

By the Committee on Children and Families; and Senator Campbell

300-1912D-99

1 A bill to be entitled
2 An act relating to nursing homes and assisted
3 living facilities; amending ss. 400.23,
4 400.441, F.S.; requiring that rules adopted by
5 the Agency for Health Care Administration and
6 the Department of Elderly Affairs include
7 provisions governing the cooling of facilities;
8 providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Paragraph (a) of subsection (2) of section
13 400.23, Florida Statutes, 1998 Supplement, is amended to read:
14 400.23 Rules; criteria; Nursing Home Advisory
15 Committee; evaluation and rating system; fee for review of
16 plans.--

17 (2) Pursuant to the intention of the Legislature, the
18 agency, in consultation with the Department of Health and
19 Rehabilitative Services and the Department of Elderly Affairs,
20 shall adopt and enforce rules to implement this part, which
21 shall include reasonable and fair criteria in relation to:

22 (a) The location and construction of the facility;
23 including fire and life safety, plumbing, heating, cooling,
24 lighting, ventilation, and other housing conditions which will
25 ensure the health, safety, and comfort of residents, including
26 an adequate call system. The agency shall establish standards
27 for facilities and equipment to increase the extent to which
28 new facilities and a new wing or floor added to an existing
29 facility after July 1, 1999, are structurally capable of
30 serving as shelters only for residents, staff, and families of
31 residents and staff, and equipped to be self-supporting during

1 and immediately following disasters. The Agency for Health
2 Care Administration shall work with facilities licensed under
3 this part and report to the Governor and Legislature by April
4 1, 1999, its recommendations for cost-effective renovation
5 standards to be applied to existing facilities. In making such
6 rules, the agency shall be guided by criteria recommended by
7 nationally recognized reputable professional groups and
8 associations with knowledge of such subject matters. The
9 agency shall update or revise such criteria as the need
10 arises. All nursing homes must comply with those lifesafety
11 code requirements and building code standards applicable at
12 the time of approval of their construction plans. The agency
13 may require alterations to a building if it determines that an
14 existing condition constitutes a distinct hazard to life,
15 health, or safety. The agency shall adopt fair and reasonable
16 rules setting forth conditions under which existing facilities
17 undergoing additions, alterations, conversions, renovations,
18 or repairs shall be required to comply with the most recent
19 updated or revised standards.

20 Section 2. Paragraph (a) of subsection (1) of section
21 400.441, Florida Statutes, 1998 Supplement, is amended to
22 read:

23 400.441 Rules establishing standards.--

24 (1) It is the intent of the Legislature that rules
25 published and enforced pursuant to this section shall include
26 criteria by which a reasonable and consistent quality of
27 resident care and quality of life may be ensured and the
28 results of such resident care may be demonstrated. Such rules
29 shall also ensure a safe and sanitary environment that is
30 residential and noninstitutional in design or nature. It is
31 further intended that reasonable efforts be made to

1 accommodate the needs and preferences of residents to enhance
2 the quality of life in a facility. In order to provide safe
3 and sanitary facilities and the highest quality of resident
4 care accommodating the needs and preferences of residents, the
5 department, in consultation with the agency, the Department of
6 Children and Family Services, and the Department of Health,
7 shall adopt rules, policies, and procedures to administer this
8 part, which must include reasonable and fair minimum standards
9 in relation to:

10 (a) The requirements for and maintenance of
11 facilities, not in conflict with the provisions of chapter
12 553, relating to plumbing, heating, cooling, lighting,
13 ventilation, living space, and other housing conditions, which
14 will ensure the health, safety, and comfort of residents and
15 protection from fire hazard, including adequate provisions for
16 fire alarm and other fire protection suitable to the size of
17 the structure. Uniform firesafety standards shall be
18 established and enforced by the State Fire Marshal in
19 cooperation with the agency, the department, and the
20 Department of Health.

21 1. Evacuation capability determination.--

22 a. The provisions of the National Fire Protection
23 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
24 for determining the ability of the residents, with or without
25 staff assistance, to relocate from or within a licensed
26 facility to a point of safety as provided in the fire codes
27 adopted herein. An evacuation capability evaluation for
28 initial licensure shall be conducted within 6 months after the
29 date of licensure. For existing licensed facilities that are
30 not equipped with an automatic fire sprinkler system, the
31 administrator shall evaluate the evacuation capability of

1 residents at least annually. The evacuation capability
2 evaluation for each facility not equipped with an automatic
3 fire sprinkler system shall be validated, without liability,
4 by the State Fire Marshal, by the local fire marshal, or by
5 the local authority having jurisdiction over firesafety,
6 before the license renewal date. If the State Fire Marshal,
7 local fire marshal, or local authority having jurisdiction
8 over firesafety has reason to believe that the evacuation
9 capability of a facility as reported by the administrator may
10 have changed, it may, with assistance from the facility
11 administrator, reevaluate the evacuation capability through
12 timed exiting drills. Translation of timed fire exiting drills
13 to evacuation capability may be determined:

14 (I) Three minutes or less: prompt.

