

2008

Session Law 08-184

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Sess. Law # <u>2008-184</u>	Sec. #	LOF cite
Prime Bill # <u>HR 173</u>	Comp./Sim. Bills <u>SB 390</u>	
JLHC Hist. Cites	Senate House	Comms. of Ref. Senate <u>Crim Justice, Justice</u> House <u>Law Enforcement, Security, Res.</u>

COMMITTEE RECORDS

H/S	Committee	Year	Record Series: Folder title, etc.	Loc. Cite	✓
H	Home Sec	08	BILL FILES: <u>(H 173)</u>	19/3350	✓
			Meeting 2/6/08 - H 173	19/3349	X
H	Safety & Sec	08	BILL FILES	19/3501	✓
			No meeting FILES	19/3357	✓
H	Policy + Bus	08	BILL FILES	19/336?	X
			Meeting 3/11/08	19/3370	X
S	CJ	08	<u>(S 390)</u> BF	18/29.2	
			Meeting 4/1/08	18/29.1	X
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Senate/House Journals

Page #	?	Date	Page #	?	Date

Committee/Floor Tapes

H/S	c/f	Committee/subcommittee name	Date	#	Location Cite

Other Documentation

Record Series Title, folder title, etc.	Location Cite
S Juv. BF (SB 390)	18/2941
Meeting 4/10/08	18/2946

HISTORY OF HOUSE BILLS

H 165 (CONTINUED)

04/04/08 HOUSE On Council agenda—Government Efficiency & Accountability Council, 04/08/08, 9 00 am, 404—H—Not considered

04/07/08 HOUSE On Council agenda—Government Efficiency & Accountability Council, 04/09/08, 8 00 am, Morris Hall

04/09/08 HOUSE CS by Government Efficiency & Accountability Council, YEAS 12 NAYS 0 —HJ 00517

04/14/08 HOUSE CS read 1st time on 04/14/08 —HJ 00505, CS filed

04/15/08 HOUSE Referred to— Calendar —HJ 00525

04/24/08 HOUSE Placed on Special Order Calendar, Read 2nd time —HJ 00838, Amendment(s) adopted —HJ 00839

04/25/08 HOUSE Read 3rd time —HJ 00878, CS passed as amended, YEAS 112 NAYS 0 —HJ 00878

04/25/08 SENATE In Messages, Received, referred to Governmental Operations, General Government Appropriations - SJ 00858, Withdrawn from Governmental Operations, General Government Appropriations —SJ 00837, Substituted for CS/CS/SE 498 —SJ 00837, Read 2nd time —SJ 00837

04/28/08 SENATE Read 3rd time —SJ 00864, Amendment(s) adopted (825658) —SJ 00864, CS passed as amended (825658), YEAS 35 NAYS 0 —SJ 00865

04/28/08 HOUSE In returning messages

05/01/08 HOUSE Concurred —HJ 01699, CS passed as amended, YEAS 118 NAYS 0 —HJ 01699, Ordered engrossed, then enrolled —HJ 01699

06/11/08 Signed by Officers and presented to Governor

06/17/08 Approved by Governor, Chapter No 2008—183

H 167 GENERAL BILL/CS/1ST ENG by Economic Expansion & Infrastructure Council; Cretul; (CO-SPONSORS) Holder; Nehr; Precourt (Similar CS/CS/S 0544, Compare CS/CS/H 1329, CS/CS/CS/2ND ENG/S 1992)

Temporary Motor Vehicle License Tags [EPCC], Revises provisions for placement of temporary tags on vehicles, revises provisions for implementation of electronic, print-on-demand, temporary tag issuance system, authorizes certain motor vehicle dealers to charge fee in certain circumstances, authorizes limited use of backup manual issuance method, authorizes department to adopt rules, etc Effective Date 05/28/2008

09/28/07 HOUSE Filed

10/12/07 HOUSE Referred to Economic Expansion & Infrastructure Council, Policy & Budget Council, Referred to Infrastructure (EEI) by Economic Expansion & Infrastructure Council

02/14/08 HOUSE On Committee agenda—Infrastructure (EEI), 02/21/08, 1 30 pm, 404—H

02/21/08 HOUSE Favorable with 1 amendment(s) by Infrastructure (EEI), YEAS 8 NAYS 0

03/04/08 HOUSE Introduced, referred to Economic Expansion & Infrastructure Council, Policy & Budget Council —HJ 00018, Referred to Infrastructure (EEI) by Economic Expansion & Infrastructure Council —HJ 00127, On Committee agenda—Infrastructure (EEI), 02/21/08, 1 30 pm, 404—H, Favorable with 1 amendment(s) by Infrastructure (EEI), YEAS 8 NAYS 0 —HJ 00192

03/05/08 HOUSE Now in Economic Expansion & Infrastructure Council —HJ 00192

04/09/08 HOUSE On Council agenda—Economic Expansion & Infrastructure Council, 04/11/08, 8 00 am, 404—H

04/11/08 HOUSE CS by Economic Expansion & Infrastructure Council, YEAS 14 NAYS 0 —HJ 00567

04/16/08 HOUSE CS read 1st time on 04/16/08 —HJ 00563, CS filed

04/17/08 HOUSE Now in Policy & Budget Council —HJ 00680

04/23/08 HOUSE Withdrawn from Policy & Budget Council —HJ 00779, Placed on Calendar

04/25/08 HOUSE Placed on Special Order Calendar, Read 2nd time —HJ 00941, Amendment(s) adopted —HJ 00941

04/28/08 HOUSE Read 3rd time —HJ 00986, CS passed as amended, YEAS 112 NAYS 0 —HJ 00987

04/28/08 SENATE In Messages, Received, referred to Transportation, Governmental Operations, Transportation and Economic Development Appropriations —SJ 00930, Withdrawn from Transportation, Governmental Operations, Transportation and Economic Development Appropriations —SJ 00865, Substituted for CS/CS/SE 544 —SJ 00865, Read 2nd time —SJ 00865, Read 3rd time —SJ 00865, CS passed, YEAS 36 NAYS 0 —SJ 00865

