

Bill No. CS for SB 2750

Amendment No. ____ Barcode 861206

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Constantine moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 86, line 31,		
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16	insert:		
17	Section 62. 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 63. 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 64. 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 65. 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 8, line 30, 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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