, 2021. The sixtieth day was Saturday June 26, 2021, and the order was not renewed by the Governor.

all, and others limit telemedicine for purposes of prescribing medication or controlled substances.

Virginia allows veterinarians to practice telemedicine. In addition, it allows a veterinarian who performs or has performed an appropriate examination of a patient to prescribe certain controlled substances to a patient via the practice of telemedicine. The Virginia Board of Veterinary Medicine adopted guidance effective September 17, 2020, for telehealth in the practice of veterinary medicine, which indicates that:

> "Using telehealth technologies in veterinary practice is considered a method of service delivery. The current, applicable regulations apply to all methods of service delivery, including telehealth. The licensee is responsible for using professional judgment to determine if the type of service can be delivered via telehealth at the same standard of care as in-person service."[28]

The Idaho Board of Veterinary Medicine provides the following guidance on telehealth:

> "The veterinarian must employ sound profession judgment to determine whether using Telehealth is appropriate in particular circumstances each and every time animal care is provided and only provide medical advice or treatment via Telehealth to the extent that it is possible without a hands on examination. A veterinarian using Telehealth must take appropriate steps to obtain Informed Consent, establish the VCPR and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of Telehealth as a component of, or in lieu of, hands on medical care, while others are not."[29]

The state of Oklahoma only allows a veterinarian to prescribe drugs via telemedicine under the following conditions:

> "The veterinarian accepts that he or she cannot prescribe drugs when practicing via telehealth alone, unless the veterinarian has sufficient knowledge of the animal or group of animals by virtue of a history and inquiry, and either physical examination or medically appropriate and timely visits to the premises where the animal or group of animals is kept."[30]

The state of Washington only allows telemedicine after a VCPR has been established:

> "The veterinarian shall not establish a veterinary-client-patient relationship solely by telephonic or other electronic means. However, once established, a veterinary-client-patient relationship may be maintained between medically necessary examinations via telephone or other types of consultations."[31]

Michigan recently repealed the need for an **in-person** exam prior to practicing telemedicine. Effective April 15, 2021, a veterinarian providing a "telehealth service" is required to have sufficient knowledge of the animal patient by having recently examined the animal patient in person or obtained current knowledge of the animal patient through the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, or have conducted medically appropriate and timely visits to the premises where the group of animal patients is kept.[32]

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[28] Virginia Board of Veterinary Medicine, *Guidance for Telehealth in the Practice of Veterinary Medicine, Guidance Document: 150-25*, https://www.dhp.virginia.gov/media/dhpweb/docs/vet/guidance/150-25.pdf (last visited Jan. 5, 2022).
[29] Idaho Veterinary Medical Association, *State specific questions for Idaho – Essential services, taxes, telehealth, IDAHO BOARD OF VETERINARY MEDICINE – TELEMEDICINE STATEMENT*, https://www.ivma.org/2020/03/26/idaho-essential-services-extended-tax-filing-deadline/ (last visited Jan. 5, 2022).
[30] Oklahoma State Board of Veterinary Medical Examiners, Board Telemedicine/Telehealth Position Statement, https://www.okvetboard.com/veterinarian-faq/95-board-telemedicine-telehealth-position-statement (last visited Jan. 5, 2022).
[31] Wash. Rev. Code § 246-933-200(2).
[32] Mich. Gen. R. 338.4901a.

Florida Telehealth for Medical Doctors

Effective July 1, 2019,[33] Florida law authorizes Florida-licensed health care providers[34] to use "telehealth" to deliver health care services within their respective scopes of practice.[35] The law also authorizes out-of-state health care providers to use telehealth to deliver health care services to Florida patients if they register with the Department of Health (DOH) or the applicable board[36] and meet certain eligibility requirements.[37] A registered out-of-state telehealth provider may use telehealth, within the relevant scope of practice established by Florida law and rule, to provide health care services to Florida patients but is prohibited from opening an office in Florida and from providing in-person health care services to patients located in Florida.