04/28/08 HOUSE Ordered enrolled —HJ 01025

05/16/08 Signed by Officers and presented to Governor

05/28/08 Approved by Governor, Chapter No 2008—71, See also CS/CS/CS/SB 1992 (Ch 2008—176)

H 169 JOINT RESOLUTION by Lopez-Cantera (Identical S 0438, Compare H 0805)

Elected Property Appraisers Required, Proposes amendment to s 1, Art VIII of State Constitution to require each county to have elected property appraiser as county officer & eliminate options for choosing property appraiser in any other manner as provided by county charter or special law approved by vote of electors of county or abolishing office of property appraiser when all duties of office prescribed by general law are transferred to another office

09/28/07 HOUSE Filed

10/12/07 HOUSE Referred to Government Efficiency & Accountability Council, Policy & Budget Council

11/08/07 HOUSE Withdrawn from Government Efficiency & Accountability Council, Policy & Budget Council, Withdrawn prior to introduction —HJ 00018

H 171 GENERAL BILL/CS by Government Efficiency & Accountability Council; Hooper; (CO-SPONSORS) Bullard; Ford; Heller; Holder; Hukill; Kiar; Kreegel; Nehr; Richardson; Roberson; Scionti; Weatherford (Similar CS/S 0976, Compare H 0027, S 0218)

Firefighter and Municipal Police Pensions, Revises definitions for purposes of determining prior service credit, authorizes terms of office for boards of trustees of pension & retirement trust funds to be revised under certain circumstances, authorizes trust fund plan administrators to withhold funds for payment of insurance premiums, provides exemption from liability, requires board of trustees to perform powers subject to certain fiduciary standards & ethics provisions, etc Effective Date 07/01/2008

10/02/07 HOUSE Filed

10/12/07 HOUSE Referred to Government Efficiency & Accountability Council, Policy & Budget Council

11/29/07 HOUSE Referred to Urban & Local Affairs (GEA) by Government Efficiency & Accountability Council

03/04/08 HOUSE Introduced, referred to Government Efficiency & Accountability Council, Policy & Budget Council —HJ 00018, Referred to Urban & Local Affairs (GEA) by Government Efficiency & Accountability Council —HJ 00128

03/17/08 HOUSE On Committee agenda—Urban & Local Affairs (GEA), 03/19/08, 8 30 am, 306—H

03/19/08 HOUSE Favorable with 1 amendment(s) by Urban & Local Affairs (GEA), YEAS 8 NAYS 0 —HJ 00308, Now in Government Efficiency & Accountability Council —HJ 00308

04/14/08 HOUSE On Council agenda—Government Efficiency & Accountability Council, 04/16/08, 9 00 am, Morris Hall

04/16/08 HOUSE CS by Government Efficiency & Accountability Council, YEAS 14 NAYS 0 —HJ 00692

04/21/08 HOUSE CS read 1st time on 04/21/08 —HJ 00687

04/18/08 HOUSE CS filed

05/02/08 HOUSE Died pending review of CS

H 173 GENERAL BILL/CS by Safety & Security Council; N. Thompson, (CO-SPONSORS) Attkisson; Carroll; Dorworth; Harrell; Hasner; Holder; Hooper; Hudson; Kelly; Kiar; Kravitz; Legg; Nehr; Patronis; Precourt; Proctor; Schenck; Scionti; Snyder; Zapata (Identical CS/S 0390)

Controlled Substances [LFCC], Defines “cultivating” for specified purposes, prohibits owning, leasing, or possessing place, structure, trailer, or other described place with knowledge that it will be used to manufacture, sell, or traffic in controlled substance, provides that possession of specified number or more of cannabis plants is prima facie evidence of intent to sell or distribute etc Effective Date 07/01/2008

10/02/07 HOUSE Filed

10/12/07 HOUSE Referred to Safety & Security Council, Policy & Budget Council

10/23/07 HOUSE Referred to Homeland Security & Public Safety (SS) by Safety & Security Council

01/30/08 HOUSE On Committee agenda—Homeland Security & Public Safety (SS), 02/06/08, 1 00 pm, Reed Hall

02/06/08 HOUSE Favorable with 1 amendment(s) by Homeland Security & Public Safety (SS), YEAS 8 NAYS 1, Now in Safety & Security Council

03/03/08 HOUSE On Council agenda—Safety & Security Council, 03/05/08, 10 00 am, Reed Hall

03/04/08 HOUSE Introduced, referred to Safety & Security Council, Policy & Budget Council —HJ 00019, Referred to Homeland Security & Public Safety (SS) by Safety & Security Council —HJ 00128, On Committee agenda—Homeland Security & Public Safety (SS), 02/06/08, 1 00 pm, Reed Hall, Favorable with 1 amendment(s) by Homeland Security & Public Safety (SS), YEAS 8 NAYS 1 —HJ 00140, Now in Safety & Security Council —HJ 00140, On Council agenda—Safety & Security Council, 03/05/08, 10 00 am, Reed Hall

03/05/08 HOUSE CS by Safety & Security Council, YEAS 15 NAYS 0 —HJ 00214

HISTORY OF HOUSE BILLS

H 173 (CONTINUED)

