



CHAMBER ACTION

The Committee on Finance & Tax recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to environmental health; creating s. 381.0069, F.S.; providing for the regulation of portable restroom contracting; providing definitions; requiring a portable restroom contractor to apply for registration with the Department of Health; providing requirements for registration, including an examination; providing for administration; providing rulemaking authority; providing for renewal of registration, including continuing education; providing for certification of partnerships and corporations; providing grounds for suspension or revocation of registration; providing fees; providing penalties and prohibitions; amending s. 381.0061, F.S.; authorizing imposition of an administrative fine for violation of portable restroom contracting requirements; amending s. 381.0065, F.S.; authorizing the department to enter the business premises of any portable restroom contractor for compliance determination and enforcement; authorizing issuance of a citation for violation of portable restroom



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29 contracting requirements which may contain an order of
 30 correction or a fine; amending s. 381.0066, F.S.; authorizing
 31 the continuation of permit fees for system construction
 32 permits for onsite sewage treatment and disposal systems;
 33 providing an effective date.

34
 35 Be It Enacted by the Legislature of the State of Florida:

36
 37 Section 1. Section 381.0069, Florida Statutes, is created
 38 to read:

39 381.0069 Portable restroom contracting.--

40 (1) DEFINITIONS.--As used in this section, the term:

41 (a) "Department" means the Department of Health.

42 (b) "Portable restroom" means holding tanks, portable
 43 toilets, or portable restroom facilities intended for use on a
 44 permanent or nonpermanent basis, including such facilities
 45 placed at construction sites when workers are present.

46 (c) "Portable restroom contractor" means a portable
 47 restroom contractor who has knowledge of state health code law
 48 and rules and has the experience, knowledge, and skills to
 49 handle, deliver, and pick up sanitary portable restrooms, to
 50 install, safely handle, and maintain portable holding tanks, and
 51 to handle, transport, and dispose of domestic portable restroom
 52 and portable holding tank wastewater.

53 (2) REGISTRATION REQUIRED.--A person may not hold himself
 54 or herself out as a portable restroom contractor in this state
 55 unless he or she is registered by the department in accordance
 56 with this section. However, this section does not prohibit any



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57 person licensed pursuant to s. 489.105(3)(m) or part III of
58 chapter 489 from engaging in the profession for which he or she
59 is licensed. This section shall not apply to an entity defined
60 in s. 403.70605(4)(b).

61 (3) ADMINISTRATION OF SECTION; REGISTRATION
62 QUALIFICATIONS; EXAMINATION.--

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

66 (b) The department shall administer, coordinate, and
67 enforce the provisions of this section, administer the
68 examination for applicants, and be responsible for the granting
69 of certificates of registration to qualified persons.

70 (c) The department shall adopt rules pursuant to ss.
71 120.536(1) and 120.54 to administer this section that establish
72 ethical standards of practice, requirements for registering as a
73 contractor, requirements for obtaining an initial or renewal
74 certificate of registration, disciplinary guidelines, and
75 requirements for the certification of partnerships and
76 corporations. The department may amend or repeal the rules in
77 accordance with chapter 120.

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

80 1. Be of good moral character. In considering good moral
81 character, the department may consider any matter that has a
82 substantial connection between the good moral character of the
83 applicant and the professional responsibilities of a registered
84 contractor, including, but not limited to, the applicant's being



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85 convicted or found guilty of, or entering a plea of nolo
86 contendere to, regardless of adjudication, a crime in any
87 jurisdiction that directly relates to the practice of
88 contracting or the ability to practice contracting and previous
89 disciplinary action involving portable restroom contracting for
90 which all judicial reviews have been completed.

91 2. Pass an examination approved by the department which
92 demonstrates that the applicant has a fundamental knowledge of
93 the state laws relating to the installation, maintenance, and
94 wastewater disposal of portable restrooms, portable sinks, and
95 portable holding tanks.

96 3. Be at least 18 years of age.

