
2010 SINE DIE REPORT



VISIT FLORIDA FUNDING

Status: Passed

As our state faced a budget shortfall this session, lawmakers had the opportunity to view VISIT FLORIDA as part of the budget solution so we can continue to bring visitors and tourism-related sales taxes to the Sunshine State. Without adequate funding for VISIT FLORIDA this session, local companies, communities and our state economy could have suffered the consequences. VISIT FLORIDA was granted 26.4 million in funding in order to continue to assist Florida's travel industry and protect the vital state tax revenue generated by tourists.

SCHOOL-TO-CAREER FUNDING

Status: Passed

The HEP/school-to-career program of which DBPR administers was granted \$706,698 for funding in the upcoming year. FRLA's Education Foundation programs help to ensure an educated workforce for our industry's future.

OFFSHORE OIL DRILLING

Status: Withdrawn from Consideration

Several bills were introduced to discuss the possibility of oil and gas exploration off the Gulf Coast. All bills were withdrawn from consideration.

As you know, one of the worst oil spills in U.S. history is currently wreaking havoc in the Gulf of Mexico. Florida State Emergency Operations Center (EOC) is the state government's centralized emergency response team that is activated when an event occurs that overwhelms local ability to respond. The EOC is comprised of a number of "emergency support functions," or small work groups that focus on specific areas of the response effort. FRLA is part of ESF18, responsible for Long Term Business Recovery.

During the next few days ESF18 will "activate" and begin its part of the response activity. This will initially focus on collecting economic information related to the event and planning mitigation.

FRLA will be highly engaged and closely involved in this event, and we will provide periodic updates as new information becomes available.

UNEMPLOYMENT RATE HIKE

Status: Passed

On opening day of the 2010 Session of the Florida Legislature, the Florida House and Senate each passed HB 7033, a bill that will provide significant relief to Florida businesses like yours that were otherwise facing a dramatic increase in their unemployment compensation (“UC”) taxes for 2010 and 2011. FRLA was an early and vocal advocate in the Florida Legislature for quick passage of this bill.

In sum, if your business is paying UC tax at the minimum rate, your tax was due to jump from the \$8.40 per employee you paid in 2009 up to \$100.30 per employee in 2010 and \$164.05 per employee in 2011. Under the bill passed, your UC tax should instead be approximately \$25.20 per employee in 2010 and \$53.90 per employee in 2011.

If your business is paying UC tax at the maximum rate, your tax was due to jump from the \$378 per employee that you paid in 2009 up to \$459 per employee in 2010 and 2011. Under the bill passed, your UC tax should instead remain at approximately \$378 per employee in 2010 and 2011.

The bill will also allow employers to make their 2010 and 2011 UC tax payments in quarterly installments without interest or penalties as long as the employer timely makes the filings and payments and pays an annual \$5 administrative fee.

Notably, while this legislation will provide short term relief to businesses by reducing the UC tax in 2010 and 2011, the likelihood is that Florida employers will face significant UC tax increases in 2012 and beyond due to the poor economy and unemployment. Hopefully, however, the economy will have improved sufficiently by that time for employers to better handle such tax increases.

Governor Crist signed the bill on March 2, 2010.

TRANSPORTATION/ HIGHWAY LOGO SIGN FEE HIKE

Status: Passed

A recent change in the Florida DOT Logo Program had created an unnecessary economic hardship on many participating businesses.

After a considerable number of years without experiencing any increases in cost, Chapter 2009-85, Laws of Florida, authorized an increase of up to \$5,000 for urban signs, and \$3,500 for non-urban signs to participate in the DOT Logo Program.

During the original workshop phase by the Florida Department of Transportation in the development of administrative rules earlier this year, the costs to participate in the DOT Logo Program (in some cases) was increased from \$1,000 to more than \$4,500 as allowed by law. These are significant increases especially when hospitality, tourism and travel industries are experiencing significant downturns due to the current economic conditions.

While the hospitality, tourism and travel industries appreciate that government services occasionally need to increase the cost of services, an increase of over 400 percent in a one year period, when little if anything related to the program has changed is difficult to justify and even more difficult for affected businesses to plan and budget for.

FRLA supported reducing the current highway signage rates. Such drastic increases were not supported by logical data or a change in circumstances. FRLA placed an amendment on Senator Gardiner's Transportation Bill (SB 2362) that removed a 3-year, rotation-based logo program and stated the annual permit fees for sign locations inside an urban area may not exceed \$3,500 (instead of \$5,000, as authorized by current law) and annual permit fees for sign locations outside an urban area may not exceed \$2,000 (instead of \$2,500, as authorized by current law).

