

TOURISM INDUSTRY BRIEFING



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Destinations Florida Government Affairs
Pre-Session Committee Week 3
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Over half of the pre-session committee weeks have now concluded as legislation continues to be filed. As of today, 1,620 bills have been filed. I'm happy to report not many of them impact the tourism industry. Of the few that do, there was not any change to them this week. If you missed last week's update, you could refresh yourself with the information below. Either way, just like I said last week and as I'll say every week for at least the next 60 days, NOW is the time to be talking to the members of your Delegation so they know what your priorities and issues are.

Important upcoming dates:

- Committee Weeks:
 - ~~January 11 - 15, 2021~~
 - ~~January 25 - 29, 2021~~
 - ~~February 1 - 5, 2021~~
 - February 8 - 12, 2021
 - February 15 - 19, 2021
- Session Begins on **Tuesday, March 2** and concludes on **Friday, April 30**.

Budget

The Governor's Office made presentations to the House and Senate, respectively, this week regarding their proposed \$96.6 billion budget for 2021-22. As reported last week, we were all happy to see that in a year where everyone is looking for funds, he still recommends \$50 million for VISIT FLORIDA's marketing programs. It was even highlighted in his announcement, saying "to continue showcasing that Florida is once again open and safe for tourists from throughout the U.S. and the world."

I didn't see or hear any public comments this week regarding VISIT FLORIDA but the Senate Appropriations Chair did comment regarding the entire budget to the media that the Senate would likely propose a more cautious budget. She was quoted as saying, "I like to prepare for the worst and hope for the best".

There will be more specific presentations next week by the various State agencies in the corresponding Sub-Appropriation committees. That is where we might hear some indication on which direction the funding for VISIT FLORIDA is heading. Passage of a State budget bill is technically the only requirement of the State Legislative Session each year and it always impacts the political dynamics between the Chambers and the

Governor's Office. For this Session though, because of the negative impacts of the pandemic on the State and Federal economy, crafting of the July 1, 2021 to June 30, 2022 State Budget will have an even greater impact on everything!

Obviously, the biggest challenge will be the multi-billion Dollar deficit but because of the ever-changing landscape of the pandemic other logistical challenges will be a factor. As the Legislators work on the budget over the next 90 days, other moving parts outside of their control will continue to impact their work. Federal stimulus bills, vaccine supply, rising or falling Covid infection rates, and State general revenue collections, to name just a few, have the potential to change budget allocations throughout the entire process.

If things stay on the normal timeline, we'll start to see budget drafts from both Chambers in late March or early April.

Legislation

VISIT FLORIDA

A House companion was filed this week to mirror the Senate bill relating to VISIT FLORIDA. As I am sure you all remember, in the final days of the 2020 Session, the statutory date that required VISIT FLORIDA to "sunset" was extended from October 1, 2020 to October 1, 2023.

This Session, Legislation has been filed that would remove the Sunset date completely. **SB 778 relating to Florida Tourism Marketing by Sen. Hooper (R, Palm Harbor)** not only deletes the date but it also adds an important budget policy change to the agency. It states VISIT FLORIDA "May carry forward any unexpended state appropriations into succeeding fiscal years."

As expected, this week **HB 675 relating to Tourism Marketing Entities by Rep. Plasencia (R, Titusville)** was filed. It is identical to the Senate bill.

The Senate bill has been referred to 3 committees but not heard yet. The House bill is awaiting committee referrals.

Big Tech Boycott

In response to the social media platforms that banned President Trump and related accounts, two bills have been filed that, if passed, would significantly impact advertising and marketing options.

SB 810 and HB 439 Prohibited Governmental Transactions Involving Certain Companies and Products by Sen. Gruters (R, Sarasota) and Rep. Fine (R, Palm Bay) are short bills with broad impact. In summary state:

2) An agency or local governmental entity may not purchase, or enter into or renew a contract for the purchase or provision of, any good or service made, sold, or provided by Facebook, Inc.; Twitter, Inc.; Amazon.com, Inc.; Apple, Inc.; or Alphabet, Inc.

Obviously, if passed and signed by the Governor, this would have a dramatic impact on DMO's as well as many other aspects of State and Local government.

This week the Senate bill was referenced to 5 committees, leaving it essentially a marathon to reach the Governor's desk before the end of the Session unless some stops are removed. I also met with the Senate sponsor and shared our concerns and potential impact to the tourism industry. He understood and would keep that in mind if the bill is heard.

The House bill is still waiting to be referenced.



TDT Expansion

No change this week, 84 days to go! To date, I have not seen or heard of any legislation that would expand the use of the Tourist Development Tax. Please use this as a reminder though to still discuss the issue with members of your delegation. After language is filed, amended, or proposed it's often too late to stop the train.

Vacation Rentals

Short term rental legislation has been reintroduced for the 2021 Session and it will make its first appearance in committee next week. Like previous years, it will likely remain one of the most debated bills to be heard.

SB522 and HB0219 - relating to Vacation Rentals by Sen. Diaz (R, Hialeah Gardens) and Rep. Fischer (R, Jacksonville), so far, mirror language in almost

their entirety from SB1128 (2020 Session) introduced by Sen. Diaz last year. HB219 also draws from HB1011 (2020 Session) introduced by Rep. Fischer; however, this year the legislation in both chambers draw mainly from the last 2020 Senate version.

