

**Department of Business and Professional
Regulation**

2016 Legislative Action Summary

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Florida Department of
**Business &
Professional
Regulation**

License efficiently. Regulate fairly.

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Section I. Appropriations

House Bill 5001

Signed Into Law (with line item vetoes)

GENERAL APPROPRIATIONS ACT

HB 5001 is the General Appropriations Act for Fiscal Year 2016-17. It provides for a total budget of \$82.3 billion, including:

- General revenue (GR): \$30.3 billion
- Trust funds (TF): \$24.1 billion
- Federal Funds: \$28 billion
- Full time equivalent positions (FTE): 113,416

Employee Salary/Benefits Issues & Other Statewide Issues impacting the Department of Business and Professional Regulation (Department):

Employee Salary and Benefit Issues

- Does not increase employee state health insurance premiums.
- Increases the employer share of the state health insurance premiums – \$55.5 million GR and \$39.6 million TF.
- Absorbs the health insurance premium 100 percent by the state on an annualized basis equating to an average recurring pay increase of \$945.

Statewide Issues

- Fully funds the Unfunded Actuarial Liability and Normal Costs of the Florida Retirement System (FRS) Pension Plan.

Major Issues Funded for the Department of Business and Professional Regulation:

Budget of \$154.1 million – 2 percent increase over current year.

- Electronic Data Submission System - \$1.2 million to construct a system to allow alcoholic beverage and tobacco taxes to be submitted and audited electronically.
- Unlicensed Activity - \$500,000 for increased funding to combat unlicensed activity in Real Estate.
- Visit Florida – transfers \$2.5 million from the Hotels and Restaurant Trust Fund to Visit Florida to promote tourism within the state.
- Workload - \$289,752 for OPS Medical Gas Inspectors in the Division of Drugs, Devices and Cosmetics.
- Field Technology Replacement - \$175,738 to refresh inspection equipment for food and lodging inspectors in the Division of Hotels and Restaurants.

- Federal Law Enforcement Trust Fund - \$177,854 to utilize Federal Forfeiture Funds for Law Enforcement training, equipment, and travel.

Reductions - \$80,852 and 2.00 vacant FTE positions

Other key matters for DBPR:

Proviso language:

- Directs that no funds appropriated to the department are to be used for the payment of rent, lease or possession of space for offices or any other purpose or use at Northwood Centre.
- Requires the department to submit quarterly reports on all travel related to training, seminars, workshops, conferences, or similarly purposed travel that was completed by senior management employees and division or program directors.
- Allows the Divisions of Regulation, Real Estate, Pari-Mutuel Wagering and Hotels and Restaurants to purchase one or more motor vehicles for replacement when the mileage of a vehicle is in excess of 150,000 miles unless it is determined by the Secretary that the vehicle replacement is a critical safety issue, or based on an emergency or unforeseen circumstance as provided in section 287.14(3), Florida Statutes.
- Directs how funds totaling \$2.2 million may be expended in the Professional Regulation Program for the purposes of preventing and combating unlicensed activity in Florida.

Section 106. Unobligated cash balance amounts specified from the following trust funds shall be transferred to the General Revenue Fund for Fiscal Year 2016-17:

Division of Florida Condominiums, Timeshares and Mobile Homes Trust Fund	\$3,000,000
Hotels and Restaurants Trust Fund	\$1,000,000
Professional Regulation Trust Fund	\$2,000,000

The bill was approved with specific line item(s) vetoes by the Governor on March 17, 2016.

*Chapter 2016-66, Laws of Florida
Effective July 1, 2016, except as otherwise provided*

**RELATING TO IMPLEMENTING THE 2016-2017
GENERAL APPROPRIATIONS ACT**

This is the budget “Implementing Bill,” which provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2016-17. The statutory changes are effective for only one year and either expire on July 1, 2017 or revert to the language as it existed before the changes made by the bill.

DBPR impacts:

Travel

- Limits the use of travel funds to activities that are critical to an agency's mission.
- Funds may not be used for travel by state employees to foreign countries, other states, conferences, staff training activities, or other administrative functions unless the agency head has approved, in writing, that such activities are critical to the agency's mission.
- The agency head shall consider using teleconferencing and other forms of electronic communication to meet the needs of the proposed 4049 activity before approving mission-critical travel.
- Requires executive branch state agencies and the judicial branch to collaborate with the Executive Office of the Governor regarding the statewide travel management system and to use such system.
- Limits the cost for lodging associated with a meeting, conference, or convention organized or sponsored in whole or in part by a state agency or the judicial branch may not exceed \$150 per day.
- Authorizes employees to expend their own funds for lodging expenses in excess of the monetary caps.

