

By Senator Constantine

22-153-04

1 A bill to be entitled
 2 An act relating to environmental health;
 3 creating s. 381.0069, F.S.; providing for the
 4 regulation of portable restroom contracting;
 5 providing definitions; requiring portable
 6 restroom contractors to apply for registration
 7 with the Department of Health; providing
 8 registration requirements; providing for
 9 administration; providing rulemaking authority;
 10 providing registration renewal requirements;
 11 providing for the certification of partnerships
 12 and corporations; providing grounds for
 13 suspension or revocation of registration;
 14 providing for fees; providing penalties and
 15 prohibitions; amending s. 381.0066, F.S.;
 16 authorizing the continuation of permit fees for
 17 system construction permits for onsite sewage
 18 treatment and disposal systems; providing an
 19 effective date.

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 21 Be It Enacted by the Legislature of the State of Florida:

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 23 Section 1. Section 381.0069, Florida Statutes, is
 24 created to read:

25 381.0069 Portable restroom contracting.--
 26 (1) DEFINITIONS.--As used in this section, the term:
 27 (a) "Department" means the Department of Health.
 28 (b) "Portable restroom" means holding tanks,
 29 transportable individual toilets, or restroom facilities that
 30 are intended for use on a permanent or temporary basis,
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1 including facilities placed on construction sites when workers
2 are present.

3 (c) "Portable restroom contractor" means a contractor
4 whose services are unlimited in the portable restroom trade
5 who has at least 3 years' experience as a Florida-registered
6 portable restroom contractor; who has knowledge of state
7 health code law and rules; and who has the experience,
8 knowledge, and skills to handle and transport sanitary
9 portable restrooms, to install, safely handle, and maintain
10 portable holding tanks, and to handle, transport, and dispose
11 of domestic portable restroom and portable holding tank
12 wastewater.

13 (2) REGISTRATION REQUIRED.--A portable restroom
14 contractor in this state must be registered with the
15 department. However, this section does not prohibit any person
16 licensed pursuant to s. 489.105(3)(m) or ss. 489.551-489.558
17 from engaging in the profession for which he or she is
18 licensed.

19 (3) ADMINISTRATION OF SECTION; REGISTRATION
20 QUALIFICATIONS; EXAMINATION.--

21 (a) In order to register under this section, a person
22 must apply to the department in writing upon departmental
23 forms.

24 (b) The department shall administer, coordinate, and
25 enforce this section, provide qualifications for applicants,
26 administer the examination for applicants, and grant
27 certificates of registration to qualified persons.

28 (c) The department shall adopt rules pursuant to ss.
29 120.536(1) and 120.54 to administer this section, including,
30 but not limited to, rules that establish ethical standards of
31 practice, registration requirements, initial and renewal

1 certificate registration requirements, disciplinary
2 guidelines, and requirements for the certification of
3 partnerships and corporations.

4 (d) In order to register, an applicant must:

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

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

21 3. Be at least 18 years of age.

22 4. Have a total of at least 3 years of active
23 experience serving an apprenticeship as a skilled worker under
24 the supervision and control of a registered portable restroom
25 contractor. Related work experience or educational experience
26 may be substituted for no more than 2 years of active
27 contracting experience. Each 30 hours of coursework approved
28 by the department shall be substituted for 6 months of work
29 experience. Out-of-state work experience shall be accepted on
30 a year-for-year basis for any applicant who holds a current
31 license issued by another state which required satisfactory

1 completion of an examination and continuing education courses
2 that are equivalent to the requirements in this state.
3 Applicants from a state that has no state certification who
4 have successfully completed a written Portable Sanitation
5 Association International examination must take only the
6 written portion of the examination which includes state health
7 code law and rules. An equivalent examination must include
8 state health code law and rules applicable to portable
9 restrooms and the knowledge required to handle and transport
10 sanitary portable restrooms; to install, handle, and maintain
11 portable holding tanks; and to handle, transport, and dispose
12 of domestic portable restroom and portable holding tank
13 wastewater. A person employed and supervised by a licensed
14 contractor shall be granted up to 2 years of related work
15 experience.

16 5. Have not had a registration revoked within 5 years
17 immediately preceding the application date.

18 (e) The department shall give each applicant a copy of
19 this section and any applicable rules. The department may also
20 prepare and disseminate other necessary material and
21 questionnaires that it deems necessary.

22 (f) Any person who was employed 1 or more years in
23 this state by a portable restroom service holding a permit
24 issued by the department on or before October 1, 2004, may
25 register before October 1, 2005, and may continue to perform
26 portable restroom contracting services until that date. Such
27 persons are exempt until October 1, 2005, from the active work
28 experience requirement of subparagraph (d)4.

29 (4) REGISTRATION RENEWAL.--

30 (a) The department shall prescribe by rule procedures
31 for approving continuing education courses, renewing annual

1 registrations and filing renewal applications, authorizing
2 contractors to hold a inactive registration for a specified
3 period, and reactivating inactive registrations. At a minimum,
4 the requirements for the annual renewal of registration shall
5 require at least 6 classroom hours of continuing education
6 each year for portable restroom contractors.

7 (b) A certificate of registration becomes inactive
8 when a renewal application is not filed in a timely manner. An
9 inactive certificate may be reactivated by submitting an
10 application to the department. A registered contractor may
11 apply to the department for voluntary inactive status during
12 the period of registration.

