



WEEKLY UPDATE

For the 2019 Legislative Session

From March 22, 2019

HEALTH CARE

HB 23 – Relating to Telehealth

On Monday, March 18, **CS/HB 23** by Representative Clay Yarborough (R-Jacksonville) was heard in the House Ways and Means Committee and was reported favorably with 14 yeas and 3 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

Telehealth is the remote delivery of health care services using technology. This bill authorizes Florida licensed health care professionals to use telehealth, simultaneous audio and video, to deliver health care services within their scopes of practice. The bill also authorizes out-of-state health care professionals to use telehealth to deliver health care services to Florida patients if they register with the Department of Health or the applicable board, meet certain eligibility requirements, and pay a fee. While an out of state registered provider may use telehealth to provide health care services to Florida patients, they are prohibited from opening an office or providing in person services in Florida. For tax years beginning on or after January 1, 2018, the bill creates a tax credit for health insurers and health maintenance organizations (HMOs) that cover services provided by telehealth.

HB 23 will now move to the House Health & Human Services Committee.

AIF supports legislation that permits an unfettered role for telehealth services that will allow our citizens access to better quality care at lower costs.

HB 559 – Relating to Step Therapy Protocols

On Tuesday, March 19, **HB 559** by Representative Ralph Massullo, Jr. (R-Beverly Hills) was heard before the House Health Market Reform Subcommittee and was reported favorably with 14 yeas and 0 nays. **AIF supports the adopted amendment on the underlying bill and stood in support of this legislation.**

Insurers and health maintenance organizations (HMOs) use many cost management strategies to manage drug spending. For example, step therapy is when a health insurance plan requires an individual to try a preferred drug before using a nonpreferred drug.

This bill states that a health insurer may not impose a step-therapy protocol for a covered prescription drug if:

- The insured has been approved to receive the prescription drug through a step-therapy protocol imposed by a health insurer that previously issued major medical coverage to the insured; and,
- The insured is currently taking the drug and is documented by the health insurer that approved the drug.

This does not preclude an insured's new health insurer from imposing a prior authorization requirement for the continued coverage of a drug prescribed and a health insurer is not required to add a drug to its prescription drug formulary, or to cover a prescription drug's use if it is not currently covered.

This bill also requires health insurers and pharmacy benefit managers to establish and offer an online prior authorization process for step therapy exceptions.

HB 559 will now move to the House Appropriations Committee.

AIF supports an online prior authorization form for continued flexibility for health plans to ensure consumers receive high quality, high value and affordable care, through continued use of innovative plan designs.

LEGAL & JUDICIAL

SB 862 – Relating to Insurance Coverage for Vehicle Leases

On Monday, March 18, **SB 862** by Senator Kelli Stargel (R-Lakeland) was heard before the Senate Banking and Insurance Committee and was reported favorably with 5 yeas and 1 nay. **AIF stood in support of this legislation.**

Florida's Dangerous Instrumentality Doctrine (DID) was created in the early 20th century, a time where automobiles began traveling on public roads. The doctrine has been expanded far beyond the borders of its original intent and now applies to off-highway vehicles such as golf carts, tractors, and construction equipment. The doctrine holds owners or lessors liable for the harm caused by an operator, even when the lessor is not in control of the equipment or vehicle at the time of the incident. Florida is the only state in the country where DID is applied in this manner.

This bill provides that lessors of special mobile equipment are not liable for the acts of the lessee or lessee's agent or employee if the lease agreement requires the lessee to maintain insurance with limits of at least \$100,000/\$300,000 for bodily injury liability and \$50,000 for property damage liability, or at least \$500,000 for combined property damage liability and bodily injury liability. Special mobile equipment are vehicles not designed or used primarily to transport persons or property and that are only incidentally operated or moved over a highway. Examples include ditchdigging apparatus, well-boring apparatus, and road construction and maintenance machinery, draglines, self-propelled cranes and earthmoving equipment.

SB 862 will now move to the Senate Judiciary Committee.

AIF supports the protection of owners and lessors from vicarious liability which is harmful to Florida's business community.