97 4. Have a total of at least 3 years of active experience
98 serving an apprenticeship as a skilled worker under the
99 supervision and control of a registered portable restroom
100 contractor. Related work experience or educational experience
101 may be substituted for no more than 2 years of active
102 contracting experience. Each 30 hours of coursework approved by
103 the department shall be substituted for 6 months of work
104 experience. Out-of-state work experience shall be accepted on a
105 year-for-year basis for any applicant who demonstrates that he
106 or she holds a current license issued by another state for
107 portable restroom contracting which was issued upon satisfactory
108 completion of an examination and continuing education courses
109 that are equivalent to the requirements in this state.

110 Individuals from a state with no state certification who have
111 successfully completed a written examination provided by the
112 Portable Sanitation Association International shall only be



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113 required to take the written portion of the examination that
114 includes state health code law and rules. For purposes of this
115 section, an equivalent examination must include the topics of
116 state health code law and rules applicable to portable restrooms
117 and the knowledge required to handle, deliver, and pick up
118 sanitary portable restrooms; to install, handle, and maintain
119 portable holding tanks; and to handle, transport, and dispose of
120 domestic portable restroom and portable holding tank wastewater.
121 A person employed by and under the supervision of a licensed
122 contractor shall be granted up to 2 years of related work
123 experience.

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

126 (e) The department shall provide each applicant for
127 registration pursuant to this section with a copy of this
128 section and any rules adopted under this section. The department
129 may also prepare and disseminate such other material and
130 questionnaires as it deems necessary to effectuate the
131 registration provisions of this section.

132 (f) Any person who was employed 1 or more years in this
133 state by a portable restroom service holding a permit issued by
134 the department on or before October 1, 2003, has until October
135 1, 2004, to be registered by the department in accordance with
136 this section and may continue to perform portable restroom
137 contracting services until that time. Such persons are exempt
138 until October 1, 2004, from the 3 years' active work experience
139 requirement of subparagraph (d)4.

140 (4) REGISTRATION RENEWAL.--



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141 (a) The department shall prescribe by rule the method for
142 approval of continuing education courses and for renewal of
143 annual registration, for inactive status for late filing of
144 renewal applications, for allowing contractors to hold their
145 registration in inactive status for a specified period, and for
146 reactivating registrations. At a minimum, annual renewal shall
147 include continuing education requirements of not less than 6
148 classroom hours annually for portable restroom contractors.

149 (b) Certificates of registration shall become inactive
150 when a renewal application is not filed in a timely manner. A
151 certificate that has become inactive may be reactivated under
152 this section by application to the department. A registered
153 contractor may apply to the department for voluntary inactive
154 status at any time during the period of registration.

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

156 (a) The practice of or the offer to practice portable
157 restroom contracting services by registrants through a parent
158 corporation, corporation, subsidiary of a corporation, or
159 partnership offering portable restroom contracting services to
160 the public through registrants under this section as agents,
161 employers, officers, or partners is permitted if one or more of
162 the principal officers of the corporation or one or more
163 partners of the partnership and all personnel of the corporation
164 or partnership who act on its behalf as portable restroom
165 contractors in this state are registered as provided by this
166 section and if the corporation or partnership has been issued a
167 certificate of authorization by the department as provided in
168 this subsection. A registered contractor may not be the sole



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169 qualifying contractor for more than one business that requests a
170 certificate of authorization. A business organization that loses
171 its qualifying contractor has 60 days following the date the
172 qualifier terminates his or her affiliation within which to
173 obtain another qualifying contractor. During this period, the
174 business organization may complete any existing contract or
175 continuing contract, but may not undertake any new contract.
176 This period may be extended once by the department for an
177 additional 60 days upon a showing of good cause. This subsection
178 may not be construed to mean that a certificate of registration
179 to practice portable restroom contracting must be held by a
180 corporation. A corporation or partnership is not relieved of
181 responsibility for the conduct or acts of its agents, employees,
182 or officers by reason of its compliance with this subsection,
183 and an individual practicing portable restroom contracting is
184 not relieved of responsibility for professional services
185 performed by reason of his or her employment or relationship
186 with a corporation or partnership.

