

By Senator Baker

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1 A bill to be entitled
2 An act relating to food safety; creating the "Farm to
3 Fork Food Safety Act"; transferring and reassigning
4 duties and functions, records, personnel property, and
5 unexpended balances of appropriations and other
6 resources relating to food service protection from the
7 Department of Health to the Department of Agriculture
8 and Consumer Services; transferring and reassigning
9 duties and functions, records, personnel, property,
10 and unexpended balances of appropriations and other
11 resources relating to food service establishments from
12 the Division of Hotels and Restaurants of the
13 Department of Business and Professional Regulation to
14 the Department of Agriculture and Consumer Services;
15 amending s. 500.03, F.S.; limiting the application of
16 defined terms to part I of ch. 500, F.S.; expanding
17 the definition of the term "food establishment" to
18 include all packing houses for fruits and vegetables;
19 amending s. 500.12, F.S.; providing that the authority
20 to regulate food establishments is preempted to the
21 Department of Agriculture and Consumer Services;
22 transferring, renumbering, and amending s. 500.70,
23 F.S.; transferring the regulation of food service
24 protection from the Department of Health to the
25 Department of Agriculture and Consumer Services;
26 creating s. 500.701, F.S.; authorizing the Department
27 of Agriculture and Consumer Services to impose
28 administrative fines for violations of laws or rules
29 relating to food service protection; creating s.

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30 500.80, F.S.; defining terms; creating s. 500.801,
31 F.S.; providing that the Department of Agriculture and
32 Consumer Services has a duty to inspect and regulate
33 public food service establishments; authorizing the
34 department to have access to establishments to conduct
35 inspections; requiring the adoption of sanitation
36 rules; authorizing the department to approve facility
37 plans; authorizing the department to grant variances
38 from certain construction standards; authorizing the
39 department to charge a fee for variance requests;
40 requiring the department to report the existence of
41 coin-operated amusement machines to the Department of
42 Revenue; requiring the department to provide notices
43 and information relating to temporary food service
44 events; requiring public food service establishments
45 to obtain licenses; authorizing a fee for such
46 licenses; authorizing the department to stop the sale
47 of food and food products that are a threat to the
48 public; requiring public food service establishments
49 to maintain food or food products related to food-
50 borne illnesses; requiring the department to submit
51 annual reports relating to the regulation of public
52 food service establishments; authorizing the
53 department to adopt rules; creating s. 500.802, F.S.;
54 authorizing the Department of Agriculture and Consumer
55 Services to close public food service establishments
56 that threaten the health of the public; authorizing
57 penalties for failure to comply with an order to close
58 such public food service establishments; authorizing

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59 the department to adopt rules; transferring,
60 renumbering, and amending s. 500.803, F.S.;
61 transferring the authority to regulate public food
62 service inspectors from the Department of Business and
63 Professional Regulation to the Department of
64 Agriculture and Consumer Services; transferring,
65 renumbering, and amending s. 500.804, F.S.;
66 transferring the regulation of food service managers
67 from the Department of Business and Professional
68 Regulation to the Department of Agriculture and
69 Consumer Services; transferring, renumbering, and
70 amending s. 500.805, F.S.; transferring the regulation
71 of food service employee training from the Department
72 of Business and Professional Regulation to the
73 Department of Agriculture and Consumer Services;
74 creating s. 500.806, F.S.; requiring that funds
75 collected which relate to the regulation of public
76 food service establishments be deposited in the
77 General Inspection Trust Fund of the Department of
78 Agriculture and Consumer Services; creating s.
79 500.807, F.S.; specifying the manner in which certain
80 notices from the Department of Agriculture and
81 Consumer Services must be served; creating s. 500.808,
82 F.S.; authorizing a public food service establishment
83 to refuse service to any person except for certain
84 prohibited purposes; creating s. 500.809, F.S.;
85 authorizing an operator of a public food service
86 establishment to maintain rules regulating guests and
87 employees; requiring an operator of a public food

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88 service establishment to verify that mobile food
89 dispensing vehicles are licensed by the Department of
90 Agriculture and Consumer Services; creating s.
91 500.810, F.S.; authorizing public food service
92 establishments to eject undesirable guests except for
93 certain prohibited purposes; providing a criminal
94 penalty for refusing to comply with the request to
95 leave the premises of a public food service
96 establishment; authorizing the arrest of a person who
97 refuses to comply with a request to leave the premises
98 of a public food service establishment; creating s.
99 500.811, F.S.; authorizing a public food service
100 establishment to refuse service to certain
101 individuals; creating s. 500.812, F.S.; authorizing
102 the operator of a public food service establishment to
103 detain a person who engages in certain disorderly
104 conduct; authorizing a law enforcement officer to
105 arrest such persons; authorizing criminal penalties
106 for resisting detention or arrest; creating s.
107 500.813, F.S.; authorizing criminal penalties for
108 obtaining food with the intent to defraud; creating s.
109 509.814, F.S.; specifying certain acts that constitute
110 prima facie evidence of obtaining food with the intent
111 to defraud; creating s. 500.815, F.S.; authorizing an
112 operator of a public food service establishment to
113 take into custody persons believed to have engaged in
114 theft on the premises of a public food service
115 establishment; authorizing a law enforcement officer
116 to arrest persons who are believed to have engaged in

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117 theft from a public food service establishment;
118 providing criminal penalties for theft on the premises
119 of a public food service establishment; creating s.
120 500.816, F.S.; prohibiting the use of fuel-burning
121 wick-type equipment for space heating in a public food
122 service establishment unless the equipment is vented;
123 imposing penalties for unlawful use of fuel-burning
124 wick-type equipment; transferring, renumbering, and
125 amending s. 500.817, F.S.; transferring a requirement
126 for a public food service establishment to provide
127 emergency first aid to choking victims; transferring,
128 renumbering, and amending s. 500.818, F.S.;
129 transferring a requirement to provide notice of an
130 automatic gratuity charge; creating s. 500.819, F.S.;
131 requiring public food service establishments to have
132 adequate sanitary facilities; providing requirements
133 for public food service establishments to have
134 bathrooms, lighting, and to eliminate vermin;
135 prohibiting the employment of persons who have certain
136 types of contagious diseases; transferring,
137 renumbering, and amending s. 500.820, F.S.;
138 transferring an exemption from food service
139 regulations for school carnivals and fairs;
140 transferring, renumbering, and amending s. 500.821,
141 F.S.; transferring a pilot program permitting dogs in
142 certain outdoor portions of public food service
143 establishments; extending the duration of the pilot
144 program by 1 day; creating s. 500.822, F.S.; requiring
145 public food service establishments to obtain licenses

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146 from the Department of Agriculture and Consumer
147 Services; authorizing criminal penalties for
148 unlicensed activity; authorizing the department to
149 deny licenses based on specified conduct of an
150 operator; requiring public food service licenses to be
151 conspicuously displayed; creating s. 500.823, F.S.;
152 authorizing the Department of Agriculture and Consumer
153 Services to impose fees for licenses for public food
154 service establishments; authorizing the department to
155 charge fees for the actual costs of epidemiological
156 investigations; creating s. 500.824, F.S.; authorizing
157 the Department of Agriculture and Consumer Services to
158 impose fines and other penalties for violations of
159 laws and rules relating to public food service
160 establishments; authorizing the department to post a
161 closed-for-operation sign on a public food service
162 establishment if its license has been suspended or
163 revoked; authorizing fines and criminal penalties for
164 removing such signs; authorizing the department to
165 impose fines and suspend or revoke licenses for public
166 food service establishments based on specified
167 conduct; creating s. 500.825, F.S.; authorizing
168 criminal prosecutions by the state attorney for
169 operating a public food service establishment in
170 violation of the law; imposing criminal penalties for
171 obstructing agents of the department, failing to
172 obtain a license, or failing to comply with laws or
173 rules; creating s. 500.826, F.S.; authorizing state
174 attorneys, county attorneys, police officers, and

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175 other officers to assist the Department of Agriculture
176 and Consumer Services upon request in enforcing laws
177 regulating public food service establishments;
178 amending and renumbering s. 500.827, F.S.;
179 transferring provisions relating to misrepresentation
180 of food or food products; amending ss. 509.013,
181 509.032, 509.072, 509.091, 509.092, 509.101, 509.141,
182 509.151, 509.161, 509.162, 509.211, 509.221, 509.241,
183 509.251, 509.261, 509.281, 509.291, and 509.302, F.S.;
184 conforming provisions to the transfer of the
185 regulation of public food service establishments from
186 the Department of Business and Professional Regulation
187 to the Department of Agriculture and Consumer
188 Services; deleting provisions relating to the
189 regulation of public food service establishments;
190 renaming the Division of Hotels and Restaurants of the
191 Department of Business and Professional Regulation as
192 the "Division of Hotels"; renaming the Hotel and
193 Restaurant Trust Fund as the "Hotel Regulation Trust
194 Fund"; conforming cross-references; creating s.
195 500.90, F.S.; providing for the Department of
196 Agriculture and Consumer Services to serve as the
197 official point of contact with federal agencies for
198 information relating to outbreaks caused by food-borne
199 illnesses; requiring the department to develop a plan
200 to respond to outbreaks caused by food-borne
201 illnesses; requiring the Department of Health and
202 county health departments to provide information
203 relating to outbreaks caused by food-borne illnesses

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204 to the department; creating s. 500.901, F.S.;

205 requiring the Department of Agriculture and Consumer

206 Services to post certain inspection records on the

207 Internet; creating s. 500.902, F.S.; requiring the

208 Department of Agriculture and Consumer Services to

209 adopt science-based regulations by rule to minimize

210 the spread of food-borne illnesses; requiring the

211 department to adopt rules to track the shipment of

212 food products from farms and other points of origin to

213 the ultimate consumer; requiring the department to

214 consider certain information in drafting such rules;

215 creating s. 500.903, F.S.; requiring the Department of

216 Agriculture and Consumer Services to adopt

217 recordkeeping requirements by rule for certain food

218 distribution establishments; amending s. 570.48, F.S.;

219 directing the Division of Fruit and Vegetables to

220 perform food safety inspections on farms, greenhouses,

221 and packinghouses and repackers; amending ss. 20.165,

222 83.49, 159.27, 212.08, 213.053, 215.20, 288.106,

223 316.1955, 379.362, 381.0061, 386.207, 399.01, 399.07,

224 399.105, 404.056, 429.14, 455.116, 477.0135, 509.215,

225 509.2112, 553.5041, 561.01, 561.17, 561.20, 561.29,

226 562.111, 717.1355, 718.508, 760.01, 760.02, 760.11,

227 877.06, 877.24, and 921.0022, F.S.; conforming

228 provisions to changes made by the act; providing an

229 effective date.

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

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233 Section 1. This act shall be cited as the "Farm to Fork
234 Food Safety Act."

235 Section 2. Transfers.-

236 (1) All of the statutory powers, duties and functions,
237 records, personnel, property, and unexpended balances of
238 appropriations, allocations, or other funds for the
239 administration of s. 381.0072, Florida Statutes, are transferred
240 by a type two transfer, as defined in s. 20.06(2), Florida
241 Statutes, from the Department of Health to the Department of
242 Agriculture and Consumer Services.

243 (2) All of the statutory powers, duties and functions,
244 records, personnel, property, and unexpended balances of
245 appropriations, allocations, or other funds for the
246 administration of chapter 509, Florida Statutes, with respect to
247 public food service establishments are transferred by a type two
248 transfer, as defined in s. 20.06(2), Florida Statutes, from the
249 Division of Hotels and Restaurants of the Department of Business
250 and Professional Regulation to the Department of Agriculture and
251 Consumer Services.

252 Section 3. Part I of chapter 500, Florida Statutes,
253 entitled "FOOD PRODUCTS" and consisting of sections 500.01,
254 500.02, 500.03, 500.032, 500.033, 500.04, 500.09, 500.10, 500.11
255 500.115, 500.12, 500.121, 500.13, 500.147, 500.148, 500.149,
256 500.165, 500.166, 500.167, 500.169, 500.171, 500.172, 500.173,
257 500.174, 500.175, 500.177, 500.178, 500.179, 500.301, 500.302,
258 500.303, 500.304, 500.305, 500.306, 500.451, 500.459, 500.511,
259 500.60, and 500.601 is created.

260 Section 4. Section 500.03, Florida Statutes, is amended to
261 read:

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262 500.03 Definitions; construction; applicability.-

263 (1) For the purpose of this part ~~chapter~~, the term:

264 (a) "Advertisement" means any representation disseminated
265 in any manner or by any means, other than by labeling, for the
266 purpose of inducing, or which is likely to induce, directly or
267 indirectly, the purchase of food.

268 (b) "Approved laboratory" or "certified laboratory" means a
269 laboratory of the department, a commercial laboratory certified
270 by the Department of Health, or a competent commercial
271 laboratory certified by an agency of another state or the United
272 States Environmental Protection Agency to perform analyses of
273 drinking water in accordance with the water quality testing
274 procedures adopted by the United States Environmental Protection
275 Agency.

276 (c) "Approved source" as it relates to water means a source
277 of water, whether it is a spring, artesian well, drilled well,
278 municipal water supply, or any other source, that complies with
279 the Federal Safe Drinking Water Act, Pub. L. No. 93-523, as
280 amended.

281 (d) "Bottled water" means a beverage, as described in 21
282 C.F.R. part 165 (2006), that is processed in compliance with 21
283 C.F.R. part 129 (2006).

284 (e) "Bottled water plant" means a food establishment in
285 which bottled water is prepared for sale.

286 (f) "Color" includes black, white, and intermediate grays.

287 (g)1. "Color additive" means a material which:

288 a. Is a dye pigment, or other substance, made by a process
289 of synthesis or similar artifice, or extracted, isolated, or
290 otherwise derived, with or without intermediate or final change

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291 of identity from a vegetable, animal, mineral, or other source,
292 or

293 b. When added or applied to a food, is capable, alone or
294 through reaction with another substance, of imparting color
295 thereto;

296

297 except that such term does not include any material that is
298 exempt under the federal act.

299 2. Nothing in subparagraph 1. shall be construed to apply
300 to any pesticide chemical, soil or plant nutrient, or other
301 agricultural chemical solely because of its effect in aiding,
302 retarding, or otherwise affecting, directly or indirectly, the
303 growth or other natural physiological process of produce of the
304 soil and thereby affecting its color, whether before or after
305 harvest.

306 (h) "Contaminated with filth" applies to any food not
307 securely protected from dust, dirt, and, as far as may be
308 necessary by all reasonable means, all foreign or injurious
309 contamination.

310 (i) "Convenience store" means a business that is engaged
311 primarily in the retail sale of groceries or motor fuels or
312 special fuels and may offer food services to the public.
313 Businesses providing motor fuel or special fuel to the public
314 which also offer groceries or food service are included in the
315 definition of a convenience store.

316 (j) "Department" means the Department of Agriculture and
317 Consumer Services.

318 (k) "Federal act" means the Federal Food, Drug, and
319 Cosmetic Act, as amended, 21 U.S.C. ss. 301 et seq.; 52 Stat.

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320 1040 et seq.

321 (1) "Food" includes:

322 1. Articles used for food or drink for human consumption;

323 2. Chewing gum;

324 3. Articles used for components of any such article; and

325 4. Articles for which health claims are made, which claims
326 are approved by the Secretary of the United States Department of
327 Health and Human Services and which claims are made in
328 accordance with s. 343(r) of the federal act, and which are not
329 considered drugs solely because their labels or labeling contain
330 health claims.

331

332 The term includes any raw, cooked, or processed edible
333 substance; ice; any beverage; or any ingredient used, intended
334 for use, or sold for human consumption.

335 (m) "Food additive" means any substance, the intended use
336 of which results or may be reasonably expected to result,
337 directly or indirectly, in its becoming a component or otherwise
338 affecting the characteristics of any food (including any
339 substance intended for use in producing, manufacturing, packing,
340 processing, preparing, treating, transporting, or holding food
341 and including any source of radiation intended for any such
342 use), if such substance is not generally recognized, among
343 experts qualified by scientific training and experience to
344 evaluate its safety, as having been adequately shown through
345 scientific procedures (or, in the case of a substance used in a
346 food prior to January 1, 1958, through either scientific
347 procedures or experience based on common use in food) to be safe
348 under the conditions of its intended use; except that such term

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349 does not include:

350 1. A pesticide chemical in or on a raw agricultural
351 commodity;

352 2. A pesticide chemical to the extent that it is intended
353 for use or is used in the production, storage, or transportation
354 of any raw agricultural commodity;

355 3. A color additive; or

356 4. Any substance used in accordance with a sanction or
357 approval granted prior to the enactment of the Food Additives
358 Amendment of 1958, pursuant to the federal act; the Poultry
359 Products Inspection Act (21 U.S.C. ss. 451 et seq.); or the Meat
360 Inspection Act of March 4, 1967 (34 Stat. 1260), as amended and
361 extended (21 U.S.C. ss. 71 et seq.).

362 (n) "Food establishment" means any factory, food outlet, or
363 any other facility manufacturing, processing, packing, holding,
364 or preparing food, or selling food at wholesale or retail. The
365 term does not include any business or activity that is regulated
366 under part II or part III ~~chapter 509 or chapter 601~~. The term
367 includes ~~tomato~~ packinghouses ~~but does not include any other~~
368 ~~establishments~~ that pack fruits and vegetables in their raw or
369 natural states, ~~including those fruits or vegetables that are~~
370 ~~washed, colored, or otherwise treated in their unpeeled, natural~~
371 ~~form before they are marketed.~~

372 (o) "Food outlet" means any grocery store; convenience
373 store; minor food outlet; meat, poultry, or fish and related
374 aquatic food market; fruit or vegetable market; food warehouse;
375 refrigerated storage facility; freezer locker; salvage food
376 facility; or any other similar place storing or offering food
377 for sale.

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378 (p) "Food service establishment" means any place where food
379 is prepared and intended for individual portion service, and
380 includes the site at which individual portions are provided. The
381 term includes any such place regardless of whether consumption
382 is on or off the premises and regardless of whether there is a
383 charge for the food. The term includes delicatessens that offer
384 prepared food in individual service portions. The term does not
385 include schools, institutions, fraternal organizations, private
386 homes where food is prepared or served for individual family
387 consumption, retail food stores, the location of food vending
388 machines, and supply vehicles, nor does the term include a
389 research and development test kitchen limited to the use of
390 employees and which is not open to the general public.

391 (q) "Immediate container" does not include package liners.

392 (r) "Label" means a display of written, printed, or graphic
393 matter upon the immediate container of any article. A
394 requirement made by or under authority of this part ~~chapter~~ that
395 any word, statement, or other information appear on the label
396 shall not be considered to be complied with unless such word,
397 statement, or other information also appears on the outside
398 container or wrapper, if there is any, of the retail package of
399 such article or is easily legible through the outside container
400 or wrapper.

401 (s) "Labeling" means all labels and other written, printed,
402 or graphic matters:

- 403 1. Upon an article or any of its containers or wrappers; or
- 404 2. Accompanying such article.

405 (t) "Minor food outlet" means any retail establishment that
406 sells groceries and may offer food service to the public, but

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407 neither business activity is a major retail function based on
408 allocated space or gross sales.

409 (u) "Natural water" means bottled spring water, artesian
410 well water, or well water that has not been altered with water
411 from another source or that has not been modified by mineral
412 addition or deletion, except for alteration that is necessary to
413 treat the water through ozonation or an equivalent disinfection
414 and filtration process.

415 (v) "Packaged ice" means ice that is enclosed in a
416 container and is offered for sale for human consumption or for
417 other use by the consumer. The term does not include ice that is
418 manufactured by any business licensed under part II or part III
419 ~~chapter 381 or chapter 509~~.

420 (w) "Packaged ice plant" means a food establishment in
421 which packaged ice is manufactured or processed.

422 (x) "Pesticide chemical" means any substance which, alone,
423 in chemical combination, or in formulation with one or more
424 other substances is a "pesticide" within the meaning of the
425 Florida Pesticide Law, part I of chapter 487, and which is used
426 in the production, storage, or transportation of raw
427 agricultural commodities.

428 (y) "Raw agricultural commodity" means any food in its raw
429 or natural state, including all fruits that are washed, colored,
430 or otherwise treated in their unpeeled natural form prior to
431 marketing.

432 (z) "Retail food store" means any establishment or section
433 of an establishment where food and food products are offered to
434 the consumer and intended for off-premises consumption. The term
435 includes delicatessens that offer prepared food in bulk

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436 quantities only. The term does not include establishments which
437 handle only prepackaged, nonpotentially hazardous foods;
438 roadside markets that offer only fresh fruits and fresh
439 vegetables for sale; food service establishments; or food and
440 beverage vending machines.

441 (2) For the purpose of this part ~~chapter~~:

442 (a) If an article is alleged to be misbranded because the
443 labeling is misleading, or if an advertisement is alleged to be
444 false because it is misleading, then, in determining whether the
445 labeling or advertisement is misleading, there shall be taken
446 into account, among other things, not only representations made
447 or suggested by statement, word, design, device, or sound, or in
448 any combination thereof, but also the extent to which the
449 labeling or advertisement fails to reveal facts material in the
450 light of such representations or material with respect to
451 consequences which may result from the use of the article to
452 which the labeling or advertisement relates under the conditions
453 of use prescribed in the labeling or advertisement thereof or
454 under such conditions of use as are customary or usual.

