

2013

New Law Reference Guide *for Businesses*

*Do You Know
How These
New Laws
Will Affect
Your Business?*



ASSOCIATED INDUSTRIES OF FLORIDA • *The Voice of Florida Business Since 1920*



2013 New Laws Affecting the Business Community

Thousands of bills were introduced in the Florida Legislature this year. Of those, 285 were signed by the governor. Do you know which laws will affect your business?

This easy-to-use guide does not attempt to provide information on all 285 bills signed this year. Instead, we have taken the time to analyze all new laws and we've selected the ones that have the broadest impact on Florida's business community. Then we provide a short synopsis of the law and highlight some of the more important provisions or requirements affecting your business. Finally, we provide the law's effective date so AIF members can be sure to be in compliance with these new laws and regulations.

We hope this guide will serve as an effective source of information as you navigate the complex regulatory environment. For more information on this and all other issues vital to Florida's future, please visit www.aif.com.

Questions?

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Economic Development

HB 357 Manufacturing Competitiveness Act — Chapter No. 2013-244

What You Need to Know: This law creates some level of competition among counties for new manufacturing facilities.

- Authorizes local governments to voluntarily adopt, by ordinance, a Local Manufacturing Development Program that would allow manufacturers to obtain master plan approval for manufacturing sites;
- The agreed upon master plan would set outer limits on the site that would remain applicable over the term of the master plan;
- Once the master plan is approved, the manufacturer would not need further local approval for future expansions or modifications (except for building code, life, or safety issues);
- Manufacturers residing in participating counties will also have access to a coordinated permitting process at the state level for the most common state permits; and
- The law enables participating local governments to be self-identified as having a particular interest in having manufacturing facilities in their jurisdictions.

Effective Date: July 1, 2013

SB 406 Economic Development — Chapter No. 2013-042

What You Need to Know: The law is an omnibus economic development package that will authorize an additional \$15 million for the Florida New Markets Tax Credit Program (NMTC) and increase the annual amount by \$3 million. The Florida NMTC objective is simple: to leverage tax credits and attract private sector investor dollars, thus creating immediate access to capital for small businesses in Florida's low-income communities by piggy-backing on the federal program. The law also provides for the following:

- **Brownfields:** The law limits where a project may be located in order for a sales tax refund for building materials to be received and provides brownfield redevelopment bonus refunds for jobs created.
- **Enterprise Zone Tax Credit:** The law provides that the cap on the corporate income tax credit for property taxes paid on certain improvements within an enterprise zone applies at each individual location rather than each business entity.
- **Qualified Target Industry and Qualified Defense and Space Contractor Tax Refunds:** The law removes the individual recipient lifetime limit for both the Qualified Target Industry (QTI) and Qualified Defense and Space Contractor tax refund programs.

Effective Date: July 1, 2013

HB 4013 Tax Refund Programs — Chapter No. 2013-096

What You Need to Know: This program has created many jobs in Florida in the space and defense industries and the law's elimination of the life time cap will foster even further job growth.

- The law eliminates the maximum amount of tax refunds a business can receive over all fiscal years for both the Qualified Target Industry and Qualified Defense and Space Flight Business Programs;
- The current limits imposed on the percentage of total award and the dollar amount a qualifying project could receive in a given fiscal year would remain in effect; and
- These programs are subject to annual appropriation by the Legislature.

Effective Date: July 1, 2013

Once a master plan is approved, the manufacturer would not need further local approval for future expansions or modifications.



Creates a sales tax exemption for machinery and equipment used within the state of Florida to manufacture and produce tangible goods for sale.

HB 7007 Economic Development and the Repeal of Sales Tax on Manufacturing Equipment — Chapter No. 2013-039

What You Need to Know: Serving as the 2013 House economic development package, this law set in place regular reporting mechanisms of state economic incentive activities and requires reports to be made to the Legislature throughout the year.

- Manufacturing Machinery & Equipment Sales Tax Exemption: Creates a sales tax exemption for machinery and equipment used within the state of Florida to manufacture and produce tangible goods for sale. This exemption is available for a period of 3 years, from April 30, 2014 to April 30, 2017.

