

By Senator Myers

27-462-99

1                                   A bill to be entitled  
2           An act relating to public food service  
3           establishment regulation; transferring certain  
4           powers, duties, functions, and assets of the  
5           Department of Business and Professional  
6           Regulation with respect to regulating public  
7           food service establishments to the Department  
8           of Health; amending s. 20.165, F.S.; renaming  
9           the Division of Hotels and Restaurants;  
10          creating s. 381.0074, F.S.; providing for a  
11          registry of mobile food dispensing vehicles;  
12          prescribing guidelines for temporary food  
13          service events; creating s. 381.00742, F.S.;  
14          prescribing rights of food service  
15          establishments; creating s. 381.00744, F.S.;  
16          providing for admission of, and ejection of,  
17          undesirable guests; providing rights and duties  
18          of operators and guests of establishments;  
19          creating s. 381.00746, F.S.; providing rules  
20          and guidelines with respect to theft of  
21          property; providing penalties; amending ss.  
22          381.006, 381.0072, 381.0101, 399.01, 509.013,  
23          159.27, 316.1955, 404.056, 500.12, 717.1355,  
24          877.24, 509.032, 509.035, 509.072, 509.091,  
25          509.092, 509.101, 509.141, 509.142, 509.151,  
26          509.162, 509.191, 509.211, 509.2112, 509.215,  
27          509.221, 509.241, 509.251, 509.261, 509.281,  
28          509.291, 509.302, F.S., to conform to the  
29          changes made by the act; amending s. 386.205,  
30          F.S.; prohibiting smoking in public food  
31          service establishments; transferring and

1 renumbering s. 509.213, F.S., relating to  
2 emergency first aid; transferring and  
3 renumbering s. 509.214, F.S., relating to  
4 notification of automatic gratuity charge;  
5 transferring and renumbering s. 509.232, F.S.,  
6 relating to school carnivals and fairs;  
7 transferring and renumbering s. 509.292, F.S.,  
8 relating to misrepresenting food or food  
9 products; repealing s. 386.203(1)(p), F. S.,  
10 which provides for the inclusion of specified  
11 restaurants in the definition of the term  
12 "public place"; repealing s. 509.036, F.S.,  
13 relating to food service inspector  
14 standardization; repealing s. 509.039, F.S.,  
15 relating to food service manager certification;  
16 repealing s. 509.049, F.S., relating to food  
17 service employee training; providing for the  
18 continued effect of rules; providing for the  
19 continuation of judicial and administrative  
20 proceedings; providing for appointment of a  
21 transition advisory committee; providing  
22 effective dates.

23

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

25

26 Section 1. All powers, duties, functions, records,  
27 personnel, property, and unexpended balances of  
28 appropriations, allocations, and other funds of the Department  
29 of Business and Professional Regulation relating to the public  
30 food service establishment portion of the Division of Hotels  
31 and Restaurants described in part I of chapter 509, Florida

1 Statutes, are transferred to the Department of Health by a  
2 type two transfer as defined in section 20.06, Florida  
3 Statutes. The Department of Health may organize, classify, and  
4 manage the positions transferred in a manner that will reduce  
5 duplication, achieve maximum efficiency, and ensure  
6 accountability.

7 Section 2. Subsection (2) of section 20.165, Florida  
8 Statutes, is amended to read:

9 20.165 Department of Business and Professional  
10 Regulation.--There is created a Department of Business and  
11 Professional Regulation.

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

14 (a) Division of Administration.

15 (b) Division of Alcoholic Beverages and Tobacco.

16 (c) Division of Certified Public Accounting.

17 1. The director of the division shall be appointed by  
18 the secretary of the department, subject to approval by a  
19 majority of the Board of Accountancy.

20 2. The offices of the division shall be located in  
21 Gainesville.

22 (d) Division of Florida Land Sales, Condominiums, and  
23 Mobile Homes.

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

25 (f) Division of Pari-mutuel Wagering.

26 (g) Division of Professions.

27 (h) Division of Real Estate.

28 1. The director of the division shall be appointed by  
29 the secretary of the department, subject to approval by a  
30 majority of the Florida Real Estate Commission.

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

3           (i) Division of Regulation.

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

5           Section 3. Subsection (11) of section 381.006, Florida  
6 Statutes, 1998 Supplement, is amended to read:

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

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

16  
17 The department may adopt rules to carry out the provisions of  
18 this section.

19           Section 4. Section 381.0072, Florida Statutes, 1998  
20 Supplement, is amended to read:

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

30           (1) DEFINITIONS.--As used in this section, the term:  
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1 (a) "Department" means the Department of Health or its  
2 representative county health department.

3 (b) "Food service establishment" means any operation  
4 facility, as described in this paragraph, which stores,  
5 prepares, packages, serves, vends, or otherwise provides food  
6 for human consumption where food is prepared and intended for  
7 individual portion service, and includes the site at which  
8 individual portions are provided. The term includes any such  
9 facility regardless of whether consumption is on or off the  
10 premises and regardless of whether there is a charge for the  
11 food. The term includes detention facilities, child care  
12 facilities, schools, institutions, civic or fraternal  
13 organizations, bars and lounges and facilities used at  
14 temporary food events, mobile food units, and vending machines  
15 at any facility regulated under this section. The term does  
16 not include private homes where food is prepared or served for  
17 individual family consumption; nor does the term include  
18 churches, synagogues, or other not-for-profit religious  
19 organizations as long as these organizations serve only their  
20 members and guests and do not advertise food or drink for  
21 public consumption; nor does the term include, or any  
22 operation facility or establishment permitted or licensed  
23 under chapter 500 or chapter 509; nor does the term include  
24 operations exempted by rules adopted under paragraph (2)(a)  
25 any theater, if the primary use is as a theater and if patron  
26 service is limited to food items customarily served to the  
27 admittees of theaters; nor does the term include a research  
28 and development test kitchen limited to the use of employees  
29 and which is not open to the general public.  
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1 (c) "Operator" means the owner, operator, keeper,  
2 proprietor, lessee, manager, assistant manager, agent, or  
3 employee of a food service establishment.

4 (2) DUTIES.--

5 (a) The department shall adopt rules consistent with  
6 law prescribing minimum sanitation standards and manager  
7 certification requirements as prescribed in this section ~~s.~~  
8 ~~509.039~~, which shall be enforced in food service  
9 establishments as defined in this section. The sanitation  
10 standards must address, but are not limited to:the  
11 construction, operation, and maintenance of establishments ~~the~~  
12 ~~establishment~~; plan review; design, construction,  
13 installation, maintenance, sanitation, and storage of food  
14 equipment; employee training, health, hygiene, and work  
15 practices; food supplies, preparation, storage,  
16 transportation, and service; and sanitary facilities and  
17 controls, including water supply and sewage disposal; plumbing  
18 and toilet facilities; garbage and refuse collection, storage,  
19 and disposal; and vermin control. Public and private schools,  
20 hospitals licensed under chapter 395, nursing homes licensed  
21 under part II of chapter 400, child care facilities as defined  
22 in s. 402.301, and residential facilities colocated with a  
23 nursing home or hospital if all food is prepared in a central  
24 kitchen that complies with nursing or hospital regulations  
25 shall be exempt from the rules developed for manager  
26 certification. The department shall administer a comprehensive  
27 inspection, monitoring, and sampling program to ensure such  
28 standards are maintained. The regulation and inspection of  
29 food service establishments licensed under this section, with  
30 regard to food safety protection standards and required  
31 training and testing of food service establishment personnel,

1 are preempted to the state ~~With respect to food service~~  
2 ~~establishments permitted or licensed under chapter 500 or~~  
3 ~~chapter 509, the department shall assist the Division of~~  
4 ~~Hotels and Restaurants of the Department of Business and~~  
5 ~~Professional Regulation and the Department of Agriculture and~~  
6 ~~Consumer Services with rulemaking by providing technical~~  
7 ~~information.~~

8 (b) The department shall carry out all provisions of  
9 this chapter and all other applicable laws and rules relating  
10 to the inspection or regulation of food service establishments  
11 as defined in this section, for the purpose of safeguarding  
12 the public's health, safety, and welfare.

13 (c) The department shall inspect each food service  
14 establishment as often as necessary to ensure compliance with  
15 applicable laws and rules. The department shall have the right  
16 of entry and access to these food service establishments at  
17 any reasonable time. In inspecting food service establishments  
18 as provided under this section, the department shall provide  
19 each inspected establishment with the food recovery brochure  
20 developed under s. 570.0725.

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

28 (3) LICENSES REQUIRED.--

29 (a) Licenses; annual renewals.--Each food service  
30 establishment regulated under this section shall obtain a  
31 license from the department annually. Food service

1 establishment licenses shall expire annually and shall not be  
2 transferable from one place or individual to another.  
3 ~~However, those facilities licensed by the department's Office~~  
4 ~~of Licensure and Certification, the Children and Families~~  
5 ~~Program Office, or the Developmental Services Program Office~~  
6 ~~are exempt from this subsection. It is shall be a misdemeanor~~  
7 of the second degree, punishable as provided in s. 381.0061,  
8 s. 775.082, or s. 775.083, for such an establishment to  
9 operate without this license. The department may refuse a  
10 license, or a renewal thereof, to any establishment that is  
11 not constructed or maintained in accordance with law and with  
12 the rules of the department. Annual application for renewal  
13 shall not be required, provided that the information of record  
14 was not changed.

15 (b) Application for license.--Each person who plans to  
16 open a food service establishment not regulated under chapter  
17 500 ~~or chapter 509~~ shall apply for and receive a license prior  
18 to the commencement of operation.

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

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

23 (a) The department is authorized to collect fees from  
24 establishments licensed under this section ~~and from those~~  
25 ~~facilities exempted from licensure~~ under paragraph (3)(a). It  
26 is the intent of the Legislature that the total fees assessed  
27 under this section be in an amount sufficient to meet the cost  
28 of carrying out the provisions of this section, including the  
29 cost of inspector standardization.

30 (b) The fee schedule for food service establishments  
31 licensed under this section shall be prescribed by rule, but

1 the aggregate license fee per establishment shall not exceed  
2 ~~\$400~~~~\$300~~.

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

6 (d) The fact that a food service establishment is  
7 operated in conjunction with a public lodging establishment  
8 does not relieve the food service establishment of the  
9 requirement that it be licensed separately as a food service  
10 establishment.

11 (5) FINES; SUSPENSION OR REVOCATION OF LICENSES;  
12 PROCEDURE.--

13 (a) The department may impose fines against the  
14 establishment or operator regulated under this section for  
15 violations of sanitary standards, in accordance with s.  
16 381.0061. All amounts collected shall be deposited to the  
17 credit of the County Health Department Trust Fund administered  
18 by the department.

19 (b) The department may suspend or revoke the license  
20 of any food service establishment licensed under this section  
21 that has operated or is operating in violation of any of the  
22 provisions of this section or the rules adopted under this  
23 section. Such food service establishment shall remain closed  
24 when its license is suspended or revoked.