The bill became law on March 17, 2016.

*Chapter 2016-62, Laws of Florida
Effective July 1, 2016, except as otherwise provided*

Section II. Bills Sponsored by the Department

House Bill 303

Signed Into Law

Relating to Unlicensed Activity Fees

The bill requires the Department to waive the \$5.00 unlicensed activity renewal fee assessed against each licensee of a profession when the profession's unlicensed activity account balance at the beginning of the previous fiscal year totals more than twice the prior two fiscal years' expenditures on unlicensed activity enforcement efforts and the profession's operating account is not in a deficit or projected to be in a deficit anytime within the next 5 fiscal years.

*Chapter 2016-79, Laws of Florida
Effective July 1, 2016*

Senate Bill 1050

Passed House, died on Senate Floor

Relating to Department of Business and Professional Regulation

The bill discontinues business license requirements for asbestos, architecture, interior design and landscape architecture. Individual licensure requirements for these professions are not impacted. The bill eliminates licensure/registration programs and requirements for athlete agents, talent agencies, hair wrappers, body wrappers, and labor organizations. The bill also allows certain activities to be practiced without licensure, including nail polishing, low voltage landscape lighting, and low voltage communication cabling. Yacht and ship broker branch office licensure requirements are also eliminated.

Senate Bill 1604

Signed Into Law

Relating to Drugs, Devices, and Cosmetics

The bill amends several provisions of ch. 499, F.S., to bring Florida's Drug and Cosmetic Act into conformity with the federal Food, Drug and Cosmetic Act. The bill also makes several changes to improve department business processes and provide better service to its stakeholders, including: to relax initial and renewal licensure application requirements; to provide for the expiration of abandoned licensure applications; and to allow the department to resolve non-public health/safety violations of Chapter 499, F.S., by the issuance of non-disciplinary citations.

*Chapter 2016-212, Laws of Florida
Effective July 1, 2016*

Section III. Bills Impacting the Department

Senate Bill 184

Signed Into Law

Relating to Military and Veterans Affairs

The bill requires the department to provide a method and application for honorably discharged veterans to apply for construction and electrical contractor licensure. There is no time limit regarding date of discharge from military service.

The bill provides that credit will be provided to the fullest extent possible for military service and establishes new criteria for the acceptance of military experience for construction and electrical contractor licensure.

The bill requires an annual report by the department to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report will include information on veteran application numbers, approvals, denials, and processing times. The report will also include improvement recommendations.

*Chapter 2016-242, Laws of Florida
Effective July 1, 2016*

House Bill 249

Signed Into Law

Relating to Culinary Education Programs

The bill authorizes the Division of Alcoholic Beverages and Tobacco (ABT) to issue a new type of special alcoholic beverage license to culinary education programs.

The bill also amends s. 509.013, F.S., to include culinary education programs in the definition of “food service establishment.”

*Chapter 2016-120, Laws of Florida
Effective July 1, 2016*

House Bill 381

Signed Into Law

Relating to Public Records/Florida State Boxing Commission

The bill amends the public records exemption found in s. 548.062, F.S., which creates a public records exemption for proprietary confidential information submitted to the Florida State Boxing Commission (Commission) by a promoter after a match or obtained by the Commission through an audit of the promoter’s books and records, which is deemed proprietary confidential business information. Specifically, the bill expands the

exemption to cover all proprietary confidential business information provided by a promoter to the Commission regardless of when the information is provided.

*Chapter 2016-21, Laws of Florida
Effective July 1, 2016*

House Bill 535

Signed Into Law

Relating to Building Codes

The bill provides for additional methods of licensure and reduces licensure qualifications to become a building code inspector or plans examiner and adds new a new requirement to complete a 20 to 30 hour laws, rules and ethics training course in order to qualify for a building code administrators license.

The bill also creates additional licensure exemptions for certain construction and electrical work previously requiring licensure under ch. 489, Parts I and II, F.S., and now permits the payment of recovery fund payments from the Florida Homeowners' Construction Recovery Fund to homeowners who contract with Division II contractors.

