

By the Committee on Regulated Industries; and Senator
Constantine

315-2129A-02

1 A bill to be entitled
2 An act relating to the Department of Business
3 and Professional Regulation; amending s.
4 509.032, F.S.; providing for annual rather than
5 biannual inspections of transient and
6 nontransient apartments; revising notice and
7 license requirements for temporary food service
8 events; amending s. 509.251, F.S.; increasing
9 the maximum aggregate license fee for public
10 food service establishments; amending s.
11 509.291, F.S.; providing for increased
12 coordination and consultation among the
13 Secretary of Business and Professional
14 Regulation, the Division of Hotels and
15 Restaurants, and the advisory council; amending
16 s. 509.302, F.S.; eliminating a requirement for
17 the division to employ a director of education;
18 revising provisions regarding the
19 administration, fees, and funding of the
20 Hospitality Education Program; amending s.
21 399.01, F.S.; requiring that elevator service
22 maintenance contracts be made available to the
23 department upon request for oversight purposes;
24 revising qualifications for an elevator
25 certificate of competency; amending s. 399.02,
26 F.S.; providing that each elevator owner is
27 responsible for inspections; eliminating a
28 requirement that the department review service
29 maintenance contracts and determine whether
30 they ensure safe operation; amending s. 399.03,
31 F.S.; providing additional requirements for

1 issuance of elevator permits; providing
2 requirements for original inspection report;
3 providing for temporary operation inspections;
4 amending s. 399.049, F.S.; revising grounds for
5 suspension or revocation of certification or
6 registration; amending s. 399.061, F.S.;
7 eliminating an exception to annual inspections
8 requirement; revising reporting requirements;
9 amending s. 399.07, F.S.; extending the period
10 of validity of certificate of operation from 1
11 to 2 years; eliminating a fee and provisions
12 for deposit of fees; amending s. 399.105, F.S.;
13 eliminating restriction on issuance of fine;
14 amending s. 399.106, F.S.; conforming a
15 reference to committee; amending s. 399.125,
16 F.S.; eliminating a reporting requirement;
17 amending s. 399.13, F.S.; allowing local
18 government that assumes elevator inspection
19 duties to hire private inspectors to conduct
20 inspections; amending s. 509.072, F.S.;
21 requiring the Department of Business and
22 Professional Regulation to separately account
23 for the funds collected for the inspection of
24 elevators in the Hotel and Restaurant Trust
25 Fund; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Paragraph (a) of subsection (2) and
30 paragraph (c) of subsection (3) of section 509.032, Florida
31 Statutes, are amended to read:

1 509.032 Duties.--

2 (2) INSPECTION OF PREMISES.--

3 (a) The division has responsibility and jurisdiction
4 for all inspections required by this chapter. The division has
5 responsibility for quality assurance. Each licensed
6 establishment shall be inspected at least biannually, except
7 for transient and nontransient apartments, which shall be
8 inspected at least annually, and shall be inspected at such
9 other times as the division determines is necessary to ensure
10 the public's health, safety, and welfare The division shall
11 establish a system to determine inspection frequency. Public
12 lodging units classified as resort condominiums or resort
13 dwellings are not subject to this requirement, but shall be
14 made available to the division upon request. If, during the
15 inspection of a public lodging establishment classified for
16 renting to transient or nontransient tenants, an inspector
17 identifies vulnerable adults who appear to be victims of
18 neglect, as defined in s. 415.102, or, in the case of a
19 building that is not equipped with automatic sprinkler
20 systems, tenants or clients who may be unable to self-preserve
21 in an emergency, the division shall convene meetings with the
22 following agencies as appropriate to the individual situation:
23 the Department of Health, the Department of Elderly Affairs,
24 the area agency on aging, the local fire marshal, the landlord
25 and affected tenants and clients, and other relevant
26 organizations, to develop a plan which improves the prospects
27 for safety of affected residents and, if necessary, identifies
28 alternative living arrangements such as facilities licensed
29 under part II or part III of chapter 400.

30 (3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD
31 SERVICE EVENTS.--The division shall:

1 (c) Administer a public notification process for
2 temporary food service events and distribute educational
3 materials that address safe food storage, preparation, and
4 service procedures.

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

20 2. The division shall keep a record of all
21 notifications received for proposed temporary food service
22 events and shall provide appropriate educational materials to
23 the event sponsors, including the food-recovery brochure
24 developed under s. 570.0725.

25 3.a. A public food service establishment or other food
26 service vendor must obtain one of the following classes of a
27 license from the division: an individual license, for a fee of
28 no more than \$105, for each temporary food service event in
29 which it participates; or an annual license, for a fee of no
30 more than \$1,000, that entitles the licensee to participate in
31 an unlimited number of food service events during the license

1 period. The division shall establish license fees, by rule,
2 and may limit the number of food service facilities a licensee
3 may operate at a particular temporary food service event under
4 a single license.

5 b. Public food service establishments holding current
6 licenses from the division may operate under the regulations
7 of such a license at temporary food service events of 3 days
8 or less in duration.

9 Section 2. Subsections (1) and (2) of section 509.251,
10 Florida Statutes, are amended to read:

11 509.251 License fees.--

12 (1) The division shall adopt, by rule, a schedule of
13 fees to be paid by each public lodging establishment as a
14 prerequisite to issuance or renewal of a license. Such fees
15 shall be based on the number of rental units in the
16 establishment. The aggregate fee per establishment charged any
17 public lodging establishment but shall not exceed \$1,000;
18 however, the fees described in paragraphs (a) and (b) may not
19 be included as part of the aggregate fee subject to this cap.
20 Resort condominium units within separate buildings or at
21 separate locations but managed by one licensed agent may be
22 combined in a single license application, and the division
23 shall charge a license fee as if all units in the application
24 are in a single licensed establishment. Resort dwelling units
25 may be licensed in the same manner as condominium units. The
26 fee schedule shall require an establishment which applies for
27 an initial license to pay the full license fee if application
28 is made during the annual renewal period or more than 6 months
29 prior to the next such renewal period and one-half of the fee
30 if application is made 6 months or less prior to such period.
31 The fee schedule shall include fees collected for the purpose

1 of funding the Hospitality Education Program, pursuant to s.
2 509.302, which are payable in full for each application
3 regardless of when the application is submitted.