Effective Date: May 17, 2013

Education

HB 21 Background Screening for Non-Instructional Contractors on School Grounds — Chapter No. 2013-073

What You Need to Know: The law will require the Department of Education (DOE) to create a uniform, statewide identification badge to be worn by non-instructional contractors signifying that a contractor has met specified requirements and background checks.

- School districts are responsible for issuing these badges, and they must include photo identification;
- The badge must be recognized by each Florida school district, visible on the contractor's person while on school grounds, and is valid for five years; and
- The law does not have a fiscal impact on the state government, but it has an indeterminate fiscal impact on local governments.

Effective Date: July 1, 2013

SB 1076 Career and Professional Education Act — Chapter No. 2013-027

What You Need to Know: The law revises current career education programs and targets funding in an effort to better prepare and align Florida students to join the workforce. Specifically, the law requires:

- The State Board of Education to designate pathways for demonstrating the skills required for high school graduation, including the certifications for high school credit requirements;
- Financial literacy to be required in high school graduation fulfillments; as part of a required credit in economics, and also requires emphasis on entrepreneurship in the career education and planning course in middle school;
- The development of “Florida Digital Tools Certificate” for middle school students including a bonus in funding when schools earn the certificate;
- The creation of designations for students earning high school course and credit accomplishments indicating their eligibility for gold and scholar designations;
- Steps for an easy transition to the “Next Generation Sunshine State Standards” and related assessments; and
- Adult education students to complete a planning exercise called “Action Steps to Career Readiness.”

Effective Date: July 1, 2013



**STATE
Standards**

Energy

HB 579 Natural Gas Motor Fuel — Chapter No. 2013-198

What You Need to Know: This law will replace the annual decal and fee system with a motor fuel equivalent gallon form of taxation beginning January 1, 2019.

- The legislation requires anyone selling natural gas fuel in Florida to obtain a natural gas retailer license from the Department of Revenue.
- There are currently 32 natural gas fueling stations in Florida and with the development in the United States of proved reserves of natural gas, the potential for a less expensive and cleaner alternative to other motor fuels is expanded in this legislation.

Effective Date: January 1, 2014

SB 682 Fossil Fuel Combustion Products — Chapter No. 2013-068

What You Need to Know: This law addresses the continued use of coal ash in many products and creates a regulatory program under the Department of Environmental Protection (DEP) for the beneficial use of Fossil Fuel Combustion Products.

- It will let the Environmental Protection Agency (EPA) know that Florida wants to continue to use coal ash in various types of products; and
- It saves energy while producing revenue by using coal ash in products rather than incurring the cost of disposal.

Effective Date: July 1, 2013

The potential for a less expensive and cleaner alternative to other motor fuels is expanded in this legislation.



Environment & Agriculture

HB 203 Agricultural Lands — Chapter No. 2013-239

What You Need to Know: The purpose of this legislation is to prevent double regulations by governments. For example, if an agricultural activity is regulated by either the federal or state governments then this law prevents a local government from also charging a fee to regulate it. The current law applies to just Florida counties, but some municipalities have expanded their boundaries to include farm operations and are applying fees for certain activities.

Effective Date: July 1, 2013

REGULATIONS

SB 364 Consumptive Use Permits for Development of Alternative Water Supplies — Chapter No. 2013-169

What You Need to Know: This law expands the water supply and reduces the cost of bonding such projects.

- The law directs that the alternative water supply (AWS) development projects approved on or after July 1, 2013, are eligible for an extended consumptive use permit (CUP) of at least 30 years.
- These permits will be subject to compliance reports and water management district (WMD) water shortage orders.
- Under the legislation, extended permits may not allow the use of non-brackish groundwater supplies or non-alternative water supplies.

Effective Date: July 1, 2013

HB 713 Water Quality Credit Trading — Chapter No. 2013-146

What You Need to Know: This law expands a pilot program to a statewide water quality credit trading program.

