1969

**Session Law 69-157**

Florida Senate & House of Representatives

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SENATE BILL NO. 474

AN ACT to be known as the “uniform commercial code,” relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them; including sales, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, and secured transactions, including certain sales of accounts, chattel paper, and contract rights; providing for public notice to third parties in certain circumstances; regulating procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; creating chapters 671-680, Florida Statutes, inclusive; repealing generally all inconsistent laws and parts of laws; repealing specifically chapters 524, 614, 673, 674, 675, 676, 678, 685, 699 and 700, and sections 55.25-55.31 inclusive, 85.29-85.35 inclusive, 351.10, 520.11, 659.26, 659.31, 659.32, 659.33, 659.34, 659.37, 659.39, 659.40, 725.03, and 726.02-726.06, inclusive, all Florida Statutes; amending the following chapters of Florida Statutes: chapter 15, by adding section 15.091, chapter 201, by adding a new section, chapter 695 by adding section 695.031, and chapter 698 by adding section 698.12; providing January 1, 1967, as effective date.

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

Section 1. Chapters 671 through 680, Florida Statutes, inclusive, are added to read:

671.1-101 Short title
671.1-102 Purposes; rules of construction; variation by agreement
671.1-103 Supplementary general principles of law applicable
671.1-104 Construction against implicit repeal
671.1-105 Territorial application of the act; parties’ power to choose applicable law
671.1-106 Remedies to be liberally administered
671.1-107 Waiver or renunciation of claim or right after breach
671.1-108 Severability
671.1-109 Section captions

671.1-201 General definitions
671.1-202 Prima facie evidence by third party documents
671.1-203 Obligation of good faith
671.1-204 Time; reasonable time; “seasonably”
671.1-205 Course of dealing and usage of trade
671.1-206 Statute of frauds for kinds of personal property not otherwise covered
671.1-207 Performance or acceptance under reservation of rights
671.1-208 Option to accelerate at will
statement purporting to be merely the seller's opinion or commendation of the goods does not create a warranty.

Note.—§2-313, U.C.C.

672.2-314 Implied warranty: merchantability; usage of trade.

(1) Unless excluded or modified (§672.2-316), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. Under this section the serving for value of food or drink to be consumed either on the premises or elsewhere is a sale.

(2) Goods to be merchantable must be at least such as:

(a) Pass without objection in the trade under the contract description; and

(b) In the case of fungible goods, are of fair average quality within the description; and

(c) Are fit for the ordinary purposes for which such goods are used; and

(d) Run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and

(e) Are adequately contained, packaged, and labeled as the agreement may require; and

(f) Conform to the promises or affirmations of fact made on the container or label if any.

(3) Unless excluded or modified (§672.2-316) other implied warranties may arise from course of dealing or usage of trade.

Note.—§2-314, U.C.C.

672.2-315 Implied warranty: fitness for particular purpose.

—Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under the next section an implied warranty that the goods shall be fit for such purpose.


672.2-316 Exclusion or modification of warranties.

(1) Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit warranty shall be construed wherever reasonable as consistent with each other; but subject to the provisions of this chapter on parol or extrinsic evidence (§672.2-202) negation or limitation is inoperative to the extent that such construction is unreasonable.

(2) Subject to subsection (3), to exclude or modify the implied warranty of merchantability or any part of it the language must mention merchantability and in case of a writing must be conspicuous, and to exclude or modify any implied warranty of fitness the exclusion must be by a writing and conspicuous. Language to exclude all implied warranties of fitness is sufficient if it states, for example, that “There are no warranties which extend beyond the description on the face hereof.”

(3) Notwithstanding subsection (2):

(a) Unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like “as is,” “with all faults” or other language which in common understanding calls the buyer’s attention to the exclusion of warranties and makes plain that there is no implied warranty; and

(b) When the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him; and

(c) An implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade.

(4) Remedies for breach of warranty can be limited in accordance with the provisions of this chapter on liquidation or limitation of damages and on contractual modification of remedy (§§672.2-718 and 672.2-719).

Note.—§2-316, U.C.C.