4 (a) Upon making initial application or an application
5 for change of ownership, the applicant shall pay to the
6 division a fee as prescribed by rule, not to exceed \$50, in
7 addition to any other fees required by law, which shall cover
8 all costs associated with initiating regulation of the
9 establishment.

10 (b) A license renewal filed with the division within
11 30 days after the expiration date shall be accompanied by a
12 delinquent fee as prescribed by rule, not to exceed \$50, in
13 addition to the renewal fee and any other fees required by
14 law. A license renewal filed with the division more than 30
15 but not more than 60 days after the expiration date shall be
16 accompanied by a delinquent fee as prescribed by rule, not to
17 exceed \$100, in addition to the renewal fee and any other fees
18 required by law.

19 (2) The division shall adopt, by rule, a schedule of
20 fees to be paid by each public food service establishment as a
21 prerequisite to issuance or renewal of a license. The fee
22 schedule shall prescribe a basic fee and additional fees based
23 on seating capacity and services offered. The aggregate fee
24 per establishment charged any public food service
25 establishment may not exceed \$400; however, the fees described
26 in paragraphs (a) and (b) may not be included as part of the
27 aggregate fee subject to this cap. The fee schedule shall
28 require an establishment which applies for an initial license
29 to pay the full license fee if application is made during the
30 annual renewal period or more than 6 months prior to the next
31 such renewal period and one-half of the fee if application is

1 made 6 months or less prior to such period. The fee schedule
2 shall include fees collected for the purpose of funding the
3 Hospitality Education Program, pursuant to s. 509.302, which
4 are payable in full for each application regardless of when
5 the application is submitted.

6 (a) Upon making initial application or an application
7 for change of ownership, the applicant shall pay to the
8 division a fee as prescribed by rule, not to exceed \$50, in
9 addition to any other fees required by law, which shall cover
10 all costs associated with initiating regulation of the
11 establishment.

12 (b) A license renewal filed with the division within
13 30 days after the expiration date shall be accompanied by a
14 delinquent fee as prescribed by rule, not to exceed \$50, in
15 addition to the renewal fee and any other fees required by
16 law. A license renewal filed with the division more than 30
17 but not more than 60 days after the expiration date shall be
18 accompanied by a delinquent fee as prescribed by rule, not to
19 exceed \$100, in addition to the renewal fee and any other fees
20 required by law.

21 Section 3. Subsection (2) of section 509.291, Florida
22 Statutes, is amended, and subsections (5) and (6) are added to
23 that section, to read:

24 509.291 Advisory council.--

25 (2) The purpose of the advisory council is to promote
26 better relations, understanding, and cooperation between such
27 industries and the division; to suggest means of better
28 protecting the health, welfare, and safety of persons using
29 the services offered by such industries; to give the division
30 the benefit of its knowledge and experience concerning the
31 industries and individual businesses affected by the laws and

1 rules administered by the division; ~~and~~ to promote and
2 coordinate the development of programs to educate and train
3 personnel for such industries; and to perform such other
4 duties as prescribed by law.

5 (5) The secretary and the division shall periodically
6 review with the advisory council the division's budget and
7 financial status for the purpose of maintaining the financial
8 stability of the division. The council shall make
9 recommendations, when it deems appropriate, to the secretary
10 and the division to ensure that adequate funding levels from
11 fees, penalties, and other costs assessed by the division and
12 paid by the industries it regulates are maintained.

13 (6) The division shall provide to the advisory council
14 each year an annual internal audit of the financial records of
15 the Hospitality Education Program for the purpose of
16 permitting the advisory council to determine compliance with
17 the provisions of s. 509.072(2).

18 Section 4. Section 509.302, Florida Statutes, is
19 amended to read:

20 (Substantial rewording of section. See
21 s. 509.302, F.S., for present text.)

22 509.302 Hospitality Education Program.--

23 (1) There is hereby created an educational program,
24 designated the "Hospitality Education Program," offered for
25 the benefit of the lodging and food service industries. The
26 primary goal of this program is to instruct and train all
27 individuals and businesses licensed under this chapter, in
28 cooperation with recognized associations that represent the
29 licensees, in the application of state and federal laws and
30 rules. Such instruction and training shall also include:

31 (a) Vocational training.

1 (b) Management training.
2 (c) Inservice continuing education.
3 (d) Awareness of food recovery programs, as promoted
4 in s. 570.0725.
5 (e) Such other instruction and training as may be
6 deemed appropriate by the director and the advisory council
7 created in s. 509.291.
8 (2) All instruction and training offered through the
9 program shall be provided by private, Florida nonprofit,
10 statewide organizations in the hospitality field under
11 contract with the division. The division shall issue requests
12 for competitive sealed proposals and shall select three
13 providers: one to provide instruction and training to
14 transient and nontransient apartment licensees and their
15 personnel; one to provide instruction and training to all
16 other public lodging establishment licensees and their
17 personnel; and one to provide instruction and training to
18 public food service establishment licensees and temporary food
19 service event licensees, and their personnel. For each of
20 these three groups of licensees, the division's requests for
21 proposals shall state the aggregate fees expected to be
22 collected from each group of licensees pursuant to subsection
23 (3) and shall solicit proposals to provide instruction and
24 training based upon the provider's receipt of the total fees
25 collected for the applicable group, less the sums provided for
26 in subsection (5) and s. 509.072(2). The requests for
27 proposals shall state all terms and conditions applicable to
28 the contracts. The division shall award the contracts to the
29 providers whose respective proposals are determined by the
30 division in writing to be the most advantageous to the state.
31 The division shall contract with the providers on a 4-year