- 03/07/08 HOUSE CS read 1st time on 03/07/08 –HJ 00212, CS filed, Now in Policy & Budget Council –HJ 00214, –HJ 00218, On Council agenda—Policy & Budget Council, 03/11/08, 1 00 pm, 212-K
- 03/11/08 HOUSE Favorable by—Policy & Budget Council, YEAS 33 NAYS 0 –HJ 00283, Placed on Calendar –HJ 00283
- 04/02/08 HOUSE Placed on Special Order Calendar, Read 2nd time –HJ 00373, Read 3rd time –HJ 00392, CS passed, YEAS 115 NAYS 1 –HJ 00392
- 04/09/08 SENATE In Messages –SJ 00519
- 04/29/08 SENATE Received, referred to Criminal Justice, Judiciary –SJ 00973
- 04/30/08 SENATE Withdrawn from Criminal Justice, Judiciary –SJ 01079, Substituted for CS/SB 390 –SJ 01079, Read 2nd time –SJ 01079
- 05/01/08 SENATE Read 3rd time –SJ 01099, CS passed, YEAS 36 NAYS 0 –SJ 01099
- 05/01/08 HOUSE Ordered enrolled –HJ 01819
- 06/11/08 Signed by Officers and presented to Governor
- 06/17/08 Approved by Governor; Chapter No 2008-184

H 175 GENERAL BILL by Brise; (CO-SPONSORS) Brandenburg (Identical S 0268, Compare H 0357, S 1286, S 1314)

- Use of Cellular Telephones, Prohibits use of cellular telephone while operating motor vehicle except when using headset or hands-free device, provides exemptions, provides penalty, provides for enforcement only as secondary offense Effective Date 07/01/2008
- 10/03/07 HOUSE Filed
- 10/12/07 HOUSE Referred to Economic Expansion & Infrastructure Council, Referred to Infrastructure (EEI) by Economic Expansion & Infrastructure Council
- 03/04/08 HOUSE Introduced, referred to Economic Expansion & Infrastructure Council –HJ 00019, Referred to Infrastructure (EEI) by Economic Expansion & Infrastructure Council –HJ 00128
- 05/02/08 HOUSE Died in Committee on Infrastructure (EEI)

H 177 GENERAL BILL by Richter; (CO-SPONSORS) Aubuchon; Bean; Flores; Hasner; Hudson; Hukill; Nehr; Nelson; Snyder; Waldman; Williams; Zapata (Identical S 0664)

- Proposed Property Tax Notices, Revises form of notice of proposed property taxes to include specified millage rates Effective Date 01/01/2009
- 10/04/07 HOUSE Filed
- 10/12/07 HOUSE Referred to Government Efficiency & Accountability Council, Policy & Budget Council
- 11/29/07 HOUSE Referred to State Affairs (GEA) by Government Efficiency & Accountability Council
- 02/13/08 HOUSE On Committee agenda—State Affairs (GEA), 02/20/08, 2 30 pm, Morris Hall
- 02/20/08 HOUSE Favorable by State Affairs (GEA), YEAS 7 NAYS 0
- 03/04/08 HOUSE Introduced, referred to Government Efficiency & Accountability Council, Policy & Budget Council –HJ 00019, Referred to State Affairs (GEA) by Government Efficiency & Accountability Council –HJ 00128, On Committee agenda—State Affairs (GEA), 02/20/08, 2 30 pm, Morris Hall, Favorable by State Affairs (GEA), YEAS 7 NAYS 0 –HJ 00207
- 03/06/08 HOUSE Now in Government Efficiency & Accountability Council –HJ 00207
- 03/17/08 HOUSE On Council agenda—Government Efficiency & Accountability Council, 03/19/08, 9 45 am, Morris Hall
- 03/19/08 HOUSE Favorable by Government Efficiency & Accountability Council, YEAS 10 NAYS 0 –HJ 00313
- 03/20/08 HOUSE Now in Policy & Budget Council –HJ 00313
- 03/21/08 HOUSE On Council agenda—Policy & Budget Council, 03/25/08, 1 00 pm, 212-K
- 03/25/08 HOUSE Favorable by—Policy & Budget Council, YEAS 29 NAYS 0 –HJ 00344, Placed on Calendar –HJ 00344
- 04/22/08 HOUSE Placed on Special Order Calendar, Read 2nd time –HJ 00701
- 04/23/08 HOUSE Read 3rd time –HJ 00724, Passed, YEAS 117 NAYS 0 –HJ 00724
- 04/23/08 SENATE In Messages
- 05/02/08 SENATE Died in Messages

H 179 GENERAL BILL by Holder; (CO-SPONSORS) Anderson; Attkisson; Frishe; Kendrick; McKeel; Murzin; Patronis; Poppell; Richter; Robains; Troutman; Williams (Identical S 0432)

- Placement of Vessels/Artificial Reefs, Provides legislative findings with respect to state's artificial reef program, authorizes planning & development of statewide matching grant program to secure & place U S Maritime Administration & U S Navy decommissioned vessels in specified waters as artificial reefs, provides for administration of program by FWCC, provides for

H 179 (CONTINUED)

- implementation of program subject to appropriations, provides objectives of program, etc Effective Date Upon becoming law
- 10/05/07 HOUSE Filed
- 10/12/07 HOUSE Referred to Environment & Natural Resources Council, Policy & Budget Council
- 10/16/07 HOUSE Referred to Conservation & State Lands (ENR) by Environment & Natural Resources Council
- 12/05/07 HOUSE On Committee agenda—Conservation & State Lands (ENR), 12/12/07, 8 00 am, 216-C
- 12/12/07 HOUSE Favorable by Conservation & State Lands (ENR), YEAS 8 NAYS 0, Now in Environment & Natural Resources Council
- 03/04/08 HOUSE Introduced, referred to Environment & Natural Resources Council, Policy & Budget Council –HJ 00019, Referred to Conservation & State Lands (ENR) by Environment & Natural Resources Council –HJ 00128, On Committee agenda—Conservation & State Lands (ENR), 12/12/07, 8 00 am, 216-C, Favorable by Conservation & State Lands (ENR), YEAS 8 NAYS 0 –HJ 00138, Now in Environment & Natural Resources Council –HJ 00138
- 04/07/08 HOUSE On Council agenda—Environment & Natural Resources Council, 04/09/08, 8 00 am, 404-H
- 04/09/08 HOUSE Favorable by Environment & Natural Resources Council, YEAS 14 NAYS 0 –HJ 00458, Now in Policy & Budget Council –HJ 00458
- 05/02/08 HOUSE Died in Policy & Budget Council, Link/Iden/Sim/Compare passed, refer to SB 432 (Ch 2008-100)

