

By Senator Aronberg

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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; amending s. 509.039, F.S.;
10 removing a time limit for obtaining food service manager
11 certification after employment; amending s. 509.101, F.S.;
12 deleting the requirement that a transient establishment
13 maintain a copy of ch. 509, F.S., on its premises;
14 repealing s. 509.201, F.S., relating to public lodging
15 establishment room rate posting and filing requirements,
16 room rate advertisement requirements, and related
17 exemptions and penalties; amending s. 509.211, F.S.;
18 deleting a requirement for division notification of local
19 firesafety officials or the State Fire Marshal of
20 violations of rules under ch. 633, F.S.; eliminating
21 enforcement authority of the division; amending s.
22 509.221, F.S.; providing that certain sanitary regulations
23 for a public lodging establishment for its guests and
24 employees and for a public food service establishment for
25 its employees be in compliance with the Florida Building
26 Code as approved by the local authority having
27 jurisdiction; providing for wastewater disposal procedures
28 for public food service establishments; requiring public
29 lodging establishment and public food service

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30 establishment public restroom requirements to be in
31 accordance with the Florida Building Code as approved by
32 the local authority having jurisdiction; amending s.
33 509.242, F.S.; clarifying public lodging establishment
34 classifications; amending s. 509.261, F.S.; authorizing
35 the division to levy sanctions for failing to comply with
36 final orders of the division; authorizing the division to
37 require payment of outstanding fines before renewing or
38 issuing a license; providing an effective date.

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Subsections (4) and (12) of section 509.013,
43 Florida Statutes, are amended, and subsections (14) through (16)
44 are added to that section, to read:

45 509.013 Definitions.--As used in this chapter, the term:

46 (4) (a) "Public lodging establishment" includes a transient
47 public lodging establishment as defined in subparagraph 1. and a
48 nontransient public lodging establishment as defined in
49 subparagraph 2. means any unit, group of units, dwelling,
50 building, or group of buildings within a single complex of
51 buildings, which is rented to guests more than three times in a
52 calendar year for periods of less than 30 days or 1 calendar
53 month, whichever is less, or which is advertised or held out to
54 the public as a place regularly rented to guests.

55 1. "Transient public lodging establishment" means any unit,
56 group of units, dwelling, building, or group of buildings within
57 a single complex of buildings which is rented to guests more than
58 three times in a calendar year for periods of less than 30 days

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59 | or 1 calendar month, whichever is less, or which is advertised or
60 | held out to the public as a place regularly rented to guests.

61 | 2. "Nontransient public lodging establishment" means any
62 | unit, group of units, dwelling, building, or group of buildings
63 | within a single complex of buildings which is rented to guests
64 | for periods of at least 30 days or 1 calendar month, whichever is
65 | less, or which is advertised or held out to the public as a place
66 | regularly rented to guests for periods of at least 30 days or 1
67 | calendar month.

68 |
69 | License classifications of public lodging establishments, and the
70 | definitions therefor, are set out in s. 509.242. For the purpose
71 | of licensure, the term does not include condominium common
72 | elements as defined in s. 718.103.

73 | (b) The following are excluded from the definitions
74 | ~~definition~~ in paragraph (a):

75 | 1. Any dormitory or other living or sleeping facility
76 | maintained by a public or private school, college, or university
77 | for the use of students, faculty, or visitors;

78 | 2. Any hospital, nursing home, sanitarium, assisted living
79 | facility, or other similar place;

80 | 3. Any place renting four rental units or less, unless the
81 | rental units are advertised or held out to the public to be
82 | places that are regularly rented to transients;

83 | 4. Any unit or group of units in a condominium,
84 | cooperative, or timeshare plan and any individually or
85 | collectively owned one-family, two-family, three-family, or four-
86 | family dwelling house or dwelling unit that is rented for periods
87 | of at least 30 days or 1 calendar month, whichever is less, and

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88 that is not advertised or held out to the public as a place
89 regularly rented for periods of less than 1 calendar month,
90 provided that no more than four rental units within a single
91 complex of buildings are available for rent;

92 5. Any migrant labor camp or residential migrant housing
93 permitted by the Department of Health; under ss. 381.008-
94 381.00895; and

95 6. Any establishment inspected by the Department of Health
96 and regulated by chapter 513.

97 (12) "Transient occupancy" means occupancy when it is the
98 intention of the parties that the occupancy will be temporary.
99 ~~There is a rebuttable presumption that, when the dwelling unit~~
100 ~~occupied is the sole residence of the guest, the occupancy is~~
101 ~~nontransient.~~ There is a rebuttable presumption that, when the
102 dwelling unit occupied is not the sole residence of the guest,
103 the occupancy is transient.

