

1 A bill to be entitled
2 An act relating to public lodging and public food service
3 establishments; amending s. 509.013, F.S.; revising and
4 adding definitions; amending s. 509.032, F.S.; eliminating
5 the requirement for the Division of Hotels and Restaurants
6 to assist the State Fire Marshal in updating the Florida
7 Fire Prevention Code; eliminating the requirement for the
8 division to enforce the Florida Fire Prevention Code in
9 conducting its inspections; requiring the division to
10 notify firesafety officials of certain readily observable
11 Florida Fire Prevention Code rule violations; revising
12 state preemption authority; amending s. 509.039, F.S.;
13 amending a time limit for obtaining food service manager
14 certification after employment; requiring establishments
15 to provide the division certain information upon request;
16 amending s. 509.101, F.S.; deleting the requirement that a
17 transient establishment maintain a copy of ch. 509, F.S.,
18 on its premises; amending s. 509.142, F.S.; requiring the
19 operator of a public lodging establishment or public food
20 service establishment to accommodate any person using a
21 child conveyance under certain circumstances; repealing s.
22 509.201, F.S., relating to public lodging establishment
23 room rate posting and filing requirements, room rate
24 advertisement requirements, and related exemptions and
25 penalties; amending s. 509.211, F.S.; deleting requirement
26 for division notification of local firesafety officials or
27 the State Fire Marshal of violations of rules under ch.
28 633, F.S.; amending s. 509.221, F.S.; providing that

29 certain sanitary regulations for a public lodging
 30 establishment for its guests and employees and for a
 31 public food service establishment for its employees be in
 32 compliance with the Florida Building Code as approved by
 33 the local authority having jurisdiction; providing for
 34 wastewater disposal procedures for public food service
 35 establishments; requiring public lodging establishment and
 36 public food service establishment public restroom
 37 requirements to be in accordance with the Florida Building
 38 Code as approved by the local authority having
 39 jurisdiction; amending s. 509.242, F.S.; clarifying public
 40 lodging establishment classifications; amending s.
 41 509.261, F.S.; authorizing the division to levy sanctions
 42 for failing to comply with final orders of the division;
 43 authorizing the division to require payment of outstanding
 44 fines before renewing or issuing a license; providing an
 45 effective date.

46

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

48

49 Section 1. Subsections (4) and (12) of section 509.013,
 50 Florida Statutes, are amended, and subsections (14) through (16)
 51 are added to that section, to read:

52 509.013 Definitions.--As used in this chapter, the term:

53 (4) (a) "Public lodging establishment" includes a transient
 54 public lodging establishment as defined in subparagraph 1. and a
 55 nontransient public lodging establishment as defined in
 56 subparagraph 2. means any unit, group of units, dwelling,

CS/HB 1109

2008

57 ~~building, or group of buildings within a single complex of~~
58 ~~buildings, which is rented to guests more than three times in a~~
59 ~~calendar year for periods of less than 30 days or 1 calendar~~
60 ~~month, whichever is less, or which is advertised or held out to~~
61 ~~the public as a place regularly rented to guests.~~

62 1. "Transient public lodging establishment" means any
63 unit, group of units, dwelling, building, or group of buildings
64 within a single complex of buildings which is rented to guests
65 more than three times in a calendar year for periods of less
66 than 30 days or 1 calendar month, whichever is less, or which is
67 advertised or held out to the public as a place regularly rented
68 to guests.

69 2. "Nontransient public lodging establishment" means any
70 unit, group of units, dwelling, building, or group of buildings
71 within a single complex of buildings which is rented to guests
72 for periods of at least 30 days or 1 calendar month, whichever
73 is less, or which is advertised or held out to the public as a
74 place regularly rented to guests for periods of at least 30 days
75 or 1 calendar month.

76
77 License classifications of public lodging establishments, and
78 the definitions therefor, are set out in s. 509.242. For the
79 purpose of licensure, the term does not include condominium
80 common elements as defined in s. 718.103.

