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A bill to be entitled
 An act relating to the regulation of portable restroom
 contracting; creating s. 381.0069, F.S.; 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 authorization of business entities providing portable
 restroom contracting services under a fictitious name;
 providing grounds for suspension or revocation of
 registration or authorization; providing fees; providing
 penalties and prohibitions; amending s. 381.0061, F.S.;
 authorizing imposition of an administrative fine for
 violating portable restroom contracting requirements;
 amending s. 381.0065, F.S.; specifying the department's
 powers and duties with respect to regulating portable
 restroom facilities and the individuals or businesses that
 provide and service such facilities; authorizing the
 department to enter the business premises of any portable
 restroom contractor; authorizing issuance of citations;
 providing an effective date.

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

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

29 381.0069 Portable restroom contracting.--
 30 (1) DEFINITIONS.--As used in this section, the term:
 31 (a) "Department" means the Department of Health.
 32 (b) "Portable restroom" means any portable toilet, mobile
 33 restroom trailer, mobile shower trailer, or portable restroom
 34 facility intended for use on a permanent or nonpermanent basis,
 35 including any holding tanks associated with any such facility.
 36 The term includes, but is not limited to, any such facility or
 37 holding tank placed at a construction site when workers are
 38 present.
 39 (c) "Portable restroom contractor" means a portable
 40 restroom contractor who has knowledge of state law and the
 41 experience, knowledge, and skills necessary to safely handle the
 42 pickup, transportation, installation, and maintenance of
 43 portable restrooms and portable sinks, including, but not
 44 limited to, the safe management and disposal of associated
 45 wastewater.
 46 (2) REGISTRATION REQUIRED.--A person may not hold himself
 47 or herself out as a portable restroom contractor in this state
 48 unless he or she is registered by the department in accordance
 49 with this section. However, this section does not prohibit a
 50 licensed plumbing contractor as defined in s. 489.105(3)(m) or a
 51 person licensed under part III of chapter 489 from engaging in
 52 the profession for which he or she is licensed. This section
 53 does not apply to a private company as defined in s.
 54 403.70605(4)(b).
 55 (3) ADMINISTRATION OF SECTION; REGISTRATION
 56 QUALIFICATIONS; EXAMINATION.--

57 (a) Each person desiring to be registered under this
 58 section must apply to the department in writing upon forms
 59 prepared and furnished by the department.

60 (b) The department shall administer, coordinate, and
 61 enforce this section; approve and administer the examination for
 62 applicants; and grant certificates of registration to qualified
 63 persons and certificates of authorization to qualified business
 64 entities.

65 (c) The department shall adopt rules under ss. 120.536(1)
 66 and 120.54 to administer this section. The rules shall establish
 67 ethical standards of practice, requirements for registering as a
 68 contractor, requirements for obtaining an initial or renewal
 69 certificate of registration, disciplinary guidelines, and
 70 requirements for the certification of business entities. The
 71 department may amend or repeal the rules in accordance with
 72 chapter 120.

73 (d) To be eligible for registration by the department as a
 74 portable restroom contractor, the applicant must:

75 1. Be of good moral character. In considering good moral
 76 character, the department may consider any matter that has a
 77 substantial connection between the good moral character of the
 78 applicant and the professional responsibilities of a registered
 79 contractor. This includes, but is not limited to, the
 80 applicant's being convicted or found guilty of, or entering a
 81 plea of nolo contendere to, regardless of adjudication, a crime
 82 in any jurisdiction which is directly related to the practice of
 83 contracting or the ability to practice contracting, or any
 84 previous disciplinary action against the applicant involving

85 portable restroom contracting for which all judicial reviews
 86 have been completed.

87 2. Pass an examination approved by the department which
 88 tests knowledge of the fundamentals of state law relating to
 89 portable restrooms and the safe handling of the pickup,
 90 transportation, installation, and maintenance of portable
 91 restrooms, including, but not limited to, the safe management
 92 and disposal of associated wastewater. If an applicant from a
 93 state having no certification program has passed the Portable
 94 Sanitation Association International's written examination, the
 95 applicant shall be required to take and pass only that portion
 96 of this state's examination which tests knowledge of law that is
 97 specific to Florida.

98 3. Be at least 18 years of age.

99 4. Have at least 3 years of active experience serving an
 100 apprenticeship as a skilled worker under the supervision and
 101 control of a portable restroom contractor who is registered
 102 under this section. Related work experience or educational
 103 experience may be substituted for no more than 2 years of active
 104 contracting experience as follows:

105 a. Each 30 hours of coursework approved by the department
 106 may be substituted for 6 months of work experience.

107 b. Out-of-state work experience may be substituted on a
 108 year-for-year basis for any applicant who demonstrates that he
 109 or she holds a current license issued by another state for
 110 portable restroom contracting which was issued upon satisfactory
 111 completion of an examination and continuing education courses
 112 that are equivalent to those required in this state. An

113 examination is equivalent if it tests the applicant's knowledge
114 of state law relating to portable restrooms and the safe
115 handling of the pickup, transportation, installation, and
116 maintenance of portable restrooms, including, but not limited
117 to, the safe management and disposal of associated wastewater.

