

Bill No. CS for CS for SB 2738

Amendment No.      Barcode 465072

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Constantine moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 79, between lines 17 and 18,		
15			
16	insert:		
17	Section 58. Section 381.0069, Florida Statutes, is		
18	created to read:		
19	<u>381.0069 Portable restroom contracting.--</u>		
20	<u>(1) DEFINITIONS.--As used in this section, the term:</u>		
21	<u>(a) "Department" means the Department of Health.</u>		
22	<u>(b) "Portable restroom" means holding tanks,</u>		
23	<u>transportable individual toilets, or restroom facilities that</u>		
24	<u>are intended for use on a permanent or nonpermanent basis,</u>		
25	<u>including such facilities placed on construction sites when</u>		
26	<u>workers are present.</u>		
27	<u>(c) "Portable restroom contractor" means a portable</u>		
28	<u>restroom contractor who has knowledge of state health code law</u>		
29	<u>and rules; and who has the experience, knowledge, and skills</u>		
30	<u>to handle, deliver, and pick up sanitary portable restrooms,</u>		
31	<u>to install, safely handle, and maintain portable holding</u>		

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1 tanks, and to handle, transport, and dispose of domestic  
2 portable restroom and portable holding tank wastewater.

3 (2) REGISTRATION REQUIRED.--A person may not hold  
4 himself or herself out as a portable restroom contractor in  
5 this state unless he or she is registered by the department in  
6 accordance with this section. However, this section does not  
7 prohibit any person licensed pursuant to s. 489.105(3)(m) or  
8 ss. 489.551-489.558 from engaging in the profession for which  
9 he or she is licensed. This act does not apply to an entity  
10 defined in s. 403.70605(4)(b).

11 (3) ADMINISTRATION OF SECTION; REGISTRATION  
12 QUALIFICATIONS; EXAMINATION.--

13 (a) Each person desiring to be registered pursuant to  
14 this section shall apply to the department in writing upon  
15 forms prepared and furnished by the department.

16 (b) The department shall administer, coordinate, and  
17 enforce the provisions of this section, provide qualifications  
18 for applicants, administer the examination for applicants, and  
19 be responsible for the granting of certificates of  
20 registration to qualified persons.

21 (c) The department shall adopt rules pursuant to ss.  
22 120.536(1) and 120.54 to administer this section, including,  
23 but not limited to, rules that establish ethical standards of  
24 practice, requirements for registering as a contractor,  
25 requirements for obtaining an initial or renewal certificate  
26 of registration, disciplinary guidelines, and requirements for  
27 the certification of partnerships and corporations. The  
28 department may amend or repeal the rules in accordance with  
29 chapter 120.

30 (d) To be eligible for registration by the department  
31 as a portable restroom contractor, the applicant shall:

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1           1. Be of good moral character. In considering good  
2 moral character, the department may consider any matter that  
3 has a substantial connection between the good moral character  
4 of the applicant and the professional responsibilities of a  
5 registered contractor, including, but not limited to, the  
6 applicant being convicted or found guilty of, or entering a  
7 plea of nolo contendere to, regardless of adjudication, a  
8 crime in any jurisdiction that directly relates to the  
9 practice of contracting or the ability to practice contracting  
10 and previous disciplinary action involving portable restroom  
11 contracting for which all judicial reviews have been  
12 completed.

13           2. Pass an examination approved by the department  
14 which demonstrates that the applicant has a fundamental  
15 knowledge of the state laws relating to the installation,  
16 maintenance, and wastewater disposal of portable restrooms,  
17 portable sinks, and portable holding tanks.

18           3. Be at least 18 years of age.

19           4. Have a total of at least 3 years of active  
20 experience serving an apprenticeship as a skilled worker under  
21 the supervision and control of a registered portable restroom  
22 contractor. Related work experience or educational experience  
23 may be substituted for no more than 2 years of active  
24 contracting experience. Each 30 hours of coursework approved  
25 by the department shall be substituted for 6 months of work  
26 experience. Out-of-state work experience shall be accepted on  
27 a year-for-year basis for any applicant who demonstrates that  
28 he or she holds a current license issued by another state for  
29 portable restroom contracting which was issued upon  
30 satisfactory completion of an examination and continuing  
31 education courses that are equivalent to the requirements in

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1 this state. Individuals from a state with no state  
2 certification who have successfully completed a written  
3 examination provided by the Portable Sanitation Association  
4 International shall only be required to take the written  
5 portion of the examination that includes state health code law  
6 and rules. For purposes of this section, an equivalent  
7 examination must include the topics of state health code law  
8 and rules applicable to portable restrooms and the knowledge  
9 required to handle, deliver, and pick up sanitary portable  
10 restrooms; to install, handle, and maintain portable holding  
11 tanks; and to handle, transport, and dispose of domestic  
12 portable restroom and portable holding tank wastewater. A  
13 person employed by and under the supervision of a licensed  
14 contractor shall be granted up to 2 years of related work  
15 experience.