187 (b) For the purposes of this subsection, a certificate of
188 authorization shall be required for a corporation, a
189 partnership, an association, or a person practicing under a
190 fictitious name when offering portable restroom contracting
191 services to the public, except that when an individual is
192 practicing portable restroom contracting in his or her own given
193 name, he or she is not required to register under this
194 subsection.

195 (c) Each certification of authorization shall be renewed
196 every 2 years. Each partnership and corporation certified under



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197 this subsection shall notify the department within 1 month after
198 any change in the information contained in the application upon
199 which the certification is based.

200 (d) Disciplinary action against a corporation or
201 partnership shall be administered in the same manner and on the
202 same grounds as disciplinary action against a registered
203 portable restroom contractor.

204 (e) When a certificate of authorization has been revoked,
205 any person authorized by law to provide portable restroom
206 contracting services may not use the name or fictitious name of
207 the entity whose certificate was revoked, or any other
208 identifiers for the entity, including telephone numbers,
209 advertisements, or logos.

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

213 (a) Violated any provision of this section.

214 (b) Violated any lawful order or rule rendered or adopted
215 by the department.

216 (c) Obtained his or her registration or any other order,
217 ruling, or authorization by means of fraud, misrepresentation,
218 or concealment of material facts.

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

221 (7) FEES; ESTABLISHMENT.--

222 (a) The department shall, by rule, establish fees as
223 follows:

224 1. For registration as a portable restroom contractor:



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

227 b. Initial registration fee: not less than \$50 nor more
228 than \$100.

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

231 2. For certification of a partnership or corporation: not
232 less than \$100 nor more than \$250.

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

237 (8) PENALTIES AND PROHIBITIONS.--

238 (a) A person who violates any provision of this section
239 commits a misdemeanor of the first degree, punishable as
240 provided in s. 775.082 or s. 775.083.

241 (b) The department may deny a registration, authorization,
242 or registration renewal if it determines that an applicant does
243 not meet all requirements of this section or has violated any
244 provision of this section or if there is any outstanding
245 administrative penalty with the department in which the penalty
246 is final agency action and all judicial reviews are exhausted.
247 Any applicant aggrieved by such denial is entitled to a hearing,
248 after reasonable notice thereof, upon filing a written request
249 for such hearing in accordance with chapter 120.

250 Section 2. Subsection (1) of section 381.0061, Florida
251 Statutes, is amended to read:

252 381.0061 Administrative fines.--



253 (1) In addition to any administrative action authorized by
 254 chapter 120 or by other law, the department may impose a fine,
 255 which shall not exceed \$500 for each violation, for a violation
 256 of s. 381.006(16), s. 381.0065, s. 381.0066, s. 381.0069, s.
 257 381.0072, or part III of chapter 489, for a violation of any
 258 rule adopted under this chapter, or for a violation of any of
 259 the provisions of chapter 386. Notice of intent to impose such
 260 fine shall be given by the department to the alleged violator.
 261 Each day that a violation continues may constitute a separate
 262 violation.

263 Section 3. Subsection (5) of section 381.0065, Florida
 264 Statutes, is amended to read:

265 381.0065 Onsite sewage treatment and disposal systems;
 266 regulation.--

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

268 (a) Department personnel who have reason to believe
 269 noncompliance exists, may at any reasonable time, enter the
 270 premises permitted under ss. 381.0065-381.0066, ~~or~~ the business
 271 premises of any septic tank contractor or master septic tank
 272 contractor registered under part III of chapter 489, the
 273 business premises of any portable restroom contractor registered
 274 under s. 381.0069, or any premises that the department has
 275 reason to believe is being operated or maintained not in
 276 compliance, to determine compliance with the provisions of this
 277 section, part I of chapter 386, or part III of chapter 489 or
 278 rules or standards adopted under ss. 381.0065-381.0067, s.
 279 381.0069, part I of chapter 386, or part III of chapter 489. As
 280 used in this paragraph, the term "premises" does not include a



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281 residence or private building. To gain entry to a residence or
282 private building, the department must obtain permission from the
283 owner or occupant or secure an inspection warrant from a court
284 of competent jurisdiction.

