

By Senator Forman

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A bill to be entitled

An act relating to assisted living facilities;
amending ss. 400.408, 400.419, F.S.; revising
penalties applicable to operating an unlicensed
facility; providing an effective date.

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

Section 1. Subsection (1) of section 400.408, Florida
Statutes, 1998 Supplement, is amended to read:

400.408 Unlicensed facilities; referral of person for
residency to unlicensed facility; penalties; verification of
licensure status.--

(1)(a) It is unlawful to own, operate, or maintain an
assisted living facility without obtaining a license under
this part.

(b) Except as provided under paragraph (d), any person
who owns, operates, or maintains an unlicensed assisted living
facility commits a felony of the third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
continued operation is a separate offense. ~~Application for~~
~~licensure within 10 working days after notification shall be~~
~~an affirmative defense to this felony violation.~~

(c) Any person found guilty of violating paragraph (a)
a second or subsequent time commits a felony of the second
degree, punishable as provided under s. 775.082, s. 775.083,
or s. 775.084. Each day of continued operation is a separate
offense.

(d) Any person who owns, operates, or maintains an
unlicensed assisted living facility due to a change in this
part or a modification in department rule within 6 months

1 after the effective date of such change and who, within 10
2 working days after receiving notification from the agency,
3 fails to cease operation or apply for a license under this
4 part commits a felony of the third degree, punishable as
5 provided in s. 775.082, s. 775.083, or s. 775.084. Each day of
6 continued operation is a separate offense.

7 (e) ~~Pursuant to this subsection,~~Any facility that
8 fails to ~~apply for a license or~~ cease operation after agency
9 notification may be fined for each day of noncompliance
10 pursuant to s. 400.419.

11 (f) When a licensee has an interest in more than one
12 assisted living facility,~~and fails to license any one of~~
13 these facilities, the agency may revoke the license,or impose
14 a moratorium, or impose a fine under s. 400.419,on any or all
15 of the licensed facilities until such time as the unlicensed
16 facility is licensed ~~applies for licensure~~ or ceases
17 operation.

18 (g) If the agency determines that an owner is
19 operating or maintaining an assisted living facility without
20 obtaining a license and determines that a condition exists in
21 the facility that poses a threat to the health, safety, or
22 welfare of a resident of the facility, the owner is subject to
23 the same actions and fines imposed against a licensed facility
24 as specified in ss. 400.414 and 400.419.

25 (h) Any person aware of the operation of an unlicensed
26 assisted living facility must report that facility to the
27 agency. The agency shall provide to the department's
28 ~~department and to~~ elder information and referral providers a
29 list, by county, of licensed assisted living facilities, to
30 assist persons who are considering an assisted living facility
31 placement in locating a licensed facility.

1 Section 2. Subsection (7) and (8) of section 400.419,
2 Florida Statutes, 1998 Supplement, are amended to read:

3 400.419 Violations; administrative fines.--

4 (7) ~~Except as provided in subsection (8),~~Any
5 unlicensed facility that continues to operate ~~without having~~
6 ~~applied for a license 10 days~~ after agency notification is
7 subject to a \$1,000 fine. Each day beyond 5 working ~~20~~ days
8 after agency notification constitutes a separate violation,
9 and the facility is subject to a fine of \$500 per day.

10 (8) Any licensed facility ~~Unlicensed facilities~~ whose
11 owner or administrator concurrently operates an unlicensed a
12 licensed facility is, ~~has previously operated a licensed~~
13 ~~facility, or has been employed in a licensed facility shall~~
14 ~~immediately be~~ subject to an administrative fine of \$5,000
15 upon agency notification. Each day that the unlicensed a
16 facility continues to operate beyond 5 ~~without having applied~~
17 ~~for a license within 10~~ working days after agency notification
18 constitutes a separate violation, and the licensed such
19 facility is ~~shall be~~ subject to a fine of \$500 per day
20 retroactive to the date of agency notification.

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

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24 SENATE SUMMARY

25 Revises penalty provisions applicable to the operation of
26 an unlicensed assisted living facility.