



WEEKLY UPDATE

For the 2019 Legislative Session

From May 3, 2019

LEGAL & JUDICIAL

SB 862 – Relating to Lessor Liability Under Special Mobile Equipment Leases

On Tuesday, April 30, **SB 862** by Senator Kelli Stargel (R-Lakeland) was read on the House floor and passed with a vote of 83 yeas and 32 nays.

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 documented proof of insurance coverage containing limits of at least \$250,000 per person and up to \$500,000 per incident for bodily injury liability and up to \$100,000 for property damage liability, or at least \$750,000 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, road construction and maintenance machinery, draglines, self-propelled cranes and earthmoving equipment.

SB 862 will now go to the Governor.

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

HB 431 – Relating to Liens Against Motor Vehicles and Vessels

On Tuesday, April 30, **HB 431** by Representative Jason Fischer (R-Jacksonville) was read on the Senate floor and passed with a vote of 38 yeas and 0 nays.

Currently, towing companies and auto repair shops, among others, may impose a lien on automobiles for towing and storage charges, as well as unpaid repair costs. The current statute requires the lienor to give the auto owner and all parties that have a financial interest in the auto notice of the lien and the public sale of the auto to cover paying off the lien.

Unfortunately, some “bad actors” in Florida have been abusing our current system by:

- Manipulating the time period for sending the notice of lien and notice of sale to eliminate the owner or finance company’s ability to pay the charges and recover the auto;
- Imposing very high administrative fees for perfecting the lien and enforcing the lien;
- Adding unreasonable or fraudulent charges to the towing or repair bill to justify the sale of the auto and keeping all proceeds of the sale.

HB 431 will now go to the Governor.

AIF supports legislation that prevents the increase in insurance rates. When ‘bad actor’ companies take advantage of the current lien laws, insurance rates become improperly inflated and has a harmful effect on many sectors of the business community.

HB 107 – Relating to Wireless Communications While Driving

On Monday, April 29, **HB 107** by Representative Jackie Toledo (R-Tampa) was read a third time on the House floor and passed with a vote of 108 yeas and 7 nays.

Current law prohibits a person from texting, emailing, and instant messaging while driving but is considered a secondary offense, meaning law enforcement cannot stop a driver solely for texting. This bill makes the use of a wireless communication device while driving a primary offense, allowing law enforcement to stop individuals for wireless device usage while behind the wheel.

HB 107 will now go to the Governor.

AIF supports legislation that addresses the issue of distracted driving and will ensure public safety for businesses and Floridians operating on our roadways.

HB 7103 – Relating to Property Development

On Friday, May 3, **HB 7103**, sponsored by the House Commerce Committee, was amended on second reading and read a third time on the Senate floor and passed with a vote of 26 yeas and 13 nays.

Property development in Florida is governed in part by both the Community Planning Act and the Florida Building Code. The Community Planning Act governs how local governments create and adopt local comprehensive plans, implement land development regulations, and issue development orders and permits. Every local government must enforce the Building Code and issue building permits. Local governments impose impact fees to fund local infrastructure needed to expand local services to meet the demands of population growth caused by development.

This bill changes property development regulations by:

- Restricting counties and municipalities from adopting or imposing certain mandatory affordable housing ordinances;
- Imposing time limits for a county or municipality to review a development order or permit application;
- Reducing the time period building departments have to review a permit application when a private provider approves the plans;
- Prohibiting a local jurisdiction from charging fees if a private provider is hired;
- Amending how a local government may impose impact fees.

HB 7103 will now go to the Governor.

AIF supports legislative efforts to remove onerous regulations imposed on any part of Florida's business community.

HB 829 – Relating to Attorney Fees and Costs

On Thursday, May 2, **HB 829** by Representative Anthony Sabatini (R-Clermont) was read a third time on the House floor and passed with a vote of 77 yeas and 31 nays.

Florida law states that a court may impose sanctions on a party or attorney who raises a frivolous claim or defense or unreasonably delays a judicial proceeding. This bill entitles a party to attorney fees and costs if the party prevails in an action challenging a local government ordinance as preempted. However, attorney fees and costs may not be awarded if the local government withdraws or repeals the ordinance within 30 days after receiving a claim that the ordinance is preempted or the filing of a motion seeking attorney fees and costs under the new

statutory section, whichever occurs first. The bill prospective and only applies to cases commenced on or after July 1, 2019.

