

1989

Session Law 89-259

Florida Senate & House of Representatives

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H 395 GENERAL BILL/CS/2ND ENG by Regulated Industries; Sindler and others (Similar S 440)

Cigarettes & Tobacco Products/Minors; requires posting of sign in certain places of business which states that sale of cigarettes & tobacco products to minors is prohibited; provides for enforcement; provides penalty. Creates 859.061. Appropriation: \$100,000. Effective Date: 10/01/89.

02/23/89 HOUSE Prefiled
02/28/89 HOUSE Referred to Regulated Industries; Appropriations
03/07/89 HOUSE Subreferred to Subcommittee on Alcoholic Beverages
04/04/89 HOUSE Introduced, referred to Regulated Industries; Appropriations -HJ 45; Subreferred to Subcommittee on Alcoholic Beverages; On Committee agenda—Regulated Industries, 04/05/89, 1:15 pm, 212-HOB—For ratification to subcommittee; On subcommittee agenda—Regulated Industries, 04/06/89, 3:30 pm, 212-HOB
04/06/89 HOUSE Subcommittee Recommendation: Favorable with 2 amendments; On Committee agenda, pending subcommittee action—Regulated Industries, 04/10/89, 3:30 pm, 212-HOB
04/10/89 HOUSE Preliminary Committee Action by Regulated Industries: Favorable as a CS
04/19/89 HOUSE Comm. Report: CS by Regulated Industries -HJ 249; CS read first time -HJ 248; Now in Appropriations -HJ 249; Subreferred to Subcommittee on General Government
05/08/89 HOUSE On Committee agenda—Appropriations, 05/10/89, 8:00 am, 21-HOB
05/10/89 HOUSE Preliminary Committee Action by Appropriations: Favorable with 2 amendments
05/19/89 HOUSE Comm. Report: Favorable with 2 amendment(s) by Appropriations, placed on Calendar -HJ 551; Placed on Special Order Calendar
05/29/89 HOUSE Read second time -HJ 713; Amendments adopted; Read third time; CS passed as amended; YEAS 96 NAYS 4 -HJ 714
05/29/89 SENATE In Messages
05/31/89 SENATE Received, referred to Regulated Industries; Appropriations -SJ 620
06/01/89 SENATE Withdrawn from Regulated Industries; Appropriations; Substituted for SB 440 -SJ 795; CS passed as amended; YEAS 34 NAYS 0 -SJ 796
06/01/89 HOUSE In Messages
06/02/89 HOUSE Concurred; CS passed as further amended; YEAS 115 NAYS 0 -HJ 1139
06/02/89 Ordered engrossed, then enrolled
06/20/89 Signed by Officers and presented to Governor
07/03/89 Approved by Governor; Chapter No. 89-259

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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.

****AS PASSED BY THE 1989 LEGISLATURE****

STORAGE NAME: wp\sa\h0395-f.ri
DATE: June 28, 1989

**HOUSE OF REPRESENTATIVES
COMMITTEE ON REGULATED INDUSTRIES
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 395

RELATING TO: Sale of Tobacco Products/requirements

SPONSOR: Representative Sindler

EFFECTIVE DATE: October 1, 1989

CHAPTER #: 89-259, Laws of Florida

DATE BECAME LAW: July 3, 1989

COMPANION BILL: SB 440

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

I. SUMMARY:

This bill requires retailers to post a sign at their business establishments stating that Florida law prohibits the sale of cigarettes or other tobacco products to persons under 18 years of age. The Department of Business Regulation (DBR) shall make the sign available to the retailer and charge \$1 per sign. The DBR is responsible for implementing and enforcing the provisions of this act. Anyone violating this provision is guilty of a misdemeanor of the second degree.

A. PRESENT SITUATION:

The sale of tobacco products and cigarette wrappers to minors is prohibited in s. 859.06, F.S., the Poisons; Adulterated Drugs chapter. Violation of this section is a misdemeanor of the second degree.