H 181 GENERAL BILL by Harrell; (CO-SPONSORS) Homan (Compare CS/CS/CS/S 0392, S 2476, CS/S 2648)

- State and Local Government Spending, Requires DOS to create & manage free website disclosing certain spending by state & local governmental entities under certain contracts, provides requirements concerning content of website, provides exemption for public records that are not subject to disclosure Effective Date 07/01/2008
- 10/08/07 HOUSE Filed
- 10/12/07 HOUSE Referred to Government Efficiency & Accountability Council, Policy & Budget Council
- 11/29/07 HOUSE Referred to Audit & Performance (GEA) by Government Efficiency & Accountability Council
- 01/02/08 HOUSE On Committee agenda—Audit & Performance (GEA), 01/09/08, 1 00 pm, 404-H
- 01/09/08 HOUSE Favorable with 1 amendment(s) by Audit & Performance (GEA), YEAS 6 NAYS 0, Now in Government Efficiency & Accountability Council
- 03/04/08 HOUSE Introduced, referred to Government Efficiency & Accountability Council, Policy & Budget Council –HJ 00019, Referred to Audit & Performance (GEA) by Government Efficiency & Accountability Council –HJ 00128, On Committee agenda—Audit & Performance (GEA), 01/09/08, 1 00 pm, 404-H, Favorable with 1 amendment(s) by Audit & Performance (GEA), YEAS 6 NAYS 0 –HJ 00138, Now in Government Efficiency & Accountability Council –HJ 00138
- 04/21/08 HOUSE On Council agenda—Government Efficiency & Accountability Council, 04/22/08, 10 00 am, 404-H—Temporarily deferred
- 05/02/08 HOUSE Died in Government Efficiency & Accountability Council

H 183 CLAIMS/LOCAL BILL by Jenne; (CO-SPONSORS) Gibbons (Similar S 0060)

- Relief/Adnan Fuentes/South Broward Hospital Dist., Provides for relief of Adnan Fuentes, a minor, by & through his parents & natural guardians, Luz Fuentes & Jose Fuentes, provides for an appropriation to compensate him for injuries & damages sustained as result of negligence of South Broward Hospital District, d/b/a Memorial Hospital Primary Care Center, provides limitation on payment of attorney's fees, lobbying fees, costs, & other similar expenses related to the claim Claim \$1,600,000 Effective Date Upon becoming law
- 10/10/07 HOUSE Filed
- 11/09/07 HOUSE Referred to Healthcare Council
- 03/04/08 HOUSE Introduced, referred to Healthcare Council –HJ 00019
- 04/15/08 HOUSE On Council agenda—Healthcare Council, 04/17/08, 8 30 am, Morris Hall
- 04/17/08 HOUSE Favorable by—Healthcare Council, YEAS 17 NAYS 0 –HJ 00681
- 04/18/08 HOUSE Placed on Calendar –HJ 00681
- 05/02/08 HOUSE Died on Calendar, Link/Iden/Sim/Compare passed, refer to SB 60 (Ch 2008-265)

HISTORY OF SENATE BILLS

S 376 (CONTINUED)

conveyances between spouses, etc Effective Date 07/01/2008
 09/28/07 SENATE Filed
 12/13/07 SENATE Referred to Judiciary, Finance and Tax, General Government Appropriations
 03/04/08 SENATE Introduced, referred to Judiciary, Finance and Tax, General Government Appropriations –SJ 00026
 06/02/08 SENATE Died in Committee on Judiciary

S 378 GENERAL BILL by Crist, (CO-INTRODUCERS) Bullard

Urban Revitalization Congress [RPCC], Creates the Urban Revitalization Congress within the Executive Office of the Governor to foster leadership and provide resources and support to economically energize the state's urban centers, etc Appropriation Effective Date 07/01/2008
 10/01/07 SENATE Filed
 12/13/07 SENATE Referred to Community Affairs, Commerce, Transportation and Economic Development Appropriations
 03/04/08 SENATE Introduced, referred to Community Affairs, Commerce, Transportation and Economic Development Appropriations –SJ 00026
 05/02/08 SENATE Died in Committee on Community Affairs

S 380 GENERAL BILL/CS by Commerce; Fasano (Similar CS/H 0217)

Tax Exemption/Fractional Aircraft Ownership Prog [EPCC], Defines "fractional aircraft ownership program" as a program that meets specified federal requirements, except that the program must include a minimum of 25 aircraft owned or leased by the business or affiliated group providing the program Provides exemptions for the sale or use of an aircraft for primary use in a fractional aircraft ownership program, etc Effective Date 07/01/2008
 10/01/07 SENATE Filed
 12/13/07 SENATE Referred to Commerce, Finance and Tax, General Government Appropriations
 02/11/08 SENATE On Committee agenda—Commerce, 02/19/08, 1 45 pm, 401-S
 02/19/08 SENATE CS by Commerce, YEAS 7 NAYS 1
 02/21/08 SENATE Pending reference review under Rule 4 7(2)
 03/04/08 SENATE Introduced, referred to Commerce, Finance and Tax, General Government Appropriations –SJ 00026, On Committee agenda—Commerce, 02/19/08, 1 45 pm, 401-S, CS by Commerce, YEAS 7 NAYS 1 –SJ 00131, CS read 1st time on 03/04/08 –SJ 00124, Pending reference review under Rule 4 7(2)
 03/06/08 SENATE Now in Finance and Tax –SJ 00131
 05/02/08 SENATE Died in Committee on Finance and Tax

S 382 GENERAL BILL by Baker (Identical H 0249, Compare CS/CS/CS/2ND ENG/S 1992)