15 (II) More than 3 minutes, but not more than 13
16 minutes: slow.

17 (III) More than 13 minutes: impractical.

18 b. The Office of the State Fire Marshal shall provide
19 or cause the provision of training and education on the proper
20 application of Chapter 5, NFPA 101A, 1995 edition, to its
21 employees, to staff of the Agency for Health Care
22 Administration who are responsible for regulating facilities
23 under this part, and to local governmental inspectors. The
24 Office of the State Fire Marshal shall provide or cause the
25 provision of this training within its existing budget, but may
26 charge a fee for this training to offset its costs. The
27 initial training must be delivered within 6 months after July
28 1, 1995, and as needed thereafter.

29 c. The Office of the State Fire Marshal, in
30 cooperation with provider associations, shall provide or cause
31 the provision of a training program designed to inform

1 facility operators on how to properly review bid documents
2 relating to the installation of automatic fire sprinklers.
3 The Office of the State Fire Marshal shall provide or cause
4 the provision of this training within its existing budget, but
5 may charge a fee for this training to offset its costs. The
6 initial training must be delivered within 6 months after July
7 1, 1995, and as needed thereafter.

8 d. The administrator of a licensed facility shall sign
9 an affidavit verifying the number of residents occupying the
10 facility at the time of the evacuation capability evaluation.

11 2. Firesafety requirements.--

12 a. Except for the special applications provided
13 herein, effective January 1, 1996, the provisions of the
14 National Fire Protection Association, Life Safety Code, NFPA
15 101, 1994 edition, Chapter 22 for new facilities and Chapter
16 23 for existing facilities shall be the uniform fire code
17 applied by the State Fire Marshal for assisted living
18 facilities, pursuant to s. 633.022.

19 b. Any new facility, regardless of size, that applies
20 for a license on or after January 1, 1996, must be equipped
21 with an automatic fire sprinkler system. The exceptions as
22 provided in section 22-2.3.5.1, NFPA 101, 1994 edition, as
23 adopted herein, apply to any new facility housing eight or
24 fewer residents. On July 1, 1995, local governmental entities
25 responsible for the issuance of permits for construction shall
26 inform, without liability, any facility whose permit for
27 construction is obtained prior to January 1, 1996, of this
28 automatic fire sprinkler requirement. As used in this part,
29 the term "a new facility" does not mean an existing facility
30 that has undergone change of ownership.

31

1 c. Notwithstanding any provision of s. 633.022 or of
2 the National Fire Protection Association, NFPA 101A, Chapter
3 5, 1995 edition, to the contrary, any existing facility
4 housing eight or fewer residents is not required to install an
5 automatic fire sprinkler system, nor to comply with any other
6 requirement in Chapter 23 of NFPA 101, 1994 edition, that
7 exceeds the firesafety requirements of NFPA 101, 1988 edition,
8 that applies to this size facility, unless the facility has
9 been classified as impractical to evacuate. Any existing
10 facility housing eight or fewer residents that is classified
11 as impractical to evacuate must install an automatic fire
12 sprinkler system within the timeframes granted in this
13 section.

14 d. Any existing facility that is required to install
15 an automatic fire sprinkler system under this paragraph need
16 not meet other firesafety requirements of Chapter 23, NFPA
17 101, 1994 edition, which exceed the provisions of NFPA 101,
18 1988 edition. The mandate contained in this paragraph which
19 requires certain facilities to install an automatic fire
20 sprinkler system supersedes any other requirement.

21 e. This paragraph does not supersede the exceptions
22 granted in NFPA 101, 1988 edition or 1994 edition.

23 f. This paragraph does not exempt facilities from
24 other firesafety provisions adopted under s. 633.022 and local
25 building code requirements in effect before July 1, 1995.

26 g. A local government may charge fees only in an
27 amount not to exceed the actual expenses incurred by local
28 government relating to the installation and maintenance of an
29 automatic fire sprinkler system in an existing and properly
30 licensed assisted living facility structure as of January 1,
31 1996.