Finally, the bill enacts several provisions related to the Florida Building Code and the Florida Building Commission.

*Chapter 2016-129, Laws of Florida
Effective July 1, 2016*

House Bill 633

Signed Into Law

Relating to Public Food Service Establishments

The bill excludes food contests and cook-offs held by schools, churches and nonprofit entities from licensure and inspection by the Division of Hotels and Restaurants (division). The bill also excludes food vendors at food contests, cook-offs, and 1-3 day temporary events hosted by certain religious organizations or non-profit entities from licensure and inspection by the division. The bill requires documentation of qualification for the exclusion and references the exclusions within the licensing requirements for temporary food service events.

*Chapter 2016-86, Laws of Florida
Effective July 1, 2016*

House Bill 655

Signed Into Law

Relating to City of Jacksonville, Duval County

The bill creates a special zone with three defined areas in downtown Jacksonville, Florida. Subsequently, this bill adds a fourth defined area to the special zone. The laws authorize the Division of Alcoholic Beverages and Tobacco to issue a special beverage license to any restaurant in the special zone that meets specified requirements. The bill renames the area established in 2011 as the Urban Transition Area zone to be the Riverside Avondale Urban Transition Area. The bill also establishes a fifth special zone comprised of nine special zoning areas to be known as the Riverdale Avondale Commercial Character Areas.

*Chapter 2016-248, Laws of Florida
Effective March 25, 2016*

Senate Bill 698

Signed Into Law

Relating to Alcoholic Beverages and Tobacco

Tobacco Product Tax Returns:

The bill expands language in ch. 210, F.S., to include any other person required to remit cigarette tax, as well as the dealer, for the tax process following a determination of said person's failure to remit cigarette tax.

The bill defines railroad transit station and authorizes the issuance of special alcoholic beverage licenses to vendors within railroad transit stations. The railroad transit station may include a passenger waiting lounge, dining facilities, retail facilities, entertainment facilities, or recreational facilities within the licensed premises owned or leased by the railroad.

The bill amends the requirements for a restaurant to obtain an alcoholic beverage license pursuant to General Law. Additionally, the bill sets the impairment period at 120 days following revocation of a special restaurant license for failure to maintain the minimum percentage of gross revenue receipts from food and non-alcoholic beverages.

The bill amends the conditions under which the Division of Alcoholic Beverages and Tobacco (division) is authorized to extend the inactive status for quota licenses.

The bill requires distributors that sell alcoholic beverages in kegs to charge a keg deposit and requires distributors that sell alcoholic beverages in kegs to entertainment/resort complexes, large theme parks, and large marine exhibition park complexes to implement an inventory and reconciliation process for these vendors in which an accounting of kegs is completed and any loss or variance in the number of kegs is paid for by the vendor on a per-keg basis equivalent to the required keg deposit.

The bill expands the division's current authority to issue temporary alcoholic beverage permits to nonprofit civic organizations by authorizing the division to issue the same temporary alcoholic beverage permits to charitable organizations, municipalities, and counties. The temporary permits are valid for events up to three days and may be issued no more than 12 times per year to nonprofit civic organizations, charitable organizations, municipalities, or counties. The bill specifies conditions under which municipalities and counties may be eligible for the permits and requires municipalities and counties to donate revenue generated from the temporary permits to nonprofit civic and charitable organizations.

The bill authorizes certain vendors licensed for off-premises sales only to also sell growlers if the vendor installed draft equipment and tapping accessories and had purchased kegs of malt beverages prior to June 30, 2015.

The bill establishes a "base rate" for excise taxes on sales of alcoholic beverages, cigarettes, and other tobacco products by passenger vessels in Florida ports and Florida jurisdictional waters. The bill also shifts the reporting and remitting of excise taxes under the proposed tax structure from a monthly basis to a quarterly basis.

The bill authorizes distributors when delivering alcoholic beverages to a licensed vendor to transport the beverages through another premises owned by the vendor.

*Chapter 2016-190, Laws of Florida
Effective July 1, 2016*

House Bill 709

Signed Into Law

Relating to City of Tallahassee, Leon County

The bill expands the downtown area of Tallahassee where the Division of Alcoholic Beverages and Tobacco (division) is authorized to issue 15 temporary permits per calendar year to a nonprofit civic organization authorizing the temporary sale of alcoholic beverages for consumption on the premises at outdoor events hosted on public right-of-way.