School Zone Signs [EPCC], Requires that "speeding fines are doubled in school zones" be printed on any school zone sign erected on or after July 1, 2008, etc Effective Date 07/01/2008
 10/01/07 SENATE Filed
 12/13/07 SENATE Referred to Transportation
 03/04/08 SENATE Introduced, referred to Transportation –SJ 00026
 05/02/08 SENATE Died in Committee on Transportation, Link/Iden/Sim/Compare passed, refer to CS/CS/CS/SB 1992 (Ch 2008-176)

S 384 GENERAL BILL by Fasano

Restitution/Criminal Cases [LPCC], Requires that the restitution awarded to the victim of a crime be credited against any independent civil award to the extent that the restitution is actually collected by the victim, etc Effective Date 07/01/2008
 10/01/07 SENATE Filed
 12/13/07 SENATE Referred to Criminal Justice, Judiciary
 03/04/08 SENATE Introduced, referred to Criminal Justice, Judiciary –SJ 00026
 03/12/08 SENATE Withdrawn from Criminal Justice, Judiciary –SJ 00198, Withdrawn from further consideration –SJ 00198

S 386 GENERAL BILL/CS by Health Regulation, Crist (Identical H 0437)

Food Service/Restroom Inspections [EPCC], Requires the Division of Hotels and Restaurants within the Department of Business and Professional Regulation to inspect toilet facilities of public food service establishments Provides the minimum sanitation standards for toilet facilities to include, but not be limited to, privacy of occupants, placement so that a patron does not pass through food-preparation or utensil-washing areas, etc Effective Date 07/01/2008
 10/01/07 SENATE Filed
 12/13/07 SENATE Referred to Regulated Industries, Health Regulation, General Government Appropriations
 03/04/08 SENATE Introduced, referred to Regulated Industries, Health Regulation, General Government Appropriations –SJ 00026
 03/06/08 SENATE On Committee agenda—Regulated Industries, 03/11/08, 9 00 am, 110-S
 03/11/08 SENATE Favorable with 1 amendment(s) by Regulated Industries (606608), YEAS 8 NAYS 0 –SJ 00248, Now in Health Regulation –SJ 00248

S 388 (CONTINUED)

03/14/08 SENATE On Committee agenda—Health Regulation, 03/19/08, 9 00 am, 401-S
 03/19/08 SENATE CS by Health Regulation, YEAS 7 NAYS 0 –SJ 00288, CS read 1st time on 03/20/08 –SJ 00317
 03/20/08 SENATE Pending reference review under Rule 4 7(2)
 03/21/08 SENATE Now in General Government Appropriations –SJ 00288
 04/03/08 SENATE On Committee agenda—General Government Appropriations, 04/08/08, 1 00 pm, 401-S
 04/08/08 SENATE Favorable by— General Government Appropriations, YEAS 6 NAYS 0 –SJ 00478, Placed on Calendar, on 2nd reading –SJ 00479
 05/02/08 SENATE Died on Calendar

S 388 GENERAL BILL by Fasano; (CO-INTRODUCERS) Gaetz; Atwater (Similar H 0159, Compare H 0073, H 0821)

Security and Immigration Compliance Act [LPCC], Provides that beginning July 1, 2009 no public employers shall enter into contracts for the physical performance of services within the state with contractors not registered and participating in a federal work-authorization program Requires state agencies and political subdivisions to verify the lawful presence in the United States of natural persons 18 years of age or older who have applied for state, local, or federal public benefits, etc Effective Date 07/01/2008 except as otherwise provided
 10/01/07 SENATE Filed
 12/13/07 SENATE Referred to Military Affairs and Domestic Security, Governmental Operations, Criminal Justice, General Government Appropriations
 03/04/08 SENATE Introduced, referred to Military Affairs and Domestic Security, Governmental Operations, Criminal Justice, General Government Appropriations –SJ 00026
 05/02/08 SENATE Died in Committee on Military Affairs and Domestic Security

S 390 GENERAL BILL/CS by Criminal Justice; Oelrich; (CO-INTRODUCERS) Gaetz, Lynn; Crist (Identical CS/H 0173)

Controlled Substances [LPCC], Prohibits owning, leasing, renting, or possessing a place, structure, trailer, or other described place with knowledge that it will be used to manufacture, sell, or traffic in a controlled substance Provides that possession of 25 or more cannabis plants constitutes prima facie evidence of intent to sell or distribute, etc Effective Date 07/01/2008
 10/01/07 SENATE Filed
 12/13/07 SENATE Referred to Criminal Justice, Judiciary, Criminal and Civil Justice Appropriations
 03/04/08 SENATE Introduced, referred to Criminal Justice, Judiciary, Criminal and Civil Justice Appropriations –SJ 00027
 03/27/08 SENATE On Committee agenda—Criminal Justice, 04/01/08, 1 00 pm, 401-S
 04/01/08 SENATE CS by Criminal Justice, YEAS 8 NAYS 0 –SJ 00391, CS read 1st time –SJ 00393
 04/02/08 SENATE Pending reference review under Rule 4 7(2), Now in Judiciary –SJ 00391
 04/11/08 SENATE On Committee agenda—Judiciary, 04/16/08, 3 30 pm, 110-S
 04/16/08 SENATE Favorable by Judiciary, YEAS 10 NAYS 0 –SJ 00686
 04/17/08 SENATE Now in Criminal and Civil Justice Appropriations –SJ 00686
 04/29/08 SENATE Withdrawn from Criminal and Civil Justice Appropriations –SJ 00973, Placed on Calendar, on 2nd reading
 04/30/08 SENATE Placed on Special Order Calendar, Substituted CS/HB 173 –SJ 01079, Laid on Table, Link/Iden/Sim/Compare passed, refer to CS/HB 173 (Ch 2008-184) –SJ 01079

S 392 GENERAL BILL/CS/CS/CS by Finance and Tax; Governmental Operations; Community Affairs; Storms, (CO-INTRODUCERS) Ring; Gaetz; Haridopoulos (Compare H 0181, CS/2ND ENG/H 7123, S 2476, CS/S 2648)