1 basis. In making its selection, the division shall consider
2 the quality of programs and level of service proposed to be
3 provided, the provider's demonstrated ability to deliver the
4 programs and services stated in its proposal, the experience
5 and history of the provider in representing the public lodging
6 industry or food service industry in Florida, the provider's
7 demonstrated experience in providing instruction and training
8 to public lodging and food service licensees and their
9 personnel throughout Florida, and the provider's demonstrated
10 ability to provide instruction and training at locations
11 throughout the state and to generate statewide industry
12 support and participation. The providers may affiliate with
13 national nonprofit organizations representing the public
14 lodging industry or food service industry, or with any member
15 of the State University System or Florida Community College
16 System, or with any privately funded Florida college or
17 university, which offers a program of hospitality
18 administration and management.

19 (3) All public lodging establishments, all public food
20 service establishments, and all temporary food service event
21 licensees governed by this chapter shall pay an annual fee of
22 no more than \$10. This annual fee shall be paid as an addition
23 to the annual license fee and shall be used for the sole
24 purpose of funding the Hospitality Education Program.

25 (4) The content of all instruction and training
26 offered through the program must be approved by the advisory
27 council created in s. 509.291 and the division. The division
28 shall conduct an annual internal audit of all provider
29 contracts to ensure that they are being effectively
30 administered and to ensure that the instruction and training
31 provided are reasonable in relation to the funds received.

1 (5) Notwithstanding any other provision of law to the
2 contrary, as part of the Hospitality Education Program, the
3 director, with the consent of the advisory council, may
4 designate funds, not to exceed \$150,000 annually, to support
5 school-to-career transition programs available throughout
6 private, Florida nonprofit, statewide organizations in the
7 hospitality field. These programs shall be designed to prepare
8 students for progressive careers in the hospitality industry.

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

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

18 Section 5. Section 399.01, Florida Statutes, is
19 amended to read:

20 399.01 Definitions.--As used in this chapter, the
21 term:

22 (1) "Alteration" means any change or addition to the
23 vertical conveyance other than maintenance, repair, or
24 replacement.

25 ~~(2) "Certificate of competency" means a document~~
26 ~~issued by the division which evidences the competency of a~~
27 ~~person to construct, install, inspect, maintain, or repair any~~
28 ~~vertical conveyance.~~

29 (2)(3) "Certificate of operation" means a document
30 issued by the department which indicates that the conveyance
31

1 has had the required safety inspection and tests and that fees
2 have been paid as provided in this chapter.

3 (3)~~(4)~~ "Conveyance" means an elevator, dumbwaiter,
4 escalator, moving sidewalk, platform lift, and stairway
5 chairlift.

6 (4)~~(5)~~ "Department" means the Department of Business
7 and Professional Regulation.

8 (5)~~(6)~~ "Division" means the Division of Hotels and
9 Restaurants of the Department of Business and Professional
10 Regulation.

11 (6)~~(7)~~ "Elevator" means one of the following
12 mechanical devices:

13 (a) A hoisting and lowering mechanism, equipped with a
14 car and platform that moves in guide rails and serves two or
15 more landings to transport material or passengers or both.

16 (b) An escalator, which is a power-driven, inclined
17 continuous stairway used for raising or lowering passengers.

18 (c) A dumbwaiter, which is a hoisting and lowering
19 mechanism equipped with a car of limited size which moves in
20 guide rails and serves two or more landings.

21 (d) A moving walk, which is a type of
22 passenger-carrying device on which passengers stand or walk
23 and in which the passenger-carrying surface remains parallel
24 to its direction of motion and is uninterrupted.

25 (e) An inclined stairway chairlift, which is a device
26 used to transport physically handicapped persons over
27 architectural barriers.

28 (f) An inclined or vertical wheelchair lift, which is
29 a device used to transport wheelchair handicapped persons over
30 architectural barriers.

31

1 ~~(8) "Escalator" means an installation defined as an~~
2 ~~escalator in the Florida Building Code.~~

3 (7)~~(9)~~ "Existing installation" means an installation
4 defined as an "installation, existing" in the Florida Building
5 Code.

6 (8)~~(10)~~ "Elevator Safety Technical Advisory Committee"
7 means the committee appointed by the secretary of the
8 Department of Business and Professional Regulation.

9 (9)~~(11)~~ "Private residence" means a separate dwelling
10 or a separate apartment in a multiple dwelling which is
11 occupied by members of a single-family unit.

12 (10)~~(12)~~ "Service maintenance contract" means a
13 contract that provides for routine examination, lubrication,
14 cleaning, adjustment, replacement of parts, and performance of
15 applicable code-required safety tests such as on a traction
16 elevator and annual relief pressure test on a hydraulic
17 elevator and any other service, repair, and maintenance
18 sufficient to ensure the safe operation of the elevator and
19 that is made available upon request of the department for
20 purposes of oversight and monitoring.

21 (11)~~(13)~~ "Temporarily dormant conveyance" means a
22 conveyance whose power supply has been disconnected by
23 removing fuses and placing a padlock on the mainline
24 disconnect switch in the "OFF" position. The car is parked,
25 and the hoistway doors are in the closed and latched position.
26 A wire seal is installed on the mainline disconnect switch by
27 a certified ~~certificate of competency~~ elevator inspector. This
28 conveyance installation may not be used again until it has
29 been put in safe running order and is in condition for use.
30 Annual inspections shall continue for the duration of the
31 temporarily dormant status by a certified ~~certificate of~~

1 ~~competency~~ elevator inspector. The temporarily dormant status
2 is renewable on an annual basis and may not exceed a 5-year
3 period. The inspector shall file a report with the department
4 ~~chief elevator inspector~~ describing the current conditions.
5 The wire seal and padlock may not be removed for any purpose
6 without permission from the department ~~elevator inspector~~.