On March 16, 2020, Surgeon General Scott Rivkees executed DOH Emergency Order 20-002 authorizing certain out-of-state physicians, osteopathic physicians, physician assistants, and advanced practice registered nurses to provide telehealth in Florida without the need to register as a telehealth provider under s. 456.47(4), F.S.[38] This emergency order ended with the expiration of Florida's COVID-19 state of emergency (EO 20-52) on June 26, 2021.[39]

The Surgeon General also executed DOH Emergency Order 20-003[40] authorizing certain out-of-state clinical social workers, marriage and family therapists, mental health counselors, and psychologists to provide telehealth in Florida without the need to register as a telehealth provider under s. 456.47(4), F.S. This emergency order also ended on June 26, 2021.[41]

Controlled Substances

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act. This chapter classifies controlled substances into five schedules in order to regulate the manufacture, distribution, preparation, and dispensing of the substances. The scheduling of substances in Florida law is generally consistent with the federal scheduling of substances under 21 U.S.C. s. 812:

- A Schedule I substance has a high potential for abuse and no currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards. Examples include heroin and lysergic acid diethylamide (LSD).
- A Schedule II substance has a high potential for abuse, a currently accepted but severely restricted medical use in treatment in the United States, and abuse may lead to severe psychological or physical dependence. Examples include cocaine and morphine.
- A Schedule III substance has a potential for abuse less than the substances contained in Schedules I and II, a currently accepted medical use in treatment in the United States, and abuse may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. Examples include lysergic acid; ketamine; and some anabolic steroids.

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[33] Chapter 2019-137, s. 6, Laws of Fla.

[34] S. 456.47(1)(b), F.S.

[35] *See also* s. 394.453(3), F.S. The Florida Mental Health Act (popularly known as "The Baker Act," s. 394.451, F.S.), contains a legislative finding that "the use of telemedicine for patient evaluation, case management, and ongoing care will improve management of patient care and reduce costs of transportation."

[36] Under s. 456.001(1), F.S., the term "board" is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the DOH or, in some cases, within the DOH's Division of Medical Quality Assurance.

[37] Section 456.47(4), F.S.

[38] Department of Health, State of Florida, *Emergency Order DOH No. 20-002* (Mar. 16, 2020) http://floridahealthcovid19.gov/wp-content/uploads/2020/03/filed-eo-doh-no.-20-002-medical-professionals-03.16.2020.pdf (last visited Jan. 5, 2022).

[39] On March 9, 2020, Governor DeSantis issued Executive Order 20-52 which declared a state of emergency for the entire state due to COVID-19. The Executive Order was extended several times. Executive Order 21-94 extended the state of emergency for sixty days from April 27, 2021. The sixtieth day was Saturday June 26, 2021, and the order was not renewed by the Governor.

[40] Department of Health, State of Florida, *Emergency Order DOH No. 20-003* (Mar. 21, 2020) https://s33330.pcdn.co/wp-content/uploads/2020/03/DOH-EO-20-003-3.21.2020.pdf (last visited Jan. 5, 2022).

[41] On March 9, 2020, Governor DeSantis issued Executive Order 20-52 which declared a state of emergency for the entire state due to COVID-19. The Executive Order was extended several times. Executive Order 21-94 extended the state of emergency for sixty days from April 27, 2021. The sixtieth day was Saturday June 26, 2021, and the order was not renewed by the Governor.

- A Schedule IV substance has a low potential for abuse relative to the substances in Schedule III, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule III. Examples include alprazolam, diazepam, and phenobarbital.
- A Schedule V substance has a low potential for abuse relative to the substances in Schedule IV, a currently accepted medical use in treatment in the United States, and abuse may lead to limited physical or psychological dependence relative to the substances in Schedule IV. Examples include low dosage levels of codeine, certain stimulants, and certain narcotic compounds.

Prescription Drug Law for Medical Doctors

Section 456.44, F.S., limits the authorization to prescribe only a three-day supply of a Schedule II opioid[42] or up to a seven-day supply if medically necessary. The prescribing limits on Schedule II opioids do not apply to prescriptions for acute pains related to: cancer, a terminal condition, pain treated with palliative care, or a traumatic injury with an Injury Severity Score of 9 or higher.[43] A prescriber and dispenser must also report to and review the Prescription Drug Monitoring Program database to review a patient's controlled substance dispensing history prior to prescribing or dispensing a Schedule II-IV controlled substance for patients 16 years older.[44] These limitations and requirements apply to practitioners providing services in-person and through telehealth.