Transparency in Local Government Contracts [RPCC], Provides that contractual rights of local government employees and retirees who are members of the Florida Retirement System or a local government retirement system are not considered contracts Requires local governments that have a website to electronically post contract information relating to certain contracts Requires that access to website be provided at no cost Establishes schedule for local govts to meet requirements of the act, etc Effective Date 07/01/2008
 10/01/07 SENATE Filed
 12/13/07 SENATE Referred to Community Affairs, Governmental Operations, Finance and Tax, Transportation and Economic Development Appropriations
 03/04/08 SENATE Introduced, referred to Community Affairs, Governmental Operations, Finance and Tax, Transportation and Economic Development Appropriations –SJ 00027
 03/14/08 SENATE On Committee agenda—Community Affairs, 03/19/08, 1 00 pm, 412-K
 03/19/08 SENATE CS by Community Affairs, YEAS 9 NAYS 0 –SJ 00346, CS read 1st time on 03/26/08 –SJ 00348
 03/20/08 SENATE Pending reference review under Rule 4 7(2)

Handwritten: Rm 13078 4/1/08

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below)

Prepared By The Professional Staff of the Criminal Justice Committee

BILL SB 390

INTRODUCER Senators ●elrich and Gaetz

SUBJECT Controlled Substances

12 2932

DATE March 10, 2008 REVISED _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson <i>[Signature]</i>	Cannon <i>[Signature]</i>	CJ	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	JA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The primary purpose of the bill appears to be to address the illegal growing of marijuana through indoor grow operations. The bill provides that:

- It is a third degree felony to own, lease, or rent any place, structure, trailer, or conveyance with the knowledge that it will be used for the purpose of manufacture of a controlled substance intended for sale or distribution to another. (Current law already addresses leasing or renting such place, structure, trailer, or conveyance)
- It is a third degree felony to be in actual or constructive possession of any place, structure, or part thereof, trailer or any conveyance with the knowledge that the place, structure, or part thereof, trailer or conveyance will be used for the purpose or trafficking in a controlled substance, the sale of a controlled substance, or the manufacture of a controlled substance intended for sale or distribution to another
- Proof of the possession of 25 or more cannabis plants constitutes prima facie evidence that the cannabis is intended for sale or distribution.
- It is a first degree felony for a person to be in actual or constructive possession of a place, structure, trailer, or conveyance with the knowledge that the place, structure, trailer, or conveyance is being used to manufacture a controlled substance intended for sale or distribution to another if the person knew or should have known that a minor is present or resides in the place, structure, trailer, or conveyance
- It is a first degree felony for a person to possess any amount of a controlled substance in close proximity to an infant or toddler.
- Offenses are ranked within the offense severity ranking chart of the Criminal Punishment Code.

- In the prosecution of an offense involving the cultivation or manufacture of a controlled substance, a photograph or video recording of the manufacturing or cultivation equipment used in committing the offense may be introduced as competent evidence of the existence and use of the equipment and is admissible in the prosecution of the offense to the same extent as if the property were introduced as evidence.
- After a law enforcement agency documents the manufacturing and cultivation equipment by photography or video recording, the manufacturing and cultivation equipment may be destroyed on site and left in disrepair. The law enforcement agency destroying the equipment is immune from civil liability for the destruction of the equipment. The destruction of the equipment must be recorded (as described in this analysis) and records must be maintained for 12 months.

This bill creates section 893.1352 of the Florida Statutes. This bill amends sections 893.1351 and 893.10 of the Florida Statutes.

II. Present Situation:

The Florida Department of Law Enforcement (FDLE) reported:

The indoor cultivation of domestic marijuana continues to be prevalent throughout the state. In 2006, the reported seizures of marijuana from Indoor Grow Operations outpaced the seizures from Outdoor Grow Operations. However, the reported number of plants seized this year was less than 2005.

Investigative intelligence indicates that marijuana cultivators continue to move indoors to avoid detection and to increase the quality of the marijuana being produced. The sterile and elementally controlled environments available to Indoor Grow Operations enable cultivators to utilize sophisticated techniques to increase Δ^9 -Tetrahydrocannabinol (THC), the primary psychoactive ingredient of marijuana. Indoor Grow Operations also allow the cultivators to artificially induce as many as four growing seasons per year as opposed to one season limited by nature in Outdoor Grow Operations.¹

The FDLE also reported:

During the year, 57 samples of seized marijuana plants were submitted by local, state, and federal law enforcement agencies in Florida to the Research Institute of Pharmaceutical Sciences at the University of Mississippi at the request of DEA. The average THC level for the Florida samples was 7.73. DEA - Miami submitted samples with the highest level (21.26) and DEA - Ft. Lauderdale the lowest (1.63). In total, 1,607 samples were submitted from across the United States. The average THC level of the nationwide samples submitted was 7.54. New York submitted samples with the highest (32.26) and Missouri submitted samples with the lowest (.05). Over the years, samples submitted from Florida's marijuana plants have had high levels of THC content.

¹ Florida's Domestic Marijuana Eradication Program - 2006 Annual Report - Indoor Grow Investigations (March 2007) Florida Department of Law Enforcement (http://www.fdle.state.fl.us/publications/mjEradication/2006_Marijuana_Annual_Report.pdf)

Local law enforcement agencies in 41 of Florida's 67 counties reported the detection and dismantling of 511 Indoor Grow Operation sites which resulted in the eradication of 37,311 marijuana plants. Some of the reported Indoor Grow Operations are small and simple while others are more complex and highly organized. Indoor Grow cultivators continue to develop innovative techniques and schemes to avoid detection by law enforcement. In addition, local law enforcement reported the arrest of 492 cultivators and the seizure of 126 firearms. The prosecution of the arrested cultivators was shared by both federal and state prosecutors.²

Section 90.91, F.S., provides that in any prosecution for a crime involving the wrongful taking of property, a photograph of the property alleged to have been wrongfully taken may be deemed competent evidence of such property and may be admissible in the prosecution to the same extent as if such property were introduced as evidence. The photograph must bear a written description of the property alleged to have been wrongfully taken, the name of the owner of the property, the location where the alleged wrongful taking occurred, the name of the investigating law enforcement officer, the date the photograph was taken, and the name of the photographer. The writing must be made under oath by the investigating law enforcement officer, and the photograph must be identified by the signature of the photographer. Upon the filing of the photograph and writing with the law enforcement authority or court holding the property as evidence, the property may be returned to the owner from whom the property was taken.