- Participation in this program is completely voluntary.
- The program is market-based and allows businesses to buy trading credits (pollutant reductions) from others, which saves them money rather than implementing a more expensive cleanup project.

Effective Date: July 1, 2013

Limiting the number of times a local government may request additional information to three when reviewing a development permit application.

SB 948 Water Supply — Chapter No. 2013-177

What You Need to Know: This law authorizes the Department of Agriculture & Consumer Services (DACS) to collect water use data from farmers throughout the state and provide it to Florida's water management districts. It also allows the department to create a water supply planning program.

Effective Date: July 1, 2013

HB 999 Omnibus Environmental Regulation — Chapter No. 2013-092

What You Need to Know: The law amends and revises numerous provisions relating to development permit applications, marinas, boat yards, general permits for special events, well permits, regional water supply planning, and agricultural water supply demand projections by doing the following:

- Limiting the number of times a local government may request additional information to three when reviewing a development permit application;
- Providing a lease fee calculation for certain boatyards, marinas, and marine retailers, and provides conditions for the discount and waiver of these fees;
- Increasing the amount the Department of Environmental Protection (DEP) is authorized to enter into a contract for preapproved cleanup work for contaminated sites in a single fiscal year;
- Prohibiting a local government from using a recovered materials dealer's registration information to unjustly compete with the dealer for a ninety-day period after submission; and
- Ratifying certain leases on state-owned uplands in the Everglades Agricultural Area.

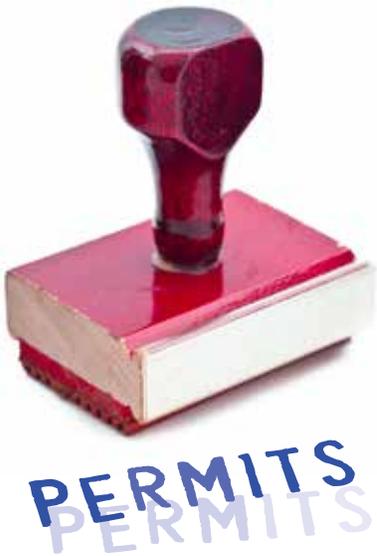
Effective Date: July 1, 2013

SB 1106 Agritourism — Chapter No. 2013-179

What You Need to Know: This legislation prohibits a local government from adopting ordinances or policies designed to prohibit or limit agritourism activity on land deemed "agricultural" by the county property appraiser. The law also clarifies the definition of "agritourism activity," and establishes a limit on the liability for the landowner and the employees if a notice of risk is posted on the land.

- Agritourism refers to the practice of attracting tourists to agricultural areas, usually for recreational or educational purposes.
- Agritourism provides Florida farmers with an alternative and innovative way to expand their incomes either through activities on the farm, or employment activities off of the farm.
- This law denies the use of the limited liability defense if the owner, agritourism operator, or an employee of the operation, fails to post the sign as required by this act or fails to place it in the contract.

Effective Date: July 1, 2013



SB 1806 Total Maximum Daily Loads (TMDLs) — Chapter No. 2013-070

What You Need to Know: This legislation exempts the Total Maximum Daily Load (TMDL) rules from legislative ratification. The TMDL process is part of the technology used in establishing numeric nutrient criteria (NNC) in a water body, stream, or river.

Effective Date: July 1, 2013

SB 1808 Numeric Nutrient Criteria (NNC) — Chapter No. 2013-071

What You Need to Know: This law provides guidance for setting numeric nutrient criteria (NNC) for flowing waters of the state.

- Florida is currently facing the possibility of having to meet strict water quality standards regarding NNC (for nitrogen and phosphorous) in all water bodies as a result of a lawsuit by radical environmental organizations.
- The proposed criteria are technically and scientifically flawed, as well as economically unattainable by the business and public sectors.
- The Department of Environmental Protection (DEP) has issued new rules to help Florida achieve better water quality standards by using biological confirmation and Total Maximum Daily Loads (TMDL).
- Since the new rule will have an impact of more than one million dollars over the next five years, the Florida Legislature will have to ratify the rule.