25 (c) The department may suspend or revoke the license  
26 of any food service establishment licensed under this section  
27 when such establishment has been deemed by the department to  
28 be an imminent danger to the public's health for failure to  
29 meet sanitation standards or other applicable regulatory  
30 standards.

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1           (d) No license shall be suspended under this section  
2 for a period of more than 12 months. At the end of such  
3 period of suspension, the establishment may apply for  
4 reinstatement or renewal of the license. A food service  
5 establishment which has had its license revoked may not apply  
6 for another license for that location prior to the date on  
7 which the revoked license would have expired.

8  
9 In addition to any other penalty that may be imposed for a  
10 violation of this subsection, the operator of a food service  
11 establishment may be required to attend and complete a  
12 food-safety course sponsored or approved by the department.

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

14           (a) In the course of epidemiological investigations or  
15 for those establishments regulated under this chapter, the  
16 department, to protect the public from food that is  
17 unwholesome or otherwise unfit for human consumption, may  
18 examine, sample, seize, and stop the sale or use of food to  
19 determine its condition. The department may stop the sale and  
20 supervise the proper destruction of food when the State Health  
21 Officer or his or her designee determines that such food  
22 represents a threat to the public health. If the operator of a  
23 food service establishment licensed under this chapter has  
24 received official notification from a health authority that a  
25 food or food product from that establishment has potentially  
26 contributed to any instance or outbreak of food-borne illness,  
27 the food or food product must be maintained in safe storage in  
28 the establishment until the responsible health authority has  
29 examined, sampled, seized, or requested destruction of the  
30 food product.

1           (b) The department may determine that a food service  
2 establishment regulated under this section is an imminent  
3 danger to the public health and require its immediate closure  
4 when such establishment fails to comply with applicable  
5 sanitary and safety standards or due to natural disasters and,  
6 because of such failure, presents an imminent threat to the  
7 public's health, safety, and welfare. The department may  
8 accept inspection results from state and local building and  
9 firesafety officials and other regulatory agencies as  
10 justification for such actions. Any facility so deemed and  
11 closed shall remain closed until allowed by the department or  
12 by judicial order to reopen.

13           (c) Upon such determination, the department shall  
14 issue a notice to show cause and an emergency order of  
15 suspension. Such order shall be served upon the food service  
16 establishment by the department, and the establishment shall  
17 be closed. An operator who resists such closure is subject to  
18 further administrative action by the department and is  
19 punishable as provided in s. 381.0061. The department shall  
20 provide an inspection within 24 hours following such closure  
21 and shall review all relevant information to determine whether  
22 the establishment has met the requirements to resume  
23 operations.

24           (d) The department may attach a sign that states  
25 "Closed to Protect Public Health and Safety" to such an  
26 establishment and may require the licensee to immediately stop  
27 service until notification to the contrary is provided by the  
28 department.

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

3 (7) MISREPRESENTING FOOD OR FOOD PRODUCTS.--No  
4 operator of any food service establishment regulated under  
5 this section shall knowingly and willfully misrepresent the  
6 identity of any food or food product to any of the patrons of  
7 such establishment. Food used by food service establishments  
8 shall be identified, labeled, and advertised in accordance  
9 with the provisions of chapter 500.

10 (8) FOOD SERVICE MANAGER CERTIFICATION; FOOD SERVICE  
11 EMPLOYEE TRAINING.--

12 (a) The department shall adopt, by rule, food safety  
13 protection standards for the training and certification of all  
14 food service managers who are responsible for the storage,  
15 preparation, display, or serving of foods to the public in  
16 establishments regulated under this section. These standards  
17 are to be adopted by the department to ensure that, upon  
18 successfully passing a test, a manager of a food service  
19 establishment has demonstrated a knowledge of basic food  
20 protection practices. These standards must also provide for a  
21 certification program that authorizes private or public  
22 agencies to conduct an approved test and certify the results  
23 of those tests to the department. The fee for the test may  
24 not exceed \$50. All managers employed by a food service  
25 establishment must have passed this test and received a  
26 certificate attesting thereto. Managers have a period of 90  
27 days after employment to pass the required test.

28 (b) The department shall adopt, by rule, minimum food  
29 safety protection standards for the training of all food  
30 service employees who are responsible for the storage,  
31 preparation, display, or serving of foods to the public in

1 establishments regulated under this section. These standards  
2 shall not include an examination or certification. It shall  
3 be the duty of the licensee of the food service establishment  
4 to provide training in accordance with the described rule to  
5 all employees under the licensee's supervision or control.  
6 The licensee may designate a certified food service manager to  
7 perform this function as an agent of the licensee.

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

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

13 (a) The Food Services Standards Advisory Council,  
14 hereafter known as the "council," consisting of nine members,  
15 is created to assist the department with the implementation of  
16 this section, including food service inspector standardization  
17 and food service manager certification. The council shall also  
18 serve as the review board for the variance process described  
19 in this section. The State Health Officer shall appoint the  
20 members of the council, as follows:

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

22 2. Two county health department representatives.

23 3. Four food service industry representatives.

24 4. One consumer representative not affiliated with the  
25 food service industry.

26 5. One representative of the State Health Office.

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

29 (c) The council may elect one member to serve as  
30 chairperson and one member to serve as vice chairperson. The  
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1 term of office for chairperson and vice chairperson shall be  
2 for 2 years.

3 (d) The purpose of the council is to promote better  
4 relations, understanding, and cooperation between the industry  
5 and the department; to suggest improved means of protecting  
6 the health of persons being served; to give the department the  
7 benefit of its knowledge and experience concerning how  
8 applicable laws and rules affect the industry; to promote and  
9 coordinate educational and certification efforts aimed at  
10 improving food protection and preventing food-borne illness;  
11 and to review variance requests submitted to the department.

12 (e) The council shall meet at least quarterly, or upon  
13 the call of the Secretary of Health, for the purpose of  
14 reviewing food standards and making recommendations to the  
15 department for rule or statutory amendments, and for reviewing  
16 variance requests as described in subsection (11). The  
17 department shall provide administrative and clerical support  
18 services for the council.

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

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

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

25 (b)1. The department may grant variances from  
26 construction standards in hardship cases, which variances may  
27 be less restrictive than the provisions specified in this  
28 section or by rules adopted under this section. A variance may  
29 not be granted pursuant to this section until the department  
30 is satisfied that:

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1           a. The variance shall not adversely affect the health  
2 of the public.

3           b. No reasonable alternative exists for the required  
4 construction.

5           c. The hardship was not caused intentionally by the  
6 action of the applicant.

7           2. The Food Services Standards Advisory Council shall  
8 review applications for variances and recommend agency action  
9 at its quarterly meetings. The department shall make  
10 arrangements to expedite emergency requests for variances, to  
11 ensure that such requests are acted upon within 30 days after  
12 receipt.

13           3. The department shall establish by rule a fee for  
14 the cost of the variance process. Such fee may not exceed \$150  
15 for routine variance requests and \$300 for emergency variance  
16 requests.

17           (12) FOOD SERVICE INSPECTION REPORT.--The operator of  
18 a food service establishment must maintain the latest food  
19 service inspection report or a duplicate copy on the premises  
20 and make the report available to the public upon request.

21           Section 5. Section 381.0074, Florida Statutes, is  
22 created to read:

23           381.0074 Mobile food dispensing vehicle registry;  
24 temporary food service events.--

25           (1) It is the duty of each operator of a food service  
26 establishment that provides commissary services to maintain a  
27 daily registry verifying that each mobile food dispensing  
28 vehicle that receives such services is properly licensed by  
29 the department. In order that such licensure may be readily  
30 verified, each mobile food dispensing vehicle operator shall  
31 permanently affix in a prominent place on the side of the

1 vehicle, in figures at least 2 inches high and in contrasting  
2 colors from the background, the operator's food service  
3 establishment license number. Before providing commissary  
4 services, each food service establishment must verify that the  
5 license number displayed on the vehicle matches the number on  
6 the vehicle operator's food service establishment license.

7 (2)(a) The term "temporary food service event" means  
8 any event of 30 days or less in duration at which food is  
9 prepared, served, or sold to the public.

10 (b) The department shall administer a public  
11 notification process for temporary food service events and  
12 distribute educational materials that address safe food  
13 storage, preparation, and service procedures.

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

25 2. The department shall keep a record of all  
26 notifications received for proposed temporary food service  
27 events and shall provide appropriate educational materials to  
28 the event sponsors.

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

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

5           Section 6. Section 381.00742, Florida Statutes, is  
6 created to read:

7           381.00742 Food service establishments; rights as  
8 private enterprises; rules and notices.--

9           (1) Food service establishments are private  
10 enterprises, and the operator has the right to refuse  
11 accommodations or service to any person who is objectionable  
12 or undesirable to the operator, but such refusal may not be  
13 based upon race, creed, color, sex, physical disability, or  
14 national origin. A person aggrieved by a violation of this  
15 section or a violation of a rule adopted under this section  
16 has a right of action pursuant to s. 760.11.

17           (2) Any operator of a food service establishment may  
18 establish reasonable rules for the management of the  
19 establishment and its guests and employees; and each guest or  
20 employee sojourning, eating, or employed in the establishment  
21 must conform to and abide by such rules so long as the guest  
22 or employee remains in or at the establishment. Such rules  
23 shall be deemed to be a special contract between the operator  
24 and each guest or employee using the services or facilities of  
25 the operator. Such rules shall control the liabilities,  
26 responsibilities, and obligations of all parties. Any rules  
27 established pursuant to this subsection must be printed in the  
28 English language and posted in a prominent place within the  
29 food service establishment. Such posting shall also include  
30 notice that a current copy of this chapter is available in the  
31 office for public review.

1           Section 7. Section 381.00744, Florida Statutes, is  
2 created to read:

3           381.00744 Admission and ejection of undesirable  
4 guests; process; conduct; defrauding; penalties; property.--

5           (1) The operator of any food service establishment may  
6 remove or cause to be removed from such establishment, in the  
7 manner provided in this section, any guest of the  
8 establishment who, while on the premises of the establishment,  
9 illegally possesses or deals in controlled substances as  
10 defined in chapter 893 or is intoxicated, profane, lewd, or  
11 brawling; who indulges in any language or conduct that  
12 disturbs the peace and comfort of other guests or that injures  
13 the reputation, dignity, or standing of the establishment; who  
14 fails to make payment for food, beverages, or services; or  
15 who, in the opinion of the operator, is a person the continued  
16 entertainment of whom would be detrimental to the  
17 establishment. The admission to, or the removal from, such  
18 establishment may not be based upon race, creed, color, sex,  
19 physical disability, or national origin.

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

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

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1 If such guest has paid in advance, the establishment shall, at  
2 the time such notice is given, tender to such guest the unused  
3 portion of the advance payment.