The DBR is responsible for wholesale tobacco licensing, regulation and enforcement, and tax collection under ch. 210, F.S., and they have no direct authority under Ch. 859, F.S.

B. EFFECT OF PROPOSED CHANGES:

This bill amends s. 859.06, F.S., to require each tobacco retail dealer to conspicuously display a sign in his place of business. Place of business, as described in s. 210.01, F.S., includes any location where tobacco products are sold. Therefore, each tobacco vending machine as well as each retail store would be required to post the following sign:

"The sale of cigarettes and all tobacco products to persons under the age of 18 is against Florida Law

The retailer is required to display the above-worded sign, and the DBR is required to provide the sign at a cost to the retailer of \$1 per sign. The DBR is responsible for implementing and enforcing the statute.

II FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT: FY 89-90 FY 90-91

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

EXPENDITURES:

Department of Business Regulation

Expenses	\$ 94,900	\$ 15,000
Service Charge to General Revenue	<u>5,100</u>	<u>1,500</u>
Total	\$100,000	\$ 16,500

REVENUES:

Sign sales	85,000	25,000
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3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

EXPENDITURES:

Alcoholic Beverage Trust Fund	100,000	16,500
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REVENUES:

Alcoholic Beverage Trust Fund	85,000	25,000
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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:

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Retailers selling tobacco products would be required to post the signs. The DBR licenses tobacco wholesalers and can only estimate what percentage of retailers would be affected.

2. Direct Private Sector Benefits:

There is a possibility that some retailer might deter an underage individual from attempting to purchase tobacco products when underage individuals become aware that identification is required by the retailer before selling the tobacco product.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

Distribution of the signs at \$1.00 each would cover costs and expenses.

The DBR states that the anticipated useful life will be three years, and the estimated annual replacement of signs and furnishing new businesses will cost \$40,000.

The DBR does not anticipate employing additional staff.

III. LONG RANGE CONSEQUENCES:

In accordance with s. 187.201(2), F.S., the State Comprehensive Plan, pertaining to children, states that Florida shall provide programs sufficient to protect the health, safety and welfare of all its children. Section 187.201(12) of the Plan requires the promotion of education programs to increase awareness in children of the damage to their minds and bodies caused from the use of alcohol, drugs and tobacco.

Section 187.201(11)(n), F.S., pertaining to practices leading to "lifestyle illness" such as smoking-related cancers, substance abuse, etc., should be discouraged.

IV. COMMENTS:

The Committee on Regulated Industries Missions Statement nor the House of Representatives Policy Statement makes reference to tobacco.

Neither the DBR nor the Governor's Office have a position on the bill at this time.

Statement of Substantial Changes

House Bill 395 was originally amended in the Committee on Regulated Industries to require the retailer to post a sign, however, the DBR had an option as to whether it would provide the sign. If the DBR opted to provide the sign, they were

required to charge \$1 per sign. The criminal violations for not posting the sign were removed. The Full Committee passed HB 395 as a Committee Substitute and forwarded it to Appropriations. Appropriations further amended the bill to include an appropriation for the cost of providing the signs. Once CS/HB 395 reached the Floor, the sponsor offered a substitute amendment to the amendments placed on it in the Appropriations Committee which placed the criminal violation back in the bill, deleted any reference to the DBR furnishing the sign and included the appropriation added on in the Appropriations Committee. The House passed the sponsor's amended bill and it was forwarded to the Senate. The Senate amended the bill to require the DBR to furnish the signs at a cost of \$1 and returned the bill to the House. The appropriation was increased from the House's request of \$96,000 to the Senate's request of \$100,000 for the first year of operation. The House concurred.