7 (12)(14) "Temporary operation inspection permit" means
8 an inspection performed by a certified elevator inspector, the
9 successful passage of a document issued by the department
10 which permits the temporary use of a noncompliant vertical
11 conveyance as provided by rule.

12 (13)(15) "Registered elevator company" means an entity
13 registered with and authorized by the division employing
14 persons to construct, install, inspect, maintain, or repair
15 any vertical conveyance. Each registered elevator company must
16 annually register with the division and maintain general
17 liability insurance coverage in the minimum amounts set by
18 rule ~~the division~~.

19 (14)(16) "Certified elevator inspector" is a natural
20 person registered with and authorized by the division to
21 construct, install, inspect, maintain, or repair any vertical
22 conveyance, after having properly acquired the qualified
23 elevator inspector credential as prescribed by the American
24 Society of Mechanical Engineers. Each certified elevator
25 inspector must annually register with the division and provide
26 ~~from the National Association of Elevator Safety Authorities.~~
27 ~~Such person shall remain so authorized by the division only~~
28 ~~upon providing annual proof of completion of 8 hours of~~
29 ~~continuing education,~~ proof that ~~and~~ the qualified elevator
30 inspector credential remains in good standing, and proof of
31 general liability insurance coverage in the minimum amounts

1 ~~set by the division with the National Association of Elevator~~
2 ~~Safety Authorities. A licensed mechanical engineer whose~~
3 ~~license is in good standing may be authorized as a certified~~
4 ~~elevator inspector by the division. Each certified elevator~~
5 ~~inspector must annually register with the division and~~
6 ~~maintain general liability insurance coverage in the minimum~~
7 ~~amounts set by the division.~~

8 (15)~~(17)~~ "Certified elevator technician" means a
9 natural person authorized by the division to construct,
10 install, maintain, or repair any vertical conveyance, after
11 having been issued an elevator certificate of competency by
12 the division. Each certified elevator technician must annually
13 register with the division and be covered by ~~maintain~~ general
14 liability insurance coverage in the minimum amounts set by the
15 division.

16 (16)~~(18)~~ "Elevator helper" means a natural person
17 performing work under the direct supervision of an elevator
18 certificate-of-competency holder ~~a certified elevator~~
19 ~~inspector or an elevator technician~~ to construct, install,
20 maintain, or repair any vertical conveyance.

21 (17)~~(19)~~ "Elevator certificate of competency" means a
22 credential issued by the division to any individual natural
23 person successfully completing an examination as prescribed by
24 rule and paying a nonrefundable fee of \$50. Such credential
25 shall be valid for and expire at the end of 1 year, and may be
26 renewed by the division when the division receives proof of
27 the elevator certificate of competency holder's completion of
28 8 hours of continuing education from a provider approved by
29 the department and a nonrefundable renewal fee of \$50. The
30 department shall adopt by rule criteria for providing approval
31 and procedures for continuing education reporting. An elevator

1 certificate of competency may be issued only if the applicant
2 meets the following requirements:

3 (a) Four years' work experience in the construction,
4 maintenance, service, and repair of conveyances covered by
5 this chapter. This experience shall be verified by current or
6 previously registered elevator companies as required by the
7 division.

8 (b) One of the following:

9 1. Proof of completion and successful passage of a
10 written examination administered by the division or a provider
11 approved by the division under standards it adopted by rule.

12 2. Proof of completion of an apprenticeship program
13 for elevator mechanics which has standards substantially
14 equivalent to those found in a national training program for
15 elevator mechanics and is registered with the Bureau of
16 Apprenticeship and Training of the United States Department of
17 Labor or a state apprenticeship authority.

18 3. Proof of licensure or certification by a state or
19 local jurisdiction in the United States having standards
20 substantially equal to or more stringent than those of this
21 chapter.

22
23 A licensed mechanical engineer whose license is in good
24 standing may be granted an elevator certificate of competency.

25 (18) All other building transportation terms are
26 defined in the current Florida Building Code.

27 Section 6. Subsections (1) and (5) of section 399.02,
28 Florida Statutes, are amended to read:

29 399.02 General requirements.--

30 (1) The Elevator Safety Technical Advisory Committee
31 shall develop and submit to the Director of Hotels and

1 Restaurants proposed ~~regarding~~ revisions to the elevator
2 safety code so that it is the same as or similar to the latest
3 edition ~~versions~~ of ASME A17.1, ASME A17.3, and ASME A18.1.

4 (5)(a) The construction permitholder is responsible
5 for the correction of violations and deficiencies until the
6 elevator has been inspected and a certificate of operation has
7 been issued by the department. The construction permitholder
8 is responsible for all tests of new and altered equipment
9 until the elevator has been inspected and a certificate of
10 operation has been issued by the department.

11 (b) The elevator owner is responsible for the safe
12 operation and proper maintenance, and inspection and
13 correction of code deficiencies of the elevator after ~~it has~~
14 ~~been inspected and~~ a certificate of operation has been issued
15 by the department. The responsibilities of the elevator owner
16 may be assigned by lease.