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

27 (5) The operator of a food service establishment may  
28 refuse accommodations or service to any person whose conduct  
29 on the premises of the establishment displays intoxication,  
30 profanity, lewdness, or brawling; who indulges in language or  
31 conduct such as to disturb the peace or comfort of other

1 guests; who engages in illegal or disorderly conduct; who  
2 illegally possesses or deals in controlled substances as  
3 defined in chapter 893; or whose conduct constitutes a  
4 nuisance. Such refusal may not be based upon race, creed,  
5 color, sex, physical disability, or national origin.

6 (6) An operator may take a person into custody and  
7 detain that person in a reasonable manner and for a reasonable  
8 time if the operator has probable cause to believe that the  
9 person was engaging in disorderly conduct in violation of s.  
10 877.03 on the premises of the licensed establishment and that  
11 such conduct was creating a threat to the life or safety of  
12 the person or others. The operator shall call a law  
13 enforcement officer to the scene immediately after detaining a  
14 person under this subsection.

15 (7) A law enforcement officer may arrest, either on or  
16 off the premises of the licensed establishment and without a  
17 warrant, any person the officer has probable cause to believe  
18 violated s. 877.03 on the premises of a licensed establishment  
19 and, in the course of such violation, created a threat to the  
20 life or safety of the person or others.

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

27 (9) A person who resists the reasonable efforts of an  
28 operator or a law enforcement officer to detain or arrest that  
29 person in accordance with this section is guilty of a  
30 misdemeanor of the first degree, punishable as provided in s.  
31 775.082 or s. 775.083, unless the person did not know or did

1 not have reason to know that the person seeking to make such  
2 detention or arrest was the operator of the establishment or a  
3 law enforcement officer.

4 (10) Any person who obtains food or other  
5 accommodations having a value of less than \$300 at any food  
6 service establishment with intent to defraud the operator  
7 thereof is guilty of a misdemeanor of the second degree,  
8 punishable as provided in s. 775.082 or s. 775.083; if such  
9 food or other accommodations have a value of \$300 or more,  
10 such person is guilty of a felony of the third degree,  
11 punishable as provided in s. 775.082, s. 775.083, or s.  
12 775.084.

13 (11) The operator of a food service establishment is  
14 not under any obligation to accept for safekeeping any moneys,  
15 securities, jewelry, precious stones, wearing apparel, goods,  
16 or other property of any kind belonging to any guest, and, if  
17 such are accepted for safekeeping, the operator is not liable  
18 for the loss thereof unless such loss was the proximate result  
19 of fault or negligence of the operator. However, the  
20 liability of the operator shall be limited to \$1,000 for such  
21 loss, if the food service establishment gave a receipt for the  
22 property (stating the value) on a form which stated, in type  
23 large enough to be clearly noticeable, that the food service  
24 establishment was not liable for any loss exceeding \$1,000 and  
25 was only liable for that amount if the loss was the proximate  
26 result of fault or negligence of the operator.

27 (12) Any property with an identifiable owner which is  
28 left in a food service establishment, other than property  
29 belonging to a guest who has vacated the premises without  
30 notice to the operator and with an outstanding account, which  
31 property remains unclaimed after being held by the

1 establishment for 90 days after written notice to the guest or  
2 owner of the property, shall become the property of the  
3 establishment. Property without an identifiable owner which is  
4 found in a food service establishment is subject to the  
5 provisions of chapter 705.

6 Section 8. Section 381.00746, Florida Statutes, is  
7 created to read:

8 381.00746 Rules of evidence in prosecutions; theft of  
9 personal property; process; penalties.--

10 (1) In prosecutions under s. 381.00744, proof that  
11 food or other accommodations were obtained by false pretense;  
12 by false or fictitious show of property; by absconding without  
13 paying or offering to pay for such food or accommodations; or  
14 by surreptitiously removing or attempting to remove personal  
15 belongings shall constitute prima facie evidence of fraudulent  
16 intent. If the operator of the establishment has probable  
17 cause to believe, and does believe, that any person has  
18 obtained food or other accommodations at such establishment  
19 with intent to defraud the operator thereof, the failure to  
20 make payment upon demand therefor, there being no dispute as  
21 to the amount owed, shall constitute prima facie evidence of  
22 fraudulent intent in such prosecutions.

23 (2) Any law enforcement officer or operator of a food  
24 service establishment who has probable cause to believe that  
25 theft of personal property belonging to such establishment has  
26 been committed by a person and that the officer or operator  
27 can recover such property or the reasonable value thereof by  
28 taking the person into custody may, for the purpose of  
29 attempting to effect such recovery or for prosecution, take  
30 such person into custody on the premises and detain such  
31 person in a reasonable manner and for a reasonable period of

1 time. If the operator takes the person into custody, a law  
2 enforcement officer shall be called to the scene immediately.  
3 The taking into custody and detention by a law enforcement  
4 officer or operator of a food service establishment, if done  
5 in compliance with this subsection, does not render such law  
6 enforcement officer or operator criminally or civilly liable  
7 for false arrest, false imprisonment, or unlawful detention.

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

12 (4) Any person who resists the reasonable effort of a  
13 law enforcement officer or operator of a food service  
14 establishment to recover property that the law enforcement  
15 officer or operator had probable cause to believe had been  
16 stolen from the food service establishment, and who is  
17 subsequently found to be guilty of theft of the subject  
18 property, is guilty of a misdemeanor of the first degree,  
19 punishable as provided in s. 775.082 or s. 775.083, unless  
20 such person did not know, or did not have reason to know, that  
21 the person seeking to recover the property was a law  
22 enforcement officer or the operator. For purposes of this  
23 section, the charge of theft and the charge of resisting  
24 apprehension may be tried concurrently.

25 (5) Theft of any property belonging to a guest of a  
26 food service establishment, or of property belonging to such  
27 establishment, by an employee of the establishment or by an  
28 employee of a person, firm, or entity that has contracted to  
29 provide services to the establishment constitutes a felony of  
30 the third degree, punishable as provided in s. 775.082 or s.  
31 775.083.

1           Section 9. Section 381.0101, Florida Statutes, 1998  
2 Supplement, is amended to read:

3           381.0101 Environmental health professionals.--

4           (1) LEGISLATIVE INTENT.--Persons responsible for  
5 providing technical and scientific evaluations of  
6 environmental health and sanitary conditions in business  
7 establishments and communities throughout the state may create  
8 a danger to the public health if they are not skilled or  
9 competent to perform such evaluations. The public relies on  
10 the judgment of environmental health professionals employed by  
11 both government agencies and industries to assure them that  
12 environmental hazards are identified and removed before they  
13 endanger the health or safety of the public. The purpose of  
14 this section is to assure the public that persons specifically  
15 responsible for performing environmental health and sanitary  
16 evaluations have been certified by examination as competent to  
17 perform such work.

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

19           (a) "Board" means the Environmental Health  
20 Professionals Advisory Board.

21           (b) "Department" means the Department of Health.

22           (c) "Environmental health" means that segment of  
23 public health work which deals with the examination of those  
24 factors in the human environment which may impact adversely on  
25 the health status of an individual or the public.

26           (d) "Environmental health professional" means a person  
27 who is employed or assigned the responsibility for assessing  
28 the environmental health or sanitary conditions, as defined by  
29 the department, within a building, on an individual's  
30 property, or within the community at large, and who has the  
31 knowledge, skills, and abilities to carry out these tasks.

1 Environmental health professionals may be either field,  
2 supervisory, or administrative staff members.

3 (e) "Certified" means a person who has displayed  
4 competency to perform evaluations of environmental or sanitary  
5 conditions through examination.

6 (f) "Registered sanitarian," "R.S.," "Registered  
7 Environmental Health Specialist," or "R.E.H.S." means a person  
8 who has been certified by either the National Environmental  
9 Health Association or the Florida Environmental Health  
10 Association as knowledgeable in the environmental health  
11 profession.

12 (g) "Primary environmental health program" means those  
13 programs determined by the department to be essential for  
14 providing basic environmental and sanitary protection to the  
15 public. At a minimum, these programs shall include food  
16 protection program work and onsite sewage treatment and  
17 disposal system evaluations.

18 (3) CERTIFICATION REQUIRED.--No person shall perform  
19 environmental health or sanitary evaluations in any primary  
20 program area of environmental health without being certified  
21 by the department as competent to perform such evaluations.  
22 ~~The requirements of this section shall not be mandatory for~~  
23 ~~persons performing inspections of public food service~~  
24 ~~establishments licensed under chapter 509.~~

25 (4) ENVIRONMENTAL HEALTH PROFESSIONALS ADVISORY  
26 BOARD.--The State Health Officer shall appoint an advisory  
27 board to assist the department in the adoption ~~promulgation~~ of  
28 rules for certification, testing, establishing standards,  
29 including establishing requirements for field standardizing of  
30 environmental health professionals, and seeking enforcement  
31 actions against certified professionals.

1           (a) The board shall be comprised of the Division  
2 Director for Environmental Health or his or her designee, one  
3 individual who will be certified under this section, one  
4 individual not employed in a governmental capacity who will or  
5 does employ a certified environmental health professional, one  
6 individual whose business is or will be evaluated by a  
7 certified environmental health professional, a citizen of the  
8 state who neither employs nor is routinely evaluated by a  
9 person certified under this section.

10           (b) The board shall advise the department as to the  
11 minimum disciplinary guidelines and standards of competency  
12 and proficiency necessary to obtain certification in a primary  
13 area of environmental health practice.

14           1. The board shall recommend primary areas of  
15 environmental health practice in which environmental health  
16 professionals should be required to obtain certification.

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

19           3. The board shall evaluate and recommend to the  
20 department existing registrations and certifications which  
21 meet or exceed minimum department standards and should,  
22 therefore, exempt holders of such certificates or  
23 registrations from compliance with this section.

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

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

30  
31

1           6. Members of the board shall receive no compensation  
2 but are entitled to reimbursement for per diem and travel  
3 expenses in accordance with s. 112.061.

4           (5) STANDARDS FOR CERTIFICATION.--The department shall  
5 adopt rules that establish minimum standards of education,  
6 training, or experience for those persons subject to this  
7 section. The rules shall also address the process for  
8 application, examination, issuance, expiration, and renewal of  
9 certification and ethical standards of practice for the  
10 profession.

11           (a) Persons employed as environmental health  
12 professionals shall exhibit a knowledge of rules and  
13 principles of environmental and public health law in Florida  
14 through examination. A person may not conduct environmental  
15 health evaluations in a primary program area unless he or she  
16 is currently certified in that program area or works under the  
17 direct supervision of a certified environmental health  
18 professional.

19           1. All persons who begin employment in a primary  
20 environmental health program on or after September 21, 1994,  
21 must be certified in that program within 6 months after  
22 employment.

23           2. Persons employed in a primary environmental health  
24 program prior to September 21, 1994, shall be considered  
25 certified while employed in that position and shall be  
26 required to adhere to any professional standards established  
27 by the department pursuant to paragraph (b), complete any  
28 continuing education requirements imposed under paragraph (d),  
29 and pay the certificate renewal fee imposed under subsection  
30 (7).

31

1           3. Persons employed in a primary environmental health  
2 program prior to September 21, 1994, who change positions or  
3 program areas and transfer into another primary environmental  
4 health program area on or after September 21, 1994, must be  
5 certified in that program within 6 months after such transfer,  
6 except that they will not be required to possess the college  
7 degree required under paragraph (e).