HB 847 – Relating to Preemption of Conditions of Employment

On Tuesday, March 19, **HB 847** by Representative Bob Rommel (R-Naples) was heard in the House Workforce Development and Tourism Subcommittee and was reported favorably 9 yeas and 5 nays. **AIF stood in support of this legislation.**

This bill amends s. 218.077, F.S., regarding state preemption of conditions of employment. The bill:

- Expressly prohibits a county, city, district, or other public body created by state law from requiring an employer from paying a minimum wage other than the state or federal minimum wage or to offer other conditions of employment;
- Expressly preempts to the state the right to regulate any requirements imposed upon employers relating to a minimum wage and conditions of employment;
- Defines “conditions of employment” to include preemployment screening, job classification, job responsibilities; hours of work; scheduling and schedule changes, wages, payment of wages, leave, paid or unpaid days off for holidays, illness, vacations, and personal necessity, and employee benefits;
- Voids any ordinance, regulation, or policy currently in existence which is now preempted.

HB 847 will now move to the House Local, Federal, and Veterans Affairs Subcommittee.

AIF supports legislation that allows Florida businesses to adhere to state or federal wage requirements, thus eliminating onerous regulations set by municipalities.

HB 1161 – Relating to Malt Beverages

On Tuesday, March 19, **HB 1161** by Representative Spencer Roach (R-North Fort Myers) was heard before the House Business and Professions Subcommittee and was reported favorably with 14 yeas and 0 nays. **AIF stood in support of this legislation.**

This bill creates a process for returns of malt beverages by a vendor to a distributor for an exchange of product, a refund, or a credit. A vendor may return malt beverages to a distributor if the malt beverages are a “damaged product,” an “out-of-code” product,” or an “undamaged product.” An “out-of-code product” is a malt beverage that has exceeded the manufacturer’s code date indicating the product’s freshness and availability for purchase at retail. A distributor is not required to accept a return request. A product may not be returned because it is overstocked or slow-moving or because there is only limited or seasonal demand for the product. Under the bill, a vendor may request return of undamaged product to a distributor only for exchange of product or for credit and an out-of-code product may be returned to a distributor only for an exchange of product.

HB 1161 will now move to the House Government Operations and Technology Appropriations Subcommittee.

AIF supports legislative efforts to revise outdated laws that impose burdens and restrictions on any sector of the business community, including vendors and distributors of malt beverages.

SB 1730 – Relating to Growth Management

On Wednesday, March 20, **SB 1730** by Senator Tom Lee (R - Brandon) was heard in the Senate Community Affairs Committee and was reported favorably with 5 yeas and 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

This bill amends various statutes relating to growth management, restricts the ability of a county or municipality to adopt and enforce inclusionary housing ordinances or regulations, and sets timeframe parameters for building application approval or denial. After receiving a development permit application, the county and municipality must review the application for completeness and issue a response within 30 days. The bill also requires the collection of impact fees, which are an important source of revenue for local governments to fund infrastructure projects. Additionally, the bill prohibits a local government from charging an impact fee for the development or construction of affordable housing but provides an exception under certain circumstances.

SB 1730 will now move to the Senate Infrastructure and Security Committee.

AIF supports legislation that maintains our state's infrastructure, allows Floridians access to affordable housing, and streamlines fee regulations.

SB 232 – Relating to Percentage of Elector Votes Required to Approve an Amendment or a Revision

On Wednesday, March 20, **SB 232** by Senator Dennis Baxley (R-Lady Lake) was heard in the Senate Ethics and Elections Committee and was reported favorably with 4 yeas and 3 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

This bill changes the vote threshold for amendments and revisions to Florida's constitution from the current 60% of elector votes to 66 and 2/3%.

SB 232 will now move to the Senate Judiciary Committee.

AIF supports the measures contained in this bill to prevent interest groups' circumvention of the legislature in revising Florida's constitution.

HB 3 – Relating to Preemption of Local Regulations

On Thursday, March 21, **HB 3** by Representative Michael Grant (R-Port Charlotte) was heard in the House Commerce Committee. and was reported favorably with 18 yeas and 5 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

This bill aims to preempt authority to the state and away from local governments when it comes to business regulations. Both big and small businesses must abide by the rules and regulations set in place by their local governments, regardless of if that rule or regulation differs from city to city, or county to county. This circumstance causes those who conduct business in multiple cities or counties throughout the state to abide by a myriad of rules that are inconsistent and must be complied with in order to continue their business. AIF believes that preempting business regulation to the state will allow for a streamlined system that businesses, (old and new, small and large) can easily follow when conducting business across the State of Florida.

HB 3 will now be heard on the House floor.

AIF supports legislation that will streamline business regulation throughout the state.

