

By Representative Casey

1 A bill to be entitled
2 An act relating to the Department of Health;
3 transferring certain powers, duties, functions,
4 and assets of the Department of Children and
5 Family Services with respect to child abuse and
6 child protection to the Department of Health;
7 transferring certain powers, duties, functions,
8 and assets of the Department of Business and
9 Professional Regulation with respect to
10 regulating public food service establishments
11 to the Department of Health; transferring
12 certain powers, duties, functions, and assets
13 of the Department of Children and Family
14 Services with respect to substance abuse and
15 mental health to the Department of Health;
16 amending s. 20.165, F.S.; renaming the Division
17 of Hotels and Restaurants; providing that the
18 Divisions of Mental Health and Substance Abuse
19 in the Department of Health will be under the
20 supervision of a Deputy Secretary for
21 Behavioral Health Care; creating s. 381.0074,
22 F.S.; providing for a mobile food dispensing
23 registry; prescribing guidelines for temporary
24 food service events; creating s. 381.00742,
25 F.S.; prescribing rights of food service
26 establishments; creating s. 381.00744, F.S.;
27 providing for admission of, and ejection of,
28 undesirable guests; providing rights and duties
29 of operators and guests of establishments;
30 creating s. 381.00746, F.S.; providing rules
31 and guidelines with respect to theft of

1 property; providing penalties; amending s.
2 391.051, F.S.; revising qualifications for
3 Director for Children's Medical Services;
4 amending ss. 20.19, 20.43, 381.006, 381.0072,
5 381.0101, 394.453, 394.455, 394.457, 394.4615,
6 394.4674, 394.4781, 394.480, 394.50, 394.60,
7 394.66, 394.67, 394.675, 394.73, 394.74,
8 394.75, 394.76, 394.78, 394.79, 397.311,
9 397.321, 397.427, 397.706, 397.753, 397.754,
10 397.801, 397.821, 397.901, 399.01, 509.013,
11 159.27, 316.1955, 404.056, 500.12, 717.1355,
12 877.24, 509.032, 509.035, 509.072, 509.091,
13 509.092, 509.101, 509.141, 509.142, 509.151,
14 509.162, 509.191, 509.211, 509.2112, 509.215,
15 509.221, 509.241, 509.251, 509.261, 509.281,
16 509.291, 509.302, F.S., to conform to the
17 changes made by the act; providing for the
18 continued effect of rules; providing for the
19 continuation of judicial and administrative
20 proceedings; transferring and renumbering s.
21 509.213, F.S., relating to emergency first aid;
22 transferring and renumbering s. 509.214, F.S.,
23 relating to notification of automatic gratuity
24 charge; transferring and renumbering s.
25 509.232, F.S., relating to school carnivals and
26 fairs; transferring and renumbering s. 509.292,
27 F.S., relating to misrepresenting food or food
28 products; repealing s. 509.036, F.S., relating
29 to food service inspector standardization;
30 repealing s. 509.039, F.S., relating to food
31 service manager certification; repealing s.

1 509.049, F.S., relating to food service
2 employee training; providing for appointment of
3 transition advisory committees; providing
4 effective dates.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Effective July 1, 1997, all powers, duties,
9 functions, records, personnel, property, and unexpended
10 balances of appropriations, allocations, and other funds of
11 the Department of Children and Family Services relating to the
12 child abuse prevention program, child protection teams and
13 sexual abuse treatment teams created under chapter 415,
14 Florida Statutes, are transferred to the Department of Health
15 by a type two transfer as defined in section 20.06, Florida
16 Statutes. The Department of Health may organize, classify, and
17 manage the positions transferred in a manner that will reduce
18 duplication, achieve maximum efficiency, and ensure
19 accountability.

20 Section 2. Effective January 1, 1998, all powers,
21 duties, functions, records, personnel, property, and
22 unexpended balances of appropriations, allocations, and other
23 funds of the Department of Business and Professional
24 Regulation relating to the public food service establishment
25 portion of the Division of Hotels and Restaurants described in
26 part I of chapter 509, Florida Statutes, are transferred to
27 the Department of Health by a type two transfer as defined in
28 section 20.06, Florida Statutes. The Department of Health may
29 organize, classify, and manage the positions transferred in a
30 manner that will reduce duplication, achieve maximum
31 efficiency, and ensure accountability.

1 Section 3. Effective July 1, 1998, all powers, duties,
2 functions, records, personnel, property, and unexpended
3 balances of appropriations, allocations, or other funds of the
4 Department of Children and Family Services relating to
5 alcohol, drug abuse, and mental health, including state mental
6 health facilities, are transferred to the Department of Health
7 by a type two transfer as defined in section 20.06, Florida
8 Statutes. The Department of Health may organize, classify, and
9 manage the positions transferred in a manner that will reduce
10 duplication, achieve maximum efficiency, and ensure
11 accountability.

12 Section 4. Effective January 1, 1998, subsection (2)
13 of section 20.165, Florida Statutes, 1996 Supplement, is
14 amended to read:

15 20.165 Department of Business and Professional
16 Regulation.--There is created a Department of Business and
17 Professional Regulation.

18 (2) The following divisions of the Department of
19 Business and Professional Regulation are established:

20 (a) Division of Administration.

21 (b) Division of Alcoholic Beverages and Tobacco.

22 (c) Division of Certified Public Accounting.

23 1. The director of the division shall be appointed by
24 the secretary of the department, subject to approval by a
25 majority of the Board of Accountancy.

26 2. The offices of the division shall be located in
27 Gainesville.

28 (d) Division of Florida Land Sales, Condominiums, and
29 Mobile Homes.

30 (e) Division of Public Lodging Hotels and Restaurants.

31 (f) Division of Pari-mutuel Wagering.

1 (g) Division of Professions.

2 (h) Division of Real Estate.

3 1. The director of the division shall be appointed by
4 the secretary of the department, subject to approval by a
5 majority of the Florida Real Estate Commission.

6 2. The offices of the division shall be located in
7 Orlando.

8 (i) Division of Regulation.

9 (j) Division of Technology, Licensure, and Testing.

10 Section 5. Paragraph (b) of subsection (4) of section
11 20.19, Florida Statutes, 1996 Supplement, is amended to read:

12 20.19 Department of Children and Family
13 Services.--There is created a Department of Children and
14 Family Services.

15 (4) PROGRAM OFFICES.--

16 (b) The following program offices are established and
17 may be consolidated, restructured, or rearranged by the
18 secretary; provided any such consolidation, restructuring, or
19 rearranging is for the purpose of encouraging service
20 integration through more effective and efficient performance
21 of the program offices or parts thereof:

22 1. Economic Self-Sufficiency Program Office.--The
23 responsibilities of this office encompass income support
24 programs within the department, such as temporary assistance
25 to families with dependent children, food stamps, welfare
26 reform, and state supplementation of the supplemental security
27 income (SSI) program.

28 2. Developmental Services Program Office.--The
29 responsibilities of this office encompass programs operated by
30 the department for developmentally disabled persons.

31

1 Developmental disabilities include any disability defined in
2 s. 393.063.

3 3. Children and Families Program Office.--The
4 responsibilities of this program office encompass early
5 intervention services for children and families at risk;
6 intake services for protective investigation of abandoned,
7 abused, and neglected children; interstate compact on the
8 placement of children programs; adoption; child care; and
9 out-of-home care programs and other specialized services to
10 families; ~~and child protection and sexual abuse treatment~~
11 ~~teams created under chapter 415.~~

12 4. Alcohol, Drug Abuse, and Mental Health Program
13 Office.--The responsibilities of this office encompass all
14 alcohol, drug abuse, and mental health programs operated by
15 the department.

16 Section 6. Effective July 1, 1998, paragraph (b) of
17 subsection (1), paragraph (b) of subsection (4), and paragraph
18 (e) of subsection (9) of section 20.19, Florida Statutes, 1996
19 Supplement, as amended by this act are amended to read:

20 20.19 Department of Children and Family
21 Services.--There is created a Department of Children and
22 Family Services.

23 (1) MISSION AND PURPOSE.--

24 (b) The purposes of the Department of Children and
25 Family Services are to deliver, or provide for the delivery
26 of, all family services offered by the state through the
27 department to its citizens and include, but are not limited
28 to:

29 1. Cooperating with other state and local agencies in
30 integrating the delivery of all family and health services
31 offered by the state to those citizens in need of assistance.

1 2. Providing such assistance as is authorized to all
2 eligible clients in order that they might achieve or maintain
3 economic self-support and self-sufficiency to prevent, reduce,
4 or eliminate dependency.

5 3. Preventing or remedying the neglect, abuse, or
6 exploitation of children and of adults unable to protect their
7 own interests.

8 4. Aiding in the preservation, rehabilitation, and
9 reuniting of families.

10 5. Preventing or reducing inappropriate institutional
11 care by providing for community-based care, home-based care,
12 or other forms of less intensive care.

13 6. Securing referral or admission for institutional
14 care when other forms of care are not appropriate, or
15 providing services to individuals in institutions when
16 necessary.

17 7. Improving the quality of life for ~~persons with~~
18 ~~mental illnesses and~~ persons with developmental disabilities.

19 (4) PROGRAM OFFICES.--

20 (b) The following program offices are established and
21 may be consolidated, restructured, or rearranged by the
22 secretary; provided any such consolidation, restructuring, or
23 rearranging is for the purpose of encouraging service
24 integration through more effective and efficient performance
25 of the program offices or parts thereof:

26 1. Economic Self-Sufficiency Program Office.--The
27 responsibilities of this office encompass income support
28 programs within the department, such as temporary assistance
29 to families with dependent children, food stamps, welfare
30 reform, and state supplementation of the supplemental security
31 income (SSI) program.

1 2. Developmental Services Program Office.--The
2 responsibilities of this office encompass programs operated by
3 the department for developmentally disabled persons.
4 Developmental disabilities include any disability defined in
5 s. 393.063.

6 3. Children and Families Program Office.--The
7 responsibilities of this program office encompass early
8 intervention services for children and families at risk;
9 intake services for protective investigation of abandoned,
10 abused, and neglected children; interstate compact on the
11 placement of children programs; adoption; child care; and
12 out-of-home care programs and other specialized services to
13 families.

14 ~~4. Alcohol, Drug Abuse, and Mental Health Program~~
15 ~~Office.--The responsibilities of this office encompass all~~
16 ~~alcohol, drug abuse, and mental health programs operated by~~
17 ~~the department.~~

18 (9) DISTRICT ADMINISTRATOR.--

19 (e) Programs at the district level are in the
20 following areas: ~~alcohol, drug abuse, and mental health;~~
21 developmental services; economic self-sufficiency services;
22 and children and family services. There may be a program
23 supervisor for each program, or the district administrator may
24 combine programs under a program manager or program supervisor
25 if such arrangement is approved by the secretary.

26 Section 7. Subsection (1) of section 20.43, Florida
27 Statutes, 1996 Supplement, is amended to read:

28 20.43 Department of Health.--There is created a
29 Department of Health.

30 (1) The purpose of the Department of Health is to
31 promote and protect the health of all residents and visitors

1 in the state through organized state and community efforts,
2 including cooperative agreements with counties. The
3 department shall:

4 (a) Prevent to the fullest extent possible, the
5 occurrence and progression of communicable and noncommunicable
6 diseases and disabilities.

7 (b) Maintain a constant surveillance of disease
8 occurrence and accumulate health statistics necessary to
9 establish disease trends and to design health programs.

10 (c) Conduct special studies of the causes of diseases
11 and formulate preventive strategies.

12 (d) Promote the maintenance and improvement of the
13 environment as it affects public health.

14 (e) Promote the maintenance and improvement of health
15 in the residents of the state.

16 (f) Provide leadership, in cooperation with the public
17 and private sectors, in establishing statewide and community
18 public health delivery systems.

19 (g) Provide health care and early intervention
20 services to infants, toddlers, children, adolescents, and
21 high-risk perinatal patients who are at risk for disabling
22 conditions or have chronic illnesses.

23 (h) Provide child abuse prevention services and
24 services to abused and neglected children through child
25 protection and sexual abuse treatment teams created under
26 chapter 415.

27 (i)~~(h)~~ Develop working associations with all agencies
28 and organizations involved and interested in health and health
29 care delivery.

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1 (j)~~(i)~~ Analyze trends in the evolution of health
2 systems, and identify and promote the use of innovative,
3 cost-effective health delivery systems.

4 (k)~~(j)~~ Serve as the statewide repository of all
5 aggregate data accumulated by state agencies related to health
6 care; analyze that data and issue periodic reports and policy
7 statements, as appropriate; require that all aggregated data
8 be kept in a manner that promotes easy utilization by the
9 public, state agencies, and all other interested parties;
10 provide technical assistance as required; and work
11 cooperatively with the state's higher education programs to
12 promote further study and analysis of health care systems and
13 health care outcomes.

14 (l)~~(k)~~ Biennially publish, and annually update, a
15 state health plan that assesses current health programs,
16 systems, and costs; makes projections of future problems and
17 opportunities; and recommends changes needed in the health
18 care system to improve the public health.

19 (m)~~(l)~~ Regulate health practitioners, to the extent
20 authorized by the Legislature, as necessary for the
21 preservation of the health, safety, and welfare of the public.

22 Section 8. Effective July 1, 1998, subsections (1) and
23 (3) of section 20.43, Florida Statutes, 1996 Supplement, as
24 amended by this act, are amended to read:

25 20.43 Department of Health.--There is created a
26 Department of Health.

27 (1) The purpose of the Department of Health is to
28 promote and protect the health of all residents and visitors
29 in the state through organized state and community efforts,
30 including cooperative agreements with counties. The
31 department shall:

1 (a) Prevent to the fullest extent possible, the
2 occurrence and progression of communicable and noncommunicable
3 diseases and disabilities and mental health and substance
4 abuse impairment.

5 (b) Maintain a constant surveillance of disease
6 occurrence and accumulate health statistics necessary to
7 establish disease trends and to design health programs.

8 (c) Conduct special studies of the causes of diseases
9 and formulate preventive strategies.

10 (d) Promote the maintenance and improvement of the
11 environment as it affects public health.

12 (e) Promote the maintenance and improvement of health
13 in the residents of the state.

14 (f) Provide leadership, in cooperation with the public
15 and private sectors, in establishing statewide and community
16 public health and behavioral health delivery systems.

17 (g) Provide health care and early intervention
18 services to infants, toddlers, children, adolescents, and
19 high-risk perinatal patients who are at risk for disabling
20 conditions or have chronic illnesses.

21 (h) Provide child abuse prevention services and
22 services to abused and neglected children through child
23 protection and sexual abuse treatment teams created under
24 chapter 415.

25 (i) Develop working associations with all agencies and
26 organizations involved and interested in health and behavioral
27 health care delivery.

28 (j) Analyze trends in the evolution of health and
29 behavioral health systems, and identify and promote the use of
30 innovative, cost-effective ~~health~~ delivery systems.

31

1 (k) Serve as the statewide repository of all aggregate
2 data accumulated by state agencies related to health care;
3 analyze that data and issue periodic reports and policy
4 statements, as appropriate; require that all aggregated data
5 be kept in a manner that promotes easy utilization by the
6 public, state agencies, and all other interested parties;
7 provide technical assistance as required; and work
8 cooperatively with the state's higher education programs to
9 promote further study and analysis of health and behavioral
10 health care systems and ~~health care~~ outcomes.

11 (1) Biennially publish, and annually update, a state
12 health plan that assesses current health programs, systems,
13 and costs; makes projections of future problems and
14 opportunities; and recommends changes needed in the health
15 care system to improve the public health.

16 (m) Regulate health practitioners, to the extent
17 authorized by the Legislature, as necessary for the
18 preservation of the health, safety, and welfare of the public.

19 (n) Improve the quality of life for persons with
20 mental illnesses and alcohol and drug abuse, including the
21 promotion of appropriate levels of care and community-based
22 treatment and support services.

23 (3) The following divisions of the Department of
24 Health are established:

- 25 (a) Division of Administration.
26 (b) Division of Environmental Health.
27 (c) Division of Disease Control.
28 (d) Division of Family Services.
29 (e) Division of Children's Medical Services.

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- 1 (f) Effective July 1, 1997, Division of Medical
2 Quality Assurance, which is responsible for the following
3 boards and professions established within the division:
4 1. Nursing assistants, as provided under s. 400.211.
5 2. Health care services pools, as provided under s.
6 402.48.
7 3. The Board of Acupuncture, created under chapter
8 457.
9 4. The Board of Medicine, created under chapter 458.
10 5. The Board of Osteopathic Medicine, created under
11 chapter 459.
12 6. The Board of Chiropractic, created under chapter
13 460.
14 7. The Board of Podiatric Medicine, created under
15 chapter 461.
16 8. Naturopathy, as provided under chapter 462.
17 9. The Board of Optometry, created under chapter 463.
18 10. The Board of Nursing, created under chapter 464.
19 11. The Board of Pharmacy, created under chapter 465.
20 12. The Board of Dentistry, created under chapter 466.
21 13. Midwifery, as provided under chapter 467.
22 14. The Board of Speech-Language Pathology and
23 Audiology, created under part I of chapter 468.
24 15. The Board of Nursing Home Administrators, created
25 under part II of chapter 468.
26 16. Occupational therapy, as provided under part III
27 of chapter 468.
28 17. Respiratory therapy, as provided under part V of
29 chapter 468.
30 18. Dietetics and nutrition practice, as provided
31 under part X of chapter 468.

1 19. Athletic trainers, as provided under part XIV of
2 chapter 468.
3 20. Electrolysis, as provided under chapter 478.
4 21. The Board of Massage, created under chapter 480.
5 22. The Board of Clinical Laboratory Personnel,
6 created under part IV of chapter 483.
7 23. Medical physicists, as provided under part V of
8 chapter 483.
9 24. The Board of Opticianry, created under part I of
10 chapter 484.
11 25. The Board of Hearing Aid Specialists, created
12 under part II of chapter 484.
13 26. The Board of Physical Therapy Practice, created
14 under chapter 486.
15 27. The Board of Psychology, created under chapter
16 490.
17 28. The Board of Clinical Social Work, Marriage and
18 Family Therapy, and Mental Health Counseling, created under
19 chapter 491.
20
21 The department shall contract with the Agency for Health Care
22 Administration who shall provide consumer complaint,
23 investigative, and prosecutorial services required by the
24 Division of Medical Quality Assurance, councils, or boards, as
25 appropriate.
26 (g) Division of Mental Health.
27 (h) Division of Substance Abuse.
28 Section 9. Notwithstanding any other provision of law,
29 the Division of Mental Health and the Division of Substance
30 Abuse of the Department of Health, as designated in section
31 20.43(3)(g) and (h), Florida Statutes, shall be under the

1 direct supervision of a Deputy Secretary for Behavioral Health
2 Care. The deputy secretary shall be appointed by and report
3 directly to the Secretary of the Department of Health.

4 Section 10. Subsection (11) of section 381.006,
5 Florida Statutes, is amended to read:

6 381.006 Environmental health.--The department shall
7 conduct an environmental health program as part of fulfilling
8 the state's public health mission. The purpose of this program
9 is to detect and prevent disease caused by natural and manmade
10 factors in the environment. The environmental health program
11 shall include, but not be limited to:

12 (11) A food service protection function as provided in
13 this chapter ~~Mosquito and pest control functions as provided~~
14 ~~in chapters 388 and 482.~~

15 Section 11. Effective January 1, 1998, section
16 381.0072, Florida Statutes, is amended to read:

17 381.0072 Food service protection.--It is ~~shall be~~ the
18 duty of the Department of Health ~~and Rehabilitative Services~~
19 to adopt and enforce sanitation rules consistent with law to
20 ensure the protection of the public from food-borne illness.
21 These rules shall provide the standards and requirements for
22 the storage, preparation, packaging, serving, vending, or
23 display of food in food service establishments as defined in
24 this section and which are not permitted or licensed under
25 chapter 500 ~~or chapter 509.~~

26 (1) DEFINITIONS.--As used in this section, the term:

27 (a) "Department" means the Department of Health ~~and~~
28 ~~Rehabilitative Services~~ or its representative county ~~public~~
29 health departments unit.

