

By the Committees on Community Affairs; Regulated Industries;
and 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; requiring the division, or its
10 agent, to notify firesafety officials of certain readily
11 observable violations of the Florida Fire Prevention Code
12 rules; revising state preemption authority; amending s.
13 509.039, F.S.; decreasing the amount of time in which a
14 food service manager is required to obtain certification
15 after employment; requiring public food service
16 establishments to provide proof of certification upon
17 request by the division; amending s. 509.101, F.S.;
18 deleting the requirement that a transient establishment
19 maintain a copy of ch. 509, F.S., on its premises;
20 repealing s. 509.201, F.S., relating to public lodging
21 establishment room rate posting and filing requirements,
22 room rate advertisement requirements, and related
23 exemptions and penalties; amending s. 509.211, F.S.;
24 deleting a requirement for division notification of local
25 firesafety officials or the State Fire Marshal of
26 violations of rules under ch. 633, F.S.; amending s.
27 509.221, F.S.; providing that certain sanitary regulations
28 for a public lodging establishment for its guests and
29 employees and for a public food service establishment for

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

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Subsections (4) and (12) of section 509.013,
48 Florida Statutes, are amended, and subsections (14) through (16)
49 are added to that section, to read:

50 509.013 Definitions.--As used in this chapter, the term:

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

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59 ~~the public as a place regularly rented to guests.~~

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

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

73
74 License classifications of public lodging establishments, and the
75 definitions therefor, are set out in s. 509.242. For the purpose
76 of licensure, the term does not include condominium common
77 elements as defined in s. 718.103.

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

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

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

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

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

97 5. Any migrant labor camp or residential migrant housing
98 permitted by the Department of Health; under ss. 381.008-
99 381.00895; and

100 6. Any establishment inspected by the Department of Health
101 and regulated by chapter 513.

102 (12) "Transient occupancy" means occupancy when it is the
103 intention of the parties that the occupancy will be temporary.
104 ~~There is a rebuttable presumption that, when the dwelling unit~~
105 ~~occupied is the sole residence of the guest, the occupancy is~~
106 ~~nontransient.~~ There is a rebuttable presumption that, when the
107 dwelling unit occupied is not the sole residence of the guest,
108 the occupancy is transient.

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

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

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117 occupancy is nontransient.

118 (16) "Nontransient" means a guest in nontransient
119 occupancy.

120 Section 2. Paragraph (d) of subsection (2) and subsection
121 (7) of section 509.032, Florida Statutes, are amended to read:
122 509.032 Duties.--

123 (2) INSPECTION OF PREMISES.--

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

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146 govern public lodging and public food service establishments.
147 Further, the division shall enforce the provisions of the Florida
148 Building Code ~~and the Florida Fire Prevention Code~~ which apply to
149 public lodging and public food service establishments in
150 conducting any inspections authorized by this part. The division,
151 or its agent, shall notify the local firesafety authority or the
152 State Fire Marshal of any readily observable violation of a rule
153 adopted under chapter 633 which relates to public lodging
154 establishments or public food establishments, and the
155 identification of such violation does not require any firesafety
156 inspection certification.

157 (7) PREEMPTION AUTHORITY.--The regulation of public lodging
158 establishments and public food service establishments, including,
159 but not limited to, the inspection of public lodging
160 establishments and public food service establishments for
161 compliance with the sanitation standards adopted under this
162 section, and the regulation of food safety protection standards
163 for required training and testing of food service establishment
164 personnel are preempted to the state. This subsection does not
165 preempt the authority of a local government or local enforcement
166 district to conduct inspections of public lodging and public food
167 service establishments for compliance with the Florida Building
168 Code and the Florida Fire Prevention Code, pursuant to ss. 553.80
169 and 633.022.