455 (b) If an article is a food, and it is alleged to be
456 misbranded because the labeling is misleading, or if an
457 advertisement is alleged to be false because it is misleading,
458 there shall be taken into account, among other things, not only
459 representations made or suggested by statement, word, design,
460 device, or sound, or in any combination thereof, but also the
461 extent to which the labeling or advertisement fails to
462 prominently and conspicuously reveal facts relative to the
463 proportions or absence of certain ingredients or other facts
464 concerning ingredients in the food, which facts are of material

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465 interest to consumers.

466 (3) For the purpose of this part ~~chapter~~, the selling of
467 food includes the manufacture, production, processing, packing,
468 exposure, offer, possession, and holding of any article of food
469 for sale; the sale, dispensing, and giving of any article of
470 food; and the supplying or applying of food in the conduct of
471 any food establishment.

472 Section 5. Subsection (5) of section 500.12, Florida
473 Statutes, is amended to read:

474 500.12 Food permits; building permits.—

475 (5) It is the intent of the Legislature to eliminate
476 duplication of regulatory inspections of food. Regulatory and
477 permitting authority over any food establishment is preempted to
478 the department as provided in this part and parts III and IV,
479 ~~except as provided in chapters 370 and 372.~~

480 ~~(a) Food establishments or retail food stores that have~~
481 ~~ancillary food service activities shall be permitted and~~
482 ~~inspected by the department.~~

483 ~~(b) Food service establishments, as defined in s. 381.0072,~~
484 ~~that have ancillary, prepackaged retail food sales shall be~~
485 ~~regulated by the Department of Health.~~

486 ~~(c) Public food service establishments, as defined in s.~~
487 ~~509.013, which have ancillary, prepackaged retail food sales~~
488 ~~shall be licensed and inspected by the Department of Business~~
489 ~~and Professional Regulation.~~

490 ~~(d) The department and the Department of Business and~~
491 ~~Professional Regulation shall cooperate to assure equivalency of~~
492 ~~inspection and enforcement and to share information on those~~
493 ~~establishments identified in paragraphs (a) and (c) and to~~

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494 ~~address any other areas of potential duplication. The department~~
495 ~~and the Department of Business and Professional Regulation are~~
496 ~~authorized to adopt rules to enforce statutory requirements~~
497 ~~under their purview regarding foods.~~

498 Section 6. Part II of chapter 500, Florida Statutes,
499 entitled "FOOD SERVICE PROTECTION" and consisting of sections
500 500.70 and 500.701 is created.

501 Section 7. Section 381.0072, Florida Statutes, is
502 transferred, renumbered as section 500.70, Florida Statutes, and
503 amended to read:

504 500.70 ~~381.0072~~ Food service protection. ~~The department has~~
505 a ~~It shall be the duty of the Department of Health to adopt and~~
506 ~~enforce sanitation rules consistent with law to ensure the~~
507 ~~protection of the public from food-borne illness. These rules~~
508 ~~shall provide the standards and requirements for the storage,~~
509 ~~preparation, serving, or display of food in food service~~
510 ~~establishments as defined in this section and which are not~~
511 ~~permitted or licensed under chapter 500 or chapter 509.~~

512 (1) DEFINITIONS.—As used in this part ~~section~~, the term:

513 (a) "Department" means the Department of Agriculture and
514 Consumer Services ~~Department of Health~~ or its representative
515 county health department.

516 (b) "Food service establishment" means any facility, as
517 described in this paragraph, where food is prepared and intended
518 for individual portion service, and includes the site at which
519 individual portions are provided. The term includes any such
520 facility regardless of whether consumption is on or off the
521 premises and regardless of whether there is a charge for the
522 food. The term includes detention facilities, child care

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523 facilities, schools, institutions, civic or fraternal
524 organizations, bars and lounges and facilities used at temporary
525 food events, mobile food units, and vending machines at any
526 facility regulated under this part ~~section~~. The term does not
527 include private homes where food is prepared or served for
528 individual family consumption; nor does the term include
529 churches, synagogues, or other not-for-profit religious
530 organizations as long as these organizations serve only their
531 members and guests and do not advertise food or drink for public
532 consumption, or any facility or establishment permitted or
533 licensed under part I or part III ~~chapter 500 or chapter 509~~;
534 nor does the term include any theater, if the primary use is as
535 a theater and if patron service is limited to food items
536 customarily served to theater patrons ~~the admittees of theaters~~;
537 nor does the term include a research and development test
538 kitchen limited to the use of employees and which is not open to
539 the general public.

540 (c) "Operator" means the owner, operator, keeper,
541 proprietor, lessee, manager, assistant manager, agent, or
542 employee of a food service establishment.

543 (2) DUTIES.—

544 (a) The department shall adopt rules, including definitions
545 of terms which are consistent with law prescribing minimum
546 sanitation standards and manager certification requirements as
547 prescribed in s. 500.803 ~~s. 509.039~~, and which shall be enforced
548 in food service establishments as defined in this part ~~section~~.
549 The sanitation standards must address the construction,
550 operation, and maintenance of the establishment; lighting,
551 ventilation, laundry rooms, lockers, use and storage of toxic

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552 materials and cleaning compounds, and first-aid supplies; plan
553 review; design, construction, installation, location,
554 maintenance, sanitation, and storage of food equipment and
555 utensils; employee training, health, hygiene, and work
556 practices; food supplies, preparation, storage, transportation,
557 and service, including access to the areas where food is stored
558 or prepared; and sanitary facilities and controls, including
559 water supply and sewage disposal; plumbing and toilet
560 facilities; garbage and refuse collection, storage, and
561 disposal; and vermin control. Public and private schools, if the
562 food service is operated by school employees; hospitals licensed
563 under chapter 395; nursing homes licensed under part II of
564 chapter 400; child care facilities as defined in s. 402.301;
565 residential facilities colocated with a nursing home or
566 hospital, if all food is prepared in a central kitchen that
567 complies with nursing or hospital regulations; and bars and
568 lounges, as defined by department rule, are exempt from the
569 rules developed for manager certification. The department shall
570 administer a comprehensive inspection, monitoring, and sampling
571 program to ensure such standards are maintained. ~~With respect to~~
572 ~~food service establishments permitted or licensed under chapter~~
573 ~~500 or chapter 509, the department shall assist the Division of~~
574 ~~Hotels and Restaurants of the Department of Business and~~
575 ~~Professional Regulation and the Department of Agriculture and~~
576 ~~Consumer Services with rulemaking by providing technical~~
577 ~~information.~~

578 (b) The department shall carry out all provisions of this
579 chapter and all other applicable laws and rules relating to the
580 inspection or regulation of food service establishments as

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581 defined in this part section, for the purpose of safeguarding
582 the public's health, safety, and welfare.

583 (c) The department shall inspect each food service
584 establishment as often as necessary to ensure compliance with
585 applicable laws and rules. The department shall have the right
586 of entry and access to these food service establishments at any
587 reasonable time. In inspecting food service establishments ~~as~~
588 ~~provided under this section~~, the department shall provide each
589 inspected establishment with the food recovery brochure
590 developed under s. 570.0725.

591 (d) The department or other appropriate regulatory entity
592 may inspect theaters exempted in subsection (1) to ensure
593 compliance with applicable laws and rules pertaining to minimum
594 sanitation standards. A fee for inspection shall be prescribed
595 by rule, but the aggregate amount charged per year per theater
596 establishment shall not exceed \$300, regardless of the entity
597 providing the inspection.

598 (3) LICENSES REQUIRED.—

599 (a) *Licenses; annual renewals.*—Each food service
600 establishment ~~regulated under this section~~ shall obtain a
601 license from the department annually. Food service establishment
602 licenses shall expire annually and are not transferable from one
603 place or individual to another. However, those facilities
604 licensed by the ~~department's Office of Licensure and~~
605 ~~Certification, the Child Care Services Program Office, or the~~
606 Agency for Persons with Disabilities are exempt from this
607 subsection. It shall be a misdemeanor of the second degree,
608 punishable as provided in s. 381.0061, s. 775.082, or s.
609 775.083, for such an establishment to operate without this

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610 license. The department may refuse a license, or a renewal
611 thereof, to any establishment that is not constructed or
612 maintained in accordance with law and with the rules of the
613 department. Annual application for renewal is not required.

614 (b) *Application for license.*—Each person who plans to open
615 a food service establishment not regulated under part I or part
616 III ~~chapter 500 or chapter 509~~ shall apply for and receive a
617 license prior to the commencement of operation.

618 (4) LICENSE; INSPECTION; FEES.—

619 (a) The department is authorized to collect fees from
620 establishments licensed under this section and from those
621 facilities exempted from licensure under paragraph (3) (a). It is
622 the intent of the Legislature that the total fees assessed under
623 this section be in an amount sufficient to meet the cost of
624 carrying out the provisions of this section.

625 (b) The fee schedule for food service establishments
626 licensed under this section shall be prescribed by rule, but the
627 aggregate license fee per establishment shall not exceed \$300.

628 (c) The license fees shall be prorated on a quarterly
629 basis. Annual licenses shall be renewed as prescribed by rule.

630 (5) FINES; SUSPENSION OR REVOCATION OF LICENSES;
631 PROCEDURE.—

632 (a) The department may impose fines against the
633 establishment or operator regulated under this section for
634 violations of sanitary standards, in accordance with s.
635 381.0061. All amounts collected shall be deposited to the credit
636 of the County Health Department Trust Fund administered by the
637 department.

638 (b) The department may suspend or revoke the license of any

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639 food service establishment licensed under this section that has
640 operated or is operating in violation of any of the provisions
641 of this section or the rules adopted under this section. Such
642 food service establishment shall remain closed when its license
643 is suspended or revoked.

644 (c) The department may suspend or revoke the license of any
645 food service establishment licensed under this section when such
646 establishment has been deemed by the department to be an
647 imminent danger to the public's health for failure to meet
648 sanitation standards or other applicable regulatory standards.

649 (d) No license shall be suspended under this section for a
650 period of more than 12 months. At the end of such period of
651 suspension, the establishment may apply for reinstatement or
652 renewal of the license. A food service establishment which has
653 had its license revoked may not apply for another license for
654 that location prior to the date on which the revoked license
655 would have expired.

656 (6) IMMINENT DANGERS; STOP-SALE ORDERS.-

657 (a) In the course of epidemiological investigations or for
658 those establishments regulated under this chapter, the
659 department, to protect the public from food that is unwholesome
660 or otherwise unfit for human consumption, may examine, sample,
661 seize, and stop the sale or use of food to determine its
662 condition. The department may stop the sale and supervise the
663 proper destruction of food when the Commissioner of Agriculture
664 ~~State Health Officer~~ or his or her designee determines that such
665 food represents a threat to the public health.

666 (b) The department may determine that a food service
667 establishment regulated under this section is an imminent danger

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668 to the public health and require its immediate closure when such
669 establishment fails to comply with applicable sanitary and
670 safety standards and, because of such failure, presents an
671 imminent threat to the public's health, safety, and welfare. The
672 department may accept inspection results from state and local
673 building and firesafety officials and other regulatory agencies
674 as justification for such actions. Any facility so deemed and
675 closed shall remain closed until allowed by the department or by
676 judicial order to reopen.

677 (7) MISREPRESENTING FOOD OR FOOD PRODUCTS.—~~An~~ ~~Ne~~ operator
678 of a any food service establishment regulated under this section
679 may not shall knowingly and willfully misrepresent the identity
680 of any food or food product to any of the patrons of such
681 establishment. Food used by food establishments shall be
682 identified, labeled, and advertised in accordance with the
683 provisions of chapter 500.

684 Section 8. Section 500.701, Florida Statutes, is created to
685 read:

686 500.701 Administrative fines.—

687 (1) In addition to any administrative action authorized by
688 chapter 120 or by other law, the department may impose a fine of
689 up to \$500 for each violation of law or any rule adopted under
690 this part. Notice of intent to impose such fine shall be given
691 by the department to the alleged violator. Each day that a
692 violation continues may constitute a separate violation.

693 (2) In determining the amount of fine to be imposed, if
694 any, for a violation, the following factors shall be considered:

695 (a) The gravity of the violation, including the probability
696 that death or serious physical or emotional harm to any person

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697 will result or has resulted, the severity of the actual or
698 potential harm, and the extent to which the provisions of the
699 applicable statutes or rules were violated.

700 (b) Actions taken by the owner or operator to correct
701 violations.

702 (c) Any previous violations.

703 (3) All amounts collected under this section shall be
704 deposited into the General Inspection Trust Fund.

705 Section 9. Part III of chapter 500, Florida Statutes,
706 entitled "PUBLIC FOOD SERVICE ESTABLISHMENTS" and consisting of
707 sections 500.80, 500.801, 500.802, 500.803, 500.804, 500.805,
708 500.806, 500.807, 500.808, 500.809, 500.810, 500.811, 500.812,
709 500.813, 500.814, 500.815, 500.816, 500.817, 500.818, 500.819,
710 500.820, 500.821, 500.822, 500.823, 500.824, 500.825, 500.826,
711 and 500.827 is created.

712 Section 10. Section 500.80, Florida Statutes, is created to
713 read:

714 500.80 Definitions.—As used in this part, the term:

715 (1) "Department" means the Department of Agriculture and
716 Consumer Services.

717 (2) "Guest" means any patron, customer, tenant, lodger,
718 boarder, or occupant of a public lodging establishment or public
719 food service establishment.

720 (3) "Operator" means the owner, licensee, proprietor,
721 lessee, manager, assistant manager, or appointed agent of a
722 public lodging establishment or public food service
723 establishment.

724 (4) (a) "Public food service establishment" means any
725 building, vehicle, place, or structure, or any room or division

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726 therein, where food is prepared, served, or sold for immediate
727 consumption on or in the vicinity of the premises; called for or
728 taken out by customers; or prepared prior to being delivered to
729 another location for consumption.

730 (b) The following are excluded from the definition in
731 paragraph (a):

732 1. Any place maintained and operated by a public or private
733 school, college, or university:

734 a. For the use of students and faculty; or

735 b. Temporarily to serve such events as fairs, carnivals,
736 and athletic contests.

737 2. Any eating place maintained and operated by a church or
738 a religious, nonprofit fraternal, or nonprofit civic
739 organization:

740 a. For the use of members and associates; or

741 b. Temporarily to serve such events as fairs, carnivals, or
742 athletic contests.

743 3. Any eating place located on an airplane, train, bus, or
744 watercraft which is a common carrier.

745 4. Any eating place maintained by a hospital, nursing home,
746 sanitarium, assisted living facility, adult day care center, or
747 other similar place that is regulated under s. 500.70.

748 5. Any place of business issued a permit or inspected
749 pursuant to s. 500.12.

750 6. Any place of business where the food available for
751 consumption is limited to ice, beverages with or without
752 garnishment, popcorn, or prepackaged items sold without
753 additions or preparation.

754 7. Any theater, if the primary use is as a theater and if

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755 patron service is limited to food items customarily served to
756 theater patrons.

757 8. Any vending machine that dispenses any food or beverages
758 other than potentially hazardous foods, as defined by division
759 rule.

760 9. Any vending machine that dispenses potentially hazardous
761 food and which is located in a facility regulated under s.
762 500.70.

763 10. Any research and development test kitchen limited to
764 the use of employees and which is not open to the general
765 public.

766 (5) "Temporary food service event" means any event of 30
767 days or less in duration where food is prepared, served, or sold
768 to the general public.

769 (6) "Theme park or entertainment complex" means a complex
770 comprised of at least 25 contiguous acres owned and controlled
771 by the same business entity and which contains permanent
772 exhibitions and a variety of recreational activities and has a
773 minimum of 1 million visitors annually.

774 (7) "Third-party provider" means, for purposes of s.
775 500.805, any provider of an approved food safety training
776 program that provides training or such a training program to a
777 public food service establishment that is not under common
778 ownership or control with the provider.

779 Section 11. Section 500.801, Florida Statutes, is created
780 to read:

781 500.801 Duties.—

782 (1) GENERAL.—The department shall carry out all of the
783 provisions of this part and all other applicable laws and rules

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784 relating to the inspection or regulation of public food service
785 establishments for the purpose of safeguarding the public
786 health, safety, and welfare. The department shall be responsible
787 for ascertaining that an operator licensed under this part does
788 not engage in any misleading advertising or unethical practices.

789 (2) INSPECTION OF PREMISES.—

790 (a) The department has responsibility and jurisdiction for
791 all inspections required by this part. The department has
792 responsibility for quality assurance. Each licensed
793 establishment shall be inspected at least biannually, except for
794 transient and nontransient apartments, which shall be inspected
795 at least annually, and shall be inspected at such other times as
796 the department determines is necessary to ensure the public's
797 health, safety, and welfare. The department shall establish a
798 system to determine inspection frequency.

799 (b) For purposes of performing required inspections and the
800 enforcement of this chapter, the department has the right of
801 entry and access to public food service establishments at any
802 reasonable time.

803 (c) Public food service establishment inspections shall be
804 conducted to enforce provisions of this part and to educate,
805 inform, and promote cooperation between the department and the
806 establishment.

807 (d) The department shall adopt and enforce sanitation rules
808 consistent with law to ensure the protection of the public from
809 food-borne illness in those establishments licensed under this
810 part. These rules shall provide the standards and requirements
811 for obtaining, storing, preparing, processing, serving, or
812 displaying food in public food service establishments, approving

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813 public food service establishment facility plans, conducting
814 necessary public food service establishment inspections for
815 compliance with sanitation regulations, coordinating
816 epidemiological investigations, initiating enforcement actions,
817 and other such responsibilities deemed necessary by the
818 department. The department may not establish by rule any
819 regulation governing the design, construction, erection,
820 alteration, modification, repair, or demolition of any public
821 food service establishment. It is the intent of the Legislature
822 to preempt that function to the Florida Building Commission and
823 the State Fire Marshal through adoption and maintenance of the
824 Florida Building Code and the Florida Fire Prevention Code. The
825 department shall provide technical assistance to the commission
826 in updating the construction standards of the Florida Building
827 Code which govern public food service establishments. Further,
828 the department shall enforce the provisions of the Florida
829 Building Code which apply to public food service establishments
830 in conducting any inspections authorized by this part. The
831 department, or its agent, shall notify the local firesafety
832 authority or the State Fire Marshal of any readily observable
833 violation of a rule adopted under chapter 633 which relates to
834 public food establishments. The identification of such
835 violations does not require any firesafety inspection
836 certification.

837 (e)1. The department may establish, by rule, fees for
838 conducting facility plan reviews and may grant variances from
839 construction standards in hardship cases. Variances may be less
840 restrictive than the provisions specified in this section or the
841 rules adopted under this section, but may not be granted until

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842 the department is satisfied that:

843 a. The variance will not adversely affect the health of the
844 public.

845 b. No reasonable alternative to the required construction
846 exists.

847 c. The hardship was not caused intentionally by the action
848 of the applicant.

849 2. The department shall make arrangements to expedite
850 emergency requests for variances so that such requests are acted
851 upon within 30 days after receipt.

852 3. The department shall establish, by rule, a fee for the
853 cost of the variance process. Such fee may not exceed \$150 for
854 routine variance requests and \$300 for emergency variance
855 requests.

856 (f) In conducting inspections of establishments licensed
857 under this part, the department shall determine if each coin-
858 operated amusement machine that is operated on the premises of a
859 licensed establishment is properly registered with the
860 Department of Revenue. The department shall report monthly to
861 the Department of Revenue the sales tax registration number of
862 the operator of any licensed establishment that has on location
863 a coin-operated amusement machine and that does not have an
864 identifying certificate conspicuously displayed as required by
865 s. 212.05(1)(h).

866 (g) In inspecting public food service establishments, the
867 department shall provide each inspected establishment with the
868 food-recovery brochure developed under s. 570.0725.

869 (3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE
870 EVENTS.—The department shall:

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871 (a) Prescribe sanitary standards which shall be enforced in
872 public food service establishments.

873 (b) Inspect public food service establishments whenever
874 necessary to respond to an emergency or epidemiological
875 condition.

876 (c) Administer a public notification process for temporary
877 food service events and distribute educational materials that
878 address safe food storage, preparation, and service procedures.

879 1. Sponsors of temporary food service events shall notify
880 the department not less than 3 days prior to the scheduled event
881 of the type of food service proposed, the time and location of
882 the event, a complete list of food service vendors participating
883 in the event, the number of individual food service facilities
884 each vendor will operate at the event, and the identification
885 number of each food service vendor's current license as a public
886 food service establishment or temporary food service event
887 licensee. Notification may be completed orally, by telephone, in
888 person, or in writing. A public food service establishment or
889 food service vendor may not use this notification process to
890 circumvent the license requirements of this chapter.

891 2. The department shall keep a record of all notifications
892 received for proposed temporary food service events and shall
893 provide appropriate educational materials to the event sponsors,
894 including the food-recovery brochure developed under s.
895 570.0725.

896 3.a. A public food service establishment or other food
897 service vendor must obtain one of the following classes of
898 license from the division: an individual license, for a fee of
899 no more than \$105, for each temporary food service event in

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900 which it participates; or an annual license, for a fee of no
901 more than \$1,000, that entitles the licensee to participate in
902 an unlimited number of food service events during the license
903 period. The department shall establish license fees, by rule,
904 and may limit the number of food service facilities a licensee
905 may operate at a particular temporary food service event under a
906 single license.