30 (b) "Food service establishment" means any operation
31 facility, as described in this paragraph, that stores,

1 prepares, packages, serves, vends, or otherwise provides food
2 for human consumption ~~where food is prepared and intended for~~
3 ~~individual portion service, and includes the site at which~~
4 ~~individual portions are provided. The term includes any such~~
5 ~~facility regardless of whether consumption is on or off the~~
6 ~~premises and regardless of whether there is a charge for the~~
7 ~~food. The term includes detention facilities, child care~~
8 ~~facilities, schools, institutions, civic or fraternal~~
9 ~~organizations, and bars and lounges. The term does not~~
10 ~~include private homes where food is prepared or served for~~
11 ~~individual family consumption; nor does the term include~~
12 ~~churches, synagogues, or other not-for-profit religious~~
13 ~~organizations as long as these organizations serve only their~~
14 ~~members and guests and do not advertise food or drink for~~
15 ~~public consumption, nor does the term include or any operation~~
16 ~~facility or establishment permitted or licensed under chapter~~
17 ~~500 or chapter 509; nor does the term include operations~~
18 ~~exempted by rules adopted under paragraph (2)(a)any theater,~~
19 ~~if the primary use is as a theater and if patron service is~~
20 ~~limited to food items customarily served to the admittees of~~
21 ~~theaters.~~

22 (c) "Operator" means the owner, operator, keeper,
23 proprietor, lessee, manager, assistant manager, agent, or
24 employee of a food service establishment.

25 (2) DUTIES.--

26 (a) The department shall adopt rules consistent with
27 law prescribing minimum sanitation standards and manager
28 certification requirements as prescribed in this section ~~s.~~
29 ~~509.039~~, which shall be enforced in food service
30 establishments as defined in this section. The sanitation
31 standards must address, but are not limited to, the following:

1 construction, operation, and maintenance of establishments;
2 plan review; design, construction, installation, and
3 maintenance of food equipment; employee training, health,
4 hygiene, and work practices; food supplies, food preparation,
5 food storage and service; and sanitary facilities and
6 controls, including water supply and sewage disposal,
7 plumbing, toilet facilities, garbage and refuse, and vermin
8 control. Public and private schools, hospitals licensed under
9 chapter 395, nursing homes licensed under part II of chapter
10 400, child care facilities as defined in s. 402.301, and
11 residential facilities colocated with a nursing home or
12 hospital if all food is prepared in a central kitchen that
13 complies with nursing or hospital regulations shall be exempt
14 from the rules developed for manager certification. The
15 department shall administer a comprehensive inspection,
16 monitoring, and sampling program to ensure such standards are
17 maintained. The regulation and inspection of food service
18 establishments licensed under this section, with regard to
19 food safety protection standards and required training and
20 testing of food service establishment personnel, are preempted
21 to the state.~~With respect to food service establishments~~
22 ~~permitted or licensed under chapter 500 or chapter 509, the~~
23 ~~department shall assist the Division of Hotels and Restaurants~~
24 ~~of the Department of Business and Professional Regulation and~~
25 ~~the Department of Agriculture and Consumer Services with~~
26 ~~rulemaking by providing technical information.~~
27 (b) The department shall carry out all provisions of
28 this chapter and all other applicable laws and rules relating
29 to the inspection or regulation of food service establishments
30 as defined in this section, for the purpose of safeguarding
31 the public's health, safety, and welfare.

1 (c) The department shall inspect each food service
2 establishment as often as necessary to ensure compliance with
3 applicable laws and rules. The department shall have the right
4 of entry and access to these food service establishments at
5 any reasonable time.

6 ~~(d) The department or other appropriate regulatory~~
7 ~~entity may inspect theaters exempted in subsection (1) to~~
8 ~~ensure compliance with applicable laws and rules pertaining to~~
9 ~~minimum sanitation standards. A fee for inspection shall be~~
10 ~~prescribed by rule, but the aggregate amount charged per year~~
11 ~~per theater establishment shall not exceed \$300, regardless of~~
12 ~~the entity providing the inspection.~~

13 (3) LICENSES REQUIRED.--

14 (a) Licenses; annual renewals.--Each food service
15 establishment regulated under this section shall obtain a
16 license from the department annually. Food service
17 establishment licenses shall expire annually and shall not be
18 transferable from one place or individual to another. ~~However,~~
19 ~~those facilities licensed by the department's Office of~~
20 ~~Licensure and Certification, the Children and Families Program~~
21 ~~Office, or the Developmental Services Program Office are~~
22 ~~exempt from this subsection. It is shall be a misdemeanor of~~
23 ~~the second degree, punishable as provided in s. 381.0061, s.~~
24 ~~775.082, or s. 775.083, for such an establishment to operate~~
25 ~~without this license. The department may refuse a license, or~~
26 ~~a renewal thereof, to any establishment that is not~~
27 ~~constructed or maintained in accordance with law and with the~~
28 ~~rules of the department. Annual application for renewal shall~~
29 ~~not be required, provided the information of record was not~~
30 ~~changed.~~

1 (b) Application for license.--Each person who plans to
2 open a food service establishment not regulated under chapter
3 500 ~~or chapter 509~~ shall apply for and receive a license prior
4 to the commencement of operation.

5 (c) Display of license.--A food service establishment
6 that offers catering services must display its license number
7 on all advertising for catering services.

8 (4) LICENSE; INSPECTION; FEES.--

9 (a) The department is authorized to collect fees from
10 establishments licensed under this section ~~and from those~~
11 ~~facilities exempted from licensure under paragraph (3)(a)~~. It
12 is the intent of the Legislature that the total fees assessed
13 under this section be in an amount sufficient to meet the cost
14 of carrying out the provisions of this section, including the
15 cost of inspector standardization.

16 (b) The fee schedule for food service establishments
17 licensed under this section shall be prescribed by rule, but
18 the aggregate license fee per establishment shall not exceed
19 \$300.

20 (c) The license fees shall be prorated on a quarterly
21 basis. Annual licenses shall be renewed as prescribed by rule.

22 (d) The fact that a food service establishment is
23 operated in conjunction with a public lodging establishment
24 does not relieve the food service establishment of the
25 requirement that it be licensed separately as a food service
26 establishment.

27 (5) FINES; SUSPENSION OR REVOCATION OF LICENSES;
28 PROCEDURE.--

29 (a) The department may impose fines against the
30 establishment or operator regulated under this section for
31 violations of sanitary standards, in accordance with s.

1 381.0061. All amounts collected shall be deposited to the
2 credit of the Public Health Department Unit Trust Fund
3 administered by the department.

4 (b) The department may suspend or revoke the license
5 of any food service establishment licensed under this section
6 that has operated or is operating in violation of any of the
7 provisions of this section or the rules adopted under this
8 section. Such food service establishment shall remain closed
9 when its license is suspended or revoked.

10 (c) The department may suspend or revoke the license
11 of any food service establishment licensed under this section
12 when such establishment has been deemed by the department to
13 be an imminent danger to the public's health for failure to
14 meet sanitation standards or other applicable regulatory
15 standards.

16 (d) No license shall be suspended under this section
17 for a period of more than 12 months. At the end of such
18 period of suspension, the establishment may apply for
19 reinstatement or renewal of the license. A food service
20 establishment which has had its license revoked may not apply
21 for another license for that location prior to the date on
22 which the revoked license would have expired.

23
24 In addition to any other penalty that may be imposed for a
25 violation of this subsection, the operator of a food service
26 establishment may be required to attend and complete a
27 department sponsored or approved food safety course.

28 (6) IMMINENT DANGERS; STOP-SALE ORDERS.--

29 (a) In the course of epidemiological investigations or
30 for those establishments regulated under this chapter, the
31 department, to protect the public from food that is

1 unwholesome or otherwise unfit for human consumption, may
2 examine, sample, seize, and stop the sale or use of food to
3 determine its condition. The department may stop the sale and
4 supervise the proper destruction of food when the State Health
5 Officer or his or her designee determines that such food
6 represents a threat to the public health. If the operator of a
7 food service establishment licensed under this chapter has
8 received official notification from a health authority that a
9 food or food product from that establishment has potentially
10 contributed to any instance or outbreak of food-borne illness,
11 the food or food product must be maintained in safe storage in
12 the establishment until the responsible health authority has
13 examined, sampled, seized, or requested destruction of the
14 food or food product.

15 (b) The department may determine that a food service
16 establishment regulated under this section is an imminent
17 danger to the public health and require its immediate closure
18 when such establishment fails to comply with applicable
19 sanitary and safety standards or due to natural disasters and,
20 because of such failure, presents an imminent threat to the
21 public's health, safety, and welfare. The department may
22 accept inspection results from state and local building and
23 firesafety officials and other regulatory agencies as
24 justification for such actions. Any facility so deemed and
25 closed shall remain closed until allowed by the department or
26 by judicial order to reopen.

27 (c) Upon such determination, the department shall
28 issue a notice to show cause and an emergency order of
29 suspension. Such order shall be served upon the food service
30 establishment by the department, and the establishment shall
31 be closed. An operator who resists such closure is subject to

1 further administrative action by the department and is
2 punishable as provided in s. 381.0061. The department shall
3 provide an inspection within 24 hours following such closure
4 and shall review all relevant information to determine whether
5 the establishment has met the requirements to resume
6 operations.

7 (d) The department may attach a sign which states
8 "Closed to Protect Public Health and Safety" to such an
9 establishment and may require the licensee to immediately stop
10 service until notification to the contrary is provided by the
11 department.

12 (e) The department may further adopt rules for issuing
13 emergency orders after business hours and on weekends and
14 holidays in order to ensure the timely closure of an
15 establishment under this section.

16 (7) MISREPRESENTING FOOD OR FOOD PRODUCTS.--No
17 operator of any food service establishment regulated under
18 this section shall knowingly and willfully misrepresent the
19 identity of any food or food product to any of the patrons of
20 such establishment. Food used by food service establishments
21 shall be identified, labeled, and advertised in accordance
22 with the provisions of chapter 500.

23 (8) FOOD SERVICE MANAGER CERTIFICATION; FOOD SERVICE
24 EMPLOYEE TRAINING.--

25 (a) The department shall adopt, by rule, food safety
26 protection standards for the training and certification of all
27 food service managers who are responsible for the storage,
28 preparation, display, or serving of foods to the public in
29 establishments regulated under this section. These standards
30 are to be adopted by the department to ensure that, upon
31 successfully passing a test, a manager of a food service

1 establishment has demonstrated a knowledge of basic food
2 protection practices. These standards must also provide for a
3 certification program that authorizes private or public
4 agencies to conduct an approved test and certify the results
5 of those tests to the department. The fee for the test may
6 not exceed \$50. All managers employed by a food service
7 establishment must have passed this test and received a
8 certificate attesting thereto. Managers have a period of 90
9 days after employment to pass the required test.

10 (b) The department shall adopt, by rule, minimum food
11 safety protection standards for the training of all food
12 service employees who are responsible for the storage,
13 preparation, display, or serving of foods to the public in
14 establishments regulated under this section. These standards
15 shall not include an examination or certification. It shall
16 be the duty of the licensee of the food service establishment
17 to provide training in accordance with the described rule to
18 all employees under the licensee's supervision or control.
19 The licensee may designate a certified food service manager to
20 perform this function as an agent of the licensee.

21 (9) FOOD SERVICE ESTABLISHMENT RANKING.--The ranking
22 of food service establishments is preempted to the state;
23 however, any local ordinance establishing a ranking system in
24 existence before October 1, 1988, may remain in effect.

25 (10) FOOD SERVICES STANDARDS ADVISORY COUNCIL.--

26 (a) The Food Services Standards Advisory Council,
27 hereafter known as the "council," consisting of nine members,
28 is created to assist the department with the implementation of
29 this section, including food service inspector standardization
30 and food service manager certification. The council shall also
31 serve as the review board for the variance process described

1 in this section. The State Health Officer shall appoint the
2 members of the council, as follows:

3 1. The state epidemiologist or his or her designee.

4 2. Two county health department representatives.

5 3. Four food service industry representatives.

6 4. One consumer representative not affiliated with the
7 food service industry.

8 5. One representative of the State Health Office.

9 (b) Members shall be appointed for a 4-year term and
10 may be reappointed to one additional term.

11 (c) The council may elect one member to serve as
12 chairperson and one member to serve as vice chairperson. The
13 term of office for chairperson and vice chairperson shall be
14 for 2 years.

15 (d) The purpose of the council is to promote better
16 relations, understanding, and cooperation between the industry
17 and the department; to suggest improved means of protecting
18 the health of persons being served; to give the department the
19 benefit of its knowledge and experience concerning how
20 applicable laws and rules affect the industry; to promote and
21 coordinate educational and certification efforts aimed at
22 improving food protection and preventing food-borne illness;
23 and to review variance requests submitted to the department.

24 (e) The council shall meet at least quarterly, or upon
25 the call of the Secretary of Health, for the purpose of
26 reviewing food standards and making recommendations to the
27 department for rule or statutory amendments, and for reviewing
28 variance requests as described in subsection (11). The
29 department shall provide administrative and clerical support
30 services for the council.

31

1 (f) The members of the council shall serve without
2 compensation, but shall be entitled to receive reimbursement
3 for per diem and travel expenses pursuant to s. 112.061.

4 (11) FACILITY PLAN REVIEWS; VARIANCES.--

5 (a) The department may establish, by rule, the process
6 for and fees to support conducting facility plan reviews.

7 (b)1. The department may grant variances from
8 construction standards in hardship cases, which variances may
9 be less restrictive than the provisions specified in this
10 section or by rules adopted under this section. A variance may
11 not be granted pursuant to this section until the department
12 is satisfied that:

13 a. The variance shall not adversely affect the health
14 of the public.

15 b. No reasonable alternative exists for the required
16 construction.

17 c. The hardship was not caused intentionally by the
18 action of the applicant.

19 2. The Food Services Standards Advisory Council shall
20 review applications for variances and recommend agency action
21 at their quarterly meetings. The department shall make
22 arrangements to expedite emergency requests for variances, to
23 ensure that such requests are acted upon within 30 days of
24 receipt.

25 3. The department shall establish by rule a fee for
26 the cost of the variance process. Such fee may not exceed \$150
27 for routine variance requests and \$300 for emergency variance
28 requests.

29 (12) FOOD SERVICE INSPECTION REPORT.--The operator of
30 a food service establishment must maintain the latest food
31

1 service inspection report or a duplicate copy on the premises
2 and make the report available to the public upon request.

3 Section 12. Effective January 1, 1998, section
4 381.0074, Florida Statutes, is created to read:

5 381.0074 Mobile food dispensing vehicle registry;
6 temporary food service events.--

7 (1) It is the duty of each operator of a food service
8 establishment that provides commissary services to maintain a
9 daily registry verifying that each mobile food dispensing
10 vehicle that receives such services is properly licensed by
11 the department. In order that such licensure may be readily
12 verified, each mobile food dispensing vehicle operator shall
13 permanently affix in a prominent place on the side of the
14 vehicle, in figures at least 2 inches high and in contrasting
15 colors from the background, the operator's food service
16 establishment license number. Prior to providing commissary
17 services, each food service establishment must verify that the
18 license number displayed on the vehicle matches the number on
19 the vehicle operator's food service establishment license.

20 (2) TEMPORARY FOOD SERVICE EVENTS.--

21 (a) The term "temporary food service event" means any
22 event of 30 days or less in duration at which food is
23 prepared, served, or sold to the general public.

24 (b) The department shall administer a public
25 notification process for temporary food service events and
26 distribute educational materials that address safe food
27 storage, preparation, and service procedures.

28 1. Sponsors of temporary food service events shall
29 notify the department not less than 3 days prior to the
30 scheduled event of the type of food service proposed, the time
31 and location of the event, a complete list of food service

1 vendor owners and operators participating in each event, and
2 the current license numbers of all food service establishments
3 participating in each event. Notification may be completed
4 orally, by telephone, in person, or in writing. A food
5 service establishment or food service vendor may not use this
6 notification process to circumvent the license requirements of
7 this chapter.

8 2. The department shall keep a record of all
9 notifications received for proposed temporary food service
10 events and shall provide appropriate educational materials to
11 the event sponsors.

12 3.a. A food service establishment or other food vendor
13 must obtain a license from the department for each temporary
14 food service event in which it participates.

15 b. A food service establishment holding a current
16 license from the department may operate under the regulations
17 of such a license at temporary food service events of 3 days
18 or less in duration.

19 Section 13. Effective January 1, 1998, section
20 381.00742, Florida Statutes, is created to read:

21 381.00742 Food service establishments; rights as
22 private enterprises; rules and notices.--

23 (1) Food service establishments are private
24 enterprises, and the operator has the right to refuse
25 accommodations or service to any person who is objectionable
26 or undesirable to the operator, but such refusal may not be
27 based upon race, creed, color, sex, physical disability, or
28 national origin. A person aggrieved by a violation of this
29 section or a violation of a rule adopted under this section
30 has a right of action pursuant to s. 760.11.

31

1 (2) Any operator of a food service establishment may
2 establish reasonable rules for the management of the
3 establishment and its guests and employees; and each guest or
4 employee sojourning, eating, or employed in the establishment
5 must conform to and abide by such rules so long as the guest
6 or employee remains in or at the establishment. Such rules
7 shall be deemed to be a special contract between the operator
8 and each guest or employee using the services or facilities of
9 the operator. Such rules shall control the liabilities,
10 responsibilities, and obligations of all parties. Any rules
11 established pursuant to this subsection must be printed in the
12 English language and posted in a prominent place within the
13 food service establishment. Such posting shall also include
14 notice that a current copy of this chapter is available in the
15 office for public review.

16 Section 14. Effective January 1, 1998, section
17 381.00744, Florida Statutes, is created to read:

18 381.00744 Admission and ejection of undesirable
19 guests; process; conduct; defrauding; penalties; property.--

20 (1) The operator of any food service establishment may
21 remove or cause to be removed from such establishment, in the
22 manner provided in this section, any guest of the
23 establishment who, while on the premises of the establishment,
24 illegally possesses or deals in controlled substances as
25 defined in chapter 893 or is intoxicated, profane, lewd, or
26 brawling; who indulges in any language or conduct which
27 disturbs the peace and comfort of other guests or which
28 injures the reputation, dignity, or standing of the
29 establishment; who fails to make payment for food, beverages,
30 or services; or who, in the opinion of the operator, is a
31 person the continued entertainment of whom would be

1 detrimental to the establishment. The admission to, or the
2 removal from, such establishment may not be based upon race,
3 creed, color, sex, physical disability, or national origin.

4 (2) The operator of the food service establishment
5 shall notify such guest that the establishment no longer
6 desires to entertain the guest and shall request that such
7 guest immediately depart from the establishment. Such notice
8 may be given orally or in writing. If the notice is in
9 writing, it shall be as follows:

10 "You are hereby notified that this establishment no
11 longer desires to entertain you as its guest, and you are
12 requested to leave at once. To remain after receipt of this
13 notice is a misdemeanor under the laws of this state."

14
15 If such guest has paid in advance, the establishment shall, at
16 the time such notice is given, tender to such guest the unused
17 portion of the advance payment.

18 (3) Any guest who remains or attempts to remain in any
19 such establishment after being requested to leave is guilty of
20 a misdemeanor of the second degree, punishable as provided in
21 s. 775.082 or s. 775.083.

22 (4) If any person is illegally on the premises of any
23 food service establishment, the operator of such establishment
24 may call upon any law enforcement officer of this state for
25 assistance. It is the duty of such law enforcement officer,
26 upon the request of such operator, to place under arrest and
27 take into custody for violation of this section any guest who
28 violates subsection (3) in the presence of the officer. If a
29 warrant has been issued by the proper judicial officer for the
30 arrest of any violator of subsection (3), the officer shall
31 serve the warrant, arrest the person, and take the person into

1 custody. Upon arrest, with or without warrant, the guest will
2 be deemed to have given up any right to use or to have
3 abandoned such right of use of the premises, and the operator
4 of the establishment may then make such premises available to
5 other guests. However, the operator of the establishment
6 shall employ all reasonable and proper means to care for any
7 personal property that may be left on the premises by such
8 guest and shall refund any unused portion of moneys paid by
9 such guest for the use of such premises.