17 ~~(c) The elevator owner shall report to the department~~
18 ~~60 days before the expiration of the certificate of operation~~
19 ~~whether there exists a service maintenance contract, with whom~~
20 ~~the contract exists, and the details concerning the provisions~~
21 ~~and implementation of the contract which the department~~
22 ~~requires. The department shall keep the names of companies~~
23 ~~with whom the contract exists confidential pursuant to the~~
24 ~~public records exemption provided in s. 119.14(4)(b)3. This~~
25 ~~annual contract report must be made on forms supplied by the~~
26 ~~department. The elevator owner must report any material~~
27 ~~change in the service maintenance contract no fewer than 30~~
28 ~~days before the effective date of the change. The department~~
29 ~~shall determine whether the provisions of the service~~
30 ~~maintenance contract and its implementation ensure the safe~~
31 ~~operation of the elevator.~~

1 Section 7. Section 399.03, Florida Statutes, is
2 amended to read:

3 399.03 Design, installation, and alteration of
4 conveyances.--

5 (1) A conveyance covered by this chapter may not be
6 erected, constructed, installed, or altered within buildings
7 or structures until ~~unless~~ a permit has been obtained from the
8 department ~~before the work is commenced~~. Permits must be
9 applied for by a registered elevator company, and may only be
10 granted upon receipt and approval of an application to be made
11 on a form prescribed by the department, accompanied by all of
12 the following: proper fees; plans that have been sealed by an
13 architect or engineer whose license is in good standing; and a
14 statement from the architect or engineer attesting that the
15 plans meet all applicable elevator safety and building codes.
16 Permits may be granted only to registered elevator companies
17 in good standing.When any material alteration is made, the
18 alteration ~~device~~ must conform to applicable requirements of
19 the Florida Building Code and the provisions of this chapter
20 ~~for the alteration. A permit required hereunder may not be~~
21 ~~issued except to a person, firm, or corporation holding a~~
22 ~~current elevator contractor's license issued under this~~
23 ~~chapter.~~A copy of the permit and plans must be kept at the
24 construction site at all times while the work is in progress
25 and until a certificate of operation is issued.

26 (2) The department shall provide by rule for permit
27 application requirements and permit fees.

28 (3) Permits may be revoked for the following reasons:

29 (a) There are any false statements or
30 misrepresentations as to the material facts in the
31

1 application, plans, or specifications on which the permit was
2 based.

3 (b) The permit was issued in error and not in
4 accordance with the code or rules.

5 (c) The work detailed under the permit is not being
6 performed in accordance with the provisions of the
7 application, plans, or specifications or with the code or
8 conditions of the permit.

9 (d) The construction permit holder to whom the permit
10 was issued fails or refuses to comply with a stop-work order.

11 (4) A permit expires if:

12 (a) The work authorized by the permit is not commenced
13 within 6 months after the date of issuance, or within a
14 shorter period of time as the department may specify at the
15 time the permit is issued.

16 (b) The work is suspended or abandoned for a period of
17 60 days, or such shorter period of time as the department may
18 specify at the time the permit is issued, after the work has
19 been started. For good cause, the department may allow a
20 discretionary extension for the foregoing period.

21 (5) All new conveyance installations must be performed
22 by a registered elevator company. ~~person to whom a license to~~
23 ~~install or service a conveyance has been issued. Subsequent to~~
24 ~~installation, the licensed person, firm, or company must~~
25 ~~certify compliance with the applicable sections of this~~
26 ~~chapter and the Florida Building Code. Before any vertical~~
27 conveyance is used, except those in a private residence, it
28 must be inspected by a certified elevator licensed inspector
29 not employed or associated or having a conflict of interest
30 with the elevator construction permit holder or elevator owner
31 and certified as meeting the safety provisions of the Florida

1 Building Code, including the performance of all required
2 safety tests. The certified elevator inspector shall provide
3 the original copy of the inspection report to the department
4 within 5 days after the inspection. A certificate of operation
5 may not be issued until the permitholder provides an affidavit
6 signed by the construction supervisor attesting that the
7 supervisor directly supervised the construction or
8 installation of the elevator.~~Upon successful inspection, the~~
9 ~~owner or lessee must apply to the department for a certificate~~
10 ~~of operation from the department. A fee as prescribed in this~~
11 ~~chapter must be paid for the certificate of operation. It is~~
12 ~~the responsibility of the licensed elevator construction~~
13 ~~permitholder to complete and submit a first-time registration~~
14 ~~for a new installation.~~Vertical conveyances, including
15 stairway chairlifts, and inclined or vertical wheelchair lifts
16 located in private residences are not required to obtain a
17 certificate of operation under this chapter.

18 ~~(6) A certificate of operation expires July 31 of each~~
19 ~~year and must be renewed prior to continued use of the~~
20 ~~conveyance. A certificate of operation must be clearly~~
21 ~~displayed on or in each conveyance or in the machine room for~~
22 ~~use by and for the benefit of inspectors and code enforcement~~
23 ~~personnel. Certificates of operation may only be renewed for~~
24 ~~vertical conveyances having a current satisfactory inspection.~~

25 ~~(6)(7)~~ At the department's request, and to facilitate
26 oversight and monitoring,the permitholder shall notify the
27 department of the scheduled final inspection date and time for
28 purposes of acquiring a certificate of inspection, in writing,
29 ~~at least 7 days before completion of the work and shall, in~~
30 ~~the presence of a licensed elevator inspector not associated~~
31 ~~with or employed by the installing company or contractor,~~

1 ~~subject the newly installed, relocated, or altered portions of~~
2 ~~the elevator to tests required to show that the elevator meets~~
3 ~~the applicable provisions of the Florida Building Code.~~

4 ~~(7)(8)~~ Each elevator shall comply with the edition of
5 the Florida Building Code or Elevator Safety Code that was in
6 effect at the time of receipt of application for the
7 construction permit for the elevator.

8 ~~(8)(9)~~ Each alteration to, or relocation of, an
9 elevator shall comply with the edition of the Florida Building
10 Code or Elevator Safety Code that was in effect at the time of
11 receipt of the application for the construction permit for the
12 alteration or relocation.

13 ~~(9)(10)~~ When any change is made in the classification
14 of an elevator, the elevator shall comply with all of the
15 requirements of the version of the Florida Building Code or
16 Elevator Safety Code that were in effect at the time of
17 receipt of the application for the construction permit for the
18 change in classification.

