



917358

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
3/11/2008	.	
	.	
	.	

1 The Committee on Regulated Industries (Aronberg) recommended the
 2 following **amendment**:

3
 4 **Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause
 6 and insert:

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

10 509.013 Definitions.--As used in this chapter, the term:

11 (4) (a) "Public lodging establishment" includes a transient
 12 public lodging establishment as defined in subparagraph 1. and a
 13 nontransient public lodging establishment as defined in
 14 subparagraph 2. means any unit, group of units, dwelling,
 15 building, or group of buildings within a single complex of



917358

16 ~~buildings, which is rented to guests more than three times in a~~
17 ~~calendar year for periods of less than 30 days or 1 calendar~~
18 ~~month, whichever is less, or which is advertised or held out to~~
19 ~~the public as a place regularly rented to guests.~~

20 1. "Transient public lodging establishment" means any
21 unit, group of units, dwelling, building, or group of buildings
22 within a single complex of buildings which is rented to guests
23 more than three times in a calendar year for periods of less
24 than 30 days or 1 calendar month, whichever is less, or which is
25 advertised or held out to the public as a place regularly rented
26 to guests.

27 2. "Nontransient public lodging establishment" means any
28 unit, group of units, dwelling, building, or group of buildings
29 within a single complex of buildings which is rented to guests
30 for periods of at least 30 days or 1 calendar month, whichever
31 is less, or which is advertised or held out to the public as a
32 place regularly rented to guests for periods of at least 30 days
33 or 1 calendar month.

34
35 License classifications of public lodging establishments, and
36 the definitions therefor, are set out in s. 509.242. For the
37 purpose of licensure, the term does not include condominium
38 common elements as defined in s. 718.103.

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

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

Bill No. SB 2016



917358

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

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

49 4. Any unit or group of units in a condominium,
50 cooperative, or timeshare plan and any individually or
51 collectively owned one-family, two-family, three-family, or
52 four-family dwelling house or dwelling unit that is rented for
53 periods of at least 30 days or 1 calendar month, whichever is
54 less, and that is not advertised or held out to the public as a
55 place regularly rented for periods of less than 1 calendar
56 month, provided that no more than four rental units within a
57 single complex of buildings are available for rent;

58 5. Any migrant labor camp or residential migrant housing
59 permitted by the Department of Health; under ss. 381.008-
60 381.00895; and

61 6. Any establishment inspected by the Department of Health
62 and regulated by chapter 513.

63 (12) "Transient occupancy" means occupancy when it is the
64 intention of the parties that the occupancy will be temporary.
65 ~~There is a rebuttable presumption that, when the dwelling unit~~
66 ~~occupied is the sole residence of the guest, the occupancy is~~
67 ~~nontransient.~~ There is a rebuttable presumption that, when the
68 dwelling unit occupied is not the sole residence of the guest,
69 the occupancy is transient.

70 (14) "Nontransient establishment" means any public lodging
71 establishment that is rented or leased to guests by an operator

Bill No. SB 2016



917358

72 whose intention is that the dwelling unit occupied will be the
73 sole residence of the guest.

74 (15) "Nontransient occupancy" means occupancy when it is
75 the intention of the parties that the occupancy will not be
76 temporary. There is a rebuttable presumption that when the
77 dwelling unit occupied is the sole residence of the guest, the
78 occupancy is nontransient.

79 (16) "Nontransient" means a guest in nontransient
80 occupancy.

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

83 509.032 Duties.--

84 (2) INSPECTION OF PREMISES.--

85 (d) The division shall adopt and enforce sanitation rules
86 consistent with law to ensure the protection of the public from
87 food-borne illness in those establishments licensed under this
88 chapter. These rules shall provide the standards and
89 requirements for obtaining, storing, preparing, processing,
90 serving, or displaying food in public food service
91 establishments, approving public food service establishment
92 facility plans, conducting necessary public food service
93 establishment inspections for compliance with sanitation
94 regulations, cooperating and coordinating with the Department of
95 Health in epidemiological investigations, and initiating
96 enforcement actions, and for other such responsibilities deemed
97 necessary by the division. The division may not establish by
98 rule any regulation governing the design, construction,
99 erection, alteration, modification, repair, or demolition of any