16 5. Have not had a registration revoked the effective  
17 date of which was less than 5 years before the application.

18 (e) The department shall provide each applicant for  
19 registration pursuant to this section with a copy of this  
20 section and any rules adopted under this section. The  
21 department may also prepare and disseminate such other  
22 material and questionnaires as it deems necessary to  
23 effectuate the registration provisions of this section.

24 (f) Any person who was employed 1 or more years in  
25 this state by a portable restroom service holding a permit  
26 issued by the department on or before October 1, 2003, has  
27 until October 1, 2004, to be registered by the department in  
28 accordance with this section and may continue to perform  
29 portable restroom contracting services until that time. Such  
30 persons are exempt until October 1, 2004, from the 3 years'  
31 active work experience requirement of subparagraph (d)4.

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1           (4) REGISTRATION RENEWAL.--

2           (a) The department shall prescribe by rule procedures  
3 for approving continuing education courses, renewing annual  
4 registrations and filing renewal applications, authorizing  
5 contractors to hold a inactive registration for a specified  
6 period, and reactivating inactive registrations. At a minimum,  
7 the requirements for the annual renewal of registration shall  
8 require at least 6 classroom hours of continuing education  
9 each year for portable restroom contractors.

10           (b) A certificate of registration becomes inactive  
11 when a renewal application is not filed in a timely manner. A  
12 certificate that has become inactive may be reactivated under  
13 this section by submitting an application to the department. A  
14 registered contractor may apply to the department for  
15 voluntary inactive status at any time during the period of  
16 registration.

17           (5) CERTIFICATION OF PARTNERSHIPS AND CORPORATIONS.--

18           (a) The practice of or the offer to practice portable  
19 restroom contracting services by registrants through a parent  
20 corporation, corporation, subsidiary of a corporation, or  
21 partnership offering portable restroom contracting services to  
22 the public as agents, employers, officers, or partners is  
23 permitted if one or more of the principal officers of the  
24 corporation or one or more partners of the partnership and all  
25 personnel of the corporation or partnership who act on its  
26 behalf as portable restroom contractors in this state are  
27 registered as provided by this section and if the corporation  
28 or partnership has been issued a certificate of authorization  
29 by the department as provided in this section. A registered  
30 contractor may not be the sole qualifying contractor for more  
31 than one business that requests a certificate of

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1 authorization. A business organization that loses its  
2 qualifying contractor has 60 days following the date the  
3 qualifier terminates his or her affiliation within which to  
4 obtain another qualifying contractor. During this period, the  
5 business organization may complete any existing contract or  
6 continuing contract, but may not undertake any new contract.  
7 This period may be extended once by the department for an  
8 additional 60 days upon a showing of good cause. This section  
9 may not be construed to mean that a certificate of  
10 registration to practice portable restroom contracting must be  
11 held by a corporation. A corporation or partnership is not  
12 relieved of responsibility for the conduct or acts of its  
13 agents, employees, or officers by reason of its compliance  
14 with this section, and an individual practicing portable  
15 restroom contracting is not relieved of responsibility for  
16 professional services performed by reason of his or her  
17 employment or relationship with a corporation or partnership.

18 (b) For the purposes of this section, a certificate of  
19 authorization shall be required for a corporation, a  
20 partnership, an association, or a person practicing under a  
21 fictitious name when offering portable restroom contracting  
22 services to the public, except that when an individual is  
23 practicing portable restroom contracting in his or her own  
24 given name, he or she is not required to register under this  
25 section.

26 (c) Each certification of authorization shall be  
27 renewed every 2 years. Each partnership and corporation  
28 certified under this section shall notify the department  
29 within 1 month after any change in the information contained  
30 in the application upon which the certification is based.

31 (d) Disciplinary action against a corporation or

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1 partnership shall be administered in the same manner and on  
2 the same grounds as disciplinary action against a registered  
3 portable restroom contractor.