So far, unlike previous years when there were multiple bills on the issue, the only legislation filed are preemptions to the State. The bills require the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to issue licenses that are to be clearly displayed to the public inside the establishment. Unlike the previous year, the legislation maintains the current “Grandfather” clause that is currently in Statute; whereby the proposed prohibitions would not apply to local statute in place on or before June 1, 2011. The bill also redefines advertising platform as an entity, rather than pertaining solely to individuals.

For a summary, the bills state the following:

Section 2:

Subsection (7) of section 509.032, Florida 71 Statutes, is amended to include:

2.(a) A local law, ordinance, or regulation may not allow or require the local inspection or licensing of public lodging establishments, including vacation rentals, or public food service establishments.

2.(b) A local law, ordinance, or regulation may regulate activities that arise when a property is used as a vacation rental if the law, ordinance, or regulation applies uniformly to all residential properties without regard to whether the property is used as a vacation rental as defined in s. 509.242(1)(c), the property is used as a long-term rental subject to chapter 83, or the property owner chooses not to rent the property. However, a local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. The prohibitions set forth in this paragraph do not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011, including when such law, ordinance, or regulation is being amended to be less

restrictive with regard to a prohibition or a duration or frequency regulation.

2. (d) The regulation of advertising platforms is preempted 111 to the state, and advertising platforms shall be regulated under this chapter.

Section 3:

509.241 Licenses required; exceptions.—

3. DISPLAY OF LICENSE.—Any license issued by the division ~~must~~shall be conspicuously displayed to the public inside ~~in the office or lobby of the~~ licensed establishment. Public foodservice establishments ~~that~~ ~~which~~ offer catering services ~~must~~shall display their license number on all advertising for catering services. The owner or operator of a vacation rental offered for transient occupancy through an advertising platform must also display the vacation rental license number and the applicable Florida sales tax registration and tourist development tax account numbers under which such taxes must be paid for each rental of the property as a vacation rental.

Section 4:

Section 509.243, 128 Florida Statutes, is created to read:

509.243 Advertising platforms.— 130

4. (1) (a) An advertising platform must require that a person who places an advertisement for the rental of a vacation rental:

1. Include in the advertisement the vacation rental license number and the applicable Florida sales tax registration and tourist development tax account numbers under which such taxes must be paid before the advertisement may be listed;

2. Attest to the best of his or her knowledge that the license number for the vacation rental property and the applicable tax numbers are current, valid, and accurately stated in the advertisement.

4. (1) (b) An advertising platform must display the vacation rental license number and applicable Florida sales tax registration and tourist development tax numbers. The advertising platform must verify that the vacation rental license number provided by the owner or operator is valid and applies to the subject vacation rental before publishing the advertisement on its platform and again at the end of each calendar quarter that the advertisement remains on its platform.

4. (1) (c) The division shall maintain vacation rental license information in a readily accessible electronic format which is sufficient to facilitate prompt compliance with the requirements of this subsection by an advertising platform or a person placing an advertisement on an advertising platform for transient rental of a vacation rental.

4.(2) An advertising platform must provide to the division on a quarterly basis, by file transfer protocol or electronic data exchange file, a list of all vacation rentals located in this state which are advertised on its platform, along with the following information for each vacation rental:

(a) The uniform resource locator for the Internet address of the vacation rental advertisement; and

(b) Unless otherwise stated in the vacation rental advertisement at the Internet address provided pursuant to paragraph (a),

the physical address of the vacation rental, including any unit designation, the vacation rental license number provided by the owner or operator, and the applicable Florida sales tax registration and tourist development tax account numbers under which taxes will be remitted for the rentals commenced through the advertisement.

4.(3) An advertising platform must remove from public view an advertisement or a listing from its online application, software, website, or system within 15 business days after being notified by the division in writing that the subject advertisement or listing for the rental of a vacation rental located in this state fails to display a valid license number issued by the division.

4. (4) If a guest uses a payment system on or through an advertising platform, as defined in s. 509.013(17), to pay for the rental of a vacation rental located in this state, the advertising platform must collect and remit all taxes imposed under chapters 125 and 212 resulting from the rental. When calculating taxes imposed under chapters 125 and 212, an advertising platform may exclude the amount of any fees directly attributable to the service provided by the advertising platform. The Department of Revenue may adopt rules to implement this subsection.

4. (5) If the division has probable cause to believe that a person not licensed by the division has violated this chapter or any rule adopted pursuant thereto, the division may issue and deliver to such person a notice to cease and desist from the violation. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under ss. 120.569 192 and 120.57 may be sought. For the purpose of enforcing a

cease and desist notice, the division may file a proceeding in the name of the state seeking the issuance of an injunction or a writ of mandamus against any person who violates any provision of the notice. If the department is required to seek enforcement of the notice for a penalty pursuant to s. 120.569, it is entitled to collect attorney fees and costs, together with any cost of collection.

4. (6) Advertising platforms must adopt an anti-discrimination plan to help prevent discrimination among their users and must inform all users of their services that it is illegal to refuse accommodation to an individual based on race, creed, color, sex, pregnancy, physical disability, or national origin pursuant to s. 509.092. Section 5. The application of this act does not supersede any current or future declaration or declaration of condominium adopted pursuant to chapter 718, Florida Statutes, cooperative document adopted pursuant to chapter 719, Florida Statutes, or declaration or declaration of covenants adopted pursuant to chapter 720, Florida Statutes.

Each bill has been referenced to 3 committees. The House bill will be heard next week in its first committee, the Regulatory Reform Subcommittee on Wednesday, February 10 at 1 p.m.

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