672.2-317 Cumulation and conflict of warranties express or implied.—Warranties whether express or implied shall be con-
to be paid such sheriffs in the same manner as fees are paid for like services in other criminal cases. All patrol officers are hereby directed to deliver all bonds accepted and approved by them to the sheriff of the county in which the offense is alleged to have been committed provided no sheriff or constable shall be paid any arrest fee for the arrest of a person for violation of any section of chapter 317 when the arresting officer was transported in a Florida highway patrol car to the vicinity where the arrest was made; and no sheriff or constable shall be paid any fee for mileage for himself or a prisoner for miles traveled in a Florida highway patrol car. No patrol officer shall be entitled to any fee or mileage cost except when responding to a subpoena in a civil cause except when such patrol officer is appearing as an official witness to testify at any hearing or law action in any court of this state as a direct result of his employment as a patrol officer during time not compensated as a part of his normal duties. The members of the patrol shall not have the right of power of search nor shall they have the right of power of seizure, except as permitted by Florida Statutes provided nothing herein shall be construed as limiting the power to locate and to take from any person under arrest or about to be arrested deadly weapons. Nothing contained in this section shall be construed in anywise as a limitation upon existing powers and duties of sheriffs, constables or police officers.

Section 2. This act shall take effect immediately upon becoming a law.

Became a law without the Governor's approval.

Filed in Office Secretary of State June 25, 1969.

CHAPTER 69-157
Committee Substitute for House Bill No. 63

AN ACT relating to blood and blood products and transfusions; providing that activities in this field are declared to be the rendering of a service and not a sale and that the implied warranties of merchantability and fitness for a particular purpose shall not be applicable; amending Section 2-316 of Chapter 672 of the General Laws of Florida of 1967; providing an effective date.

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

WHEREAS, the procurement, processing, storage, distribution, or use of whole blood, plasma, blood products, and blood derivatives, for the purpose of injecting or transfusing the same, or any of them, into the human body provides the general public with a desirable and necessary medical service, and
WHEREAS, in the present state of human knowledge the rendering of this service is attended with a known but reasonable risk, and

WHEREAS, the rendering of this service is an intricate part of the practice of medicine, and

WHEREAS, the Supreme Court of Florida has reasoned and held that the law of sales may apply to certain aspects of the rendering of this service, and

WHEREAS, the law of sales implies that a merchant or seller warrants that his product is merchantable and fit for its intended usage unless otherwise negated, limited, or modified, by contract, and

WHEREAS, the supplying of blood or blood products is more often than not done under circumstances such that the persons involved do not have the capacity or opportunity to contract, and

WHEREAS, the continuance of the operation of community and private blood banks provides the citizens of Florida with a service which might otherwise have to be provided by the State of Florida, and

WHEREAS, the public policy declared by this enactment is a legislative prerogative, NOW, THEREFORE,

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

Section 1. Section 672.2-316, Florida Statutes, is amended by adding subsection (5) to read:

672.2-316 Exclusion or Modification of Warranties

The procurement, processing, storage, distribution, or use of whole blood, plasma, blood products, and blood derivatives, for the purpose of injecting or transfusing the same, or any of them, into the human body for any purpose whatsoever is declared to be the rendering of a service by any person participating therein, and does not constitute a sale whether or not any consideration is given therefor and the implied warranties of merchantability and fitness for a particular purpose shall not be applicable [as to any undetectable or unremovable defect that is technically or scientifically impossible to discover or remove.] as to a defect that cannot be detected or removed by reasonable use of scientific procedures or techniques.

Section 2. This act shall take effect immediately upon becoming a law.

Became a law without the Governor's approval.

Filed in Office Secretary of State June 25, 1969.

CHAPTER 69-158

House Bill No. 364

AN ACT relating to the Florida air and water pollution control commission; amending chapter 403, Florida Statutes, by adding section 403.271, prohibiting the importation, cultivation, or transportation of certain aquatic plants without a permit; prescribing administrative procedure; providing a penalty; providing an effective date.

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

Section 1. Chapter 403, Florida Statutes, is amended by adding section 403.271 to read:

403.271 Aquatic plants; permits; penalties.—

(1) No person shall import into the state any aquatic plant or seeds thereof of a species not native to the state without having first obtained a permit from the commission.

(2) No person shall knowingly transport or transfer aquatic plants whether indigenous or a species not native to the state between bodies of water within the state without having first obtained a permit from the commission.

(3) No person shall place or cause to be placed in the waters of the state or to cultivate or cause to [propagate] propagate in the waters of the state any aquatic plant without first having obtained a permit from the commission.