Bill No. SB 2016



917358

100 public lodging or public food service establishment. It is the
101 intent of the Legislature to preempt that function to the
102 Florida Building Commission and the State Fire Marshal through
103 adoption and maintenance of the Florida Building Code and the
104 Florida Fire Prevention Code. The division shall provide
105 technical assistance to the commission ~~and the State Fire~~
106 ~~Marshal~~ in updating the construction standards of the Florida
107 Building Code ~~and the Florida Fire Prevention Code~~ which govern
108 public lodging and public food service establishments. Further,
109 the division shall enforce the provisions of the Florida
110 Building Code ~~and the Florida Fire Prevention Code~~ which apply
111 to public lodging and public food service establishments in
112 conducting any inspections authorized by this part.

113 (7) PREEMPTION AUTHORITY.--The regulation of public
114 lodging establishments and public food service establishments,
115 including, but not limited to, the inspection of public lodging
116 establishments and public food service establishments for
117 compliance with the sanitation standards adopted under this
118 section, and the regulation of food safety protection standards
119 for required training and testing of food service establishment
120 personnel are preempted to the state. This subsection does not
121 preempt the authority of a local government or local enforcement
122 district to conduct inspections of public lodging and public
123 food service establishments for compliance with the Florida
124 Building Code and the Florida Fire Prevention Code, pursuant to
125 ss. 553.80 and 633.022.

126 Section 3. Section 509.039, Florida Statutes, is amended
127 to read:

Bill No. SB 2016



917358

128 509.039 Food service manager certification.--It is the
129 duty of the division to adopt, by rule, food safety protection
130 standards for the training and certification of all food service
131 managers who are responsible for the storage, preparation,
132 display, or serving of foods to the public in establishments
133 regulated under this chapter. The standards adopted by the
134 division shall be consistent with the Standards for
135 Accreditation of Food Protection Manager Certification Programs
136 adopted by the Conference for Food Protection. These standards
137 are to be adopted by the division to ensure that, upon
138 successfully passing a test, approved by the Conference for Food
139 Protection, a manager of a food service establishment shall have
140 demonstrated a knowledge of basic food protection practices. The
141 division may contract with an organization offering a training
142 and certification program that complies with division standards
143 and results in a certification recognized by the Conference for
144 Food Protection to conduct an approved test and certify all test
145 results to the division. Other organizations offering programs
146 that meet the same requirements may also conduct approved tests
147 and certify all test results to the division. The division may
148 charge the organization it contracts with a fee of not more than
149 \$5 per certified test to cover the administrative costs of the
150 division for the food service manager training and certification
151 program. All managers employed by a food service establishment
152 must have passed an approved test and received a certificate
153 attesting thereto. ~~Managers have a period of 90 days after~~
154 ~~employment to pass the required test.~~ The ranking of food
155 service establishments is also preempted to the state; provided,



917358

156 however, that any local ordinances establishing a ranking system
157 in existence prior to October 1, 1988, may remain in effect.

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

160 509.101 Establishment rules; posting of notice; food
161 service inspection report; maintenance of guest register; mobile
162 food dispensing vehicle registry.--

163 (1) Any operator of a public lodging establishment or a
164 public food service establishment may establish reasonable rules
165 and regulations for the management of the establishment and its
166 guests and employees; and each guest or employee staying,
167 sojourning, eating, or employed in the establishment shall
168 conform to and abide by such rules and regulations so long as
169 the guest or employee remains in or at the establishment. Such
170 rules and regulations shall be deemed to be a special contract
171 between the operator and each guest or employee using the
172 services or facilities of the operator. Such rules and
173 regulations shall control the liabilities, responsibilities, and
174 obligations of all parties. Any rules or regulations established
175 pursuant to this section shall be printed in the English
176 language and posted in a prominent place within such public
177 lodging establishment or public food service establishment. ~~Such~~
178 ~~posting shall also include notice that a current copy of this~~
179 ~~chapter is available in the office for public review.~~ In
180 addition, any operator of a public food service establishment
181 shall maintain the latest food service inspection report or a
182 duplicate copy on premises and shall make it available to the
183 public upon request.