19 ~~(10)(a)~~ The temporary use of an elevator during
20 installation or alteration is authorized for a period of 30
21 days from the completion of a satisfactory temporary operation
22 inspection. An additional 30-day period of temporary use is
23 authorized from the date of completion of each additional
24 satisfactory temporary operation inspection. A satisfactory
25 temporary operation inspection must satisfy the following
26 criteria: the elevator is tested under contract load; the
27 hoistway is fully enclosed; the hoistway doors and interlocks
28 are installed; the car is completely enclosed, including door
29 or gate and top; all electrical safety devices are installed
30 and properly functioning; and terminal stopping equipment is
31 in place for a safe runby and proper clearance. When a car is

1 provided with a temporary enclosure, the operating means must
2 be by constant pressure push-button or lever-type switch. The
3 car may not exceed the minimum safe operating speed of the
4 elevator, and the governor tripping speed must be set in
5 accordance with the operating speed of the elevator.

6 (b) Temporary use is authorized only when a
7 satisfactory temporary operation inspection report, completed
8 within the last 30 days, and a notice prescribed by the
9 department, bearing a statement that the elevator has not been
10 finally approved by a certified elevator inspector, are
11 conspicuously posted in the elevator.

12 Section 8. Section 399.049, Florida Statutes, is
13 amended to read:

14 399.049 Certificate of competency.--

15 (1) SUSPENSION OR REVOCATION OF CERTIFICATION OR
16 REGISTRATION UNDER THIS CHAPTER ~~LICENSE OR CERTIFICATE OF~~
17 ~~COMPETENCY.~~--The department may suspend or revoke an elevator
18 inspector certification, an elevator company registration, an
19 elevator ~~a license or certificate of competency, or an~~
20 elevator certificate of operation issued under this chapter or
21 impose an administrative penalty of up to \$1,000 per violation
22 upon any registered elevator company licensee or
23 certificateholder who commits any one or more of the following
24 violations:

25 (a) Any false statement as to a material matter in an
26 ~~the~~ application for licensure, permit, or certificate of
27 operation.

28 (b) Fraud, misrepresentation, or bribery in the
29 practice of the profession ~~securing a license or certificate~~
30 ~~of competency.~~

31

1 (c) Failure by a certified elevator inspector to
2 provide to notify the department and the certificate of
3 operation holder with a copy of the inspection report within 5
4 days of the date of any inspection performed after the initial
5 certificate of operation is issued ~~of a conveyance covered by~~
6 ~~this chapter that is not in compliance with the provisions of~~
7 ~~the elevator safety code incorporated into the Florida~~
8 ~~Building Code.~~

9 (d) Violation of any provision of this chapter.

10 (2) DISCIPLINARY ACTION.--Any disciplinary action
11 taken under this chapter must comply with chapter 120 and any
12 rules adopted thereunder.

13 Section 9. Section 399.061, Florida Statutes, is
14 amended to read:

15 399.061 Inspections; service maintenance contracts;
16 correction of deficiencies.--

17 (1)(a) All elevators or other conveyances subject to
18 this chapter must be annually inspected by a certified
19 elevator inspector ~~through a third-party inspection service,~~
20 or by a municipality or county under contract with the
21 division, pursuant to s. 399.13. ~~If the elevator or other~~
22 ~~conveyance is maintained pursuant to a service maintenance~~
23 ~~contract continuously in force, it shall be inspected at least~~
24 ~~once every 2 years by a certified elevator inspector who is~~
25 ~~not employed by or otherwise associated with the maintenance~~
26 ~~company; however, if the elevator is not an escalator or a~~
27 ~~dumbwaiter, serves only two adjacent floors, and is covered by~~
28 a service maintenance contract, an inspection is not required
29 so long as the service contract remains in effect. ~~A statement~~
30 ~~verifying the existence, performance, and cancellation of each~~
31

1 ~~service maintenance contract must be filed annually with the~~
2 ~~division as prescribed by rule.~~

3 (b) A statement verifying the existence and
4 performance of each service maintenance contract must be filed
5 at least annually with the division, and as prescribed by
6 rule. Cancellation of a service maintenance contract must be
7 reported to the division as prescribed in rule.~~The division~~
8 ~~may inspect an elevator whenever necessary to ensure its safe~~
9 ~~operation or when a third-party inspection service is not~~
10 ~~available for a routine inspection.~~

11 (2) The division may inspect an elevator whenever
12 necessary to ensure its safe operation.~~The division may~~
13 ~~employ state elevator inspectors to conduct any the~~
14 ~~inspections as required by this chapter subsection (1) and may~~
15 ~~charge a an inspection fee for each inspection in an amount~~
16 ~~sufficient to cover the costs of that inspection, as provided~~
17 ~~by rule, when a private certified elevator inspector is not~~
18 ~~available. Each state elevator inspector shall be properly~~
19 ~~qualified as a certified elevator inspector hold a certificate~~
20 ~~of competency issued by the division.~~

21 (3) Whenever the division determines from the results
22 of any inspection that, in the interest of the public safety,
23 an elevator is in an unsafe condition, the division may seal
24 the elevator or order the discontinuance of the use of the
25 elevator until the division determines by inspection that such
26 elevator has been satisfactorily repaired or replaced so that
27 the elevator may be operated in a safe manner.

28 (4) When the division determines that an elevator is
29 in violation of this chapter or the Florida Building Code, the
30 division may issue an order to the elevator owner requiring
31

1 correction of the violation and reinspection of the elevator
2 evidencing the correction.