81 (b) The following are excluded from the definitions
82 ~~definition~~ in paragraph (a):

83 1. Any dormitory or other living or sleeping facility
 84 maintained by a public or private school, college, or university
 85 for the use of students, faculty, or visitors;

86 2. Any hospital, nursing home, sanitarium, assisted living
 87 facility, or other similar place;

88 3. Any place renting four rental units or less, unless the
 89 rental units are advertised or held out to the public to be
 90 places that are regularly rented to transients;

91 4. Any unit or group of units in a condominium,
 92 cooperative, or timeshare plan and any individually or
 93 collectively owned one-family, two-family, three-family, or
 94 four-family dwelling house or dwelling unit that is rented for
 95 periods of at least 30 days or 1 calendar month, whichever is
 96 less, and that is not advertised or held out to the public as a
 97 place regularly rented for periods of less than 1 calendar
 98 month, provided that no more than four rental units within a
 99 single complex of buildings are available for rent;

100 5. Any migrant labor camp or residential migrant housing
 101 permitted by the Department of Health; under ss. 381.008-
 102 381.00895; and

103 6. Any establishment inspected by the Department of Health
 104 and regulated by chapter 513.

105 (12) "Transient occupancy" means occupancy when it is the
 106 intention of the parties that the occupancy will be temporary.
 107 ~~There is a rebuttable presumption that, when the dwelling unit~~
 108 ~~occupied is the sole residence of the guest, the occupancy is~~
 109 ~~nontransient.~~ There is a rebuttable presumption that, when the

CS/HB 1109

2008

110 dwelling unit occupied is not the sole residence of the guest,
 111 the occupancy is transient.

112 (14) "Nontransient establishment" means any public lodging
 113 establishment that is rented or leased to guests by an operator
 114 whose intention is that the dwelling unit occupied will be the
 115 sole residence of the guest.

116 (15) "Nontransient occupancy" means occupancy when it is
 117 the intention of the parties that the occupancy will not be
 118 temporary. There is a rebuttable presumption that when the
 119 dwelling unit occupied is the sole residence of the guest, the
 120 occupancy is nontransient.

121 (16) "Nontransient" means a guest in nontransient
 122 occupancy.

123 Section 2. Paragraph (d) of subsection (2) and subsection
 124 (7) of section 509.032, Florida Statutes, are amended to read:

125 509.032 Duties.--

126 (2) INSPECTION OF PREMISES.--

127 (d) The division shall adopt and enforce sanitation rules
 128 consistent with law to ensure the protection of the public from
 129 food-borne illness in those establishments licensed under this
 130 chapter. These rules shall provide the standards and
 131 requirements for obtaining, storing, preparing, processing,
 132 serving, or displaying food in public food service
 133 establishments, approving public food service establishment
 134 facility plans, conducting necessary public food service
 135 establishment inspections for compliance with sanitation
 136 regulations, cooperating and coordinating with the Department of
 137 Health in epidemiological investigations, and initiating

138 enforcement actions, and for other such responsibilities deemed
 139 necessary by the division. The division may not establish by
 140 rule any regulation governing the design, construction,
 141 erection, alteration, modification, repair, or demolition of any
 142 public lodging or public food service establishment. It is the
 143 intent of the Legislature to preempt that function to the
 144 Florida Building Commission and the State Fire Marshal through
 145 adoption and maintenance of the Florida Building Code and the
 146 Florida Fire Prevention Code. The division shall provide
 147 technical assistance to the commission ~~and the State Fire~~
 148 ~~Marshal~~ in updating the construction standards of the Florida
 149 Building Code ~~and the Florida Fire Prevention Code~~ which govern
 150 public lodging and public food service establishments. Further,
 151 the division shall enforce the provisions of the Florida
 152 Building Code ~~and the Florida Fire Prevention Code~~ which apply
 153 to public lodging and public food service establishments in
 154 conducting any inspections authorized by this part. The division
 155 or its agent shall notify the local firesafety authority or the
 156 State Fire Marshal of any readily observable violation of a rule
 157 adopted under chapter 633 which relates to public lodging
 158 establishments or public food service establishments, and
 159 identification of such violation does not require any firesafety
 160 inspection certification.