8           4. Registered sanitarians shall be considered  
9 certified and shall be required to adhere to any professional  
10 standards established by the department pursuant to paragraph  
11 (b).

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

15           (c) Those persons conducting primary environmental  
16 health evaluations shall be certified by examination to be  
17 knowledgeable in any primary area of environmental health in  
18 which they are routinely assigned duties.

19           (d) Persons who are certified shall renew their  
20 certification biennially by completing not less than 24  
21 contact hours of continuing education for each program area in  
22 which they maintain certification.

23           (e) Applicants for certification shall have graduated  
24 from an accredited 4-year college or university with a degree  
25 or major coursework in public health, environmental health,  
26 environmental science, or a physical or biological science.

27           (f) A certificateholder shall notify the department  
28 within 60 days after any change of name or address from that  
29 which appears on the current certificate.

30           (6) EXEMPTIONS.--A person who conducts primary  
31 environmental evaluation activities and maintains a current

1 registration or certification from another state agency which  
2 examined the person's knowledge of the primary program area  
3 and requires comparable continuing education to maintain the  
4 certificate shall not be required to be certified by this  
5 section. Examples of persons not subject to certification are  
6 physicians, registered dietitians, certified laboratory  
7 personnel, and nurses.

8 (7) FEES.--The department shall charge fees in amounts  
9 necessary to meet the cost of providing certification. Fees  
10 for certification shall be not less than \$10 or more than \$300  
11 and shall be set by rule. Application, examination, and  
12 certification costs shall be included in this fee. Fees for  
13 renewal of a certificate shall be no less than \$25 nor more  
14 than \$150 per biennium.

15 (8) PENALTIES.--The department may deny, suspend, or  
16 revoke a certificate or impose an administrative fine of up to  
17 \$500 for each violation of this section or a rule adopted  
18 under this section or may pursue any other enforcement action  
19 authorized by law. Any person who has had a certificate  
20 revoked may not conduct environmental health evaluations in a  
21 primary program area for a minimum of 5 years from the date of  
22 revocation.

23 Section 10. Subsection (4) of section 399.01, Florida  
24 Statutes, is amended to read:

25 399.01 Definitions.--As used in this chapter, the  
26 term:

27 (4) "Division" means the Division of Public Lodging  
28 ~~Hotels and Restaurants~~ of the Department of Business and  
29 Professional Regulation.

30 Section 11. Section 509.013, Florida Statutes, is  
31 amended to read:

1           509.013 Definitions.--As used in this chapter, the  
2 term:

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

6           (2) "Operator" means the owner, licensee, proprietor,  
7 lessee, manager, assistant manager, or appointed agent of a  
8 public lodging establishment ~~or public food service~~  
9 ~~establishment~~.

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

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

24          (b) The following are excluded from the definition in  
25 paragraph (a):

26           1. Any dormitory or other living or sleeping facility  
27 maintained by a public or private school, college, or  
28 university for the use of students, faculty, or visitors;

29           2. Any hospital, nursing home, sanitarium, assisted  
30 living facility, or other similar place;

31

1           3. Any place renting four rental units or less, unless  
2 the rental units are advertised or held out to the public to  
3 be places that are regularly rented to transients;

4           4. Any unit or group of units in a condominium,  
5 cooperative, or timeshare plan and any individually or  
6 collectively owned one-family, two-family, three-family, or  
7 four-family dwelling house or dwelling unit that is rented for  
8 periods of at least 30 days or 1 calendar month, whichever is  
9 less, and that is not advertised or held out to the public as  
10 a place regularly rented for periods of less than 1 calendar  
11 month, provided that no more than four rental units within a  
12 single complex of buildings are available for rent;

13           5. Any migrant labor camp or residential migrant  
14 housing permitted by the Department of Health ~~and~~  
15 ~~Rehabilitative Services~~; under ss. 381.008-381.00895; and

16           6. Any establishment inspected by the Department of  
17 Health ~~and Rehabilitative Services~~ and regulated by chapter  
18 513.

19           ~~(5)(a) "Public food service establishment" means any~~  
20 ~~building, vehicle, place, or structure, or any room or~~  
21 ~~division in a building, vehicle, place, or structure where~~  
22 ~~food is prepared, served, or sold for immediate consumption on~~  
23 ~~or in the vicinity of the premises; called for or taken out by~~  
24 ~~customers; or prepared prior to being delivered to another~~  
25 ~~location for consumption.~~

26           ~~(b) The following are excluded from the definition in~~  
27 ~~paragraph (a):~~

28           ~~1. Any place maintained and operated by a public or~~  
29 ~~private school, college, or university:~~

30           ~~a. For the use of students and faculty; or~~

31

1           ~~b. Temporarily to serve such events as fairs,~~  
2 ~~carnivals, and athletic contests.~~

3           ~~2. Any eating place maintained and operated by a~~  
4 ~~church or a religious, nonprofit fraternal, or nonprofit civic~~  
5 ~~organization:~~

6           ~~a. For the use of members and associates; or~~

7           ~~b. Temporarily to serve such events as fairs,~~  
8 ~~carnivals, or athletic contests.~~

9           ~~3. Any eating place located on an airplane, train,~~  
10 ~~bus, or watercraft which is a common carrier.~~

11           ~~4. Any eating place maintained by a hospital, nursing~~  
12 ~~home, sanitarium, assisted living facility, adult day care~~  
13 ~~center, or other similar place that is regulated under s.~~  
14 ~~381.0072.~~

15           ~~5. Any place of business issued a permit or inspected~~  
16 ~~by the Department of Agriculture and Consumer Services under~~  
17 ~~s. 500.12.~~

18           ~~6. Any place of business where the food available for~~  
19 ~~consumption is limited to ice, beverages with or without~~  
20 ~~garnishment, popcorn, or prepackaged items sold without~~  
21 ~~additions or preparation.~~

22           ~~7. Any theater, if the primary use is as a theater and~~  
23 ~~if patron service is limited to food items customarily served~~  
24 ~~to the admittees of theaters.~~

25           ~~8. Any vending machine that dispenses any food or~~  
26 ~~beverages other than potentially hazardous foods, as defined~~  
27 ~~by division rule.~~

28           ~~9. Any vending machine that dispenses potentially~~  
29 ~~hazardous food and which is located in a facility regulated~~  
30 ~~under s. 381.0072.~~

31

1           ~~10. Any research and development test kitchen limited~~  
2 ~~to the use of employees and which is not open to the general~~  
3 ~~public.~~

4           (5)~~(6)~~ "Director" means the Director of the Division  
5 of Public Lodging Hotels and Restaurants of the Department of  
6 Business and Professional Regulation.

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

12           ~~(8) "Temporary food service event" means any event of~~  
13 ~~30 days or less in duration where food is prepared, served, or~~  
14 ~~sold to the general public.~~

15           (7)~~(9)~~ "Theme park or entertainment complex" means a  
16 complex comprised of at least 25 contiguous acres owned and  
17 controlled by the same business entity and which contains  
18 permanent exhibitions and a variety of recreational activities  
19 and has a minimum of 1 million visitors annually.

20           (8)~~(10)~~ "Transient establishment" means any public  
21 lodging establishment that is rented or leased to guests by an  
22 operator whose intention is that such guests' occupancy will  
23 be temporary.

24           (9)~~(11)~~ "Transient occupancy" means occupancy when it  
25 is the intention of the parties that the occupancy will be  
26 temporary. There is a rebuttable presumption that, when the  
27 dwelling unit occupied is the sole residence of the guest, the  
28 occupancy is nontransient. There is a rebuttable presumption  
29 that, when the dwelling unit occupied is not the sole  
30 residence of the guest, the occupancy is transient.

31

1           (10)~~(12)~~ "Transient" means a guest in transient  
2 occupancy.

3           Section 12. Subsection (12) of section 159.27, Florida  
4 Statutes, 1998 Supplement, is amended to read:

5           159.27 Definitions.--The following words and terms,  
6 unless the context clearly indicates a different meaning,  
7 shall have the following meanings:

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

13           Section 13. Paragraphs (b) and (c) of subsection (5),  
14 subsection (6), and paragraph (b) of subsection (10) of  
15 section 316.1955, Florida Statutes, 1998 Supplement, are  
16 amended to read:

17           316.1955 Parking spaces for persons who have  
18 disabilities.--

19           (5) Accessible perpendicular and diagonal accessible  
20 parking spaces and loading zones must be designed and located  
21 in conformance with the guidelines set forth in ADAAG ss.  
22 4.1.2 and 4.6 and Appendix s. A4.6.3 "Universal Parking  
23 Design."

24           (b) Each space must be located on the shortest safely  
25 accessible route from the parking space to an accessible  
26 entrance. If there are multiple entrances or multiple retail  
27 stores, the parking spaces must be dispersed to provide  
28 parking at the nearest accessible entrance. If a theme park  
29 or an entertainment complex as defined in s. 509.013 ~~s.~~  
30 ~~509.013(9)~~ provides parking in several lots or areas from  
31 which access to the theme park or entertainment complex is

1 provided, a single lot or area may be designated for parking  
2 by persons who have disabilities, if the lot or area is  
3 located on the shortest safely accessible route to an  
4 accessible entrance to the theme park or entertainment complex  
5 or to transportation to such an accessible entrance.

6 (c)1. Each parking space must be no less than 12 feet  
7 wide. Parking access aisles must be no less than 5 feet wide  
8 and must be part of an accessible route to the building or  
9 facility entrance. In accordance with ADAAG s. 4.6.3, access  
10 aisles must be placed adjacent to accessible parking spaces;  
11 however, two accessible parking spaces may share a common  
12 access aisle. The access aisle must be striped diagonally to  
13 designate it as a no-parking zone.

14 2. The parking access aisles are reserved for the  
15 temporary exclusive use of persons who have disabled parking  
16 permits and who require extra space to deploy a mobility  
17 device, lift, or ramp in order to exit from or enter a  
18 vehicle. Parking is not allowed in an access aisle. Violators  
19 are subject to the same penalties that are imposed for  
20 illegally parking in parking spaces that are designated for  
21 persons who have disabilities. A vehicle may not be parked in  
22 an access aisle, even if the vehicle owner or passenger is  
23 disabled or owns a disabled parking permit.

24 3. Any provision of this subsection to the contrary  
25 notwithstanding, a theme park or an entertainment complex as  
26 defined in s. 509.013 ~~s. 509.013(9)~~ in which are provided  
27 continuous attendant services for directing individuals to  
28 marked accessible parking spaces or designated lots for  
29 parking by persons who have disabilities, may, in lieu of the  
30 required parking space design, provide parking spaces that

31

1 comply with ss. 4.1 and 4.6 of the Americans with Disabilities  
2 Act Accessibility Guidelines.