10 (5) The operator of a food service establishment may
11 refuse accommodations or service to any person whose conduct
12 on the premises of the establishment displays intoxication,
13 profanity, lewdness, or brawling; who indulges in language or
14 conduct such as to disturb the peace or comfort of other
15 guests; who engages in illegal or disorderly conduct; who
16 illegally possesses or deals in controlled substances as
17 defined in chapter 893; or whose conduct constitutes a
18 nuisance. Such refusal may not be based upon race, creed,
19 color, sex, physical disability, or national origin.

20 (6) An operator may take a person into custody and
21 detain that person in a reasonable manner and for a reasonable
22 time if the operator has probable cause to believe that the
23 person was engaging in disorderly conduct in violation of s.
24 877.03 on the premises of the licensed establishment and that
25 such conduct was creating a threat to the life or safety of
26 the person or others. The operator shall call a law
27 enforcement officer to the scene immediately after detaining a
28 person under this subsection.

29 (7) A law enforcement officer may arrest, either on or
30 off the premises of the licensed establishment and without a
31 warrant, any person the officer has probable cause to believe

1 violated s. 877.03 on the premises of a licensed establishment
2 and, in the course of such violation, created a threat to the
3 life or safety of the person or others.

4 (8) An operator or a law enforcement officer who
5 detains a person under subsection (6) or makes an arrest under
6 subsection (7) is not civilly or criminally liable for false
7 arrest, false imprisonment, or unlawful detention on the basis
8 of any action taken in compliance with subsection (6) or
9 subsection (7).

10 (9) A person who resists the reasonable efforts of an
11 operator or a law enforcement officer to detain or arrest that
12 person in accordance with this section is guilty of a
13 misdemeanor of the first degree, punishable as provided in s.
14 775.082 or s. 775.083, unless the person did not know or did
15 not have reason to know that the person seeking to make such
16 detention or arrest was the operator of the establishment or a
17 law enforcement officer.

18 (10) Any person who obtains food or other
19 accommodations having a value of less than \$300 at any food
20 service establishment with intent to defraud the operator
21 thereof is guilty of a misdemeanor of the second degree,
22 punishable as provided in s. 775.082 or s. 775.083; if such
23 food or other accommodations have a value of \$300 or more,
24 such person is guilty of a felony of the third degree,
25 punishable as provided in s. 775.082, s. 775.083, or s.
26 775.084.

27 (11) The operator of a food service establishment is
28 not under any obligation to accept for safekeeping any moneys,
29 securities, jewelry, precious stones, wearing apparel, goods,
30 or other property of any kind belonging to any guest, and, if
31 such are accepted for safekeeping, the operator is not liable

1 for the loss thereof unless such loss was the proximate result
2 of fault or negligence of the operator. However, the
3 liability of the operator shall be limited to \$1,000 for such
4 loss, if the food service establishment gave a receipt for the
5 property (stating the value) on a form which stated, in type
6 large enough to be clearly noticeable, that the food service
7 establishment was not liable for any loss exceeding \$1,000 and
8 was only liable for that amount if the loss was the proximate
9 result of fault or negligence of the operator.

10 (12) Any property with an identifiable owner which is
11 left in a food service establishment, other than property
12 belonging to a guest who has vacated the premises without
13 notice to the operator and with an outstanding account, which
14 property remains unclaimed after being held by the
15 establishment for 90 days after written notice to the guest or
16 owner of the property, shall become the property of the
17 establishment. Property without an identifiable owner which is
18 found in a food service establishment is subject to the
19 provisions of chapter 705.

20 Section 15. Effective January 1, 1998, section
21 381.00746, Florida Statutes, is created to read:

22 381.00746 Rules of evidence in prosecutions; theft of
23 personal property; process; penalties.--

24 (1) In prosecutions under s. 381.00744, proof that
25 food or other accommodations were obtained by false pretense;
26 by false or fictitious show of property; by absconding without
27 paying or offering to pay for such food or accommodations; or
28 by surreptitiously removing or attempting to remove personal
29 belongings shall constitute prima facie evidence of fraudulent
30 intent. If the operator of the establishment has probable
31 cause to believe, and does believe, that any person has

1 obtained food or other accommodations at such establishment
2 with intent to defraud the operator thereof, the failure to
3 make payment upon demand therefor, there being no dispute as
4 to the amount owed, shall constitute prima facie evidence of
5 fraudulent intent in such prosecutions.

6 (2) Any law enforcement officer or operator of a food
7 service establishment who has probable cause to believe that
8 theft of personal property belonging to such establishment has
9 been committed by a person and that the officer or operator
10 can recover such property or the reasonable value thereof by
11 taking the person into custody may, for the purpose of
12 attempting to effect such recovery or for prosecution, take
13 such person into custody on the premises and detain such
14 person in a reasonable manner and for a reasonable period of
15 time. If the operator takes the person into custody, a law
16 enforcement officer shall be called to the scene immediately.
17 The taking into custody and detention by a law enforcement
18 officer or operator of a food service establishment, if done
19 in compliance with this subsection, does not render such law
20 enforcement officer or operator criminally or civilly liable
21 for false arrest, false imprisonment, or unlawful detention.

22 (3) Any law enforcement officer may arrest, either on
23 or off the premises and without warrant, any person if there
24 is probable cause to believe that person has committed theft
25 in a food service establishment.

26 (4) Any person who resists the reasonable effort of a
27 law enforcement officer or operator of a food service
28 establishment to recover property which the law enforcement
29 officer or operator had probable cause to believe had been
30 stolen from the food service establishment, and who is
31 subsequently found to be guilty of theft of the subject

1 property, is guilty of a misdemeanor of the first degree,
2 punishable as provided in s. 775.082 or s. 775.083, unless
3 such person did not know, or did not have reason to know, that
4 the person seeking to recover the property was a law
5 enforcement officer or the operator. For purposes of this
6 section, the charge of theft and the charge of resisting
7 apprehension may be tried concurrently.

8 (5) Theft of any property belonging to a guest of a
9 food service establishment, or of property belonging to such
10 establishment, by an employee of the establishment or by an
11 employee of a person, firm, or entity which has contracted to
12 provide services to the establishment constitutes a felony of
13 the third degree, punishable as provided in s. 775.082 or s.
14 775.083.

15 Section 16. Section 381.0101, Florida Statutes, is
16 amended to read:

17 381.0101 Environmental health professionals.--

18 (1) LEGISLATIVE INTENT.--Persons ~~specifically~~
19 responsible for providing technical and scientific evaluations
20 of environmental health and sanitary conditions in business
21 establishments and communities throughout the state may create
22 a danger to the public health if they are not skilled or
23 competent to perform such evaluations. The public relies on
24 the judgment of environmental health professionals employed by
25 both government agencies and industries to assure them that
26 environmental hazards are identified and removed before they
27 endanger the health or safety of the public. The purpose of
28 this section is to assure the public that persons specifically
29 responsible for performing environmental health and sanitary
30 evaluations have been certified by examination as competent to
31 perform such work.

1 (2) DEFINITIONS.--As used in this section:

2 (a) "Board" means the Environmental Health
3 Professionals Advisory Certification Board.

4 (b) "Department" means the Department of Health ~~and~~
5 ~~Rehabilitative Services~~.

6 (c) "Environmental health" means that segment of
7 public health work which deals with the examination of those
8 factors in the human environment which may impact adversely on
9 the health status of an individual or the public.

10 (d) "Environmental health professional" means a person
11 who is employed or assigned the responsibility for assessing
12 the environmental health or sanitary conditions within a
13 building, on an individual's property, or within the community
14 at large, and who has the knowledge, skills, and abilities to
15 carry out these tasks.

16 (e) "Certified" means a person who has displayed
17 competency ~~by examination~~ to perform evaluations of
18 environmental or sanitary conditions through examination.

19 (f) "Registered sanitarian" or "R.S." means a person
20 who has been certified by either the National Environmental
21 Health Association or the Florida Environmental Health
22 Association as knowledgeable in the environmental health
23 profession.

24 (g) "Primary environmental health program" means those
25 programs determined by the department to be essential for
26 providing basic environmental and sanitary protection to the
27 public. At a minimum, these programs shall include food
28 hygiene evaluations, and onsite sewage treatment and
29 ~~wastewater~~ disposal system evaluations.

30 (3) CERTIFICATION REQUIRED.--No person shall perform
31 environmental health or sanitary evaluations in any primary

1 program area of environmental health without being certified
2 by the department as competent to perform such evaluations.
3 ~~The requirements of this section shall not be mandatory for~~
4 ~~persons performing inspections of public food service~~
5 ~~establishments licensed under chapter 509.~~

6 (4) ENVIRONMENTAL HEALTH PROFESSIONALS ADVISORY
7 BOARD.--The State Health Officer shall appoint an advisory
8 board to assist the department in the adoption promulgation of
9 rules for certification, testing, establishing standards,
10 including establishing requirements for field standardizing of
11 environmental health professionals,and seeking enforcement
12 actions against certified professionals.

13 (a) The board shall be comprised of the Division
14 Director ~~Assistant Health Officer~~ for Environmental Health or
15 his or her designee, one individual who will be certified
16 under this section, one individual not employed in a
17 governmental capacity who will or does employ a certified
18 environmental health professional, one individual whose
19 business is or will be evaluated by a certified environmental
20 health professional, a citizen of the state who neither
21 employs nor is routinely evaluated by a person certified under
22 this section.

23 (b) The board shall advise the department as to the
24 minimum standards of competency and proficiency necessary to
25 obtain certification in a primary area of environmental health
26 practice.

27 1. The board shall recommend primary areas of
28 environmental health practice in which environmental health
29 professionals should be required to obtain certification.

30 2. The board shall recommend minimum standards of
31 practice which the department shall incorporate into rule.

1 3. The board shall evaluate and recommend to the
2 department existing registrations and certifications which
3 meet or exceed minimum department standards and should,
4 therefore, exempt holders of such certificates or
5 registrations from compliance with this section.

6 4. The board shall hear appeals of certificate
7 denials, revocation, or suspension and shall advise the
8 department as to the disposition of such an appeal.

9 5. The board shall meet as often as necessary, but no
10 less than semiannually, handle appeals to the department, and
11 conduct other duties of the board.

12 6. Members of the board shall receive no compensation
13 but shall be reimbursed for per diem and travel expenses in
14 accordance with s. 112.061.

15 (5) STANDARDS FOR CERTIFICATION.--The department shall
16 adopt rules that establish minimum standards of education,
17 training, or experience for those persons subject to this
18 section. The rules shall also address ethical standards of
19 practice for the profession.

20 (a) Persons employed as environmental health
21 professionals shall exhibit a knowledge of rules and
22 principles of environmental and public health law in Florida
23 through examination. No person shall conduct environmental
24 health evaluations in a primary program area unless he or she
25 is currently certified in that program area or works under the
26 direct supervision of a certified environmental health
27 professional.

28 1. All ~~such~~ persons who begin employment in a primary
29 environmental health program on or after September 21, 1994,
30 must ~~July 1, 1991,~~ shall be certified in that program within 6
31 months after employment.

1 2. Persons employed in a primary environmental health
2 program prior to September 21, 1994, shall be considered
3 certified July 1, 1991, are exempt from certification
4 requirements while employed in that position and shall be
5 required to adhere to any professional standards established
6 by the department pursuant to paragraph (b); complete any
7 continuing education requirements imposed under paragraph (d);
8 and pay the certificate renewal fee imposed under subsection
9 (7).

10 3. Persons employed in a primary environmental health
11 program prior to September 21, 1994, who change positions or
12 program areas and transfer into another primary environmental
13 health program area on or after September 21, 1994, must be
14 certified in that program within 6 months after employment,
15 except that they will not be required to possess the college
16 degree required under paragraph (e).

17 4. Registered sanitarians shall be considered
18 certified and shall be required to adhere to any professional
19 standards established by the department pursuant to paragraph
20 (b).

21 (b) At a minimum, the department shall establish
22 standards for professionals in the areas of food hygiene and
23 onsite sewage treatment and disposal.

24 (c) Those persons conducting primary environmental
25 health evaluations shall be certified by examination to be
26 knowledgeable in any primary area of environmental health in
27 which they are routinely assigned duties.

28 (d) Persons who are certified shall renew their
29 certification biennially by completing not less than 24 ~~6~~
30 contact hours of continuing education for each program area in
31 which they maintain certification.

1 (e) Applicants for certification shall have graduated
2 from an accredited 4-year college or university with major
3 coursework in environmental health, environmental science, or
4 a physical or biological science.

5 (6) EXEMPTIONS.--A person who conducts primary
6 environmental evaluation activities and maintains a current
7 registration or certification from another state agency which
8 examined the person's knowledge of the primary program area
9 and requires comparable continuing education to maintain the
10 certificate shall not be required to be certified by this
11 section. Examples of persons not subject to certification are
12 physicians, registered dietitians, certified laboratory
13 personnel, and nurses. ~~Registered sanitarians are deemed to~~
14 ~~have met the certification requirements of this section.~~

15 (7) FEES.--The department shall charge fees in amounts
16 necessary to meet the cost of providing certification.
17 ~~Application Fees for certification in a program area shall be~~
18 ~~no less than \$25 nor more than \$300 and shall be set by rule~~
19 ~~\$100. Application, examination, and certification costs shall~~
20 ~~be included in this fee. Certification fees shall be no less~~
21 ~~than \$25 nor more than \$50 per biennium. Fees for renewal of a~~
22 ~~certificate shall be no less than \$25 nor more than \$150~~ \$50
23 per biennium.

24 (8) PENALTIES.--The department may deny, suspend, or
25 revoke a certificate or impose an administrative fine of up to
26 \$500 for each violation of this section or a rule adopted
27 under this section or may pursue any other enforcement action
28 authorized by law. Any person who has had a certificate
29 revoked may not conduct environmental health evaluations in a
30 primary program area for a minimum of 5 years after the date
31 of revocation.

1 Section 17. Section 391.051, Florida Statutes, 1996
2 Supplement, is amended to read:

3 391.051 Qualifications of director.--The Director for
4 ~~of~~ Children's Medical Services must be a physician licensed
5 under chapter 458 or chapter 459 who has specialized training
6 and experience in the provision of medical care to children
7 and who has recognized skills in leadership and the promotion
8 of children's health programs. The Director for ~~of~~ Children's
9 Medical Services shall be a deputy secretary and the State
10 Health Officer for Children and is appointed by and reports to
11 the secretary ~~the division director of the Division of~~
12 ~~Children's Medical Services as provided under s. 20.43.~~

13 Section 18. Effective July 1, 1998, section 394.453,
14 Florida Statutes, 1996 Supplement, is amended to read:

15 394.453 Legislative intent.--It is the intent of the
16 Legislature to authorize and direct the Department of Health
17 ~~and Rehabilitative Services~~ to evaluate, research, plan, and
18 recommend to the Governor and the Legislature programs
19 designed to reduce the occurrence, severity, duration, and
20 disabling aspects of mental, emotional, and behavioral
21 disorders. It is the intent of the Legislature that treatment
22 programs for such disorders shall include, but not be limited
23 to, comprehensive health, social, educational, and
24 rehabilitative services to persons requiring intensive
25 short-term and continued treatment in order to encourage them
26 to assume responsibility for their treatment and recovery. It
27 is intended that such persons be provided with emergency
28 service and temporary detention for evaluation when required;
29 that they be admitted to treatment facilities on a voluntary
30 basis when extended or continuing care is needed and
31 unavailable in the community; that involuntary placement be

1 provided only when expert evaluation determines that it is
2 necessary; that any involuntary treatment or examination be
3 accomplished in a setting which is clinically appropriate and
4 most likely to facilitate the person's return to the community
5 as soon as possible; and that individual dignity and human
6 rights be guaranteed to all persons who are admitted to mental
7 health facilities or who are being held under s. 394.463. It
8 is the further intent of the Legislature that the least
9 restrictive means of intervention be employed based on the
10 individual needs of each person, within the scope of available
11 services.

12 Section 19. Effective July 1, 1998, subsections (8),
13 (28), and (29) of section 394.455, Florida Statutes, 1996
14 Supplement, are amended to read:

15 394.455 Definitions.--As used in this part, unless the
16 context clearly requires otherwise, the term:

17 (8) "Department" means the Department of Health ~~and~~
18 ~~Rehabilitative Services~~.

19 (28) "Secretary" means the Secretary of Health ~~and~~
20 ~~Rehabilitative Services~~.

21 (29) "Transfer evaluation" means the process, as
22 approved by the appropriate service area ~~district~~ office of
23 the department, whereby a person who is being considered for
24 placement in a state treatment facility is first evaluated for
25 appropriateness of admission to the facility by a
26 community-based public receiving facility or by a community
27 mental health center or clinic if the public receiving
28 facility is not a community mental health center or clinic.

29 Section 20. Effective July 1, 1998, subsections (1)
30 and (3) of section 394.457, Florida Statutes, 1996 Supplement,
31 are amended to read:

1 394.457 Operation and administration.--

2 (1) ADMINISTRATION.--The department ~~of Health and~~
3 ~~Rehabilitative Services~~ is designated the "Mental Health
4 Authority" of Florida. The department and the Agency for
5 Health Care Administration shall exercise executive and
6 administrative supervision over all mental health facilities,
7 programs, and services.

8 (3) POWER TO CONTRACT.--The department may contract to
9 provide, and be provided with, services and facilities in
10 order to carry out its responsibilities under this part with
11 the following agencies: public and private hospitals;
12 receiving and treatment facilities; clinics; laboratories;
13 departments, divisions, and other units of state government;
14 the state colleges and universities; the community colleges;
15 private colleges and universities; counties, municipalities,
16 and any other governmental unit, including facilities of the
17 United States Government; and any other public or private
18 entity which provides or needs facilities or services. Baker
19 Act funds for community inpatient, crisis stabilization,
20 short-term residential treatment, and screening services must
21 be allocated to each county pursuant to the department's
22 funding allocation methodology. Notwithstanding the provisions
23 of s. 287.057(3)(f), contracts for community-based Baker Act
24 services for inpatient, crisis stabilization, short-term
25 residential treatment, and screening provided under this part,
26 other than those with other units of government, to be
27 provided for the department must be awarded using competitive
28 sealed bids when the county commission of the county receiving
29 the services makes a request to the department's service area
30 ~~district~~ office by January 15 of the contracting year. The
31 service area office ~~district~~ shall not enter into a

1 competitively bid contract under this provision if such action
2 will result in increases of state or local expenditures for
3 Baker Act services within the service area ~~district~~.
4 Contracts for these Baker Act services using competitive
5 sealed bids will be effective for 3 years. Services contracted
6 for by the department may be reimbursed by the state at a rate
7 up to 100 percent. The department shall adopt rules
8 establishing minimum standards for such contracted services
9 and facilities and shall make periodic audits and inspections
10 to assure that the contracted services are provided and meet
11 the standards of the department.

12 Section 21. Effective July 1, 1998, paragraph (d) of
13 subsection (2) of section 394.4615, Florida Statutes, 1996
14 Supplement, is amended to read:

15 394.4615 Clinical records; confidentiality.--

16 (2) The clinical record shall be released when:

17 (d) The patient is committed to, or is to be returned
18 to, the Department of Corrections from the Department of
19 Health ~~and Rehabilitative Services~~, and the Department of
20 Corrections requests such records. These records shall be
21 furnished without charge to the Department of Corrections.

22 Section 22. Effective July 1, 1998, subsection (2) of
23 section 394.4674, Florida Statutes, 1996 Supplement, is
24 amended to read:

25 394.4674 Plan and report.--

26 (2) The department shall prepare and submit a
27 semiannual report to the Legislature, until the conditions
28 specified in subsection (1) are met, which shall include, but
29 not be limited to:

30 (a) The status of compliance with the
31 deinstitutionalization plan;

1 (b) The specific efforts to stimulate alternative
2 living and support resources outside the hospitals and all
3 documentation of the success of these efforts;

4 (c) The specific efforts to facilitate the development
5 and retention of daily living skills identified by the
6 department as being necessary for living outside an
7 institution and any evidence of the success of these efforts;

8 (d) The specific plans for new efforts to accomplish
9 the deinstitutionalization of patients in this age group; and

10 (e) Any evidence of involvement between the Division
11 of Alcohol, Drug Abuse, and Mental Health Program Office and
12 other divisions ~~program offices~~ within the department and
13 between the department and other state and private agencies
14 and individuals to accomplish the deinstitutionalization of
15 patients in this age group.