161 (7) PREEMPTION AUTHORITY.--The regulation of public
 162 lodging establishments and public food service establishments,
 163 including, but not limited to, the inspection of public lodging
 164 establishments and public food service establishments for
 165 compliance with the sanitation standards adopted under this

CS/HB 1109

2008

166 section, and the regulation of food safety protection standards
167 for required training and testing of food service establishment
168 personnel are preempted to the state. This subsection does not
169 preempt the authority of a local government or local enforcement
170 district to conduct inspections of public lodging and public
171 food service establishments for compliance with the Florida
172 Building Code and the Florida Fire Prevention Code, pursuant to
173 ss. 553.80 and 633.022.

174 Section 3. Section 509.039, Florida Statutes, is amended
175 to read:

176 509.039 Food service manager certification.--It is the
177 duty of the division to adopt, by rule, food safety protection
178 standards for the training and certification of all food service
179 managers who are responsible for the storage, preparation,
180 display, or serving of foods to the public in establishments
181 regulated under this chapter. The standards adopted by the
182 division shall be consistent with the Standards for
183 Accreditation of Food Protection Manager Certification Programs
184 adopted by the Conference for Food Protection. These standards
185 are to be adopted by the division to ensure that, upon
186 successfully passing a test, approved by the Conference for Food
187 Protection, a manager of a food service establishment shall have
188 demonstrated a knowledge of basic food protection practices. The
189 division may contract with an organization offering a training
190 and certification program that complies with division standards
191 and results in a certification recognized by the Conference for
192 Food Protection to conduct an approved test and certify all test
193 results to the division. Other organizations offering programs

194 that meet the same requirements may also conduct approved tests
 195 and certify all test results to the division. The division may
 196 charge the organization it contracts with a fee of not more than
 197 \$5 per certified test to cover the administrative costs of the
 198 division for the food service manager training and certification
 199 program. All managers employed by a food service establishment
 200 must have passed an approved test and received a certificate
 201 attesting thereto. Managers have a period of 30 ~~90~~ days after
 202 employment to pass the required test. All public food service
 203 establishments must provide the division with proof of food
 204 service manager certification upon request, including, but not
 205 limited to, at the time of any division inspection of the
 206 establishment. The ranking of food service establishments is
 207 also preempted to the state; provided, however, that any local
 208 ordinances establishing a ranking system in existence prior to
 209 October 1, 1988, may remain in effect.

210 Section 4. Subsections (1) and (2) of section 509.101,
 211 Florida Statutes, is amended to read:

212 509.101 Establishment rules; posting of notice; food
 213 service inspection report; maintenance of guest register; mobile
 214 food dispensing vehicle registry.--

215 (1) Any operator of a public lodging establishment or a
 216 public food service establishment may establish reasonable rules
 217 and regulations for the management of the establishment and its
 218 guests and employees; and each guest or employee staying,
 219 sojourning, eating, or employed in the establishment shall
 220 conform to and abide by such rules and regulations so long as
 221 the guest or employee remains in or at the establishment. Such

CS/HB 1109

2008

222 rules and regulations shall be deemed to be a special contract
223 between the operator and each guest or employee using the
224 services or facilities of the operator. Such rules and
225 regulations shall control the liabilities, responsibilities, and
226 obligations of all parties. Any rules or regulations established
227 pursuant to this section shall be printed in the English
228 language and posted in a prominent place within such public
229 lodging establishment or public food service establishment. ~~Such~~
230 ~~posting shall also include notice that a current copy of this~~
231 ~~chapter is available in the office for public review.~~ In
232 addition, any operator of a public food service establishment
233 shall maintain the latest food service inspection report or a
234 duplicate copy on premises and shall make it available to the
235 public upon request.