Section 456.47(2)(c), F.S., prohibits telehealth providers from prescribing any controlled substance unless the controlled substance is prescribed for:
- The treatment of a psychiatric disorder;
- Inpatient treatment at a licensed hospital;
- The treatment of a patient receiving hospice services; or
- The treatment of a resident of a nursing home facility.

According to a study published by the University of Florida College of Pharmacy,[45] the "2018 Florida law restricting opioid prescriptions for acute pain has led to a drop in opioid use." Specifically, the study "found the number of new opioid users per month dropped 16 percent immediately after the law was implemented, and the number of new users continues to decrease each month. Additionally, the average days' supply fell from 5.4 days prior to the law to three days. The law was also associated with an immediate decrease in the use of hydrocodone, the most commonly used Schedule II opioid."[46]

Prescription Drug Law for Veterinarians

In order to purchase, prescribe, administer or dispense controlled substances in Florida, veterinarians must obtain a license from the U.S. Drug Enforcement Administration (DEA). Florida does not require any additional licensure for veterinarians to purchase and prescribe controlled drugs.[47]

The DEA is a division within the U.S. Department of Justice and reports to the U.S. Attorney General. In consultation with the U.S. Secretary of the federal Department of Health and Human Services (HHS) and others, the Attorney General oversees the listing of substances on five schedules (Classes I, II, III, IV or V) of controlled agents as described in Title 21 United States Code (USC) of the Controlled

[42] All opioids are controlled substances. Opioids range in classification between Schedule I and Schedule V.
[43] S. 456.44(1)(a), F.S.
[44] S. 893.055, F.S.
[45] Juan M. Hincapie-Castillo, *Changes in Opioid Use After Florida's Restriction Law for Acute Pain Prescriptions* (Feb. 28, 2020), https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2762015?utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_term=022820 (last visited Jan. 5, 2022).
[46] Matthew Splett, *UF College of Pharmacy, Department of Pharmaceutical Outcomes and Policy* (Feb. 27, 2020), https://ufhealth.org/news/2020/new-florida-law-leads-decline-opioid-use-according-uf-study (last visited Jan. 5, 2022).
[47] Thomas Vickory, PhD, DEA REGULATION OF CONTROLLED DRUGS, https://www.vetfolio.com/learn/article/florida-drug-laws-update-2013 (last visited Jan. 5, 2022).

Substances Act. The central mission of the DEA is to enforce controlled substances laws and regulations.[48]

With respect to veterinarians and other health professionals, the major focus of the DEA is to prevent illegal diversion of controlled prescription drugs for the purpose of illicit or non-medical uses. In order to legally purchase, dispense or prescribe controlled prescription drugs, a veterinarian must be licensed by the DEA. Prescription drugs that are regulated or controlled by the DEA include many important drugs that are used routinely by veterinarians. DEA-controlled drugs are tightly controlled at all aspects of manufacturing, distribution, ordering, storage, use and disposition.[49]

While veterinarians are allowed to write prescriptions for controlled drugs, they cannot order controlled drugs from their local pharmacy for "in-house" use nor for secondary re-sale. Like any other prescription, controlled drug prescriptions must be written for a specific patient and cannot be for general use. As a licensed DEA registrant, veterinarians are expected to create and maintain a system that provides strong safeguards against theft or diversion of controlled drugs in their practice.[50]

Two opioids are approved and marketed for use in animals, butorphanol and buprenorphine. Due to the limited number of approved and marketed veterinary opioids, veterinarians who need to use opioids to control pain in their patients generally use products approved for use in people.[51]

Federal Controlled Substance Law[52]

The Ryan Haight Online Pharmacy Consumer Protection Act of 2008[53] amended the federal Controlled Substances Act, to prohibit a practitioner from issuing a "valid prescription" for a controlled substance through the Internet without having first conducted at least one in-person medical evaluation, except in certain circumstances. Thereafter, the prescriber may prescribe controlled substances to that patient via Internet or a phone call. The Act offers seven exceptions to the in-person exam. One such exception occurs when the U.S. Secretary of HHS has declared a public health emergency.