907 b. Public food service establishments holding current
908 licenses from the department may operate under the regulations
909 of such a license at temporary food service events of 3 days or
910 less in duration.

911 (4) STOP-SALE ORDERS.—The department may stop the sale, and
912 supervise the proper destruction, of any food or food product
913 when the Commissioner of Agriculture or designee determines that
914 such food or food product represents a threat to the public
915 safety or welfare. If the operator of a public food service
916 establishment licensed under this part has received official
917 notification from a health authority or the department that a
918 food or food product from that establishment has potentially
919 contributed to any instance or outbreak of food-borne illness,
920 the food or food product must be maintained in safe storage in
921 the establishment until the department or responsible health
922 authority has examined, sampled, seized, or requested
923 destruction of the food or food product.

924 (5) REPORTS REQUIRED.—The department shall submit annually
925 to the Governor, the President of the Senate, the Speaker of the
926 House of Representatives, and the chairs of the legislative
927 appropriations committees a report, which shall state, but need
928 not be limited to, the total number of active public food

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929 service licenses in the state, the total number of inspections
930 of these establishments conducted by the department to ensure
931 the enforcement of sanitary standards, the total number of
932 inspections conducted in response to emergency or
933 epidemiological conditions, the number of violations of each
934 sanitary standard, the total number of inspections conducted to
935 meet the statutorily required number of inspections, and any
936 recommendations for improved inspection procedures. The
937 department shall also keep an accurate account of all expenses
938 arising out of the performance of its duties and all fees
939 collected under this part. The report shall be submitted by
940 September 30 following the end of the fiscal year.

941 (6) RULEMAKING AUTHORITY.—The department shall adopt such
942 rules as are necessary to carry out the provisions of this part.

943 (7) PREEMPTION AUTHORITY.—The regulation of public food
944 service establishments, including, but not limited to, the
945 inspection of public food service establishments for compliance
946 with the sanitation standards adopted under this section, and
947 the regulation of food safety protection standards for required
948 training and testing of food service establishment personnel are
949 preempted to the state. This subsection does not preempt the
950 authority of a local government or local enforcement district to
951 conduct inspections of public food service establishments for
952 compliance with the Florida Building Code and the Florida Fire
953 Prevention Code, pursuant to ss. 553.80 and 633.022.

954 Section 12. Section 500.802, Florida Statutes, is created
955 to read:

956 500.802 Immediate closure due to severe public health
957 threat.—The department shall, upon proper finding, immediately

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958 issue an order to close an establishment licensed under this
959 part in the instance of a severe and immediate threat to the
960 public health, safety, or welfare.

961 (1) (a) The department shall declare a public health threat
962 upon a proper finding by the State Health Officer that the
963 continued operation of a public food service establishment
964 presents a severe and immediate threat to the public health.

965 (b) The department shall declare a threat to the public
966 safety or welfare upon a proper finding by the department that
967 the continued operation of a public food service establishment
968 presents a severe and immediate threat to the public safety or
969 welfare.

970 (2) Upon such determination, the department shall issue a
971 notice to show cause and an emergency order of suspension. Such
972 order shall be served upon the establishment by the division or
973 its agent, and the establishment shall be closed. An operator
974 who resists such closure is subject to further administrative
975 action by the division and is punishable as provided in s.
976 500.825. The department shall provide an inspection within 24
977 hours following such closure and shall review all relevant
978 information to determine whether the public food service
979 establishment has met the requirements to resume operations.

980 (3) The department may post a sign on the establishment
981 that states "Closed to Protect Public Health and Safety" and may
982 require the licensee to immediately stop service until
983 notification to the contrary is provided by the department.

984 (4) The department may further adopt rules for issuing
985 emergency orders after business hours and on weekends and
986 holidays in order to ensure the timely closure of an

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987 establishment under this section.

988 Section 13. Section 509.036, Florida Statutes, is
989 transferred, renumbered as section 500.803, Florida Statutes,
990 and amended to read:

991 500.803 ~~509.036~~ Public food service inspector
992 standardization.—

993 (1) Any person performing required inspections of licensed
994 public food service establishments for the department or its
995 agent must:

996 (a) Be standardized by a food service evaluation officer
997 certified by the federal Food and Drug Administration;

998 (b) Pass an approved food protection practices test as
999 prescribed by s. 500.804 ~~s. 509.039~~; and

1000 (c) Pass a written examination to demonstrate knowledge of
1001 the laws and rules which regulate public food service
1002 establishments.

1003 (2) The department ~~division~~ or its agent shall provide a
1004 minimum of 20 hours of continuing education annually for each
1005 public food service inspector. This continuing education shall
1006 include instruction in techniques to prevent food-borne illness,
1007 sanitation, and a review of relevant laws.

1008 (3) The department ~~division~~ and its agent shall adopt rules
1009 in accordance with the provisions of chapter 120 to provide for
1010 disciplinary action in cases of inspector negligence. An
1011 inspector may be subject to suspension or dismissal for cause as
1012 set forth in s. 110.227.

1013 (4) Any costs incurred as a direct result of the
1014 requirements of subsection (1) shall be funded from the General
1015 Inspection ~~Hotel and Restaurant~~ Trust Fund from the amounts

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1016 deposited from public food service establishment license fees.

1017 Section 14. Section 509.039, Florida Statutes, is
1018 transferred, renumbered as section 500.804, Florida Statutes,
1019 and amended to read:

1020 500.804 ~~509.039~~ Food service manager certification.—The
1021 department shall ~~It is the duty of the division to~~ adopt, by
1022 rule, food safety protection standards for the training and
1023 certification of all food service managers who are responsible
1024 for the storage, preparation, display, or serving of foods to
1025 the public in establishments regulated under this part ~~chapter~~.
1026 The standards adopted by the department ~~division~~ shall be
1027 consistent with the Standards for Accreditation of Food
1028 Protection Manager Certification Programs adopted by the
1029 Conference for Food Protection. These standards are to be
1030 adopted by the department ~~division~~ to ensure that, upon
1031 successfully passing a test, approved by the Conference for Food
1032 Protection, a manager of a food service establishment shall have
1033 demonstrated a knowledge of basic food protection practices. The
1034 department ~~division~~ may contract with an organization offering a
1035 training and certification program that complies with department
1036 ~~division~~ standards and results in a certification recognized by
1037 the Conference for Food Protection to conduct an approved test
1038 and certify all test results to the department ~~division~~. Other
1039 organizations offering programs that meet the same requirements
1040 may also conduct approved tests and certify all test results to
1041 the department ~~division~~. The department ~~division~~ may charge the
1042 organization it contracts with a fee of not more than \$5 per
1043 certified test to cover the administrative costs of the
1044 department ~~division~~ for the food service manager training and

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1045 certification program. All managers employed by a food service
1046 establishment must have passed an approved test and received a
1047 certificate attesting thereto. Managers have a period of 30 days
1048 after employment to pass the required test. All public food
1049 service establishments must provide the department ~~division~~ with
1050 proof of food service manager certification upon request,
1051 including, but not limited to, at the time of any division
1052 inspection of the establishment. The ranking of food service
1053 establishments is also preempted to the state; provided,
1054 however, that any local ordinances establishing a ranking system
1055 in existence prior to October 1, 1988, may remain in effect.

1056 Section 15. Section 509.049, Florida Statutes, is
1057 transferred, renumbered as section 500.805, Florida Statutes,
1058 and amended to read:

1059 500.805 ~~509.049~~ Food service employee training.—

1060 (1) The department ~~division~~ shall adopt, by rule, minimum
1061 food safety protection standards for the training of all food
1062 service employees who are responsible for the storage,
1063 preparation, display, or serving of foods to the public in
1064 establishments regulated under this chapter. These standards
1065 shall not include an examination, but shall provide for a food
1066 safety training certificate program for food service employees
1067 to be administered by a private nonprofit provider chosen by the
1068 department ~~division~~.

1069 (2) The department ~~division~~ shall issue a request for
1070 competitive sealed proposals which includes a statement of the
1071 contractual services sought and all terms and conditions
1072 applicable to the contract. The department ~~division~~ shall award
1073 the contract to the provider whose proposal is determined in

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1074 writing to be the most advantageous to the state, taking into
1075 consideration the price and the other criteria set forth in the
1076 request for proposals. The department ~~division~~ shall contract
1077 with a provider on a 4-year basis and is authorized to
1078 promulgate by rule a per employee fee to cover the contracted
1079 price for the program administered by the provider. In making
1080 its selection, the department ~~division~~ shall consider factors
1081 including, but not limited to, the experience and history of the
1082 provider in representing the food service industry, the
1083 provider's demonstrated commitment to food safety, and its
1084 ability to provide a statewide program with industry support and
1085 participation.

1086 (3) A food safety training program that was used by a
1087 licensed public food service establishment prior to July 1,
1088 2000, and that was reviewed and approved by the Division of
1089 Hotels and Restaurants of the Department of Business and
1090 Professional Regulation on or before September 1, 2004, may be
1091 used by the operators of any other food service establishments,
1092 and employees of such operators may be required to receive
1093 training from or pay a fee to the department's contracted
1094 provider. ~~Any food safety training program established and~~
1095 ~~administered to food service employees utilized at a licensed~~
1096 ~~public food service establishment prior to July 1, 2000, shall~~
1097 ~~be submitted by the operator or the third-party provider to the~~
1098 ~~department for its review and approval on or before September 1,~~
1099 ~~2004. If the food safety training program is found to be in~~
1100 ~~substantial compliance with the department's required criteria~~
1101 ~~and is approved by the department, nothing in this section shall~~
1102 ~~preclude any other operator of a food service establishment from~~

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1103 ~~also using the approved program or require the employees of any~~
1104 ~~operator to receive training from or pay a fee to the~~
1105 ~~department's contracted provider. Review and approval by the~~
1106 ~~department of a program or programs under this section shall~~
1107 ~~include, but need not be limited to, verification that the~~
1108 ~~licensed public food service establishment used the program~~
1109 ~~prior to July 1, 2000, and the minimum food safety standards~~
1110 ~~adopted by the department in accordance with this section.~~

1111 (4) Approval of a program is subject to the provider's
1112 continued compliance with the department's ~~division's~~ minimum
1113 program standards. The department ~~division~~ may conduct random
1114 audits of any approved programs to determine compliance and may
1115 audit any program if it has reason to believe a program is not
1116 in compliance with this section. The department ~~division~~ may
1117 revoke a program's approval if it finds a program is not in
1118 compliance with this section or the rules adopted under this
1119 section.

1120 (5) It shall be the duty of each public food service
1121 establishment to provide training in accordance with the
1122 described rule to all food service employees of the public food
1123 service establishment. The public food service establishment may
1124 designate any certified food service manager to perform this
1125 function. Food service employees must receive certification
1126 within 60 days after employment. Certification pursuant to this
1127 section shall remain valid for 3 years. All public food service
1128 establishments must provide the department ~~division~~ with proof
1129 of employee training upon request, including, but not limited
1130 to, at the time of any department ~~division~~ inspection of the
1131 establishment. Proof of training for each food service employee

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1132 shall include the name of the trained employee, the date of
1133 birth of the trained employee, the date the training occurred,
1134 and the approved food safety training program used.

1135 (6) (a) Third-party providers shall issue to a public food
1136 service establishment an original certificate for each employee
1137 certified by the provider and an original card to be provided to
1138 each certified employee. Such card or certificate shall be
1139 produced by the certified food service employee or by the public
1140 food service establishment, respectively, in its duly issued
1141 original form upon request of the division.

1142 (b) ~~Effective January 1, 2005,~~ Each third-party provider
1143 shall provide the following information on each employee upon
1144 certification and recertification: the name of the certified
1145 food service employee, the employee's date of birth, the
1146 employing food service establishment, the name of the certified
1147 food manager who conducted the training, the training date, and
1148 the certification expiration date. This information shall be
1149 reported electronically to the department division, in a format
1150 prescribed by the department division, within 30 days of
1151 certification or recertification. The department division shall
1152 compile the information into an electronic database that is not
1153 directly or indirectly owned, maintained, or installed by any
1154 nongovernmental provider of food service training. A public food
1155 service establishment that trains its employees using its own
1156 in-house, proprietary food safety training program approved by
1157 the department division, and which uses its own employees to
1158 provide this training, shall be exempt from the electronic
1159 reporting requirements of this paragraph, and from the card or
1160 certificate requirement of paragraph (a).

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1161 (7) The department ~~division~~ may adopt rules pursuant to ss.
1162 120.536(1) and 120.54 necessary to administer this section. The
1163 rules may require:

1164 (a) The use of application forms, which may require, but
1165 need not be limited to, the identification of training
1166 components of the program and an applicant affidavit attesting
1167 to the accuracy of the information provided in the application;

1168 (b) Third-party providers to maintain and electronically
1169 submit information concerning establishments where they provide
1170 training or training programs pursuant to this section;

1171 (c) Specific subject matter related to food safety for use
1172 in training program components; and

1173 (d) The public food service establishment to be responsible
1174 for providing proof of employee training pursuant to this
1175 section, and the department ~~division~~ may request production of
1176 such proof upon inspection of the establishment.

1177 (8) The following are violations for which the department
1178 ~~division~~ may impose administrative fines of up to \$1,000 on a
1179 public food service establishment, or suspend or revoke the
1180 approval of a particular provider's use of a food safety
1181 training program:

1182 (a) Failure of a public food service establishment to
1183 provide proof of training pursuant to subsection (5) upon
1184 request by the department ~~division~~ or an original certificate to
1185 the department ~~division~~ when required pursuant to paragraph
1186 (6) (a).

1187 (b) Failure of a third-party provider to submit required
1188 records pursuant to paragraph (6) (b) or to provide original
1189 certificates or cards to a public food service establishment or

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1190 employee pursuant to paragraph (6) (a).

1191 (c) Participating in falsifying any training record.

1192 (d) Failure of the program to maintain the department's
1193 ~~division's~~ minimum program standards.

1194 Section 16. Section 500.806, Florida Statutes, is created
1195 to read:

1196 500.806 Collection and disposition of moneys received.—All
1197 funds collected by the department pursuant to this part, and the
1198 amounts paid for licenses and fees, shall be deposited in the
1199 State Treasury into the General Inspection Trust Fund.

1200 Section 17. Section 500.807, Florida Statutes, is created
1201 to read:

1202 500.807 Notices; form and service.—Each notice served by
1203 the department pursuant to this part must be in writing and must
1204 be delivered personally by an agent of the department or by
1205 registered letter to the operator of the public food service
1206 establishment. If the operator refuses to accept service or
1207 evades service or the agent is otherwise unable to effect
1208 service after due diligence, the department may post such notice
1209 in a conspicuous place at the establishment.

1210 Section 18. Section 500.808, Florida Statutes, is created
1211 to read:

1212 500.808 Public food service establishments; rights as
1213 private enterprises.—Public food service establishments are
1214 private enterprises, and the operator has the right to refuse
1215 service to any person who is objectionable or undesirable to the
1216 operator, but such refusal may not be based upon race, creed,
1217 color, gender, physical disability, or national origin. A person
1218 aggrieved by a violation of this section or a violation of a

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1219 rule adopted under this section has a right of action pursuant
1220 to s. 760.11.

1221 Section 19. Section 500.809, Florida Statutes, is created
1222 to read:

1223 500.809 Establishment rules; posting of notice; food
1224 service inspection report; maintenance of guest register; mobile
1225 food dispensing vehicle registry.-

1226 (1) Any operator of a public food service establishment may
1227 establish reasonable rules and regulations for the management of
1228 the establishment and its guests and employees; and each guest
1229 or employee eating or employed in the establishment shall
1230 conform to and abide by such rules and regulations so long as
1231 the guest or employee remains in or at the establishment. Such
1232 rules and regulations shall be deemed to be a special contract
1233 between the operator and each guest or employee using the
1234 services or facilities of the operator. Such rules and
1235 regulations shall control the liabilities, responsibilities, and
1236 obligations of all parties. Any rules or regulations established
1237 pursuant to this section shall be printed in the English
1238 language and posted in a prominent place within the public food
1239 service establishment. In addition, any operator of a public
1240 food service establishment shall maintain the latest food
1241 service inspection report, or a duplicate copy of the report, on
1242 the premises and shall make it available to the public upon
1243 request.

1244 (2) Each operator of a public food service establishment
1245 that provides commissary services has a duty to maintain a daily
1246 registry verifying that each mobile food dispensing vehicle that
1247 receives such services is properly licensed by the department.

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1248 To readily verify licensure, each mobile food dispensing vehicle
1249 operator shall permanently affix in a prominent place on the
1250 side of the vehicle, in figures at least 2 inches high and in
1251 contrasting colors from the background, the operator's public
1252 food service establishment license number. Prior to providing
1253 commissary services, each public food service establishment must
1254 verify that the license number displayed on the vehicle matches
1255 the number on the vehicle operator's public food service
1256 establishment license.

1257 Section 20. Section 500.8010, Florida Statutes, is created
1258 to read:

1259 500.8010 Refusal of admission and ejection of undesirable
1260 guests; notice; procedure; penalties for refusal to leave.-

1261 (1) The operator of any public food service establishment
1262 may remove or cause to be removed from such establishment, in
1263 the manner hereinafter provided, any guest of the establishment
1264 who, while on the premises of the establishment, illegally
1265 possesses or deals in controlled substances as defined in
1266 chapter 893 or is intoxicated, profane, lewd, or brawling; who
1267 indulges in any language or conduct which disturbs the peace and
1268 comfort of other guests or which injures the reputation,
1269 dignity, or standing of the establishment; who fails to make
1270 payment for food, beverages, or services; or who, in the opinion
1271 of the operator, is a person whose continued presence would be
1272 detrimental to such establishment. The admission to, or the
1273 removal from, such establishment shall not be based upon race,
1274 creed, color, gender, physical disability, or national origin.

1275 (2) The operator of any public food service establishment
1276 shall notify such guest that the establishment no longer desires

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1277 to entertain the guest and shall request that such guest
1278 immediately depart from the establishment. Such notice may be
1279 given orally or in writing. If the notice is in writing, it
1280 shall be as follows:

1281 "You are hereby notified that this establishment no
1282 longer desires to entertain you as its guest, and you
1283 are requested to leave at once. To remain after
1284 receipt of this notice is a misdemeanor under the laws
1285 of this state."

1286 (3) Any guest who remains or attempts to remain in any such
1287 establishment after being requested to leave is guilty of a
1288 misdemeanor of the second degree, punishable as provided in s.
1289 775.082 or s. 775.083.

1290 (4) If any person is illegally on the premises of a public
1291 food service establishment, the operator of such establishment
1292 may call upon any law enforcement officer of this state for
1293 assistance. It is the duty of such law enforcement officer, upon
1294 the request of such operator, to place under arrest and take
1295 into custody for violation of this section any guest who
1296 violates subsection (3) in the presence of the officer. If a
1297 warrant has been issued by the proper judicial officer for the
1298 arrest of any violator of subsection (3), the officer shall
1299 serve the warrant, arrest the person, and take the person into
1300 custody. Upon arrest, the operator of the establishment shall
1301 employ all reasonable and proper means to care for any personal
1302 property which may be left on the premises by such guest.

1303 Section 21. Section 500.811, Florida Statutes, is created
1304 to read:

1305 500.811 Conduct on premises; refusal of service.—The

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1306 operator of a public food service establishment may refuse
1307 service to any person whose conduct on the premises of the
1308 establishment displays intoxication, profanity, lewdness, or
1309 brawling; who indulges in language or conduct that disturbs the
1310 peace or comfort of other guests; who engages in illegal or
1311 disorderly conduct; who illegally possesses or deals in
1312 controlled substances as defined in chapter 893; or whose
1313 conduct constitutes a nuisance. Such refusal may not be based
1314 upon race, creed, color, gender, physical disability, or
1315 national origin.

1316 Section 22. Section 500.812, Florida Statutes, is created
1317 to read:

1318 500.812 Disorderly conduct on the premises of an
1319 establishment; detention; arrest; immunity from liability.-

1320 (1) An operator may take a person into custody and detain
1321 that person in a reasonable manner and for a reasonable time if
1322 the operator has probable cause to believe that the person was
1323 engaging in disorderly conduct in violation of s. 877.03 on the
1324 premises of the licensed establishment and that such conduct was
1325 creating a threat to the life or safety of the person or others.
1326 The operator shall call a law enforcement officer to the scene
1327 immediately after detaining a person under this subsection.

1328 (2) A law enforcement officer may arrest without a warrant,
1329 on or off the premises of the licensed establishment, any person
1330 the officer has probable cause to believe violated s. 877.03 on
1331 the premises of a licensed establishment and, in the course of
1332 such violation, created a threat to the life or safety of the
1333 person or others.

1334 (3) An operator or a law enforcement officer who detains a

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1335 person under subsection (1) or makes an arrest under subsection
1336 (2) is not civilly or criminally liable for false arrest, false
1337 imprisonment, or unlawful detention on the basis of any action
1338 taken in compliance with subsection (1) or subsection (2).

1339 (4) A person who resists the reasonable efforts of an
1340 operator or a law enforcement officer to detain or arrest that
1341 person in accordance with this section is guilty of a
1342 misdemeanor of the first degree, punishable as provided in s.
1343 775.082 or s. 775.083, unless the person did not know or did not
1344 have reason to know that the person seeking to make such
1345 detention or arrest was the operator of the establishment or a
1346 law enforcement officer.