16 Section 23. Effective July 1, 1998, paragraph (b) of
17 subsection (1) of section 394.4781, Florida Statutes, is
18 amended to read:

19 394.4781 Residential care for psychotic and
20 emotionally disturbed children.--

21 (1) DEFINITIONS.--As used in this section:

22 (b) "Department" means the Department of Health ~~and~~
23 ~~Rehabilitative Services~~.

24 Section 24. Effective July 1, 1998, section 394.480,
25 Florida Statutes, is amended to read:

26 394.480 Compact administrator.--Pursuant to such said
27 compact, the Secretary of Health ~~and Rehabilitative Services~~
28 shall be the compact administrator who, acting jointly with
29 like officers of other party states, shall have power to
30 promulgate rules and regulations to carry out more effectively
31 the terms of the compact. The compact administrator is hereby

1 authorized, empowered, and directed to cooperate with all
2 departments, agencies, and officers of and in the government
3 of this state and its subdivisions in facilitating the proper
4 administration of the compact of any supplementary agreement
5 or agreements entered into by this state thereunder.

6 Section 25. Effective July 1, 1998, section 394.50,
7 Florida Statutes, is amended to read:

8 394.50 Children's residential and day treatment
9 centers.--There are established in this state children's
10 residential and day treatment centers which shall be under the
11 supervision and control of the Department of Health ~~and~~
12 ~~Rehabilitative Services~~. The purpose of the centers shall be
13 to provide for evaluation, care, treatment, and education of
14 emotionally, mentally, or behaviorally disturbed children.
15 The department is authorized to develop children's residential
16 and day treatment centers and children's programs in such
17 locations as it deems appropriate and within the limits of
18 funds appropriated by the Legislature.

19 Section 26. Effective July 1, 1998, section 394.60,
20 Florida Statutes, is amended to read:

21 394.60 Transfer of patients.--If the director of a
22 center upon advice of his or her clinical staff determines
23 that any child at the center is not responding to or
24 benefiting from the treatment and education programs at the
25 center and that such child is in need of further care,
26 rehabilitation, special training, education, and treatment and
27 would be more suitably cared for, rehabilitated, trained,
28 educated, and treated at another of the state facilities under
29 the Department of Health ~~and Rehabilitative Services~~, the
30 center shall request the child's transfer to the proper
31 facility. Transfers of such child to a mental health facility

1 or retardation facility shall follow the procedures as set
2 forth in part I of chapter 394 and chapter 393, respectively.

3 Section 27. Effective July 1, 1998, section 394.66,
4 Florida Statutes, is amended to read:

5 394.66 Legislative intent with respect to substance
6 ~~alcohol, drug~~ abuse, and mental health services.--It is the
7 intent of the Legislature to:

8 (1) Promote and improve the mental health of the
9 citizens of the state through a system of comprehensive,
10 coordinated substance ~~alcohol, drug~~ abuse, and mental health
11 services.

12 (2) Involve local citizens in the planning of
13 substance ~~alcohol, drug~~ abuse, and mental health services in
14 their communities.

15 (3) Ensure that all activities of the department ~~of~~
16 ~~Health and Rehabilitative Services~~ and its contractors are
17 directed toward the coordination of planning efforts in
18 substance ~~alcohol, drug~~ abuse, and mental health treatment
19 services.

20 (4) Provide access to services to all residents of the
21 state with priority of attention being given to individuals
22 exhibiting symptoms of acute or chronic mental illness or
23 substance, ~~alcohol~~ abuse, ~~or drug abuse~~.

24 (5) Ensure continuity of care, consistent with minimum
25 standards, for persons who are released from a state treatment
26 facility into the community.

27 (6) Provide accountability for service provision
28 through statewide standards for management, monitoring, and
29 reporting of information.

30 (7) Include substance ~~alcohol, drug~~ abuse, and mental
31 health services as a component of the integrated service

1 delivery system of the department of ~~Health and Rehabilitative~~
2 ~~Services.~~

3 (8) Ensure that the service areas ~~districts~~ of the
4 department are the focal point of all substance alcohol, drug
5 ~~abuse, and~~ mental health planning activities, including budget
6 ~~submissions, grant applications, contracts, and other~~
7 arrangements that can be effected at the service area ~~district~~
8 level.

9 (9) Organize and finance community substance alcohol,
10 ~~drug~~ abuse, and mental health services in local communities
11 throughout the state through locally administered service
12 delivery programs that maximize the involvement of local
13 citizens.

14 Section 28. Effective July 1, 1998, section 394.67,
15 Florida Statutes, is amended to read:

16 394.67 Definitions.--When used in this part, ~~unless~~
17 ~~the context clearly requires otherwise,~~ the term:

18 ~~(1) "Advisory council" means a district advisory~~
19 ~~council.~~

20 (1)(2) "Local Alcohol, drug abuse, and mental health
21 planning council" or "council" means the council established
22 under s. 408.033. ~~within a Department of Health and~~
23 ~~Rehabilitative Services district or subdistrict established in~~
24 ~~accordance with the provisions~~ For the purposes of this part,
25 the councils shall be involved in for the purpose of assessing
26 the substance alcohol, drug abuse, and mental health needs of
27 the community and participate in the development of ~~developing~~
28 a plan to address those needs.

29 (2)(3) "Department" means the Department of Health ~~and~~
30 ~~Rehabilitative Services.~~

31

1 (3) "Deputy secretary" means the department's Deputy
2 Secretary for Behavioral Health Care.

3 (4) "Service area staff" means those positions that
4 may be established by the department to facilitate local
5 planning, service coordination, and management and monitoring
6 of contracted service providers. These staff must report to
7 the Deputy Secretary for Behavioral Health Care. ~~"District~~
8 ~~administrator" means the person appointed by the Secretary of~~
9 ~~Health and Rehabilitative Services for the purpose of~~
10 ~~administering a department service district as set forth in s.~~
11 ~~20.19.~~

12 (5) "Service area District plan" or "plan" means the
13 combined service area substance district alcohol, drug abuse,
14 and mental health plan prepared by the service area staff with
15 the advice and participation of the local alcohol, drug abuse,
16 and mental health planning council and approved by the deputy
17 secretary district administrator and governing bodies in
18 accordance with this part.

19 (6) "Federal funds" means funds from federal sources
20 for substance alcohol, drug abuse, or mental health facilities
21 and programs, exclusive of federal funds that are deemed
22 eligible by the Federal Government, and are eligible through
23 state regulation, for matching purposes.

24 (7) "Governing body" means the chief legislative body
25 of a county, a board of county commissioners, or boards of
26 county commissioners in counties acting jointly, or their
27 counterparts in a charter government.

28 (8) "Local matching funds" means funds received from
29 governing bodies of local government, including city
30 commissions, county commissions, district school boards,
31 special tax districts, private hospital funds, private gifts,

1 both individual and corporate, and bequests and funds received
2 from community drives or any other sources.

3 (9) "Patient fees" means compensation received by a
4 community alcohol, drug abuse, or mental health facility for
5 services rendered to clients from any source of funds,
6 including city, county, state, federal, and private sources.

7 (10) "Divisions Program office" means the Substance
8 Alcohol, Drug Abuse, Division or the and Mental Health
9 Division Program Office of the department of Health and
10 Rehabilitative Services.

11 (11) "Service area district" means a community service
12 area district as established by the department under s. 20.43
13 s. 20.19 for the purpose of providing community substance
14 alcohol, drug abuse, and mental health services.

15 (12) "Service provider" means any agency in which all
16 or any portion of the programs or services set forth in s.
17 394.675 are carried out.

18 (13) "Crisis stabilization unit" means a program
19 providing an alternative to inpatient hospitalization and
20 which provides brief, intensive services 24 hours a day, 7
21 days a week, for mentally ill individuals who are in an
22 acutely disturbed state.

23 (14) "Residential treatment facility" means a facility
24 providing residential care and treatment to individuals
25 exhibiting symptoms of mental illness who are in need of a
26 24-hour, 7-day-a-week structured living environment, respite
27 care, or long-term community placement. Residential treatment
28 facility shall also include short-term residential treatment
29 facilities for treatment of mental illness.

30 (15) "Licensed facility" means a facility licensed in
31 accordance with this chapter.

1 (16) "Premises" means those buildings, beds, and
2 facilities located at the main address of the licensee and all
3 other buildings, beds, and facilities for the provision of
4 acute or residential care located in such reasonable proximity
5 to the main address of the licensee as to appear to the public
6 to be under the dominion and control of the licensee.

7 (17) "Client" means any individual receiving services
8 in any substance ~~alcohol, drug~~ abuse, or mental health
9 facility, program, or service, which facility, program, or
10 service is operated, funded, or regulated by the department ~~of~~
11 ~~Health and Rehabilitative Services~~.

12 Section 29. Effective July 1, 1998, section 394.675,
13 Florida Statutes, is amended to read:

14 394.675 Substance ~~Alcohol, drug~~ abuse, and mental
15 health service system.--

16 (1) A system of comprehensive substance ~~alcohol, drug~~
17 ~~abuse,~~ and mental health services shall be established as
18 follows:

19 (a) "Primary care services" are those services which,
20 at a minimum, must be made available in each service area
21 ~~district~~ to persons who have acute or chronic mental
22 illnesses, who are acute or chronic drug dependents, and who
23 are acute or chronic alcohol abusers to provide them with
24 immediate care and treatment in crisis situations and to
25 prevent further deterioration or exacerbation of their
26 conditions. These services include, but are not limited to,
27 emergency-stabilization services, detoxification services,
28 inpatient services, residential services, and case management
29 services.

30 (b) "Rehabilitative services" are those services which
31 are made available to the general population at risk of

1 serious mental health problems or substance abuse problems or
2 which are provided as part of a rehabilitative program. These
3 services are designed to prepare or train persons to function
4 within the limits of their disabilities, to restore previous
5 levels of functioning, or to improve current levels of
6 inadequate functioning. Rehabilitative services include, but
7 are not limited to, outpatient services, day treatment
8 services, and partial hospitalization services.

9 (c) "Preventive services" are those services which are
10 made available to the general population for the purpose of
11 preventing or ameliorating the effects of alcohol abuse, drug
12 abuse, or mental illness. These services emphasize the
13 reduction of the occurrence of emotional disorders, mental
14 disorders, and substance abuse through public education, early
15 detection, and timely intervention. Preventive services
16 include consultation, public education, and prevention
17 services which have been determined through the service area
18 ~~district~~ planning process to be necessary to complete a
19 continuum of services as required by this part and which are
20 included in the service area ~~district~~ plan.

21 (2) Notwithstanding the provisions of this part, funds
22 which are provided through state and federal sources for
23 specific services shall be used for those purposes.

24 Section 30. Effective July 1, 1998, section 394.73,
25 Florida Statutes, is amended to read:

26 394.73 Joint substance ~~alcohol, drug~~ abuse, and mental
27 health service programs in two or more counties.--

28 (1) Subject to rules established by the department,
29 any county within a service area ~~district~~ shall have the same
30 power to contract for substance ~~alcohol, drug~~ abuse, and
31

1 mental health services as the department has under existing
2 statutes.

3 (2) In order to carry out the intent of this part and
4 to provide substance ~~alcohol, drug~~ abuse, and mental health
5 services in accordance with the service area ~~district~~ plan,
6 the counties within a service area ~~district~~ may enter into
7 agreements with each other for the establishment of joint
8 service programs. The agreements may provide for the joint
9 provision or operation of services and facilities or for the
10 provision or operation of services and facilities by one
11 participating county under contract with other participating
12 counties.

13 (3) When a service area ~~district~~ comprises two or more
14 counties or portions thereof, it is the obligation of the
15 local health ~~planning~~ council to submit to the governing
16 bodies, prior to the budget submission date of each governing
17 body, an estimate of the proportionate share of costs of
18 substance ~~alcohol, drug~~ abuse, and mental health services
19 proposed to be borne by each such governing body.

20 (4) Any county desiring to withdraw from a joint
21 program may submit to the service area staff ~~district~~
22 ~~administrator~~ a resolution requesting withdrawal therefrom
23 together with a plan for the equitable adjustment and division
24 of the assets, property, debts, and obligations, if any, of
25 the joint program.

26 Section 31. Effective July 1, 1998, section 394.74,
27 Florida Statutes, is amended to read:

28 394.74 Contracts for provision of local substance
29 ~~alcohol, drug~~ abuse, and mental health programs.--

30 (1) The department, when funds are available for such
31 purposes, is authorized to contract for the establishment and

1 operation of local substance ~~alcohol, drug~~ abuse, and mental
2 health programs with any hospital, clinic, laboratory,
3 institution, or other appropriate service provider.

4 (2) Contracts for service shall be consistent with the
5 approved service area ~~district~~ plan and the service priorities
6 established in s. 394.75(4).

7 (3) Contracts shall include, but are not limited to:

8 (a) A provision that, within the limits of available
9 resources, primary care alcohol, drug abuse, and mental health
10 services shall be available to any individual residing or
11 employed within the service area, regardless of ability to pay
12 for such services, current or past health condition, or any
13 other factor;

14 (b) A provision that such services be available with
15 priority of attention being given to individuals who exhibit
16 symptoms of chronic or acute alcoholism, drug abuse, or mental
17 illness and who are unable to pay the cost of receiving such
18 services;

19 (c) A provision that every reasonable effort to
20 collect appropriate reimbursement for the cost of providing
21 substance ~~alcohol, drug~~ abuse, and mental health services to
22 persons able to pay for services, including first-party
23 payments and third-party payments, shall be made by facilities
24 providing services pursuant to this act;

25 (d) A program description and line-item operating
26 budget by program service component for substance ~~alcohol,~~
27 ~~drug~~ abuse, and mental health services, provided the entire
28 proposed operating budget for the service provider will be
29 displayed; and

30 (e) A requirement that the contractor must conform to
31 department rules and the priorities established thereunder.

1 (4) The department shall develop standard contract
2 forms for use between the department ~~district administrator~~
3 and community alcohol, drug abuse, and mental health service
4 providers.

5 (5) Nothing in this part prevents any city or county,
6 or combination of cities and counties, from owning, financing,
7 and operating an alcohol, drug abuse, or mental health program
8 by entering into an arrangement with the department ~~district~~
9 to provide, and be reimbursed for, services provided as part
10 of the service area ~~district~~ plan.

11 Section 32. Effective July 1, 1998, section 394.75,
12 Florida Statutes, is amended to read:

13 394.75 Service area substance ~~District Alcohol, drug~~
14 ~~abuse,~~and mental health plans.--

15 (1)(a) The service area staff, in consultation with
16 the local health council,~~district planning council~~ shall
17 prepare a combined service area substance ~~district alcohol,~~
18 ~~drug~~ abuse, and mental health plan. The plan shall be prepared
19 on a biennial basis and shall be reviewed annually and shall
20 reflect both the program priorities established by the
21 department and the needs of the service area ~~district~~. The
22 appropriate district health and human services board
23 established under s. 20.19 shall be afforded the opportunity
24 to participate in the development of the service area plan.
25 The service area staff has primary responsibility for the
26 preparation of the plan and the inclusion of the department's
27 priorities. The local health council has primary
28 responsibility for identifying the substance abuse and mental
29 health needs of the region.The plan shall include a program
30 description and line-item budget by program service component
31 for substance ~~alcohol, drug~~ abuse, and mental health service

1 providers that will receive state funds. The entire proposed
2 operating budget for each service provider shall be displayed.
3 A schedule, format, and procedure for development and review
4 of the plan shall be promulgated by the department.

5 (b) The plan shall be submitted by the service area
6 ~~staff district planning council~~ to the department district
7 ~~administrator~~ and to the governing bodies for review, comment,
8 and approval, as provided in subsection (9).

9 (2) The plan shall:

10 (a) Provide a projection of service area district
11 program and fiscal needs for the next biennium, provide for
12 the orderly and economical development of needed services, and
13 indicate priorities and anticipated expenditures and revenues.

14 (b) Include a summary budget request for the total
15 service area substance district alcohol, drug abuse, and
16 mental health program which shall include the funding
17 priorities established by the service area district planning
18 process.

19 (c) Provide a basis for the service area district
20 legislative budget request.

21 (d) Include a policy and procedure for allocation of
22 funds.

23 (e) Include a procedure for securing local matching
24 funds. Such a procedure shall be developed in consultation
25 with governing bodies and service providers.

26 (f) Provide for the integration of substance alcohol,
27 ~~drug~~ abuse, and mental health services with the other
28 departmental programs and with the criminal justice system
29 within the service area district.

30
31

1 (g) Provide a plan for the coordination of services in
2 such manner as to ensure effectiveness and avoid duplication,
3 fragmentation of services, and unnecessary expenditures.

4 (h) Provide for continuity of client care between
5 state treatment facilities and community programs.

6 (i) Provide for the most appropriate and economical
7 use of all existing public and private agencies and personnel.

8 (j) Provide for the fullest possible and most
9 appropriate participation by existing programs; state
10 hospitals and other hospitals; city, county, and state health
11 and family service agencies; drug abuse and alcoholism
12 programs; probation departments; physicians; psychologists;
13 social workers; public health nurses; school systems; and all
14 other public and private agencies and personnel which are
15 required to, or may agree to, participate in the plan.

16 (k) Include an inventory of all public and private
17 substance ~~alcohol, drug~~ abuse, and mental health resources
18 within the service area ~~district~~, including consumer advocacy
19 groups registered with the department.

20 (3) The plan shall address how primary care services
21 will be provided and how a continuum of services will be
22 provided given the resources available in the service area
23 ~~district~~.

24 (4) The plan shall provide the means by which the
25 needs of the following population groups having priority will
26 be addressed in the service area ~~district~~:

- 27 (a) Chronic public inebriates;
28 (b) Marginally functional alcoholics;
29 (c) Chronic opiate abusers;
30 (d) Poly-drug abusers;
31 (e) Chronically mentally ill individuals;

- 1 (f) Acutely mentally ill individuals;
- 2 (g) Severely emotionally disturbed children and
3 adolescents;
- 4 (h) Elderly persons at high risk of
5 institutionalization; and
- 6 (i) Individuals returned to the community from a state
7 mental health treatment facility.
- 8 (5) In developing the plan, optimum use shall be made
9 of any federal, state, and local funds that may be available
10 for substance ~~alcohol, drug~~ abuse, and mental health service
11 planning.
- 12 (6) The local health planning council shall establish
13 a subcommittee to prepare its ~~the~~ portion of the service area
14 ~~district~~ plan ~~relating to children and adolescents~~. The
15 subcommittee shall include representative membership of any
16 committee organized or established within ~~by~~ the service area
17 ~~district~~ to review placement of children and adolescents in
18 residential treatment programs.
- 19 (7) All departments of state government and all local
20 public agencies shall cooperate with officials to assist them
21 in service planning. The department ~~Each district~~
22 ~~administrator~~ shall, upon request and the availability of
23 staff, provide consultative services to the local agency
24 directors and governing bodies.
- 25 (8) The service area staff ~~district administrator~~
26 shall ensure that the service area ~~district~~ plan:
- 27 (a) Conforms to the priorities in the state plan, the
28 requirements of this part, and the standards adopted under
29 this part;
- 30 (b) Ensures that the most effective and economical use
31 will be made of available public and private substance

1 ~~alcohol, drug abuse, and~~ mental health resources in the
2 service area district; and

3 (c) Has adequate provisions made for review and
4 evaluation of the services provided in the service area
5 district.

6 (9) The deputy secretary ~~district administrator~~ shall
7 require such modifications in the service area district plan
8 as he or she deems necessary to bring the plan into
9 conformance with the provisions of this part. If the local
10 health district planning council and the service area staff
11 ~~district administrator~~ cannot agree on the plan, including the
12 projected budget, the issues under dispute shall be submitted
13 directly to the deputy secretary ~~of the department~~ for
14 immediate resolution.

15 (10) Each governing body that provides local funds has
16 the authority to require necessary modification to only that
17 portion of the service area district plan which affects
18 substance ~~alcohol, drug~~ abuse, and mental health programs and
19 services within the jurisdiction of that governing body.

