

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



Questions?

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2019 New Laws Affecting the Business Community

Of the thousands of bills that were introduced to the Florida Legislature this year, Associated Industries of Florida reported to our members throughout the legislative process on the bills that could impact Florida's businesses. We actively opposed those bills that we identified as harmful to employers and provided our support to those that would improve the conditions to do business in the state. When session ended, we updated our members with the AIF annual *Session Wrap-Up* that summarized bill activity and provided an analysis of how each legislator voted on the bills that were most important to the business community in our annual *Voting Records* publication.

The information contained in the *New Law Reference Guide* for Businesses summarizes the new laws that will have the broadest impact on businesses in our state. We include a short synopsis, highlight the more important provisions or requirements of those laws, and include the assigned Chapter Number within the Florida Statutes where this new law will now be placed.

To view the detailed language for a law, visit <http://laws.flrules.org/> and reference the Chapter Number. To research the path of the original bill from its inception to becoming a Florida law, including amendments and votes, visit <http://www.leg.state.fl.us>.

Each of the laws contained in this publication is currently in effect with the exception of two, as noted.

We hope this guide will serve as a valuable source of information as you navigate the complex regulatory environment. Visit AIF.com for more information on this and all other issues vital to Florida's future.



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ECONOMIC DEVELOPMENT

High School Graduation Requirements – (HB 7071) Chapter No. 2019-119

What you need to know: A critical challenge facing employers is getting a sufficient level of qualified workforce from our high schools. One way to achieve this is to ensure that the subjects being taught can help students graduate with the necessary skillsets our businesses need. This law states that starting in the 2019-2020 school year, all districts must include financial literacy as at least a one-half credit elective course.

Property Development – (HB 7103) Chapter No. 2019-165

What you need to know: Florida continues to be a growing state, and property development is a big part of that. The rules and regulations that govern this area should be constantly monitored and tweaked to ensure that sustainable and appropriate growth isn't stifled due to a faulty regulatory process.

The governing of property development needs to be constantly monitored and tweaked to ensure that sustainable and appropriate growth isn't stifled due to a faulty regulatory process.

This law modifies property development regulations by:

- restricting counties and municipalities from adopting or imposing certain mandatory affordable housing ordinances;
- reducing the time period for building departments 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; and
- entitling the prevailing party to reasonable attorney fees and costs; in other words, the loser pays.

ENERGY

Public Utility Storm Protection Plans – (SB 796) Chapter No. 2019-158

What you need to know: Every year, Florida citizens and businesses are forced to prepare for massive storms that threaten our state. Keeping businesses open and operating after a devastating storm is of the utmost importance. Working with our members from the utility industry, AIF supported HB 797 because it takes a very important step in making our state more prepared going forward.

This law will strengthen Florida's utilities grid against tropical storm and hurricane damage by moving electric infrastructure underground. It also requires public utility companies (Florida Power & 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 Service Commission, with updates required at least every three years.



HEALTH CARE

Telehealth – (HB 23) Chapter No. 2019-137

What you need to know: With AIF's support, the 2016 Florida Legislature created a new health care delivery method called Telehealth. Telehealth is defined as the remote delivery of telecommunications technology (simultaneous video and audio services via a computer, Skype, etc.) by a telehealth provider to provide specific health care services.

This law authorizes Florida licensed health care professionals to use telehealth to deliver health care services within their scope of practice. It 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.

Electronic Prescribing – (HB 831) Chapter No. 2019-112

What you need to know: In the fight to control spiraling health care costs, efforts made to reduce fraud and abuse can provide stability to the system and lower costs in the process. One such example is electronic prescribing (e-prescribing). This 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 at the state and federal level to increase the use of e-prescribing software. This law requires prescribers to generate and transmit all prescriptions electronically (except in certain circumstances).

Effective Date: January 1, 2020

INSURANCE

Health Insurance Savings Program – (HB 1113) Chapter No. 2019-100

What you need to know: Affordable health care, in any form, is of paramount importance to both employers and employees alike. AIF works with legislators each session to promote ideas that will help keep costs under control.

This law creates the Patient Savings Act, which allows health insurers to voluntarily create a shared savings incentive program to encourage insured individuals to shop for high quality, lower cost health care services. The bill directs those health insurers that choose to offer the program to collectively develop a website outlining the range of shoppable health care services available to insureds. This shared website must provide insureds with an inventory of participating health care providers and an accounting of the combined savings incentives available for each shoppable service. When an insured obtains a health care service for less than the average price for the service, the savings must be shared between health insurer and the insured.

