

CS/HB 9 – Protecting Consumers Against Pandemic-related Fraud (Identical CS/SB 1608)

This bill creates s. 817.418, F.S., defining “personal protective equipment” and stating that “it is unlawful for any person to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading information relating to the characteristics, authenticity, effectiveness, or availability of personal protective equipment in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain or receive any money or other valuable consideration.” A **Level 7, 3rd degree felony** is created for such fraudulent acts, and a **Level 8, 2nd degree felony** is created for when “a person...commits a second or subsequent violation.”

This bill also creates s. 817.504, F.S., stating that “it is unlawful for any person to knowingly and willfully make a materially false or misleading statement or to knowingly and willfully disseminate false or misleading information regarding the availability of, or access to, a vaccine for the novel coronavirus "COVID-19" or a vaccine for any other pandemic disease in any marketing or advertising material; on a website, social media platform, or other media; or by telephone, text message, mail, or e-mail, with the intent to obtain another person's personal identification information...or to obtain or receive any money or other valuable consideration.” A **Level 7, 3rd degree felony** is created for such fraudulent acts, and a **Level 8, 2nd degree felony** is created for when “a person...commits a second or subsequent violation.”

Per Office of Attorney General, they have heard from 115 complainants against 83 unique subjects regarding potential scams/frauds related to selling or advertising personal protective equipment. They have also heard from 22 complainants against 20 unique subjects regarding offering or advertising a coronavirus vaccine with the intent to defraud. Per U.S. Immigration and Customs Enforcement, Operation Stolen Promise has made 225 criminal arrests so far associated with fraud related to the coronavirus. It is not known how many of these arrests fit the definitions outlined in this bill, nor is it known how many of these arrests were made in connection with fraud activity in Florida. It is possible that a certain number of these offenders fall under Federal jurisdiction, thus limiting the pool of those potentially entering state prison. Furthermore, many of those offenders might already be eligible under the theft statute, s. 812.014, F.S., or Chapter 817, relating to fraudulent practices, though the severity of the act might not reach the incarceration rate of a Level 7, 3rd degree felony (FY 18-19: 47.4%, FY 19-20: 42.9%) or a Level 8, 2nd degree felony (FY 18-19: 65.8%, FY 19-20: 63.6%). Finally, it is not known how long such illicit activity will persist, especially once the vaccine has inoculated the population.

CONFERENCE ADOPTED ESTIMATE: Positive Indeterminate

Requested by: Senate