1347 Section 23. Section 500.813, Florida Statutes, is created
1348 to read:

1349 500.813 Obtaining food with intent to defraud.-

1350 (1) Any person who, with intent to defraud the operator,
1351 obtains food having a value of less than \$300 at any public food
1352 service establishment commits a misdemeanor of the second
1353 degree, punishable as provided in s. 775.082 or s. 775.083; if
1354 the food has a value of \$300 or more, such person commits a
1355 felony of the third degree, punishable as provided in s.
1356 775.082, s. 775.083, or s. 775.084.

1357 (2) This section does not apply if written agreement for a
1358 delay in payments exists.

1359 Section 24. Section 509.814, Florida Statutes, is created
1360 to read:

1361 500.814 Rules of evidence in prosecutions.-In prosecutions
1362 under s. 500.813, proof that food was obtained by false
1363 pretense, or by absconding without paying or offering to pay for

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1364 the food, constitutes prima facie evidence of fraudulent intent.
1365 If the operator of the establishment has probable cause to
1366 believe, and does believe, that any person has obtained food at
1367 that establishment with intent to defraud, the failure to make
1368 payment upon demand constitutes prima facie evidence of
1369 fraudulent intent in such prosecutions if there is no dispute as
1370 to the amount owed.

1371 Section 25. Section 500.815, Florida Statutes, is created
1372 to read:

1373 500.815 Theft of personal property; detaining and arrest of
1374 violator; theft by employee.-

1375 (1) Any law enforcement officer or operator of a public
1376 food service establishment who has probable cause to believe
1377 that theft of personal property belonging to such establishment
1378 has been committed by a person and that the officer or operator
1379 can recover such property or the reasonable value thereof by
1380 taking the person into custody may, for the purpose of
1381 attempting to effect such recovery or for prosecution, take such
1382 person into custody on the premises and detain such person in a
1383 reasonable manner and for a reasonable period of time. If the
1384 operator takes the person into custody, a law enforcement
1385 officer shall be called to the scene immediately. The taking
1386 into custody and detention by a law enforcement officer or
1387 operator of a public food service establishment, if done in
1388 compliance with this subsection, does not render such law
1389 enforcement officer or operator criminally or civilly liable for
1390 false arrest, false imprisonment, or unlawful detention.

1391 (2) Any law enforcement officer may arrest, either on or
1392 off the premises and without warrant, any person if there is

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1393 probable cause to believe that person has committed theft in a
1394 public food service establishment.

1395 (3) Any person who resists the reasonable effort of a law
1396 enforcement officer or operator of a public food service
1397 establishment to recover property which the law enforcement
1398 officer or operator had probable cause to believe had been
1399 stolen from the public food service establishment, and who is
1400 subsequently found to be guilty of theft of the subject
1401 property, is guilty of a misdemeanor of the first degree,
1402 punishable as provided in s. 775.082 or s. 775.083, unless such
1403 person did not know, or did not have reason to know, that the
1404 person seeking to recover the property was a law enforcement
1405 officer or the operator. For purposes of this section, the
1406 charges of theft and resisting apprehension may be tried
1407 concurrently.

1408 (4) Theft of any property belonging to a guest of an
1409 establishment licensed under this part, or of property belonging
1410 to such establishment, by an employee of the establishment or by
1411 an employee of a person, firm, or entity that has contracted to
1412 provide services to the establishment constitutes a felony of
1413 the third degree, punishable as provided in s. 775.082 or s.
1414 775.083.

1415 Section 26. Section 500.816, Florida Statutes, is created
1416 to read:

1417 500.816 Safety regulations.-

1418 (1) It is unlawful for any person to use within any public
1419 food service establishment any fuel-burning wick-type equipment
1420 for space heating unless such equipment is vented so as to
1421 prevent the accumulation of toxic or injurious gases or liquids.

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1422 (2) Any person who violates the provisions of subsection
1423 (1) commits a misdemeanor of the second degree, punishable as
1424 provided in s. 775.082 or s. 775.083.

1425 Section 27. Section 509.213, Florida Statutes, is
1426 transferred, renumbered as section 500.817, Florida Statutes,
1427 and amended to read:

1428 500.817 ~~509.213~~ Emergency first aid to choking victims.—

1429 (1) Every public food service establishment shall post a
1430 sign which illustrates and describes the Heimlich Maneuver
1431 procedure for rendering emergency first aid to a choking victim
1432 in a conspicuous place in the establishment accessible to
1433 employees.

1434 (2) The establishment shall be responsible for
1435 familiarizing its employees with the method of rendering such
1436 first aid.

1437 (3) This section does ~~shall not be construed to~~ impose upon
1438 a public food service establishment or employee thereof a legal
1439 duty to render such emergency assistance, and any such
1440 establishment or employee shall not be held liable for any civil
1441 damages as the result of such act or omission when the
1442 establishment or employee acts as an ordinary reasonably prudent
1443 person would have acted under the same or similar circumstances.

1444 Section 28. Section 509.214, Florida Statutes, is
1445 transferred, renumbered as section 500.818, Florida Statutes,
1446 and amended to read:

1447 500.818 ~~509.214~~ Notification of automatic gratuity charge.—

1448 Every public food service establishment which includes an
1449 automatic gratuity or service charge in the price of the meal
1450 shall include on the food menu and on the face of the bill

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1451 provided to the customer notice that an automatic gratuity is
1452 included.

1453 Section 29. Section 500.819, Florida Statutes, is created
1454 to read:

1455 500.819 Sanitary regulations.-

1456 (1) Each public food service establishment shall be
1457 supplied with potable water and shall provide adequate sanitary
1458 facilities for the accommodation of its employees. Such
1459 facilities may include, but are not limited to, showers,
1460 handwash basins, toilets, and bidets. Such sanitary facilities
1461 shall be connected to approved plumbing. Such plumbing shall be
1462 sized, installed, and maintained in accordance with the Florida
1463 Building Code as approved by the local building authority.
1464 Wastewater or sewage shall be properly treated onsite or
1465 discharged into an approved sewage collection and treatment
1466 system.

1467 (2) (a) Each public food service establishment shall
1468 maintain public bathroom facilities in accordance with the
1469 Florida Building Code as approved by the local building
1470 authority. The department shall establish by rule categories of
1471 establishments not subject to the bathroom requirement of this
1472 paragraph. Such rules may not alter the exemption provided for
1473 theme parks in paragraph (b).

1474 (b) Within a theme park or entertainment complex as defined
1475 in s. 500.80, bathrooms are not required to be in the same
1476 building as the public food service establishment, so long as
1477 they are reasonably accessible.

1478 (3) Each establishment licensed under this part shall be
1479 properly lighted, heated, cooled, and ventilated and shall be

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1480 operated with strict regard to the health, comfort, and safety
1481 of the guests. Such proper lighting shall be construed to apply
1482 to both daylight and artificial illumination.

1483 (4) Each public food service establishment shall provide in
1484 the employee bathroom and any public bathroom soap and clean
1485 towels or other approved hand-drying devices.

1486 (5) The operator of any establishment licensed under this
1487 part shall take effective measures to protect the establishment
1488 against the entrance and the breeding on the premises of all
1489 vermin. Any room in such establishment which is infested with
1490 such vermin shall be fumigated, disinfected, renovated, or other
1491 corrective action taken until the vermin are exterminated.

1492 (6) A person, while suffering from any contagious or
1493 communicable disease, while a carrier of such disease, or while
1494 afflicted with boils or infected wounds or sores, may not be
1495 employed by any establishment licensed under this part, in any
1496 capacity whereby there is a likelihood such disease could be
1497 transmitted to other individuals. An operator that has reason to
1498 believe that an employee may present a public health risk shall
1499 immediately notify the proper health authority.

1500 Section 30. Section 509.232, Florida Statutes, is
1501 transferred, renumbered as section 500.820, Florida Statutes,
1502 and amended to:

1503 500.820 ~~509.232~~ School carnivals and fairs; exemption from
1504 certain food service regulations.—Any public or nonprofit school
1505 which operates a carnival, fair, or other such celebration, ~~by~~
1506 ~~whatever name known~~, which is in operation for 3 days or less
1507 and which includes the sale and preparation of food and
1508 beverages, must notify the local county health department of the

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1509 proposed event and is exempt from any temporary food service
1510 regulations with respect to the requirements for having hot and
1511 cold running water; floors that ~~which~~ are constructed of tight
1512 wood, asphalt, concrete, or other cleanable material; enclosed
1513 walls and ceilings with screening; and ~~certain-size~~ counter
1514 service of a specified size. A school may not use this
1515 notification process to circumvent the license requirements of
1516 this chapter.

1517 Section 31. Section 509.233, Florida Statutes, is
1518 transferred, renumbered as section 500.821, Florida Statutes,
1519 and amended to read:

1520 500.821 ~~509.233~~ Public food service establishment
1521 requirements; local exemption for dogs in designated outdoor
1522 portions; pilot program.—

1523 (1) INTENT.—It is the intent of the Legislature by this
1524 section to establish a 3-year pilot program for local
1525 governments to allow patrons' dogs within certain designated
1526 outdoor portions of public food service establishments.

1527 (2) LOCAL EXEMPTION AUTHORIZED.—Notwithstanding s.
1528 500.801(7) ~~s. 509.032(7)~~, the governing body of a local
1529 government participating in the pilot program is authorized to
1530 establish, by ordinance, a local exemption procedure to certain
1531 provisions of the Food and Drug Administration Food Code, as
1532 currently adopted by the department ~~division~~, in order to allow
1533 patrons' dogs within certain designated outdoor portions of
1534 public food service establishments.

1535 (3) LOCAL DISCRETION; CODIFICATION.—

1536 (a) The adoption of the local exemption procedure shall be
1537 at the sole discretion of the governing body of a participating

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1538 local government. Nothing in this section shall be construed to
1539 require or compel a local governing body to adopt an ordinance
1540 pursuant to this section.

1541 (b) Any ordinance adopted pursuant to this section shall
1542 provide for codification within the land development code of a
1543 participating local government.

1544 (4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.—

1545 (a) Any local exemption procedure adopted pursuant to this
1546 section shall only provide a variance to those portions of the
1547 currently adopted Food and Drug Administration Food Code in
1548 order to allow patrons' dogs within certain designated outdoor
1549 portions of public food service establishments.

1550 (b) In order to protect the health, safety, and general
1551 welfare of the public, the local exemption procedure shall
1552 require participating public food service establishments to
1553 apply for and receive a permit from the governing body of the
1554 local government before allowing patrons' dogs on their
1555 premises. The local government shall require from the applicant
1556 such information as the local government deems reasonably
1557 necessary to enforce the provisions of this section, but shall
1558 require, at a minimum, the following information:

1559 1. The name, location, and mailing address of the public
1560 food service establishment.

1561 2. The name, mailing address, and telephone contact
1562 information of the permit applicant.

1563 3. A diagram and description of the outdoor area to be
1564 designated as available to patrons' dogs, including dimensions
1565 of the designated area; a depiction of the number and placement
1566 of tables, chairs, and restaurant equipment, if any; the

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1567 entryways and exits to the designated outdoor area; the
1568 boundaries of the designated area and of other areas of outdoor
1569 dining not available for patrons' dogs; any fences or other
1570 barriers; surrounding property lines and public rights-of-way,
1571 including sidewalks and common pathways; and such other
1572 information reasonably required by the permitting authority. The
1573 diagram or plan shall be accurate and to scale but need not be
1574 prepared by a licensed design professional.

1575 4. A description of the days of the week and hours of
1576 operation that patrons' dogs will be permitted in the designated
1577 outdoor area.

1578 (c) In order to protect the health, safety, and general
1579 welfare of the public, the local exemption ordinance shall
1580 include such regulations and limitations as deemed necessary by
1581 the participating local government and shall include, but not be
1582 limited to, the following requirements:

1583 1. All public food service establishment employees shall
1584 wash their hands promptly after touching, petting, or otherwise
1585 handling dogs. Employees shall be prohibited from touching,
1586 petting, or otherwise handling dogs while serving food or
1587 beverages or handling tableware or before entering other parts
1588 of the public food service establishment.

1589 2. Patrons in a designated outdoor area shall be advised
1590 that they should wash their hands before eating. Waterless hand
1591 sanitizer shall be provided at all tables in the designated
1592 outdoor area.

1593 3. Employees and patrons shall be instructed that they
1594 shall not allow dogs to come into contact with serving dishes,
1595 utensils, tableware, linens, paper products, or any other items

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1596 involved in food service operations.

1597 4. Patrons shall keep their dogs on a leash at all times
1598 and shall keep their dogs under reasonable control.

1599 5. Dogs shall not be allowed on chairs, tables, or other
1600 furnishings.

1601 6. All table and chair surfaces shall be cleaned and
1602 sanitized with an approved product between seating of patrons.
1603 Spilled food and drink shall be removed from the floor or ground
1604 between seating of patrons.

1605 7. Accidents involving dog waste shall be cleaned
1606 immediately and the area sanitized with an approved product. A
1607 kit with the appropriate materials for this purpose shall be
1608 kept near the designated outdoor area.

1609 8. A sign or signs reminding employees of the applicable
1610 rules shall be posted on premises in a manner and place as
1611 determined by the local permitting authority.

1612 9. A sign or signs reminding patrons of the applicable
1613 rules shall be posted on premises in a manner and place as
1614 determined by the local permitting authority.

1615 10. A sign or signs shall be posted in a manner and place
1616 as determined by the local permitting authority that places the
1617 public on notice that the designated outdoor area is available
1618 for the use of patrons and patrons' dogs.

1619 11. Dogs shall not be permitted to travel through indoor or
1620 nondesignated outdoor portions of the public food service
1621 establishment, and ingress and egress to the designated outdoor
1622 portions of the public food service establishment must not
1623 require entrance into or passage through any indoor area of the
1624 food establishment.

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1625 (d) A permit issued pursuant to this section shall not be
1626 transferred to a subsequent owner upon the sale of a public food
1627 service establishment but shall expire automatically upon the
1628 sale of the establishment. The subsequent owner shall be
1629 required to reapply for a permit pursuant to this section if the
1630 subsequent owner wishes to continue to accommodate patrons'
1631 dogs.

1632 (5) POWERS; ENFORCEMENT.—Participating local governments
1633 shall have such powers as are reasonably necessary to regulate
1634 and enforce the provisions of this section.

1635 (6) STATE AND LOCAL COOPERATION.—The division shall provide
1636 reasonable assistance to participating local governments in the
1637 development of enforcement procedures and regulations, and
1638 participating local governments shall monitor permitholders for
1639 compliance in cooperation with the department ~~division~~. At a
1640 minimum, participating local governments shall establish a
1641 procedure to accept, document, and respond to complaints and to
1642 timely report to the department ~~division~~ all such complaints and
1643 the participating local governments' enforcement responses to
1644 such complaints. A participating local government shall provide
1645 the department ~~division~~ with a copy of all approved applications
1646 and permits issued, and the participating local government shall
1647 require that all applications, permits, and other related
1648 materials contain the appropriate department-issued ~~division-~~
1649 ~~issued~~ license number for each public food service
1650 establishment.

1651 (7) FUTURE REVIEW AND REPEAL.—This section shall expire
1652 July 2, 2009 ~~July 1, 2009~~, unless reviewed and saved from repeal
1653 through reenactment by the Legislature.

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1654 Section 32. Section 500.822, Florida Statutes, is created
1655 to read:

1656 500.822 Licenses required; exceptions.-

1657 (1) LICENSES; ANNUAL RENEWALS.-Each public food service
1658 establishment shall obtain a license from the department. Such
1659 license may not be transferred from one place or individual to
1660 another. It shall be a misdemeanor of the second degree,
1661 punishable as provided in s. 775.082 or s. 775.083, for such an
1662 establishment to operate without a license. Local law
1663 enforcement shall provide immediate assistance in pursuing an
1664 illegally operating establishment. The department may refuse a
1665 license, or a renewal thereof, to any establishment that is not
1666 constructed and maintained in accordance with law and with the
1667 rules of the department. The department may refuse to issue a
1668 license, or a renewal thereof, to any establishment an operator
1669 of which, within the preceding 5 years, has been adjudicated
1670 guilty of, or has forfeited a bond when charged with, any crime
1671 reflecting on professional character, including soliciting for
1672 prostitution, pandering, letting premises for prostitution,
1673 keeping a disorderly place, or illegally dealing in controlled
1674 substances as defined in chapter 893, whether in this state or
1675 in any other jurisdiction within the United States, or has had a
1676 license denied, revoked, or suspended pursuant to s. 429.14.
1677 Licenses shall be renewed annually, and the department shall
1678 adopt a rule establishing a staggered schedule for license
1679 renewals. If any license expires while administrative charges
1680 are pending against the license, the proceedings against the
1681 license shall continue to conclusion as if the license were
1682 still in effect.

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1683 (2) APPLICATION FOR LICENSE.—Each person who plans to open
1684 a public food service establishment shall apply for and receive
1685 a license from the department prior to the commencement of
1686 operation.

1687 (3) DISPLAY OF LICENSE.—Any license issued by the
1688 department shall be conspicuously displayed in the office or
1689 lobby of the licensed establishment. A public food service
1690 establishment that offers catering services shall display its
1691 license number on all advertising for catering services.

1692 Section 33. Section 500.823, Florida Statutes, is created
1693 to read:

1694 500.823 License fees.—

1695 (1) The department shall adopt, by rule, a schedule of fees
1696 to be paid by each public food service establishment as a
1697 prerequisite to issuance or renewal of a license. The fee
1698 schedule shall prescribe a basic fee and additional fees based
1699 on seating capacity and services offered. The aggregate fee per
1700 establishment charged any public food service establishment may
1701 not exceed \$400. However, the fees described in paragraphs (a)
1702 and (b) may not be included as part of the aggregate fee subject
1703 to this cap. The fee schedule shall require an establishment
1704 that applies for initial licensure to pay the full license fee
1705 if application is made during the annual renewal period or more
1706 than 6 months prior to the next such renewal period, and one-
1707 half of the fee if application is made 6 months or less prior to
1708 such period. The fee schedule shall include fees collected for
1709 the purpose of funding the Hospitality Education Program,
1710 pursuant to s. 509.302, which are payable in full for each
1711 application regardless of when the application is submitted.

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1712 (a) Upon making initial application or an application for
1713 change of ownership, the applicant shall pay to the department a
1714 fee as prescribed by rule, not to exceed \$50, in addition to any
1715 other fees required by law, which shall cover all costs
1716 associated with initiating regulation of the establishment.

1717 (b) A license renewal filed with the department within 30
1718 days after the expiration date shall be accompanied by a
1719 delinquent fee as prescribed by rule, not to exceed \$50, in
1720 addition to the renewal fee and any other fees required by law.
1721 A license renewal filed with the department more than 30 but not
1722 more than 60 days after the expiration date shall be accompanied
1723 by a delinquent fee as prescribed by rule, not to exceed \$100,
1724 in addition to the renewal fee and any other fees required by
1725 law.

1726 (2) The actual costs associated with each epidemiological
1727 investigation conducted by the department or the Department of
1728 Health in public food service establishments licensed pursuant
1729 to this part shall be accounted for and submitted to the
1730 department annually. The department shall journal transfer the
1731 total of all such amounts from the General Inspection Trust Fund
1732 to the Department of Health annually; however, the total amount
1733 of such transfer may not exceed an amount equal to 5 percent of
1734 the annual public food service establishment licensure fees
1735 received by the department.

1736 Section 34. Section 500.824, Florida Statutes, is created
1737 to read:

1738 500.824 Revocation or suspension of licenses; fines;
1739 procedure.—

1740 (1) A public food service establishment that has operated

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1741 or is operating in violation of this part or the rules of the
1742 department, that is operating without a license, or that is
1743 operating with a suspended or revoked license may be subject by
1744 the department to:

1745 (a) Fines not to exceed \$1,000 per offense;

1746 (b) Mandatory attendance, at personal expense, at an
1747 educational program sponsored by the Hospitality Education
1748 Program; and

1749 (c) The suspension, revocation, or refusal of a license
1750 issued pursuant to this chapter.

1751 (2) For the purposes of this section, the department may
1752 regard as a separate offense each day or portion of a day on
1753 which an establishment is operated in violation of a "critical
1754 law or rule," as that term is defined by rule.

1755 (3) The department shall post a prominent "Closed for
1756 Operation" sign on a public food service establishment that has
1757 lost its license by suspension or revocation. The department
1758 shall also post such a sign on any establishment judicially or
1759 administratively determined to be operating without a license.
1760 It is a misdemeanor of the second degree, punishable as provided
1761 in s. 775.082 or s. 775.083, for any person to deface or remove
1762 the sign or for a public food service establishment to open for
1763 operation without a license or to open for operation while its
1764 license is suspended or revoked. The department may impose
1765 administrative sanctions for violations of this section.

1766 (4) All funds received by the department as satisfaction
1767 for administrative fines shall be paid into the State Treasury
1768 to the credit of the General Inspection Trust Fund and may not
1769 subsequently be used for payment to any entity performing

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1770 required inspections under contract with the division.

1771 (5) (a) A license may not be suspended under this section
1772 for a period of more than 12 months. At the end of such period
1773 of suspension, the establishment may apply for reinstatement or
1774 renewal of the license. A public food service establishment, the
1775 license of which is revoked, may not apply for another license
1776 for that location prior to the date on which the revoked license
1777 would have expired.