917358

184 (2) It is the duty of each operator of a transient
185 establishment to maintain at all times a register, signed by or
186 for guests who occupy rental units within the establishment,
187 showing the dates upon which the rental units were occupied by
188 such guests and the rates charged for their occupancy. This
189 register shall be maintained in chronological order and
190 available for inspection by the division at any time. Operators
191 need not make available registers which are more than 2 years
192 old. ~~Each operator shall maintain at all times a current copy of~~
193 ~~this chapter in the office of the licensed establishment which~~
194 ~~shall be made available to the public upon request.~~

195 Section 5. Section 509.201, Florida Statutes, is repealed.

196 Section 6. Subsections (2) through (5) of section 509.211,
197 Florida Statutes, are amended to read:

198 509.211 Safety regulations.--

199 ~~(2) The division, or its agent, shall immediately notify~~
200 ~~the local firesafety authority or the State Fire Marshal of any~~
201 ~~major violation of a rule adopted under chapter 633 which~~
202 ~~relates to public lodging establishments or public food service~~
203 ~~establishments. The division may impose administrative sanctions~~
204 ~~for violations of these rules pursuant to s. 509.261 or may~~
205 ~~refer such violations to the local firesafety authorities for~~
206 ~~enforcement.~~

207 (2)(3)(a) It is unlawful for any person to use within any
208 public lodging establishment or public food service
209 establishment any fuel-burning wick-type equipment for space
210 heating unless such equipment is vented so as to prevent the
211 accumulation of toxic or injurious gases or liquids.

Bill No. SB 2016



917358

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

215 ~~(3)~~(4) Each public lodging establishment that is three or
216 more stories in height must have safe and secure railings on all
217 balconies, platforms, and stairways, and all such railings must
218 be properly maintained and repaired. The division may impose
219 administrative sanctions for violations of this subsection
220 pursuant to s. 509.261.

221 ~~(4)~~(5) Every enclosed space or room that contains a boiler
222 regulated under chapter 554 which is fired by the direct
223 application of energy from the combustion of fuels and that is
224 located in any portion of a public lodging establishment that
225 also contains sleeping rooms shall be equipped with one or more
226 carbon monoxide sensor devices that bear the label of a
227 nationally recognized testing laboratory and have been tested
228 and listed as complying with the most recent Underwriters
229 Laboratories, Inc., Standard 2034, or its equivalent, unless it
230 is determined that carbon monoxide hazards have otherwise been
231 adequately mitigated as determined by the division. Such devices
232 shall be integrated with the public lodging establishment's fire
233 detection system. Any such installation or determination shall
234 be made in accordance with rules adopted by the division.

235 Section 7. Subsections (1) and (5) and paragraph (a) of
236 subsection (2) of section 509.221, Florida Statutes, are amended
237 to read:

238 509.221 Sanitary regulations.--



917358

239 (1) (a) Each public lodging establishment ~~and each public~~
240 ~~food service establishment~~ shall be supplied with potable water
241 and shall provide adequate sanitary facilities for the
242 accommodation of its employees and guests. Such facilities may
243 include, but are not limited to, showers, handwash basins,
244 toilets, and bidets. Such sanitary facilities shall be connected
245 to approved plumbing. Such plumbing shall be sized, installed,
246 and maintained in accordance with the Florida Building Code as
247 approved by the local plumbing authority or other local
248 authority having jurisdiction. Wastewater or sewage shall be
249 properly treated onsite or discharged into an approved sewage
250 collection and treatment system.

251 (b) Each public food service establishment shall be
252 supplied with potable water and shall provide adequate sanitary
253 facilities for the accommodation of its employees. Such
254 facilities may include, but are not limited to, showers,
255 handwash basins, toilets, and bidets. Such sanitary facilities
256 shall be connected to approved plumbing. Such plumbing shall be
257 sized, installed, and maintained in accordance with the Florida
258 Building Code as approved by the local plumbing authority or
259 other local authority having jurisdiction. Wastewater or sewage
260 shall be properly treated onsite or discharged into an approved
261 sewage collection and treatment system.

262 (2) (a) Each public lodging establishment and each public
263 food service establishment shall maintain ~~not less than one~~
264 public bathroom facilities in accordance with the Florida
265 Building Code as approved by the local plumbing authority or
266 other local authority having jurisdiction ~~for each sex, properly~~



917358

267 ~~designated, unless otherwise provided by rule.~~ The division
268 shall establish by rule categories of establishments not subject
269 to the bathroom requirement of this paragraph. Such rules may
270 not alter the exemption provided for theme parks in paragraph
271 (b).

