1989

Session Law 89-043

Florida Senate & House of Representatives

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H 86 GENERAL BILL by Tobin and others (Similar CS/S 275)
Motor Vehicle Registration/Agent: provides that any person, firm, or corporation representing itself to be authorized agent of H.S.M.V. Dept. for registration purposes is guilty of unfair & deceptive trade practices; prohibits use of name of state or county under certain circumstances; provides penalty. Amends 320.03. Effective Date: 10/01/89.
01/11/89 HOUSE Prefiled
01/13/89 HOUSE Referred to Highway Safety & Construction
02/17/89 HOUSE On subcommittee agenda—Highway Safety & Construction, 03/07/89, 1:00 pm, 24–HOB
03/08/89 HOUSE Subcommittee Recommendation: Favorable
04/04/89 HOUSE Introduced, referred to Highway Safety & Construction —HJ 20
04/07/89 HOUSE On Committee agenda—Highway Safety & Construction, 04/11/89, 8:00 am, 24–HOB
04/11/89 HOUSE Preliminary Committee Action by Highway Safety & Construction: Favorable
04/14/89 HOUSE Comm. Report: Favorable by Highway Safety & Construction, placed on Calendar —HJ 232
04/25/89 HOUSE Placed on Special Order Calendar; Read second time —HJ 269
04/27/89 HOUSE Read third time; Passed; YEAS 107 NAYS 0 —HJ 278
04/28/89 SENATE In Messages
05/05/89 SENATE Received, referred to Transportation; Finance, Taxation and Claims —SJ 269
05/12/89 SENATE Extension of time granted Committee Transportation
05/26/89 SENATE Extension of time granted Committee Transportation
06/01/89 SENATE Withdrawn from Transportation; Finance, Taxation and Claims —SJ 778; Substituted for CS/SB 275; Passed; YEAS 34 NAYS 0 —SJ 779
06/01/89 House Ordered enrolled
06/13/89 House Signed by Officers and presented to Governor
06/15/89 Senate Approved by Governor; Chapter No. 89–43

NOTES: Above bill history from Division of Legislative Information's FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.
I. SUMMARY:

Amends section 320.03, F.S., to prohibit the use of the state name or a county name by any person, firm or corporation, through advertising or naming of a business, when such use causes the public to interpret same as an official state or county office.

A. PRESENT SITUATION:

Currently, there are no provisions restricting a person, firm or corporation from using the state or county name, in advertising or as part of their business name, when such use could be interpreted to mean they are authorized agents of the Department of Highway Safety and Motor Vehicles.

B. EFFECT OF PROPOSED CHANGES:

Prohibits any person, firm or corporation from representing itself as an authorized agent of a county tax collector or the Department of Highway Safety and Motor Vehicles. Persons, firms or corporations found in violation of this act shall be guilty of an unfair and deceptive trade practice as defined in the Florida Deceptive and Unfair Trade Practices Act (Part II of Chapter 501, Florida Statutes).
II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:
   1. Non-recurring or First Year Start-Up Effects:
      None.
   2. Recurring or Annualized Continuation Effects:
      None.
   3. Long Run Effects Other Than Normal Growth:
      None.
   4. Appropriations Consequences:
      None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:
   1. Non-recurring or First Year Start-Up Effects:
      None.
   2. Recurring or Annualized Continuation Effects:
      None.
   3. Long Run Effects Other Than Normal Growth:
      None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
   1. Direct Private Sector Costs:
      None.
   2. Direct Private Sector Benefits:
      None.
   3. Effects on Competition, Private Enterprise, and Employment Markets:
      None.

D. FISCAL COMMENTS:
   None.

III. LONG RANGE CONSEQUENCES:
   None.
IV. COMMENTS:

A. A violator of the "Florida Deceptive and Unfair Trade Practices Act" is liable for a civil penalty of not more than $5,000 for each such violation. A civil penalty so collected is deposited into the General Revenue Fund.

B. Legislative History:

1. Enacted Bill:

   House Highway Safety and Construction Committee: HB 85 was reported favorably.

   House Chamber: Passed.

   Senate Chamber: HB 85 was substituted for CS/SB 275, and passed.

2. Companion Bill:

   Senate Transportation Committee: Adopted a committee substitute for SB 275.

   Senate Finance, Taxation and Claims: Withdrawn.

   Senate Chamber: CS/SB 275 was laid on table, and HB 85 was substituted and passed.

V. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Lois Watson

Staff Director: Bill Ham
I. SUMMARY:

A. Present Situation:

The Department of Highway Safety and Motor Vehicles is the state agency responsible for registering motor vehicles. Pursuant to s. 320.03, F.S., county tax collectors function as authorized agents of the department for the purposes of motor vehicle registration. The tax collectors are the only agents authorized to administer the registration provisions of the statutes. However, Dade County is authorized by a special act of the Legislature to employ private tag agents. According to the department, there are currently 24 private agencies authorized to perform registration functions by the Dade County Commission. These private agencies are agents of the Dade County Tax Collector, but are not authorized agents of the department.

Part II of chapter 501, F.S., defines unfair and deceptive trade practices in the disposition of goods, intangibles, and consumer services. Pursuant to the chapter, the penalties for engaging in unfair and deceptive trade practices include declaratory judgments, injunctions, damages, civil penalties, cease and desist orders, and the awarding of attorney's fees and court costs.

Currently, there is no provision in the statutes providing that it is an unfair and deceptive trade practice to represent oneself as an authorized agent of the Department of Highway Safety and Motor Vehicles.

B. Effect of Proposed Changes:

The bill amends s. 320.03, F.S., to prohibit any person, firm, or corporation from using either the state or county name if such use could reasonably be interpreted as falsely designating the business as an official state or county office. In addition, the bill provides that any person, firm, or corporation representing itself, through advertising or naming of the business, to be an authorized agent of the Department of Highway Safety and Motor Vehicles would be deemed guilty of an unfair and deceptive trade practice as defined in Part II of chapter 501.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Businesses that have names which could be interpreted as designating the business as an official state or county office would be subject to various penalties under chapter 501, F.S. In addition, such a business that is required to change its
name would experience administrative costs associated with the name change.

The provision of the bill which prohibits the deceptive use of the state's name or a county name could result in cost savings to individuals who might otherwise be deceived into purchasing unnecessary services.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.