1778 (b) The department may fine, suspend, or revoke the license
1779 of a public food service establishment if the operator knowingly
1780 lets, leases, or gives space for unlawful gambling purposes or
1781 permits unlawful gambling in such establishment or in or upon
1782 any premises which are used in connection with, and are under
1783 the same charge, control, or management as, such establishment.

1784 (6) The department may fine, suspend, or revoke the license
1785 of any public food service establishment if:

1786 (a) Any person with a direct financial interest in the
1787 licensed establishment, within the preceding 5 years in this
1788 state, any other state, or the United States, has been
1789 adjudicated guilty of or forfeited a bond when charged with
1790 soliciting for prostitution, pandering, letting premises for
1791 prostitution, keeping a disorderly place, illegally dealing in
1792 controlled substances as defined in chapter 893, or any other
1793 crime reflecting on professional character.

1794 (b) Such establishment has been deemed an imminent danger
1795 to the public health and safety by the department or local
1796 health authority for failure to meet sanitation standards or the
1797 premises have been determined by the department or local
1798 authority to be unsafe or unfit for human occupancy.

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1799 (7) A person is not entitled to the issuance of a license
1800 for any public food service establishment except in the
1801 discretion of the department when it has notified the current
1802 licenseholder for such premises that administrative proceedings
1803 have been or will be brought against the licensee for violation
1804 of any provision of this chapter or rule of the department.

1805 (8) The department may fine, suspend, or revoke the license
1806 of a public food service establishment if the establishment is
1807 not in compliance with the requirements of a final order or
1808 other administrative action issued against the licensee by the
1809 department.

1810 (9) The department may refuse to issue or renew the license
1811 of a public food service establishment until all outstanding
1812 fines issued against it by the department are paid in full.

1813 Section 35. Section 500.825, Florida Statutes, is created
1814 to read:

1815 500.825 Prosecution for violation; duty of state attorney;
1816 penalties.-

1817 (1) The department or an agent of the department, upon
1818 ascertaining by inspection that a public food service
1819 establishment is being operated contrary to the provisions of
1820 this part, shall make complaint and cause the arrest of the
1821 violator, and the state attorney, upon request of the department
1822 or agent, shall prepare all necessary papers and conduct the
1823 prosecution. The department shall proceed in the courts by
1824 mandamus or injunction whenever such proceedings may be
1825 necessary to the proper enforcement of the provisions of this
1826 part, of the rules adopted pursuant hereto, or of orders of the
1827 department.

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1828 (2) Any operator who obstructs or hinders any agent of the
1829 department in the proper discharge of the agent's duties; who
1830 fails, neglects, or refuses to obtain a license or pay the
1831 license fee required by law; or who fails or refuses to perform
1832 any duty imposed upon it by law or rule is guilty of a
1833 misdemeanor of the second degree, punishable as provided in s.
1834 775.082 or s. 775.083. Each day that such establishment is
1835 operated in violation of law or rule is a separate offense.

1836 Section 36. Section 500.826, Florida Statutes, is created
1837 to read:

1838 500.826 Enforcement; municipal and county officers to
1839 assist.—Any state or county attorney, sheriff, or police officer
1840 and any other appropriate municipal and county official shall,
1841 upon request, assist the department or any of its agents in the
1842 enforcement of this part.

1843 Section 37. Section 509.292, Florida Statutes, is
1844 transferred, renumbered as section 500.827, Florida Statutes,
1845 and amended to read:

1846 500.827 ~~509.292~~ Misrepresenting food or food product;
1847 penalty.—

1848 (1) An operator may not knowingly and willfully
1849 misrepresent the identity of any food or food product to any of
1850 the patrons of such establishment. The identity of food or a
1851 food product is misrepresented if:

1852 (a) The description of the food or food product is false or
1853 misleading in any particular;

1854 (b) The food or food product is served, sold, or
1855 distributed under the name of another food or food product; or

1856 (c) The food or food product purports to be or is

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1857 represented as a food or food product that does not conform to a
1858 definition of identity and standard of quality if such
1859 definition of identity and standard of quality has been
1860 established by custom and usage.

1861 (2) If the food or food product is a fruit or fruit juice,
1862 its identity is misrepresented if:

1863 (a) The description of the fruit or fruit juice is false or
1864 misleading in any particular;

1865 (b) The fruit or fruit juice is served, sold, or
1866 distributed under the name of another fruit or fruit juice; or

1867 (c) A synthetic or flavored drink is sold purporting to be
1868 fruit juice.

1869

1870 The term "fresh juice" refers to a juice without additives and
1871 prepared from the original fruit within 12 hours or less of
1872 sale.

1873 (3) Any person who violates any provision of this section
1874 is guilty of a misdemeanor of the second degree, punishable as
1875 provided in s. 775.082 or s. 775.083.

1876 Section 38. Part I of chapter 509, Florida Statutes,
1877 entitled "PUBLIC LODGING ESTABLISHMENTS" and consisting of
1878 sections 509.013, 509.032, 509.034, 509.035, 509.072, 509.091,
1879 509.092, 509.101, 509.111, 509.141, 509.142, 509.143, 509.144,
1880 509.151, 509.161, 509.162, 509.191, 509.201, 509.2015, 509.211,
1881 509.2112, 509.215, 509.221, 509.241, 509.242, 509.251, 509.261,
1882 509.271, 509.281, 509.285, 509.291, 509.302, 509.4005, 509.401,
1883 509.402, 509.403, 509.404, 509.405, 509.406, 509.407, 509.408,
1884 509.409, 509.411, 509.412, 509.413, 509.414, 509.415, 509.416,
1885 and 509.417, is created.

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1886 Section 39. Section 509.013, Florida Statutes, is amended
1887 to read:

1888 509.013 Definitions.—As used in this chapter, the term:

1889 (1) "Division" means the Division of Hotels ~~and Restaurants~~
1890 of the Department of Business and Professional Regulation.

1891 (2) "Operator" means the owner, licensee, proprietor,
1892 lessee, manager, assistant manager, or appointed agent of a
1893 public lodging establishment ~~or public food service~~
1894 ~~establishment~~.

1895 (3) "Guest" means any patron, customer, tenant, lodger,
1896 boarder, or occupant of a public lodging establishment ~~or public~~
1897 ~~food service establishment~~.

1898 (4) (a) "Public lodging establishment" includes a transient
1899 public lodging establishment as defined in subparagraph 1. and a
1900 nontransient public lodging establishment as defined in
1901 subparagraph 2.

1902 1. "Transient public lodging establishment" means any unit,
1903 group of units, dwelling, building, or group of buildings within
1904 a single complex of buildings which is rented to guests more
1905 than three times in a calendar year for periods of less than 30
1906 days or 1 calendar month, whichever is less, or which is
1907 advertised or held out to the public as a place regularly rented
1908 to guests.

1909 2. "Nontransient public lodging establishment" means any
1910 unit, group of units, dwelling, building, or group of buildings
1911 within a single complex of buildings which is rented to guests
1912 for periods of at least 30 days or 1 calendar month, whichever
1913 is less, or which is advertised or held out to the public as a
1914 place regularly rented to guests for periods of at least 30 days

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1915 or 1 calendar month.

1916
1917 License classifications of public lodging establishments, and
1918 the definitions therefor, are set out in s. 509.242. For the
1919 purpose of licensure, the term does not include condominium
1920 common elements as defined in s. 718.103.

1921 (b) The following are excluded from the definitions in
1922 paragraph (a):

1923 1. Any dormitory or other living or sleeping facility
1924 maintained by a public or private school, college, or university
1925 for the use of students, faculty, or visitors;

1926 2. Any hospital, nursing home, sanitarium, assisted living
1927 facility, or other similar place;

1928 3. Any place renting four rental units or less, unless the
1929 rental units are advertised or held out to the public to be
1930 places that are regularly rented to transients;

1931 4. Any unit or group of units in a condominium,
1932 cooperative, or timeshare plan and any individually or
1933 collectively owned one-family, two-family, three-family, or
1934 four-family dwelling house or dwelling unit that is rented for
1935 periods of at least 30 days or 1 calendar month, whichever is
1936 less, and that is not advertised or held out to the public as a
1937 place regularly rented for periods of less than 1 calendar
1938 month, provided that no more than four rental units within a
1939 single complex of buildings are available for rent;

1940 5. Any migrant labor camp or residential migrant housing
1941 permitted by the Department of Health; under ss. 381.008-
1942 381.00895; and

1943 6. Any establishment inspected by the Department of Health

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1944 and regulated by chapter 513.

1945 ~~(5) (a) "Public food service establishment" means any~~
1946 ~~building, vehicle, place, or structure, or any room or division~~
1947 ~~in a building, vehicle, place, or structure where food is~~
1948 ~~prepared, served, or sold for immediate consumption on or in the~~
1949 ~~vicinity of the premises; called for or taken out by customers;~~
1950 ~~or prepared prior to being delivered to another location for~~
1951 ~~consumption.~~

1952 ~~(b) The following are excluded from the definition in~~
1953 ~~paragraph (a):~~

1954 ~~1. Any place maintained and operated by a public or private~~
1955 ~~school, college, or university:~~

1956 ~~a. For the use of students and faculty; or~~

1957 ~~b. Temporarily to serve such events as fairs, carnivals,~~
1958 ~~and athletic contests.~~

1959 ~~2. Any eating place maintained and operated by a church or~~
1960 ~~a religious, nonprofit fraternal, or nonprofit civic~~
1961 ~~organization:~~

1962 ~~a. For the use of members and associates; or~~

1963 ~~b. Temporarily to serve such events as fairs, carnivals, or~~
1964 ~~athletic contests.~~

1965 ~~3. Any eating place located on an airplane, train, bus, or~~
1966 ~~watercraft which is a common carrier.~~

1967 ~~4. Any eating place maintained by a hospital, nursing home,~~
1968 ~~sanitarium, assisted living facility, adult day care center, or~~
1969 ~~other similar place that is regulated under s. 381.0072.~~

1970 ~~5. Any place of business issued a permit or inspected by~~
1971 ~~the Department of Agriculture and Consumer Services under s.~~
1972 ~~500.12.~~

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1973 ~~6. Any place of business where the food available for~~
1974 ~~consumption is limited to ice, beverages with or without~~
1975 ~~garnishment, popcorn, or prepackaged items sold without~~
1976 ~~additions or preparation.~~

1977 ~~7. Any theater, if the primary use is as a theater and if~~
1978 ~~patron service is limited to food items customarily served to~~
1979 ~~the admittees of theaters.~~

1980 ~~8. Any vending machine that dispenses any food or beverages~~
1981 ~~other than potentially hazardous foods, as defined by division~~
1982 ~~rule.~~

1983 ~~9. Any vending machine that dispenses potentially hazardous~~
1984 ~~food and which is located in a facility regulated under s.~~
1985 ~~381.0072.~~

1986 ~~10. Any research and development test kitchen limited to~~
1987 ~~the use of employees and which is not open to the general~~
1988 ~~public.~~

1989 (5)~~(6)~~ "Director" means the Director of the Division of
1990 Hotels and Restaurants of the Department of Business and
1991 Professional Regulation.

1992 (6)~~(7)~~ "Single complex of buildings" means all buildings or
1993 structures that are owned, managed, controlled, or operated
1994 under one business name and are situated on the same tract or
1995 plot of land that is not separated by a public street or
1996 highway.

1997 ~~(8) "Temporary food service event" means any event of 30~~
1998 ~~days or less in duration where food is prepared, served, or sold~~
1999 ~~to the general public.~~

2000 ~~(9) "Theme park or entertainment complex" means a complex~~
2001 ~~comprised of at least 25 contiguous acres owned and controlled~~

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2002 ~~by the same business entity and which contains permanent~~
2003 ~~exhibitions and a variety of recreational activities and has a~~
2004 ~~minimum of 1 million visitors annually.~~

2005 ~~(10) "Third party provider" means, for purposes of s.~~
2006 ~~509.049, any provider of an approved food safety training~~
2007 ~~program that provides training or such a training program to a~~
2008 ~~public food service establishment that is not under common~~
2009 ~~ownership or control with the provider.~~

2010 (7) ~~(11)~~ "Transient establishment" means any public lodging
2011 establishment that is rented or leased to guests by an operator
2012 whose intention is that such guests' occupancy will be
2013 temporary.

2014 (8) ~~(12)~~ "Transient occupancy" means occupancy when it is
2015 the intention of the parties that the occupancy will be
2016 temporary. There is a rebuttable presumption that, when the
2017 dwelling unit occupied is not the sole residence of the guest,
2018 the occupancy is transient.

2019 (9) ~~(13)~~ "Transient" means a guest in transient occupancy.

2020 (10) ~~(14)~~ "Nontransient establishment" means any public
2021 lodging establishment that is rented or leased to guests by an
2022 operator whose intention is that the dwelling unit occupied will
2023 be the sole residence of the guest.

2024 (11) ~~(15)~~ "Nontransient occupancy" means occupancy when it
2025 is the intention of the parties that the occupancy will not be
2026 temporary. There is a rebuttable presumption that, when the
2027 dwelling unit occupied is the sole residence of the guest, the
2028 occupancy is nontransient.

2029 (12) ~~(16)~~ "Nontransient" means a guest in nontransient
2030 occupancy.

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2031 Section 40. Section 509.032, Florida Statutes, is amended
2032 to read:

2033 509.032 Duties.—

2034 (1) GENERAL.—The division shall carry out all of the
2035 provisions of this chapter and all other applicable laws and
2036 rules relating to the inspection or regulation of public lodging
2037 establishments ~~and public food service establishments~~ for the
2038 purpose of safeguarding the public health, safety, and welfare.
2039 The division shall be responsible for ascertaining that an
2040 operator licensed under this chapter does not engage in any
2041 misleading advertising or unethical practices.

2042 (2) INSPECTION OF PREMISES.—

2043 (a) The division has responsibility and jurisdiction for
2044 all inspections required by this chapter. The division has
2045 responsibility for quality assurance. Each licensed
2046 establishment shall be inspected at least biannually, except for
2047 transient and nontransient apartments, which shall be inspected
2048 at least annually, and shall be inspected at such other times as
2049 the division determines is necessary to ensure the public's
2050 health, safety, and welfare. The division shall establish a
2051 system to determine inspection frequency. Public lodging units
2052 classified as resort condominiums or resort dwellings are not
2053 subject to this requirement, but shall be made available to the
2054 division upon request. If, during the inspection of a public
2055 lodging establishment classified for renting to transient or
2056 nontransient tenants, an inspector identifies vulnerable adults
2057 who appear to be victims of neglect, as defined in s. 415.102,
2058 or, in the case of a building that is not equipped with
2059 automatic sprinkler systems, tenants or clients who may be

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2060 unable to self-preserve in an emergency, the division shall
2061 convene meetings with the following agencies as appropriate to
2062 the individual situation: the Department of Health, the
2063 Department of Elderly Affairs, the area agency on aging, the
2064 local fire marshal, the landlord and affected tenants and
2065 clients, and other relevant organizations, to develop a plan
2066 which improves the prospects for safety of affected residents
2067 and, if necessary, identifies alternative living arrangements
2068 such as facilities licensed under part II of chapter 400 or
2069 under chapter 429.

2070 (b) For purposes of performing required inspections and the
2071 enforcement of this chapter, the division has the right of entry
2072 and access to public lodging establishments and ~~public food~~
2073 ~~service establishments~~ at any reasonable time.

2074 ~~(c) Public food service establishment inspections shall be~~
2075 ~~conducted to enforce provisions of this part and to educate,~~
2076 ~~inform, and promote cooperation between the division and the~~
2077 ~~establishment.~~

2078 ~~(d) The division shall adopt and enforce sanitation rules~~
2079 ~~consistent with law to ensure the protection of the public from~~
2080 ~~food-borne illness in those establishments licensed under this~~
2081 ~~chapter. These rules shall provide the standards and~~
2082 ~~requirements for obtaining, storing, preparing, processing,~~
2083 ~~servicing, or displaying food in public food service~~
2084 ~~establishments, approving public food service establishment~~
2085 ~~facility plans, conducting necessary public food service~~
2086 ~~establishment inspections for compliance with sanitation~~
2087 ~~regulations, cooperating and coordinating with the Department of~~
2088 ~~Health in epidemiological investigations, and initiating~~

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2089 ~~enforcement actions, and for other such responsibilities deemed~~
2090 ~~necessary by the division. The division may not establish by~~
2091 ~~rule any regulation governing the design, construction,~~
2092 ~~erection, alteration, modification, repair, or demolition of any~~
2093 ~~public lodging or public food service establishment. It is the~~
2094 ~~intent of the Legislature to preempt that function to the~~
2095 ~~Florida Building Commission and the State Fire Marshal through~~
2096 ~~adoption and maintenance of the Florida Building Code and the~~
2097 ~~Florida Fire Prevention Code. The division shall provide~~
2098 ~~technical assistance to the commission in updating the~~
2099 ~~construction standards of the Florida Building Code which govern~~
2100 ~~public lodging and public food service establishments. Further,~~
2101 ~~the division shall enforce the provisions of the Florida~~
2102 ~~Building Code which apply to public lodging and public food~~
2103 ~~service establishments in conducting any inspections authorized~~
2104 ~~by this part. The division, or its agent, shall notify the local~~
2105 ~~firesafety authority or the State Fire Marshal of any readily~~
2106 ~~observable violation of a rule adopted under chapter 633 which~~
2107 ~~relates to public lodging establishments or public food~~
2108 ~~establishments, and the identification of such violation does~~
2109 ~~not require any firesafety inspection certification.~~

2110 (c)~~(e)~~1. Relating to facility plan approvals, the division
2111 may establish, by rule, fees for conducting plan reviews and may
2112 grant variances from construction standards in hardship cases,
2113 which variances may be less restrictive than the provisions
2114 specified in this section or the rules adopted under this
2115 section. A variance may not be granted pursuant to this section
2116 until the division is satisfied that:

2117 a. The variance shall not adversely affect the health of

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2118 the public.

2119 b. No reasonable alternative to the required construction
2120 exists.

2121 c. The hardship was not caused intentionally by the action
2122 of the applicant.

2123 2. The division's advisory council shall review
2124 applications for variances and recommend agency action. The
2125 division shall make arrangements to expedite emergency requests
2126 for variances, to ensure that such requests are acted upon
2127 within 30 days of receipt.

2128 3. The division shall establish, by rule, a fee for the
2129 cost of the variance process. Such fee shall not exceed \$150 for
2130 routine variance requests and \$300 for emergency variance
2131 requests.

2132 (d)~~(f)~~ In conducting inspections of establishments licensed
2133 under this chapter, the division shall determine if each coin-
2134 operated amusement machine that is operated on the premises of a
2135 licensed establishment is properly registered with the
2136 Department of Revenue. Each month the division shall report to
2137 the Department of Revenue the sales tax registration number of
2138 the operator of any licensed establishment that has on location
2139 a coin-operated amusement machine and that does not have an
2140 identifying certificate conspicuously displayed as required by
2141 s. 212.05(1)(h).

2142 ~~(g) In inspecting public food service establishments, the
2143 department shall provide each inspected establishment with the
2144 food-recovery brochure developed under s. 570.0725.~~

2145 (3) SANITARY STANDARDS; EMERGENCIES;~~TEMPORARY FOOD SERVICE~~
2146 ~~EVENTS.~~-The division shall:

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2147 ~~(a) Prescribe sanitary standards which shall be enforced in~~
2148 ~~public food service establishments.~~

2149 ~~(b) inspect public lodging establishments and public food~~
2150 ~~service establishments~~ whenever necessary to respond to an
2151 emergency or epidemiological condition.

2152 ~~(c) Administer a public notification process for temporary~~
2153 ~~food service events and distribute educational materials that~~
2154 ~~address safe food storage, preparation, and service procedures.~~

2155 ~~1. Sponsors of temporary food service events shall notify~~
2156 ~~the division not less than 3 days prior to the scheduled event~~
2157 ~~of the type of food service proposed, the time and location of~~
2158 ~~the event, a complete list of food service vendors participating~~
2159 ~~in the event, the number of individual food service facilities~~
2160 ~~each vendor will operate at the event, and the identification~~
2161 ~~number of each food service vendor's current license as a public~~
2162 ~~food service establishment or temporary food service event~~
2163 ~~licensee. Notification may be completed orally, by telephone, in~~
2164 ~~person, or in writing. A public food service establishment or~~
2165 ~~food service vendor may not use this notification process to~~
2166 ~~circumvent the license requirements of this chapter.~~

2167 ~~2. The division shall keep a record of all notifications~~
2168 ~~received for proposed temporary food service events and shall~~
2169 ~~provide appropriate educational materials to the event sponsors,~~
2170 ~~including the food recovery brochure developed under s.~~
2171 ~~570.0725.~~

2172 ~~3.a. A public food service establishment or other food~~
2173 ~~service vendor must obtain one of the following classes of~~
2174 ~~license from the division: an individual license, for a fee of~~
2175 ~~no more than \$105, for each temporary food service event in~~

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2176 ~~which it participates; or an annual license, for a fee of no~~
2177 ~~more than \$1,000, that entitles the licensee to participate in~~
2178 ~~an unlimited number of food service events during the license~~
2179 ~~period. The division shall establish license fees, by rule, and~~
2180 ~~may limit the number of food service facilities a licensee may~~
2181 ~~operate at a particular temporary food service event under a~~
2182 ~~single license.~~

2183 ~~b. Public food service establishments holding current~~
2184 ~~licenses from the division may operate under the regulations of~~
2185 ~~such a license at temporary food service events of 3 days or~~
2186 ~~less in duration.~~

2187 ~~(4) STOP-SALE ORDERS. The division may stop the sale, and~~
2188 ~~supervise the proper destruction, of any food or food product~~
2189 ~~when the director or the director's designee determines that~~
2190 ~~such food or food product represents a threat to the public~~
2191 ~~safety or welfare. If the operator of a public food service~~
2192 ~~establishment licensed under this chapter has received official~~
2193 ~~notification from a health authority that a food or food product~~
2194 ~~from that establishment has potentially contributed to any~~
2195 ~~instance or outbreak of food borne illness, the food or food~~
2196 ~~product must be maintained in safe storage in the establishment~~
2197 ~~until the responsible health authority has examined, sampled,~~
2198 ~~seized, or requested destruction of the food or food product.~~

2199 ~~(4)(5) REPORTS REQUIRED.~~The division shall submit annually
2200 to the Governor, the President of the Senate, the Speaker of the
2201 House of Representatives, and the chairs of the legislative
2202 appropriations committees a report, which shall state, but need
2203 not be limited to, the total number of active public lodging ~~and~~
2204 ~~public food service~~ licenses in the state, the total number of

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2205 inspections of these establishments conducted by the division to
2206 ensure the enforcement of sanitary standards, the total number
2207 of inspections conducted in response to emergency or
2208 epidemiological conditions, the number of violations of each
2209 sanitary standard, the total number of inspections conducted to
2210 meet the statutorily required number of inspections, and any
2211 recommendations for improved inspection procedures. The division
2212 shall also keep accurate account of all expenses arising out of
2213 the performance of its duties and all fees collected under this
2214 chapter. The report shall be submitted by September 30 following
2215 the end of the fiscal year.