3 (6) Each such parking space must be prominently  
4 outlined with blue paint, and must be repainted when  
5 necessary, to be clearly distinguishable as a parking space  
6 designated for persons who have disabilities and must be  
7 posted with a permanent above-grade sign of a color and design  
8 approved by the Department of Transportation, which is placed  
9 on or at a distance of 84 inches above the ground to the  
10 bottom of the sign and which bears the international symbol of  
11 accessibility meeting the requirements of ADAAG s. 4.30.7 and  
12 the caption "PARKING BY DISABLED PERMIT ONLY." Such a sign  
13 erected after October 1, 1996, must indicate the penalty for  
14 illegal use of the space. Any provision of this section to the  
15 contrary notwithstanding, in a theme park or an entertainment  
16 complex as defined in s. 509.013 ~~s. 509.013(9)~~ in which  
17 accessible parking is located in designated lots or areas, the  
18 signage indicating the lot as reserved for accessible parking  
19 may be located at the entrances to the lot in lieu of a sign  
20 at each parking place. This subsection does not relieve the  
21 owner of the responsibility of complying with the signage  
22 requirements of ADAAG s. 4.30.

23 (10)

24 (b) Notwithstanding paragraph (a), a theme park or an  
25 entertainment complex as defined in s. 509.013 ~~s. 509.013(9)~~  
26 which provides parking in designated areas for persons who  
27 have disabilities may allow any vehicle that is transporting a  
28 person who has a disability to remain parked in a space  
29 reserved for persons who have disabilities throughout the  
30 period the theme park is open to the public for that day.

31

1           Section 14. Subsection (6) of section 404.056, Florida  
2 Statutes, 1998 Supplement, is amended to read:

3           404.056 Environmental radiation standards and  
4 programs; radon protection.--

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

11  
12           "RADON GAS: Radon is a naturally occurring radioactive  
13 gas that, when it has accumulated in a building in sufficient  
14 quantities, may present health risks to persons who are  
15 exposed to it over time. Levels of radon that exceed federal  
16 and state guidelines have been found in buildings in Florida.  
17 Additional information regarding radon and radon testing may  
18 be obtained from your county health department."

19  
20 The requirements of this subsection do not apply to any  
21 residential transient occupancy, as described in s. 509.013 ~~s.~~  
22 ~~509.013(11)~~, provided that such occupancy is 45 days or less  
23 in duration.

24           Section 15. Subsection (5) of section 500.12, Florida  
25 Statutes, as amended by section 1 of chapter 98-13, Laws of  
26 Florida, and section 14 of chapter 98-396, Laws of Florida, is  
27 amended to read:

28           500.12 Food permits; building permits.--

29           (5) It is the intent of the Legislature to eliminate  
30 duplication of regulatory inspections of food. Regulatory and  
31

1 permitting authority over any food establishment is preempted  
2 to the department, except as provided in chapters 370 and 372.

3 (a) Food establishments or retail food stores that  
4 have ancillary food service activities shall be permitted and  
5 inspected by the department.

6 (b) Food service establishments, as defined in s.  
7 381.0072, that have ancillary, prepackaged retail food sales  
8 shall be regulated by the Department of Health ~~and~~  
9 ~~Rehabilitative Services.~~

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

14 ~~(c)~~(d) The department and the Department of Health  
15 ~~Business and Professional Regulation~~ shall cooperate to assure  
16 equivalency of inspection and enforcement and to share  
17 information on those establishments identified in paragraphs  
18 (a) and (b)~~(c)~~ and to address any other areas of potential  
19 duplication. The department and the Department of Health  
20 ~~Business and Professional Regulation~~ are authorized to adopt  
21 rules to enforce statutory requirements under their purview  
22 regarding foods.

23 Section 16. Section 717.1355, Florida Statutes, is  
24 amended to read:

25 717.1355 Theme park and entertainment complex  
26 tickets.--This chapter does not apply to any tickets for  
27 admission to a theme park or entertainment complex as defined  
28 in s. 509.013 ~~s. 509.013(9)~~, or to any tickets to a permanent  
29 exhibition or recreational activity within such theme park or  
30 entertainment complex.

31

1           Section 17. Subsection (8) of section 877.24, Florida  
2 Statutes, is amended to read:

3           877.24 Nonapplication of s. 877.22.--Section 877.22  
4 does not apply to a minor who is:

5           (8) Attending an organized event held at and sponsored  
6 by a theme park or entertainment complex as defined in s.  
7 509.013 ~~s. 509.013(9)~~.

8           Section 18. Section 509.032, Florida Statutes, 1998  
9 Supplement, is amended to read:

10           509.032 Duties.--

11           (1) GENERAL.--The division shall carry out all of the  
12 provisions of this chapter and all other applicable laws and  
13 rules relating to the inspection or regulation of public  
14 lodging establishments ~~and public food service establishments~~  
15 for the purpose of safeguarding the public health, safety, and  
16 welfare. The division shall be responsible for ascertaining  
17 that an operator licensed under this chapter does not engage  
18 in any misleading advertising or unethical practices.

19           (2) INSPECTION OF PREMISES.--

20           (a) The division has responsibility and jurisdiction  
21 for all inspections required by this chapter. The division  
22 has responsibility for quality assurance. Each licensed  
23 establishment shall be inspected at least biannually and at  
24 such other times as the division determines is necessary to  
25 ensure the public's health, safety, and welfare. The division  
26 shall establish a system to determine inspection frequency.  
27 Public lodging units classified as resort condominiums or  
28 resort dwellings are not subject to this requirement, but  
29 shall be made available to the division upon request. If,  
30 during the inspection of a public lodging establishment  
31 classified for renting to transient or nontransient tenants,

1 an inspector identifies disabled adults or elderly persons who  
2 appear to be victims of neglect, as defined in s. 415.102, or,  
3 in the case of a building that is not equipped with automatic  
4 sprinkler systems, tenants or clients who may be unable to  
5 self-preserve in an emergency, the division shall convene  
6 meetings with the following agencies as appropriate to the  
7 individual situation: the Department of Health, the Department  
8 of Children and Family and Rehabilitative Services, the  
9 Department of Elderly Affairs, the area agency on aging, the  
10 local fire marshal, the landlord and affected tenants and  
11 clients, and other relevant organizations, to develop a plan  
12 which improves the prospects for safety of affected residents  
13 and, if necessary, identifies alternative living arrangements  
14 such as facilities licensed under part II or part III of  
15 chapter 400.

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

20 ~~(c) Public food service establishment inspections~~  
21 ~~shall be conducted to enforce provisions of this part and to~~  
22 ~~educate, inform, and promote cooperation between the division~~  
23 ~~and the establishment.~~

24 ~~(d) The division shall adopt and enforce sanitation~~  
25 ~~rules consistent with law to ensure the protection of the~~  
26 ~~public from food-borne illness in those establishments~~  
27 ~~licensed under this chapter. These rules shall provide the~~  
28 ~~standards and requirements for obtaining, storing, preparing,~~  
29 ~~processing, serving, or displaying food in public food service~~  
30 ~~establishments, approving public food service establishment~~  
31 ~~facility plans, conducting necessary public food service~~

1 ~~establishment inspections, cooperating and coordinating with~~  
2 ~~the Department of Health and Rehabilitative Services in~~  
3 ~~epidemiological investigations, and initiating enforcement~~  
4 ~~actions, and for other such responsibilities deemed necessary~~  
5 ~~by the division.~~

6 (c)1.~~(e)1.~~ Relating to facility plan approvals, the  
7 division may establish, by rule, fees for conducting plan  
8 reviews and may grant variances from construction standards in  
9 hardship cases, which variances may be less restrictive than  
10 the provisions specified in this section or the rules adopted  
11 under this section. A variance may not be granted pursuant to  
12 this section until the division is satisfied that:

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

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

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

19 2. The division's advisory council shall review  
20 applications for variances and recommend agency action. The  
21 division shall make arrangements to expedite emergency  
22 requests for variances, to ensure that such requests are acted  
23 upon within 30 days of receipt.

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

28 (d)(f) In conducting inspections of establishments  
29 licensed under this chapter, the division shall determine if  
30 each coin-operated amusement machine that is operated on the  
31 premises of a licensed establishment is properly registered

1 with the Department of Revenue. Each month the division shall  
2 report to the Department of Revenue the sales tax registration  
3 number of the operator of any licensed establishment that has  
4 on location a coin-operated amusement machine and that does  
5 not have an identifying certificate conspicuously displayed as  
6 required by s. 212.05(1)(j).

7 ~~(g) In inspecting public food service establishments,~~  
8 ~~the department shall provide each inspected establishment with~~  
9 ~~the food-recovery brochure developed under s. 570.0725.~~

10 (3) SANITARY STANDARDS; EMERGENCIES; ~~TEMPORARY FOOD~~  
11 ~~SERVICE EVENTS.~~--The division shall:

12 (a) Prescribe sanitary standards which shall be  
13 enforced in public lodging ~~food service~~ establishments.

14 (b) Inspect public lodging establishments periodically  
15 and ~~public food service establishments~~ whenever necessary to  
16 respond to an emergency or epidemiological condition.

17 ~~(c) Administer a public notification process for~~  
18 ~~temporary food service events and distribute educational~~  
19 ~~materials that address safe food storage, preparation, and~~  
20 ~~service procedures.~~

21 ~~1. Sponsors of temporary food service events shall~~  
22 ~~notify the division not less than 3 days prior to the~~  
23 ~~scheduled event of the type of food service proposed, the time~~  
24 ~~and location of the event, a complete list of food service~~  
25 ~~vendor owners and operators participating in each event, and~~  
26 ~~the current license numbers of all public food service~~  
27 ~~establishments participating in each event. Notification may~~  
28 ~~be completed orally, by telephone, in person, or in writing.~~  
29 ~~A public food service establishment or food service vendor may~~  
30 ~~not use this notification process to circumvent the license~~  
31 ~~requirements of this chapter.~~

1           ~~2. The division shall keep a record of all~~  
2 ~~notifications received for proposed temporary food service~~  
3 ~~events and shall provide appropriate educational materials to~~  
4 ~~the event sponsors, including the food-recovery brochure~~  
5 ~~developed under s. 570.0725.~~

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

9           ~~b. Public food service establishments holding current~~  
10 ~~licenses from the division may operate under the regulations~~  
11 ~~of such a license at temporary food service events of 3 days~~  
12 ~~or less in duration.~~

13           ~~(4) STOP-SALE ORDERS.--The division may stop the sale,~~  
14 ~~and supervise the proper destruction, of any food or food~~  
15 ~~product when the director or the director's designee~~  
16 ~~determines that such food or food product represents a threat~~  
17 ~~to the public safety or welfare. If the operator of a public~~  
18 ~~food service establishment licensed under this chapter has~~  
19 ~~received official notification from a health authority that a~~  
20 ~~food or food product from that establishment has potentially~~  
21 ~~contributed to any instance or outbreak of food-borne illness,~~  
22 ~~the food or food product must be maintained in safe storage in~~  
23 ~~the establishment until the responsible health authority has~~  
24 ~~examined, sampled, seized, or requested destruction of the~~  
25 ~~food or food product.~~

26           ~~(4)~~(5) ~~REPORTS REQUIRED.--The division shall send the~~  
27 ~~Governor a written report, which shall state, but not be~~  
28 ~~limited to, the total number of inspections conducted by the~~  
29 ~~division to ensure the enforcement of sanitary standards, the~~  
30 ~~total number of inspections conducted in response to emergency~~  
31 ~~or epidemiological conditions, the number of violations of~~

1 each sanitary standard, and any recommendations for improved  
2 inspection procedures. The division shall also keep accurate  
3 account of all expenses arising out of the performance of its  
4 duties and all fees collected under this chapter. The report  
5 shall be submitted by September 30 following the end of the  
6 fiscal year.