Insurance Assignment Agreements – (HB 7065) Chapter No. 2019-57

What you need to know: With assignment of benefits (AOB), property owners in need of repairs sign over their benefits (payments from their insurance company) to contractors, who then pursue payments from insurance companies.

Fraud and litigation are now running rampant with this practice. In fact, this problem has created a relatively new form of litigation over things such as 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 then force higher settlements from insurers. There have been many instances where the insurance company was sued in the name of the policyholder without the policyholder's consent. This law will take steps in preventing 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; and
- 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.

Insurance – (HB 301) Chapter No. 2019-108

What you need to know: Insurance is both an important part of running a business and a major cost driver. There are many types of insurance that are all wrapped up in various areas of regulations and oversight. AIF has long been a champion on insurance issues because we recognize that even the slightest tweak in state law one way or the other can have serious ramifications to an employer.

This past session, a sweeping insurance package containing a multitude of insurance issues was brought forward, and subsequently signed into law. The law contains several insurance-related provisions including the following:



Setting the formula that will determine which party, if any, receives an award of attorney fees is one step in preventing future abuse of AOB's.

- increases in reimbursements from the Florida Hurricane Catastrophe Fund for loss adjustment expenses from 5% to 10% of reimbursed losses beginning with contracts issued after June 1, 2019;
- workers' compensation insurance applicants and their agents are not required to have their sworn statements notarized;
- an insured is prohibited from filing a civil remedy notice within 60 days after an appraisal is invoked;
- expansion on the allowance of multiple policy discounts in certain circumstances; and
- reductions in the minimum amount of premium that must be collected for motor vehicle insurance at the initial issuance of a policy.

LEGAL & JUDICIAL

Lessor Liability Under Special Mobile Equipment Leases – (SB 862) Chapter No. 2019-104

What you need to know: Florida's Dangerous Instrumentality Doctrine was created in the early 20th Century — a time where automobiles began traveling on public roads. Its purpose was to allow for the liability of a driver in the event of an accident. However, the Doctrine has been expanded far beyond the borders of its original intent and now applies to off-highway vehicles such as tractors and construction equipment.

As an example: "Company A" leases a tractor to an individual who, while in the use of the equipment, causes damage to another person or property. The previous law allowed "Company A" to be sued for the damages even though they were not in control of the equipment at the time of the accident. Florida is the only state in the country where this Doctrine is applied in this manner.

This law provides that lessors of special mobile equipment are not liable for the acts of the lessee 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.

This law provides that lessors of special mobile equipment are not liable for the acts of the lessee.



Wireless Communications While Driving – (HB 107) Chapter No. 2019-44

What you need to know: Smartphones have become an integral part of daily life. Texting on these devices while driving has caused significant problems with safety on our roads as more and more drivers are texting while driving. The previous Florida Ban on Texting While Driving Law prohibited a person from texting, emailing, and instant messaging while driving, but was considered a secondary offense, meaning law enforcement could not stop a driver solely for any of these offenses.

This law expands the current law and 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.

Lost or Abandoned Personal Property – (SB 180) Chapter No. 2019-6

What you need to know: This law allows an owner or operator of a theme park, entertainment complex, zoo, museum, aquarium, public food service establishment, or public lodging establishment to elect to dispose of or donate lost or abandoned property found on its premises. It also prohibits the owner or operator from selling the property.

If an owner or operator elects to dispose of or donate lost or abandoned property, they must first take charge of the property, maintain a record, and hold the property for at least 30 days. If the property remains unclaimed after 30 days, the owner or operator must dispose of or donate the property to a charitable institution. If a charitable institution accepts certain electronic devices, the law requires the charitable institution to make a reasonable effort to delete all personal data from the device before its sale or disposal. The law also provides that the rightful owner of the property may reclaim the property at any time before its disposal or donation.

*Limits
administrative
fees to no more than
\$250 for the repair,
towing, or storage
of vehicles.*



Liens Against Motor Vehicles and Vessels – (HB 431) Chapter No. 2019-73

What you need to know: Previously, towing companies and auto repair shops, among others, could impose a lien on automobiles for towing and storage charges, as well as unpaid repair costs. The former statute required 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 were abusing the 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; and
- adding unreasonable or fraudulent charges to the towing or repair bill to justify the sale of the auto and retain all proceeds of the sale.

This law will:

- revise the content and mailing requirements for notices of lien and sale;
- revise the procedures for identifying unknown vehicles and vessel owners and lienholders;
- allow a lienholder to post a bond for the release of a vehicle, subject to a claim of lien for repair;
- permit administrative fees of no more than \$250 for the repair, towing, or storage of vehicles; and
- require a third-party service, certified by the DHSMV, to send all notices of lien and sale.