2216 (5)~~(6)~~ RULEMAKING AUTHORITY.—The division shall adopt such
2217 rules as are necessary to carry out the provisions of this
2218 chapter.

2219 (6)~~(7)~~ PREEMPTION AUTHORITY.—The regulation of public
2220 lodging establishments ~~and public food service establishments,~~
2221 including, but not limited to, the inspection of public lodging
2222 establishments ~~and public food service establishments~~ for
2223 compliance with the sanitation standards adopted under this
2224 section is, ~~and the regulation of food safety protection~~
2225 ~~standards for required training and testing of food service~~
2226 ~~establishment personnel~~ are preempted to the state. This
2227 subsection does not preempt the authority of a local government
2228 or local enforcement district to conduct inspections of public
2229 lodging ~~and public food service~~ establishments for compliance
2230 with the Florida Building Code and the Florida Fire Prevention
2231 Code, pursuant to ss. 553.80 and 633.022.

2232 Section 41. Section 509.072, Florida Statutes, is amended
2233 to read:

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2234 509.072 Hotel Regulation ~~and Restaurant~~ Trust Fund;
2235 collection and disposition of moneys received.-

2236 (1) There is created a Hotel Regulation ~~and Restaurant~~
2237 Trust Fund to be used for the administration and operation of
2238 the division and the carrying out of all laws and rules under
2239 the jurisdiction of the division pertaining to the construction,
2240 maintenance, and operation of public lodging establishments ~~and~~
2241 ~~public food service establishments~~, including the inspection of
2242 elevators as required under chapter 399. All funds collected by
2243 the division and the amounts paid for licenses and fees shall be
2244 deposited in the State Treasury into the Hotel Regulation ~~and~~
2245 ~~Restaurant~~ Trust Fund.

2246 (2) Fees collected under s. 509.302(2) and deposited into
2247 the trust fund must be used solely for the purpose of funding
2248 the Hospitality Education Program, except for any trust fund
2249 service charge imposed by s. 215.20, and may not be used to pay
2250 for any expense of the division not directly attributable to the
2251 Hospitality Education Program. These funds may not be deposited
2252 or transferred into any other trust fund administered by the
2253 Department of Business and Professional Regulation or any of its
2254 divisions. For audit purposes, fees collected under s.
2255 509.302(2) and all charges against those fees must be maintained
2256 by the department as a separate ledger.

2257 Section 42. Section 509.091, Florida Statutes, is amended
2258 to read:

2259 509.091 Notices; form and service.—Each notice served by
2260 the division pursuant to this chapter must be in writing and
2261 must be delivered personally by an agent of the division or by
2262 registered letter to the operator of the public lodging

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2263 establishment ~~or public food service establishment~~. If the
2264 operator refuses to accept service or evades service or the
2265 agent is otherwise unable to effect service after due diligence,
2266 the division may post such notice in a conspicuous place at the
2267 establishment.

2268 Section 43. Section 509.092, Florida Statutes, is amended
2269 to read:

2270 509.092 Public lodging establishments ~~and public food~~
2271 ~~service establishments~~; rights as private enterprises.—Public
2272 lodging establishments ~~and public food service establishments~~
2273 are private enterprises, and the operator has the right to
2274 refuse accommodations or service to any person who is
2275 objectionable or undesirable to the operator, but such refusal
2276 may not be based upon race, creed, color, sex, physical
2277 disability, or national origin. A person aggrieved by a
2278 violation of this section or a violation of a rule adopted under
2279 this section has a right of action pursuant to s. 760.11.

2280 Section 44. Section 509.101, Florida Statutes, is amended
2281 to read:

2282 509.101 Establishment rules; posting of notice; food
2283 service inspection report; maintenance of guest register; ~~mobile~~
2284 ~~food dispensing vehicle registry~~.—

2285 (1) Any operator of a public lodging establishment ~~or a~~
2286 ~~public food service establishment~~ may establish reasonable rules
2287 and regulations for the management of the establishment and its
2288 guests and employees; and each guest or employee staying,
2289 sojourning, eating, or employed in the establishment shall
2290 conform to and abide by such rules and regulations so long as
2291 the guest or employee remains in or at the establishment. Such

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2292 rules and regulations shall be deemed to be a special contract
2293 between the operator and each guest or employee using the
2294 services or facilities of the operator. Such rules and
2295 regulations shall control the liabilities, responsibilities, and
2296 obligations of all parties. Any rules or regulations established
2297 pursuant to this section shall be printed in the English
2298 language and posted in a prominent place within such public
2299 lodging establishment ~~or public food service establishment. In~~
2300 ~~addition, any operator of a public food service establishment~~
2301 ~~shall maintain the latest food service inspection report or a~~
2302 ~~duplicate copy on premises and shall make it available to the~~
2303 ~~public upon request.~~

2304 (2) It is the duty of each operator of a transient
2305 establishment to maintain at all times a register, signed by or
2306 for guests who occupy rental units within the establishment,
2307 showing the dates upon which the rental units were occupied by
2308 such guests and the rates charged for their occupancy. This
2309 register shall be maintained in chronological order and
2310 available for inspection by the division at any time. Operators
2311 need not make available registers which are more than 2 years
2312 old.

2313 ~~(3) It is the duty of each operator of a public food~~
2314 ~~service establishment that provides commissary services to~~
2315 ~~maintain a daily registry verifying that each mobile food~~
2316 ~~dispensing vehicle that receives such services is properly~~
2317 ~~licensed by the division. In order that such licensure may be~~
2318 ~~readily verified, each mobile food dispensing vehicle operator~~
2319 ~~shall permanently affix in a prominent place on the side of the~~
2320 ~~vehicle, in figures at least 2 inches high and in contrasting~~

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2321 ~~colors from the background, the operator's public food service~~
2322 ~~establishment license number. Prior to providing commissary~~
2323 ~~services, each public food service establishment must verify~~
2324 ~~that the license number displayed on the vehicle matches the~~
2325 ~~number on the vehicle operator's public food service~~
2326 ~~establishment license.~~

2327 Section 45. Section 509.141, Florida Statutes, is amended
2328 to read:

2329 509.141 Refusal of admission and ejection of undesirable
2330 guests; notice; procedure; penalties for refusal to leave.—

2331 (1) The operator of any public lodging establishment ~~or~~
2332 ~~public food service establishment~~ may remove or cause to be
2333 removed from such establishment, in the manner hereinafter
2334 provided, any guest of the establishment who, while on the
2335 premises of the establishment, illegally possesses or deals in
2336 controlled substances as defined in chapter 893 or is
2337 intoxicated, profane, lewd, or brawling; who indulges in any
2338 language or conduct which disturbs the peace and comfort of
2339 other guests or which injures the reputation, dignity, or
2340 standing of the establishment; who, ~~in the case of a public~~
2341 ~~lodging establishment,~~ fails to make payment of rent at the
2342 agreed-upon rental rate by the agreed-upon checkout time or;
2343 ~~who, in the case of a public lodging establishment,~~ fails to
2344 check out by the time agreed upon in writing by the guest and
2345 public lodging establishment at check-in unless an extension of
2346 time is agreed to by the public lodging establishment and guest
2347 prior to checkout; ~~who, in the case of a public food service~~
2348 ~~establishment, fails to make payment for food, beverages, or~~
2349 ~~services;~~ or who, in the opinion of the operator, is a person

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2350 the continued entertainment of whom would be detrimental to such
2351 establishment. The admission to, or the removal from, such
2352 establishment shall not be based upon race, creed, color, sex,
2353 physical disability, or national origin.

2354 (2) The operator of any public lodging establishment ~~or~~
2355 ~~public food service establishment~~ shall notify such guest that
2356 the establishment no longer desires to entertain the guest and
2357 shall request that such guest immediately depart from the
2358 establishment. Such notice may be given orally or in writing. If
2359 the notice is in writing, it shall be as follows:

2360 "You are hereby notified that this establishment no longer
2361 desires to entertain you as its guest, and you are requested to
2362 leave at once. To remain after receipt of this notice is a
2363 misdemeanor under the laws of this state."

2364
2365 If such guest has paid in advance, the establishment shall, at
2366 the time such notice is given, tender to such guest the unused
2367 portion of the advance payment. + However, the establishment may
2368 withhold payment for each full day that the guest has been
2369 entertained at the establishment for any portion of the 24-hour
2370 period of such day.

2371 (3) Any guest who remains or attempts to remain in any such
2372 establishment after being requested to leave is guilty of a
2373 misdemeanor of the second degree, punishable as provided in s.
2374 775.082 or s. 775.083.

2375 (4) If any person is illegally on the premises of any
2376 public lodging establishment ~~or public food service~~
2377 ~~establishment~~, the operator of such establishment may call upon
2378 any law enforcement officer of this state for assistance. It is

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2379 the duty of such law enforcement officer, upon the request of
2380 such operator, to place under arrest and take into custody for
2381 violation of this section any guest who violates subsection (3)
2382 in the presence of the officer. If a warrant has been issued by
2383 the proper judicial officer for the arrest of any violator of
2384 subsection (3), the officer shall serve the warrant, arrest the
2385 person, and take the person into custody. Upon arrest, with or
2386 without warrant, the guest will be deemed to have given up any
2387 right to occupancy or to have abandoned such right of occupancy
2388 of the premises, and the operator of the establishment may then
2389 make such premises available to other guests. However, the
2390 operator of the establishment shall employ all reasonable and
2391 proper means to care for any personal property which may be left
2392 on the premises by such guest and shall refund any unused
2393 portion of moneys paid by such guest for the occupancy of such
2394 premises.

2395 Section 46. Section 509.151, Florida Statutes, is amended
2396 to read:

2397 509.151 Obtaining ~~food or~~ lodging with intent to defraud;
2398 penalty.—

2399 (1) Any person who obtains ~~food~~, lodging, or other
2400 accommodations having a value of less than \$300 at any public
2401 ~~food service establishment, or at any~~ transient establishment,
2402 with intent to defraud the operator thereof, is guilty of a
2403 misdemeanor of the second degree, punishable as provided in s.
2404 775.082 or s. 775.083; if such ~~food~~, lodging, or other
2405 accommodations have a value of \$300 or more, such person is
2406 guilty of a felony of the third degree, punishable as provided
2407 in s. 775.082, s. 775.083, or s. 775.084.

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2408 (2) This section does not apply where there has been an
2409 agreement in writing for delay in payments. This section shall
2410 not be used to circumvent the procedural requirements of the
2411 Florida Residential Landlord and Tenant Act.

2412 Section 47. Section 509.161, Florida Statutes, is amended
2413 to read:

2414 509.161 Rules of evidence in prosecutions.—In prosecutions
2415 under s. 509.151, proof that lodging, ~~food~~, or other
2416 accommodations were obtained by false pretense; by false or
2417 fictitious show of baggage or other property; by absconding
2418 without paying or offering to pay for such ~~food~~, lodging, or
2419 accommodations; or by surreptitiously removing or attempting to
2420 remove baggage shall constitute prima facie evidence of
2421 fraudulent intent. If the operator of the establishment has
2422 probable cause to believe, and does believe, that any person has
2423 obtained ~~food~~, lodging, or other accommodations at such
2424 establishment with intent to defraud the operator thereof, the
2425 failure to make payment upon demand therefor, there being no
2426 dispute as to the amount owed, shall constitute prima facie
2427 evidence of fraudulent intent in such prosecutions.

2428 Section 48. Section 509.162, Florida Statutes, is amended
2429 to read:

2430 509.162 Theft of personal property; detaining and arrest of
2431 violator; theft by employee.—

2432 (1) Any law enforcement officer or operator of a public
2433 lodging establishment ~~or public food service establishment~~ who
2434 has probable cause to believe that theft of personal property
2435 belonging to such establishment has been committed by a person
2436 and that the officer or operator can recover such property or

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2437 the reasonable value thereof by taking the person into custody
2438 may, for the purpose of attempting to effect such recovery or
2439 for prosecution, take such person into custody on the premises
2440 and detain such person in a reasonable manner and for a
2441 reasonable period of time. If the operator takes the person into
2442 custody, a law enforcement officer shall be called to the scene
2443 immediately. The taking into custody and detention by a law
2444 enforcement officer or operator of a public lodging
2445 establishment ~~or public food service establishment~~, if done in
2446 compliance with this subsection, does not render such law
2447 enforcement officer or operator criminally or civilly liable for
2448 false arrest, false imprisonment, or unlawful detention.

2449 (2) Any law enforcement officer may arrest, either on or
2450 off the premises and without warrant, any person if there is
2451 probable cause to believe that person has committed theft in a
2452 public lodging establishment ~~or in a public food service~~
2453 ~~establishment~~.

2454 (3) Any person who resists the reasonable effort of a law
2455 enforcement officer or operator of a public lodging
2456 establishment ~~or public food service establishment~~ to recover
2457 property which the law enforcement officer or operator had
2458 probable cause to believe had been stolen from the public
2459 lodging establishment ~~or public food service establishment~~, and
2460 who is subsequently found to be guilty of theft of the subject
2461 property, is guilty of a misdemeanor of the first degree,
2462 punishable as provided in s. 775.082 or s. 775.083, unless such
2463 person did not know, or did not have reason to know, that the
2464 person seeking to recover the property was a law enforcement
2465 officer or the operator. For purposes of this section, the

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2466 charge of theft and the charge of resisting apprehension may be
2467 tried concurrently.

2468 (4) Theft of any property belonging to a guest of an
2469 establishment licensed under this chapter, or of property
2470 belonging to such establishment, by an employee of the
2471 establishment or by an employee of a person, firm, or entity
2472 which has contracted to provide services to the establishment
2473 constitutes a felony of the third degree, punishable as provided
2474 in s. 775.082 or s. 775.083.

2475 Section 49. Subsection (2) of section 509.211, Florida
2476 Statutes, is amended to read:

2477 509.211 Safety regulations.—

2478 (2) (a) It is unlawful for any person to use within any
2479 public lodging establishment ~~or public food service~~
2480 ~~establishment~~ any fuel-burning wick-type equipment for space
2481 heating unless such equipment is vented so as to prevent the
2482 accumulation of toxic or injurious gases or liquids.

2483 (b) Any person who violates the provisions of paragraph (a)
2484 commits a misdemeanor of the second degree, punishable as
2485 provided in s. 775.082 or s. 775.083.

2486 Section 50. Section 509.221, Florida Statutes, is amended
2487 to read:

2488 509.221 Sanitary regulations.—

2489 (1) ~~(a)~~ Each public lodging establishment shall be supplied
2490 with potable water and shall provide adequate sanitary
2491 facilities for the accommodation of its employees and guests.
2492 Such facilities may include, but are not limited to, showers,
2493 handwash basins, toilets, and bidets. Such sanitary facilities
2494 shall be connected to approved plumbing. Such plumbing shall be

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2495 sized, installed, and maintained in accordance with the Florida
2496 Building Code as approved by the local building authority.
2497 Wastewater or sewage shall be properly treated onsite or
2498 discharged into an approved sewage collection and treatment
2499 system.

2500 ~~(b) Each public food service establishment shall be~~
2501 ~~supplied with potable water and shall provide adequate sanitary~~
2502 ~~facilities for the accommodation of its employees. Such~~
2503 ~~facilities may include, but are not limited to, showers,~~
2504 ~~handwash basins, toilets, and bidets. Such sanitary facilities~~
2505 ~~shall be connected to approved plumbing. Such plumbing shall be~~
2506 ~~sized, installed, and maintained in accordance with the Florida~~
2507 ~~Building Code as approved by the local building authority.~~
2508 ~~Wastewater or sewage shall be properly treated onsite or~~
2509 ~~discharged into an approved sewage collection and treatment~~
2510 ~~system.~~

2511 (2) (a) Each public lodging establishment and ~~each public~~
2512 ~~food service establishment~~ shall maintain public bathroom
2513 facilities in accordance with the Florida Building Code as
2514 approved by the local building authority. The division shall
2515 establish by rule categories of establishments not subject to
2516 the bathroom requirement of this paragraph. ~~Such rules may not~~
2517 ~~alter the exemption provided for theme parks in paragraph (b).~~

2518 ~~(b) Within a theme park or entertainment complex as defined~~
2519 ~~in s. 509.013(9), the bathrooms are not required to be in the~~
2520 ~~same building as the public food service establishment, so long~~
2521 ~~as they are reasonably accessible.~~

2522 (b)(e) Each transient establishment that does not provide
2523 private or connecting bathrooms shall maintain one public

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2524 bathroom on each floor for every 15 guests, or major fraction of
2525 that number, rooming on that floor.

2526 (3) Each establishment licensed under this chapter shall be
2527 properly lighted, heated, cooled, and ventilated and shall be
2528 operated with strict regard to the health, comfort, and safety
2529 of the guests. Such proper lighting shall be construed to apply
2530 to both daylight and artificial illumination.

2531 (4) Each bedroom in a public lodging establishment shall
2532 have an opening to the outside of the building, air shafts, or
2533 courts sufficient to provide adequate ventilation. Where
2534 ventilation is provided mechanically, the system shall be
2535 capable of providing at least two air changes per hour in all
2536 areas served. Where ventilation is provided by windows, each
2537 room shall have at least one window opening directly to the
2538 outside.

2539 (5) Each transient public lodging establishment shall
2540 provide in the main public bathroom soap and clean towels or
2541 other approved hand-drying devices and each public lodging
2542 establishment shall furnish each guest with two clean individual
2543 towels so that two guests will not be required to use the same
2544 towel unless it has first been laundered. ~~Each public food~~
2545 ~~service establishment shall provide in the employee bathroom and~~
2546 ~~any public bathroom soap and clean towels or other approved~~
2547 ~~hand-drying devices.~~

2548 (6) Each transient establishment shall provide each bed,
2549 bunk, cot, or other sleeping place for the use of guests with
2550 clean pillowslips and under and top sheets. Sheets and
2551 pillowslips shall be laundered before they are used by another
2552 guest, a clean set being furnished each succeeding guest. All

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2553 bedding, including mattresses, quilts, blankets, pillows,
2554 sheets, and comforters, shall be thoroughly aired, disinfected,
2555 and kept clean. Bedding, including mattresses, quilts, blankets,
2556 pillows, sheets, or comforters, may not be used if they are worn
2557 out or unfit for further use.

2558 (7) The operator of any establishment licensed under this
2559 chapter shall take effective measures to protect the
2560 establishment against the entrance and the breeding on the
2561 premises of all vermin. Any room in such establishment infested
2562 with such vermin shall be fumigated, disinfected, renovated, or
2563 other corrective action taken until the vermin are exterminated.

2564 (8) A person, while suffering from any contagious or
2565 communicable disease, while a carrier of such disease, or while
2566 afflicted with boils or infected wounds or sores, may not be
2567 employed by any establishment licensed under this chapter, in
2568 any capacity whereby there is a likelihood such disease could be
2569 transmitted to other individuals. An operator that has reason to
2570 believe that an employee may present a public health risk shall
2571 immediately notify the proper health authority.

2572 (9) Subsections (2), (5), and (6) do not apply to any
2573 facility or unit classified as a resort condominium,
2574 nontransient apartment, or resort dwelling as described in s.
2575 509.242(1)(c), (d), and (g).