285 (b)1. The department may issue citations that may contain
286 an order of correction or an order to pay a fine, or both, for
287 violations of ss. 381.0065-381.0067, s. 381.0069, part I of
288 chapter 386, or part III of chapter 489 or the rules adopted by
289 the department, when a violation of these sections or rules is
290 enforceable by an administrative or civil remedy, or when a
291 violation of these sections or rules is a misdemeanor of the
292 second degree. A citation issued under ss. 381.0065-381.0067, s.
293 381.0069, part I of chapter 386, or part III of chapter 489
294 constitutes a notice of proposed agency action.

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

298 3. The fines imposed by a citation issued by the
299 department may not exceed \$500 for each violation. Each day the
300 violation exists constitutes a separate violation for which a
301 citation may be issued.

302 4. The department shall inform the recipient, by written
303 notice pursuant to ss. 120.569 and 120.57, of the right to an
304 administrative hearing to contest the citation within 21 days
305 after the date the citation is received. The citation must
306 contain a conspicuous statement that if the recipient fails to
307 pay the fine within the time allowed, or fails to appear to
308 contest the citation after having requested a hearing, the



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309 recipient has waived the recipient's right to contest the
310 citation and must pay an amount up to the maximum fine.

311 5. The department may reduce or waive the fine imposed by
312 the citation. In determining whether to reduce or waive the
313 fine, the department must consider the gravity of the violation,
314 the person's attempts at correcting the violation, and the
315 person's history of previous violations including violations for
316 which enforcement actions were taken under ss. 381.0065-
317 381.0067, s. 381.0069, part I of chapter 386, part III of
318 chapter 489, or other provisions of law or rule.

319 6. Any person who willfully refuses to sign and accept a
320 citation issued by the department commits a misdemeanor of the
321 second degree, punishable as provided in s. 775.082 or s.
322 775.083.

323 7. The department, pursuant to ss. 381.0065-381.0067, s.
324 381.0069, part I of chapter 386, or part III of chapter 489,
325 shall deposit any fines it collects in the county health
326 department trust fund for use in providing services specified in
327 those sections.

328 8. This section provides an alternative means of enforcing
329 ss. 381.0065-381.0067, s. 381.0069, part I of chapter 386, and
330 part III of chapter 489. This section does not prohibit the
331 department from enforcing ss. 381.0065-381.0067, s. 381.0069,
332 part I of chapter 386, or part III of chapter 489, or its rules,
333 by any other means. However, the department must elect to use
334 only a single method of enforcement for each violation.

335 Section 4. Paragraph (k) of subsection (2) of section
336 381.0066, Florida Statutes, is amended to read:



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337 | 381.0066 Onsite sewage treatment and disposal systems;
338 | fees.--

339 | (2) The minimum fees in the following fee schedule apply
340 | until changed by rule by the department within the following
341 | limits:

342 | (k) Research: An additional \$5 fee shall be added to each
343 | new system construction permit issued ~~during fiscal years 1996-~~
344 | ~~2003~~ to be used for onsite sewage treatment and disposal system
345 | research, demonstration, and training projects. Five dollars
346 | from any repair permit fee collected under this section shall be
347 | used for funding the hands-on training centers described in s.
348 | 381.0065(3)(j).

349 |
350 | The funds collected pursuant to this subsection must be
351 | deposited in a trust fund administered by the department, to be
352 | used for the purposes stated in this section and ss. 381.0065
353 | and 381.00655.

354 | Section 5. This act shall take effect July 1, 2003.