Florida DOH Emergency Order No. 20-002

The U.S. Secretary of HHS authorized qualified prescribers to prescribe Schedule II-V controlled substances, and Surgeon General Rivkees issued DOH Emergency Order No. 20-002,[54] which suspended s. 456.47(2)(c), F.S., and authorized specified Florida-licensed prescribers[55] to issue a renewal prescription for a Schedule II-IV controlled substance only for an existing patient for the purpose of treating chronic nonmalignant pain without conducting another physical examination of the patient. This emergency order ended with the expiration of Florida's COVID-19 state of emergency (EO 20-52) on Saturday June 26, 2021.[56]

Federal Prescription Guidance During the COVID-19 Public Health Emergency

[48] Thomas, *supra* note 46.
[49] Thomas, *supra* note 46.
[50] Thomas, *supra* note 46.
[51] U.S. FDA, *The Opioid Epidemic: What Veterinarians Need to Know*, https://www.fda.gov/animal-veterinary/resources-you/opioid-epidemic-what-veterinarians-need-know (last visited Jan. 5, 2022).
[52] 21 U.S.C. s. 829.
[53] Public Law No. 110-435 (2008).
[54] Department of Health, State of Florida, *Emergency Order DOH No. 20-002* (Mar. 16, 2020) http://floridahealthcovid19.gov/wp-content/uploads/2020/03/filed-eo-doh-no.-20-002-medical-professionals-03.16.2020.pdf (last visited Feb. 14, 2021).
[55] Physicians, osteopathic physicians, physician assistants, or advanced practice registered nurses that have designated themselves as a controlled substance prescribing practitioner on their practitioner profiles pursuant to s. 456.44, F.S.
[56] On March 9, 2020, Governor DeSantis issued Executive Order 20-52 which declared a state of emergency for the entire state due to COVID-19. The Executive Order was extended several times. Executive Order 21-94 extended the state of emergency for sixty days from April 27, 2021. The sixtieth day was Saturday June 26, 2021, and the order was not renewed by the Governor.

On January 31, 2020, the U.S. Secretary of HHS issued a public health emergency.[57] On March 16, 2020, the DEA published a COVID-19 Information page on the Diversion Control Division website, authorizing DEA-registered practitioners to issue prescriptions for all Schedule II-V controlled substances to patients without first conducting an in-person medical evaluation, provided all of the following conditions are met:

- The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice.
- The evaluation is conducted using an audio-visual, real-time, two-way interactive communication system.
- The practitioner is acting in accordance with applicable federal and state law.[58]

Rabies Vaccinations

All dogs, cats, and ferrets four months of age or older must be vaccinated **by a licensed veterinarian** against rabies with a vaccine that is licensed by the U.S. Department of Agriculture (USDA) for use in those species. The owner must have the animal revaccinated 12 months after the initial vaccination, and subsequent vaccinations must conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Violations of this requirement are a civil infraction, punishable as provided in s. 828.27(2), F.S.[59]

Currently, Florida law does not appear to allow anyone other than the veterinarian to administer the rabies vaccine. The law allows certain vaccines, anesthesia and tranquilization to be administered by a veterinary aide, nurse, laboratory technician, intern, or other employee of a licensed veterinarian while under the "immediate supervision" of a licensed veterinarian.[60] In addition, the following tasks may be performed without the licensed veterinarian on the premises:

- The administration of medication and treatment, **excluding vaccinations**, as directed by the licensed veterinarian; and
- The obtaining of samples and the performance of those diagnostic tests, including radiographs, directed by the licensed veterinarian.[61]

The Board has recognized that the following diseases are communicable to humans and are of public health significance, and as a result, **only a veterinarian** is authorized to immunize or treat an animal for these diseases. The diseases include:

- Brucellosis.
- Tuberculosis.
- Rabies.
- Equine Encephalomyelitis.[62]

Effect of the Bill

The bill allows licensed veterinarians to practice veterinary telemedicine, and indirectly supervise rabies vaccinations of impounded animals, as follows:

