

ASSOCIATED INDUSTRIES OF FLORIDA
**LEGISLATIVE
DAILY BRIEF**



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GUNS IN THE WORKPLACE

The Senate Criminal Justice Committee passed SB 206 Relating to Firearms/Motor Vehicles by Senator Durell Peadar (R-Crestview) on a vote of 5-2. This is the legislation that would not allow a business to have a policy to restrict a person from having a firearm in their locked vehicle. Senator Evelyn Lynn (R-Ormond Beach) offered a strike everything amendment which makes the bill similar to its House companion, HB 129 by Representative Dennis Baxley (R-Ocala), that passed out of the House Judiciary Committee last week.

Senator Rod Smith (D-Gainesville) offered three amendments to the amendment. The first one was adopted and it changes the definition of employee. Senator Smith believed the definition in the original amendment was too broad so his amendment narrowed the definition to a person who works for an employer for salary, wages or other remuneration. Senator Smith's second amendment was defeated. It would have allowed churches to be listed under the exemptions of places where one could have a firearm. His last amendment was also defeated. It would have addressed a phrase in the bill that reads "The provisions of this subsection shall not be construed in derogation of the state's employment at will doctrine." According to Senator Smith, this phrase is very problematic and could lead to the filing of lawsuits.

Senators Smith and Ron Klein (D-Delray Beach) were the two committee members voting against the bill. SB 206 will now be considered by the Senate Committee on Commerce and Consumer Services.

AIF opposes SB 206 because it prohibits businesses from enforcing or maintaining policies that ban guns in the workplace. Employers should be allowed to establish these types of policies and exert their rights as property owners. Maintaining a safe work environment is paramount for the longevity of any employer in Florida. We continue to be opposed to the bill even with today's amendment.

LEGAL REFORM

Today, the Senate Judiciary Committee unanimously passed SB 2304 Relating to Class Action Lawsuits by Senator Carey Baker (R-Eustis). This bill is the end result of several weeks of negotiations between the business community and the trial bar. Senator Baker explained that it only applies to class actions arising from four areas of the law - Motor Vehicle Licenses (Chapter 320), Unfair and Deceptive Trade Practices (Chapter 501), Consumer Protections (Chapter 520) and Motor Vehicle Leases (Chapter 521). The bill would generally require that plaintiff class members be Florida residents to bring a class action in Florida. It also requires that the claimants must allege and prove actual damages to be members of the class.

Today's committee stop was the bill's only committee of reference, thereby making the bill available for the Senate floor at any time. The House companion measure, HB 7259 by the Judiciary Committee, has already been placed on the House calendar.

AIF supports SB 2304 and applauds Senator Baker for his leadership and hard work on this important legal reform issue. AIF and the Florida Coalition of Legal Reform fully support this important class action reform and will continue to work for it passage by the entire Florida Legislature.

TAXATION

The House State Resources Council unanimously approved HB 743 by Rep. Marty Bowen (R-Winter Haven). The bill provides a sales tax exemption for electricity used directly and exclusively for the processing of agricultural products on a farm, as long as it is separately metered. It also expands the sales tax exemption for diesel fuel when the fuel is used in any tractor, vehicle, or other equipment that is used exclusively on a farm for processing farm products on the farm.

HB 743 has passed all of its committee of reference and has been placed on the House calendar for final passage.

AIF supports HB 743 because it provides a significant incentive for Florida's farming industry. Agricultural is the second largest industry in the state of Florida and is only second to tourism.

The House passed HB 7105 Relating to Taxation and Alcoholic Beverages by the Finance and Tax Committee on a vote of 118-2. This bill would eliminate the surcharge on alcoholic beverages sold on a vendor's premises. Back in 1990, Florida enacted a law that taxed the retail sale of alcoholic beverages. A move to eliminate this "drink" tax has taken some time. The tax was reduced by one-third in 1999 and again by one-half in 2000.

HB 7105 would eliminate the remainder of the tax and reduce the burdensome record-keeping required of businesses that sell alcoholic beverages. This proposal is part of the Governor Bush's budget recommendations for 2006.

HB 7105 will now be sent to the Senate for consideration.

AIF supports the final repeal of this tax to eliminate a cumbersome, expensive, and regressive burden on both Florida's hospitality establishments and Florida's consumers.

ETHICS AND ELECTIONS

The Senate Judiciary Committee considered SB 720 Relating to Initiative Procedures and Standards by Senator Bill Posey (R-Rockledge). This bill seeks to regulate the gathering of petitions for proposed constitutional amendments. SB 720 picks up where SB 1244 by Senator JD Alexander (R-Lake Wales) left off. As you may recall, Senator Alexander's bill encountered heavy opposition because of some over-reaching provisions that would establish strong criminal penalties for groups engaged in the gathering of petition signatures. According to Senator Posey, SB 720 focuses more on accountability than on criminal penalties to regulate the practice of petition gathering. Among some of the more important provisions in the bill it requires:

- Paid petition gatherers to wear badges indicating that they are being paid
- It extends the time period to turn in signatures to supervisors of elections from 10 to 35 days
- Allows property owners to prohibit or permit activity which supports or opposes a particular initiative and allows property owners to select which petition gathers are allowed on their property
- It establishes a process for citizens to rescind their signature if they chose to do so

Senator Posey's bill would still allow petition gatherers to be paid per signature, in its previous form the bill would have outlawed this practice. Representatives from Sierra Club, Common Cause, the League of Women Voters, and other expressed opposition of the bill. Associated Industries of Florida was the only business association to testify in support of the measure.