(4) The commission is authorized to issue such permits only after the following conditions have been met:

(a) The department of agriculture and the game and fresh water fish commission issue prior approval of such permit.
HB 58 -CONTINUED- 6/06 HOUSE- DIED IN COMMITTEE

HB 60 BY RUDE 6/06 HOUSE- DIED ON CALENDAR

HM 61 GENERAL BILL, BY RUDE EMERGENCY VEHICLES, AMENDS SEC. 317.011(1), F.S., AUTHORIZING EMERGENCY VEHICLES TO INCLUDE PRIVATE VEHICLES OF VOLUNTEER FIREMEN EQUIPPED WITH COLORED LIGHTS AS AUTHORIZED IN SEC. 317.991, F.S., 6/06 HOUSE- DIED IN COMMITTEE

HM 62 GENERAL BILL, BY RUDE PARI-MUTUEL TAX, PROVIDES FOR ASSESSMENT AND COLLECTION OF A TAX ON PARI-MUTUEL WAGERING BY PATRONS OF RACE TRACKS AND JAI ALAI FRONTONS, 6/06 HOUSE- DIED IN COMMITTEE

HB 63 GENERAL BILL, BY RUDE AND OTHERS BLOOD PRODUCTS, PROVIDES THE PROCUREMENT, PROCESSING, STORAGE, DISTRIBUTION, AND USE OF BLOOD AND BLOOD PRODUCTS ARE TO BE CONSIDERED SERVICES AND NOT SALES, 6/06 HOUSE- DIED IN COMMITTEE

HB 64 GENERAL BILL, BY RUDE ARCHITECTS, RENEWAL CERTIFICATES, AMENDS SEC. 467.12, F.S., PROVIDING FOR CONTINUED ON NEXT PAGE
A BILL

relating to blood and blood products and
transfusions; providing that activities in
this field are declared to be the rendering
of a service and not a sale and that the
implied warranties of merchantability and
fitness for a particular purpose shall not
be applicable; amending Section 2-316 of
Chapter 672 of the General Laws of Florida
of 1967; providing an effective date.

IN THE SENATE

Read 1st Time
Read 2nd Time
Read 3rd Time
and

Secretary of Senate.

Referred to Committees on:


19

19

19

IN THE HOUSE

APR 25 1969

Read 1st Time
Read 2nd Time
Read 3rd Time
and

Clerk, House of Representatives.

Referred to Committees on:


19

19

19

PLEASE DO NOT WRITE BELOW THIS LINE

(Reserved for entries by Clerk)
A bill to be entitled
An act relating to blood and blood
products and transfusions; providing that
activities in this field are declared to be
the rendering of a service and not a sale
and that the implied warranties of merchan-
tability and fitness for a particular
purpose shall not be applicable; amending
Section 2-316 of Chapter 672 of the General
Laws of Florida of 1967; providing an
effective date.

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

WHEREAS, the procurement, processing, storage,
distribution, or use of whole blood, plasma, blood
products, and blood derivatives, for the purpose of
injecting or transfusing the same, or any of them,
into the human body provides the general public with
a desirable and necessary medical service, and

WHEREAS, in the present state of human knowledge
the rendering of this service is attended with a known
but reasonable risk, and

WHEREAS, the rendering of this service is an
intricate part of the practice of medicine, and

WHEREAS, the Supreme Court of Florida has
reasoned and held that the law of sales may apply to
certain aspects of the rendering of this service, and
WHEREAS, the law of sales implies that a merchant or seller warrants that his product is merchantable and fit for its intended usage unless otherwise negated, limited, or modified, by contract, and

WHEREAS, the supplying of blood or blood products is more often than not done under circumstances such that the persons involved do not have the capacity or opportunity to contract, and

WHEREAS, the continuance of the operation of community and private blood banks provides the citizens of Florida with a service which might otherwise have to be provided by the State of Florida, and

WHEREAS, the public policy declared by this enactment is a legislative prerogative, NOW, THEREFORE, Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 672.2-316, Florida Statutes is amended by adding subsection (5) to read:

672.2-316 Exclusion or Modification of Warranties

The procurement, processing, storage, distribution, or use of whole blood, plasma, blood products, and blood derivatives, for the purpose of injecting or transfusing the same, or any of them, into the human body for any purpose whatsoever is declared to be the rendering of a service by any person participating therein, and does not constitute a sale whether or not any consideration is given therefore and the
implied warranties of merchantability and fitness for
a particular purpose shall not be applicable.

Section 2. This act shall take effect immedi-
ately upon becoming a law.
Representative Spicola

offered the following amendment: CS for H 63

In Section 1, on page 3, line 2, strike:

period

and insert the following:

where done under circumstances such that the persons involved do not have the capacity or opportunity to contract.