Section 893.12, F.S., provides that a controlled substance which is possessed in violation of ch. 893, F.S., is contraband and is subject to seizure and confiscation. The court having jurisdiction must order the substance forfeited and destroyed. A record must be kept of the place where the controlled substance was seized, the kind and quantity of the controlled substance destroyed, and the time, place, and manner of destruction and a return under oath reporting the destruction must be made to the court by the officer who destroys the controlled substance.

Section 893.1351, F.S., provides that it is a third degree felony for a person to lease or rent any place, structure, or part thereof, trailer, or other conveyance, with the knowledge that such place, structure, trailer, or conveyance will be used for the purpose of trafficking in a controlled substance or the sale of a controlled substance.

Section 893.13(6)(a), F.S., generally provides that it is a third degree felony to possess a controlled substance in a quantity less than the threshold required for trafficking.³ This is possession without intent to sell, manufacture, etc., a controlled substance (sometimes referred to as "simple possession"). However, possession of not more than 20 grams of cannabis is a first degree misdemeanor, and possession in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), F.S. (such as Ecstasy or heroin), is a first degree felony.⁴

III. Effect of Proposed Changes:

The primary purpose of the bill appears to be to address the illegal growing of marijuana through indoor grow operations.

² *Id*

³ The trafficking statute, s. 893.135, F.S., is only applicable to certain controlled substances, as specified in that statute.

⁴ This provision also applies to combinations and mixtures.

Section 1 of the bill amends s. 893.1351, F.S., to provide that it is a third degree felony to own, lease, or rent any place, structure, trailer, or conveyance with the knowledge that it will be used for the purpose of manufacture of a controlled substance intended for sale or distribution to another. (Section 893.1351, F.S., already addresses leasing or renting such place, structure, trailer, or conveyance.)

The bill also provides that it is a third degree felony to be in actual or constructive possession of any place, structure, or part thereof, trailer or any conveyance with the knowledge that the place, structure, or part thereof, trailer or conveyance will be used for the purpose or trafficking in a controlled substance, the sale of a controlled substance, or the manufacture of a controlled substance intended for sale or distribution to another

The bill also provides that proof of the possession of 25 or more cannabis plants constitutes prima facie evidence that the cannabis is intended for sale or distribution.

Section 2 of the bill creates s. 893.1352, F.S., which provides that it is a first degree felony for a person to be in actual or constructive possession of a place, structure, trailer, or conveyance with the knowledge that the place, structure, trailer or conveyance is being used to manufacture a controlled substance intended for sale or distribution to another if the person knew or should have known that a minor is present or resides in the place, structure, trailer, or conveyance

The bill also provides that it is a first degree felony for a person to possess any amount of a controlled substance in close proximity to an infant or toddler.⁵ “Close proximity” is defined as “the item is so close to the infant or toddler as to be within his or her reach without regard to whether the infant or toddler is likely to attempt to reach for the item.”

The bill also directs the ranking of offenses under s. 893.1351, F.S. (lease or rent for the purpose of trafficking in a controlled substance), or newly created s. 893.1352, F.S. (unlawful possession of a controlled substance in the presence of a minor) in the offense severity ranking chart of the Criminal Punishment Code⁶ as follows:

- A third degree felony is ranked in Level 5
- A second degree felony is ranked in Level 7.
- A first degree felony is ranked in Level 8⁷

Section 3 of the bill amends s. 893.10, F.S., to provide that in the prosecution of an offense involving the “cultivation or manufacture”⁸ of a controlled substance, a photograph or video recording of the manufacturing or cultivation equipment used in committing the offense,

⁵ See “Technical Deficiencies” section of this analysis. This provision could present a significant penalty increase in some cases. For example, a person who possesses 20 grams or less of cannabis commits a first degree misdemeanor. The maximum penalty for this offense is 1 year in jail. Under the bill, if this person possessed the cannabis in close proximity to an infant or toddler, this possession would be a first degree felony. The maximum penalty for a first degree felony is 30 years in state prison.

⁶ s. 921.0022, F.S.

⁷ See “Technical Deficiencies” section of this analysis.

⁸ See “Technical Deficiencies” section of this analysis.

including, but not limited to, grow lights, growing trays, and chemical fertilizers, may be introduced as competent evidence of the existence and use of the equipment and is admissible in the prosecution of the offense to the same extent as if the property were introduced as evidence.

The bill also provides that after a law enforcement agency documents the manufacturing and cultivation equipment by photography or video recording, the manufacturing and cultivation equipment may be destroyed on site and left in disrepair. The law enforcement agency destroying the equipment is immune from civil liability for the destruction of the equipment. The destruction of the equipment must be recorded in the manner described in s. 893.12(1)(a), F.S., and records must be maintained for 12 months⁹

Section 4 provides that the effective date of the bill is July 1, 2008

IV. Constitutional Issues:

A Municipality/County Mandates Restrictions

None.

B. Public Records/Open Meetings Issues

None

C Trust Funds Restrictions:

None

V. Fiscal Impact Statement:

A Tax/Fee Issues

None.

B Private Sector Impact

To the extent the bill, if enacted, reduces the number of marijuana growhouse operations, the bill could benefit utility companies adversely impacted by unpaid bills for power usage by the growhouse operations, homeowners who may incur the cost of clean-up, and neighborhoods in which property values are adversely affected by grow houses.