118 c. An applicant who has actively served an apprenticeship
119 as a skilled worker under the control and supervision of a
120 contractor who is not registered under this section may, if that
121 supervising contractor's own work experience would qualify for
122 substitution on a year-for-year basis under sub-subparagraph b.,
123 substitute up to 2 years of active service.

124 5. Have not had a portable restroom contractor
125 registration revoked within 5 years before applying for
126 registration.

127 (e) The department shall provide to each applicant for
128 registration a copy of this section and any rules adopted under
129 this section. The department may also prepare and disseminate
130 other material and questionnaires it finds necessary to carry
131 out the registration provisions of this section.

132 (f) A person who, on October 1, 2005, has been employed at
133 least 1 year in this state by a portable restroom service
134 provider holding a permit issued by the department pursuant to
135 s. 381.0065(3)(m) has until October 1, 2006, to be registered by
136 the department in accordance with this section and may continue
137 to perform portable restroom contracting services without
138 registration until that time. Such persons are exempt until
139 October 1, 2006, from the requirement of subparagraph (d)4. for
140 3 years of active work experience.

141 (4) REGISTRATION RENEWAL.--

142 (a) The department shall prescribe by rule methods for
 143 approving continuing education courses, for renewing annual
 144 registration, for approving the reversion of a registration to
 145 inactive status when the renewal application is late filed, for
 146 allowing a contractor to hold a registration in inactive status
 147 for a specified period, and for reactivating an inactive
 148 registration. The department shall require at least 6 classroom
 149 hours annually of continuing education courses for annual
 150 registration renewal or to reactivate an inactive registration.

151 (b) A certificate of registration becomes inactive when a
 152 renewal application is not timely filed. A registration that has
 153 become inactive may be reactivated by application to the
 154 department. A registered contractor may apply to the department
 155 for voluntary inactive status at any time during the period of
 156 registration.

157 (5) AUTHORIZATION OF BUSINESS ENTITIES.--

158 (a) A partnership, association, or person practicing under
 159 a fictitious name may not offer or provide portable restroom
 160 contracting services to the public without a valid certificate
 161 of authorization issued by the department. A contractor
 162 registered under this section may not offer or provide portable
 163 restroom contracting services on behalf of such a business
 164 entity unless that entity holds a valid certificate of
 165 authorization. A certificate of authorization is not required
 166 when a contractor registered under this section offers or
 167 provides portable restroom contracting service in his or her own
 168 given name.

169 (b) The department shall issue a certificate of
170 authorization upon demonstration by the applying business entity
171 that each person who is authorized to act on the applicant
172 entity's behalf as a portable restroom contractor is registered
173 under this section and also that, if a corporation, at least one
174 of its principal officers or, if a partnership, at least one
175 partner is registered under this section. The department may not
176 issue a certificate of authorization to a corporation whose
177 agent is a manager unless no officers of the corporation reside
178 in the state and the corporation provides a notarized letter to
179 the department authorizing one or more managers to act as the
180 corporate agent and registered contractor. The notarized letter
181 must list the names and addresses of each officer of the
182 corporation and state that the letter does not remove
183 responsibility from the corporation's officers. The department
184 may not issue a certificate whereby the same registered
185 contractor would become the sole qualifying contractor for more
186 than one business entity. This subsection may not be construed
187 to mean that only a corporation or a partnership may hold a
188 certificate of registration to practice portable restroom
189 contracting. Compliance with this subsection does not relieve a
190 business entity of responsibility for the conduct or acts of its
191 agents, employees, or officers. Employment by or a relationship
192 with a business entity does not relieve an individual who is
193 engaged in portable restroom contracting from responsibility for
194 his or her conduct.

195 (c) Unless renewed or revoked, each certification of
196 authorization is valid for 2 years. A business entity certified

197 under this subsection must notify the department within 1 month
 198 after any change in the information contained in the application
 199 upon which the certification is based. A business entity that
 200 terminates affiliation with a qualifying registered contractor
 201 has 60 days following the date of termination in which to obtain
 202 another qualifying contractor. During the 60-day period, the
 203 business entity may complete an existing contract or continuing
 204 contract but may not undertake a new contract. The department
 205 may extend the period for an additional 60 days upon a showing
 206 of good cause.

207 (d) The department shall take disciplinary action against
 208 a business entity in the same manner and on the same grounds as
 209 against an individual portable restroom contractor.

210 (e) A person who is otherwise authorized by law to provide
 211 portable restroom contracting services may not use the name,
 212 telephone number, advertisement, logo, or other identifiers of a
 213 business entity whose certificate of authorization has been
 214 revoked or otherwise invalidated.

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

218 (a) Violated this section, s. 381.0065, or s. 386.041;

219 (b) Violated an order or a rule of the department; or

220 (c) Obtained a certificate of registration or other order,
 221 ruling, or authorization by means of fraud, misrepresentation,
 222 or concealment of material fact.

223 (7) FEES.--

224 (a) The department shall, by rule, establish fees as

225 follows:

226 1. For registration as a portable restroom contractor:

227 a. Application and examination fee: not less than \$25 or
 228 more than \$75.