Mr. ___________________ moved the adoption of the amendment which was adopted. which failed of adoption.

Form H-29
Representative Spicola

offered the following amendment:  

CS for House Bill No. 63:  

In Section 1, on page 3, line 2, strike:  

the period  

and insert the following:  
as to any undetectable or unremovable defect that is  

practically or scientifically impossible to discover or remove.  

Mr. ____________________ moved the adoption of the amendment  

which was adopted.  

which failed of adoption.  

Form H-29
Representative s ____

Amendment to the

offered the following amendment:

CS/HB Bill No. 63:

In Section _____ on page 3, line 2, strike:

"practically"

and insert the following: "technically"

Adopted 4-29-69
By Representative The Committee on Public Health and Welfare

To be entitled an Act

relating to blood and blood products and transfusions; providing that activities in this field are declared to be the rendering of a service and not a sale and that the implied warranties of merchantability and fitness for a particular purpose shall not be applicable; amending Section 2-316 of Chapter 672 of the General Laws of Florida of 1967; providing an effective date.

IN THE SENATE

MAY 1, 1969

JUN 2, 1969

JUN 2, 1969

PASSED AS AMENDED

IN THE HOUSE

April 25, 1969

April 25, 1969

April 29, 1969

Passed, as amended Apr. 29, 1969

Allen Morris

Clerk, House of Representatives.

PLEASE DO NOT WRITE BELOW THIS LINE

(Reserved for entries by Clerk)
A bill to be entitled
An act relating to blood and blood
products and transfusions; providing that
activities in this field are declared to be
the rendering of a service and not a sale
and that the implied warranties of merchan-
tability and fitness for a particular
purpose shall not be applicable; amending
Section 2-316 of Chapter 672 of the General
Laws of Florida of 1967; providing an
effective date.

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

WHEREAS, the procurement, processing, storage,
distribution, or use of whole blood, plasma, blood
products, and blood derivatives, for the purpose of
injecting or transfusing the same, or any of them,
into the human body provides the general public with
a desirable and necessary medical service, and

WHEREAS, in the present state of human knowledge
the rendering of this service is attended with a known
but reasonable risk, and

WHEREAS, the rendering of this service is an
intricate part of the practice of medicine, and

WHEREAS, the Supreme Court of Florida has
reasoned and held that the law of sales may apply to
certain aspects of the rendering of this service; and
WHEREAS, the law of sales implies that a merchant or seller warrants that his product is merchantable and fit for its intended usage unless otherwise negated, limited, or modified, by contract, and

WHEREAS, the supplying of blood or blood products is more often than not done under circumstances such that the persons involved do not have the capacity or opportunity to contract, and

WHEREAS, the continuance of the operation of community and private blood banks provides the citizens of Florida with a service which might otherwise have to be provided by the State of Florida, and

WHEREAS, the public policy declared by this enactment is a legislative prerogative, NOW, THEREFORE, Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 672.2-316, Florida Statutes, is amended by adding subsection (5) to read:

672.2-316 Exclusion or Modification of Warranties

The procurement, processing, storage, distribution, or use of whole blood, plasma, blood products, and blood derivatives, for the purpose of injecting or transfusing the same, or any of them, into the human body for any purpose whatsoever is declared to be the rendering of a service by any person participating therein, and does not constitute a sale whether or not any consideration is given therefor and the
implied warranties of merchantability and fitness for a particular purpose shall not be applicable as to any undetectable or unremovable defect that is technically or scientifically impossible to discover or remove.

Section 2. This act shall take effect immediately upon becoming a law.
Senator Lane offered the following amendment: CS. for House Bill 63:

In Section 1, line 3-5, page 3, strike: as to any undetectable or unremovable defect that is technically or scientifically impossible to discover or remove

and insert the following: as to a defect that cannot be detected or removed by reasonable use of scientific procedures or techniques
relating to blood and blood products and transfusions; providing that activities in this field are to be considered services and not sales, etc.
A bill to be entitled
An act relating to blood and blood
products and transfusions; providing
that activities in this field are to
be considered services and not sales;
providing an effective date.

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

Section 1. The procurement, processing,
storage, distribution, and use of whole blood, plasma,
blood products, and blood derivatives for the purpose
of injecting or transfusing the same or any of them
into the human body for any purpose whatsoever is the
rendering of a service by any person participating
therein, whether or not any remuneration is paid
therefor, and does not constitute a sale.

Section 2. This act shall take effect imme-
diately upon becoming a law.