3 Section 10. Section 399.07, Florida Statutes, is
4 amended to read:

5 399.07 Certificates of operation; ~~temporary operation~~
6 ~~permits; fees.--~~

7 ~~(1)(a) A certificate of operation may not be issued~~
8 ~~until the elevator company supervisor signs an affidavit~~
9 ~~stating that the elevator company supervisor directly~~
10 ~~supervised construction or installation of the elevator.~~

11 (1)(b) The certificate of operation is valid for a
12 period not to exceed 2 years and shall expire at the end of
13 the period of 1 year unless sooner suspended or revoked. The
14 department may adopt rules establishing a procedure for
15 certificate renewal. Certificates of operation may be renewed
16 only for vertical conveyances having a current satisfactory
17 inspection. The owner of an elevator operating with an expired
18 certificate of operation is in violation of this chapter.
19 Certificate of operation renewal applications received by the
20 department after the date of expiration of the last current
21 certificate must be accompanied by a late fee of \$50 in
22 addition to the annual renewal fee and any other fees required
23 by law. The department shall adopt by rule a fee schedule for
24 the renewal of certificates of operation. The fees must be
25 deposited into the Hotel and Restaurant Trust Fund.~~The~~
26 ~~department shall by rule adopt a fee schedule for the renewal~~
27 ~~of certificates of operation. The renewal period commences on~~
28 ~~August 1 of each year.~~

29 (2)(c) The certificate of operation must be posted in
30 a conspicuous location on the elevator and must be framed with
31 a transparent cover.

1 ~~(d) The department shall charge an annual fee for~~
2 ~~issuance of a certificate of operation in an amount to be set~~
3 ~~by rule. However, a renewal application for a certificate of~~
4 ~~operation filed with the department after expiration date of~~
5 ~~the certificate must be accompanied by a delinquency fee of~~
6 ~~\$50 in addition to the annual renewal fee and any other fees~~
7 ~~required by law. The fees must be deposited into the Hotel and~~
8 ~~Restaurant Trust Fund.~~

9 ~~(2)(a) The department may issue a temporary operation~~
10 ~~permit authorizing the temporary use of an elevator during~~
11 ~~installation or alteration to an elevator company or general~~
12 ~~contractor acting as a general agent of an elevator company. A~~
13 ~~temporary operation permit may not be issued until the~~
14 ~~elevator has been inspected by a state elevator inspector and~~
15 ~~tested under contract load; the hoistway is fully enclosed;~~
16 ~~the hoistway doors and interlocks are installed; the car is~~
17 ~~completely enclosed, including door or gate and top; all~~
18 ~~electrical safety devices are installed and properly~~
19 ~~functioning; and terminal stopping equipment is in place for a~~
20 ~~safe runby and proper clearance. When a car is provided with a~~
21 ~~temporary enclosure, the operating means must be by constant~~
22 ~~pressure push-button or lever-type switch. The car may not~~
23 ~~exceed the minimum safe operating speed of the elevator, and~~
24 ~~the governor tripping speed must be set in accordance with the~~
25 ~~operating speed of the elevator.~~

26 ~~(b) A temporary operation permit must be issued for a~~
27 ~~period not to exceed 30 days. The permit may be renewed at~~
28 ~~the discretion of the department.~~

29 ~~(c) When a temporary operation permit is issued, the~~
30 ~~permit, together with a notice bearing a statement that the~~
31

1 ~~elevator has not been finally approved by a state elevator~~
2 ~~inspector, must be conspicuously posted in the elevator.~~

3 ~~(d) The department shall charge a fee, set by rule in~~
4 ~~an amount not greater than \$100, for each temporary operation~~
5 ~~permit. The fee must be deposited in the Hotel and Restaurant~~
6 ~~Trust Fund.~~

7 (3) The certificate of operation shall contain the
8 text of s. 823.12, relating to the prohibition against smoking
9 in elevators.

10 (4) In addition to subsection (3), the designation "NO
11 SMOKING" along with the international symbol for no smoking
12 shall be conspicuously displayed within the interior of the
13 elevator in the plain view of the public.

14 (5) Except for ~~as authorized by a temporary use~~
15 authorized by this chapter operation permit, the operation or
16 use of any newly installed, relocated, or altered elevator is
17 prohibited until the elevator has passed the tests and
18 inspections required by this chapter and a certificate of
19 operation has been issued.

20 (6) The department may suspend any certificate of
21 operation if it finds that the elevator is not in compliance
22 with this chapter or of rules adopted under this chapter. The
23 suspension remains in effect until the department receives
24 satisfactory results of an inspection performed by a certified
25 elevator inspection indicating ~~determines, by inspection,~~ that
26 the elevator has been brought into compliance.

27 Section 11. Section 399.105, Florida Statutes, is
28 amended to read:

29 399.105 Administrative fines.--

30 (1) Any person who fails to comply with the reporting
31 requirements of this chapter ~~s. 399.02~~ or with the reasonable

1 requests of the department to determine whether the provisions
2 of a service maintenance contract and its implementation
3 assure safe elevator operation is subject to an administrative
4 fine not greater than \$1,000 in addition to any other penalty
5 provided by law.

6 (2) Any person who commences the operation,
7 installation, relocation, or alteration of any elevator for
8 which a permit or certificate is required by this chapter
9 without having obtained from the department the permit or
10 certificate is subject to an administrative fine not greater
11 than \$1,000 in addition to any other penalty provided by law.
12 ~~No fine may be imposed under this subsection for commencing~~
13 ~~installation without a construction permit if such permit is~~
14 ~~issued within 60 days after the actual commencement of~~
15 ~~installation.~~

16 (3) An elevator owner who continues to operate an
17 elevator after notice to discontinue its use or after it has
18 been sealed by the department is subject to an administrative
19 fine not greater than \$1,000 for each day the elevator has
20 been operated after the service of the notice or sealing by
21 the department, in addition to any other penalty provided by
22 law.

23 (4) An elevator owner who fails to comply with an
24 order to correct issued under s. 399.061(4) within 30 ~~60~~ days
25 after its issuance is subject, in addition to any other
26 penalty provided by law, to an administrative fine ~~set by the~~
27 ~~department~~ in an amount not to exceed \$1,000.