20 (11) The deputy secretary ~~district administrator~~ shall
21 report annually to the local health district planning council
22 the status of funding for priorities established in the
23 service area district plan. Each report must include:

24 (a) A description of the service area district plan
25 priorities that were included in the service area district
26 legislative budget request;

27 (b) A description of the service area district plan
28 priorities that were included in the departmental budget
29 request prepared under s. 20.43 ~~s. 20.19~~; and

30 (c) A description of the programs and services
31 included in the service area district plan priorities that

1 were appropriated funds by the Legislature in the legislative
2 session that preceded the report.

3 Section 33. Effective July 1, 1998, section 394.76,
4 Florida Statutes, is amended to read:

5 394.76 Financing of ~~district~~ programs and
6 services.--If the local match funding level is not provided in
7 the General Appropriations Act or the substantive bill
8 implementing the General Appropriations Act, such funding
9 level shall be provided as follows:

10 (1) The deputy secretary ~~district administrator~~ shall
11 ensure that, to the extent possible within available
12 resources, a continuum of integrated and comprehensive
13 services will be available within the service area ~~district~~.

14 (2) If in any fiscal year the approved state
15 appropriation is insufficient to finance the programs and
16 services specified by this part, the department shall have the
17 authority to determine the amount of state funds available to
18 each service area ~~district~~ for such purposes in accordance
19 with the priorities in both the state and service area
20 ~~district~~ plans. The service area staff ~~district administrator~~
21 shall consult with the local health ~~planning~~ council to ensure
22 that the summary operating budget conforms to the approved
23 plan.

24 (3) The state share of financial participation shall
25 be determined by the following formula:

26 (a) The state share of approved program costs shall be
27 a percentage of the net balance determined by deducting from
28 the total operating cost of services and programs, as
29 specified in s. 394.675(1), those expenditures that ~~which~~ are
30 ineligible for state participation as provided in subsection
31

1 (7) and those ineligible expenditures established by rule of
2 the department pursuant to s. 394.78.

3 (b) Residential and case management services which are
4 funded as part of a deinstitutionalization project shall not
5 require local matching funds and shall not be used as local
6 matching funds. The state and federal financial participation
7 portions of Medicaid earnings pursuant to Title XIX of the
8 Social Security Act, except for the amount of general revenue
9 equal to the amount appropriated in 1985-1986 plus all other
10 general revenue that is shifted from any other substance
11 ~~alcohol, drug~~ abuse, and mental health appropriation category
12 after fiscal year 1986-1987, shall not require local matching
13 funds and shall not be used as local matching funds. Local
14 matching funds are not required for general revenue
15 transferred by the department into substance ~~alcohol, drug~~
16 ~~abuse,~~ and mental health appropriations categories during a
17 fiscal year to match federal funds earned from Medicaid
18 services provided for mental health clients in excess of the
19 amounts initially appropriated. Funds for children's services
20 which were provided through the Children, Youth, and Families
21 Services budget which did not require local match prior to
22 being transferred to the Alcohol, Drug Abuse, and Mental
23 Health Services budget shall be exempt from local matching
24 requirements. All other contracted community alcohol and
25 mental health services and programs, except as identified in
26 s. 394.457(3), shall require local participation on a 75-to-25
27 state-to-local ratio.

28 (c) The expenditure of 100 percent of all third-party
29 payments and fees shall be considered as eligible for state
30 financial participation if such expenditures are in accordance
31

1 with subsection (7) and the approved service area ~~district~~
2 plan.

3 (d) Fees generated by residential and case management
4 services which are funded as part of a deinstitutionalization
5 program and do not require local matching funds shall be used
6 to support program costs approved in the service area ~~district~~
7 plan.

8 (e) Any earnings pursuant to Title XIX of the Social
9 Security Act in excess of the amount appropriated shall be
10 used to support program costs approved in the service area
11 ~~district~~ plan.

12 (4) Notwithstanding the provisions of subsection (3),
13 the department is authorized to develop and demonstrate
14 alternative financing systems for substance ~~alcohol, drug~~
15 ~~abuse~~, and mental health services. Proposals for
16 demonstration projects conducted pursuant to this subsection
17 shall be reviewed by the substantive and appropriations
18 committees of the Senate and the House of Representatives
19 prior to implementation of the projects.

20 (5) The department is authorized to make
21 investigations and to require audits of expenditures. The
22 department may authorize the use of private certified public
23 accountants for such audits. Audits shall follow department
24 guidelines.

25 (6) Claims for state payment shall be made in such
26 form and in such manner as the department determines.

27 (7) The expenditures which are subject to state
28 payment include expenditures that are approved in the service
29 area ~~district~~ plan for: salaries of personnel; approved
30 facilities and services provided through contract; operation,
31 maintenance, and service cost; depreciation of facilities; and

1 such other expenditures as may be approved by the department
2 ~~district administrator~~. Such expenditures do not include
3 expenditures for compensation to members of a community agency
4 board, except the actual and necessary expenses incurred in
5 the performance of official duties, or expenditures for a
6 purpose for which state payment is claimed under any other
7 provision of law.

8 (8) Expenditures for capital improvements relating to
9 construction of, addition to, purchase of, or renovation of a
10 community alcohol, drug abuse, or mental health facility may
11 be made by the state, provided such expenditures or capital
12 improvements are part and parcel of an approved service area
13 ~~district~~ plan. Nothing shall prohibit the use of such
14 expenditures for the construction of, addition to, renovation
15 of, or purchase of facilities owned by a county, city, or
16 other governmental agency of the state or a nonprofit entity.
17 Such expenditures are subject to the provisions of subsection
18 (6).

19 (9)(a) State funds for community alcohol and mental
20 health services shall be matched by local matching funds as
21 provided in paragraph (3)(b). The governing bodies within a
22 service area ~~district or subdistrict~~ shall be required to
23 participate in the funding of alcohol and mental health
24 services under the jurisdiction of such governing bodies. The
25 amount of the participation shall be at least that amount
26 which, when added to other available local matching funds, is
27 necessary to match state funds.

28 (b) The provisions of paragraph (a) to the contrary
29 notwithstanding, no additional matching funds may be required
30 solely due to the addition in the General Appropriations Act
31 of Alcohol, Drug Abuse, and Mental Health Block Grant Funds

1 for local community mental health centers and alcohol project
2 grants.

3 (10) A local governing body is authorized to
4 appropriate moneys, in lump sum or otherwise, from its public
5 funds for the purpose of carrying out the provisions of this
6 part. In addition to the payment of claims upon submission of
7 proper vouchers, such moneys may also, at the option of the
8 governing body, be disbursed in the form of a lump-sum or
9 advance payment for services for expenditure, in turn, by the
10 recipient of the disbursement without prior audit by the
11 auditor of the governing body. Such funds shall be expended
12 only for substance ~~alcohol, drug~~ abuse, or mental health
13 purposes as provided in the approved service area ~~district~~
14 plan. Each governing body appropriating and disbursing moneys
15 pursuant to this subsection shall require the expenditure of
16 such moneys by the recipient of the disbursement to be audited
17 annually either in conjunction with an audit of other
18 expenditures or by a separate audit. Such annual audits shall
19 be furnished to the governing bodies of each participating
20 county and municipality for their examination.

21 (11) No additional local matching funds shall be
22 required solely due to the addition in the General
23 Appropriations Act of alcohol, drug abuse, and mental health
24 block grant funds for local community mental health centers,
25 drug abuse programs, and alcohol project grants.

26 Section 34. Effective July 1, 1998, section 394.78,
27 Florida Statutes, is amended to read:

28 394.78 Operation and administration; personnel
29 standards; procedures for audit and monitoring of service
30 providers; resolution of disputes.--

31

1 (1)(a) The department of ~~Health and Rehabilitative~~
2 ~~Services~~ shall administer this part and shall adopt rules
3 necessary for its administration.

4 (b) Rules of the department shall be adopted in
5 accordance with the Administrative Procedure Act under chapter
6 120.

7 (2) The department shall, by rule, establish standards
8 of education and experience for professional and technical
9 personnel employed in substance ~~alcohol, drug~~ abuse, and
10 mental health programs.

11 (3) The department shall establish, to the extent
12 possible, a standardized auditing procedure for substance
13 ~~alcohol, drug~~ abuse, and mental health service providers; and
14 audits of service providers shall be conducted pursuant to
15 such procedure and the applicable department rules. Such
16 procedure shall be supplied to all current and prospective
17 contractors and subcontractors prior to the signing of any
18 contracts.

19 (4) The department shall monitor service providers for
20 compliance with contracts and applicable state and federal
21 regulations. ~~A representative of the district planning council~~
22 ~~shall be represented on the monitoring team.~~

23 (5) In unresolved disputes regarding this part or
24 rules established pursuant to this part, providers ~~and~~
25 ~~district planning councils~~ shall adhere to formal procedures
26 as provided by the rules established by the department.

27 Section 35. Effective July 1, 1998, section 394.79,
28 Florida Statutes, is amended to read:

29 394.79 State substance ~~alcohol, drug~~ abuse, and mental
30 health plan.--

31

1 (1) The department shall prepare a biennial plan for
2 the delivery and financing of a system of substance ~~alcohol,~~
3 ~~drug~~ abuse, and mental health services. The plan shall
4 include:

5 (a) The current and projected need for substance
6 ~~alcohol, drug~~ abuse, and mental health services, displayed
7 statewide and by service area ~~district~~, and the extent to
8 which the need is being addressed by existing services.

9 (b) A proposal for the development of a data system
10 that will evaluate the effectiveness of programs and services
11 provided to clients of the substance ~~alcohol, drug~~ abuse, and
12 mental health service system.

13 (c) A proposal to resolve the funding discrepancies
14 between service areas ~~districts~~.

15 (d) A methodology for the allocation of resources
16 available from federal, state, and local sources and a
17 description of the current level of funding available from
18 each source.

19 (e) A description of the statewide priorities for
20 clients and services and each service area's ~~district's~~
21 priorities for clients and services.

22 (f) Recommendations for methods of enhancing local
23 participation in the planning, organization, and financing of
24 substance ~~alcohol, drug~~ abuse, and mental health services.

25 (g) A description of the current methods of
26 contracting for services, an assessment of the efficiency of
27 these methods in providing accountability for contracted
28 funds, and recommendations for improvements to the system of
29 contracting.

30 (h) Recommendations for improving access to services
31 by clients and their families.

1 (i) Guidelines and formats for the development of
2 service area ~~district~~ plans.

3 (j) Recommendations for future directions for the
4 substance ~~alcohol, drug~~ abuse, and mental health service
5 delivery system.

6 (2) The department shall prepare the state plan in
7 consultation with service area staff ~~district administrators~~,
8 state treatment facility administrators, and local health
9 ~~district planning~~ councils.

10 (3) A copy of the state plan shall be submitted to the
11 Legislature and each local health ~~district planning~~ council.
12 A summary budget request and a summary statement of priorities
13 from each service area ~~district~~ shall be attached to the plan.

14 Section 36. Effective July 1, 1998, subsection (9) and
15 paragraph (a) of subsection (19) of section 397.311, Florida
16 Statutes, are amended to read:

17 397.311 Definitions.--As used in this chapter, except
18 part VIII:

19 (9) "Department" means the Department of Health ~~and~~
20 ~~Rehabilitative Services~~.

21 (19) "Licensed service provider" means a public agency
22 under this chapter, a private for-profit or not-for-profit
23 agency under this chapter, a physician licensed under chapter
24 458 or chapter 459, or any other private practitioner licensed
25 under this chapter, or a hospital licensed under chapter 395,
26 which offers substance abuse impairment services through one
27 or more of the following licensable service components:

28 (a) Addictions receiving facility, which is a
29 community-based facility designated by the department to
30 receive, screen, and assess clients found to be substance
31 abuse impaired, in need of emergency treatment for substance

1 abuse impairment, or impaired by substance abuse to such an
2 extent as to meet the criteria for involuntary admission in s.
3 397.675, and to provide detoxification and stabilization. An
4 addictions receiving facility must be state-owned,
5 state-operated, or state-contracted, and licensed pursuant to
6 rules adopted by the department's Division of Substance
7 ~~Alcohol, Drug Abuse, and Mental Health Program Office~~ which
8 include specific authorization for the provision of levels of
9 care and a requirement of separate accommodations for adults
10 and minors. Addictions receiving facilities are designated as
11 secure facilities to provide an intensive level of care and
12 must have sufficient staff and the authority to provide
13 environmental security to handle aggressive and
14 difficult-to-manage behavior and deter elopement.

15 Section 37. Effective July 1, 1998, subsections (2),
16 (17), and (18) of section 397.321, Florida Statutes, are
17 amended to read:

18 397.321 Duties of the department.--The department
19 shall:

20 (2) Ensure that a plan for substance abuse services is
21 developed at the service area ~~district~~ level in accordance
22 with the provisions of part IV of chapter 394, and the state
23 plan pursuant to s. 394.79.

24 ~~(17) Provide sufficient and qualified staff to oversee~~
25 ~~all contracting, licensing, and planning functions within each~~
26 ~~of its district offices, as permitted by legislative~~
27 ~~appropriation.~~

28 (17)~~(18)~~ Ensure that the department develops and
29 ensures the implementation of procedures between its Division
30 of Substance Alcohol, Drug Abuse, and Mental Health Program
31 ~~Office~~ and other departmental programs, particularly the

1 Children and Families Program Office and the Delinquency
2 Services Program Office, regarding the referral of substance
3 abuse impaired persons to service providers, information on
4 service providers, information on methods of identifying
5 substance abuse impaired juveniles, and procedures for
6 referring such juveniles to appropriate service providers.

7 Section 38. Effective July 1, 1998, paragraph (b) of
8 subsection (2) of section 397.427, Florida Statutes, is
9 amended to read:

10 397.427 Medication treatment service providers;
11 rehabilitation program; needs assessment and provision of
12 services; persons authorized to issue take-out methadone;
13 unlawful operation; penalty.--

14 (2) The department shall determine the need for
15 establishing medication treatment service providers.

16 (b) The department shall prescribe by rule the types
17 of medication treatment services for which it is necessary to
18 conduct annual assessments of need. If needs assessment is
19 required, the department shall annually conduct the assessment
20 and publish a statement of findings which identifies each
21 service area's ~~district's~~ need.

22 Section 39. Effective July 1, 1998, subsections (2)
23 and (3) of section 397.706, Florida Statutes, are amended to
24 read:

25 397.706 Screening, assessment, and disposition of
26 juvenile offenders.--

27 (2) The juvenile and circuit courts, in conjunction
28 with the department ~~district administration~~, shall establish
29 policies and procedures to ensure that juvenile offenders are
30 appropriately screened for substance abuse problems and that
31 diversionary and adjudicatory proceedings include appropriate

1 conditions and sanctions to address substance abuse problems.

2 Policies and procedures must address:

3 (a) The designation of local service providers
4 responsible for screening and assessment services and
5 dispositional recommendations to the department and the court.

6 (b) The means by which juvenile offenders are
7 processed to ensure participation in screening and assessment
8 services.

9 (c) The role of the court in securing assessments when
10 juvenile offenders or their families are noncompliant.

11 (d) Safeguards to ensure that information derived
12 through screening and assessment is used solely to assist in
13 dispositional decisions and not for purposes of determining
14 innocence or guilt.

15 (3) Because resources available to support screening
16 and assessment services are limited, the judicial circuits and
17 the department ~~district administration~~ must develop those
18 capabilities to the extent possible within available resources
19 according to the following priorities:

20 (a) Juvenile substance abuse offenders.

21 (b) Juvenile offenders who are substance abuse
22 impaired at the time of the offense.

23 (c) Second or subsequent juvenile offenders.

24 (d) Minors taken into custody.

25 Section 40. Effective July 1, 1998, subsection (3) of
26 section 397.753, Florida Statutes, is amended to read:

27 397.753 Definitions.--As used in this part:

28 (3) "Inmate substance abuse services" means any
29 service component as defined in s. 397.311 provided directly
30 by the Department of Corrections and licensed and regulated by
31 the Department of Health ~~and Rehabilitative Services~~ pursuant

1 to s. 397.406, or provided through contractual arrangements
2 with a service provider licensed pursuant to part II; or any
3 self-help program or volunteer support group operating for
4 inmates.

5 Section 41. Effective July 1, 1998, subsection (6) of
6 section 397.754, Florida Statutes, is amended to read:

7 397.754 Duties and responsibilities of the Department
8 of Corrections.--The Department of Corrections shall:

9 (6) In cooperation with other agencies, actively seek
10 to enhance resources for the provision of treatment services
11 for inmates and to develop partnerships with other state
12 agencies, including but not limited to the Departments of
13 Health and ~~Rehabilitative Services~~, Education, Community
14 Affairs, and Law Enforcement.

15 Section 42. Effective July 1, 1998, subsections (2)
16 and (3) of section 397.801, Florida Statutes, are amended to
17 read:

18 397.801 Substance abuse impairment coordination.--

19 (2) The Department of Health ~~and Rehabilitative~~
20 ~~Services~~, the Department of Children and Family Services, the
21 Department of Education, the Department of Corrections, the
22 Department of Community Affairs, and the Department of Law
23 Enforcement each shall appoint a policy level staff person to
24 serve as the agency substance abuse impairment coordinator.
25 The responsibilities of the agency coordinator include
26 interagency and intraagency coordination, collection and
27 dissemination of agency-specific data relating to substance
28 abuse impairment, and participation in the development of the
29 state comprehensive plan for substance abuse impairment.

30 (3) The department may ~~shall~~ establish, within each of
31 its service areas ~~districts~~, the full-time position of

1 substance abuse impairment prevention coordinator, to be
2 filled by a person with expertise in the area of substance
3 abuse impairment. The primary responsibility of this person
4 is to develop and implement activities which foster the
5 prevention of substance abuse impairment.

6 Section 43. Effective July 1, 1998, subsections (1)
7 and (3) of section 397.821, Florida Statutes, are amended to
8 read:

9 397.821 Juvenile substance abuse impairment prevention
10 and early intervention councils.--

11 (1) Each judicial circuit as set forth in s. 26.021
12 may establish a juvenile substance abuse impairment prevention
13 and early intervention council composed of at least 12
14 members, including representatives from law enforcement, the
15 department, school districts, state attorney and public
16 defender offices, the circuit court, the religious community,
17 substance abuse impairment professionals, child advocates from
18 the community, business leaders, parents, and high school
19 students. However, those circuits which already have in
20 operation a council of similar composition may designate the
21 existing body as the juvenile substance abuse impairment
22 prevention and early intervention council for the purposes of
23 this section. Each council shall establish bylaws providing
24 for the length of term of its members, but the term may not
25 exceed 4 years. The deputy secretary ~~district administrator,~~
26 ~~as defined in s. 20.19,~~ and the chief judge of the circuit
27 court shall each appoint six members of the council. The
28 deputy secretary ~~district administrator~~ shall appoint a
29 representative from the department, a school district
30 representative, a substance abuse impairment treatment
31 professional, a child advocate, a parent, and a high school

1 student. The chief judge of the circuit court shall appoint a
2 business leader and representatives from the state attorney's
3 office, the public defender's office, the religious community,
4 the circuit court, and law enforcement agencies.

5 (3) The council shall provide recommendations to the
6 Statewide Coordinator for Substance Abuse Impairment
7 Prevention and Treatment and to the Deputy ~~Assistant~~ Secretary
8 for Behavioral Alcohol, Drug Abuse, and Mental Health Care
9 annually for consideration for inclusion in the state
10 comprehensive plan for substance abuse impairment, and also to
11 the local health district alcohol, drug abuse, and mental
12 health planning councils for consideration for inclusion in
13 the service area substance district alcohol, drug abuse, and
14 mental health plans.

15 Section 44. Effective July 1, 1998, section 397.901,
16 Florida Statutes, is amended to read:

17 397.901 Prototype juvenile addictions receiving
18 facilities.--

19 (4) The Department of Juvenile Justice shall adopt
20 rules necessary to implement this section. The rules must be
21 written by the Department of Health's Deputy Secretary for
22 Behavioral department's Alcohol, Drug Abuse, and Mental Health
23 Care Program Office and must specify criteria for staffing and
24 services delineated for the provision of graduated levels of
25 care from nonintensive to environmentally secure for the
26 handling of aggressive and difficult-to-manage behavior and
27 the prevention of elopement.