Effective Date: January 1, 2020

Constitutional Amendments – (HB 5) Chapter No. 2019-64

What you need to know: This law revises the process to amend the Florida Constitution by citizen initiative. Specifically, it:

- requires a petition-gatherer to (1) register with the Secretary of State prior to obtaining signatures and (2) not be paid based on the number of petitions gathered;
- requires the Secretary of State to publish on its website position statements on proposed amendments received from interested persons;
- directs the Financial Impact Estimating Conference (FIEC) to estimate the amendment’s impact on the state and local economy;
- requires the ballot summary to include (1) the name of the initiative’s sponsor and the percentage of contributions received by the sponsor from in-state donors, (2) the cost of the amendment or an indeterminate impact, and (3) a Supreme Court determination as to whether the proposed policy can be implemented by the legislature without the need for a constitutional amendment; and
- directs the Attorney General, when seeking Supreme Court review of an amendment, to ask the Court to (1) address whether the proposed policy can be implemented by the legislature, (2) identify any undefined terms in the amendment that will have a substantive impact, and (3) address whether the amendment creates any constitutional issues.

Attorney Fees and Costs – (HB 829) Chapter No. 2019-151

What you need to know: Often, some of the biggest hurdles for a business owner are local government ordinances that are overburdensome and, in some cases, unfair. Local governments previously had broad authority to legislate on any matter not consistent with federal or state law. However, if the legislature preempts an area of regulation to the state, local governments are prohibited from exercising authority in that area. If a local government enacts an ordinance on a matter preempted to the state, a person or business may file a lawsuit asking the court to declare the ordinance void.

This law entitles the person or business that files the lawsuit to claim attorney fees and costs if they prevail in the court case against the local government. However, attorney fees and costs may not be awarded if the local government receives written notice that an ordinance or proposed ordinance is expressly preempted and, within 21 days of receiving the notice, repeals or withdraws the ordinance.

Vaping – (SB 7012) Chapter No. 2019-14

What you need to know: This law implements Amendment 9 to the Florida Constitution, which was approved by the voters of Florida on November 6, 2018, to ban the use of vapor-generating electronic devices, such as electronic cigarettes (e-cigarettes), in enclosed indoor workplaces. The use of e-cigarettes is commonly referred to as vaping. The law permits the use of vapor-generating electronic devices in the enclosed indoor workplace of a “vapor-generating device retailer” or “retail vape shop,” which is defined as “any enclosed indoor workplace dedicated to or predominantly for the retail sale of vapor-generating electronic devices and components, parts, and accessories for such products, in which the sale of other products or services is merely incidental.”

The law also permits vaping at the same locations currently authorized to permit tobacco smoking, such as private residences whenever not being used for certain commercial purposes, stand-alone bars, designated rooms in hotels and other public lodging establishments, retail tobacco shops, facilities owned or leased by a membership association, smoking cessation programs, medical or scientific research, and custom smoking rooms in airport in-transit lounges.

In addition, this law amends the state’s preemption of tobacco smoking regulation in s. 386.209, F.S., to adopt and implement the grant of authority to local governments by Amendment 9 to adopt more restrictive local ordinances on the use of vapor-generating electronic devices.

Construction – (HB 447) Chapter No. 2019-75

What you need to know: The Florida Building Codes Act provides a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. Local governments have the power to inspect all buildings, structures, and facilities within their respective jurisdictions to protect the public’s health, safety, and welfare.

This law:

- allows local governments to send written notice to an owner and a contractor that a building permit is about to expire;
- allows local governments to close a building permit 6 years after the issuance of the permit, even in the absence of a final inspection, if the local government determines that no apparent safety hazards exist;
- provides that the work to close an expired permit can be completed in accordance with the Building Code in effect when the building department received the permit application if the work has already been substantially completed;
- excludes a property owner, working under the owner-builder exemption, from the requirement that the owner reside on the property for a year in order to qualify for the exemption, in certain situations;
- clarifies that local governments may only charge a person one search fee based on costs incurred for a request to identify the building permits for each unit or sub-unit assigned to a parcel of property;
- prohibits local governments from penalizing a purchaser of property solely because a previous owner failed to close a building permit;
- prohibits local governments from denying a contractor a permit solely because the contractor has expired building permits;
- prohibits local governments from carrying forward a budget balance greater than its average cost for enforcing the Building Code for the preceding four fiscal years;
- prohibits local governments from charging surcharges or other similar fees;
- allows the Florida Building Commission to adopt provisions to the Building Code every 3 years without individually determining that each provision is needed to accommodate the specific needs of the state;
- provides that a contractor who takes over a job from a previous contractor is not liable for any defects in the work performed by the previous contractor; and



Prohibits local governments from denying a contractor a permit solely because the contractor has expired building permits.