HB 261 – Relating to Beverage Law

On Thursday, March 21, **HB 261** by Representative Josie Tomkow (R-Auburndale) was heard in the House Commerce Committee and was reported favorably with 21 yeas and 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

Florida's Tied House Evil Law prohibits a manufacturer or distributor of alcoholic beverages from having a financial interest in the establishment of a licensed vendor, and prohibits a manufacturer or distributor from giving gifts, loans, property, or rebates to retail vendors. This bill amends and clarifies certain exemptions granting manufacturers the right to partner with vendors, so long as the manufacturer's agreement does not impose on sales of other manufacturers' brands.

HB 261 will now be heard on the House floor.

AIF supports legislative efforts to clean up laws imposing burdens and restrictions on manufacturer and vendor partnerships.

HB 355 – Relating to Dangerous Instrumentality Doctrine

On Thursday, March 21, **HB 355** by Representative Tom Leek (R-Daytona Beach) was heard in the House Judiciary Committee and was reported favorably with 12 yeas and 4 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

Florida's Dangerous Instrumentality Doctrine (DID) was created in the early 20th century, a time where automobiles began traveling on public roads. The doctrine has been expanded far beyond the borders of its original intent and now applies to off-highway vehicles such as golf carts, tractors, and construction equipment. The doctrine holds owners or lessors liable for the harm caused by an operator, even when the lessor is not in control of the equipment or vehicle at the time of the incident. Florida is the only state in the country where DID is applied in this manner.

HB 355 will now be heard on the House floor.

AIF supports the protection of owners and lessors from vicarious liability which is harmful to Florida's business community.

Proposed Committee Bill COM 19-01 – Relating to Property Development

On Thursday, March 21, **PCB COM 19-01**, sponsored and heard by the House Commerce Committee, was reported favorably with 21 yeas and 2 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

Property development in Florida is governed in part by both the Community Planning Act and the Florida Building Code. Before a building permit can be issued, plans review and inspections must be conducted by the local building official or a private provider to ensure work complies with the building code. Private providers are licensed building code administrators, licensed engineers, and licensed architects that property owners can hire to review building plans and perform building inspections. This bill makes changes to property development regulations by:

- Restricting counties and municipalities from adopting or imposing certain mandatory affordable housing ordinances;
- Establishing time limits for a county or municipality to review a development order or permit application;
- Expanding the scope of a private provider by allowing services involving the review of site plans and site work engineering plans;
- Reducing the time period building departments have to review a permit application when a private provider approves the plans, from 30 business days to 5 business days;
- Limiting the building department's authority to audit a private provider to four times annually;
- Prohibiting a building official from replicating plan reviews or inspections performed by a private provider;
- Allowing a person who hires a private provider to petition the court for a writ of injunctive or other equitable relief if the person believes the building department is not complying with the law.

AIF supports legislation that streamlines the permitting process and reduces property development burdens for all Floridians.

INSURANCE

SB 122 – Relating to Agreements Between Service Providers and Consumers

On Monday, March 18, **CS/SB 122** by Senator Doug Broxson (R-Pensacola) was heard before the Senate Judiciary Committee and was reported favorably with 5 yeas and 1 nay. **AIF stood in support of this legislation.**

The bill states that a post-loss assignment of benefits (AOB) under a property insurance policy or under the comprehensive or combined additional coverage of a motor vehicle insurance policy for coverage of windshield damage is only valid if:

- A copy of the agreement is provided to the consumer's insurer within 3 business days after the agreement's execution;
- The agreement may be rescinded within 14 days of execution or at least 30 days after the execution if the service provider has not begun substantial work on the property;
- The agreement does not impose any fee or penalty for rescinding the agreement;
- The agreement does not assign more than \$500, if related to repairing a windshield under a motor vehicle insurance policy's comprehensive or combined additional coverage;
- The agreement does not transfer a greater right to attorney fees than that created by the bill;
- The agreement does not prevent or inhibit an insurer from communicating with the consumer at any time; and
- The agreement relates only to work performed or to be performed by the service provider.

Additionally, this bill states that if a consumer acts under urgent or emergency circumstances to protect property from damage and enters into an agreement with a service provider, the service provider may only contract for the right to payment for the work necessary to protect and prevent additional damage to the property, and post-loss claims received may not be in excess of :

- Under a property insurance policy, \$3,000 or 1 percent of the Coverage A limit under such policy.
- Under a motor vehicle insurance policy for windshield damage, in excess of \$500.

The bill requires an assignee and any subcontractor of the assignee to waive any and all claims against a consumer.

SB 122 will now move to the Senate Rules Committee.

AIF SUPPORTS reforms to the assignment of benefits process to protect consumers against AOB abuses.