28 Section 45. Effective January 1, 1998, subsection (4)
29 of section 399.01, Florida Statutes, is amended to read:

30 399.01 Definitions.--As used in this chapter, the
31 term:

1 (4) "Division" means the Division of Public Lodging
2 ~~Hotels and Restaurants~~ of the Department of Business and
3 Professional Regulation.

4 Section 46. Effective January 1, 1998, section
5 509.013, Florida Statutes, 1996 Supplement, is amended to
6 read:

7 509.013 Definitions.--As used in this chapter, the
8 term:

9 (1) "Division" means the Division of Public Lodging
10 ~~Hotels and Restaurants~~ of the Department of Business and
11 Professional Regulation.

12 (2) "Operator" means the owner, licensee, proprietor,
13 lessee, manager, assistant manager, or appointed agent of a
14 public lodging establishment ~~or public food service~~
15 ~~establishment~~.

16 (3) "Guest" means any patron, customer, tenant,
17 lodger, boarder, or occupant of a public lodging establishment
18 ~~or public food service establishment~~.

19 (4)(a) "Public lodging establishment" means any unit,
20 group of units, dwelling, building, or group of buildings
21 within a single complex of buildings, which is rented to
22 guests more than three times in a calendar year for periods of
23 less than 30 days or 1 calendar month, whichever is less, or
24 which is advertised or held out to the public as a place
25 regularly rented to guests. License classifications of public
26 lodging establishments, and the definitions therefor, are set
27 out in s. 509.242. For the purpose of licensure, the term
28 does not include condominium common elements as defined in s.
29 718.103.

30 (b) The following are excluded from the definition in
31 paragraph (a):

- 1 1. Any dormitory or other living or sleeping facility
2 maintained by a public or private school, college, or
3 university for the use of students, faculty, or visitors;
4 2. Any hospital, nursing home, sanitarium, assisted
5 living facility, or other similar place;
6 3. Any place renting four rental units or less, unless
7 the rental units are advertised or held out to the public to
8 be places that are regularly rented to transients;
9 4. Any unit or group of units in a condominium,
10 cooperative, or timeshare plan and any individually or
11 collectively owned one-family, two-family, three-family, or
12 four-family dwelling house or dwelling unit that is rented for
13 periods of at least 30 days or 1 calendar month, whichever is
14 less, and that is not advertised or held out to the public as
15 a place regularly rented for periods of less than 1 calendar
16 month, provided that no more than four rental units within a
17 single complex of buildings are available for rent;
18 5. Any migrant labor camp or residential migrant
19 housing permitted by the Department of Health ~~and~~
20 ~~Rehabilitative Services~~; under ss. 381.008-381.00895; and
21 6. Any establishment inspected by the Department of
22 Health ~~and Rehabilitative Services~~ and regulated by chapter
23 513.
24 ~~(5)(a) "Public food service establishment" means any~~
25 ~~building, vehicle, place, or structure, or any room or~~
26 ~~division in a building, vehicle, place, or structure where~~
27 ~~food is prepared, served, or sold for immediate consumption on~~
28 ~~or in the vicinity of the premises; called for or taken out by~~
29 ~~customers; or prepared prior to being delivered to another~~
30 ~~location for consumption.~~
31

- 1 ~~(b) The following are excluded from the definition in~~
2 ~~paragraph (a):~~
- 3 ~~1. Any place maintained and operated by a public or~~
4 ~~private school, college, or university:~~
- 5 ~~a. For the use of students and faculty; or~~
6 ~~b. Temporarily to serve such events as fairs,~~
7 ~~carnivals, and athletic contests.~~
- 8 ~~2. Any eating place maintained and operated by a~~
9 ~~church or a religious, nonprofit fraternal, or nonprofit civic~~
10 ~~organization:~~
- 11 ~~a. For the use of members and associates; or~~
12 ~~b. Temporarily to serve such events as fairs,~~
13 ~~carnivals, or athletic contests.~~
- 14 ~~3. Any eating place located on an airplane, train,~~
15 ~~bus, or watercraft which is a common carrier.~~
- 16 ~~4. Any eating place maintained by a hospital, nursing~~
17 ~~home, sanitarium, assisted living facility, adult day care~~
18 ~~center, or other similar place that is regulated under s.~~
19 ~~381.0072.~~
- 20 ~~5. Any place of business issued a permit or inspected~~
21 ~~by the Department of Agriculture and Consumer Services under~~
22 ~~s. 500.12.~~
- 23 ~~6. Any place of business where the food available for~~
24 ~~consumption is limited to ice, beverages with or without~~
25 ~~garnishment, popcorn, or prepackaged items sold without~~
26 ~~additions or preparation.~~
- 27 ~~7. Any theater, if the primary use is as a theater and~~
28 ~~if patron service is limited to food items customarily served~~
29 ~~to the admittees of theaters.~~
- 30
31

1 ~~8. Any vending machine that dispenses any food or~~
2 ~~beverages other than potentially hazardous foods, as defined~~
3 ~~by division rule.~~

4 ~~9. Any vending machine that dispenses potentially~~
5 ~~hazardous food and which is located in a facility regulated~~
6 ~~under s. 381.0072.~~

7 ~~10. Any research and development test kitchen limited~~
8 ~~to the use of employees and which is not open to the general~~
9 ~~public.~~

10 (5)~~(6)~~ "Director" means the Director of the Division
11 of Public Lodging Hotels and Restaurants of the Department of
12 Business and Professional Regulation.

13 (6)~~(7)~~ "Single complex of buildings" means all
14 buildings or structures that are owned, managed, controlled,
15 or operated under one business name and are situated on the
16 same tract or plot of land that is not separated by a public
17 street or highway.

18 ~~(8) "Temporary food service event" means any event of~~
19 ~~30 days or less in duration where food is prepared, served, or~~
20 ~~sold to the general public.~~

21 (7)~~(9)~~ "Theme park or entertainment complex" means a
22 complex comprised of at least 25 contiguous acres owned and
23 controlled by the same business entity and which contains
24 permanent exhibitions and a variety of recreational activities
25 and has a minimum of 1 million visitors annually.

26 (8)~~(10)~~ "Transient establishment" means any public
27 lodging establishment that is rented or leased to guests by an
28 operator whose intention is that such guests' occupancy will
29 be temporary.

30 (9)~~(11)~~ "Transient occupancy" means occupancy when it
31 is the intention of the parties that the occupancy will be

1 temporary. There is a rebuttable presumption that, when the
2 dwelling unit occupied is the sole residence of the guest, the
3 occupancy is nontransient. There is a rebuttable presumption
4 that, when the dwelling unit occupied is not the sole
5 residence of the guest, the occupancy is transient.

6 (10)~~(12)~~ "Transient" means a guest in transient
7 occupancy.

8 Section 47. Effective January 1, 1998, subsection (12)
9 of section 159.27, Florida Statutes, is amended to read:

10 159.27 Definitions.--The following words and terms,
11 unless the context clearly indicates a different meaning,
12 shall have the following meanings:

13 (12) "Public lodging or restaurant facility" means
14 property used for any public lodging establishment as defined
15 in s. 509.242 or ~~public~~ food service establishment as defined
16 in s. 381.0072 ~~s. 509.013(5)~~ if it is part of the complex of,
17 or necessary to, another facility qualifying under this part.

18 Section 48. Effective January 1, 1998, paragraphs (b)
19 and (c) of subsection (4), subsection (5), and paragraph (b)
20 of subsection (8) of section 316.1955, Florida Statutes, 1996
21 Supplement, are amended to read:

22 316.1955 Parking spaces for persons who have
23 disabilities.--

24 (4) Such parking spaces must be designed and located
25 as follows:

26 (b) Each space must be located on the shortest safely
27 accessible route from the parking space to an accessible
28 entrance. If there are multiple entrances or multiple retail
29 stores, the parking spaces must be dispersed to provide
30 parking at the nearest accessible entrance. If a theme park
31 or an entertainment complex as defined in s. 509.013 ~~s.~~

1 ~~509.013(9)~~ provides parking in several lots or areas from
2 which access to the theme park or entertainment complex is
3 provided, a single lot or area may be designated for parking
4 by persons who have disabilities, if the lot or area is
5 located on the shortest safely accessible route to an
6 accessible entrance to the theme park or entertainment complex
7 or to transportation to such an accessible entrance.

8 (c) Each parking space must be no less than 12 feet
9 wide. Parking access aisles must be no less than 5 feet wide
10 and must be part of an accessible route to the building or
11 facility entrance. The parking access aisles are reserved for
12 the use of persons who have disabled parking permits, and
13 violators are subject to the same penalties that are imposed
14 for illegally parking in parking spaces that are designated
15 for persons who have disabilities. Two accessible parking
16 spaces may share a common access aisle. The access aisle must
17 be striped diagonally to designate it as a no-parking zone.
18 Any provision of this subsection to the contrary
19 notwithstanding, a theme park or an entertainment complex as
20 defined in s. 509.013 ~~s. 509.013(9)~~ in which are provided
21 continuous attendant services for directing individuals to
22 marked accessible parking spaces or designated lots for
23 parking by persons who have disabilities, the park or complex
24 may, in lieu of universal spaces, provide parking spaces that
25 comply with either of the alternatives specified in s. 4.6.3
26 of the Americans with Disabilities Act Accessibility
27 Guidelines.

28 (5) Each such parking space must be prominently
29 outlined with blue paint, and must be repainted when
30 necessary, to be clearly distinguishable as a parking space
31 designated for persons who have disabilities and must be

1 posted with a permanent above-grade sign of a color and design
2 approved by the Department of Transportation, bearing the
3 international symbol of accessibility and the caption "PARKING
4 BY DISABLED PERMIT ONLY." Such sign erected after October 1,
5 1996, must indicate the penalty for illegal use of the space.
6 Any provision of this section to the contrary notwithstanding,
7 in a theme park or an entertainment complex as defined in s.
8 509.013 ~~s. 509.013(9)~~ in which accessible parking is located
9 in designated lots or areas, the signage indicating the lot as
10 reserved for accessible parking may be located at the
11 entrances to the lot in lieu of a sign at each parking place.

12 (8)

13 (b) Notwithstanding paragraph (a), a theme park or an
14 entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~
15 which provides parking in designated areas for persons who
16 have disabilities may allow any vehicle that is transporting a
17 person who has a disability to remain parked in a space
18 reserved for persons who have disabilities throughout the
19 period the theme park is open to the public for that day.

20 Section 49. Effective January 1, 1998, subsection (6)
21 of section 404.056, Florida Statutes, is amended to read:

22 404.056 Environmental radiation standards and
23 programs; radon protection.--

24 (6) NOTIFICATION ON REAL ESTATE DOCUMENTS.--By January
25 1, 1989, notification shall be provided on at least one
26 document, form, or application executed at the time of, or
27 prior to, contract for sale and purchase of any building or
28 execution of a rental agreement for any building. Such
29 notification shall contain the following language:

30
31

1 "RADON GAS: Radon is a naturally occurring radioactive
2 gas that, when it has accumulated in a building in sufficient
3 quantities, may present health risks to persons who are
4 exposed to it over time. Levels of radon that exceed federal
5 and state guidelines have been found in buildings in Florida.
6 Additional information regarding radon and radon testing may
7 be obtained from your county public health unit."
8

9 The requirements of this subsection do not apply to any
10 residential transient occupancy, as described in s. 509.013 ~~s.~~
11 ~~509.013(11)~~, provided that such occupancy is 45 days or less
12 in duration.

13 Section 50. Effective January 1, 1998, subsection (5)
14 of section 500.12, Florida Statutes, is amended to read:

15 500.12 Food permits; building permits.--

16 (5) It is the intent of the Legislature to eliminate
17 duplication of regulatory inspections of food. Regulatory and
18 permitting authority over any food establishment is preempted
19 to the department, except as provided in chapters 370 and 372.

20 (a) Food establishments or retail food stores that
21 have ancillary food service activities shall be permitted and
22 inspected by the department.

23 (b) Food service establishments, as defined in s.
24 381.0072, that have ancillary, prepackaged retail food sales
25 shall be regulated by the Department of Health ~~and~~
26 ~~Rehabilitative Services.~~

27 ~~(c) Public food service establishments, as defined in~~
28 ~~s. 509.013, which have ancillary, prepackaged retail food~~
29 ~~sales shall be licensed and inspected by the Department of~~
30 ~~Business and Professional Regulation.~~

31

1 ~~(c)(d)~~ The department and the Department of Health
2 ~~Business and Professional Regulation~~ shall cooperate to assure
3 equivalency of inspection and enforcement and to share
4 information on those establishments identified in paragraphs
5 (a) and (b)~~(c)~~ and to address any other areas of potential
6 duplication. The department and the Department of Health
7 ~~Business and Professional Regulation~~ are authorized to adopt
8 rules to enforce statutory requirements under their purview
9 regarding foods.

10 Section 51. Effective January 1, 1998, section
11 717.1355, Florida Statutes, 1996 Supplement, is amended to
12 read:

13 717.1355 Theme park and entertainment complex
14 tickets.--This chapter does not apply to any tickets for
15 admission to a theme park or entertainment complex as defined
16 in s. 509.013 ~~s. 509.013(9)~~, or to any tickets to a permanent
17 exhibition or recreational activity within such theme park or
18 entertainment complex.

19 Section 52. Effective January 1, 1998, subsection (8)
20 of section 877.24, Florida Statutes, is amended to read:

21 877.24 Nonapplication of s. 877.22.--Section 877.22
22 does not apply to a minor who is:

23 (8) Attending an organized event held at and sponsored
24 by a theme park or entertainment complex as defined in s.
25 509.013 ~~s. 509.013(9)~~.

26 Section 53. Effective January 1, 1998, section
27 509.032, Florida Statutes, 1996 Supplement, is amended to
28 read:

29 509.032 Duties.--

30 (1) GENERAL.--The division shall carry out all of the
31 provisions of this chapter and all other applicable laws and

1 rules relating to the inspection or regulation of public
2 lodging establishments ~~and public food service establishments~~
3 for the purpose of safeguarding the public health, safety, and
4 welfare. The division shall be responsible for ascertaining
5 that an operator licensed under this chapter does not engage
6 in any misleading advertising or unethical practices.

7 (2) INSPECTION OF PREMISES.--

8 (a) The division has responsibility and jurisdiction
9 for all inspections required by this chapter. The division
10 has responsibility for quality assurance. Each licensed
11 establishment shall be inspected at least biannually and at
12 such other times as the division determines is necessary to
13 ensure the public's health, safety, and welfare. The division
14 shall establish a system to determine inspection frequency.
15 Public lodging units classified as resort condominiums or
16 resort dwellings are not subject to this requirement, but
17 shall be made available to the division upon request. If,
18 during the inspection of a public lodging establishment
19 classified for renting to transient or nontransient tenants,
20 an inspector identifies disabled adults or elderly persons who
21 appear to be victims of neglect, as defined in s. 415.102, or,
22 in the case of a building that is not equipped with automatic
23 sprinkler systems, tenants or clients who may be unable to
24 self-preserve in an emergency, the division shall convene
25 meetings with the following agencies as appropriate to the
26 individual situation: the Department of Health, the Department
27 of Children and Family ~~and Rehabilitative~~ Services, the
28 Department of Elderly Affairs, the area agency on aging, the
29 local fire marshal, the landlord and affected tenants and
30 clients, and other relevant organizations, to develop a plan
31 which improves the prospects for safety of affected residents

1 and, if necessary, identifies alternative living arrangements
2 such as facilities licensed under part II or part III of
3 chapter 400.

4 (b) For purposes of performing required inspections
5 and the enforcement of this chapter, the division has the
6 right of entry and access to public lodging establishments ~~and~~
7 ~~public food service establishments~~ at any reasonable time.

8 ~~(c) Public food service establishment inspections~~
9 ~~shall be conducted to enforce provisions of this part and to~~
10 ~~educate, inform, and promote cooperation between the division~~
11 ~~and the establishment.~~

12 ~~(d) The division shall adopt and enforce sanitation~~
13 ~~rules consistent with law to ensure the protection of the~~
14 ~~public from food-borne illness in those establishments~~
15 ~~licensed under this chapter. These rules shall provide the~~
16 ~~standards and requirements for obtaining, storing, preparing,~~
17 ~~processing, serving, or displaying food in public food service~~
18 ~~establishments, approving public food service establishment~~
19 ~~facility plans, conducting necessary public food service~~
20 ~~establishment inspections, cooperating and coordinating with~~
21 ~~the Department of Health and Rehabilitative Services in~~
22 ~~epidemiological investigations, and initiating enforcement~~
23 ~~actions, and for other such responsibilities deemed necessary~~
24 ~~by the division.~~

25 (c)1.(e)1. Relating to facility plan approvals, the
26 division may establish, by rule, fees for conducting plan
27 reviews and may grant variances from construction standards in
28 hardship cases, which variances may be less restrictive than
29 the provisions specified in this section or the rules adopted
30 under this section. A variance may not be granted pursuant to
31 this section until the division is satisfied that:

1 a. The variance shall not adversely affect the health
2 of the public.
3 b. No reasonable alternative to the required
4 construction exists.
5 c. The hardship was not caused intentionally by the
6 action of the applicant.
7 2. The division's advisory council shall review
8 applications for variances and recommend agency action. The
9 division shall make arrangements to expedite emergency
10 requests for variances, to ensure that such requests are acted
11 upon within 30 days of receipt.
12 3. The division shall establish, by rule, a fee for
13 the cost of the variance process. Such fee shall not exceed
14 \$150 for routine variance requests and \$300 for emergency
15 variance requests.
16 (d)~~(f)~~ In conducting inspections of establishments
17 licensed under this chapter, the division shall determine if
18 each coin-operated amusement machine that is operated on the
19 premises of a licensed establishment is properly registered
20 with the Department of Revenue. Each month the division shall
21 report to the Department of Revenue the sales tax registration
22 number of the operator of any licensed establishment that has
23 on location a coin-operated amusement machine and that does
24 not have an identifying certificate conspicuously displayed as
25 required by s. 212.05(1)(j).
26 (3) SANITARY STANDARDS; EMERGENCIES; ~~TEMPORARY FOOD~~
27 ~~SERVICE EVENTS~~.--The division shall:
28 (a) Prescribe sanitary standards which shall be
29 enforced in public lodging ~~food service~~ establishments.
30
31

1 (b) Inspect public lodging establishments periodically
2 and ~~and public food service establishments~~ whenever necessary
3 to respond to an emergency or epidemiological condition.

4 ~~(c) Administer a public notification process for~~
5 ~~temporary food service events and distribute educational~~
6 ~~materials that address safe food storage, preparation, and~~
7 ~~service procedures.~~

8 1. ~~Sponsors of temporary food service events shall~~
9 ~~notify the division not less than 3 days prior to the~~
10 ~~scheduled event of the type of food service proposed, the time~~
11 ~~and location of the event, a complete list of food service~~
12 ~~vendor owners and operators participating in each event, and~~
13 ~~the current license numbers of all public food service~~
14 ~~establishments participating in each event. Notification may~~
15 ~~be completed orally, by telephone, in person, or in writing.~~
16 ~~A public food service establishment or food service vendor may~~
17 ~~not use this notification process to circumvent the license~~
18 ~~requirements of this chapter.~~

19 2. ~~The division shall keep a record of all~~
20 ~~notifications received for proposed temporary food service~~
21 ~~events and shall provide appropriate educational materials to~~
22 ~~the event sponsors.~~

23 3.a. ~~A public food service establishment or other food~~
24 ~~vendor must obtain a license from the division for each~~
25 ~~temporary food service event in which it participates.~~

26 b. ~~Public food service establishments holding current~~
27 ~~licenses from the division may operate under the regulations~~
28 ~~of such a license at temporary food service events of 3 days~~
29 ~~or less in duration.~~

30 ~~(4) STOP-SALE ORDERS.--The division may stop the sale,~~
31 ~~and supervise the proper destruction, of any food or food~~

1 ~~product when the director or his designee determines that such~~
2 ~~food or food product represents a threat to the public safety~~
3 ~~or welfare. If the operator of a public food service~~
4 ~~establishment licensed under this chapter has received~~
5 ~~official notification from a health authority that a food or~~
6 ~~food product from that establishment has potentially~~
7 ~~contributed to any instance or outbreak of food-borne illness,~~
8 ~~the food or food product must be maintained in safe storage in~~
9 ~~the establishment until the responsible health authority has~~
10 ~~examined, sampled, seized, or requested destruction of the~~
11 ~~food or food product.~~

12 (4)~~(5)~~ REPORTS REQUIRED.--The division shall send the
13 Governor a written report at the end of each fiscal year,
14 which report shall state, but not be limited to, the total
15 number of inspections conducted by the division to ensure the
16 enforcement of sanitary standards, the total number of
17 inspections conducted in response to emergency or
18 epidemiological conditions, the number of violations of each
19 sanitary standard, and any recommendations for improved
20 inspection procedures. The division shall also keep accurate
21 account of all expenses arising out of the performance of its
22 duties and all fees collected under this chapter.

