

Bill No. CS for SB 476

Amendment No. 4 Barcode 352286

|    | <u>Senate</u>   | CHAMBER ACTION | <u>House</u> |
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| 11 | The Committee on Finance and Taxation recommended the               |                |              |
| 12 | following amendment:  |                |              |
| 13 |   |                |              |
| 14 | <b>Senate Amendment (with title amendment)</b>                      |                |              |
| 15 | On page 9, between lines 17 & 18,                                   |                |              |
| 16 |   |                |              |
| 17 | insert:   |                |              |
| 18 | Section 3. Subsection (1) of section 381.0061, Florida              |                |              |
| 19 | Statutes, is amended to read:                                       |                |              |
| 20 | 381.0061 Administrative fines.--                                    |                |              |
| 21 | (1) In addition to any administrative action                        |                |              |
| 22 | authorized by chapter 120 or by other law, the department may       |                |              |
| 23 | impose a fine, which shall not exceed \$500 for each violation,     |                |              |
| 24 | for a violation of s. 381.006(16), s. 381.0065, s. 381.0066,        |                |              |
| 25 | <u>s. 381.0069</u> , s. 381.0072, or part III of chapter 489, for a |                |              |
| 26 | violation of any rule adopted under this chapter, or for a          |                |              |
| 27 | violation of any of the provisions of chapter 386. Notice of        |                |              |
| 28 | intent to impose such fine shall be given by the department to      |                |              |
| 29 | the alleged violator. Each day that a violation continues may       |                |              |
| 30 | constitute a separate violation.                                    |                |              |
| 31 | Section 4. Subsection (5) of section 381.0065, Florida              |                |              |

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1 Statutes, is amended to read:

2           381.0065 Onsite sewage treatment and disposal systems;  
3 regulation.--

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

5           (a) Department personnel who have reason to believe  
6 noncompliance exists, may at any reasonable time, enter the  
7 premises permitted under ss. 381.0065-381.0066, or the  
8 business premises of any septic tank contractor or master  
9 septic tank contractor registered under part III of chapter  
10 489, or the business premises of any portable restroom  
11 contractor registered under s. 381.0069, or any premises that  
12 the department has reason to believe is being operated or  
13 maintained not in compliance, to determine compliance with the  
14 provisions of this section, part I of chapter 386, or part III  
15 of chapter 489 or rules or standards adopted under ss.  
16 381.0065-381.0067, s. 381.0069, part I of chapter 386, or part  
17 III of chapter 489. As used in this paragraph, the term  
18 "premises" does not include a residence or private building.  
19 To gain entry to a residence or private building, the  
20 department must obtain permission from the owner or occupant  
21 or secure an inspection warrant from a court of competent  
22 jurisdiction.

23           (b)1. The department may issue citations that may  
24 contain an order of correction or an order to pay a fine, or  
25 both, for violations of ss. 381.0065-381.0067, s. 381.0069,  
26 part I of chapter 386, or part III of chapter 489 or the rules  
27 adopted by the department, when a violation of these sections  
28 or rules is enforceable by an administrative or civil remedy,  
29 or when a violation of these sections or rules is a  
30 misdemeanor of the second degree. A citation issued under ss.  
31 381.0065-381.0067, s. 381.0069, part I of chapter 386, or part

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1 III of chapter 489 constitutes a notice of proposed agency  
2 action.

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

6           3. The fines imposed by a citation issued by the  
7 department may not exceed \$500 for each violation. Each day  
8 the violation exists constitutes a separate violation for  
9 which a citation may be issued.

10           4. The department shall inform the recipient, by  
11 written notice pursuant to ss. 120.569 and 120.57, of the  
12 right to an administrative hearing to contest the citation  
13 within 21 days after the date the citation is received. The  
14 citation must contain a conspicuous statement that if the  
15 recipient fails to pay the fine within the time allowed, or  
16 fails to appear to contest the citation after having requested  
17 a hearing, the recipient has waived the recipient's right to  
18 contest the citation and must pay an amount up to the maximum  
19 fine.

20           5. The department may reduce or waive the fine imposed  
21 by the citation. In determining whether to reduce or waive the  
22 fine, the department must consider the gravity of the  
23 violation, the person's attempts at correcting the violation,  
24 and the person's history of previous violations including  
25 violations for which enforcement actions were taken under ss.  
26 381.0065-381.0067, part I of chapter 386, part III of chapter  
27 489, or other provisions of law or rule.

28           6. Any person who willfully refuses to sign and accept  
29 a citation issued by the department commits a misdemeanor of  
30 the second degree, punishable as provided in s. 775.082 or s.  
31 775.083.

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1           7. The department, pursuant to ss. 381.0065-381.0067,  
2 part I of chapter 386, or part III of chapter 489, shall  
3 deposit any fines it collects in the county health department  
4 trust fund for use in providing services specified in those  
5 sections.

6           8. This section provides an alternative means of  
7 enforcing ss. 381.0065-381.0067, part I of chapter 386, and  
8 part III of chapter 489. This section does not prohibit the  
9 department from enforcing ss. 381.0065-381.0067, part I of  
10 chapter 386, or part III of chapter 489, or its rules, by any  
11 other means. However, the department must elect to use only a  
12 single method of enforcement for each violation.

13  
14 (Redesignate subsequent sections.)

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

18 And the title is amended as follows:

19           On page 1, line 19, after the semicolon ";"

20  
21 insert:

22           amending s. 381.0061, F.S.; providing for  
23           administrative fines for violation of s.  
24           381.0069; amending s. 381.0065, F.S.; providing  
25           for enforcement of the provisions of s.  
26           381.0069, by the department;

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