HB 829 will now go to the Governor.

AIF supports legislative attorney fee reform that helps prevent onerous fees imposed on businesses post-litigation.

HEALTH CARE

HB 23 – Relating to Telehealth

On Monday, April 29, **HB 23** by Representative Clay Yarborough (R-Jacksonville) was read a second time and amended on the Senate floor. HB 23 was then read a third time and passed with a vote of 30 yeas and 9 nays.

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.

HB 23 will now go to the Governor.

AIF supports legislation that permits an unfettered role for telehealth services that will help Floridians access better quality care at lower costs.

HB 831- Relating to Electronic Prescribing

On Wednesday, May 1, **HB 831** by Representative Amber Mariano (R-Port Richey) was read a third time on the Senate floor and passed with a vote of 39 yeas and 0 nays.

On Thursday, May 2, HB 831 was read a third time on the House floor and passed with a vote of 104 yeas and 8 nays.

Electronic prescribing (e-prescribing) is a method by which an authorized health care practitioner electronically transmits a prescription to a pharmacy using a secure software system. Efforts have been made by states, as well as the federal government, to increase the

use of e-prescribing software. Beginning January 1, 2020, HB 831 requires prescribers to generate and transmit all prescriptions electronically, unless in the instance of certain circumstances.

HB 831 will now go to the Governor.

AIF supports legislation that provides for improved prescription accuracy, increased patient safety, reduced opportunities for fraud and abuse and reduced overall costs. Improving the overall functionality and cost will further enable Florida employers to provide health care coverage for our citizens.

INSURANCE

HB 1113 – Relating to Health Insurance Savings Program

On Wednesday, May 1, **HB 1113** by Representative Paul Renner (R-Palm Coast) was read a third time on the Senate floor and passed with a vote of 37 yeas and 0 nays.

This bill creates the Patient Savings Act, which allows health insurers to create a voluntary shared savings incentive program to encourage insured individuals to shop for high quality, lower cost health care services. The bill directs health insurers who choose to offer the program to develop a website outlining the range of shoppable health care services available to insureds. This website must provide insureds with an inventory of participating health care providers and an accounting of the shared savings incentives available for each shoppable service. When an insured obtains a shoppable health care service for less than the average price for the service, the bill requires the savings to be shared by the health insurer and the insured. An insured is entitled to a financial incentive that is no less than 25 percent of the savings that accrue to the insurer as a result of the insured's participation.

HB 1113 will now go to the Governor.

AIF supports legislation that provides high quality healthcare at a lower cost to Floridians and businesses that operate in our state.

TAXATION

SB 1000 – Relating to Communication Services

On Wednesday, May 1, **SB 1000** by Senator Travis Hutson (R-Palm Coast) was read a third time on the House floor and passed with a vote of 96 yeas and 16 nays.

This bill changes the way the use of public rights-of-way by providers of communications services are governed. Specifically:

- Creating a civil cause of action for any person aggrieved by a violation of the right-of-way statute;
- Prohibiting a local government from instituting, “either expressly or de facto, a moratorium or other mechanism that would prohibit or delay” permits for collocation of small wireless facilities or related poles;
- Deleting the authority for a local government to require performance bonds and security funds. Instead, the bill allows them to require a construction bond;
- Allowing a provider of communications services to add a local government to any existing bond, insurance policy, or other financial instrument, and requiring the local government to accept such coverage;
- Prohibiting a local government from requiring a permit applicant to provide inventories, maps, or locations of communication facilities in the rights-of-way, unless it is necessary to avoid interference with existing facilities.

SB 1000 will now go to the Governor.

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

HB 7123 – Relating to Taxation

On Friday, May 3, **HB 7123**, sponsored by the House Ways and Means Committee, was read a third time on the Senate floor and passed with a vote of 23 yeas and 17 nays.