Veterinary Telemedicine

[57] Determination that a Public Health Emergency Exists, Alex M. Azar II, Secretary of U.S. Department of Health and Human Services (January 31, 2020) https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx (last visited Jan. 5, 2022).
[58] Diversion Control Division, U.S. Department of Justice Drug Enforcement Administration, *COVID-19 Information Page*, https://www.deadiversion.usdoj.gov/coronavirus.html (last visited Jan. 5, 2022). Letter from Thomas Prevoznik, Deputy Assistant Administrator, Diversion Control Division, U.S. Department of Justice Drug Enforcement Administration, to DEA Qualifying Practitioners and Other Practitioners, (Mar. 31, 2020) https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-022)(DEA068)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20%20(Final)%20+Esign.pdf (last visited Jan. 5, 2022).
[59] S. 828.30(1), F.S.
[60] S. 474.202(5), F.S., defines "immediate supervision" or words of similar purport to mean a licensed doctor of veterinary medicine is on the premises whenever veterinary services are being provided.
[61] R. 61G18-17.005, F.A.C.
[62] R. 61G18-17.006, F.A.C.

- Defines “veterinary telemedicine” to means the use of synchronous telecommunication technology by a veterinarian who has access to and has reviewed the patient's relevant medical records to provide veterinary services, including, but not limited to, consultation, evaluation, diagnosis, and treatment of a patient; transfer of medical records; and exchange of information with a client.
- Requires a veterinarian practicing veterinary telemedicine to take appropriate steps to establish the VCPR, and provide quality of care, consistent with the prevailing professional standards of care for a veterinarian.
- Only allows a veterinarian practicing telemedicine to prescribe controlled substances if the veterinarian:
    - Has previously performed an in-person physical examination of the patient or made medically appropriate and timely visits to the premises where the animal is kept; or
    - For a terminal patient that is transferred to the veterinarian for hospice care by a veterinarian who has previously performed an in-person physical examination of the patient or made medically appropriate and timely visits to the premises where the animal is kept, has reviewed the patient's medical records.
- Revises the requirement that a veterinarian have “seen the animal” in order to prescribe medicinal drugs and controlled substances, to instead require the veterinarian to have recently performed an examination of the animal or group of animals:
    - Physically in person; or
    - By the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically or made medically appropriate and timely visits to the premises where the animal is kept.
- Requires veterinarians to hold a current license to practice veterinary medicine in Florida in order to practice veterinary telemedicine.
- Specifies that the practice of veterinary medicine is deemed to occur at the premises where the patient is located at the time the veterinarian practices veterinary telemedicine.
- Grants the Board jurisdiction over a veterinarian practicing veterinary telemedicine in Florida, regardless of where the veterinarian’s physical offices are located.
- Specifies that the practice of veterinary telemedicine is not a violation of the standard of care, and a veterinarian may not be disciplined solely for practicing veterinary telemedicine.

Rabies Vaccinations

- Allows an employee, agent, or contractor of an animal control authority acting under the indirect supervision of a veterinarian to administer rabies vaccinations to impounded animals that will be transferred, rescued, fostered, adopted, or reclaimed by the owner.
- Defines "indirect supervision," to mean the supervising veterinarian must be available for consultation through telecommunications but is not required to be on the premises during such consultation.
    - The supervising veterinarian assumes responsibility for the veterinary care given to the animal by any person working under or at his or her direction and supervision.
- Authorizes veterinarians who supervise an employee, agent, or contractor of an animal control authority administering the rabies vaccination to an animal to affix his or her signature stamp in lieu of an actual signature.

B. SECTION DIRECTORY:

Section 1: amends s. 474.202, F.S., providing a definition.

Section 2: creates s. 474.2021, F.S., authorizing the use of veterinary telemedicine; requiring a veterinarian to establish a VCPR to practice veterinary telemedicine; authorizing a veterinarian to prescribe controlled substances under specified circumstances; providing licensure requirements to practice veterinary telemedicine; providing jurisdiction of the Board of Veterinary Medicine.

Section 3: amends s. 474.203, F.S., providing an exception to who may immunize or treat an animal for certain diseases.

Section 4: amends s. 474.214, F.S., revising grounds for disciplinary action against a veterinarian.