7 (5)~~(6)~~ RULEMAKING AUTHORITY.--The division shall adopt  
8 such rules as are necessary to carry out the provisions of  
9 this chapter.

10 (6)~~(7)~~ PREEMPTION AUTHORITY.--The regulation and  
11 inspection of public lodging establishments ~~and public food~~  
12 ~~service establishments and the regulation of food safety~~  
13 ~~protection standards for required training and testing of food~~  
14 ~~service establishment personnel~~ are preempted to the state.

15 Section 19. Section 509.035, Florida Statutes, is  
16 amended to read:

17 509.035 Immediate closure due to severe public health  
18 or safety threat.--The division shall, upon proper finding,  
19 immediately issue an order to close an establishment licensed  
20 under this chapter in the instance of a severe and immediate  
21 public health or safety or welfare threat as follows:

22 (1)(a) The director shall declare a public health or  
23 safety threat upon a proper finding ~~by the State Health~~  
24 ~~Officer~~ that the continued operation of a licensed public  
25 lodging establishment presents a severe and immediate threat  
26 to the public health or safety.

27 (b) The director shall declare a threat to the public  
28 safety or welfare upon a proper finding by the director that  
29 the continued operation of a licensed public lodging  
30 establishment presents a severe and immediate threat to the  
31 public safety or welfare.

1           (2) Upon such determination, the division shall issue  
2 a notice to show cause and an emergency order of suspension.  
3 Such order shall be served upon the public lodging  
4 establishment by the division or its agent, and the  
5 establishment shall be closed. An operator who resists such  
6 closure is subject to further administrative action by the  
7 division and is punishable as provided in s. 509.281. The  
8 division shall provide an inspection within 24 hours following  
9 such closure and shall review all relevant information to  
10 determine whether the facility has met the requirements to  
11 resume operations.

12           (3) The division may attach a sign which states  
13 "Closed to Protect Public Health and Safety" to such an  
14 establishment and may require the licensee to immediately stop  
15 service until notification to the contrary is provided by the  
16 director.

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

21           Section 20. Section 509.072, Florida Statutes, is  
22 amended to read:

23           509.072 Public Lodging ~~Hotel and Restaurant~~ Trust  
24 Fund; collection and disposition of moneys received.--

25           (1) There is created a Public Lodging ~~Hotel and~~  
26 ~~Restaurant~~ Trust Fund to be used for the administration and  
27 operation of the division and the carrying out of all laws and  
28 rules under the jurisdiction of the division pertaining to the  
29 construction, maintenance, and operation of public lodging  
30 establishments ~~and public food service establishments,~~  
31 including the inspection of elevators as required under

1 chapter 399. All funds collected by the division and the  
2 amounts paid for licenses and fees shall be deposited in the  
3 State Treasury into the Public Lodging ~~Hotel and Restaurant~~  
4 Trust Fund.

5 (2) Fees collected under s. 509.302(3) and deposited  
6 into the trust fund must be used solely for the purpose of  
7 funding the Hospitality Education Program, except for any  
8 trust fund service charge imposed by s. 215.20, and may not be  
9 used to pay for any expense of the division not directly  
10 attributable to the Hospitality Education Program. These  
11 funds may not be deposited or transferred into any other trust  
12 fund administered by the Department of Business and  
13 Professional Regulation or any of its divisions. For audit  
14 purposes, fees collected under s. 509.302(3) and all charges  
15 against those fees must be maintained by the department as a  
16 separate ledger.

17 Section 21. Section 509.091, Florida Statutes, is  
18 amended to read:

19 509.091 Notices; form and service.--Each notice served  
20 by the division pursuant to this chapter must be in writing  
21 and must be delivered personally by an agent of the division  
22 or by registered letter to the operator of the public lodging  
23 establishment ~~or public food service establishment~~. If the  
24 operator refuses to accept service or evades service or the  
25 agent is otherwise unable to effect service after due  
26 diligence, the division may post such notice in a conspicuous  
27 place at the establishment.

28 Section 22. Section 509.092, Florida Statutes, is  
29 amended to read:

30 509.092 Public lodging establishments ~~and public food~~  
31 ~~service establishments~~; rights as private enterprises.--Public

1 lodging establishments ~~and public food service establishments~~  
2 are private enterprises, and the operator has the right to  
3 refuse accommodations or service to any person who is  
4 objectionable or undesirable to the operator, but such refusal  
5 may not be based upon race, creed, color, sex, physical  
6 disability, or national origin. A person aggrieved by a  
7 violation of this section or a violation of a rule adopted  
8 under this section has a right of action pursuant to s.  
9 760.11.

10 Section 23. Section 509.101, Florida Statutes, is  
11 amended to read:

12 509.101 Establishment rules; posting of notice; ~~food~~  
13 ~~service inspection report; maintenance of guest register;~~  
14 ~~mobile food dispensing vehicle registry.--~~

15 (1) Any operator of a public lodging establishment ~~or~~  
16 ~~a public food service establishment~~ may establish reasonable  
17 rules and regulations for the management of the establishment  
18 and its guests and employees; and each guest or employee  
19 staying, sojourning, eating, or employed in the establishment  
20 shall conform to and abide by such rules and regulations so  
21 long as the guest or employee remains in or at the  
22 establishment. Such rules and regulations shall be deemed to  
23 be a special contract between the operator and each guest or  
24 employee using the services or facilities of the operator.  
25 Such rules and regulations shall control the liabilities,  
26 responsibilities, and obligations of all parties. Any rules  
27 or regulations established pursuant to this section shall be  
28 printed in the English language and posted in a prominent  
29 place within such public lodging establishment ~~or public food~~  
30 ~~service establishment~~. Such posting shall also include notice  
31 that a current copy of this chapter is available in the office

1 for public review. ~~In addition, any operator of a public food~~  
2 ~~service establishment shall maintain the latest food service~~  
3 ~~inspection report or a duplicate copy on premises and shall~~  
4 ~~make it available to the public upon request.~~

5 (2) It is the duty of each operator of a transient  
6 establishment to maintain at all times a register, signed by  
7 or for guests who occupy rental units within the  
8 establishment, showing the dates upon which the rental units  
9 were occupied by such guests and the rates charged for their  
10 occupancy. This register shall be maintained in chronological  
11 order and available for inspection by the division at any  
12 time. Operators need not make available registers which are  
13 more than 2 years old. Each operator shall maintain at all  
14 times a current copy of this chapter in the office of the  
15 licensed establishment which shall be made available to the  
16 public upon request.

17 ~~(3) It is the duty of each operator of a public food~~  
18 ~~service establishment that provides commissary services to~~  
19 ~~maintain a daily registry verifying that each mobile food~~  
20 ~~dispensing vehicle that receives such services is properly~~  
21 ~~licensed by the division. In order that such licensure may be~~  
22 ~~readily verified, each mobile food dispensing vehicle operator~~  
23 ~~shall permanently affix in a prominent place on the side of~~  
24 ~~the vehicle, in figures at least 2 inches high and in~~  
25 ~~contrasting colors from the background, the operator's public~~  
26 ~~food service establishment license number. Prior to providing~~  
27 ~~commissary services, each public food service establishment~~  
28 ~~must verify that the license number displayed on the vehicle~~  
29 ~~matches the number on the vehicle operator's public food~~  
30 ~~service establishment license.~~

31

1           Section 24. Section 509.141, Florida Statutes, is  
2 amended to read:

3           509.141 Refusal of admission and ejection of  
4 undesirable guests; notice; procedure; penalties for refusal  
5 to leave.--

6           (1) The operator of any public lodging establishment  
7 ~~or public food service establishment~~ may remove or cause to be  
8 removed from such establishment, in the manner ~~hereinafter~~  
9 provided in this section, any guest of the establishment who,  
10 while on the premises of the establishment, illegally  
11 possesses or deals in controlled substances as defined in  
12 chapter 893 or is intoxicated, profane, lewd, or brawling; who  
13 indulges in any language or conduct which disturbs the peace  
14 and comfort of other guests or which injures the reputation,  
15 dignity, or standing of the establishment; who, in the case of  
16 a public lodging establishment, fails to make payment of rent  
17 at the agreed-upon rental rate by the agreed-upon checkout  
18 time; who, in the case of a public lodging establishment,  
19 fails to check out by the time agreed upon in writing by the  
20 guest and public lodging establishment at check-in unless an  
21 extension of time is agreed to by the public lodging  
22 establishment and guest prior to checkout; who, ~~in the case of~~  
23 ~~a public food service establishment~~, fails to make payment for  
24 food, beverages, or services; or who, in the opinion of the  
25 operator, is a person the continued entertainment of whom  
26 would be detrimental to such establishment. The admission to,  
27 or the removal from, such establishment shall not be based  
28 upon race, creed, color, sex, physical disability, or national  
29 origin.

30           (2) The operator of any public lodging establishment  
31 ~~or public food service establishment~~ shall notify such guest

1 that the establishment no longer desires to entertain the  
2 guest and shall request that such guest immediately depart  
3 from the establishment. Such notice may be given orally or in  
4 writing. If the notice is in writing, it shall be as follows:

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

9  
10 If such guest has paid in advance, the establishment shall, at  
11 the time such notice is given, tender to such guest the unused  
12 portion of the advance payment; however, the establishment may  
13 withhold payment for each full day that the guest has been  
14 entertained at the establishment for any portion of the  
15 24-hour period of such day.

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

20 (4) If any person is illegally on the premises of any  
21 public lodging establishment ~~or public food service~~  
22 ~~establishment~~, the operator of such establishment may call  
23 upon any law enforcement officer of this state for assistance.  
24 It is the duty of such law enforcement officer, upon the  
25 request of such operator, to place under arrest and take into  
26 custody for violation of this section any guest who violates  
27 subsection (3) in the presence of the officer. If a warrant  
28 has been issued by the proper judicial officer for the arrest  
29 of any violator of subsection (3), the officer shall serve the  
30 warrant, arrest the person, and take the person into custody.  
31 Upon arrest, with or without warrant, the guest will be deemed

1 to have given up any right to occupancy or to have abandoned  
2 such right of occupancy of the premises, and the operator of  
3 the establishment may then make such premises available to  
4 other guests. However, the operator of the establishment  
5 shall employ all reasonable and proper means to care for any  
6 personal property which may be left on the premises by such  
7 guest and shall refund any unused portion of moneys paid by  
8 such guest for the occupancy of such premises.