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

108 (15) "Nontransient occupancy" means occupancy when it is
109 the intention of the parties that the occupancy will not be
110 temporary. There is a rebuttable presumption that when the
111 dwelling unit occupied is the sole residence of the guest, the
112 occupancy is nontransient.

113 (16) "Nontransient" means a guest in nontransient
114 occupancy.

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

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117 509.032 Duties.--

118 (2) INSPECTION OF PREMISES.--

119 (d) The division shall adopt and enforce sanitation rules
120 consistent with law to ensure the protection of the public from
121 food-borne illness in those establishments licensed under this
122 chapter. These rules shall provide the standards and requirements
123 for obtaining, storing, preparing, processing, serving, or
124 displaying food in public food service establishments, approving
125 public food service establishment facility plans, conducting
126 necessary public food service establishment inspections for
127 compliance with sanitation regulations, cooperating and
128 coordinating with the Department of Health in epidemiological
129 investigations, and initiating enforcement actions, and for other
130 such responsibilities deemed necessary by the division. The
131 division may not establish by rule any regulation governing the
132 design, construction, erection, alteration, modification, repair,
133 or demolition of any public lodging or public food service
134 establishment. It is the intent of the Legislature to preempt
135 that function to the Florida Building Commission and the State
136 Fire Marshal through adoption and maintenance of the Florida
137 Building Code and the Florida Fire Prevention Code. The division
138 shall provide technical assistance to the commission ~~and the~~
139 ~~State Fire Marshal~~ in updating the construction standards of the
140 Florida Building Code ~~and the Florida Fire Prevention Code~~ which
141 govern public lodging and public food service establishments.
142 Further, the division shall enforce the provisions of the Florida
143 Building Code ~~and the Florida Fire Prevention Code~~ which apply to
144 public lodging and public food service establishments in
145 conducting any inspections authorized by this part.

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146 (7) PREEMPTION AUTHORITY.--The regulation of public lodging
147 establishments and public food service establishments, including,
148 but not limited to, the inspection of public lodging
149 establishments and public food service establishments for
150 compliance with the sanitation standards adopted under this
151 section, and the regulation of food safety protection standards
152 for required training and testing of food service establishment
153 personnel are preempted to the state. This subsection does not
154 preempt the authority of a local government or local enforcement
155 district to conduct inspections of public lodging and public food
156 service establishments for compliance with the Florida Building
157 Code and the Florida Fire Prevention Code, pursuant to ss. 553.80
158 and 633.022.

159 Section 3. Section 509.039, Florida Statutes, is amended to
160 read:

161 509.039 Food service manager certification.--It is the duty
162 of the division to adopt, by rule, food safety protection
163 standards for the training and certification of all food service
164 managers who are responsible for the storage, preparation,
165 display, or serving of foods to the public in establishments
166 regulated under this chapter. The standards adopted by the
167 division shall be consistent with the Standards for Accreditation
168 of Food Protection Manager Certification Programs adopted by the
169 Conference for Food Protection. These standards are to be adopted
170 by the division to ensure that, upon successfully passing a test,
171 approved by the Conference for Food Protection, a manager of a
172 food service establishment shall have demonstrated a knowledge of
173 basic food protection practices. The division may contract with
174 an organization offering a training and certification program

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175 that complies with division standards and results in a
176 certification recognized by the Conference for Food Protection to
177 conduct an approved test and certify all test results to the
178 division. Other organizations offering programs that meet the
179 same requirements may also conduct approved tests and certify all
180 test results to the division. The division may charge the
181 organization it contracts with a fee of not more than \$5 per
182 certified test to cover the administrative costs of the division
183 for the food service manager training and certification program.
184 All managers employed by a food service establishment must have
185 passed an approved test and received a certificate attesting
186 thereto. ~~Managers have a period of 90 days after employment to~~
187 ~~pass the required test.~~ The ranking of food service
188 establishments is also preempted to the state; provided, however,
189 that any local ordinances establishing a ranking system in
190 existence prior to October 1, 1988, may remain in effect.