*Chapter 2016-249, Laws of Florida
Effective March 25, 2016*

Senate Bill 826

Signed Into Law

Relating to Mobile Homes

This bill amends certain notice requirements for written complaints; authorizing a mobile home park owner to pass on non-ad valorem assessments to a tenant under certain circumstances; authorizing a mobile home purchaser to cancel or rescind the contract to

purchase under certain circumstances; revising the rights that mobile home owners exercise if they form an association; adding definitions for “member” or “shareholder; specifying who is entitled to vote in a mobile home or subdivision lot when there is joint ownership; and providing what constitutes a majority vote.

*Chapter 2016-169, Laws of Florida
Effective July 1, 2016*

House Bill 1219
Relating to Veterans' Employment

Signed Into Law

This bill requires each state agency to develop and implement a written veterans' recruitment plan that establishes annual goals for ensuring the full use of veterans and their family members identified in s. 295.07 (1), F.S., in the agency's workforce and in accordance with the rules to be established by the Department of Management Services.

*Chapter 2016-102, Laws of Florida
Effective October 1, 2016*

House Bill 1417
Relating to Hillsborough County

Signed Into Law

The bill amends the chapter of law that outlines specific criteria that is different from general law for a restaurant to receive a special alcoholic beverage license in Hillsborough County. The current requirement for a restaurant in Hillsborough County to have at least 4,000 square feet in order to be issued a special restaurant alcoholic beverage license is removed by this bill and the general law requirement of a minimum of 2,500 square feet will be implemented.

*Chapter 2016-264, Laws of Florida
Effective March 25, 2016*

House Bill 1433
Relating to Martin County

Signed Into Law

The bill deletes the chapters of law that outline specific criteria that is different from general law for a hotel, motel, motor court, or restaurant to receive a special alcoholic beverage license in Martin County. Currently, statute establishes the criteria for hotels, motels, motor courts, and restaurants in Martin County to be issued a special alcoholic

beverage license, which varies depending on the establishment's location within the county.

*Chapter 2016-265, Laws of Florida
Effective March 25, 2016*

Senate Bill 1602
Relating to Elevators

Signed Into Law

This bill creates s. 399.031, F.S., to require new elevators installed in private residences to meet specific clearance requirements, to withstand a certain amount of force applied to doors and gates, other door safety requirements, and to be equipped with a device to stop downward motion as required. The bill also requires the Florida Building Commission to adopt s. 399.031, F.S., into the Florida Building Code by October 1, 2016.

*Chapter 2016-211, Laws of Florida
Effective July 1, 2016*

House Bill 7099
Relating to Taxation

Signed Into Law

This bill revises multiple sections of law relating to taxes. The sections of the bill relating to the Division of Alcoholic Beverages and Tobacco include:

Section 8 - Tobacco Product Tax Returns (Section 210.13, F.S.) expands language in Chapter 210, F.S., to include any other person required to remit cigarette tax, as well as the dealer, for the tax process following a determination of said person's failure to remit cigarette tax.

Section 9 - Other Tobacco Products (Section 210.25, F.S.) makes changes to definitions in s. 210.25, F.S., to revise the definition "wholesale sales price", which controls the administration of excise tax and surcharge on tobacco products other than cigarettes and cigars. These changes reinforce the Division's historic interpretation of "wholesale sales price" to provide additional tax certainty for previously estimated revenue. The proposed bill provides that the excise tax and surcharge applies to the full price paid by a distributor to acquire tobacco products (including the federal excise tax paid by a domestic manufacturer) and to the federal excise tax on an imported product, if federal excise tax is paid by the distributor. The bill also defines "affiliate" to mean "a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor."

Section 20 - Deposit of Revenue (Section 561.121, F.S.) provides for two percent of the monthly collections of the tax on alcoholic beverages, cigarettes, and other tobacco products from passenger vessels to be transferred to the Alcoholic Beverage and Tobacco Trust Fund with the balance of the monthly collections to be credited to the General Revenue Fund.

Section 21 - Excise Taxes on Wines and Beverages (Section 564.06 F.S.) applies the same tax rate to cider made from pears that is currently applicable to cider made from apples.