SB 1140 – Relating to Attorney Fees and Costs

On Monday, March 18, **SB 1140** by Senator Travis Hutson (R-Palm Coast) was heard before the Senate Judiciary Committee and was reported favorably with 4 yeas and 2 nays. **AIF stood in support of this legislation.**

This bill authorizes the payment of attorney fees and costs to a party challenging the adoption or enforcement of a local government ordinance on preemption grounds if a court finds that the subject of the ordinance has been preempted by the Constitution or State law. However, a local government may avoid liability for attorney fees and costs if the challenged ordinance is repealed or withdrawn within 21 days of either (1) receiving written notice of the claim or (2) the filing of a motion for attorney fees, whichever is earlier.

SB 1140 will now move to the Senate Community Affairs Committee.

AIF supports legislation that holds liable local governments that attempt to violate federal or state preemptions.

SB 1180 – Relating to Consumer Protections from Nonmedical Prescription Drug Formularies

On Monday, March 18, **SB 1180** by Senator Debbie Mayfield (R-Melbourne) was heard before the Senate Banking and Insurance Committee and was reported favorably with 6 yeas and 0 nays **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, spoke in opposition to this legislation.**

A major driver of health care costs is the rising cost of medicines. Drug companies raise the prices of both new and old medicines at will. No government body—not the Federal Trade Commission, not the Food and Drug Administration, and not the Centers for Medicare & Medicaid Services—have rules or laws that dictate or restrict the price a pharmaceutical company can set for a drug - and in most cases, there’s nothing that restricts how much a drug company can raise that price.

This bill would eliminate the only current force to counter the price increases on pharmaceuticals – the threat of losing insurance coverage, which helps push back on arbitrary price hikes. Handcuffing the negotiators who work hard to make sure drugs are affordable is bad public policy and will help make health insurance even more unaffordable.

SB 1180 will now move to the Senate Health Policy Committee.

AIF opposes legislation that removes cost controls and increases healthcare costs for Floridians.

HB 7065 – Relating to Insurance Assignment Agreements

On Tuesday, March 19, **HB 7065**, sponsored by the House Civil Justice Subcommittee, was heard in the House Insurance and Banking Subcommittee and was reported favorably with 14 yeas and 0 nays. **AIF stood in support of this legislation.**

The abuse of the one-way attorney fee statute in relation to “assignment of benefits” (AOB) has created a relatively new form of litigation over auto glass repairs and property damage. These legal abuses are perpetrated by a handful of lawyers and vendors who work together to strip benefits away from policyholders and use these to force higher settlements from insurers, and even go so far as to sue in the name of the policyholder, often without the policyholder’s consent. This bill helps prevent future abuse of AOBs by:

- Limiting an assignee’s ability to recover certain costs from the insured;
- Requiring the assignee to give the insurer notice of the assignee’s intent to file a lawsuit
- Requiring the insurer to respond to the assignee’s notice;
- Setting the formula that will determine which party, if any, receives an award of attorney fees should litigation related to an assignment agreement result in a judgment; and
- Allowing an insurer to offer a policy prohibiting assignment.

HB 7065 will now move to the House Judiciary Committee.

AIF supports reforms to the AOB process to protect consumers against these abuses.

TAXATION

HB 693 – Relating to Communication Services

On Tuesday, March 19, **HB 693** by Representative Jason Fischer (R-Jacksonville) was heard before the House Energy & Utilities Subcommittee and was reported favorably with 13 yeas and 0 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

This bill reduces the state tax on general communications services from 4.92% to 3.92%, and on direct-to-home satellite services from 9.07% to 8.07%. This bill eliminates all the current provisions on local governments electing whether to require and collect permit fees and effectively freezes local government elections on collection of permit fees, providing that a municipality or county that chose to impose permit fees on or before January 1, 2019, may continue to impose such fees, while a municipality or county that did not impose permit fees as of January 1, 2019, may not impose such fees.

HB 693 will now move to the House Ways and Means Committee.

AIF supports legislation that will both reduce the communications services tax and have a positive financial impact on Florida’s consumers, many of whom are businesses that pay for cable or satellite service.