The bill provides for several tax reductions and other tax-related modifications designed to directly impact both families and businesses. Specifically, this bill provides:

- A reduction in the tax rate for commercial property rentals from 5.7% to 5.35%,
- A three-day “back-to-school” holiday for certain clothing, school supplies, and personal computers, and
- A seven-day “disaster preparedness” holiday for specified disaster preparedness items.

Regarding property taxes, the bill includes the following:

- Appropriate money to offset the reduction in ad valorem taxes in Monroe and other fiscally constrained counties.

HB 7173 will now go to the Governor.

AIF supports legislative actions that reduce taxes on businesses which allows further growth and employment opportunities.

TRANSPORTATION

HB 311 – Relating to Autonomous Vehicles

On Wednesday, May 1, **HB 311** by Representative Jason Fischer (R-Jacksonville) was read a third time on the Senate floor and passed with a vote of 37 yeas and 0 nays.

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. The bill also specifies 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 bills also remove the requirement for a person to possess a valid driver license to operate a fully autonomous vehicle.

HB 311 will now go to the Governor.

AIF supports modernizing state law to accommodate for self-driving technologies that open the door for safe, reliable modes of AVs in a competitive marketplace with clear, limited government regulations.

HB 905 – Relating to the Department of Transportation (DOT)

On Thursday, May 2, **HB 905** by Representative Alex Andrade (R-Pensacola) was read a third time on the Senate floor and passed with a vote of 38 yeas and 0 nays.

This bill:

- Prohibits local governments from adopting standards or specifications for the permissible use of aggregates that are contrary to DOT's standards or specifications;
- Requires any contractor desiring to bid on DOT contracts in excess of \$50 million to have satisfactorily completed two projects in excess of \$15 million prior to being eligible to bid;
- Increases the dollar threshold for certain contract claims that may go before the State Arbitration Board.

HB 905 will now go to the Governor.

AIF supports legislation that streamlines DOT regulations and provides quality infrastructure for the businesses operating on our roads.

ENERGY

SB 796 – Relating to Public Utility Storm Protection Plans

On Wednesday, May 1, **SB 796** by Senator Joe Gruters (R-Sarasota) was read a third time on the House floor and passed with a vote of 110 yeas and 3 nays.

On Friday, April 19, SB 796 was read a third time on the Senate floor and passed with a vote of 39 yeas and 1 nay.

This bill aims to harden Florida’s utilities grid against tropical storm and hurricane damage with proposed under-grounding of electric infrastructure. The bill 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.

SB 796 will now go to the Governor.

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.

ECONOMIC DEVELOPMENT

HB 7071 – Relating to High School Graduation Requirements

On Thursday, May 2, **HB 7071**, sponsored by the House Education and Career Readiness Subcommittee, was read a third time on the House floor and passed with a vote of 113 yeas and 0 nays.

This bill promotes career education and readiness opportunities for students in public schools by creating an alternative pathway, namely the career and technical education (CTE) graduation pathway option, for students to earn a standard high school diploma, and specifies related requirements. Specifically, the bill:

- Requires students to successfully complete at least 18 credits to receive a standard high school diploma under the CTE graduation pathway option;
- Allows computer science credit substitution for mathematics or science credits;
- Revises school grade calculation for high schools by specifying that dual enrollment courses include career clock-hour dual enrollment courses;

- Creates the Florida Pathways to Career Opportunities Grant Program to enable high school and Florida College System institutions to offer applied learning opportunities for students in high-demand career pathways linked to occupations that will provide students with mid-level and high-level wages;
- Requires district school boards to declare a “College and Career Decision Day” to recognize high school seniors and encourage them to prepare for college and pursue advanced career pathways.

Additionally, current law requires financial literacy to be taught as a part of a one-half credit economics course, which falls under the three required social studies credits a student must achieve to earn a standard high school diploma. The bill maintains the number of social studies credits needed to earn a standard high school diploma at three credits and in the 2019-2020 school year; all districts must include financial literacy as at least a one-half credit elective course.

HB 7071 will now go to the Governor.

AIF supports efforts to grow the talent pipeline to maintain the competitive edge Florida businesses have come to expect in the state while giving students tools to learn about relevant, and real life subjects that will prepare them for the workforce in the future.