Section 22 - Passenger Vessels (Section 565.02(9), F.S.) establishes a "base rate" for excise taxes on sales of alcoholic beverages, cigarettes, and other tobacco products by passenger vessels in Florida ports and Florida jurisdictional waters. The bill also shifts the reporting and remitting of excise taxes under the new tax structure from a monthly basis to a quarterly basis.

Section 23 - County Detention Facilities/Tobacco Contraband (Section 951.22(1), F.S.) corrects a cross reference prohibiting tobacco in county detention facilities..

*Chapter 2016-220, Laws of Florida
Effective July 1, 2016*

Section IV. Other Bills of Importance

Senate Bill 86

Signed Into Law

Relating to Scrutinized Companies

This bill would require changes to Section 22, Vendors on Scrutinized Companies List, of the agency's Core Contract and the Certifications and Assurances Form by the Contract Administration Office to ensure compliance with changes to s. 287.135, F.S., and inclusion of the Scrutinized Companies that Boycott Israel List.

*Chapter 2016-36, Laws of Florida
Effective March 10, 2016*

Senate Bill 180

Signed Into Law

Relating to Trade Secrets

The bill expands the definition of trade secret to include financial information, which is not defined. If the information in the Department of Business and Professional Regulation's (Department) possession is deemed to be financial information and therefore a trade secret, the current practices of multiple divisions, such as the publication of reports and data on their respective websites, may no longer be lawful. In addition, the Department may have to amend its procedures for responding to public record requests.

*Chapter 2016-5, Laws of Florida
Effective October 1, 2016*

Senate Bill 182

Signed Into Law

Relating to Public Records and Meetings/Trade Secrets

The bill provides that certain exemptions from public records and open meetings are subject to review and shall stand repealed on October 2, 2021 unless reviewed and reenacted by the legislature. The bill reenacts certain exemptions from public records. Those exemptions include agency-produced software; trade secrets held by county tourism promotion agency, s. 125.0104, F.S.; information related to Enterprise Florida, Inc., s. 288.1226, FS; information related to Space Florida, s. 331.326, F.S.; proprietary confidential business information, s. 365.174, F.S.; information reported per s. 381.83, F.S.; information reported per ss. 403.7046 and 403.73, F.S.; information required by ss. 499.0121 and 499.051, F.S.; information required by s. 502.222 F.S.; information required by s. 570.48, F.S.; information required by s. 573.123, F.S.; information required by ss. 601.10, 601.15, 601.152, and 601.76 F.S.; information required by s. 815.04, F.S.

*Chapter 2016-6, Laws of Florida
Effective October 1, 2016*

House Bill 183

Signed Into Law

Relating to Administrative Procedures

The bill amends procedures for agencies to follow when initiating rulemaking in response to a petition for rulemaking and for rule challenges. The bill also requires an agency that uses an email notification system to notify licensees or other recipients of notices to use that service to notify recipients of the publication of notices of development and notices of proposed rulemaking. The bill requires agency review and certification of what violations of rules have been designated as minor violations. The bill also requires that minor violations be published on the agency website or incorporated into the disciplinary guidelines by rulemaking.

*Chapter 2016-116, Laws of Florida
Effective July 1, 2016*

House Bill 273

Signed Into Law

Relating to Public Records

The bill requires the agency head to designate a custodian of public records, and to display the custodian's contact information on the agency website. The custodian's contact information must also be included in each agency contract for services.

The bill requires all public records requests to be made to the custodian, a member of the agency's governing body, or agency head.

Requires all agency contracts to contain identifying contact information for the agency's custodian of records.

The bill requires contractors to keep, ensure the confidentiality of, and provide to the agency records during and following the contract term unless the records are transferred to the agency.

The bill requires a contractor to provide records to the agency.

The bill allows for attorney fees to be assessed against a contractor for violating the public records law if a records request is made to the contractor's registered agent or an employee or agent of the contractor who acts or purports to act in a supervisory capacity.

*Chapter 2016-20, Laws of Florida
Effective March 8, 2016*

Senate Bill 752

Signed Into Law

Relating to Public Records/Agency Inspector General Personnel

This bill provides an exemption (for certain information) from the Public Records Act for auditors and investigators in an agency's office of inspector general or internal audit departments. Sworn staff has always had this protection, but this bill widens the scope to include other current or former personnel in the inspector's general's office whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation or other activities that could lead to criminal prosecution or administrative discipline.

*Chapter 2016-164, Laws of Florida
Effective upon becoming a law*