9 Section 25. Section 509.142, Florida Statutes, is  
10 amended to read:

11 509.142 Conduct on premises; refusal of service.--The  
12 operator of a public lodging establishment ~~or public food~~  
13 ~~service establishment~~ may refuse accommodations or service to  
14 any person whose conduct on the premises of the establishment  
15 displays intoxication, profanity, lewdness, or brawling; who  
16 indulges in language or conduct such as to disturb the peace  
17 or comfort of other guests; who engages in illegal or  
18 disorderly conduct; who illegally possesses or deals in  
19 controlled substances as defined in chapter 893; or whose  
20 conduct constitutes a nuisance. Such refusal may not be based  
21 upon race, creed, color, sex, physical disability, or national  
22 origin.

23 Section 26. Subsection (1) of section 509.151, Florida  
24 Statutes, is amended to read:

25 509.151 Obtaining food or lodging with intent to  
26 defraud; penalty.--

27 (1) Any person who obtains food, lodging, or other  
28 accommodations having a value of less than \$300 at any public  
29 ~~food service establishment~~, or at any transient establishment,  
30 with intent to defraud the operator thereof, is guilty of a  
31 misdemeanor of the second degree, punishable as provided in s.

1 775.082 or s. 775.083; if such food, lodging, or other  
2 accommodations have a value of \$300 or more, such person is  
3 guilty of a felony of the third degree, punishable as provided  
4 in s. 775.082, s. 775.083, or s. 775.084.

5 Section 27. Subsections (1), (2), and (3) of section  
6 509.162, Florida Statutes, are amended to read:

7 509.162 Theft of personal property; detaining and  
8 arrest of violator; theft by employee.--

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

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

1           (3) Any person who resists the reasonable effort of a  
2 law enforcement officer or operator of a public lodging  
3 establishment ~~or public food service establishment~~ to recover  
4 property which the law enforcement officer or operator had  
5 probable cause to believe had been stolen from the public  
6 lodging establishment ~~or public food service establishment~~,  
7 and who is subsequently found to be guilty of theft of the  
8 subject property, is guilty of a misdemeanor of the first  
9 degree, punishable as provided in s. 775.082 or s. 775.083,  
10 unless such person did not know, or did not have reason to  
11 know, that the person seeking to recover the property was a  
12 law enforcement officer or the operator. For purposes of this  
13 section, the charge of theft and the charge of resisting  
14 apprehension may be tried concurrently.

15           Section 28. Section 509.191, Florida Statutes, 1998  
16 Supplement, is amended to read:

17           509.191 Unclaimed property.--Any property with an  
18 identifiable owner which is left in a public lodging  
19 establishment ~~or public food service establishment~~, other than  
20 property belonging to a guest who has vacated the premises  
21 without notice to the operator and with an outstanding  
22 account, which property remains unclaimed after being held by  
23 the establishment for 30 days after written notice to the  
24 guest or owner of the property, shall become the property of  
25 the establishment. Property without an identifiable owner  
26 which is found in a public lodging establishment ~~or public~~  
27 ~~food service establishment~~ is subject to the provisions of  
28 chapter 705.

29           Section 29. Subsections (2) and (3) of section  
30 509.211, Florida Statutes, are amended to read:

31           509.211 Safety regulations.--

1           (2) The division, or its agent, shall immediately  
2 notify the local firesafety authority or the State Fire  
3 Marshal of any major violation of a rule adopted under chapter  
4 633 which relates to public lodging establishments ~~or public~~  
5 ~~food service establishments~~. The division may impose  
6 administrative sanctions for violations of these rules  
7 pursuant to s. 509.261 or may refer such violations to the  
8 local firesafety authorities for enforcement.

9           (3)(a) It is unlawful for any person to use within any  
10 public lodging establishment ~~or public food service~~  
11 ~~establishment~~ any fuel-burning wick-type equipment for space  
12 heating unless such equipment is vented so as to prevent the  
13 accumulation of toxic or injurious gases or liquids.

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

17           Section 30. Section 509.2112, Florida Statutes, is  
18 amended to read:

19           509.2112 Public lodging establishments three stories  
20 or more in height; inspection rules.--The Division of Public  
21 Lodging ~~Hotels and Restaurants~~ of the Department of Business  
22 and Professional Regulation is directed to provide rules to  
23 require that:

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

29           (2) The information required under subsection (1) be  
30 filed commencing January 1, 1991, and every 3 years  
31 thereafter, with the Division of Public Lodging ~~Hotels and~~

1 ~~Restaurants~~ and the applicable county or municipal authority  
2 responsible for building and zoning permits.

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

8 Section 31. Subsection (6) of section 509.215, Florida  
9 Statutes, is amended to read:

10 509.215 Firesafety.--

11 (6)(a) Special exception to the provisions of this  
12 section shall be made for a public lodging establishment  
13 structure that is individually listed in the National Register  
14 of Historic Places pursuant to the National Historic  
15 Preservation Act of 1966, as amended; or is a contributing  
16 property to a National Register-listed district; or is  
17 designated as a historic property, or as a contributing  
18 property to a historic district under the terms of a local  
19 preservation ordinance.

20 (b) For such structures, provisions shall be made for  
21 a system of fire protection and lifesafety support that would  
22 meet the intent of the NFPA standards and be acceptable to,  
23 and approved by, a task force composed of the director of the  
24 Division of Public Lodging ~~Hotels and Restaurants~~, the  
25 director of the Division of State Fire Marshal, and the State  
26 Historic Preservation Officer. When recommending alternative  
27 systems, the task force shall consider systems which would not  
28 disturb, destroy, or alter the integrity of such historic  
29 structures. The director of the Division of State Fire Marshal  
30 shall be designated chairperson of the task force and shall  
31 record the minutes of each task force meeting, which shall be

1 called in a timely manner to review requests for special  
2 provision considerations under this subsection.

3 (c) The task force shall, no later than November 1,  
4 1996, report to the President of the Senate and the Speaker of  
5 the House of Representatives any legislative recommendations  
6 for providing a standard system of fire protection and  
7 lifesafety support alternatives for historic public lodging  
8 establishments, including bed and breakfast inns, that would  
9 meet the intent of the NFPA standards. In making its report  
10 the task force shall consider which, if any, bed and breakfast  
11 inn operations may be exempted from the firesafety  
12 requirements of this section.

13 Section 32. Subsections (1), (2), and (5) of section  
14 509.221, Florida Statutes, are amended to read:

15 509.221 Sanitary regulations.--

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

27 (2)(a) Each public lodging establishment ~~and each~~  
28 ~~public food service establishment~~ shall maintain not less than  
29 one public bathroom for each sex, properly designated, unless  
30 otherwise provided by rule. The division shall establish by  
31 rule categories of establishments not subject to the bathroom

1 requirement of this paragraph. Such rules may not alter the  
2 exemption provided for theme parks in paragraph (b).

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

7 (c) Each transient establishment that does not provide  
8 private or connecting bathrooms shall maintain one public  
9 bathroom on each floor for every 15 guests, or major fraction  
10 of that number, rooming on that floor.

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

18 Section 33. Section 509.241, Florida Statutes, is  
19 amended to read:

20 509.241 Licenses required; exceptions.--

21 (1) LICENSES; ANNUAL RENEWALS.--Each public lodging  
22 establishment must ~~and public food service establishment shall~~  
23 obtain a license from the division. Such license may not be  
24 transferred from one place or individual to another. It shall  
25 be a misdemeanor of the second degree, punishable as provided  
26 in s. 775.082 or s. 775.083, for such an establishment to  
27 operate without a license. Local law enforcement shall provide  
28 immediate assistance in pursuing an illegally operating  
29 establishment. The division may refuse a license, or a  
30 renewal thereof, to any establishment that is not constructed  
31 and maintained in accordance with law and with the rules of

1 the division. The division may refuse to issue a license, or  
2 a renewal thereof, to any establishment an operator of which,  
3 within the preceding 5 years, has been adjudicated guilty of,  
4 or has forfeited a bond when charged with, any crime  
5 reflecting on professional character, including soliciting for  
6 prostitution, pandering, letting premises for prostitution,  
7 keeping a disorderly place, or illegally dealing in controlled  
8 substances as defined in chapter 893, whether in this state or  
9 in any other jurisdiction within the United States, or has had  
10 a license denied, revoked, or suspended pursuant to s.

11 400.414. Licenses shall be renewed annually, and the division  
12 shall adopt a rule establishing a staggered schedule for  
13 license renewals. If any license expires while administrative  
14 charges are pending against the license, the proceedings  
15 against the license shall continue to conclusion as if the  
16 license were still in effect.

17 (2) APPLICATION FOR LICENSE.--Each person who plans to  
18 open a public lodging establishment must ~~or a public food~~  
19 ~~service establishment shall~~ apply for and receive a license  
20 from the division prior to the commencement of operation. A  
21 condominium association, as defined in s. 718.103, which does  
22 not own any units classified as resort condominiums under s.  
23 509.242(1)(c) shall not be required to apply for or receive a  
24 public lodging establishment license.

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

30 Section 34. Section 509.251, Florida Statutes, is  
31 amended to read:

1           509.251 License fees.--

2           (1) The division shall adopt, by rule, a schedule of  
3 fees to be paid by each public lodging establishment as a  
4 prerequisite to issuance or renewal of a license. Such fees  
5 shall be based on the number of rental units in the  
6 establishment but shall not exceed \$1,000. Resort condominium  
7 units within separate buildings or at separate locations but  
8 managed by one licensed agent may be combined in a single  
9 license application, and the division shall charge a license  
10 fee as if all units in the application are in a single  
11 licensed establishment. Resort dwelling units may be licensed  
12 in the same manner as condominium units. The fee schedule  
13 shall require an establishment which applies for an initial  
14 license to pay the full license fee if application is made  
15 during the annual renewal period or more than 6 months prior  
16 to the next such renewal period and one-half of the fee if  
17 application is made 6 months or less prior to such period.  
18 The fee schedule shall include fees collected for the purpose  
19 of funding the Hospitality Education Program, pursuant to s.  
20 509.302, which are payable in full for each application  
21 regardless of when the application is submitted.

22           (a) Upon making initial application or an application  
23 for change of ownership, the applicant shall pay to the  
24 division a fee as prescribed by rule, not to exceed \$50, in  
25 addition to any other fees required by law, which shall cover  
26 all costs associated with initiating regulation of the  
27 establishment.

28           (b) A license renewal filed with the division within  
29 30 days after the expiration date shall be accompanied by a  
30 delinquent fee as prescribed by rule, not to exceed \$50, in  
31 addition to the renewal fee and any other fees required by

1 law. A license renewal filed with the division more than 30  
2 but not more than 60 days after the expiration date shall be  
3 accompanied by a delinquent fee as prescribed by rule, not to  
4 exceed \$100, in addition to the renewal fee and any other fees  
5 required by law.