Ultimately, the bill failed on a 4-4 vote. Those Senators voting against the bill were: David Aronberg (D-Greenacres), Skip Campbell (D-Tamarac), Steve Geller (D-Hallandale Beach), and Alex Villalobos (R-Miami). Its House companion, HB 773 by Representative Dudley Goodlette (R-Naples), has passed all its committees of reference and is currently on the House calendar.

AIF is disappointed by the outcome of today's Senate Judiciary Committee. AIF supports the provisions in SB 720 and HB 773, especially those which give property owners the right to permit or prohibit the gathering of petitions on their property. This legislature must address the need for regulation of the petition gathering process, but it must do so without onerous provisions and criminal penalties.

CONSTITUTIONAL AMENDMENT REFORM

The Senate Judiciary Committee passed SB 1918 Relating to the State Constitution by Senator Dan Webster (R-Winter Garden). This proposed constitutional amendment corrects multiple spelling errors and punctuation errors, repeals obsolete language, and makes other technical changes to the State Constitution. Additionally, the joint resolution repeals language providing for term limits on federal officeholders which has been found to be unconstitutional. Lastly, the joint resolution provides for the repeal of the pregnant pig amendment and its preservation. Initially, a strike everything amendment was offered which would accomplish the correct of the spelling errors and other obsolete language. In addition, a series of additional amendments to the strike everything amendment were included in the committee packet. Chairman Webster explained that these amendments would allow the committee to remove certain, recently passed constitutional amendments from the Constitution and transfer them to statute. In some cases the amendments were grouped in pairs, one amendment would propose the removal of language from the Constitution and the other would propose codification of that language in statute.

Senator Webster read each of the 25 amendments individually; if a committee member wished to sponsor an amendment it was considered. The amendments were only considered if there was consensus among the group. This process caused some confusion at the beginning of the meeting, with Senators expressing concern over their authority to remove items from the Constitution. Senator Steve Geller (D-Hallandale Beach) repeatedly asked the Chairman for his guarantee that the bill not be amended on the floor to include more provisions than the ones agreed upon by the committee. He also expressed worry over the committee acting as a “mini-constitutional convention.” Senator Carey Baker (R-Eustis) wondered what would stop citizen groups from putting back any amendments which were transferred out of the Constitution by the committee.

In the end, the Committee agreed to remove the following constitutional amendments from our state’s top document:

- Claimant’s Right to Fair Compensation (this was the FMA’s attorney fee amendment passed in 2004)
- Obsolete language that references the concept of dower and curtesy
- Ban on net fishing
- Patients’ Right to Know about Adverse Medical Incidents (this was the Trial Bar’s anti-doctor amendment passed in 2004)
- Prohibition of medical licenses after repeated medical malpractice (this was the other Trial bar anti-doctor amendment passed in 2004)
- An amendment that referenced election years during odd-number years (currently elections are held on even-numbered years so removal was necessary)

If SB 1918 is passed by the legislature it will still require approval from voters during the next general election. One particularly important detail is that the ballot language for this proposed constitutional amendment would include all issues, therefore, creating an “all or nothing” situation. Voters would not be able to decide between individual items.

SB 1918 will now be considered by the Senate Rules and Calendar Committee.

AIF supports SB 1918 and its intent to clean up our state's top document. Many of the recently adopted constitutional amendments are better served being in statute and not in our state's guiding document.

Affordable Housing

The Senate Governmental Oversight and Productivity Committee unanimously passed SB 132 Relating to Affordable Housing by Senator Mike Bennett (R-Bradenton). This bill would, among other things, require local governments to identify surplus lands and, where appropriate, make such lands available for purposes of affordable housing. The bill also creates the *Community Workforce Innovation Program* which provides housing assistance for essential services personnel (Teachers, Law Enforcement, Nurses, etc.) in high cost counties, whose incomes do not exceed 140 percent of the area median income.

There was a late filed amendment offered by Senator Jim Sebesta (R-St. Petersburg) which would allow local governments to explore the option of redeveloping land previously used as a landfill. The amendment was taken up and adopted.

SB 132 will now be heard by the Senate Transportation and Economic Development Appropriations Committee.

AIF supports SB 132. The issue of affordable or “workforce” housing is a priority for our state. AIF applauds the bi-partisan efforts of the legislature to finding a solution. We look forward to working with all bill sponsors on finding common sense approaches to this complex issue.

Please send your comments or suggestions to us at aif@aif.com or call the Governmental Affairs department at (850)224-7173.

- For more information on all of the important legislative information concerning the business community, go to our “members only” Florida Business Network web site at <http://fbnnet.com>
- Send us your E-mail address and we will begin to send this report to you automatically via E-mail.