



1           order of correction or a fine; providing an  
2           effective date.

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

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

8           381.0069 Portable restroom contracting.--

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

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

11           (b) "Portable restroom" means any portable toilet,  
12 mobile restroom trailer, mobile shower trailer, or portable  
13 restroom facility intended for use on a permanent or  
14 nonpermanent basis, including any holding tanks associated  
15 with any such facility. The term includes, but is not limited  
16 to, any such facility or holding tank placed at a construction  
17 site when workers are present.

18           (c) "Portable restroom contractor" means a portable  
19 restroom contractor who has knowledge of state law and the  
20 experience, knowledge, and skills necessary to safely handle  
21 the pick up, transportation, installation, and maintenance of  
22 portable restrooms and portable sinks, including, but not  
23 limited to, the safe management and disposal of associated  
24 wastewater.

25           (2) REGISTRATION REQUIRED.--A person may not hold  
26 himself or herself out as a portable restroom contractor in  
27 this state unless he or she is registered by the department in  
28 accordance with this section. However, this section does not  
29 prohibit a licensed plumbing contractor as defined in s.  
30 489.105(3)(m) or a person licensed under part III of chapter  
31 489 from engaging in the profession for which he or she is

1 licensed. This section does not apply to a private company as  
2 defined in s. 403.70605(4)(b).

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

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

8 (b) The department shall administer, coordinate, and  
9 enforce this section; approve and administer the examination  
10 for applicants; and grant certificates of registration to  
11 qualified persons and certificates of authorization to  
12 qualified business entities.

13 (c) The department shall adopt rules under ss.  
14 120.536(1) and 120.54 to administer this section which  
15 establish ethical standards of practice, requirements for  
16 registering as a contractor, requirements for obtaining an  
17 initial or renewal certificate of registration, disciplinary  
18 guidelines, and requirements for the certification of business  
19 entities. The department may amend or repeal the rules in  
20 accordance with chapter 120.

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

23 1. Be of good moral character. In considering good  
24 moral character, the department may consider any matter that  
25 has a substantial connection between the good moral character  
26 of the applicant and the professional responsibilities of a  
27 registered contractor. This includes, but is not limited to,  
28 the applicant's being convicted or found guilty of, or  
29 entering a plea of nolo contendere to, regardless of  
30 adjudication, a crime in any jurisdiction which is directly  
31 related to the practice of contracting or the ability to

1 practice contracting, or any previous disciplinary action  
2 against the applicant involving portable restroom contracting  
3 for which all judicial reviews have been completed.

4       2. Pass an examination approved by the department  
5 which tests knowledge of the fundamentals of state law  
6 relating to portable restrooms and the safe handling of the  
7 pick up, transportation, installation, and maintenance of  
8 portable restrooms, including, but not limited to, the safe  
9 management and disposal of associated wastewater. If an  
10 applicant from a state having no certification program has  
11 passed the Portable Sanitation Association International's  
12 written examination, the applicant shall be required to take  
13 and pass only that portion of this state's examination which  
14 tests knowledge of law that is specific to Florida.

15       3. Be at least 18 years of age.

16       4. Have at least 3 years of active experience serving  
17 as a skilled worker under the supervision and control of a  
18 portable restroom contractor who is registered under this  
19 section. Related work experience or educational experience may  
20 be substituted for no more than 2 years of active contracting  
21 experience as follows:

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

24           b. Out-of-state work experience may be substituted on  
25 a year-for-year basis for any applicant who demonstrates that  
26 he or she holds a current license issued by another state for  
27 portable restroom contracting which was issued upon  
28 satisfactory completion of an examination and continuing  
29 education courses that are equivalent to those required in  
30 this state. An examination is equivalent if it tests the  
31 applicant's knowledge of state law relating to portable

1 restrooms and the safe handling of the pick up,  
2 transportation, installation, and maintenance of portable  
3 restrooms, including, but not limited to, the safe management  
4 and disposal of associated wastewater.

5 c. A person who is employed by and under the  
6 supervision of a licensed portable restroom contractor shall  
7 be granted up to 2 years of related work experience.

8 5. Have not had a registration revoked within 5 years  
9 before applying for registration.

10 (e) The department shall provide to each applicant for  
11 registration a copy of this section and any rules adopted  
12 under this section. The department may also prepare and  
13 disseminate other material and questionnaires it finds  
14 necessary to carry out the registration provisions of this  
15 section.

16 (f) A person who, on October 1, 2005, has been  
17 employed at least 1 year in this state by a portable restroom  
18 service provider holding a permit issued by the department  
19 pursuant to s. 381.0065(3)(m) has until October 1, 2006, to be  
20 registered by the department in accordance with this section  
21 and may continue to perform portable restroom contracting  
22 services without registration until that time. Such persons  
23 are exempt until October 1, 2006, from the requirement of  
24 subparagraph (d)4. for 3 years of active work experience.