1 h. If a licensed facility undergoes major
2 reconstruction or addition to an existing building on or after
3 January 1, 1996, the entire building must be equipped with an
4 automatic fire sprinkler system. Major reconstruction of a
5 building means repair or restoration that costs in excess of
6 50 percent of the value of the building as reported on the tax
7 rolls, excluding land, before reconstruction. Multiple
8 reconstruction projects within a 5-year period the total costs
9 of which exceed 50 percent of the initial value of the
10 building at the time the first reconstruction project was
11 permitted are to be considered as major reconstruction.
12 Application for a permit for an automatic fire sprinkler
13 system is required upon application for a permit for a
14 reconstruction project that creates costs that go over the
15 50-percent threshold.

16 i. Any facility licensed before January 1, 1996, that
17 is required to install an automatic fire sprinkler system
18 shall ensure that the installation is completed within the
19 following timeframes based upon evacuation capability of the
20 facility as determined under subparagraph 1.:

21 (I) Impractical evacuation capability, 24 months.

22 (II) Slow evacuation capability, 48 months.

23 (III) Prompt evacuation capability, 60 months.

24

25 The beginning date from which the deadline for the automatic
26 fire sprinkler installation requirement must be calculated is
27 upon receipt of written notice from the local fire official
28 that an automatic fire sprinkler system must be installed. The
29 local fire official shall send a copy of the document
30 indicating the requirement of a fire sprinkler system to the
31 Agency for Health Care Administration.

1 j. It is recognized that the installation of an
2 automatic fire sprinkler system may create financial hardship
3 for some facilities. The appropriate local fire official
4 shall, without liability, grant two 1-year extensions to the
5 timeframes for installation established herein, if an
6 automatic fire sprinkler installation cost estimate and proof
7 of denial from two financial institutions for a construction
8 loan to install the automatic fire sprinkler system are
9 submitted. However, for any facility with a class I or class
10 II, or a history of uncorrected class III, firesafety
11 deficiencies, an extension must not be granted. The local
12 fire official shall send a copy of the document granting the
13 time extension to the Agency for Health Care Administration.

14 k. A facility owner whose facility is required to be
15 equipped with an automatic fire sprinkler system under Chapter
16 23, NFPA 101, 1994 edition, as adopted herein, must disclose
17 to any potential buyer of the facility that an installation of
18 an automatic fire sprinkler requirement exists. The sale of
19 the facility does not alter the timeframe for the installation
20 of the automatic fire sprinkler system.

21 l. Existing facilities required to install an
22 automatic fire sprinkler system as a result of
23 construction-type restrictions in Chapter 23, NFPA 101, 1994
24 edition, as adopted herein, or evacuation capability
25 requirements shall be notified by the local fire official in
26 writing of the automatic fire sprinkler requirement, as well
27 as the appropriate date for final compliance as provided in
28 this subparagraph. The local fire official shall send a copy
29 of the document to the Agency for Health Care Administration.

30 m. Except in cases of life-threatening fire hazards,
31 if an existing facility experiences a change in the evacuation

1 capability, or if the local authority having jurisdiction
2 identifies a construction-type restriction, such that an
3 automatic fire sprinkler system is required, it shall be
4 afforded time for installation as provided in this
5 subparagraph.

6
7 Facilities that are fully sprinkled and in compliance with
8 other firesafety standards are not required to conduct more
9 than one of the required fire drills between the hours of 11
10 p.m. and 7 a.m., per year. In lieu of the remaining drills,
11 staff responsible for residents during such hours may be
12 required to participate in a mock drill that includes a review
13 of evacuation procedures. Such standards must be included or
14 referenced in the rules adopted by the State Fire Marshal.
15 Pursuant to s. 633.022(1)(b), the State Fire Marshal is the
16 final administrative authority for firesafety standards
17 established and enforced pursuant to this section. All
18 licensed facilities must have an annual fire inspection
19 conducted by the local fire marshal or authority having
20 jurisdiction.

21 Section 3. This act shall take effect July 1, 1999.

22

23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
24 COMMITTEE SUBSTITUTE FOR
25 Senate Bill 2314

26 Authorizes the Department of Elderly Affairs and the Agency
27 for Health Care Administration to promulgate rules for
28 assisted living facilities and nursing homes, respectively, on
29 the issue of cooling.

30 Eliminates the requirement that documentation of air
31 conditioning capability accompany a licensure application.

Eliminates temperature requirement.

Eliminates the clause relevant to existing facilities'
compliance.