170 Section 3. Section 509.039, Florida Statutes, is amended to
171 read:

172 509.039 Food service manager certification.--It is the duty
173 of the division to adopt, by rule, food safety protection
174 standards for the training and certification of all food service

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175 managers who are responsible for the storage, preparation,
176 display, or serving of foods to the public in establishments
177 regulated under this chapter. The standards adopted by the
178 division shall be consistent with the Standards for Accreditation
179 of Food Protection Manager Certification Programs adopted by the
180 Conference for Food Protection. These standards are to be adopted
181 by the division to ensure that, upon successfully passing a test,
182 approved by the Conference for Food Protection, a manager of a
183 food service establishment shall have demonstrated a knowledge of
184 basic food protection practices. The division may contract with
185 an organization offering a training and certification program
186 that complies with division standards and results in a
187 certification recognized by the Conference for Food Protection to
188 conduct an approved test and certify all test results to the
189 division. Other organizations offering programs that meet the
190 same requirements may also conduct approved tests and certify all
191 test results to the division. The division may charge the
192 organization it contracts with a fee of not more than \$5 per
193 certified test to cover the administrative costs of the division
194 for the food service manager training and certification program.
195 All managers employed by a food service establishment must have
196 passed an approved test and received a certificate attesting
197 thereto. Managers have a period of 30 ~~90~~ days after employment to
198 pass the required test. All public food service establishments
199 must provide the division with proof of food service manager
200 certification upon request, including, but not limited to, at the
201 time of any division inspection of the establishment. The ranking
202 of food service establishments is also preempted to the state;
203 provided, however, that any local ordinances establishing a

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204 ranking system in existence prior to October 1, 1988, may remain
205 in effect.

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

208 509.101 Establishment rules; posting of notice; food
209 service inspection report; maintenance of guest register; mobile
210 food dispensing vehicle registry.--

211 (1) Any operator of a public lodging establishment or a
212 public food service establishment may establish reasonable rules
213 and regulations for the management of the establishment and its
214 guests and employees; and each guest or employee staying,
215 sojourning, eating, or employed in the establishment shall
216 conform to and abide by such rules and regulations so long as the
217 guest or employee remains in or at the establishment. Such rules
218 and regulations shall be deemed to be a special contract between
219 the operator and each guest or employee using the services or
220 facilities of the operator. Such rules and regulations shall
221 control the liabilities, responsibilities, and obligations of all
222 parties. Any rules or regulations established pursuant to this
223 section shall be printed in the English language and posted in a
224 prominent place within such public lodging establishment or
225 public food service establishment. ~~Such posting shall also~~
226 ~~include notice that a current copy of this chapter is available~~
227 ~~in the office for public review.~~ In addition, any operator of a
228 public food service establishment shall maintain the latest food
229 service inspection report or a duplicate copy on premises and
230 shall make it available to the public upon request.

231 (2) It is the duty of each operator of a transient
232 establishment to maintain at all times a register, signed by or

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

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

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

245 509.211 Safety regulations.--

246 ~~(2) The division, or its agent, shall immediately notify~~
247 ~~the local firesafety authority or the State Fire Marshal of any~~
248 ~~major violation of a rule adopted under chapter 633 which relates~~
249 ~~to public lodging establishments or public food service~~
250 ~~establishments. The division may impose administrative sanctions~~
251 ~~for violations of these rules pursuant to s. 509.261 or may refer~~
252 ~~such violations to the local firesafety authorities for~~
253 ~~enforcement.~~

254 (2)(3)(a) It is unlawful for any person to use within any
255 public lodging establishment or public food service establishment
256 any fuel-burning wick-type equipment for space heating unless
257 such equipment is vented so as to prevent the accumulation of
258 toxic or injurious gases or liquids.

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

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262 (3)~~(4)~~ Each public lodging establishment that is three or
263 more stories in height must have safe and secure railings on all
264 balconies, platforms, and stairways, and all such railings must
265 be properly maintained and repaired. The division may impose
266 administrative sanctions for violations of this subsection
267 pursuant to s. 509.261.