Section 5: amends s. 828.30, F.S., authorizing certain employees, agents, or contractors to administer rabies vaccinations under certain circumstances; defining the term "indirect supervision"; providing that a supervising veterinarian assumes responsibility for any person working under or at his or her direction and supervision; authorizing a veterinarian who indirectly supervises the administration of the rabies vaccination to affix his or her signature stamp in lieu of an actual signature on the rabies vaccination certificate.

Section 6: provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Animal control authorities will be able to administer rabies vaccinations of impounded animals without a veterinarian having to be physically present. This may create a savings for local animal control authorities to the extent they are incurring extra veterinary costs associated with veterinarians being required to be onsite to administer rabies vaccinations.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Licensed veterinarians will be permitted to practice veterinary telemedicine, including limited controlled substance prescription authority, thus giving them more flexibility in their practice. This will move them further toward equal footing with licensed health care providers in the state who are already allowed to practice telehealth.

Animal owners may have greater access to veterinarians and may feel more comfortable, especially during a state of emergency. Visitors and tourists with pets may be able to obtain veterinarian care while on vacation in Florida without the need for locating and transporting their animal to a veterinarian’s office.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes employees, agents, or contractors of animal control authorities to administer rabies vaccinations under "indirect supervision" of a veterinarian. According to DBPR, "an amendment to r. 61G18-17.006, F.A.C. will be required as the rule currently states that you must be a licensed veterinarian to provide rabies vaccinations."[63]

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor has indicated that an amendment may be needed to correct a drafting error.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 12, 2021, the Regulatory Reform Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute removed unclear language and instead cross-referenced the section that requires veterinarians to be in compliance with the controlled substance prescription limitations in the bill for veterinarians practicing telemedicine.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform Subcommittee.

[63] Florida Department of Business and Professional Regulation, Agency Analysis of 2022 SB 448, p. 6 (Oct. 21, 2021).

A bill to be entitled

An act relating to medical treatment of animals; amending s. 474.202, F.S.; providing a definition; creating s. 474.2021, F.S.; authorizing the use of veterinary telemedicine; requiring a veterinarian to establish a veterinarian/client/patient relationship to practice veterinary telemedicine; authorizing a veterinarian to prescribe controlled substances under specified circumstances; providing licensure requirements to practice veterinary telemedicine; providing jurisdiction of the Board of Veterinary Medicine; amending s. 474.203, F.S.; providing an exception to who may immunize or treat an animal for certain diseases; amending s. 474.214, F.S.; revising grounds for disciplinary action against a veterinarian; amending s. 828.30, F.S.; authorizing certain employees, agents, or contractors to administer rabies vaccinations under certain circumstances; defining the term "indirect supervision"; providing that a supervising veterinarian assumes responsibility for any person working under or at his or her direction and supervision; authorizing a veterinarian who indirectly supervises the administration of the rabies vaccination to affix his or her signature stamp in

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

lieu of an actual signature on the rabies vaccination certificate; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (13) is added to section 474.202, Florida Statutes, to read:

474.202 Definitions.—As used in this chapter:

(13) "Veterinary telemedicine" means the use of synchronous telecommunication technology by a veterinarian who has access to and has reviewed the patient's relevant medical records to provide veterinary services, including, but not limited to, consultation, evaluation, diagnosis, and treatment of a patient; transfer of medical records; and exchange of information with a client.

Section 2. Section 474.2021, Florida Statutes, is created to read:

474.2021 Veterinary telemedicine.—

(1) A veterinarian may practice veterinary telemedicine.

(2) A veterinarian practicing veterinary telemedicine shall take appropriate steps to establish the veterinarian/client/patient relationship and provide quality of care consistent with the prevailing professional standards of care for a veterinarian.

(3) A veterinarian may prescribe controlled substances

only if the veterinarian:

(a) Has previously performed an in-person physical examination of the patient or made medically appropriate and timely visits to the premises where the animal is kept; or

(b) For a terminal patient that is transferred to the veterinarian for hospice care by a veterinarian who has previously performed an in-person physical examination of the patient or made medically appropriate and timely visits to the premises where the animal is kept, has reviewed the patient's medical records.