229 b. Initial registration fee: not less than \$50 or more
 230 than \$100.

231 c. Renewal of registration fee: not less than \$50 or more
 232 than \$100.

233 2. For authorization of a business entity: not less than
 234 \$100 or more than \$250.

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

239 (8) PENALTIES AND PROHIBITIONS.--

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

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

252 Section 2. Subsection (1) of section 381.0061, Florida

253 Statutes, is amended to read:

254 381.0061 Administrative fines.--

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

265 Section 3. Paragraph (m) of subsection (3) and subsection
 266 (5) of section 381.0065, Florida Statutes, are amended to read:

267 381.0065 Onsite sewage treatment and disposal systems;
 268 regulation.--

269 (3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.--The
 270 department shall:

271 (m) Regulate, permit, and inspect the use of portable
 272 restrooms, mobile restrooms, mobile shower trailers, and
 273 associated wastewater ~~Permit and inspect portable or temporary~~
 274 ~~toilet services and holding tanks; regulate, permit, and inspect~~
 275 an individual or business that provides or services such
 276 facilities; and. ~~The department shall review applications,~~
 277 ~~perform site evaluations, and issue permits for the temporary~~
 278 ~~use of stationary holding tanks, privies, portable toilet~~
 279 ~~services, or any other toilet facility that is intended for use~~
 280 ~~on a permanent or nonpermanent basis, including facilities~~

281 ~~placed on construction sites when workers are present.~~ The
 282 department may specify standards for the construction,
 283 maintenance, use, and operation of any such facility for
 284 temporary use.

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

286 (a) Department personnel who have reason to believe
 287 noncompliance exists, ~~may,~~ may, at any reasonable time, enter the
 288 premises permitted under ss. 381.0065-381.0066, ~~or~~ the business
 289 premises of any septic tank contractor or master septic tank
 290 contractor registered under part III of chapter 489, the
 291 business premises of any portable restroom contractor registered
 292 or certified under s. 381.0069, or any premises that the
 293 department has reason to believe is being operated or maintained
 294 not in compliance, to determine compliance with the provisions
 295 of this section, part I of chapter 386, or part III of chapter
 296 489 or rules or standards adopted under ss. 381.0065-381.0067,
 297 s. 381.0069, part I of chapter 386, or part III of chapter 489.
 298 As used in this paragraph, the term "premises" does not include
 299 a residence or private building. To gain entry to a residence or
 300 private building, the department must obtain permission from the
 301 owner or occupant or secure an inspection warrant from a court
 302 of competent jurisdiction.

303 (b)1. The department may issue citations that may contain
 304 an order of correction or an order to pay a fine, or both, for
 305 violations of ss. 381.0065-381.0067, s. 381.0069, part I of
 306 chapter 386, or part III of chapter 489 or the rules adopted by
 307 the department, when a violation of these sections or rules is
 308 enforceable by an administrative or civil remedy, or when a

309 violation of these sections or rules is a misdemeanor of the
310 second degree. A citation issued under ss. 381.0065-381.0067, s.
311 381.0069, part I of chapter 386, or part III of chapter 489
312 constitutes a notice of proposed agency action.

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

316 3. The fines imposed by a citation issued by the
317 department may not exceed \$500 for each violation. Each day the
318 violation exists constitutes a separate violation for which a
319 citation may be issued.

320 4. The department shall inform the recipient, by written
321 notice pursuant to ss. 120.569 and 120.57, of the right to an
322 administrative hearing to contest the citation within 21 days
323 after the date the citation is received. The citation must
324 contain a conspicuous statement that if the recipient fails to
325 pay the fine within the time allowed, or fails to appear to
326 contest the citation after having requested a hearing, the
327 recipient has waived the recipient's right to contest the
328 citation and must pay an amount up to the maximum fine.

329 5. The department may reduce or waive the fine imposed by
330 the citation. In determining whether to reduce or waive the
331 fine, the department must consider the gravity of the violation,
332 the person's attempts at correcting the violation, and the
333 person's history of previous violations including violations for
334 which enforcement actions were taken under ss. 381.0065-
335 381.0067, s. 381.0069, part I of chapter 386, part III of
336 chapter 489, or other provisions of law or rule.

337 6. Any person who willfully refuses to sign and accept a
338 citation issued by the department commits a misdemeanor of the
339 second degree, punishable as provided in s. 775.082 or s.
340 775.083.

341 7. The department, pursuant to ss. 381.0065-381.0067, s.
342 381.0069, part I of chapter 386, or part III of chapter 489,
343 shall deposit any fines it collects in the county health
344 department trust fund for use in providing services specified in
345 those sections.

346 8. This section provides an alternative means of enforcing
347 ss. 381.0065-381.0067, s. 381.0069, part I of chapter 386, and
348 part III of chapter 489. This section does not prohibit the
349 department from enforcing ss. 381.0065-381.0067, s. 381.0069,
350 part I of chapter 386, or part III of chapter 489, or its rules,
351 by any other means. However, the department must elect to use
352 only a single method of enforcement for each violation.

353 Section 4. This act shall take effect July 1, 2005.