

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1030

SPONSOR: Fiscal Resource Committee and Senator Gutman

SUBJECT: Freight Forwarder Business

DATE: April 14, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Olafson</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
2.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill provides uniform documentary procedures for exporters and freight forwarders to observe regarding the delivery and shipment of tangible personal property exported by means of air or water. The bill provides that freight forwarders must furnish exporters with a detailed warehouse receipt at the time tangible personal property is delivered to the freight forwarder's place of business. The bill also requires the freight forwarder to mail a copy of the airway bill or bill of lading to the exporter who hired the freight forwarder within two weeks of receipt. The bill is intended to provide exporters who ship tangible personal property overseas with sufficient documentation to prove tax exempt status from Florida sales tax.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 212.13

II. Present Situation:

Under chapter 212, F.S., the State of Florida levies a six percent sales tax on most sales of tangible personal property in the state and on some services. Sales tax is imposed on the sales price of each item or article of tangible personal property, unless otherwise exempt, when the property is delivered to the purchaser or his representative in this state. However, pursuant to s. 212.06(5)(a)1., F.S., the tax does not apply to tangible personal property irrevocably committed to the exportation process at the time of sale, when such process has been continuous or unbroken. Rule 12A-1064(1)(b) of the F.A.C. states that the mere intent by the seller and the purchaser that the property will be exported is not sufficient to establish the exemption, nor does delivery of the property to a point in Florida for subsequent transportation outside Florida necessarily constitute placing the property irrevocably in the exportation process.

Rule 12A-1064(1)(b) of the F.A.C. prescribes five conditions upon which the state considers tangible personal property to be irrevocably committed to the exportation process, one of which is:

- When the dealer is required by the terms of the sale contract to deliver the goods to a common carrier for final and certain movement of such property to its out of state destination. Sales by a Florida dealer are exempt when the dealer delivers the merchandise to the transportation terminal for shipment outside this state and secures a dock or warehouse receipt and a copy of the bill of lading. On shipments to points outside the United States, a shipper's export declaration shall also be obtained.

Exporters customarily contract with a freight forwarder who arranges for transportation of tangible personal property. Generally, the exporter receives a receipt from the freight forwarder which indicates the forwarder has taken possession of the property. The freight forwarder is under contract to ship the property to a foreign port. Frequently, a freight forwarder takes possession of the property and holds the property while awaiting the arrival of a vessel or consolidation of the property with other orders bound for the same destination. Usually, a freight forwarder does not receive a bill of lading or an airway bill until the items that the freight forwarder has agreed to ship are accepted by a common carrier. It is customary for the freight forwarder to provide the exporter with a copy of the bill of lading or airway bill upon shipment by a common carrier. However, in some instances, the freight forwarder does not deliver a bill of lading or airway bill to the exporter.

For the purposes of determining whether certain items of tangible personal property are subject to Florida sales tax, the Department of Revenue audits persons who conduct certain tax exempt activities such as exporting. Exporters who cannot produce a bill of lading or airway bill demonstrating that the property they bought tax free was shipped out of Florida may face the imposition of state taxes and fines.

III. Effect of Proposed Changes:

The bill amends s. 212.13, F.S., to provide uniform documentary procedures for exporters and freight forwarders to observe regarding the delivery and shipment of tangible personal property exported by means of air or water. The bill provides that upon delivery of tangible personal property to a freight forwarder's place of business, the freight forwarder must provide a warehouse receipt that includes:

- the freight forwarder's name, address, and telephone number;
- a pre-printed warehouse receipt number;
- the date the personal property is delivered to the freight forwarder; and
- a description of the property.

The bill does not define pre-printed warehouse receipt number.

The bill also requires the freight forwarder to mail to the exporter who hired the freight forwarder a copy of the airway bill or bill of lading within two weeks of receipt by the freight forwarder.

The bill is intended to provide exporters who ship tangible personal property overseas with sufficient documentation to prove tax exempt status from state sales tax.

The bill provides for a January 1, 2000 effective date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The cost of mailing a bill of lading or airway bill should not create a significant financial burden to most freight forwarders, as the bill codifies a common business practice.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

HB 767 is similar to SB 1030.

VIII. Amendments:

None.