191 Section 4. Subsection (2) of section 509.101, Florida
192 Statutes, is amended to read:

193 509.101 Establishment rules; posting of notice; food
194 service inspection report; maintenance of guest register; mobile
195 food dispensing vehicle registry.--

196 (2) It is the duty of each operator of a transient
197 establishment to maintain at all times a register, signed by or
198 for guests who occupy rental units within the establishment,
199 showing the dates upon which the rental units were occupied by
200 such guests and the rates charged for their occupancy. This
201 register shall be maintained in chronological order and available
202 for inspection by the division at any time. Operators need not
203 make available registers which are more than 2 years old. ~~Each~~

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204 ~~operator shall maintain at all times a current copy of this~~
205 ~~chapter in the office of the licensed establishment which shall~~
206 ~~be made available to the public upon request.~~

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

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

210 509.211 Safety regulations.--

211 ~~(2) The division, or its agent, shall immediately notify~~
212 ~~the local firesafety authority or the State Fire Marshal of any~~
213 ~~major violation of a rule adopted under chapter 633 which relates~~
214 ~~to public lodging establishments or public food service~~
215 ~~establishments. The division may impose administrative sanctions~~
216 ~~for violations of these rules pursuant to s. 509.261 or may refer~~
217 ~~such violations to the local firesafety authorities for~~
218 ~~enforcement.~~

219 (2)(3)(a) It is unlawful for any person to use within any
220 public lodging establishment or public food service establishment
221 any fuel-burning wick-type equipment for space heating unless
222 such equipment is vented so as to prevent the accumulation of
223 toxic or injurious gases or liquids.

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

227 (3)(4) Each public lodging establishment that is three or
228 more stories in height must have safe and secure railings on all
229 balconies, platforms, and stairways, and all such railings must
230 be properly maintained and repaired. The division may impose
231 administrative sanctions for violations of this subsection
232 pursuant to s. 509.261.

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

247 Section 7. Subsection (1), paragraph (a) of subsection (2),
248 and subsections (5) and (9) of section 509.221, Florida Statutes,
249 are amended to read:

250 509.221 Sanitary regulations.--

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

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261 treated onsite or discharged into an approved sewage collection
262 and treatment system.

263 (b) Each public food service establishment shall be
264 supplied with potable water and shall provide adequate sanitary
265 facilities for the accommodation of its employees. Such
266 facilities may include, but are not limited to, showers, handwash
267 basins, toilets, and bidets. Such sanitary facilities shall be
268 connected to approved plumbing. Such plumbing shall be sized,
269 installed, and maintained in accordance with the Florida Building
270 Code as approved by the local plumbing authority or other local
271 authority having jurisdiction. Wastewater or sewage shall be
272 properly treated onsite or discharged into an approved sewage
273 collection and treatment system.

274 (2) (a) Each public lodging establishment and each public
275 food service establishment shall maintain ~~not less than one~~
276 public bathroom facilities in accordance with the Florida
277 Building Code as approved by the local plumbing authority or
278 other local authority having jurisdiction ~~for each sex, properly~~
279 ~~designated, unless otherwise provided by rule.~~ The division shall
280 establish by rule categories of establishments not subject to the
281 bathroom requirement of this paragraph. Such rules may not alter
282 the exemption provided for theme parks in paragraph (b).

283 (5) Each transient establishment and each public food
284 service establishment shall provide in the main public bathroom
285 soap and clean towels or other approved hand-drying devices and
286 each public lodging establishment shall furnish each guest with
287 two clean individual towels so that two guests will not be
288 required to use the same towel unless it has first been
289 laundered. Each public food service establishment shall provide

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290 in the employee bathroom and any public bathroom soap and clean
291 towels or other approved hand-drying devices.

292 (9) Subsections (2), (5), and (6) do not apply to any
293 facility or unit classified as a resort condominium, nontransient
294 apartment, or resort dwelling as described in s. 509.242(1)(c),
295 (d), and (f) ~~(g)~~.

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

298 509.242 Public lodging establishments; classifications.--

299 (1) A public lodging establishment shall be classified as a
300 hotel, motel, resort condominium, nontransient apartment,
301 transient apartment, roominghouse, bed and breakfast inn, or
302 resort dwelling if the establishment satisfies the following
303 criteria:

304 (d) Nontransient apartment or roominghouse--A nontransient
305 apartment or roominghouse is a any apartment building or complex
306 in which 75 percent or more of the units are available for rent
307 to nontransient tenants.

308 (e) Transient apartment or roominghouse--A transient
309 apartment or roominghouse is a any apartment building or complex
310 in which 25 percent or more of the units are advertised or held
311 out to the public as available for transient occupancy.

312 Section 9. Subsections (8) and (9) are added to section
313 509.261, Florida Statutes, to read:

314 509.261 Revocation or suspension of licenses; fines;
315 procedure.--

316 (8) The division may fine, suspend, or revoke the license
317 of any public lodging establishment or public food service
318 establishment when the establishment is not in compliance with

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319 the requirements of a final order or other administrative action
320 issued against the licensee by the division.

321 (9) The division may refuse to issue or renew the license
322 of any public lodging establishment or public food service
323 establishment until all outstanding fines are paid in full to the
324 division as required by all final orders or other administrative
325 action issued against the licensee by the division.

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