C Government Sector Impact

On January 17, 2008, the Criminal Justice Impact Conference determined that the bill could have a potentially significant prison bed impact¹⁰

⁹ While these records must be kept for 12 months it is not unusual for a case to go more than a year before it is tried

¹⁰ This estimate is based on the provisions of the Senate Bill and HB 173 as filed. The House bill was amended and the amended House bill was estimated by the CJC to have a potentially insignificant prison bed impact. See CS/HB 173

VI. Technical Deficiencies:

In its present form, the bill punishes lawful conduct. Specifically, it would be a first degree felony under the bill for a person to possess a controlled substance prescribed to the person or the person’s child if the possession was in close proximity to an infant or toddler

The bill refers to “cultivation or manufacture” of a controlled substance. The current definition of “manufacture” in s. 893.13, F.S , already covers “cultivation,” and therefore, the term “cultivation” should be deleted.

The bill ranks offenses in s. 893.1351, F S., and newly created s. 893.1352, F.S., by means of directory language rather than by specifically ranking the offenses in the offense severity ranking chart of the Criminal Punishment Code as provided in s 921 0022, F.S , or if not listed in the chart, by the ranking of the offenses based on felony degree as provided in s. 921.0023, F.S. The ranking of a felony offense by means of these two statutes ensures that the reader has only to consult these two statutes to determine the ranking of any felony offense. This prevents error that may result if the reader presumes these statutes alone provide for the ranking of felony offenses, but, in fact, another statute provides for the ranking Further, the bill directs the ranking of a second degree felony offense in s. 893.1351, F S., and newly created s. 893.1352, F.S. However, no such offense exists. Staff recommends that the offenses be specifically ranked in the offense severity ranking chart.¹¹

VII. Related Issues:

None

VIII. Additional Information:

A Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill)

None.

B Amendments.

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate

¹¹ CS/HB 173 ranks the offenses in the offense severity ranking chart

CHAPTER 2008-184

Council Substitute for House Bill No. 173

An act relating to controlled substances; amending s. 893.02, F.S.; defining the term “cultivating” for specified purposes; amending s. 893.1351, F.S.; prohibiting a person from owning or actually or constructively possessing a place, structure, trailer, or other described place with knowledge that the place will be used to manufacture, sell, or traffic in a controlled substance; providing that possession of a specified number or more of cannabis plants constitutes prima facie evidence of intent to sell or distribute; providing that a person with actual or constructive possession of a place, structure, trailer, or conveyance being used to manufacture a controlled substance for sale and distribution commits a felony of the first degree if a minor is present or resides in the place, structure, trailer, or conveyance; providing criminal penalties; amending s. 893.10, F.S., providing that equipment used in the manufacture of controlled substances may be photographed or video recorded and the photograph or video recording used as evidence for later use at trial; providing for the destruction of the equipment, amending s. 921.0022, F.S., ranking specified offenses in the offense severity ranking chart of the Criminal Punishment Code; amending ss. 465.016, 465.023, and 893.135, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida

Section 1. Subsections (5) through (21) of section 893.02, Florida Statutes, are renumbered as subsections (6) through (22), respectively, and a new subsection (5) is added to that section to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(5) “Cultivating” means the preparation of any soil or hydroponic medium for the planting of a controlled substance or the tending and care or harvesting of a controlled substance.

Section 2. Section 893.1351, Florida Statutes, is amended to read:

893.1351 Ownership, lease, rental, or possession or rent for the purpose of trafficking in or manufacturing a controlled substance.—

(1) A person may not own, lease, or rent any place, structure, or part thereof, trailer, or other conveyance, with the knowledge that ~~the such~~ place, structure, trailer, or conveyance will be used for the purpose of trafficking in a controlled substance, as provided in s. 893.135; for, or the sale of a controlled substance, as provided in s. 893.13; or for the manufacture of a controlled substance intended for sale or distribution to another. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person may not knowingly be in actual or constructive possession of any place, structure, or part thereof, trailer, or other conveyance with the knowledge that the place, structure, or part thereof, trailer, or conveyance will be used for the purpose of trafficking in a controlled substance, as provided in s. 893.135; for the sale of a controlled substance, as provided in s. 893.13; or for the manufacture of a controlled substance intended for sale or distribution to another. A person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who is in actual or constructive possession of a place, structure, trailer, or conveyance with the knowledge that the place, structure, trailer, or conveyance is being used to manufacture a controlled substance intended for sale or distribution to another and who knew or should have known that a minor is present or resides in the place, structure, trailer, or conveyance commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) For the purposes of this section, proof of the possession of 25 or more cannabis plants constitutes prima facie evidence that the cannabis is intended for sale or distribution.

~~(2) A person who violates subsection (1) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 3. Section 893.10, Florida Statutes, is amended to read

893.10 Burden of proof, photograph or video recording of evidence —

(1) It ~~is shall~~ not be necessary for the state to negative any exemption or exception set forth in this chapter in any indictment, information, or other pleading or in any trial, hearing, or other proceeding under this chapter, and the burden of going forward with the evidence with respect to any ~~such~~ exemption or exception ~~is shall~~ be upon the person claiming its benefit.

(2) In the case of a person charged under s. 893.14(1) with the possession of a controlled substance, the label required under s. 893.04(1) or s. 893.05(2) ~~is shall~~ be admissible in evidence and ~~shall~~ be prima facie evidence that such substance was obtained pursuant to a valid prescription form or dispensed by a practitioner while acting in the course of his or her professional practice.

(3) In the prosecution of an offense involving the manufacture of a controlled substance, a photograph or video recording of the manufacturing equipment used in committing the offense, including, but not limited to, grow lights, growing trays, and chemical fertilizers, may be introduced as competent evidence of the existence and use of the equipment and is admissible in the prosecution of the offense to the same extent as if the property were introduced as evidence.

(4) After a law enforcement agency documents the manufacturing equipment by photography or video recording, the manufacturing equipment may be destroyed on site and left in disrepair. The law enforcement agency