Effective Date: May 30, 2013

HB 7065 Everglades Improvement and Management — Chapter No. 2013-059

What You Need to Know: Among other things, this legislation provides a legislative finding that implementation of best management practices (BMPs), funded by the owners and users of land in the Everglades Agricultural Area (EAA), effectively reduces nutrients in waters flowing into the Everglades Protection Area.

- To date, in their continued commitment to the Everglades, farmers and landowners in the region have spent \$200 million on BMPs; the legislation does not raise the current \$25 per acre Agricultural Privilege Tax that farmers and landowners pay the state.
- The legislation also moves towards the completion of the Everglades Restoration plan.

Effective Date: May 28, 2013



TMDL

General Business

HB 85 Public Private Partnerships — Chapter No. 2013-059

What You Need to Know: This law creates an alternative procurement process and requirements for public-private partnerships (PPPs), and creates a Public Facilities and Infrastructure Act Guidelines Task Force which will provide guidance on the implementation of PPPs to foster uniformity across the state. The law also authorizes the use of PPPs for purposes of county transportation facilities. Specifically, the law:

- Authorizes PPPs to contract for public service work with a not-for-profit organization or charitable youth organization, and provides certain requirements for contracts specific to park land and public education buildings;
- Authorizes the use of PPPs for purposes of county road projects and permits counties to receive or solicit proposals and enter into agreements with private entities to construct or improve a county road if certain requirements are met; and
- Extends the terms for leases that the Orlando/Orange County Expressway Authority may enter into from 40 to 99 years.

Effective Date: July 1, 2013

Authorizes PPPs to contract for public service work with a not-for-profit organization or charitable youth organization.

Questions?

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HB 655 Employment Benefits — Chapter No. 2013-200

What You Need to Know: The new law further restricts political subdivisions from requiring an employer to provide employment benefits not required by state or federal law. Further, it is designed to block local governments from enacting sick time rules, such as the one pending in Orange county. The law does not prohibit a political subdivision from establishing a minimum wage or to provide employment benefits for the following:

- Employees of an employer receiving a direct tax abatement or subsidy from a political subdivision;
- Employees of a political subdivision; or
- Employees of an employer contracting to provide goods or services to the political subdivision, or employees of a subcontractor of such an employer.

These provisions do not apply to a sexual abuse or domestic violence ordinance, rule or policy adopted by a political subdivision, or in cases in which it is determined that compliance would prevent the receipt of federal funds by the political subdivision.

Effective Date: July 1, 2013

Health Care

SB 648 Health Insurance Marketing Materials — Chapter No. 2013-174

What You Need to Know: This law repeals a health insurer's obligation to submit marketing materials to the Office of Insurance Regulation (OIR) prior to using them.

- Current law requires that each marketing communication to be used in the marketing of a health benefit plan be submitted for review by the OIR prior to its use.
- The law maintains the authority of OIR to review the marketing communications and disclosure statements as part of complaint investigations or market conduct reviews.
- The law continues the requirement that insurers must file with OIR any long-term insurance advertising materials, but deletes the requirement to file such materials 30 days prior to use.

Effective Date: July 1, 2013

HB 939 Medicaid Recoveries — Chapter No. 2013-150

What You Need to Know: This law will increase accountability in the state's Medicaid program by doing the following:

- Increasing the length of time for retaining all medical and Medicaid-related records from 5 to 6 years for Medicaid providers;
- Requiring Medicaid providers to report a change in any principal of the provider to the Agency for Health Care Administration in writing no later than 30 days after the change occurs;
- Providing a definition for principals of a provider with a controlling interest for hospitals and nursing homes for the purposes of conducting criminal background checks;
- Authorizing, rather than requiring, AHCA to perform onsite inspections of a service location of a provider applying for a provider agreement before entering into the agreement;
- Requiring AHCA to impose the sanction of termination for cause against a provider that voluntarily relinquishes their Medicaid provider number when being investigated; and
- Clarifying the scope of immunity from civil liability for persons who report fraudulent acts or suspected fraudulent acts, and providing definitions of fraudulent acts.