25 (4) REGISTRATION RENEWAL.--

26 (a) The department shall prescribe by rule methods for  
27 approving continuing education courses and course providers,  
28 for renewing annual registration, for approving the reversion  
29 of a registration to inactive status when the renewal  
30 application is late filed, for allowing a contractor to hold a  
31 registration in inactive status for a specified period, and

1 for reactivating an inactive registration. The department  
2 shall require at least 6 classroom hours annually of  
3 continuing education courses for annual registration renewal  
4 or to reactivate an inactive registration.

5 (b) A certificate of registration becomes inactive  
6 when a renewal application is not timely filed. A registration  
7 that has become inactive may be reactivated by application to  
8 the department. A registered contractor may apply to the  
9 department for voluntary inactive status at any time during  
10 the period of registration.

11 (5) AUTHORIZATION OF BUSINESS ENTITIES.--

12 (a) A parent corporation, corporation, subsidiary of a  
13 corporation, or a partnership, association, or person  
14 practicing under a fictitious name may not offer or provide  
15 portable restroom contracting services to the public without a  
16 valid certificate of authorization issued by the department.  
17 A contractor registered under this section may not offer or  
18 provide portable restroom contracting services on behalf of  
19 such a business entity unless that entity holds a valid  
20 certificate of authorization. A certificate of authorization  
21 is not required when a contractor registered under this  
22 section offers or provides portable restroom contracting  
23 service in his or her own given name.

24 (b) The department shall issue a certificate of  
25 authorization upon demonstration by the applying business  
26 entity that each person who is authorized to act on the  
27 applicant entity's behalf as a portable restroom contractor is  
28 registered under this section and also that, if a corporation,  
29 at least one of its principal officers, or if a partnership,  
30 at least one partner, is registered under this section. The  
31 department may not issue a certificate of authorization to a

1 corporation whose agent is a manager unless no officers of the  
2 corporation reside in the state and the corporation provides a  
3 notarized letter to the department authorizing one or more  
4 managers to act as the corporate agent and registered  
5 contractor. The notarized letter must list the names and  
6 addresses of each officer of the corporation and state that  
7 the letter does not remove responsibility from the  
8 corporation's officers. The department may not issue a  
9 certificate whereby the same registered contractor would  
10 become the sole qualifying contractor for more than one  
11 business entity. This subsection does not mean that a  
12 certificate of registration to practice portable restroom  
13 contracting must be held by a business entity. Compliance with  
14 this subsection does not relieve a business entity of  
15 responsibility for the conduct or acts of its agents,  
16 employees, or officers. Employment by or a relationship with  
17 a business entity does not relieve an individual who is  
18 engaged in portable restroom contracting from responsibility  
19 for his or her conduct.

20 (c) Unless renewed or revoked, each certification of  
21 authorization is valid for 2 years. A business entity  
22 certified under this subsection must notify the department  
23 within 1 month after any change in the information contained  
24 in the application upon which the certification is based. A  
25 business entity that terminates affiliation with a qualifying  
26 registered contractor has 60 days following the date of  
27 termination in which to obtain another qualifying contractor.  
28 During the 60-day period, the business entity may complete an  
29 existing contract or continuing contract but may not undertake  
30 a new contract. The department may extend the period for an  
31 additional 60 days upon a showing of good cause.

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

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

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

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

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

14           (c) Obtained a certificate of registration or other  
15 order, ruling, or authorization by means of fraud,  
16 misrepresentation, or concealment of material fact.

17           (7) FEES.--

18           (a) The department shall, by rule, establish fees as  
19 follows:

20           1. For registration as a portable restroom contractor:

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

23           b. Initial registration fee: not less than \$50 or more  
24 than \$100.

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

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

29           (b) Fees established under paragraph (a) shall be  
30 based on the actual costs incurred by the department in  
31



1 carrying out its registration, authorization, and other  
2 related responsibilities under this section.

3 (8) PENALTIES AND PROHIBITIONS.--

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

7 (b) The department may deny a registration,  
8 authorization, or renewal of a registration or authorization  
9 if an applicant does not meet the requirements of this section  
10 or has violated any provision of this section or if there is  
11 any outstanding administrative penalty with the department in  
12 which the penalty is final agency action and all judicial  
13 reviews are exhausted. Any applicant aggrieved by such denial  
14 is entitled to a hearing, after reasonable notice thereof,  
15 upon filing a written request in accordance with chapter 120.

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

18 381.0061 Administrative fines.--

19 (1) In addition to any administrative action  
20 authorized by chapter 120 or by other law, the department may  
21 impose a fine, which shall not exceed \$500 for each violation,  
22 for a violation of s. 381.006(16), s. 381.0065, s. 381.0066,  
23 s. 381.0069, s. 381.0072, or part III of chapter 489, for a  
24 violation of any rule adopted under this chapter, or for a  
25 violation of any of the provisions of chapter 386. Notice of  
26 intent to impose such fine shall be given by the department to  
27 the alleged violator. Each day that a violation continues may  
28 constitute a separate violation.