Legislative History 1989 Session

A. Enacted Bill

House Bill 395 was introduced April 4, 1989, and referred to the Committees on Regulated Industries and Appropriations; and sub-referred to the Subcommittee on Alcoholic Beverages of Regulated Industries (HJ 00045). The Subcommittee recommended the bill April 6 with 2 amendments and the Full Committee passed it as a Committee Substitute April 10 and forwarded it to Appropriations (HJ 0249). Appropriations passed the bill with two more amendments May 19 and placed it first on the Calendar and then the Special Order Calendar (HJ 0551). The bill with two amendments passed the House 96-4 (HJ 0714) May 29 and was forwarded to the Senate. CS/HB 395 was referred to the Senate Committees on Regulated Industries and Appropriations on May 31 and withdrawn June 1, and substituted on the Calendar for SB 440 (SJ 0795). The Senate passed CS/HB 395 with amendments 34-0 (SJ 0796) and returned it to the House. The House concurred in the Senate's amendment 115-0 (HJ 1139), and the bill was forwarded to the Governor for signature.

B. Disposition of Companion

Senate Bill 440 was introduced and referred to the Committees on Regulated Industries and Appropriations (SJ 00044). Regulated Industries passed the bill April 19 with 1 amendment (SJ 0198) and forwarded it to Appropriations April 21 (SJ 0198). Appropriations passed the bill out with 2 amendments (one is a title amendment). SB 440 was placed on the Calendar (SJ 0402) May 18, placed on Special Order (SJ 0618) May 31, and on June 1 SB 440 was laid on the table under the Rule and HB CS/HB 395 passed.

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V. SIGNATURES:

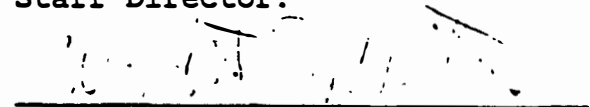
SUBSTANTIVE COMMITTEE:

Prepared by:



Eran C. Poppell

Staff Director:



Wyatt T. Martin

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Skelton</u>	<u>Skelton</u>	1. <u>RI</u>	<u>Fav/1 amend</u>
2. <u>Barrett</u>	<u>Smith</u>	2. <u>AP</u>	<u>Fav/2 amend</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Sale of cigarette and tobacco products to underage persons

BILL NO. AND SPONSOR:

SB 440 by Senator Gardner

I. SUMMARY:

A. Present Situation:

The sale of cigarettes and tobacco products to persons under the age of 18 is against Florida law (Section 859.06, F.S.).

The Department of Business Regulation is responsible for wholesale tobacco licensing, regulation and enforcement, and tax collection under Florida Statutes, chapter 210.

B. Effect of Proposed Changes:

This bill creates a new section, 859.061, Florida Statutes, to require retail dealers or owners of places of businesses where cigarettes and tobacco products are sold to post a "clear and conspicuous sign" in the place of business which states:

THE SALE OF CIGARETTES AND ALL TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW (Section 859.06, Florida Statutes). PROOF OF AGE IS REQUIRED FOR PURCHASE

This bill would also require signs to be posted on tobacco vending machines as defined in s. 210.01, Florida Statutes.

Violation of this section will be a second degree misdemeanor.

This bill would become effective October 1, 1989.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The Department of Business Regulation estimates that there are 30,000 retailers and 50,000 vending machines for tobacco products in the state. The retailers will incur costs pursuant to the number of signs they are required to post as a result of the provisions of this bill.

B. Government:

Costs incurred by the department are undeterminable and would be absorbed in their present budget.

III. COMMENTS:

None.

IV. AMENDMENTS:

#1 by Regulated Industries: States that the Department of Business Regulation will make signs available and will charge retailers \$1.00 per sign.

REVISED: May 18, 1989

BILL NO. SB 440

DATE: May 17, 1989

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#1 by Appropriations:

Appropriates \$100,000 from the Alcoholic Beverage and Tobacco Trust Fund to the Department of Business Regulation, Division of Alcoholic Beverages and Tobacco for FY 1989-90.

#2 by Appropriations:

Title Amendment.