23 (5)~~(6)~~ RULEMAKING AUTHORITY.--The division shall adopt
24 such rules as are necessary to carry out the provisions of
25 this chapter.

26 (6)~~(7)~~ PREEMPTION AUTHORITY.--The regulation and
27 inspection of public lodging establishments ~~and public food~~
28 ~~service establishments and the regulation of food safety~~
29 ~~protection standards for required training and testing of food~~
30 ~~service establishment personnel~~ are preempted to the state.

31

1 Section 54. Effective January 1, 1998, section
2 509.035, Florida Statutes, is amended to read:

3 509.035 Immediate closure due to severe public health
4 or safety threat.--The division shall, upon proper finding,
5 immediately issue an order to close an establishment licensed
6 under this chapter in the instance of a severe and immediate
7 public health or safety or welfare threat as follows:

8 (1)(a) The director shall declare a public health or
9 safety threat upon a proper finding ~~by the State Health~~
10 ~~Officer~~ that the continued operation of a licensed public
11 lodging establishment presents a severe and immediate threat
12 to the public health or safety.

13 (b) The director shall declare a threat to the public
14 safety or welfare upon a proper finding by the director that
15 the continued operation of a licensed public lodging
16 establishment presents a severe and immediate threat to the
17 public safety or welfare.

18 (2) Upon such determination, the division shall issue
19 a notice to show cause and an emergency order of suspension.
20 Such order shall be served upon the public lodging
21 establishment by the division or its agent, and the
22 establishment shall be closed. An operator who resists such
23 closure is subject to further administrative action by the
24 division and is punishable as provided in s. 509.281. The
25 division shall provide an inspection within 24 hours following
26 such closure and shall review all relevant information to
27 determine whether the facility has met the requirements to
28 resume operations.

29 (3) The division may attach a sign which states
30 "Closed to Protect Public Health and Safety" to such an
31 establishment and may require the licensee to immediately stop

1 service until notification to the contrary is provided by the
2 director.

3 (4) The division may further adopt rules for issuing
4 emergency orders after business hours and on weekends and
5 holidays in order to ensure the timely closure of an
6 establishment under this section.

7 Section 55. Effective January 1, 1998, section
8 509.072, Florida Statutes, 1996 Supplement, is amended to
9 read:

10 509.072 Public Lodging ~~Hotel and Restaurant~~ Trust
11 Fund; collection and disposition of moneys received.--

12 (1) There is created a Public Lodging ~~Hotel and~~
13 ~~Restaurant~~ Trust Fund to be used for the administration and
14 operation of the division and the carrying out of all laws and
15 rules under the jurisdiction of the division pertaining to the
16 construction, maintenance, and operation of public lodging
17 establishments ~~and public food service establishments~~,
18 including the inspection of elevators as required under
19 chapter 399. All funds collected by the division and the
20 amounts paid for licenses and fees shall be deposited in the
21 State Treasury into the Public Lodging ~~Hotel and Restaurant~~
22 Trust Fund.

23 (2) Fees collected under s. 509.302(3) and deposited
24 into the trust fund must be used solely for the purpose of
25 funding the Hospitality Education Program, except for any
26 trust fund service charge imposed by s. 215.20, and may not be
27 used to pay for any expense of the division not directly
28 attributable to the Hospitality Education Program. These
29 funds may not be deposited or transferred into any other trust
30 fund administered by the Department of Business and
31 Professional Regulation or any of its divisions. For audit

1 purposes, fees collected under s. 509.302(3) and all charges
2 against those fees must be maintained by the department as a
3 separate ledger.

4 Section 56. Effective January 1, 1998, section
5 509.091, Florida Statutes, is amended to read:

6 509.091 Notices; form and service.--Each notice served
7 by the division pursuant to this chapter must be in writing
8 and must be delivered personally by an agent of the division
9 or by registered letter to the operator of the public lodging
10 establishment ~~or public food service establishment~~. If the
11 operator refuses to accept service or evades service or the
12 agent is otherwise unable to effect service after due
13 diligence, the division may post such notice in a conspicuous
14 place at the establishment.

15 Section 57. Effective January 1, 1998, section
16 509.092, Florida Statutes, is amended to read:

17 509.092 Public lodging establishments ~~and public food~~
18 ~~service establishments~~; rights as private enterprises.--Public
19 lodging establishments ~~and public food service establishments~~
20 are private enterprises, and the operator has the right to
21 refuse accommodations or service to any person who is
22 objectionable or undesirable to the operator, but such refusal
23 may not be based upon race, creed, color, sex, physical
24 disability, or national origin. A person aggrieved by a
25 violation of this section or a violation of a rule adopted
26 under this section has a right of action pursuant to s.
27 760.11.

28 Section 58. Effective January 1, 1998, section
29 509.101, Florida Statutes, 1996 Supplement, is amended to
30 read:

31

1 509.101 Establishment rules; posting of notice; food
2 ~~service inspection report; maintenance of guest register;~~
3 ~~mobile food dispensing vehicle registry.--~~

4 (1) Any operator of a public lodging establishment ~~or~~
5 ~~a public food service establishment~~ may establish reasonable
6 rules and regulations for the management of the establishment
7 and its guests and employees; and each guest or employee
8 staying, sojourning, eating, or employed in the establishment
9 shall conform to and abide by such rules and regulations so
10 long as the guest or employee remains in or at the
11 establishment. Such rules and regulations shall be deemed to
12 be a special contract between the operator and each guest or
13 employee using the services or facilities of the operator.
14 Such rules and regulations shall control the liabilities,
15 responsibilities, and obligations of all parties. Any rules
16 or regulations established pursuant to this section shall be
17 printed in the English language and posted in a prominent
18 place within such public lodging establishment ~~or public food~~
19 ~~service establishment~~. Such posting shall also include notice
20 that a current copy of this chapter is available in the office
21 for public review. ~~In addition, any operator of a public food~~
22 ~~service establishment shall maintain the latest food service~~
23 ~~inspection report or a duplicate copy on premises and shall~~
24 ~~make it available to the public upon request.~~

25 (2) It is the duty of each operator of a transient
26 establishment to maintain at all times a register, signed by
27 or for guests who occupy rental units within the
28 establishment, showing the dates upon which the rental units
29 were occupied by such guests and the rates charged for their
30 occupancy. This register shall be maintained in chronological
31 order and available for inspection by the division at any

1 time. Operators need not make available registers which are
2 more than 2 years old. Each operator shall maintain at all
3 times a current copy of this chapter in the office of the
4 licensed establishment which shall be made available to the
5 public upon request.

6 ~~(3) It is the duty of each operator of a public food~~
7 ~~service establishment that provides commissary services to~~
8 ~~maintain a daily registry verifying that each mobile food~~
9 ~~dispensing vehicle that receives such services is properly~~
10 ~~licensed by the division. In order that such licensure may be~~
11 ~~readily verified, each mobile food dispensing vehicle operator~~
12 ~~shall permanently affix in a prominent place on the side of~~
13 ~~the vehicle, in figures at least 2 inches high and in~~
14 ~~contrasting colors from the background, the operator's public~~
15 ~~food service establishment license number. Prior to providing~~
16 ~~commissary services, each public food service establishment~~
17 ~~must verify that the license number displayed on the vehicle~~
18 ~~matches the number on the vehicle operator's public food~~
19 ~~service establishment license.~~

20 Section 59. Effective January 1, 1998, section
21 509.141, Florida Statutes, is amended to read:

22 509.141 Refusal of admission and ejection of
23 undesirable guests; notice; procedure; penalties for refusal
24 to leave.--

25 (1) The operator of any public lodging establishment
26 ~~or public food service establishment~~ may remove or cause to be
27 removed from such establishment, in the manner hereinafter
28 provided in this section, any guest of the establishment who,
29 while on the premises of the establishment, illegally
30 possesses or deals in controlled substances as defined in
31 chapter 893 or is intoxicated, profane, lewd, or brawling; who

1 indulges in any language or conduct which disturbs the peace
2 and comfort of other guests or which injures the reputation,
3 dignity, or standing of the establishment; who, in the case of
4 a public lodging establishment, fails to make payment of rent
5 at the agreed-upon rental rate by the agreed-upon checkout
6 time; who, in the case of a public lodging establishment,
7 fails to check out by the time agreed upon in writing by the
8 guest and public lodging establishment at check-in unless an
9 extension of time is agreed to by the public lodging
10 establishment and guest prior to checkout; ~~who, in the case of~~
11 ~~a public food service establishment,~~ fails to make payment for
12 food, beverages, or services; or who, in the opinion of the
13 operator, is a person the continued entertainment of whom
14 would be detrimental to such establishment. The admission to,
15 or the removal from, such establishment shall not be based
16 upon race, creed, color, sex, physical disability, or national
17 origin.

18 (2) The operator of any public lodging establishment
19 ~~or public food service establishment~~ shall notify such guest
20 that the establishment no longer desires to entertain the
21 guest and shall request that such guest immediately depart
22 from the establishment. Such notice may be given orally or in
23 writing. If the notice is in writing, it shall be as follows:

24 "You are hereby notified that this establishment no
25 longer desires to entertain you as its guest, and you are
26 requested to leave at once. To remain after receipt of this
27 notice is a misdemeanor under the laws of this state."
28

29 If such guest has paid in advance, the establishment shall, at
30 the time such notice is given, tender to such guest the unused
31 portion of the advance payment; however, the establishment may

1 withhold payment for each full day that the guest has been
2 entertained at the establishment for any portion of the
3 24-hour period of such day.

4 (3) Any guest who remains or attempts to remain in any
5 such establishment after being requested to leave is guilty of
6 a misdemeanor of the second degree, punishable as provided in
7 s. 775.082 or s. 775.083.

8 (4) If any person is illegally on the premises of any
9 public lodging establishment ~~or public food service~~
10 ~~establishment~~, the operator of such establishment may call
11 upon any law enforcement officer of this state for assistance.
12 It is the duty of such law enforcement officer, upon the
13 request of such operator, to place under arrest and take into
14 custody for violation of this section any guest who violates
15 subsection (3) in the presence of the officer. If a warrant
16 has been issued by the proper judicial officer for the arrest
17 of any violator of subsection (3), the officer shall serve the
18 warrant, arrest the person, and take the person into custody.
19 Upon arrest, with or without warrant, the guest will be deemed
20 to have given up any right to occupancy or to have abandoned
21 such right of occupancy of the premises, and the operator of
22 the establishment may then make such premises available to
23 other guests. However, the operator of the establishment
24 shall employ all reasonable and proper means to care for any
25 personal property which may be left on the premises by such
26 guest and shall refund any unused portion of moneys paid by
27 such guest for the occupancy of such premises.

28 Section 60. Effective January 1, 1998, section
29 509.142, Florida Statutes, is amended to read:

30 509.142 Conduct on premises; refusal of service.--The
31 operator of a public lodging establishment ~~or public food~~

1 ~~service establishment~~ may refuse accommodations or service to
2 any person whose conduct on the premises of the establishment
3 displays intoxication, profanity, lewdness, or brawling; who
4 indulges in language or conduct such as to disturb the peace
5 or comfort of other guests; who engages in illegal or
6 disorderly conduct; who illegally possesses or deals in
7 controlled substances as defined in chapter 893; or whose
8 conduct constitutes a nuisance. Such refusal may not be based
9 upon race, creed, color, sex, physical disability, or national
10 origin.

11 Section 61. Effective January 1, 1998, subsection (1)
12 of section 509.151, Florida Statutes, is amended to read:

13 509.151 Obtaining food or lodging with intent to
14 defraud; penalty.--

15 (1) Any person who obtains food, lodging, or other
16 accommodations having a value of less than \$300 at any public
17 ~~food service establishment, or at any~~ transient establishment,
18 with intent to defraud the operator thereof, is guilty of a
19 misdemeanor of the second degree, punishable as provided in s.
20 775.082 or s. 775.083; if such food, lodging, or other
21 accommodations have a value of \$300 or more, such person is
22 guilty of a felony of the third degree, punishable as provided
23 in s. 775.082, s. 775.083, or s. 775.084.

24 Section 62. Effective January 1, 1998, subsections
25 (1), (2), and (3) of section 509.162, Florida Statutes, are
26 amended to read:

27 509.162 Theft of personal property; detaining and
28 arrest of violator; theft by employee.--

29 (1) Any law enforcement officer or operator of a
30 public lodging establishment ~~or public food service~~
31 ~~establishment~~ who has probable cause to believe that theft of

1 personal property belonging to such establishment has been
2 committed by a person and that the officer or operator can
3 recover such property or the reasonable value thereof by
4 taking the person into custody may, for the purpose of
5 attempting to effect such recovery or for prosecution, take
6 such person into custody on the premises and detain such
7 person in a reasonable manner and for a reasonable period of
8 time. If the operator takes the person into custody, a law
9 enforcement officer shall be called to the scene immediately.
10 The taking into custody and detention by a law enforcement
11 officer or operator of a public lodging establishment ~~or~~
12 ~~public food service establishment~~, if done in compliance with
13 this subsection, does not render such law enforcement officer
14 or operator criminally or civilly liable for false arrest,
15 false imprisonment, or unlawful detention.

16 (2) Any law enforcement officer may arrest, either on
17 or off the premises and without warrant, any person if there
18 is probable cause to believe that person has committed theft
19 in a public lodging establishment ~~or in a public food service~~
20 ~~establishment~~.

21 (3) Any person who resists the reasonable effort of a
22 law enforcement officer or operator of a public lodging
23 establishment ~~or public food service establishment~~ to recover
24 property which the law enforcement officer or operator had
25 probable cause to believe had been stolen from the public
26 lodging establishment ~~or public food service establishment~~,
27 and who is subsequently found to be guilty of theft of the
28 subject property, is guilty of a misdemeanor of the first
29 degree, punishable as provided in s. 775.082 or s. 775.083,
30 unless such person did not know, or did not have reason to
31 know, that the person seeking to recover the property was a

1 law enforcement officer or the operator. For purposes of this
2 section, the charge of theft and the charge of resisting
3 apprehension may be tried concurrently.

4 Section 63. Effective January 1, 1998, section
5 509.191, Florida Statutes, is amended to read:

6 509.191 Unclaimed property.--Any property with an
7 identifiable owner which is left in a public lodging
8 establishment ~~or public food service establishment~~, other than
9 property belonging to a guest who has vacated the premises
10 without notice to the operator and with an outstanding
11 account, which property remains unclaimed after being held by
12 the establishment for 90 days after written notice to the
13 guest or owner of the property, shall become the property of
14 the establishment. Property without an identifiable owner
15 which is found in a public lodging establishment ~~or public~~
16 ~~food service establishment~~ is subject to the provisions of
17 chapter 705.

18 Section 64. Effective January 1, 1998, subsections (2)
19 and (3) of section 509.211, Florida Statutes, are amended to
20 read:

21 509.211 Safety regulations.--

22 (2) The division, or its agent, shall immediately
23 notify the local firesafety authority or the State Fire
24 Marshal of any major violation of a rule adopted under chapter
25 633 which relates to public lodging establishments ~~or public~~
26 ~~food service establishments~~. The division may impose
27 administrative sanctions for violations of these rules
28 pursuant to s. 509.261 or may refer such violations to the
29 local firesafety authorities for enforcement.

30 (3)(a) It is unlawful for any person to use within any
31 public lodging establishment ~~or public food service~~

1 ~~establishment~~ any fuel-burning wick-type equipment for space
2 heating unless such equipment is vented so as to prevent the
3 accumulation of toxic or injurious gases or liquids.

4 (b) Any person who violates the provisions of
5 paragraph (a) is guilty of a misdemeanor of the second degree,
6 punishable as provided in s. 775.082 or s. 775.083.

7 Section 65. Effective January 1, 1998, section
8 509.2112, Florida Statutes, is amended to read:

9 509.2112 Public lodging establishments three stories
10 or more in height; inspection rules.--The Division of Public
11 Lodging ~~Hotels and Restaurants~~ of the Department of Business
12 and Professional Regulation is directed to provide rules to
13 require that:

14 (1) Every public lodging establishment that is three
15 stories or more in height in the state file a certificate
16 stating that any and all balconies, platforms, stairways, and
17 railways have been inspected by a person competent to conduct
18 such inspections and are safe, secure, and free of defects.

19 (2) The information required under subsection (1) be
20 filed commencing January 1, 1991, and every 3 years
21 thereafter, with the Division of Public Lodging ~~Hotels and~~
22 ~~Restaurants~~ and the applicable county or municipal authority
23 responsible for building and zoning permits.

24 (3) If a public lodging establishment that is three or
25 more stories in height fails to file the information required
26 in subsection (1), the Division of Public Lodging ~~Hotels and~~
27 ~~Restaurants~~ shall impose administrative sanctions pursuant to
28 s. 509.261.

29 Section 66. Effective January 1, 1998, subsection (6)
30 of section 509.215, Florida Statutes, 1996 Supplement, is
31 amended to read:

1 509.215 Firesafety.--

2 (6)(a) Special exception to the provisions of this
3 section shall be made for a public lodging establishment
4 structure that is individually listed in the National Register
5 of Historic Places pursuant to the National Historic
6 Preservation Act of 1966, as amended; or is a contributing
7 property to a National Register-listed district; or is
8 designated as a historic property, or as a contributing
9 property to a historic district under the terms of a local
10 preservation ordinance.

11 (b) For such structures, provisions shall be made for
12 a system of fire protection and lifesafety support that would
13 meet the intent of the NFPA standards and be acceptable to,
14 and approved by, a task force composed of the director of the
15 Division of Public Lodging ~~Hotels and Restaurants~~, the
16 director of the Division of State Fire Marshal, and the State
17 Historic Preservation Officer. When recommending alternative
18 systems, the task force shall consider systems which would not
19 disturb, destroy, or alter the integrity of such historic
20 structures. The director of the Division of State Fire Marshal
21 shall be designated chairperson of the task force and shall
22 record the minutes of each task force meeting, which shall be
23 called in a timely manner to review requests for special
24 provision considerations under this subsection.

25 (c) The task force shall, no later than November 1,
26 1996, report to the President of the Senate and the Speaker of
27 the House of Representatives any legislative recommendations
28 for providing a standard system of fire protection and
29 lifesafety support alternatives for historic public lodging
30 establishments, including bed and breakfast inns, that would
31 meet the intent of the NFPA standards. In making its report

1 the task force shall consider which, if any, bed and breakfast
2 inn operations may be exempted from the firesafety
3 requirements of this section.

4 Section 67. Effective January 1, 1998, subsections
5 (1), (2), and (5) of section 509.221, Florida Statutes, 1996
6 Supplement, are amended to read:

7 509.221 Sanitary regulations.--

8 (1) Each public lodging establishment ~~and each public~~
9 ~~food service establishment~~ shall be supplied with potable
10 water and shall provide adequate sanitary facilities for the
11 accommodation of its employees and guests. Such facilities may
12 include, but are not limited to, showers, handwash basins,
13 toilets, and bidets. Such sanitary facilities shall be
14 connected to approved plumbing. Such plumbing shall be sized,
15 installed, and maintained in accordance with applicable state
16 and local plumbing codes. Wastewater or sewage shall be
17 properly treated onsite or discharged into an approved sewage
18 collection and treatment system.