236 (2) It is the duty of each operator of a transient
237 establishment to maintain at all times a register, signed by or
238 for guests who occupy rental units within the establishment,
239 showing the dates upon which the rental units were occupied by
240 such guests and the rates charged for their occupancy. This
241 register shall be maintained in chronological order and
242 available for inspection by the division at any time. Operators
243 need not make available registers which are more than 2 years
244 old. ~~Each operator shall maintain at all times a current copy of~~
245 ~~this chapter in the office of the licensed establishment which~~
246 ~~shall be made available to the public upon request.~~

247 Section 5. Section 509.142, Florida Statutes, is amended
248 to read:

249 509.142 Conduct on premises; refusal of service.--The
 250 operator of a public lodging establishment or public food
 251 service establishment:

252 (1) May refuse accommodations or service to any person
 253 whose conduct on the premises of the establishment displays
 254 intoxication, profanity, lewdness, or brawling; who indulges in
 255 language or conduct such as to disturb the peace or comfort of
 256 other guests; who engages in illegal or disorderly conduct; who
 257 illegally possesses or deals in controlled substances as defined
 258 in chapter 893; or whose conduct constitutes a nuisance. Such
 259 refusal may not be based upon race, creed, color, sex, physical
 260 disability, or national origin.

261 (2) Shall accommodate any person using a child conveyance
 262 in a reasonable manner that does not pose a hazard to the safety
 263 or health of employees or other patrons.

264 Section 6. Section 509.201, Florida Statutes, is repealed.

265 Section 7. Subsections (2) through (5) of section 509.211,
 266 Florida Statutes, are amended to read:

267 509.211 Safety regulations.--

268 ~~(2) The division, or its agent, shall immediately notify~~
 269 ~~the local firesafety authority or the State Fire Marshal of any~~
 270 ~~major violation of a rule adopted under chapter 633 which~~
 271 ~~relates to public lodging establishments or public food service~~
 272 ~~establishments. The division may impose administrative sanctions~~
 273 ~~for violations of these rules pursuant to s. 509.261 or may~~
 274 ~~refer such violations to the local firesafety authorities for~~
 275 ~~enforcement.~~

276 (2)~~(3)~~(a) It is unlawful for any person to use within any
277 public lodging establishment or public food service
278 establishment any fuel-burning wick-type equipment for space
279 heating unless such equipment is vented so as to prevent the
280 accumulation of toxic or injurious gases or liquids.

281 (b) Any person who violates the provisions of paragraph
282 (a) commits ~~is guilty of~~ a misdemeanor of the second degree,
283 punishable as provided in s. 775.082 or s. 775.083.

284 (3)~~(4)~~ Each public lodging establishment that is three or
285 more stories in height must have safe and secure railings on all
286 balconies, platforms, and stairways, and all such railings must
287 be properly maintained and repaired. The division may impose
288 administrative sanctions for violations of this subsection
289 pursuant to s. 509.261.

290 (4)~~(5)~~ Every enclosed space or room that contains a boiler
291 regulated under chapter 554 which is fired by the direct
292 application of energy from the combustion of fuels and that is
293 located in any portion of a public lodging establishment that
294 also contains sleeping rooms shall be equipped with one or more
295 carbon monoxide sensor devices that bear the label of a
296 nationally recognized testing laboratory and have been tested
297 and listed as complying with the most recent Underwriters
298 Laboratories, Inc., Standard 2034, or its equivalent, unless it
299 is determined that carbon monoxide hazards have otherwise been
300 adequately mitigated as determined by the division. Such devices
301 shall be integrated with the public lodging establishment's fire
302 detection system. Any such installation or determination shall
303 be made in accordance with rules adopted by the division.