Effective Date: July 1, 2013



SB 1842 Health Insurance — Chapter No. 2013-101

What You Need to Know: The law, for purposes of implementing the Patient Protection and Affordable Care Act (PPACA), addresses conflicts between federal and Florida law. In doing so, it makes numerous changes to the Florida Insurance Code related to the requirements of the PPACA that applies to health insurers and policies. Among other things, the law:

- Specifies that health insurers and Health Management Organizations (HMOs) may non-renew individual conversion policies if the individual is eligible for other similar coverage;
- Authorizes OIR to assist the U.S. Department of Health & Human Services (HHS) in the enforcement of provisions of the PPACA by reviewing policy forms and performing market conduct examinations for compliance with the act; and
- Provides that a provision of the Florida Insurance Code or rule adopted pursuant to the code must apply unless such a rule prevents the application of a provision of PPACA.

Effective Date: July 1, 2013

Specifies that health insurers and HMOs may non-renew individual conversion policies if the individual is eligible for other similar coverage.

Insurance

SB 468 Property and Casualty Insurance Rates, Fees and Forms — Chapter No. 2013-066

What You Need to Know: This law allows a property and casualty insurer to file a new policy or changes to an existing policy as an informational filing with the Office of Insurance Regulation (OIR) in lieu of filing for approval prior to use. The law will substantially reduce a backlog of form filings awaiting approval by the OIR. Thus, the law will allow insurers to react timely to the insurance needs of the business community and will enhance competition among insurers.

Effective Date: July 1, 2013

HB 553 Workers' Compensation System Administration — Chapter No. 2013-141

What You Need to Know: This law amends various compliance and enforcement tools the Florida Division of Workers' Compensation uses to effectively administer the state's workers' compensation system for employers, carriers and health care providers. Among other things, the law puts into effect the following changes to Florida's workers' compensation system:

- Continues increased benefits for injured employees with a "catastrophic temporary total disability," but removes the weekly \$700 cap on such benefits;
- Eliminates the requirement that workers' compensation health care providers receive certification by the Department of Financial Services (DFS);
- Resolves a statutory inconsistency regarding the penalties that may be assessed against employers or carriers for the violation of specific reporting requirements; and
- Clarifies the authoritative powers of the Florida Self-Insurers Guaranty Association under the workers' compensation law.

Effective Date: July 1, 2013

SB 662 Workers' Compensation — Chapter No. 2013-131

What You Need to Know: This law addresses a drug repackaging loophole in Florida's workers' compensation program without increasing costs or delaying medical treatment to injured workers by doing the following:

- Establishes the maximum charges permitted for prescription medications;
- Maintains the reimbursement rate for other prescription medications at the average whole sale price (AWP) plus a \$4.18 dispensing fee;
- Revises the amount of reimbursement for prescription medications by workers' compen-





sation claimants by providing that the rate for repackaged or relabeled drugs dispensed will be capped at 112.5% of the AWP, plus \$8.00 for a dispensing fee; and

- Provides for an exception to the reimbursement schedule if the employer or a third party acting on behalf of the employer enters into a direct contract with a provider seeking reimbursement at a lower rate.

Effective Date: July 1, 2013

SB 810 Wrap-Up Insurance Policies — Chapter No. 2013-175

What You Need to Know: The law allows insurance companies to offer a deductible feature for a workers' compensation policy which covers all parties performing work on a major construction site if:

- The estimated cost of the construction project at each worksite is \$25 million or more;
- The workers' compensation minimum standard premium on the combined payrolls for all entities covered by the wrap-up policy exceeds \$500,000;
- The insurer pays the first dollar of a claim without a deductible;
- The reimbursement of the deductible by the insured does not affect the insurer's obligation to pay the claims; and
- The insurer has an established program to have the first-named insured reimburse the insurer for losses paid within the deductible.

Florida businesses will have the option to substantially reduce insurance costs for new facilities' construction by purchasing a wrap-up policy with a deductible. In addition, a deductible creates a direct monetary incentive for a construction project owner or general contractor to maintain a safe work site for employees.