19 (2)(a) Each public lodging establishment ~~and each~~
20 ~~public food service establishment~~ shall maintain not less than
21 one public bathroom for each sex, properly designated, unless
22 otherwise provided by rule. The division shall establish by
23 rule categories of establishments not subject to the bathroom
24 requirement of this paragraph. Such rules may not alter the
25 exemption provided for theme parks in paragraph (b).

26 (b) Within a theme park or entertainment complex as
27 defined in s. 509.013 ~~s. 509.013(9)~~, the bathrooms are not
28 required to be in the same building as the public food service
29 establishment, so long as they are reasonably accessible.

30 (c) Each transient establishment that does not provide
31 private or connecting bathrooms shall maintain one public

1 bathroom on each floor for every 15 guests, or major fraction
2 of that number, rooming on that floor.

3 (5) Each transient establishment ~~and each public food~~
4 ~~service establishment~~ shall provide in the main public
5 bathroom soap and clean towels or other approved hand-drying
6 devices and each public lodging establishment shall furnish
7 each guest with two clean individual towels so that two guests
8 will not be required to use the same towel unless it has first
9 been laundered.

10 Section 68. Effective January 1, 1998, section
11 509.241, Florida Statutes, is amended to read:

12 509.241 Licenses required; exceptions.--

13 (1) LICENSES; ANNUAL RENEWALS.--Each public lodging
14 establishment must ~~and public food service establishment shall~~
15 obtain a license from the division. Such license may not be
16 transferred from one place or individual to another. It shall
17 be a misdemeanor of the second degree, punishable as provided
18 in s. 775.082 or s. 775.083, for such an establishment to
19 operate without a license. Local law enforcement shall provide
20 immediate assistance in pursuing an illegally operating
21 establishment. The division may refuse a license, or a
22 renewal thereof, to any establishment that is not constructed
23 and maintained in accordance with law and with the rules of
24 the division. The division may refuse to issue a license, or
25 a renewal thereof, to any establishment an operator of which,
26 within the preceding 5 years, has been adjudicated guilty of,
27 or has forfeited a bond when charged with, any crime
28 reflecting on professional character, including soliciting for
29 prostitution, pandering, letting premises for prostitution,
30 keeping a disorderly place, or illegally dealing in controlled
31 substances as defined in chapter 893, whether in this state or

1 in any other jurisdiction within the United States, or has had
2 a license denied, revoked, or suspended pursuant to s.
3 400.414. Licenses shall be renewed annually, and the division
4 shall adopt a rule establishing a staggered schedule for
5 license renewals. If any license expires while administrative
6 charges are pending against the license, the proceedings
7 against the license shall continue to conclusion as if the
8 license were still in effect.

9 (2) APPLICATION FOR LICENSE.--Each person who plans to
10 open a public lodging establishment must ~~or a public food~~
11 ~~service establishment shall~~ apply for and receive a license
12 from the division prior to the commencement of operation. A
13 condominium association, as defined in s. 718.103, which does
14 not own any units classified as resort condominiums under s.
15 509.242(1)(c) shall not be required to apply for or receive a
16 public lodging establishment license.

17 (3) DISPLAY OF LICENSE.--Any license issued by the
18 division shall be conspicuously displayed in the office or
19 lobby of the licensed establishment. ~~Public food service~~
20 ~~establishments which offer catering services shall display~~
21 ~~their license number on all advertising for catering services.~~

22 Section 69. Effective January 1, 1998, section
23 509.251, Florida Statutes, 1996 Supplement, is amended to
24 read:

25 509.251 License fees.--

26 (1) The division shall adopt, by rule, a schedule of
27 fees to be paid by each public lodging establishment as a
28 prerequisite to issuance or renewal of a license. Such fees
29 shall be based on the number of rental units in the
30 establishment but shall not exceed \$1,000. Resort condominium
31 units within separate buildings or at separate locations but

1 managed by one licensed agent may be combined in a single
2 license application, and the division shall charge a license
3 fee as if all units in the application are in a single
4 licensed establishment. Resort dwelling units may be licensed
5 in the same manner as condominium units. The fee schedule
6 shall require an establishment which applies for an initial
7 license to pay the full license fee if application is made
8 during the annual renewal period or more than 6 months prior
9 to the next such renewal period and one-half of the fee if
10 application is made 6 months or less prior to such period.
11 The fee schedule shall include fees collected for the purpose
12 of funding the Hospitality Education Program, pursuant to s.
13 509.302, which are payable in full for each application
14 regardless of when the application is submitted.

15 (a) Upon making initial application or an application
16 for change of ownership, the applicant shall pay to the
17 division a fee as prescribed by rule, not to exceed \$50, in
18 addition to any other fees required by law, which shall cover
19 all costs associated with initiating regulation of the
20 establishment.

21 (b) A license renewal filed with the division within
22 30 days after the expiration date shall be accompanied by a
23 delinquent fee as prescribed by rule, not to exceed \$50, in
24 addition to the renewal fee and any other fees required by
25 law. A license renewal filed with the division more than 30
26 but not more than 60 days after the expiration date shall be
27 accompanied by a delinquent fee as prescribed by rule, not to
28 exceed \$100, in addition to the renewal fee and any other fees
29 required by law.

30 ~~(2) The division shall adopt, by rule, a schedule of~~
31 ~~fees to be paid by each public food service establishment as a~~

1 ~~prerequisite to issuance or renewal of a license. The fee~~
2 ~~schedule shall prescribe a basic fee and additional fees based~~
3 ~~on seating capacity and services offered. The aggregate fee~~
4 ~~per establishment charged any public food service~~
5 ~~establishment may not exceed \$400. The fee schedule shall~~
6 ~~require an establishment which applies for an initial license~~
7 ~~to pay the full license fee if application is made during the~~
8 ~~annual renewal period or more than 6 months prior to the next~~
9 ~~such renewal period and one-half of the fee if application is~~
10 ~~made 6 months or less prior to such period. The fee schedule~~
11 ~~shall include fees collected for the purpose of funding the~~
12 ~~Hospitality Education Program, pursuant to s. 509.302, which~~
13 ~~are payable in full for each application regardless of when~~
14 ~~the application is submitted.~~

15 ~~(a) Upon making initial application or an application~~
16 ~~for change of ownership, the applicant shall pay to the~~
17 ~~division a fee as prescribed by rule, not to exceed \$50, in~~
18 ~~addition to any other fees required by law, which shall cover~~
19 ~~all costs associated with initiating regulation of the~~
20 ~~establishment.~~

21 ~~(b) A license renewal filed with the division within~~
22 ~~30 days after the expiration date shall be accompanied by a~~
23 ~~delinquent fee as prescribed by rule, not to exceed \$50, in~~
24 ~~addition to the renewal fee and any other fees required by~~
25 ~~law. A license renewal filed with the division more than 30~~
26 ~~but not more than 60 days after the expiration date shall be~~
27 ~~accompanied by a delinquent fee as prescribed by rule, not to~~
28 ~~exceed \$100, in addition to the renewal fee and any other fees~~
29 ~~required by law.~~

30 (2)(3) The fact that a public food service
31 establishment is operated in conjunction with a public lodging

1 establishment does not relieve the public food service
2 establishment of the requirement that it be separately
3 licensed as a public food service establishment.

4 ~~(4) The actual costs associated with each~~
5 ~~epidemiological investigation conducted by the Department of~~
6 ~~Health and Rehabilitative Services in public food service~~
7 ~~establishments licensed pursuant to this chapter shall be~~
8 ~~accounted for and submitted to the division annually. The~~
9 ~~division shall journal transfer the total of all such amounts~~
10 ~~from the Hotel and Restaurant Trust Fund to the Department of~~
11 ~~Health and Rehabilitative Services annually; however, the~~
12 ~~total amount of such transfer may not exceed an amount equal~~
13 ~~to 5 percent of the annual public food service establishment~~
14 ~~licensure fees received by the division.~~

15 Section 70. Effective January 1, 1998, section
16 509.261, Florida Statutes, is amended to read:

17 509.261 Revocation or suspension of licenses; fines;
18 procedure.--

19 (1) Any public lodging establishment ~~or public food~~
20 ~~service establishment~~ that has operated or is operating in
21 violation of this chapter or the rules of the division,
22 operating without a license, or operating with a suspended or
23 revoked license may be subject by the division to:

24 (a) Fines not to exceed \$1,000 per offense;

25 (b) Mandatory attendance, at personal expense, at an
26 educational program sponsored by the Hospitality Education
27 Program; and

28 (c) The suspension, revocation, or refusal of a
29 license issued pursuant to this chapter.

30 (2) For the purposes of this section, the division may
31 regard as a separate offense each day or portion of a day on

1 which an establishment is operated in violation of a "critical
2 law or rule," as that term is defined by rule.

3 (3) The division shall post a prominent
4 closed-for-operation sign on any public lodging establishment
5 ~~or public food service establishment~~, the license of which has
6 been suspended or revoked. The division shall also post such
7 sign on any establishment judicially or administratively
8 determined to be operating without a license. It is a
9 misdemeanor of the second degree, punishable as provided in s.
10 775.082 or s. 775.083, for any person to deface or remove such
11 closed-for-operation sign or for any public lodging
12 establishment ~~or public food service establishment~~ to open for
13 operation without a license or to open for operation while its
14 license is suspended or revoked. The division may impose
15 administrative sanctions for violations of this section.

16 (4) All funds received by the division as satisfaction
17 for administrative fines shall be paid into the State Treasury
18 to the credit of the Public Lodging Hotel and Restaurant Trust
19 Fund and may not subsequently be used for payment to any
20 entity performing required inspections under contract with the
21 division.

22 (5)(a) A license may not be suspended under this
23 section for a period of more than 12 months. At the end of
24 such period of suspension, the establishment may apply for
25 reinstatement or renewal of the license. A public lodging
26 establishment ~~or public food service establishment~~, the
27 license of which is revoked, may not apply for another license
28 for that location prior to the date on which the revoked
29 license would have expired.

30 (b) The division may fine, suspend, or revoke the
31 license of any public lodging establishment ~~or public food~~

1 ~~service establishment~~ if the operator knowingly lets, leases,
2 or gives space for unlawful gambling purposes or permits
3 unlawful gambling in such establishment or in or upon any
4 premises which are used in connection with, and are under the
5 same charge, control, or management as, such establishment.

6 (6) The division may fine, suspend, or revoke the
7 license of any public lodging establishment ~~or public food~~
8 ~~service establishment~~ when:

9 (a) Any person with a direct financial interest in the
10 licensed establishment, within the preceding 5 years in this
11 state, any other state, or the United States, has been
12 adjudicated guilty of or forfeited a bond when charged with
13 soliciting for prostitution, pandering, letting premises for
14 prostitution, keeping a disorderly place, illegally dealing in
15 controlled substances as defined in chapter 893, or any other
16 crime reflecting on professional character.

17 (b) Such establishment has been deemed an imminent
18 danger to the public health and safety by the division or
19 local health authority for failure to meet sanitation
20 standards or the premises have been determined by the division
21 or local authority to be unsafe or unfit for human occupancy.

22 (7) A person is not entitled to the issuance of a
23 license for any public lodging establishment ~~or public food~~
24 ~~service establishment~~ except in the discretion of the director
25 when the division has notified the current licenseholder for
26 such premises that administrative proceedings have been or
27 will be brought against such current licensee for violation of
28 any provision of this chapter or rule of the division.

29 Section 71. Effective January 1, 1998, subsection (1)
30 of section 509.281, Florida Statutes, is amended to read:

31

1 509.281 Prosecution for violation; duty of state
2 attorney; penalties.--

3 (1) The division or an agent of the division, upon
4 ascertaining by inspection that any public lodging
5 establishment ~~or public food service establishment~~ is being
6 operated contrary to the provisions of this chapter, shall
7 make complaint and cause the arrest of the violator, and the
8 state attorney, upon request of the division or agent, shall
9 prepare all necessary papers and conduct the prosecution. The
10 division shall proceed in the courts by mandamus or injunction
11 whenever such proceedings may be necessary to the proper
12 enforcement of the provisions of this chapter, of the rules
13 adopted pursuant hereto, or of orders of the division.

14 Section 72. Effective January 1, 1998, subsection (1)
15 of section 509.291, Florida Statutes, 1996 Supplement, is
16 amended to read:

17 509.291 Advisory council.--

18 (1) There is created an 18-member advisory council.

19 (a) The Secretary of Business and Professional
20 Regulation shall appoint 11 voting members to the advisory
21 council. Each member appointed by the secretary must be an
22 operator of an establishment licensed under this chapter and
23 shall represent the industries regulated by the division,
24 except that one member appointed by the secretary must be a
25 layperson and shall represent the general public. Such members
26 of the council shall serve staggered terms of 4 years.

27 (b) The division, the Department of Health ~~and~~
28 ~~Rehabilitative Services~~, the Florida Hotel and Motel
29 Association, the Florida Restaurant Association, the Florida
30 Apartment Association, and the Florida Association of Realtors
31 shall each designate one representative to serve as a voting

1 member of the council, and one member appointed by the
2 secretary must be appointed to represent nontransient public
3 lodging establishments. In addition, one hospitality
4 administration educator from an institution of higher
5 education affiliated with the Hospitality Education Program
6 pursuant to s. 509.302(2) shall serve for a term of 2 years as
7 a voting member of the council. This single representative
8 shall be designated on a rotating basis by the institution or
9 institutions of higher education affiliated with this program
10 pursuant to s. 509.302(2).

11 (c) Any member who fails to attend three consecutive
12 council meetings without good cause may be removed from the
13 council by the secretary.

14 Section 73. Effective January 1, 1998, subsections
15 (1), (3), and (7) of section 509.302, Florida Statutes, 1996
16 Supplement, are amended to read:

17 509.302 Director of education, personnel, employment
18 duties, compensation.--

19 (1) The director shall, with the advice of the
20 advisory council, employ a director of education for the
21 public lodging ~~and food service~~ industry.

22 (3) All public lodging establishments ~~and all public~~
23 ~~food service establishments~~ licensed under this chapter shall
24 pay an annual fee of no more than \$6 which shall be included
25 in the annual license fee and which shall be used for the sole
26 purpose of funding the Hospitality Education Program.

27 (7) The director of education, with the approval of
28 the director and with the consent of the advisory council, may
29 designate funds, not to exceed \$150,000 annually, to support
30 school-to-career transition programs available through
31 statewide organizations in the hospitality services field.

1 Such programs shall be designed to prepare students for
2 progressive careers in the hospitality industry. The director
3 of education, with the approval of the director and with the
4 consent of the advisory council, may also designate funds, not
5 to exceed ~~\$50,000 annually, to support food safety training~~
6 ~~programs available through statewide organizations in the~~
7 ~~hospitality services field, and not to exceed \$50,000~~
8 annually, to support nontransient public lodging training
9 programs available through statewide organizations in the
10 public lodging services field.

11 (a) The director of education shall have supervision
12 over the administration of the programs set forth in this
13 subsection and shall report the status of the programs at all
14 meetings of the advisory council and at such other times as
15 are prescribed by the advisory council.

16 (b) The division shall adopt rules providing the
17 criteria for program approval and the procedures for
18 processing program applications. The criteria and procedures
19 shall be approved by the advisory council.

20 Section 74. The administrative rules of the agencies
21 involved in this reorganization that are in effect immediately
22 prior to the effective date of this act shall remain in effect
23 until specifically changed in the manner provided by law.

24 Section 75. This act shall not affect the validity of
25 any judicial or administrative proceeding pending on the
26 effective date of this act, and any agency to which are
27 transferred the powers, duties, and functions relating to the
28 pending proceeding shall be substituted as a party in interest
29 for that proceeding.

30 Section 76. Effective January 1, 1998, sections
31 509.213, 509.214, 509.232, and 509.292, Florida Statutes, are

1 transferred and renumbered, respectively, as sections
2 381.0075, 381.0076, 381.0077, and 381.0078, Florida Statutes.

3 Section 77. Effective January 1, 1998, sections
4 509.036 and 509.039, Florida Statutes, and section 509.049,
5 Florida Statutes, as created by section 4 of chapter 96-384,
6 Laws of Florida, are repealed.

7 Section 78. Effective July 1, 1997, the Secretary of
8 Health and the Secretary of Business and Professional
9 Regulation shall each appoint three staff members to a
10 restaurant program transition advisory committee. The members
11 of the committee must represent staff of the respective
12 department, including representatives from the headquarter's
13 level and local field staff, who are involved in the
14 transferred functions. In addition, the two secretaries shall
15 jointly appoint one person to represent the restaurant
16 industry on the committee. The Secretary of Health shall
17 designate a member of the committee to serve as committee
18 chair. The purpose of the committee is to prepare for the
19 transfer of regulatory responsibilities relating to
20 restaurants from the Department of Business and Professional
21 Regulation to the Department of Health. The committee shall
22 be located, for administrative purposes, in the Department of
23 Health.

24 (1) By September 15, 1997, the committee shall
25 prescribe a schedule of transition activities and functions
26 with respect to the transfer of responsibilities. The
27 schedule must, at a minimum, address: office space,
28 information support systems, cash ownership and transfer,
29 administrative support functions, inventory and transfer of
30 equipment and supplies, expenditure transfers, budget
31 authority and positions, and certifications forward.

1 (2) The committee shall review current regulatory
2 activities and make recommendations regarding consolidation of
3 duplicative regulatory functions, elimination of overlap, and
4 any needed modifications in organizational structure. The
5 committee shall report its findings, including recommendations
6 for changes in state policy, rules, and statutes that will
7 improve restaurant regulatory functions by the Department of
8 Health to the Secretary of Health, the Governor, the President
9 of the Senate, and the Speaker of the House of Representatives
10 by November 30, 1997.

11 Section 79. Effective July 1, 1997, the Secretary of
12 Health and the Secretary of Children and Family Services shall
13 each appoint three staff members to a behavioral health care
14 transition advisory committee. The members of the committee
15 must represent staff of the respective department, including
16 representatives from the headquarter's level area office or
17 district offices, and local staff, including a facility staff
18 representative, who are involved in the transferred functions.
19 The Secretary of Health shall also appoint one committee
20 member to represent the mental health provider community. The
21 Secretary of Children and Family Services shall also appoint
22 one member to represent the substance abuse provider
23 community. In addition, the two secretaries shall jointly
24 appoint one person to represent the behavioral health care
25 consumer and advocacy groups on the committee. The Secretary
26 of Health shall designate a member of the committee to serve
27 as committee chair. The purpose of the committee is to prepare
28 for the transfer of behavioral health care functions from the
29 Department of Children and Family Services to the Department
30 of Health. The committee shall be located, for administrative
31 purposes, in the Department of Health.

1 (1) By October 1, 1997, the committee shall prescribe
2 a schedule of transition activities and functions with respect
3 to the transfer of responsibilities. The schedule must, at a
4 minimum, address: office space, information support systems,
5 cash ownership and transfer, administrative support functions,
6 inventory and transfer of equipment and supplies, expenditure
7 transfers, budget authority and positions, and certifications
8 forward.

9 (2) The committee shall review current regulatory
10 activities and service delivery activities and make
11 recommendations regarding consolidation of duplicative
12 regulatory functions, elimination of overlap, and any needed
13 modifications in organizational structure. The committee shall
14 report its findings, including recommendations for changes in
15 state policy, rules, and statutes, that will improve
16 behavioral health care service delivery by the Department of
17 Health to the Secretary of Health, the Governor, the President
18 of the Senate, and the Speaker of the House of Representatives
19 by February 1, 1998.

20 Section 80. Except as otherwise provided in this act
21 and except for this section, which shall take effect upon
22 becoming a law, this act shall take effect July 1, 1997.

23
24 *****

25 SENATE SUMMARY

26 Transfers certain powers, duties, and functions of the
27 Department of Children and Family Services relating to
28 child abuse to the Department of Health. Transfers
29 certain powers, duties, and functions of the Department
30 of Business and Professional Regulation relating to
31 public food service establishments to the Department of
Health. Transfers certain powers, duties, and functions
of the Department of Children and Family Services
relating to alcohol, drug abuse, and mental health to the
Department of Health. (See bill for details.)