4 (e) When a certificate of authorization has been  
5 revoked, any person authorized by law to provide portable  
6 restroom contracting services may not use the name or  
7 fictitious name of the entity whose certificate was revoked,  
8 or any other identifiers for the entity, including telephone  
9 numbers, advertisements, or logos.

10 (6) SUSPENSION OR REVOCATION OF REGISTRATION.--A  
11 certificate of registration may be suspended or revoked upon a  
12 showing that the registrant has:

13 (a) Violated any provision of this section.

14 (b) Violated any lawful order or rule rendered or  
15 adopted by the department.

16 (c) Obtained his or her registration or any other  
17 order, ruling, or authorization by means of fraud,  
18 misrepresentation, or concealment of material facts.

19 (d) Been found guilty of gross misconduct in the  
20 pursuit of his or her profession.

21 (7) FEES; ESTABLISHMENT.--

22 (a) The department shall, by rule, establish fees as  
23 follows:

24 1. For registration as a portable restroom contractor:

25 a. Application and examination fee: not less than \$25  
26 nor more than \$75.

27 b. Initial registration fee: not less than \$50 nor  
28 more than \$100.

29 c. Renewal of registration fee: not less than \$50 nor  
30 more than \$100.

31 2. For certification of a partnership or corporation:

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1 not less than \$100 nor more than \$250.

2 (b) Fees established pursuant to paragraph (a) shall  
3 be based on the actual costs incurred by the department in  
4 carrying out its registration and other related  
5 responsibilities under this section.

6 (8) PENALTIES AND PROHIBITIONS.--

7 (a) Any person who violates any provision of this  
8 section commits a misdemeanor of the first degree, punishable  
9 as provided in s. 775.082 or s. 775.083.

10 (b) The department may deny a registration,  
11 authorization, or registration renewal if it determines that  
12 an applicant does not meet all requirements of this section,  
13 has violated any provision of this section, or has been  
14 assessed an administrative penalty by the department which  
15 remains outstanding if the penalty is final agency action and  
16 all judicial review have been exhausted. Any applicant  
17 aggrieved by such denial is entitled to a hearing, after  
18 reasonable notice thereof, upon filing a written request for  
19 such hearing in accordance with chapter 120.

20 Section 59. Paragraph (k) of subsection (2) of section  
21 381.0066, Florida Statutes, is amended to read:

22 381.0066 Onsite sewage treatment and disposal systems;  
23 fees.--

24 (2) The minimum fees in the following fee schedule  
25 apply until changed by rule by the department within the  
26 following limits:

27 (k) Research: An additional \$5 fee shall be added to  
28 each new system construction permit issued ~~during fiscal years~~  
29 ~~1996-2003~~ to be used for onsite sewage treatment and disposal  
30 system research, demonstration, and training projects. Five  
31 dollars from any repair permit fee collected under this



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1 section shall be used for funding the hands-on training  
2 centers described in s. 381.0065(3)(j).

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4 The funds collected pursuant to this subsection must be  
5 deposited in a trust fund administered by the department, to  
6 be used for the purposes stated in this section and ss.  
7 381.0065 and 381.00655.

8 Section 60. Subsection (1) of section 381.0061,  
9 Florida Statutes, is amended to read:

10 381.0061 Administrative fines.--

11 (1) In addition to any administrative action  
12 authorized by chapter 120 or by other law, the department may  
13 impose a fine, which shall not exceed \$500 for each violation,  
14 for a violation of s. 381.006(16), s. 381.0065, s. 381.0066,  
15 s. 381.0069, s. 381.0072, or part III of chapter 489, for a  
16 violation of any rule adopted under this chapter, or for a  
17 violation of any of the provisions of chapter 386. Notice of  
18 intent to impose such fine shall be given by the department to  
19 the alleged violator. Each day that a violation continues may  
20 constitute a separate violation.

21 Section 61. Subsection (5) of section 381.0065,  
22 Florida Statutes, is amended to read:

23 381.0065 Onsite sewage treatment and disposal systems;  
24 regulation.--

25 (5) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.--

26 (a) Department personnel who have reason to believe  
27 noncompliance exists, may at any reasonable time, enter the  
28 premises permitted under ss. 381.0065-381.0066, or the  
29 business premises of any septic tank contractor or master  
30 septic tank contractor registered under part III of chapter  
31 489, or the business premises of any portable restroom

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1 contractor registered under s. 381.0069, or any premises that  
 2 the department has reason to believe is being operated or  
 3 maintained not in compliance, to determine compliance with the  
 4 provisions of this section, part I of chapter 386, or part III  
 5 of chapter 489 or rules or standards adopted under ss.  
 6 381.0065-381.0067, s. 381.0069, part I of chapter 386, or part  
 7 III of chapter 489. As used in this paragraph, the term  
 8 "premises" does not include a residence or private building.  
 9 To gain entry to a residence or private building, the  
 10 department must obtain permission from the owner or occupant  
 11 or secure an inspection warrant from a court of competent  
 12 jurisdiction.