Effective Date: July 1, 2013

The law requires Citizens to establish a process to divert commercial residential policies to the private market.

SB 1770 Property Insurance — Chapter No. 2013-060

What You Need to Know: The law enacts new provisions which will reduce the potential for hurricane taxes on businesses' property and casualty insurance premiums which fund Citizens and Cat Fund deficits. It also extends the Cat Fund assessment exemption for Medical Malpractice until May 31, 2016. Citizens' deficit mitigation provisions include encouraging potential applicants to shop for coverage from private insurers and reducing coverage available through Citizens.

Many Citizens policyholders are not aware of post-claims assessments.

- In addition to the current potential surcharge disclosure requirements for new policies, the law requires Citizens to disclose potential surcharge liabilities with each renewal notice.
- Further, the law removes Citizens' eligibility ambiguity by clarifying that a private insurer's offer within 15% of Citizens' rate for a new policy and within Citizens' current rate for a renewal policy makes the policy ineligible for coverage with Citizens.
- To provide Citizens with the tools to enforce these eligibility requirements, the law establishes a Citizens clearinghouse under which private insurers will have the opportunity to submit offers for homeowners' coverage prior to the policies being placed in Citizens.
- In addition, the law requires Citizens to establish a process to divert commercial residential policies to the private market.
- The law reduces Citizens' potential deficits by reducing the maximum Citizens policy limit from \$2 million to \$1 million, and beginning in 2014, reducing maximum limits by \$100,000 a year for 3 years to \$700,000.
- The law also prohibits Citizens from covering structures commencing construction after July 1, 2014, seaward of the coastal construction control line. In order for the state's policy-makers to monitor the effectiveness of these and existing Cat Fund and Citizens deficit mitigation efforts, the law requires the Cat Fund and Citizens to submit to the Legislature and Financial Services Commission an annual exposure report.

Effective Date: July 1, 2013

Legal & Judicial

SB 186 Jurisdiction of the Courts — Chapter No. 2013-164

What You Need to Know: The law will effectively strengthen Florida’s choice of law provisions in contracts and clarify the use of international arbitration in the state.

- Clarifies that foreign judgments issued in U.S. territories are entitled to “full faith and credit” in the state of Florida under the Florida Enforcement of Foreign Judgments Act; and
- Extends personal jurisdiction to parties initiating arbitration or entering into written contracts that provide for arbitration in Florida for any action that arises out of arbitration or a resulting award.

Effective Date: July 1, 2013

HB 7015 Expert Testimony — Chapter No. 2013-107

What You Need to Know: The law will align Florida’s evidentiary standard for expert witness testimony with that of the federal courts.

Currently, Florida is an outlier among states in its use of the outdated Frye standard for admissibility of expert witness testimony. The law will align Florida with other leading states that utilize the Daubert standard, therefore ensuring that “junk science” is not admitted into our courts. This issue is important to the business community because Florida-based companies are regularly joined into costly and unnecessary lawsuits so that trial lawyers may gain access to our courts, thereby increasing the cost of doing business in Florida. The law rejects the Frye standard and provides a three part test to determine whether expert testimony will be allowed in a specific case by determining the following:

- If the testimony is based upon sufficient facts or data
- If the testimony is the outcome of reliable principles and methodology, and
- If the witness has applied these principles and methodology in a reliable manner as to the facts of the particular case.

Effective Date: July 1, 2013

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information
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Telecommunications

SB 52 Use of Wireless Communications Devices While Driving — Chapter No. 2013-058

What You Need to Know: The law provides for secondary enforcement of a ban on texting-while-driving in the following ways:

- The driver must be first pulled over for a violation of another traffic law before that driver may be cited for violating the texting-while-driving ban
- Graduated penalties and exceptions are provided, and
- The law allows that a driver may still text but only when legally parked.

The law also provides that a driver’s wireless billing records and testimony from those receiving messages are admissible as evidence in a proceeding to determine whether a violation has been committed. This law also applies to the use of tablets as well as wireless cell phones. The law may generate additional revenues for local and state governments as a result of the penalties.

Effective Date: October 1, 2013

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