2576 Section 51. Section 509.241, Florida Statutes, is amended
2577 to read:

2578 509.241 Licenses required; exceptions.—

2579 (1) LICENSES; ANNUAL RENEWALS.—Each public lodging
2580 establishment ~~and public food service establishment~~ shall obtain
2581 a license from the division. Such license may not be transferred

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2582 from one place or individual to another. It shall be a
2583 misdemeanor of the second degree, punishable as provided in s.
2584 775.082 or s. 775.083, for such an establishment to operate
2585 without a license. Local law enforcement shall provide immediate
2586 assistance in pursuing an illegally operating establishment. The
2587 division may refuse a license, or a renewal thereof, to any
2588 establishment that is not constructed and maintained in
2589 accordance with law and with the rules of the division. The
2590 division may refuse to issue a license, or a renewal thereof, to
2591 any establishment an operator of which, within the preceding 5
2592 years, has been adjudicated guilty of, or has forfeited a bond
2593 when charged with, any crime reflecting on professional
2594 character, including soliciting for prostitution, pandering,
2595 letting premises for prostitution, keeping a disorderly place,
2596 or illegally dealing in controlled substances as defined in
2597 chapter 893, whether in this state or in any other jurisdiction
2598 within the United States, or has had a license denied, revoked,
2599 or suspended pursuant to s. 429.14. Licenses shall be renewed
2600 annually, and the division shall adopt a rule establishing a
2601 staggered schedule for license renewals. If any license expires
2602 while administrative charges are pending against the license,
2603 the proceedings against the license shall continue to conclusion
2604 as if the license were still in effect.

2605 (2) APPLICATION FOR LICENSE.—Each person who plans to open
2606 a public lodging establishment ~~or a public food service~~
2607 ~~establishment~~ shall apply for and receive a license from the
2608 division prior to the commencement of operation. A condominium
2609 association, as defined in s. 718.103, which does not own any
2610 units classified as resort condominiums under s. 509.242(1)(c)

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2611 shall not be required to apply for or receive a public lodging
2612 establishment license.

2613 (3) DISPLAY OF LICENSE.—Any license issued by the division
2614 shall be conspicuously displayed in the office or lobby of the
2615 licensed establishment. ~~Public food service establishments which~~
2616 ~~offer catering services shall display their license number on~~
2617 ~~all advertising for catering services.~~

2618 Section 52. Section 509.251, Florida Statutes, is amended
2619 to read:

2620 509.251 License fees.—

2621 ~~(1)~~ The division shall adopt, by rule, a schedule of fees
2622 to be paid by each public lodging establishment as a
2623 prerequisite to issuance or renewal of a license. Such fees
2624 shall be based on the number of rental units in the
2625 establishment. The aggregate fee per establishment charged any
2626 public lodging establishment shall not exceed \$1,000; however,
2627 the fees described in paragraphs (a) and (b) may not be included
2628 as part of the aggregate fee subject to this cap. Resort
2629 condominium units within separate buildings or at separate
2630 locations but managed by one licensed agent may be combined in a
2631 single license application, and the division shall charge a
2632 license fee as if all units in the application are in a single
2633 licensed establishment. Resort dwelling units may be licensed in
2634 the same manner as condominium units. The fee schedule shall
2635 require an establishment which applies for an initial license to
2636 pay the full license fee if application is made during the
2637 annual renewal period or more than 6 months prior to the next
2638 such renewal period and one-half of the fee if application is
2639 made 6 months or less prior to such period. The fee schedule

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2640 shall include fees collected for the purpose of funding the
2641 Hospitality Education Program, pursuant to s. 509.302, which are
2642 payable in full for each application regardless of when the
2643 application is submitted.

2644 (1)~~(a)~~ Upon making initial application or an application
2645 for change of ownership, the applicant shall pay to the division
2646 a fee as prescribed by rule, not to exceed \$50, in addition to
2647 any other fees required by law, which shall cover all costs
2648 associated with initiating regulation of the establishment.

2649 (2)~~(b)~~ A license renewal filed with the division within 30
2650 days after the expiration date shall be accompanied by a
2651 delinquent fee as prescribed by rule, not to exceed \$50, in
2652 addition to the renewal fee and any other fees required by law.
2653 A license renewal filed with the division more than 30 but not
2654 more than 60 days after the expiration date shall be accompanied
2655 by a delinquent fee as prescribed by rule, not to exceed \$100,
2656 in addition to the renewal fee and any other fees required by
2657 law.

2658 ~~(2) The division shall adopt, by rule, a schedule of fees~~
2659 ~~to be paid by each public food service establishment as a~~
2660 ~~prerequisite to issuance or renewal of a license. The fee~~
2661 ~~schedule shall prescribe a basic fee and additional fees based~~
2662 ~~on seating capacity and services offered. The aggregate fee per~~
2663 ~~establishment charged any public food service establishment may~~
2664 ~~not exceed \$400; however, the fees described in paragraphs (a)~~
2665 ~~and (b) may not be included as part of the aggregate fee subject~~
2666 ~~to this cap. The fee schedule shall require an establishment~~
2667 ~~which applies for an initial license to pay the full license fee~~
2668 ~~if application is made during the annual renewal period or more~~

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2669 ~~than 6 months prior to the next such renewal period and one-half~~
2670 ~~of the fee if application is made 6 months or less prior to such~~
2671 ~~period. The fee schedule shall include fees collected for the~~
2672 ~~purpose of funding the Hospitality Education Program, pursuant~~
2673 ~~to s. 509.302, which are payable in full for each application~~
2674 ~~regardless of when the application is submitted.~~

2675 ~~(a) Upon making initial application or an application for~~
2676 ~~change of ownership, the applicant shall pay to the division a~~
2677 ~~fee as prescribed by rule, not to exceed \$50, in addition to any~~
2678 ~~other fees required by law, which shall cover all costs~~
2679 ~~associated with initiating regulation of the establishment.~~

2680 ~~(b) A license renewal filed with the division within 30~~
2681 ~~days after the expiration date shall be accompanied by a~~
2682 ~~delinquent fee as prescribed by rule, not to exceed \$50, in~~
2683 ~~addition to the renewal fee and any other fees required by law.~~
2684 ~~A license renewal filed with the division more than 30 but not~~
2685 ~~more than 60 days after the expiration date shall be accompanied~~
2686 ~~by a delinquent fee as prescribed by rule, not to exceed \$100,~~
2687 ~~in addition to the renewal fee and any other fees required by~~
2688 ~~law.~~

2689 ~~(3) The fact that a public food service establishment is~~
2690 ~~operated in conjunction with a public lodging establishment does~~
2691 ~~not relieve the public food service establishment of the~~
2692 ~~requirement that it be separately licensed as a public food~~
2693 ~~service establishment.~~

2694 ~~(4) The actual costs associated with each epidemiological~~
2695 ~~investigation conducted by the Department of Health in public~~
2696 ~~food service establishments licensed pursuant to this chapter~~
2697 ~~shall be accounted for and submitted to the division annually.~~

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2698 ~~The division shall journal transfer the total of all such~~
2699 ~~amounts from the Hotel and Restaurant Trust Fund to the~~
2700 ~~Department of Health annually; however, the total amount of such~~
2701 ~~transfer may not exceed an amount equal to 5 percent of the~~
2702 ~~annual public food service establishment licensure fees received~~
2703 ~~by the division.~~

2704 Section 53. Section 509.261, Florida Statutes, is amended
2705 to read:

2706 509.261 Revocation or suspension of licenses; fines;
2707 procedure.—

2708 (1) Any public lodging establishment ~~or public food service~~
2709 ~~establishment~~ that has operated or is operating in violation of
2710 this chapter or the rules of the division, operating without a
2711 license, or operating with a suspended or revoked license may be
2712 subject by the division to:

2713 (a) Fines not to exceed \$1,000 per offense;

2714 (b) Mandatory attendance, at personal expense, at an
2715 educational program sponsored by the Hospitality Education
2716 Program; and

2717 (c) The suspension, revocation, or refusal of a license
2718 issued pursuant to this chapter.

2719 (2) For the purposes of this section, the division may
2720 regard as a separate offense each day or portion of a day on
2721 which an establishment is operated in violation of a "critical
2722 law or rule," as that term is defined by rule.

2723 (3) The division shall post a prominent closed-for-
2724 operation sign on any public lodging establishment ~~or public~~
2725 ~~food service establishment~~, the license of which has been
2726 suspended or revoked. The division shall also post such sign on

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2727 any establishment judicially or administratively determined to
2728 be operating without a license. It is a misdemeanor of the
2729 second degree, punishable as provided in s. 775.082 or s.
2730 775.083, for any person to deface or remove such closed-for-
2731 operation sign or for any public lodging establishment ~~or public~~
2732 ~~food service establishment~~ to open for operation without a
2733 license or to open for operation while its license is suspended
2734 or revoked. The division may impose administrative sanctions for
2735 violations of this section.

2736 (4) All funds received by the division as satisfaction for
2737 administrative fines shall be paid into the State Treasury to
2738 the credit of the Hotel Regulation ~~and Restaurant~~ Trust Fund and
2739 may not subsequently be used for payment to any entity
2740 performing required inspections under contract with the
2741 division. Administrative fines may be used to support division
2742 programs pursuant to s. 509.302(1).

2743 (5) (a) A license may not be suspended under this section
2744 for a period of more than 12 months. At the end of such period
2745 of suspension, the establishment may apply for reinstatement or
2746 renewal of the license. A public lodging establishment ~~or public~~
2747 ~~food service establishment~~, the license of which is revoked, may
2748 not apply for another license for that location prior to the
2749 date on which the revoked license would have expired.

2750 (b) The division may fine, suspend, or revoke the license
2751 of any public lodging establishment ~~or public food service~~
2752 ~~establishment~~ if the operator knowingly lets, leases, or gives
2753 space for unlawful gambling purposes or permits unlawful
2754 gambling in such establishment or in or upon any premises which
2755 are used in connection with, and are under the same charge,

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2756 control, or management as, such establishment.

2757 (6) The division may fine, suspend, or revoke the license
2758 of any public lodging establishment if ~~or public food service~~
2759 ~~establishment when:~~

2760 (a) Any person with a direct financial interest in the
2761 licensed establishment, within the preceding 5 years in this
2762 state, any other state, or the United States, has been
2763 adjudicated guilty of or forfeited a bond when charged with
2764 soliciting for prostitution, pandering, letting premises for
2765 prostitution, keeping a disorderly place, illegally dealing in
2766 controlled substances as defined in chapter 893, or any other
2767 crime reflecting on professional character.

2768 (b) Such establishment has been deemed an imminent danger
2769 to the public health and safety by the division or local health
2770 authority for failure to meet sanitation standards or the
2771 premises have been determined by the division or local authority
2772 to be unsafe or unfit for human occupancy.

2773 (7) A person is not entitled to the issuance of a license
2774 for any public lodging establishment ~~or public food service~~
2775 ~~establishment~~ except in the discretion of the director when the
2776 division has notified the current licenseholder for such
2777 premises that administrative proceedings have been or will be
2778 brought against such current licensee for violation of any
2779 provision of this chapter or rule of the division.

2780 (8) The division may fine, suspend, or revoke the license
2781 of any public lodging establishment that ~~or public food service~~
2782 ~~establishment when the establishment~~ is not in compliance with
2783 the requirements of a final order or other administrative action
2784 issued against the licensee by the division.

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2785 (9) The division may refuse to issue or renew the license
2786 of any public lodging establishment ~~or public food service~~
2787 ~~establishment~~ until all outstanding fines are paid in full to
2788 the division as required by all final orders or other
2789 administrative action issued against the licensee by the
2790 division.

2791 Section 54. Section 509.281, Florida Statutes, is amended
2792 to read:

2793 509.281 Prosecution for violation; duty of state attorney;
2794 penalties.—

2795 (1) The division or an agent of the division, upon
2796 ascertaining by inspection that any public lodging establishment
2797 ~~or public food service establishment~~ is being operated contrary
2798 to the provisions of this chapter, shall make complaint and
2799 cause the arrest of the violator, and the state attorney, upon
2800 request of the division or agent, shall prepare all necessary
2801 papers and conduct the prosecution. The division shall proceed
2802 in the courts by mandamus or injunction whenever such
2803 proceedings may be necessary to the proper enforcement of the
2804 provisions of this chapter, of the rules adopted pursuant
2805 hereto, or of orders of the division.

2806 (2) Any operator who obstructs or hinders any agent of the
2807 division in the proper discharge of the agent's duties; who
2808 fails, neglects, or refuses to obtain a license or pay the
2809 license fee required by law; or who fails or refuses to perform
2810 any duty imposed upon it by law or rule is guilty of a
2811 misdemeanor of the second degree, punishable as provided in s.
2812 775.082 or s. 775.083. Each day that such establishment is
2813 operated in violation of law or rule is a separate offense.

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2814 Section 55. Section 509.291, Florida Statutes, is amended
2815 to read:

2816 509.291 Advisory council.—

2817 (1) There is created a 10-member advisory council.

2818 (a) The Secretary of Business and Professional Regulation
2819 shall appoint seven voting members to the advisory council. Each
2820 member appointed by the secretary must be an operator of an
2821 establishment licensed under this chapter and shall represent
2822 the industries regulated by the division, except that one member
2823 appointed by the secretary must be a layperson representing the
2824 general public and one member must be a hospitality education
2825 administrator from an institution of higher education of this
2826 state. Such members of the council shall serve staggered terms
2827 of 4 years.

2828 (b) ~~The Florida Restaurant and Lodging Association shall~~
2829 ~~designate one representative to serve as a voting member of the~~
2830 ~~council. The Florida Apartment Association and the Florida~~
2831 ~~Association of Realtors shall each designate one representative~~
2832 ~~to serve as a voting member of the council.~~

2833 (c) Any member who fails to attend three consecutive
2834 council meetings without good cause may be removed from the
2835 council by the secretary.

2836 (2) The purpose of the advisory council is to promote
2837 better relations, understanding, and cooperation between such
2838 industries and the division; to suggest means of better
2839 protecting the health, welfare, and safety of persons using the
2840 services offered by such industries; to give the division the
2841 benefit of its knowledge and experience concerning the
2842 industries and individual businesses affected by the laws and

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2843 rules administered by the division; to promote and coordinate
2844 the development of programs to educate and train personnel for
2845 such industries; and to perform such other duties as prescribed
2846 by law.

2847 (3) (a) The advisory council shall meet once each January,
2848 at which time a chairperson and vice chairperson shall be
2849 elected from the members. A member may not serve consecutive
2850 terms as a chairperson.

2851 (b) The council shall meet at the request of the division
2852 or at the request of a majority of the members. However, the
2853 council may not hold more than one meeting in any calendar
2854 month.

2855 (c) The council shall take action only by a majority vote
2856 of the members in attendance.

2857 (d) The division shall provide necessary staff assistance
2858 to the council. All minutes and records of the council shall be
2859 maintained by the division and shall be made available to the
2860 public upon request.

2861 (4) The members of the council shall serve without
2862 compensation but shall be entitled to receive reimbursement for
2863 per diem and travel expenses pursuant to s. 112.061.

2864 (5) The secretary and the division shall periodically
2865 review with the advisory council the division's budget and
2866 financial status for the purpose of maintaining the financial
2867 stability of the division. The council shall make
2868 recommendations, when it deems appropriate, to the secretary and
2869 the division to ensure that adequate funding levels from fees,
2870 penalties, and other costs assessed by the division and paid by
2871 the industries it regulates are maintained.

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2872 (6) The division shall provide to the advisory council each
2873 year an annual internal audit of the financial records of the
2874 Hospitality Education Program for the purpose of permitting the
2875 advisory council to determine compliance with the provisions of
2876 s. 509.072(2).

2877 Section 56. Section 509.302, Florida Statutes, is amended
2878 to read:

2879 509.302 Hospitality Education Program.—

2880 (1) The division shall administer an educational program,
2881 designated the "Hospitality Education Program," offered for the
2882 benefit of the restaurant and lodging industries of this state.
2883 This program may affiliate with Florida State University,
2884 Florida International University, and the University of Central
2885 Florida. The program may also affiliate with any other member of
2886 the State University System or Florida Community College System,
2887 or with any privately funded college or university, which offers
2888 a program of hospitality administration and management. The
2889 primary goal of this program is to instruct and train all
2890 individuals and businesses licensed under this chapter, in
2891 cooperation with recognized associations that represent the
2892 licensees, in the application of state and federal laws and
2893 rules. Such programs shall also include:

2894 (a) Management training.

2895 (b) Inservice continuing education programs.

2896 (c) Awareness of food-recovery programs, as promoted in s.
2897 570.0725.

2898 (d) Enhancement of school-to-career training and transition
2899 programs for students interested in pursuing careers in the food
2900 service or lodging industry. Training and transition programs

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2901 shall be provided through the public school system using a
2902 nationally recognized curriculum approved by the division, with
2903 the enhancements funded under this section provided by grants
2904 from nonprofit statewide organizations in the hospitality
2905 services field, and the application process for the grants shall
2906 be administered by the division.

2907 (e) Such other programs as may be deemed appropriate by the
2908 director and the advisory council.

2909 (2) All public lodging establishments ~~and all public food~~
2910 ~~service establishments~~ licensed under this chapter shall pay an
2911 annual fee of no more than \$10, which shall be included in the
2912 annual license fee and used for the sole purpose of funding the
2913 Hospitality Education Program.

2914 (3) Notwithstanding any other provision of law to the
2915 contrary, grant funding under this section for the services
2916 described in paragraph (1)(d) shall include all expenses
2917 incident to providing those services, including the cost of
2918 staff support; student scholarships; compensation to program
2919 instructors for time spent in relevant training; special events
2920 or competitive events; and a reasonable stipend for travel,
2921 lodging, and meals for instructors and students participating in
2922 training or in related special events. All such expenses shall
2923 be in accordance with the budget submitted by the applicant in
2924 the grant application and approved by the division. The
2925 expenditure of all funds distributed under this section shall be
2926 subject to audit by the division.

2927 (4) The director shall formulate an annual budget,
2928 programs, and activities to accomplish the purposes of this
2929 section, in accordance with and subject to the advice and

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2930 recommendations of the advisory council.

2931 (a) The annual budget of the Hospitality Education Program
2932 must show that the total fees estimated to be collected during
2933 the next fiscal year under this section will be dedicated solely
2934 to the estimated cost of funding the Hospitality Education
2935 Program, less any trust fund service charge imposed by s.
2936 215.20. If the estimated cost of funding the Hospitality
2937 Education Program in any fiscal year is less than the total fees
2938 estimated to be collected during that year, the director shall
2939 submit a report to the advisory council demonstrating why the
2940 amount of such fee should not be immediately reduced to
2941 eliminate the projected surplus. The director shall also submit
2942 this report to the Secretary of Business and Professional
2943 Regulation as part of the division's annual budget request.

2944 (b) Both the secretary's legislative budget requests
2945 submitted pursuant to ss. 216.023 and 216.031 and the Governor's
2946 recommended budget submitted pursuant to s. 216.163 must also
2947 show that the total fees estimated to be collected during the
2948 next fiscal year under this section will be dedicated solely to
2949 funding the Hospitality Education Program, less any trust fund
2950 service charge imposed by s. 215.20. If the estimated cost of
2951 funding the Hospitality Education Program in any fiscal year is
2952 less than the total fees estimated to be collected during that
2953 year, the secretary shall submit a report demonstrating why the
2954 amount of such fee should not be immediately reduced to
2955 eliminate the projected surplus.

2956 (5) The director, with the consent of the advisory council,
2957 may designate funds, not to exceed \$250,000 annually, to support
2958 school-to-career transition programs available through statewide

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2959 organizations in the hospitality services field. Such programs
2960 shall be designed to prepare students for progressive careers in
2961 the hospitality industry. The director, with the consent of the
2962 advisory council, may also designate funds, not to exceed
2963 \$50,000 annually, to support food safety training programs
2964 available through statewide organizations in the hospitality
2965 services field, and not to exceed \$50,000 annually, to support
2966 nontransient public lodging training programs available through
2967 statewide organizations in the public lodging services field.

2968 (6) The director shall have supervision over the
2969 administration of the programs set forth in this subsection and
2970 shall report the status of the programs at all meetings of the
2971 advisory council and at such other times as are prescribed by
2972 the advisory council.

2973 (7) The division shall adopt rules providing the criteria
2974 for grant approval and the procedures for processing grant
2975 applications. The criteria and procedures shall be approved by
2976 the advisory council. The criteria shall give primary
2977 consideration to the experience and history of the applicant in
2978 representing the food service or lodging industry, the
2979 applicant's prior commitment to school-to-career transition
2980 programs in the food service or lodging industry, and the
2981 applicant's demonstrated ability to provide services statewide
2982 with industry support and participation. Grants awarded under
2983 this section shall be for a term of 4 years, with funding
2984 provided on an annual basis.

2985 (8) Revenue from administrative fines may be used to
2986 support this section. This subsection expires July 1, 2008.

2987 Section 57. Part IV of chapter 500, Florida Statutes,

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2988 entitled "FOOD SAFETY" and consisting of sections 500.90,
2989 500.901, 500.902, and 500.903 is created.

2990 Section 58. Section 500.90, Florida Statutes, is created to
2991 read:

2992 500.90 Food safety information.-

2993 (1) The Department of Agriculture shall serve as the
2994 official point of contact with federal agencies for information
2995 relating to outbreaks caused by food-borne illnesses.

2996 (2) The department shall, in consultation with the
2997 Department of Health, county health departments, and the
2998 Division of Emergency Management, develop a plan to respond to
2999 outbreaks caused by food-borne illnesses. The plan must include
3000 components to prevent food-borne illnesses, contain the spread
3001 of food-borne illnesses, and distribute timely and accurate
3002 information to the public, farmers, the food services industry,
3003 the media, and state and federal agencies relating to an
3004 outbreak caused by a food-borne illness.