- provides that serving a notice of claim alleging a construction defect does not affect the time-period to file an action related to the construction defect.

TAXATION

This law will reduce the state's communications services tax and restrict the ability of local governments to collect fees from the communication providers that need to use the public roads or right of way.



Communications Services – (SB 1000) Chapter No. 2019-131

What you need to know: Previously, local municipalities and counties could prohibit the use of right of way by communication providers. This stifled the ability of these providers from expanding their service such as 5G wireless network or expanded cable services to those communities, including businesses.

This law will reduce the state's communications services tax and restrict the ability of local governments to collect fees from the communication providers that need to use the public roads or right of way. According to Florida TaxWatch, the proposed decrease in the communications services tax rate from 4.92% to 3.92% and a reduction in direct-to-home satellite services tax from 9.07% to 8.07% would save consumers and businesses \$128 million, annually.

Tax Reductions – (HB 7123) Chapter No. 2019-42

What you need to know: This law provides for several tax reductions and other tax related modifications designed to directly impact both families and businesses. Specifically, it provides:

- a reduction in the tax rate for commercial property rentals from 5.7% to 5.5%;
- 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.

Corporate Income Tax – (HB 7127) Chapter No. 2019-168

What you need to know: This law reduces the corporate income tax by decoupling the global intangible low-taxed income (GILTI) and extends the refund and rate cut mechanisms for two years.

TRANSPORTATION

Autonomous Vehicles – (HB 311) Chapter No. 2019-101

What you need to know: This law authorizes the use of vehicles in autonomous mode in the state. The autonomous technology is now 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 law also specifies that statutory provisions relating to unattended motor vehicles, wireless communication devices, and television receivers do not apply to autonomous vehicles operating with the automated driving system engaged. The requirement for a person to possess a valid driver license to operate a fully autonomous vehicle is also removed.

Department of Transportation – (HB 905) Chapter No. 2019-153

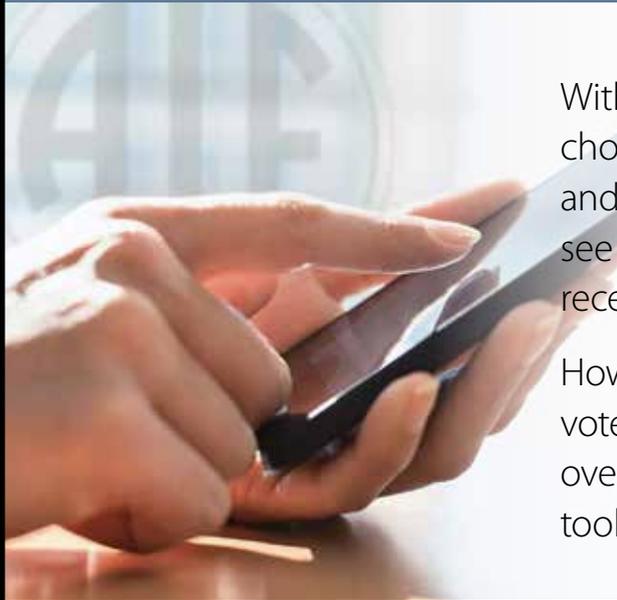
What you need to know: Businesses working within the process of state agencies often find it stifled progress and growth; therefore, efforts to keep the process from becoming over burdensome for employers is important. This law streamlines certain Florida Department of Transportation (DOT) regulations such as prohibiting local governments from adopting standards for the permissible use of aggregates that are contrary to DOT's standards and 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.

Transportation – (SB 7068) Chapter No. 2019-43

What you need to know: The law creates the Multi-Use Corridors of Regional Economic Significance Program within the DOT. The program is designed to advance construction of regional corridors that will accommodate multiple modes of transportation and multiple types of infrastructure. The specific purpose of the program is to revitalize rural communities, encourage job creation in those communities, provide regional connectivity while leveraging technology, enhance quality of life and public safety, and protect the environment and natural resources.

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Want to Participate?

Membership is required to participate on AIF's Councils and to receive our member communications.

Not a Member?

To learn more about AIF membership services and/or apply for membership,

Please Contact:

Brewster Bevis,
Senior Vice President –
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