CS/HB 1109

2008

304 Section 8. Subsections (1) and (5) and paragraph (a) of
305 subsection (2) of section 509.221, Florida Statutes, are amended
306 to read:

307 509.221 Sanitary regulations.--

308 (1) (a) Each public lodging establishment ~~and each public~~
309 ~~food service establishment~~ shall be supplied with potable water
310 and shall provide adequate sanitary facilities for the
311 accommodation of its employees and guests. Such facilities may
312 include, but are not limited to, showers, handwash basins,
313 toilets, and bidets. Such sanitary facilities shall be connected
314 to approved plumbing. Such plumbing shall be sized, installed,
315 and maintained in accordance with the Florida Building Code as
316 approved by the local plumbing authority or other local
317 authority having jurisdiction. Wastewater or sewage shall be
318 properly treated onsite or discharged into an approved sewage
319 collection and treatment system.

320 (b) Each public food service establishment shall be
321 supplied with potable water and shall provide adequate sanitary
322 facilities for the accommodation of its employees. Such
323 facilities may include, but are not limited to, showers,
324 handwash basins, toilets, and bidets. Such sanitary facilities
325 shall be connected to approved plumbing. Such plumbing shall be
326 sized, installed, and maintained in accordance with the Florida
327 Building Code as approved by the local plumbing authority or
328 other local authority having jurisdiction. Wastewater or sewage
329 shall be properly treated onsite or discharged into an approved
330 sewage collection and treatment system.

331 (2) (a) Each public lodging establishment and each public
 332 food service establishment shall maintain ~~not less than one~~
 333 public bathroom facilities in accordance with the Florida
 334 Building Code as approved by the local plumbing authority or
 335 other local authority having jurisdiction ~~for each sex, properly~~
 336 ~~designated, unless otherwise provided by rule.~~ The division
 337 shall establish by rule categories of establishments not subject
 338 to the bathroom requirement of this paragraph. Such rules may
 339 not alter the exemption provided for theme parks in paragraph
 340 (b).

341 (5) Each transient public lodging establishment ~~and each~~
 342 ~~public food service establishment~~ shall provide in the main
 343 public bathroom soap and clean towels or other approved hand-
 344 drying devices and each public lodging establishment shall
 345 furnish each guest with two clean individual towels so that two
 346 guests will not be required to use the same towel unless it has
 347 first been laundered. Each public food service establishment
 348 shall provide in the employee bathroom and any public bathroom
 349 soap and clean towels or other approved hand-drying devices.

350 Section 9. Paragraphs (d) and (e) of subsection (1) of
 351 section 509.242, Florida Statutes, are amended to read:

352 509.242 Public lodging establishments; classifications.--

353 (1) A public lodging establishment shall be classified as
 354 a hotel, motel, resort condominium, nontransient apartment,
 355 transient apartment, roominghouse, bed and breakfast inn, or
 356 resort dwelling if the establishment satisfies the following
 357 criteria:

358 (d) Nontransient apartment or roominghouse.--A
 359 nontransient apartment or roominghouse is a ~~any apartment~~
 360 building or complex of buildings in which 75 percent or more of
 361 the units are available for rent to nontransient tenants.

362 (e) Transient apartment or roominghouse.--A transient
 363 apartment or roominghouse is a ~~any apartment~~ building or complex
 364 of buildings in which more than 25 percent of the units are
 365 advertised or held out to the public as available for transient
 366 occupancy.

367 Section 10. Subsections (8) and (9) are added to section
 368 509.261, Florida Statutes, to read:

369 509.261 Revocation or suspension of licenses; fines;
 370 procedure.--

371 (8) The division may fine, suspend, or revoke the license
 372 of any public lodging establishment or public food service
 373 establishment when the establishment is not in compliance with
 374 the requirements of a final order or other administrative action
 375 issued against the licensee by the division.

376 (9) The division may refuse to issue or renew the license
 377 of any public lodging establishment or public food service
 378 establishment until all outstanding fines are paid in full to
 379 the division as required by all final orders or other
 380 administrative action issued against the licensee by the
 381 division.

382 Section 11. This act shall take effect July 1, 2008.