28 (5) All administrative fines collected shall be
29 deposited into the Hotel and Restaurant Trust Fund.

30 Section 12. Subsection (2) of section 399.106, Florida
31 Statutes, is amended to read:

1 399.106 Elevator Safety Technical Advisory
2 Committee.--

3 (2) The committee members shall serve staggered terms
4 of 4 years to be set by rule without salary, but may receive
5 from the state expenses for per diem and travel. The committee
6 ~~commission~~ shall appoint one of the members to serve as chair.

7 Section 13. Section 399.125, Florida Statutes, is
8 amended to read:

9 399.125 Reporting of elevator accidents ~~or incidents~~;
10 penalties.--Within 5 working days after any accident ~~or~~
11 ~~incident~~ occurring in or upon any elevator, the certificate of
12 operation holder shall report the accident or incident to the
13 division on a form prescribed by the division. Failure to
14 timely file this report is a violation of this chapter and
15 will subject the certificate of operation holder to an
16 administrative fine, to be imposed by the division, in an
17 amount not to exceed \$1,000.

18 Section 14. Section 399.13, Florida Statutes, is
19 amended to read:

20 399.13 Delegation of authority to municipalities or
21 counties.--

22 (1) The department may enter into contracts with
23 municipalities or counties under which such municipalities or
24 counties will issue construction permits, ~~temporary operation~~
25 ~~permits~~, and certificates of operation; will provide for
26 inspection of elevators including temporary operation
27 inspections; and will enforce the applicable provisions of the
28 Florida Building Code, as required by this chapter. The
29 municipality or county may choose to require inspections to be
30 performed by its own inspectors or by private certified
31 elevator inspectors. Each such agreement shall include a

1 provision that the municipality or county shall maintain for
2 inspection by the department copies of all applications for
3 permits issued, a copy of each inspection report issued, and
4 proper records showing the number of certificates of operation
5 issued; shall include a provision that each required
6 inspection be conducted by a certified elevator inspector ~~the~~
7 ~~holder of a certificate of competency issued by the~~
8 ~~department~~; and may include such other provisions as the
9 department deems necessary.

10 (2) The department may make inspections of elevators
11 in such municipality or county for the purpose of determining
12 that the provisions of this chapter are being met and may
13 cancel the contract with any municipality or county which the
14 department finds has failed to comply with such contract or
15 the provisions of this chapter. The amendments to chapter 399
16 by this act shall apply only to the installation, relocation,
17 or alteration of an elevator for which a permit has been
18 issued after October 1, 1990.

19 Section 15. Section 509.072, Florida Statutes, is
20 amended to read:

21 509.072 Hotel and Restaurant Trust Fund; collection
22 and disposition of moneys received.--

23 (1) There is created a Hotel and Restaurant Trust Fund
24 to be used for the administration and operation of the
25 division and the carrying out of all laws and rules under the
26 jurisdiction of the division pertaining to the construction,
27 maintenance, and operation of public lodging establishments
28 and public food service establishments, including the
29 inspection of elevators as required under chapter 399. All
30 funds collected by the division and the amounts paid for
31

1 licenses and fees shall be deposited in the State Treasury
2 into the Hotel and Restaurant Trust Fund.

3 (2) The department shall maintain a separate account
4 in the Hotel and Restaurant Trust Fund for funds collected for
5 the inspection of elevators as required under chapter 399. To
6 the maximum extent possible, the department shall directly
7 charge all expenses to the account for elevator inspections.
8 For the purpose of this subsection, direct charge expenses
9 include, but are not limited to, costs for investigations,
10 examinations, or legal services. For expenses that cannot be
11 charged directly, the department shall provide for the
12 proportionate allocation among the accounts of expenses
13 incurred by the department in the performance of its duties.
14 The department may not expend funds from the account of the
15 elevator inspections to pay for the expenses incurred on
16 behalf of hotel or restaurant regulation, nor may the funds be
17 deposited or transferred into any other trust fund
18 administered by the department or any of its divisions. The
19 department shall maintain adequate records to support its
20 allocation of the department's expenses.

21 (3)(2) Fees collected under s. 509.302(3) and
22 deposited into the trust fund must be used solely for the
23 purpose of funding the Hospitality Education Program, except
24 for any trust fund service charge imposed by s. 215.20, and
25 may not be used to pay for any expense of the division not
26 directly attributable to the Hospitality Education Program.
27 These funds may not be deposited or transferred into any other
28 trust fund administered by the Department of Business and
29 Professional Regulation or any of its divisions. For audit
30 purposes, fees collected under s. 509.302(3) and all charges
31

1 against those fees must be maintained by the department as a
2 separate ledger.

3 Section 16. This act shall take effect upon becoming a
4 law.

5
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 SB 1450

9 The Committee Substitute:

10 -Requires only one annual inspection of transient and
11 nontransient apartments.

12 -Requires that a temporary food service vendor obtain either
13 an individual license for each temporary food event for a fee
of no more than \$105, or an annual license for a fee of no
more than \$1,000.

14 -Clarifies that late fees and fees to pay costs associated
15 with initiating regulation of the establishment are not
subject to the aggregate cap on license fees.

16 -Requires that the Secretary of the Department of Business and
17 Professional Regulation and the Division of Hotels and
18 Restaurants periodically review its budget and financial
19 status with the advisory council for the purpose of
maintaining the financial stability of the division, with the
council to make recommendations on adequate funding levels.

20 -Privatizes the Hospitality Education Program by requiring
21 that all instruction and training offered through the program
22 be provided by private, Florida nonprofit statewide
23 organizations under contract with the division, increasing the
annual fee to fund the program from \$6 to \$10.

24 -Incorporates the substance of CS/SB 990, on elevator
25 inspections.

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