272 (5) Each transient public lodging establishment ~~and each~~
273 ~~public food service establishment~~ shall provide in the main
274 public bathroom soap and clean towels or other approved hand-
275 drying devices and each public lodging establishment shall
276 furnish each guest with two clean individual towels so that two
277 guests will not be required to use the same towel unless it has
278 first been laundered. Each public food service establishment
279 shall provide in the employee bathroom and any public bathroom
280 soap and clean towels or other approved hand-drying devices.

281 Section 8. Paragraphs (d) and (e) of subsection (1) of
282 section 509.242, Florida Statutes, are amended to read:

283 509.242 Public lodging establishments; classifications.--

284 (1) A public lodging establishment shall be classified as
285 a hotel, motel, resort condominium, nontransient apartment,
286 transient apartment, roominghouse, bed and breakfast inn, or
287 resort dwelling if the establishment satisfies the following
288 criteria:

289 (d) Nontransient apartment or roominghouse.--A
290 nontransient apartment or roominghouse is a any apartment
291 building or complex of buildings in which 75 percent or more of
292 the units are available for rent to nontransient tenants.

293 (e) Transient apartment or roominghouse.--A transient
294 apartment or roominghouse is a any apartment building or complex



917358

295 of buildings in which more than 25 percent of the units are
 296 advertised or held out to the public as available for transient
 297 occupancy.

298 Section 9. Subsections (8) and (9) are added to section
 299 509.261, Florida Statutes, to read:

300 509.261 Revocation or suspension of licenses; fines;
 301 procedure.--

302 (8) The division may fine, suspend, or revoke the license
 303 of any public lodging establishment or public food service
 304 establishment when the establishment is not in compliance with
 305 the requirements of a final order or other administrative action
 306 issued against the licensee by the division.

307 (9) The division may refuse to issue or renew the license
 308 of any public lodging establishment or public food service
 309 establishment until all outstanding fines are paid in full to
 310 the division as required by all final orders or other
 311 administrative action issued against the licensee by the
 312 division.

313 Section 10. This act shall take effect July 1, 2008.

314
 315

316 ===== T I T L E A M E N D M E N T =====

317 And the title is amended as follows:

318 Delete everything before the enacting clause
 319 and insert:

320 A bill to be entitled
 321 An act relating to public lodging and public food service
 322 establishments; amending s. 509.013, F.S.; revising and



917358

323 adding definitions; amending s. 509.032, F.S.; eliminating
324 the requirement for the Division of Hotels and Restaurants
325 to assist the State Fire Marshal in updating the Florida
326 Fire Prevention Code; eliminating the requirement for the
327 division to enforce the Florida Fire Prevention Code in
328 conducting its inspections; revising state preemption
329 authority; amending s. 509.039, F.S.; removing a time
330 limit for obtaining food service manager certification
331 after employment; amending s. 509.101, F.S.; deleting the
332 requirement that a transient establishment maintain a copy
333 of ch. 509, F.S., on its premises; repealing s. 509.201,
334 F.S., relating to public lodging establishment room rate
335 posting and filing requirements, room rate advertisement
336 requirements, and related exemptions and penalties;
337 amending s. 509.211, F.S.; deleting requirement for
338 division notification of local firesafety officials or the
339 State Fire Marshal of violations of rules under ch. 633,
340 F.S.; amending s. 509.221, F.S.; providing that certain
341 sanitary regulations for a public lodging establishment
342 for its guests and employees and for a public food service
343 establishment for its employees be in compliance with the
344 Florida Building Code as approved by the local authority
345 having jurisdiction; providing for wastewater disposal
346 procedures for public food service establishments;
347 requiring public lodging establishment and public food
348 service establishment public restroom requirements to be
349 in accordance with the Florida Building Code as approved
350 by the local authority having jurisdiction; amending s.



917358

351 | 509.242, F.S.; clarifying public lodging establishment
352 | classifications; amending s. 509.261, F.S.; authorizing
353 | the division to levy sanctions for failing to comply with
354 | final orders of the division; authorizing the division to
355 | require payment of outstanding fines before renewing or
356 | issuing a license; providing an effective date.