The bill was substituted for the House version and passed. It is now on its way to be signed by Governor Crist.

ALCOHOLIC BEVERAGES

There were 14 bills this year relating to alcoholic beverages. These bills ranged from the mandatory posting of signs warning of fetal alcohol syndrome to increased penalties for a violation of the State Beverage Code.

Nearly all of the bills relating to alcoholic beverages either died in committee or never received a committee hearing. Two bills that did make it through the process was SB 1068 and its companion bill HB33. HB 33 was passed by both chambers and sent to the Governor's Office for signature. HB 33 increases the criminal penalty for selling alcohol to a minor a second time within one year of the conviction of the first offense. If convicted, a second conviction within one year of the first will now be a first degree misdemeanor.

ONLINE TRAVEL AGENCIES TAXATION

Status: Died in Messages

Attorney General McCollum, together with the Department of Revenue, filed a request for a declaratory statement in Leon circuit court asking for an opinion as to what the

taxation is in Florida. The debate rests on whether or not a local government has the authority to tax transactions by an online travel agency.

There were several bills before the 2010 Legislature regarding Online Travel Taxation. At FRLA's January Board Meeting, it was decided that FRLA would support bills sponsored by Senator Don Gaetz and Representative Jimmy Patronis regarding taxation issues involving transient travel and third party internet providers. After much, very controversial debate, Representative Patronis's bill passed in the House but died in Senate messages (the bill never received a hearing in the Senate). FRLA expects the this issue to be addressed during the 2011 Session.

STATE STANDARD FOR MENU LABELING/ OBESITY PREVENTION **Status: Died in Committee**

FRLA opposes any legislation that increases government regulations, mandates and costs on business. Bills by Representative Ed Homan and Senator Stephen Wise (HB 783 and SB 2212), Relating to Prevention of Obesity, would have required all restaurants in the state of Florida to post nutritional information on their menus. Neither bill was heard in a committee and died.

The National Restaurant Association and FRLA supported a national standard that protects smaller restaurants and is applied fairly for all food service vendors. This language was included in the federal Patient Protection and Affordable Care Act and was signed into law March 23, 2010.

Information from The National Restaurant Association Regarding National Menu Labeling Standard:

Source: www.restaurant.org/advocacy/issues/issue/?Issue=menulabel

Overview: The National Restaurant Association believes a new federal nutrition-disclosure standard for restaurants is a win for both restaurant operators and guests.

The federal Patient Protection and Affordable Care Act, signed into law March 23, 2010, includes a provision that creates a national, uniform nutrition-disclosure standard for restaurants.

The nutrition-disclosure provision, found in Section 4205 of the act, amends the federal Food, Drug and Cosmetic Act by requiring chain restaurants, similar retail food establishments and vending machines with 20 or more locations to provide specific nutrition labeling information. Those restaurants must post calories on menus, menu boards and drive-thru boards. Buffets, salad bars and other self-service items are also

included and will be required to provide caloric information adjacent to the item. Establishments must also provide additional nutrition information in writing (e.g., a brochure) upon request. This additional written information includes: calories from fat, total fat, saturated fat, cholesterol, sodium, carbohydrates, sugars, dietary fiber and protein. Furthermore, establishments are also required to include a succinct statement concerning the suggested daily caloric intake.

Federal rule to replace state/local patchwork

The federal nutrition-disclosure standard was supported by the National Restaurant Association and more than 77 health and consumer groups. The Association believes the provision is a win for both consumers and restaurateurs.

The federal standard will replace the differing regulations and laws that a growing number of cities, counties and states have passed to mandate that chain restaurants put calories and other nutrition information on menus. This patchwork of regulation is confusing to the consumer. Also, restaurant chains with locations throughout the nation must keep up with hundreds of different rules and regulations -- a process that's both difficult and expensive for operators.

Federal preemption and liability protection

The new federal law contains two important provisions critical to restaurant operators. As soon as the bill was enacted, the federal law preempted state or local menu-labeling requirements that are not identical to the federal menu-labeling requirement.

The new law also includes a "reasonable basis" standard for operators to use in developing nutrient-content data for standard menu items. The standard helps protect restaurants from unreasonable litigation because it recognizes the variability that occurs in the preparation and service of food in restaurants. Through the reasonable-basis standard, the law gives restaurant operators flexibility by allowing them to base their calculations of nutrition data on any reasonable basis, including through nutrient databases, cookbooks and laboratory analyses.

