

STORAGE NAME: h1345.tu

DATE: March 21, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TOURISM
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1345

RELATING TO: Regulation of Public Lodging and Food Service Establishments

SPONSOR(S): Representatives Melvin, Culp, and D. Prewitt

STATUTE(S) AFFECTED: Section 509.032, F.S., 1996 Supplement

COMPANION BILL(S): SB 1484 (I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) TOURISM

(2)

(3)

(4)

(5)

I. SUMMARY:

House Bill 1345 requires the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to include in its rules flexible and alternative methods for achieving food protection. The food protection issues specifically expressed in the bill are time and temperature combinations for cooking food and hand contact with food.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 509, F.S., authorizes the Division of Hotels and Restaurants to regulate public lodging and public food service establishments. Prior to 1992, the division contracted with the Department of Health and Rehabilitative Services (HRS) to conduct its food service inspections. Consequently, s. 509.032, F.S., not only authorizes the Division of Hotels and Restaurants to inspect public food service establishments but also authorizes an agent of the division to perform this function. These activities are now done directly by the division.

The division is required to promulgate rules to create minimum food safety protection standards and has met this requirement by adopting Section 61C-4 of the Florida Administrative Code. Under this section, the rules provide a range of temperatures for storing and cooking a variety of foods which are designed to insure that the foods will not foster the growth of organisms that are toxic to humans.

In 1995, the Federal Food and Drug Administration (FDA) issued a report which recommended the adoption of an updated range of storing and cooking temperatures for food. This report also recommended that food handlers have no bare hand contact with foods which would be served uncooked. The division has noticed rules incorporating these and other FDA recommendations for adoption. Specifically, Rule 3-301.11(B) requires that, "Except when washing produce, employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils, deli tissue, gloves or dispensing equipment."

Although the "no bare hands" recommendation permits the food handler to touch the food with implements without wearing gloves, there is concern that adopting this recommendation would have the effect of requiring gloves. Evidence has been presented on both sides of the issue as to whether having a food handler wear gloves provides the necessary protection from food contamination. Currently, food handlers are required by rule to wash their hands after using bathroom facilities and after touching raw food which will be cooked.

The range of time and temperature combinations for storing and cooking foods has been developed to provide minimum standards for insuring that harmful bacteria is not allowed to grow in uncooked foods or remain active in cooked foods. Some of the revised food storage and cooking temperature recommendations and combinations thereof, included in the FDA report, are reported by some representatives of public food service establishments as being problematic for preparing and serving certain ethnic foods, such as sushi, and for preparing beef products with varieties of doneness.

B. EFFECT OF PROPOSED CHANGES:

House Bill 1345 requires the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to include in its rules flexible and alternative methods for achieving food protection. The food protection issues specifically expressed in the bill are time and temperature combinations for cooking food and hand contact with food. By requiring the division to include flexible and alternative methods in its rules, the division would have to provide for such alternatives in all of its rules related

to food protection. In the area of time and temperature combinations for cooking and storing foods, representatives of the Division of Hotels and Restaurants assert that the range for time and temperatures recommended by the FDA are recognized as minimum standards and that food safety could be compromised if alternative methods must be adopted in the division's rules.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. This bill expands the Division of Hotels and Restaurants' rulemaking responsibility.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The Division of Hotels and Restaurants would be required to adopt and implement alternative food protection rules where feasible.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. By requiring that alternative methods for certain food protection practices be included in departmental rules, the private sector would have a broader choice of options.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS:

A section-by-section analysis is not required for this bill.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

A broader range of food handling options could provide the public food service industry with a broader range of business operation costs.

3. Effects on Competition, Private Enterprise and Employment Markets:

Public food service establishments which choose a less expensive method of food protection options for handling food could experience a competitive advantage over others choosing more expensive options.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

STORAGE NAME: h1345.tu

DATE: March 21, 1997

PAGE 8

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Legislative Research Director:

Susan F. Cutchins

Judy C. McDonald