

STORAGE NAME: h3685.ag
DATE: February 20, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3685 (PCB AG 98-01)

RELATING TO: Agriculture

SPONSOR(S): Committee on Agriculture

COMPANION BILL(S):

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

- (1) AGRICULTURE YEAS 5 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill saves the permitting process for food permits and food establishment building permits and the enforcement of disciplinary measures for violations of the Food Safety Act from being repealed. Unless reenacted by the Legislature, ss. 500.12 and 500.121, F.S., are scheduled for automatic repeal on October 1, 1998.

A legislative review was conducted, in conjunction with the Senate, to ensure that the provisions in these sections are administered by the Department of Agriculture and Consumer Services (department) in an effective and efficient manner and to determine if they continue to benefit the public.

Section 500.12, F.S., requires any person who operates a food establishment, with certain exceptions, to apply for a food permit. It also provides criteria for building permits to construct, convert, or remodel any food establishment, food outlet, or retail food store.

Section 500.121, F.S., establishes disciplinary measures for the department to use in enforcing the Food Safety Act.

Based on the findings of this report, it was concluded that these sections serve a valuable public function. The permitting process is crucial to consumer protection by assuring that food establishments handle food in a safe and sanitary manner. The disciplinary measures are essential in providing a level playing field among food establishments to avoid unfair competition from food establishments that may cut corners in food safety practices.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Pursuant to the laws of Florida, certain agencies are subject to review to ascertain that the various programs under their jurisdiction are operating in an effective and efficient manner. Following such reviews, a recommendation must be made as to the termination, modification, or reenactment of the regulations. The criteria for reviews of such programs scheduled for automatic repeal are listed in s. 20.051(1), F.S. Reviews must determine whether the program:

- (a) Serves an identifiable purpose that benefits the public and accomplishes the purpose for which it was created;
- (b) Operates efficiently and effectively within its statutory framework, and whether there are any statutory changes that would likely increase the effectiveness and efficiency of the function, program, or entity;
- (c) Is necessary to the public health, safety, or welfare, and what would be the effect of its abolition;
- (d) Serves a beneficial purpose to state agencies in improving the effectiveness and efficiency of the operations of the state;
- (e) Directly or indirectly increases or decreases the costs of any goods or services, and whether any identified increase in cost is more harmful to the state than any of the harm that could occur absent the function, program, or entity;
- (f) Is situated within an organizational structure that promotes its efficient and effective administration and does not duplicate activities conducted in other agencies of the state; and
- (g) Could be assigned to another state agency or to private enterprise, and if so, the most efficient way of doing so.

The criteria stated above was used to determine whether ss. 500.12 and 500.121, F.S., continue to benefit the public health and welfare. The review determined that section 500.12, F.S., benefits the holders of food permits and protects public health. Repeal of this section would eliminate routine, random inspections by the department, resulting in the potential for unsafe, deceptively labeled or contaminated food being sold in the marketplace. Section 500.121, F.S., also protects the public by assuring the integrity of food establishments operated within the state through the enforcement process. Repeal of this section would eliminate the department's authority to protect the public from food borne illness, fraudulent business practices, and unsafe food being sold in the marketplace.

Therefore, as measured by the criteria set forth in s. 20.051(1), F.S., the review found that the benefits derived from ss. 500.12 and 500.121, F.S., are sufficiently compelling to favor reenactment.

B. EFFECT OF PROPOSED CHANGES:

Section 1 reenacts ss. 500.12 and 500.121, F.S., authorizing the Department of Agriculture and Consumer Services to continue the permitting process for food and food service establishments, and to continue enforcing the regulations of the Food Safety Act.

Section 2 provides an effective date of July 1, 1998.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

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

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

No

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

No

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

No

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

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

N/A

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

N/A

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

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

No

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

No

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

No

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

No

3. Personal Responsibility:

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

No

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

Yes

4. Individual Freedom:

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

No

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

No

5. Family Empowerment: **Not Applicable**

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

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

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

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

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

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

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. STATUTE(S) AFFECTED:

Sections 500.12 and 500.121, F.S.

E. SECTION-BY-SECTION RESEARCH:

Refer to Section B (Effect of Proposed Changes) for section by section review.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

Sections 500.12 and 500.121, F.S., are essential for the department to adequately protect consumers from unsanitary food handling and processing and from economic adulteration. As with any segment of our society, the vast majority of the food industry complies with the safety laws and regulations even if there are no

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disciplinary provisions. Others within the industry comply because of the possibility of a disciplinary action being taken if the violation is discovered. However, there are always a few businesses that will comply only after having disciplinary actions imposed. By aggressively enforcing the laws and rules and imposing disciplinary actions in a fair and judicious manner, food establishments in full compliance of the laws and rules are not placed at a competitive disadvantage with those establishments that are not in compliance.

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

None

D. FISCAL COMMENTS:

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take actions requiring expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any county or municipality.

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

The bill does not reduce any state tax revenues shared with counties and municipalities.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

Legislative Research Director:

Debbi Kaiser

Susan D. Reese

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