268 (4)~~(5)~~ Every enclosed space or room that contains a boiler
269 regulated under chapter 554 which is fired by the direct
270 application of energy from the combustion of fuels and that is
271 located in any portion of a public lodging establishment that
272 also contains sleeping rooms shall be equipped with one or more
273 carbon monoxide sensor devices that bear the label of a
274 nationally recognized testing laboratory and have been tested and
275 listed as complying with the most recent Underwriters
276 Laboratories, Inc., Standard 2034, or its equivalent, unless it
277 is determined that carbon monoxide hazards have otherwise been
278 adequately mitigated as determined by the division. Such devices
279 shall be integrated with the public lodging establishment's fire
280 detection system. Any such installation or determination shall be
281 made in accordance with rules adopted by the division.

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

285 509.221 Sanitary regulations.--

286 (1)(a) Each public lodging establishment ~~and each public~~
287 ~~food service establishment~~ shall be supplied with potable water
288 and shall provide adequate sanitary facilities for the
289 accommodation of its employees and guests. Such facilities may
290 include, but are not limited to, showers, handwash basins,

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291 toilets, and bidets. Such sanitary facilities shall be connected
292 to approved plumbing. Such plumbing shall be sized, installed,
293 and maintained in accordance with the Florida Building Code as
294 approved by the local plumbing authority or other local authority
295 having jurisdiction. Wastewater or sewage shall be properly
296 treated onsite or discharged into an approved sewage collection
297 and treatment system.

298 (b) Each public food service establishment shall be
299 supplied with potable water and shall provide adequate sanitary
300 facilities for the accommodation of its employees. Such
301 facilities may include, but are not limited to, showers, handwash
302 basins, toilets, and bidets. Such sanitary facilities shall be
303 connected to approved plumbing. Such plumbing shall be sized,
304 installed, and maintained in accordance with the Florida Building
305 Code as approved by the local plumbing authority or other local
306 authority having jurisdiction. Wastewater or sewage shall be
307 properly treated onsite or discharged into an approved sewage
308 collection and treatment system.

309 (2) (a) Each public lodging establishment and each public
310 food service establishment shall maintain ~~not less than one~~
311 public bathroom facilities in accordance with the Florida
312 Building Code as approved by the local plumbing authority or
313 other local authority having jurisdiction ~~for each sex, properly~~
314 ~~designated, unless otherwise provided by rule.~~ The division shall
315 establish by rule categories of establishments not subject to the
316 bathroom requirement of this paragraph. Such rules may not alter
317 the exemption provided for theme parks in paragraph (b).

318 (5) Each transient public lodging establishment ~~and each~~
319 ~~public food service establishment~~ shall provide in the main

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320 public bathroom soap and clean towels or other approved hand-
321 drying devices and each public lodging establishment shall
322 furnish each guest with two clean individual towels so that two
323 guests will not be required to use the same towel unless it has
324 first been laundered. Each public food service establishment
325 shall provide in the employee bathroom and any public bathroom
326 soap and clean towels or other approved hand-drying devices.

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

329 509.242 Public lodging establishments; classifications.--

330 (1) A public lodging establishment shall be classified as a
331 hotel, motel, resort condominium, nontransient apartment,
332 transient apartment, roominghouse, bed and breakfast inn, or
333 resort dwelling if the establishment satisfies the following
334 criteria:

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

339 (e) Transient apartment or roominghouse.--A transient
340 apartment or roominghouse is a ~~any apartment~~ building or complex
341 of buildings in which more than 25 percent of the units are
342 advertised or held out to the public as available for transient
343 occupancy.

344 Section 9. Subsections (8) and (9) are added to section
345 509.261, Florida Statutes, to read:

346 509.261 Revocation or suspension of licenses; fines;
347 procedure.--

348 (8) The division may fine, suspend, or revoke the license

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349 of any public lodging establishment or public food service
350 establishment when the establishment is not in compliance with
351 the requirements of a final order or other administrative action
352 issued against the licensee by the division.

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

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