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

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

28 ~~(b) A license renewal filed with the division within~~  
29 ~~30 days after the expiration date shall be accompanied by a~~  
30 ~~delinquent fee as prescribed by rule, not to exceed \$50, in~~  
31 ~~addition to the renewal fee and any other fees required by~~

1 ~~law. A license renewal filed with the division more than 30~~  
2 ~~but not more than 60 days after the expiration date shall be~~  
3 ~~accompanied by a delinquent fee as prescribed by rule, not to~~  
4 ~~exceed \$100, in addition to the renewal fee and any other fees~~  
5 ~~required by law.~~

6 (2)~~(3)~~ The fact that a public food service  
7 establishment is operated in conjunction with a public lodging  
8 establishment does not relieve the public food service  
9 establishment of the requirement that it be separately  
10 licensed as a public food service establishment.

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

22 Section 35. Section 509.261, Florida Statutes, is  
23 amended to read:

24 509.261 Revocation or suspension of licenses; fines;  
25 procedure.--

26 (1) Any public lodging establishment ~~or public food~~  
27 ~~service establishment~~ that has operated or is operating in  
28 violation of this chapter or the rules of the division,  
29 operating without a license, or operating with a suspended or  
30 revoked license may be subject by the division to:

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

1 (b) Mandatory attendance, at personal expense, at an  
2 educational program sponsored by the Hospitality Education  
3 Program; and

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

6 (2) For the purposes of this section, the division may  
7 regard as a separate offense each day or portion of a day on  
8 which an establishment is operated in violation of a "critical  
9 law or rule," as that term is defined by rule.

10 (3) The division shall post a prominent  
11 closed-for-operation sign on any public lodging establishment  
12 ~~or public food service establishment~~, the license of which has  
13 been suspended or revoked. The division shall also post such  
14 sign on any establishment judicially or administratively  
15 determined to be operating without a license. It is a  
16 misdemeanor of the second degree, punishable as provided in s.  
17 775.082 or s. 775.083, for any person to deface or remove such  
18 closed-for-operation sign or for any public lodging  
19 establishment ~~or public food service establishment~~ to open for  
20 operation without a license or to open for operation while its  
21 license is suspended or revoked. The division may impose  
22 administrative sanctions for violations of this section.

23 (4) All funds received by the division as satisfaction  
24 for administrative fines shall be paid into the State Treasury  
25 to the credit of the Public Lodging ~~Hotel and Restaurant~~ Trust  
26 Fund and may not subsequently be used for payment to any  
27 entity performing required inspections under contract with the  
28 division.

29 (5)(a) A license may not be suspended under this  
30 section for a period of more than 12 months. At the end of  
31 such period of suspension, the establishment may apply for

1 reinstatement or renewal of the license. A public lodging  
2 establishment ~~or public food service establishment~~, the  
3 license of which is revoked, may not apply for another license  
4 for that location prior to the date on which the revoked  
5 license would have expired.

6 (b) The division may fine, suspend, or revoke the  
7 license of any public lodging establishment ~~or public food~~  
8 ~~service establishment~~ if the operator knowingly lets, leases,  
9 or gives space for unlawful gambling purposes or permits  
10 unlawful gambling in such establishment or in or upon any  
11 premises which are used in connection with, and are under the  
12 same charge, control, or management as, such establishment.

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

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

24 (b) Such establishment has been deemed an imminent  
25 danger to the public health and safety by the division or  
26 local health authority for failure to meet sanitation  
27 standards or the premises have been determined by the division  
28 or local authority to be unsafe or unfit for human occupancy.

29 (7) A person is not entitled to the issuance of a  
30 license for any public lodging establishment ~~or public food~~  
31 ~~service establishment~~ except in the discretion of the director

1 when the division has notified the current licenseholder for  
2 such premises that administrative proceedings have been or  
3 will be brought against such current licensee for violation of  
4 any provision of this chapter or rule of the division.

5 Section 36. Subsection (1) of section 509.281, Florida  
6 Statutes, is amended to read:

7 509.281 Prosecution for violation; duty of state  
8 attorney; penalties.--

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

20 Section 37. Subsection (1) of section 509.291, Florida  
21 Statutes, is amended to read:

22 509.291 Advisory council.--

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

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

1           (b) The division, the Department of Health ~~and~~  
2 ~~Rehabilitative Services~~, the Florida Hotel and Motel  
3 Association, the Florida Restaurant Association, the Florida  
4 Apartment Association, and the Florida Association of Realtors  
5 shall each designate one representative to serve as a voting  
6 member of the council, and one member appointed by the  
7 secretary must be appointed to represent nontransient public  
8 lodging establishments. In addition, one hospitality  
9 administration educator from an institution of higher  
10 education affiliated with the Hospitality Education Program  
11 pursuant to s. 509.302(2) shall serve for a term of 2 years as  
12 a voting member of the council. This single representative  
13 shall be designated on a rotating basis by the institution or  
14 institutions of higher education affiliated with this program  
15 pursuant to s. 509.302(2).

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

19           Section 38. Subsections (1), (2), (3), and (7) of  
20 section 509.302, Florida Statutes, 1998 Supplement, are  
21 amended to read:

22           509.302 Director of education, personnel, employment  
23 duties, compensation.--

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

27           (2) The director of education shall develop and  
28 implement an educational program, designated the "Hospitality  
29 Education Program," offered for the benefit of the entire  
30 industry. This program may affiliate with Florida State  
31 University, Florida International University, and the

1 University of Central Florida. The program may also affiliate  
2 with any other member of the State University System or State  
3 Community College System, or with any privately funded college  
4 or university, which offers a program of hospitality  
5 administration and management. The primary goal of this  
6 program is to instruct and train all individuals and  
7 businesses licensed under this chapter, in cooperation with  
8 recognized associations that represent the licensees, in the  
9 application of state and federal laws and rules. Such programs  
10 shall also include:

11 (a) Vocational training.

12 (b) Management training.

13 (c) Inservice continuing education programs.

14 ~~(d) Awareness of food-recovery programs, as promoted~~  
15 ~~in s. 570.0725.~~

16 (d)~~(e)~~ Such other programs as may be deemed  
17 appropriate by the director of the division, the advisory  
18 council, and the director of education.

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

24 (7) The director of education, with the approval of  
25 the director and with the consent of the advisory council, may  
26 designate funds, not to exceed \$150,000 annually, to support  
27 school-to-career transition programs available through  
28 statewide organizations in the hospitality services field.  
29 Such programs shall be designed to prepare students for  
30 progressive careers in the hospitality industry. The director  
31 of education, with the approval of the director and with the

1 consent of the advisory council, may also designate funds, not  
2 to exceed \$50,000 annually, ~~to support food safety training~~  
3 ~~programs available through statewide organizations in the~~  
4 ~~hospitality services field, and not to exceed \$50,000~~  
5 ~~annually,~~to support nontransient public lodging training  
6 programs available through statewide organizations in the  
7 public lodging services field.

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

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

17 Section 39. Paragraph (a) of subsection (2) and  
18 subsection (4) of section 386.205, Florida Statutes, are  
19 amended to read:

20 386.205 Designation of smoking areas.--

21 (2)(a) A smoking area may not be designated in an  
22 elevator, school bus, public means of mass transportation  
23 subject only to state smoking regulation, restroom, hospital,  
24 doctor's or dentist's waiting room, jury deliberation room,  
25 county health department, day care center, school or other  
26 educational facility, ~~or~~ any common area as defined in s.  
27 386.203, or any public food service establishment as defined  
28 in s. 509.013. However, a patient's room in a hospital,  
29 nursing home, or other health care facility may be designated  
30 as a smoking area if such designation is ordered by the  
31

1 attending physician and agreed to by all patients assigned to  
2 that room.

3 (4) No more than one-half of the total square footage  
4 in any public place within a single enclosed indoor area used  
5 for a common purpose shall be reserved and designated as a  
6 smoking area. ~~This square footage limitation does not apply to~~  
7 ~~restaurants as defined in s. 386.203(1)(p). However, such a~~  
8 ~~restaurant must ensure that no more than 65 percent of the~~  
9 ~~seats existing in its dining room at any time are located in~~  
10 ~~an area designated as a smoking area.~~

11 Section 40. The administrative rules of the agencies  
12 involved in this reorganization which are in effect  
13 immediately before the effective date of this act shall remain  
14 in effect until specifically changed in the manner provided by  
15 law.

16 Section 41. This act shall not affect the validity of  
17 any judicial or administrative proceeding pending on the  
18 effective date of this act, and any agency to which are  
19 transferred the powers, duties, and functions relating to the  
20 pending proceeding shall be substituted as a party in interest  
21 for that proceeding.

22 Section 42. Sections 509.213, 509.214, 509.232, and  
23 509.292, Florida Statutes, are transferred and renumbered,  
24 respectively, as sections 381.0075, 381.0076, 381.0077, and  
25 381.0078, Florida Statutes.

26 Section 43. Paragraph (p) of subsection (1) of section  
27 386.203 and sections 509.036, 509.039, and 509.049, Florida  
28 Statutes, are repealed.

29 Section 44. Effective July 1, 1999, the Secretary of  
30 Health and the Secretary of Business and Professional  
31 Regulation shall each appoint three staff members to a

1 restaurant program transition advisory committee. The members  
2 of the committee must represent staff of the respective  
3 department, including representatives from the headquarter's  
4 level and local field staff, who are involved in the  
5 transferred functions. In addition, the two secretaries shall  
6 jointly appoint one person to represent the restaurant  
7 industry on the committee. The Secretary of Health shall  
8 designate a member of the committee to serve as committee  
9 chair. The purpose of the committee is to prepare for the  
10 transfer of regulatory responsibilities relating to  
11 restaurants from the Department of Business and Professional  
12 Regulation to the Department of Health. The committee shall  
13 be located, for administrative purposes, in the Department of  
14 Health.

15 (1) By September 15, 1999, the committee shall  
16 prescribe a schedule of transition activities and functions  
17 with respect to the transfer of responsibilities. The  
18 schedule must, at a minimum, address: office space,  
19 information support systems, cash ownership and transfer,  
20 administrative support functions, inventory and transfer of  
21 equipment and supplies, expenditure transfers, budget  
22 authority and positions, and certifications forward.

23 (2) The committee shall review current regulatory  
24 activities and make recommendations regarding consolidation of  
25 duplicative regulatory functions, elimination of overlap, and  
26 any needed modifications in organizational structure. The  
27 committee shall report its findings, including recommendations  
28 for changes in state policy, rules, and statutes that will  
29 improve restaurant regulatory functions by the Department of  
30 Health, to the Secretary of Health, the Governor, the

31

1 President of the Senate, and the Speaker of the House of  
2 Representatives by November 30, 2000.

3           Section 45. Except as otherwise provided in this act  
4 and except for this section, which shall take effect upon  
5 becoming a law, this act shall take effect January 1, 2000.

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8

SENATE SUMMARY

9 Transfers certain powers, duties, and functions of the  
10 Department of Business and Professional Regulation  
11 relating to public food service establishments to the  
12 Department of Health. Prohibits smoking in public food  
13 service establishments. (See bill for details.)

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