13 (b)1. The department may issue citations that may  
 14 contain an order of correction or an order to pay a fine, or  
 15 both, for violations of ss. 381.0065-381.0067, s. 381.0069,  
 16 part I of chapter 386, or part III of chapter 489 or the rules  
 17 adopted by the department, when a violation of these sections  
 18 or rules is enforceable by an administrative or civil remedy,  
 19 or when a violation of these sections or rules is a  
 20 misdemeanor of the second degree. A citation issued under ss.  
 21 381.0065-381.0067, s. 381.0069, part I of chapter 386, or part  
 22 III of chapter 489 constitutes a notice of proposed agency  
 23 action.

24 2. A citation must be in writing and must describe the  
 25 particular nature of the violation, including specific  
 26 reference to the provisions of law or rule allegedly violated.

27 3. The fines imposed by a citation issued by the  
 28 department may not exceed \$500 for each violation. Each day  
 29 the violation exists constitutes a separate violation for  
 30 which a citation may be issued.

31 4. The department shall inform the recipient, by

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1 written notice pursuant to ss. 120.569 and 120.57, of the  
2 right to an administrative hearing to contest the citation  
3 within 21 days after the date the citation is received. The  
4 citation must contain a conspicuous statement that if the  
5 recipient fails to pay the fine within the time allowed, or  
6 fails to appear to contest the citation after having requested  
7 a hearing, the recipient has waived the recipient's right to  
8 contest the citation and must pay an amount up to the maximum  
9 fine.

10           5. The department may reduce or waive the fine imposed  
11 by the citation. In determining whether to reduce or waive the  
12 fine, the department must consider the gravity of the  
13 violation, the person's attempts at correcting the violation,  
14 and the person's history of previous violations including  
15 violations for which enforcement actions were taken under ss.  
16 381.0065-381.0067, part I of chapter 386, part III of chapter  
17 489, or other provisions of law or rule.

18           6. Any person who willfully refuses to sign and accept  
19 a citation issued by the department commits a misdemeanor of  
20 the second degree, punishable as provided in s. 775.082 or s.  
21 775.083.

22           7. The department, pursuant to ss. 381.0065-381.0067,  
23 part I of chapter 386, or part III of chapter 489, shall  
24 deposit any fines it collects in the county health department  
25 trust fund for use in providing services specified in those  
26 sections.

27           8. This section provides an alternative means of  
28 enforcing ss. 381.0065-381.0067, part I of chapter 386, and  
29 part III of chapter 489. This section does not prohibit the  
30 department from enforcing ss. 381.0065-381.0067, part I of  
31 chapter 386, or part III of chapter 489, or its rules, by any

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1 other means. However, the department must elect to use only a  
2 single method of enforcement for each violation.

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4 (Redesignate subsequent sections.)

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7 ===== T I T L E A M E N D M E N T =====

8 And the title is amended as follows:

9 On page 6, line 22, after the semicolon

10

11 insert:

12 creating s. 381.0069, F.S.; providing for the  
13 regulation of portable restroom contracting;  
14 providing definitions; requiring a portable  
15 restroom contractor to apply for registration  
16 with the Department of Health; providing  
17 requirements for registration, including an  
18 examination; providing for administration;  
19 providing rulemaking authority; providing for  
20 renewal of registration, including requirements  
21 for continuing education; providing for  
22 certification of partnerships and corporations;  
23 providing grounds for suspension or revocation  
24 of registration; providing fees; providing  
25 penalties and prohibitions; amending s.

26 381.0066, F.S.; authorizing the continuation of  
27 permit fees for system construction permits for  
28 onsite sewage treatment and disposal systems;  
29 amending s. 381.0061, F.S.; providing for  
30 administrative fines for violation of s.

31 381.0069; amending s. 381.0065, F.S.; providing

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1           for enforcement of the provisions of s.  
2           381.0069, by the department;  
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