(4) A veterinarian must hold a current license to practice veterinary medicine in this state in order to practice veterinary telemedicine. The practice of veterinary medicine is deemed to occur at the premises where the patient is located at the time the veterinarian practices veterinary telemedicine.

(5) The board has jurisdiction over a veterinarian practicing veterinary telemedicine in this state, regardless of where the veterinarian's physical office is located. The practice of veterinary telemedicine in accordance with this section is not a standard of care violation, and a veterinarian may not be disciplined solely for practicing veterinary telemedicine.

Section 3. Paragraph (a) of subsection (5) of section 474.203, Florida Statutes, is amended to read:

474.203 Exemptions.—This chapter does not apply to:

(5)(a) Any person, or the person's regular employee, administering to the ills or injuries of her or his own animals, including, but not limited to, castration, spaying, and dehorning of herd animals, unless title is transferred or employment provided for the purpose of circumventing this law. This exemption does not apply to any person licensed as a veterinarian in another state or foreign jurisdiction and practicing temporarily in this state. However, except as provided in s. 828.30, only a veterinarian may immunize or treat an animal for diseases that are communicable to humans and that are of public health significance.

For the purposes of chapters 465 and 893, persons exempt pursuant to subsection (1), subsection (2), or subsection (4) are deemed to be duly licensed practitioners authorized by the laws of this state to prescribe drugs or medicinal supplies.

Section 4. Paragraph (y) of subsection (1) of section 474.214, Florida Statutes, is amended to read:

474.214 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for which the disciplinary actions in subsection (2) may be taken:

(y) Using the privilege of ordering, prescribing, or making available medicinal drugs or drugs as defined in chapter 465, or controlled substances as defined in chapter 893, for use other than for the specific treatment of animal patients for

which there is a documented veterinarian/client/patient relationship. ~~Pursuant thereto,~~ The veterinarian shall:

1. Have sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal, which means that the veterinarian is personally acquainted with the keeping and caring of the animal, is in compliance with s. 474.2021(3), and has recently seen the animal or has made medically appropriate and timely visits to the premises where the animal is kept.

2. Be available or provide for followup care and treatment in case of adverse reactions or failure of the regimen of therapy.

3. Maintain records which document patient visits, diagnosis, treatment, and other relevant information required under this chapter.

Section 5. Subsections (1) and (3) of section 828.30, Florida Statutes, are amended to read:

828.30 Rabies vaccination of dogs, cats, and ferrets.—

(1)(a) Except as provided in paragraph (b), all dogs, cats, and ferrets 4 months of age or older must be vaccinated by a licensed veterinarian against rabies with a vaccine that is licensed by the United States Department of Agriculture for use in those species.

(b) An employee, agent, or contractor of an animal control authority acting under the indirect supervision of a

veterinarian may vaccinate impounded animals that will be transferred, rescued, fostered, adopted, or reclaimed by the owner. As used in this paragraph, the term "indirect supervision" means the supervising veterinarian must be available for consultation through telecommunications but is not required to be on the premises during such consultation. The supervising veterinarian assumes responsibility for the veterinary care provided to the animal by any person working under or at his or her direction and supervision.

(c) The owner of every dog, cat, and ferret shall have the animal revaccinated 12 months after the initial vaccination. Thereafter, the interval between vaccinations shall conform to the vaccine manufacturer's directions. The cost of vaccination must be borne by the animal's owner. Evidence of circulating rabies virus neutralizing antibodies may ~~shall~~ not be used as a substitute for current vaccination in managing rabies exposure or determining the need for booster vaccinations.

(3) Upon vaccination against rabies, the licensed veterinarian shall provide the animal's owner and the animal control authority with a rabies vaccination certificate. Each animal control authority and veterinarian shall use the "Rabies Vaccination Certificate" of the National Association of State Public Health Veterinarians (NASPHV) or an equivalent form approved by the local government that contains all the information required by the NASPHV Rabies Vaccination

Certificate. The veterinarian who administers the rabies vaccination, or who indirectly supervises an employee, agent, or contractor of an animal control authority who administers the rabies vaccination, ~~vaccine~~ to an animal as required under this section may affix his or her signature stamp in lieu of an actual signature on the rabies vaccination certificate.

Section 6. This act shall take effect July 1, 2022.