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

14 (a) The practice of or the offer to practice portable
15 restroom contracting services by registrants through a parent
16 corporation, corporation, subsidiary of a corporation, or
17 partnership offering portable restroom contracting services to
18 the public as agents, employers, officers, or partners is
19 permitted if any of the principal officers of the corporation
20 or any partners of the partnership and all personnel of the
21 corporation or partnership who act as portable restroom
22 contractors in this state are registered and if the
23 corporation or partnership has been issued a certificate of
24 authorization by the department. A registered contractor may
25 not be the sole qualifying contractor for more than one
26 business that requests a certificate of authorization. A
27 business organization that loses its qualifying contractor has
28 60 days following the date the qualifier terminates his or her
29 affiliation within which to obtain another qualifying
30 contractor. During this period, the business organization may
31 complete existing or continuing contracts, but may not

1 undertake any new contracts. This period may be extended once
2 by the department for an additional 60 days upon a showing of
3 good cause. This section does not require that a certificate
4 of registration be held by a corporation. A corporation or
5 partnership is not relieved of responsibility for the conduct
6 or acts of its agents, employees, or officers because it
7 complies with this section, and an individual practicing
8 portable restroom contracting is not relieved of
9 responsibility for professional services performed because of
10 his or her employment or relationship with a corporation or
11 partnership.

12 (b) A certificate of authorization is required for a
13 corporation, partnership, association, or person practicing
14 under a fictitious name when offering portable restroom
15 contracting services to the public, except that an individual
16 practicing portable restroom contracting in his or her own
17 given name is not required to register.

18 (c) A certificate of authorization must be renewed
19 every 2 years. Each partnership and corporation certified
20 under this section must notify the department within 1 month
21 after any change in the information in the entity's
22 certification application.

23 (d) Disciplinary action against a corporation or
24 partnership shall be administered in the same manner and on
25 the same grounds as disciplinary action against a registered
26 portable restroom contractor.

27 (e) When a certificate of authorization has been
28 revoked, a person authorized to provide portable restroom
29 contracting services may not use the name or fictitious name
30 of the entity whose certificate was revoked, or any other
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1 identifiers for the entity, including telephone numbers,
2 advertisements, or logos.
3 (6) SUSPENSION OR REVOCATION OF REGISTRATION.--A
4 certificate of registration may be suspended or revoked upon a
5 showing that the registrant has:
6 (a) Violated this section.
7 (b) Violated a departmental order or rule.
8 (c) Obtained a registration or other order, ruling, or
9 authorization by means of fraud, misrepresentation, or
10 concealment of material facts.
11 (d) Been found guilty of gross misconduct in the
12 pursuit of his or her profession.
13 (7) FEES; ESTABLISHMENT.--
14 (a) The department shall, by rule, establish fees as
15 follows:
16 1. For registration as a portable restroom contractor:
17 a. Application and examination fee: not less than \$25
18 nor more than \$75.
19 b. Initial registration fee: not less than \$50 nor
20 more than \$100.
21 c. Renewal of registration fee: not less than \$50 nor
22 more than \$100.
23 2. For certification of a partnership or corporation:
24 not less than \$100 nor more than \$250.
25 (b) Fees must be based on the actual costs incurred by
26 the department in implementing this section.
27 (8) PENALTIES AND PROHIBITIONS.--
28 (a) A person who violates this section commits a
29 misdemeanor of the first degree, punishable as provided in s.
30 775.082 or s. 775.083.
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1 (b) The department may deny a registration,
2 authorization, or registration renewal if it determines that
3 an applicant does not meet all requirements of this section,
4 has violated this section, or has been assessed an
5 administrative penalty that remains outstanding if the penalty
6 is final agency action and all judicial review have been
7 exhausted. An applicant aggrieved by such denial is entitled
8 to a hearing, after reasonable notice thereof, upon filing a
9 written request for such hearing in accordance with chapter
10 120.

11 Section 2. Paragraph (k) of subsection (2) of section
12 381.0066, Florida Statutes, is amended to read:

13 381.0066 Onsite sewage treatment and disposal systems;
14 fees.--

15 (2) The minimum fees in the following fee schedule
16 apply until changed by rule by the department within the
17 following limits:

18 (k) Research: An additional \$5 fee shall be added to
19 each new system construction permit issued ~~during fiscal years~~
20 ~~1996-2004~~ to be used for onsite sewage treatment and disposal
21 system research, demonstration, and training projects. Five
22 dollars from any repair permit fee collected under this
23 section shall be used for funding the hands-on training
24 centers described ins. 381.0065(3)(j).

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26 The funds collected pursuant to this subsection must be
27 deposited in a trust fund administered by the department, to
28 be used for the purposes stated in this section and ss.
29 381.0065 and 381.00655.

30 Section 3. This act shall take effect October 1, 2004.

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SENATE SUMMARY

Requires the registration of portable restroom contractors. Provides for the Department of Health to regulate portable restroom contractors. Provides requirements for registration and registration renewal, including an examination and work experience. Authorizes the Department of Health to adopt rules. Provides requirements for continuing education. Requires a partnership or corporation that engages in portable restroom contracting services to obtain a certificate of authorization from the department. Provides fees and penalties. Provides for certain permit fees for system construction permits for onsite sewage treatment and disposal systems to be continued rather than abolished after the 2004 fiscal year. (See bill for details.)