ENERGY

HB 797 & SB 796– Relating to Public Utility Storm Protection Plans

On Tuesday, March 19, **HB 797** by Representative Randy Fine (R-Palm Bay) was heard in the House Energy and Utilities Subcommittee and was reported favorably with 13 yeas and 0 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

On Wednesday, March 20, **SB 796** by Senator Joe Gruters (R-Sarasota) was heard in Senate Infrastructure and Security Committee and was reported favorably with 8 yeas and 0 nays. **AIF stood in support of this legislation.**

These bills aim to harden Florida's utilities grid against tropical storm and hurricane damage with proposed under-grounding of electric infrastructure. These bills would require public utility companies (Florida Power and Light, Duke Energy Florida, Gulf Power Company, Tampa Electric Company, and the Florida Public Utilities Corporation) to submit a transmission and distribution storm protection plan to the Public Services Commission, with updates required at least every three years. Data collected after Hurricane Irma showed that underground lines suffered minimal outages during storms.

HB 797 will now move to the House Government Operations and Technology Appropriations Subcommittee.

SB 796 will now move to the Senate Appropriations Committee.

AIF supports actively seeking ways to harden our state's infrastructure and more effectively prepare for hurricanes and tropical storms to ensure that power is quickly restored.

TRANSPORTATION

HB 311 and SB 932– Relating to Autonomous Vehicles

On Tuesday, March 19, **HB 311** by Representative Jason Fischer (R-Jacksonville) was heard in the House Transportation & Tourism Appropriations Subcommittee and was reported favorably with 9 yeas and 0 nays. **AIF's Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

On Wednesday, March 20, **SB 932** by Senator Jeff Brandes (R-St. Petersburg) was heard in the Senate Infrastructure and Security Committee and was reported favorably with 8 yeas and 0 nays. **AIF stood in support of this legislation.**

These bills authorize the use of vehicles in autonomous mode in the state. The autonomous technology would be considered the human operator of the motor vehicle and provides that various provisions of law regarding motor vehicles such as rendering aid in the event of a crash do not apply to vehicles in autonomous mode if the vehicle owner, or person on behalf of the owner, promptly contacts law enforcement. These bills also specify that statutory provisions relating to unattended motor vehicles, wireless communication devices, and television receivers do not apply to autonomous vehicles (AVs) operating with the automated driving system engaged. The bill also removes the requirement for a person to possess a valid driver license to operate a fully autonomous vehicle.

SB 932 will now move to the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

AIF supports modernizing state law to accommodate new technologies that open the door for safe, reliable modes of autonomous vehicles in a competitive marketplace with clear, limited government regulations. The transportation system and its continued growth and viability is critically important to businesses across the state.

SB 1044 – Relating to the Department of Transportation

On Wednesday, March 20, **SB 1044** by Senator Ben Albritton (R-Bartow) was heard in the Senate Infrastructure and Security Committee and was reported favorably with 7 yeas and 0 nays. **AIF stood in support of this legislation.**

This bill addresses various issues relating to the Florida Department of Transportation (FDOT). Specifically, the bill:

- Removes the Florida Transportation Commission’s responsibility to nominate three persons for appointment by the Governor as secretary of the FDOT.
- Requires the FDOT secretary to be a licensed professional engineer, or to hold an advanced degree in a related discipline with 5 years of relevant experience, or have ten years of relevant experience.
- Prohibits a contractor who has not satisfactorily completed two projects, each in excess of \$25 million, from bidding on FDOT contracts in excess of \$50 million.
- Prohibits a local government from adopting standards and specifications for aggregates and materials that are contrary to the FDOT’s standards or specifications.
- Requires mileage for official state travel to be calculated using the most commonly used maps, instead of the FDOT’s current highway map.

SB 1044 will now move to the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

AIF supports legislation that positively reforms FDOT to provide all Floridians with high-quality transportation infrastructure.

SB 1148 – Relating to Vehicles for Rent or Lease

On Wednesday, March 20, **SB 1148** by Senator Keith Perry (R-Gainesville) was heard in the Senate Infrastructure and Security Committee and was reported favorably with 5 yeas and 3 nays. **AIF’s Senior Vice President of State and Federal Affairs, Brewster Bevis, stood in support of this legislation.**

Currently rental car companies and car sharing services collect the rental car surcharge and sales tax from persons renting vehicles. App base car rental services called “peer to peer car sharing companies” are growing throughout the country, and AIF supports the new ways Floridians can access transportation. However, the P2P companies do not remit either tax required by the state. The proceeds from the rental car surcharge paid by consumers who rent vehicles goes to build and maintain the state’s infrastructure, which is very important to Florida businesses statewide. This bill ensures the entities renting vehicles in the State of Florida play by the same “rules of the road.”

SB 1148 will now move to the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development.

AIF supports the proposed measures in this bill to hold all rental car services accountable, regardless of how the vehicle is accessed.