Voluntary compliance

While restaurants and food establishments that are not part of a chain of 20 more locations may not be required to provide nutrition information, they can voluntarily elect to comply. Those that do so will be shielded from other state or local requirements that are not identical to the federal legislation.

Timeline

Compliance with the new law will not be required until the Food and Drug Administration completes the implementing regulations. Under the terms of the new law, the FDA is required to publish proposed regulations within one year of the measure's March 23, 2010, enactment date.

NEGLIGENCE/ "SLIP AND FALL"

Status: Passed

Current Florida law states that business owners must maintain their premises for visitors' safety. However, plaintiffs are allowed to bring cases without showing that a property owner had constructive knowledge. This leaves business owners with little defense in civil court when they are accused of wrongdoing. This system creates an environment leading to higher costs passed on to everyone.

Two bills in the House and Senate were passed that changed the current law. The bills state that if a person slips and falls on a transitory foreign substance in a business establishment, the injured person must prove that the establishment had actual or constructive knowledge of the condition and should have taken action to remedy it.

FRLA was a proud supporter of this bill as it places the burden of proof on the plaintiff rather than on the defendant (the property owner). Hopefully this legislation will help prevent frivolous lawsuits, which will benefit both property owners and consumers. Governor Crist signed HB 689 into law on April 14, 2010.

PARENTAL AUTHORITY

Status: Passed

Senate Bill 2440 by Senator Mike Bennett will restore the ability of parents to waive the right to sue over some risks inherent to certain activities undertaken by their children. This version of the bill allows parents to waive their right to sue over injuries to a child for inherent risks of the activity, not for negligence. This bill was passed and was signed by Governor Crist on March 27, 2010

PUBLIC FOOD SERVICE ESTABLISHMENTS REQUIRED TO SERVE SUGAR-FREE SUBSTITUTES

Status: Died in Committee

Bills sponsored by Representative Gwyndolen Clark-Reed and Senator Eleanor Sobel (HB 847 and SB) would have required public food service establishments to serve sugar-free substitutes for certain syrups and fruit preserves and provide notice to guests of the availability of such sugar free substitutes. Neither bill was heard in any committees.

PUBLIC ROADWAYS/ TRANSPORTATION PROJECTS

Status: Passed

SB 1842 by Senator Mike Bennett and HB 1331 by Representative Joseph Abruzzo requires that public roadways and bridges be designed, constructed and maintained in a manner that

does not impede existing access of adjacent property owners. It prohibits the Florida Department of Transportation from dividing state highways or erecting media barriers in area zoned for business use without approval of the project by a governing body of the affected area. This legislation passed on April 28, and is waiting for signature from the governor.

TOURIST SAFETY ACT/ HANDBILL DISTRIBUTION

Status: Died in Messages

HB 7173 and SB 2584 redefines the term "without permission" to require that a person obtain written permission in order to distribute handbills in certain public lodging establishments. The bills would have also increase the penalty imposed for distributing handbills in a public lodging establishment without permission. Died in messages.

JOBS FOR FLORIDA

Status: Passed

Senate Bill 1752 by Senator Don Gaetz encourages businesses to employ displaced Floridians and provides incentives to help Florida businesses. It is designed to eliminate obstacles that hinder economic growth, provide incentives to Florida businesses and achieve long-term success in the global market economy. The bill was passed on April 30 and is on its way to be signed by the governor.

CREDIT AND DEBIT CARD CRIMES

Status: Died in Messages

Bills by Representative Mary Brandenburg and Senator Victor Crist (HB 621 and SB 1106) were introduced to prohibit a retailer from imposing a surcharge on debit card transactions. They also provide that provisions do not apply to offers of discount for purpose of inducing payment by cash, check, or other means not involving use of debit card. They also prohibit possession of a stolen credit or debit card in specified circumstances and state that a retailer who takes, accepts, retains, or possesses stolen credit or debit card without knowledge that card is stolen and is authorized to process transactions by company issuing credit or debit card does not commit violation under certain circumstances. In essence, the primary issue is whether or not retailers can negotiate fees with credit card companies and/or banks who issue credit/debit cards. Died in messages.



**For more information regarding these or any other issues,
please contact FRLA Headquarters at:**

**230 South Adams Street
Tallahassee, FL 32301
Phone: 850.224.2250
Toll-Free: 888.372.9119
Fax: 850.224.9213
www.frla.org**