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

1           381.0065 Onsite sewage treatment and disposal systems;  
2 regulation.--

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

5           (m) Regulate, permit, and inspect the use of portable  
6 restrooms, mobile restrooms, mobile shower trailers, and  
7 associated wastewater ~~Permit and inspect portable or temporary~~  
8 ~~toilet services and holding tanks; regulate, permit, and~~  
9 inspect an individual or business that provides or services  
10 such facilities; and. ~~The department shall review~~  
11 applications, perform site evaluations, and issue permits for  
12 the temporary use of stationary holding tanks, ~~privies,~~  
13 ~~portable toilet services, or any other toilet facility that is~~  
14 ~~intended for use on a permanent or nonpermanent basis,~~  
15 ~~including facilities placed on construction sites when workers~~  
16 ~~are present.~~ The department may specify standards for the  
17 construction, maintenance, use, and operation of any such  
18 facility for temporary use.

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

20           (a) Department personnel who have reason to believe  
21 noncompliance exists, ~~may,~~ at any reasonable time, enter the  
22 premises permitted under ss. 381.0065-381.0066, ~~or~~ the  
23 business premises of any septic tank contractor or master  
24 septic tank contractor registered under part III of chapter  
25 489, the business premises of any portable restroom contractor  
26 registered or certified under s. 381.0069, or any premises  
27 that the department has reason to believe is being operated or  
28 maintained not in compliance, to determine compliance with the  
29 provisions of this section, part I of chapter 386, or part III  
30 of chapter 489 or rules or standards adopted under ss.  
31 381.0065-381.0067, s. 381.0069, part I of chapter 386, or part

1 III of chapter 489. As used in this paragraph, the term  
2 "premises" does not include a residence or private building.  
3 To gain entry to a residence or private building, the  
4 department must obtain permission from the owner or occupant  
5 or secure an inspection warrant from a court of competent  
6 jurisdiction.

7 (b)1. The department may issue citations that may  
8 contain an order of correction or an order to pay a fine, or  
9 both, for violations of ss. 381.0065-381.0067, s. 381.0069,  
10 part I of chapter 386, or part III of chapter 489 or the rules  
11 adopted by the department, when a violation of these sections  
12 or rules is enforceable by an administrative or civil remedy,  
13 or when a violation of these sections or rules is a  
14 misdemeanor of the second degree. A citation issued under ss.  
15 381.0065-381.0067, s. 381.0069, part I of chapter 386, or part  
16 III of chapter 489 constitutes a notice of proposed agency  
17 action.

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

21 3. The fines imposed by a citation issued by the  
22 department may not exceed \$500 for each violation. Each day  
23 the violation exists constitutes a separate violation for  
24 which a citation may be issued.

25 4. The department shall inform the recipient, by  
26 written notice pursuant to ss. 120.569 and 120.57, of the  
27 right to an administrative hearing to contest the citation  
28 within 21 days after the date the citation is received. The  
29 citation must contain a conspicuous statement that if the  
30 recipient fails to pay the fine within the time allowed, or  
31 fails to appear to contest the citation after having requested

1 a hearing, the recipient has waived the recipient's right to  
2 contest the citation and must pay an amount up to the maximum  
3 fine.

4 5. The department may reduce or waive the fine imposed  
5 by the citation. In determining whether to reduce or waive the  
6 fine, the department must consider the gravity of the  
7 violation, the person's attempts at correcting the violation,  
8 and the person's history of previous violations including  
9 violations for which enforcement actions were taken under ss.  
10 381.0065-381.0067, s. 381.0069, part I of chapter 386, part  
11 III of chapter 489, or other provisions of law or rule.

12 6. Any person who willfully refuses to sign and accept  
13 a citation issued by the department commits a misdemeanor of  
14 the second degree, punishable as provided in s. 775.082 or s.  
15 775.083.

16 7. The department, pursuant to ss. 381.0065-381.0067,  
17 s. 381.0069, part I of chapter 386, or part III of chapter  
18 489, shall deposit any fines it collects in the county health  
19 department trust fund for use in providing services specified  
20 in those sections.

21 8. This section provides an alternative means of  
22 enforcing ss. 381.0065-381.0067, s. 381.0069, part I of  
23 chapter 386, and part III of chapter 489. This section does  
24 not prohibit the department from enforcing ss.  
25 381.0065-381.0067, s. 381.0069, part I of chapter 386, or part  
26 III of chapter 489, or its rules, by any other means.  
27 However, the department must elect to use only a single method  
28 of enforcement for each violation.

29 Section 4. This act shall take effect July 1, 2005.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS for SB 626

The committee substitute removes the apprenticeship  
requirement from the registration qualifications.