3005 (3) During an outbreak caused by a food-borne illness, the
3006 Department of Health, and county health departments shall
3007 provide all information relevant to the outbreak to the
3008 Department of Agriculture and Consumer Services. This
3009 information shall include the substance of any information
3010 related to the outbreak provided to federal agencies.

3011 Section 59. Section 500.901, Florida Statutes, is created
3012 to read:

3013 500.901 Web-based inspection records.-The Department of
3014 Agriculture and Consumer Services shall place the records of its
3015 most recent inspections of each licensee conducted under this
3016 chapter on the Internet.

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3017 Section 60. Section 500.902, Florida Statutes, is created
3018 to read:

3019 500.902 Food safety standards; shipment of food products.-

3020 (1) The Department of Agriculture and Consumer Services
3021 shall adopt by rule uniform, science-based regulations to
3022 minimize the spread of food-borne illnesses.

3023 (2) The Department of Agriculture and Consumer services
3024 shall adopt rules to create a system to track the shipment of
3025 food products from farms and other points of origin to the
3026 ultimate consumer. The purpose of the rules shall be to create a
3027 system to timely and accurately pinpoint the source of a food-
3028 borne illness during an outbreak of illness. In preparing the
3029 rules, the department shall consider:

3030 (a) Whether the tracking requirements should be limited to
3031 the food products most likely to contribute to the spread of a
3032 food-borne illness;

3033 (b) The potential options available to track the shipment
3034 of food products;

3035 (c) The cost of the options to track the shipment of food
3036 products relative to the public health benefits of tracking the
3037 shipment of a particular food product;

3038 (d) The ability of a system to track the shipment of food
3039 products to provide timely and accurate information of the
3040 origin of a food product contributing to the spread of a food-
3041 borne illness;

3042 (e) The ability to verify the safety of food products
3043 originating in Florida during outbreaks caused by food products
3044 that originate elsewhere; and

3045 (f) Other information deemed relevant by the department.

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3046 Section 61. Section 500.903, Florida Statutes, is created
3047 to read:

3048 500.903 Recordkeeping by food distribution establishments.-
3049 The Department of Agriculture and Consumer Services shall adopt
3050 recordkeeping requirements for food distribution establishments
3051 that distribute fresh produce or other unprocessed food
3052 products.

3053 Section 62. Section 570.48, Florida Statutes, is amended to
3054 read:

3055 570.48 Division of Fruit and Vegetables; powers and duties;
3056 records.-The duties of the Division of Fruit and Vegetables
3057 include, but are not limited to:

3058 (1) Performing the duties relating to the inspection and
3059 certification of fresh citrus fruit shipments for maturity and
3060 grade required by rules promulgated under the Florida Citrus
3061 Code; performing the inspection and certification duties
3062 assigned in connection with regulations issued under federal or
3063 state marketing agreements or orders; and performing the other
3064 inspection and certification assignments requested by and agreed
3065 upon with the applicant.

3066 (2) (a) Performing the duties relating to inspection and
3067 certification of the maturity and condition of fresh citrus
3068 fruits to be processed required by the rules promulgated under
3069 the Florida Citrus Code.

3070 (b) Inspecting and certifying the grade, quality, or
3071 condition of the finished processed pack, as required by rules
3072 promulgated under the Florida Citrus Code.

3073 (c) Performing the inspection and certification duties as
3074 are assigned in connection with regulations issued under federal

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3075 or state marketing agreements or orders for other fruit and
3076 vegetables.

3077 (d) Conducting inspections of internal quality for any
3078 fruit or vegetable.

3079 (e) Performing ~~tomato~~ food safety inspections on ~~tomato~~
3080 farms, in ~~tomato~~ greenhouses, and in ~~tomato~~ packinghouses and
3081 repackers.

3082 (f) Performing other inspection and certification
3083 assignments as requested by and agreed upon with the applicant.

3084 (3) Maintaining the records of the division. The records of
3085 the division are public records; however, trade secrets as
3086 defined in s. 812.081 are confidential and exempt from the
3087 provisions of s. 119.07(1). This section shall not be construed
3088 to prohibit:

3089 (a) A disclosure necessary to enforcement procedures.

3090 (b) The department from releasing information to other
3091 governmental agencies. Other governmental agencies that receive
3092 confidential information from the department under this
3093 subsection shall maintain the confidentiality of that
3094 information.

3095 (c) The department or other agencies from compiling and
3096 publishing appropriate data regarding procedures, yield,
3097 recovery, quality, and related matters, provided such released
3098 data do not reveal by whom the activity to which the data relate
3099 was conducted.

3100 (4) Performing such duties relating to inspection and
3101 certification of vegetables, other fruits, melons, and nuts as
3102 are requested by and agreed upon with the applicant and
3103 performing such inspection and certification duties as are

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3104 assigned in connection with regulations issued under federal or
3105 state marketing agreements or orders.

3106 (5) Performing such duties relating to enforcement of the
3107 citrus bond and license law as are required by chapter 601.

3108 (6) Performing analyses on waxes, dyes, and other
3109 substances used on citrus fruit and issuing authorization for
3110 the use of such waxes, dyes, and other substances; issuing
3111 equipment to inspectors and maintaining the equipment;
3112 conducting necessary technical investigations relative to
3113 inspectional procedures; and carrying out the technical duties
3114 prescribed under the arsenical spray provisions of chapter 601
3115 and other technical duties prescribed by the department.

3116 (7) Notwithstanding any other provision of law, appointing,
3117 certifying, licensing, and supervising inspectors whose duties
3118 are to inspect fruit and vegetables that are regulated by state
3119 law, if federal law does not require such inspectors to be
3120 licensed or certified by the federal government.

3121 Section 63. Paragraph (e) of subsection (2) of section
3122 20.165, Florida Statutes, is amended to read:

3123 20.165 Department of Business and Professional Regulation.—
3124 There is created a Department of Business and Professional
3125 Regulation.

3126 (2) The following divisions of the Department of Business
3127 and Professional Regulation are established:

3128 (e) Division of Hotels ~~and Restaurants~~.

3129 Section 64. Subsection (8) of section 83.49, Florida
3130 Statutes, is amended to read:

3131 83.49 Deposit money or advance rent; duty of landlord and
3132 tenant.—

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3133 (8) Any person licensed under the provisions of s. 509.241,
3134 unless excluded by the provisions of this part, who fails to
3135 comply with the provisions of this part shall be subject to a
3136 fine or to the suspension or revocation of his or her license by
3137 the Division of Hotels ~~and Restaurants~~ of the Department of
3138 Business and Professional Regulation in the manner provided in
3139 s. 509.261.

3140 Section 65. Subsection (12) of section 159.27, Florida
3141 Statutes, is amended to read:

3142 159.27 Definitions.—The following words and terms, unless
3143 the context clearly indicates a different meaning, shall have
3144 the following meanings:

3145 (12) "Public lodging or restaurant facility" means property
3146 used for any public lodging establishment as defined in s.
3147 509.242 or public food service establishment as defined in s.
3148 500.80 ~~s. 509.013(5)~~ if it is part of the complex of, or
3149 necessary to, another facility qualifying under this part.

3150 Section 66. Paragraph (b) of subsection (5) and paragraph
3151 (b) of subsection (7) of section 212.08, Florida Statutes, is
3152 amended to read:

3153 212.08 Sales, rental, use, consumption, distribution, and
3154 storage tax; specified exemptions.—The sale at retail, the
3155 rental, the use, the consumption, the distribution, and the
3156 storage to be used or consumed in this state of the following
3157 are hereby specifically exempt from the tax imposed by this
3158 chapter.

3159 (5) EXEMPTIONS; ACCOUNT OF USE.—

3160 (b) *Machinery and equipment used to increase productive*
3161 *output.*—

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3162 1. Industrial machinery and equipment purchased for
3163 exclusive use by a new business in spaceport activities as
3164 defined by s. 212.02 or for use in new businesses which
3165 manufacture, process, compound, or produce for sale items of
3166 tangible personal property at fixed locations are exempt from
3167 the tax imposed by this chapter upon an affirmative showing by
3168 the taxpayer to the satisfaction of the department that such
3169 items are used in a new business in this state. Such purchases
3170 must be made prior to the date the business first begins its
3171 productive operations, and delivery of the purchased item must
3172 be made within 12 months of that date.

3173 2. Industrial machinery and equipment purchased for
3174 exclusive use by an expanding facility which is engaged in
3175 spaceport activities as defined by s. 212.02 or for use in
3176 expanding manufacturing facilities or plant units which
3177 manufacture, process, compound, or produce for sale items of
3178 tangible personal property at fixed locations in this state are
3179 exempt from any amount of tax imposed by this chapter upon an
3180 affirmative showing by the taxpayer to the satisfaction of the
3181 department that such items are used to increase the productive
3182 output of such expanded facility or business by not less than 10
3183 percent.

3184 3.a. To receive an exemption provided by subparagraph 1. or
3185 subparagraph 2., a qualifying business entity shall apply to the
3186 department for a temporary tax exemption permit. The application
3187 shall state that a new business exemption or expanded business
3188 exemption is being sought. Upon a tentative affirmative
3189 determination by the department pursuant to subparagraph 1. or
3190 subparagraph 2., the department shall issue such permit.

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3191 b. The applicant shall be required to maintain all
3192 necessary books and records to support the exemption. Upon
3193 completion of purchases of qualified machinery and equipment
3194 pursuant to subparagraph 1. or subparagraph 2., the temporary
3195 tax permit shall be delivered to the department or returned to
3196 the department by certified or registered mail.

3197 c. If, in a subsequent audit conducted by the department,
3198 it is determined that the machinery and equipment purchased as
3199 exempt under subparagraph 1. or subparagraph 2. did not meet the
3200 criteria mandated by this paragraph or if commencement of
3201 production did not occur, the amount of taxes exempted at the
3202 time of purchase shall immediately be due and payable to the
3203 department by the business entity, together with the appropriate
3204 interest and penalty, computed from the date of purchase, in the
3205 manner prescribed by this chapter.

3206 d. In the event a qualifying business entity fails to apply
3207 for a temporary exemption permit or if the tentative
3208 determination by the department required to obtain a temporary
3209 exemption permit is negative, a qualifying business entity shall
3210 receive the exemption provided in subparagraph 1. or
3211 subparagraph 2. through a refund of previously paid taxes. No
3212 refund may be made for such taxes unless the criteria mandated
3213 by subparagraph 1. or subparagraph 2. have been met and
3214 commencement of production has occurred.

3215 4. The department shall adopt rules governing applications
3216 for, issuance of, and the form of temporary tax exemption
3217 permits; provisions for recapture of taxes; and the manner and
3218 form of refund applications and may establish guidelines as to
3219 the requisites for an affirmative showing of increased

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3220 productive output, commencement of production, and qualification
3221 for exemption.

3222 5. The exemptions provided in subparagraphs 1. and 2. do
3223 not apply to machinery or equipment purchased or used by
3224 electric utility companies, communications companies, oil or gas
3225 exploration or production operations, publishing firms that do
3226 not export at least 50 percent of their finished product out of
3227 the state, any firm subject to regulation by the Division of
3228 Hotels ~~and Restaurants~~ of the Department of Business and
3229 Professional Regulation, any firm subject to regulation by the
3230 Department of Agriculture and Consumer services under part III
3231 of chapter 500, or any firm which does not manufacture, process,
3232 compound, or produce for sale items of tangible personal
3233 property or which does not use such machinery and equipment in
3234 spaceport activities as required by this paragraph. The
3235 exemptions provided in subparagraphs 1. and 2. shall apply to
3236 machinery and equipment purchased for use in phosphate or other
3237 solid minerals severance, mining, or processing operations.

3238 6. For the purposes of the exemptions provided in
3239 subparagraphs 1. and 2., these terms have the following
3240 meanings:

3241 a. "Industrial machinery and equipment" means tangible
3242 personal property or other property that has a depreciable life
3243 of 3 years or more and that is used as an integral part in the
3244 manufacturing, processing, compounding, or production of
3245 tangible personal property for sale or is exclusively used in
3246 spaceport activities. A building and its structural components
3247 are not industrial machinery and equipment unless the building
3248 or structural component is so closely related to the industrial

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3249 machinery and equipment that it houses or supports that the
3250 building or structural component can be expected to be replaced
3251 when the machinery and equipment are replaced. Heating and air-
3252 conditioning systems are not industrial machinery and equipment
3253 unless the sole justification for their installation is to meet
3254 the requirements of the production process, even though the
3255 system may provide incidental comfort to employees or serve, to
3256 an insubstantial degree, nonproduction activities. The term
3257 includes parts and accessories only to the extent that the
3258 exemption thereof is consistent with the provisions of this
3259 paragraph.

3260 b. "Productive output" means the number of units actually
3261 produced by a single plant or operation in a single continuous
3262 12-month period, irrespective of sales. Increases in productive
3263 output shall be measured by the output for 12 continuous months
3264 immediately following the completion of installation of such
3265 machinery or equipment over the output for the 12 continuous
3266 months immediately preceding such installation. However, if a
3267 different 12-month continuous period of time would more
3268 accurately reflect the increase in productive output of
3269 machinery and equipment purchased to facilitate an expansion,
3270 the increase in productive output may be measured during that
3271 12-month continuous period of time if such time period is
3272 mutually agreed upon by the Department of Revenue and the
3273 expanding business prior to the commencement of production;
3274 provided, however, in no case may such time period begin later
3275 than 2 years following the completion of installation of the new
3276 machinery and equipment. The units used to measure productive
3277 output shall be physically comparable between the two periods,

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3278 irrespective of sales.

3279 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
3280 entity by this chapter do not inure to any transaction that is
3281 otherwise taxable under this chapter when payment is made by a
3282 representative or employee of the entity by any means,
3283 including, but not limited to, cash, check, or credit card, even
3284 when that representative or employee is subsequently reimbursed
3285 by the entity. In addition, exemptions provided to any entity by
3286 this subsection do not inure to any transaction that is
3287 otherwise taxable under this chapter unless the entity has
3288 obtained a sales tax exemption certificate from the department
3289 or the entity obtains or provides other documentation as
3290 required by the department. Eligible purchases or leases made
3291 with such a certificate must be in strict compliance with this
3292 subsection and departmental rules, and any person who makes an
3293 exempt purchase with a certificate that is not in strict
3294 compliance with this subsection and the rules is liable for and
3295 shall pay the tax. The department may adopt rules to administer
3296 this subsection.

3297 (b) *Boiler fuels*.—When purchased for use as a combustible
3298 fuel, purchases of natural gas, residual oil, recycled oil,
3299 waste oil, solid waste material, coal, sulfur, wood, wood
3300 residues or wood bark used in an industrial manufacturing,
3301 processing, compounding, or production process at a fixed
3302 location in this state are exempt from the taxes imposed by this
3303 chapter; however, such exemption shall not be allowed unless the
3304 purchaser signs a certificate stating that the fuel to be
3305 exempted is for the exclusive use designated herein. This
3306 exemption does not apply to the use of boiler fuels that are not

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3307 used in manufacturing, processing, compounding, or producing
3308 items of tangible personal property for sale, to the use of
3309 boiler fuels used by any firm subject to regulation by the
3310 Department of Agriculture and Consumer services under part III
3311 of chapter 500, or to the use of boiler fuels used by any firm
3312 subject to regulation by the Division of Hotels ~~and Restaurants~~
3313 of the Department of Business and Professional Regulation.

3314 Section 67. Paragraph (d) of subsection (8) of section
3315 213.053, Florida Statutes, is amended, and paragraph (z) is
3316 added to that subsection, to read:

3317 213.053 Confidentiality and information sharing.—

3318 (8) Notwithstanding any other provision of this section,
3319 the department may provide:

3320 (d) Names, addresses, and sales tax registration
3321 information to the Division of Hotels ~~and Restaurants~~ of the
3322 Department of Business and Professional Regulation in the
3323 conduct of its official duties.

3324 (z) Names, addresses, and sales tax registration
3325 information to the Department of Agriculture and Consumer
3326 Services in the conduct of its official duties.

3327
3328 Disclosure of information under this subsection shall be
3329 pursuant to a written agreement between the executive director
3330 and the agency. Such agencies, governmental or nongovernmental,
3331 shall be bound by the same requirements of confidentiality as
3332 the Department of Revenue. Breach of confidentiality is a
3333 misdemeanor of the first degree, punishable as provided by s.
3334 775.082 or s. 775.083.

3335 Section 68. Paragraph (d) of subsection (4) of section

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3336 215.20, Florida Statutes, is amended to read:

3337 215.20 Certain income and certain trust funds to contribute
3338 to the General Revenue Fund.—

3339 (4) The income of a revenue nature deposited in the
3340 following described trust funds, by whatever name designated, is
3341 that from which the appropriations authorized by subsection (3)
3342 shall be made:

3343 (d) Within the Department of Business and Professional
3344 Regulation:

3345 1. The Administrative Trust Fund.

3346 2. The Alcoholic Beverage and Tobacco Trust Fund.

3347 3. The Cigarette Tax Collection Trust Fund.

3348 4. The Division of Florida Condominiums, Timeshares, and
3349 Mobile Homes Trust Fund.

3350 5. The Hotel Regulation and Restaurant Trust Fund, with the
3351 exception of those fees collected for the purpose of funding of
3352 the hospitality education program as stated in s. 509.302.

3353 6. The Professional Regulation Trust Fund.

3354 7. The trust funds administered by the Division of Pari-
3355 mutuel Wagering.

3356
3357 The enumeration of the foregoing moneys or trust funds shall not
3358 prohibit the applicability of s. 215.24 should the Governor
3359 determine that for the reasons mentioned in s. 215.24 the money
3360 or trust funds should be exempt herefrom, as it is the purpose
3361 of this law to exempt income from its force and effect when, by
3362 the operation of this law, federal matching funds or
3363 contributions or private grants to any trust fund would be lost
3364 to the state.

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3365 Section 69. Paragraph (o) of subsection (1) of section
3366 288.106, Florida Statutes, is amended to read:

3367 288.106 Tax refund program for qualified target industry
3368 businesses.—

3369 (1) DEFINITIONS.—As used in this section:

3370 (o) "Target industry business" means a corporate
3371 headquarters business or any business that is engaged in one of
3372 the target industries identified pursuant to the following
3373 criteria developed by the office in consultation with Enterprise
3374 Florida, Inc.:

3375 1. Future growth.—Industry forecasts should indicate strong
3376 expectation for future growth in both employment and output,
3377 according to the most recent available data. Special
3378 consideration should be given to Florida's growing access to
3379 international markets or to replacing imports.

3380 2. Stability.—The industry should not be subject to
3381 periodic layoffs, whether due to seasonality or sensitivity to
3382 volatile economic variables such as weather. The industry should
3383 also be relatively resistant to recession, so that the demand
3384 for products of this industry is not necessarily subject to
3385 decline during an economic downturn.

3386 3. High wage.—The industry should pay relatively high wages
3387 compared to statewide or area averages.

3388 4. Market and resource independent.—The location of
3389 industry businesses should not be dependent on Florida markets
3390 or resources as indicated by industry analysis. Special
3391 consideration should be given to the development of strong
3392 industrial clusters which include defense and homeland security
3393 businesses.

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3394 5. Industrial base diversification and strengthening.—The
3395 industry should contribute toward expanding or diversifying the
3396 state's or area's economic base, as indicated by analysis of
3397 employment and output shares compared to national and regional
3398 trends. Special consideration should be given to industries that
3399 strengthen regional economies by adding value to basic products
3400 or building regional industrial clusters as indicated by
3401 industry analysis.

3402 6. Economic benefits.—The industry should have strong
3403 positive impacts on or benefits to the state and regional
3404 economies.

3405
3406 The office, in consultation with Enterprise Florida, Inc., shall
3407 develop a list of such target industries annually and submit
3408 such list as part of the final agency legislative budget request
3409 submitted pursuant to s. 216.023(1). A target industry business
3410 may not include any industry engaged in retail activities; any
3411 electrical utility company; any phosphate or other solid
3412 minerals severance, mining, or processing operation; any oil or
3413 gas exploration or production operation; any firm subject to
3414 regulation by the Department of Agriculture and Consumer
3415 Services under part III of chapter 500; or any firm subject to
3416 regulation by the Division of Hotels ~~and Restaurants~~ of the
3417 Department of Business and Professional Regulation.

3418 Section 70. Paragraph (b) of subsection (4) of section
3419 316.1955, Florida Statutes, is amended to read:

3420 316.1955 Enforcement of parking requirements for persons
3421 who have disabilities.—

3422 (4)

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3423 (b) Notwithstanding paragraph (a), a theme park or an
3424 entertainment complex as defined in s. 500.80 ~~s. 509.013(9)~~
3425 which provides parking in designated areas for persons who have
3426 disabilities may allow any vehicle that is transporting a person
3427 who has a disability to remain parked in a space reserved for
3428 persons who have disabilities throughout the period the theme
3429 park is open to the public for that day.

3430 Section 71. Paragraph (b) of subsection (1) and subsection
3431 (8) of section 379.362, Florida Statutes, is amended to read:

3432 379.362 Wholesale and retail saltwater products dealers;
3433 regulation.—

3434 (1) DEFINITIONS; LICENSES AUTHORIZED.—Annual license or
3435 privilege taxes are hereby levied and imposed upon dealers in
3436 the state in saltwater products. It is unlawful for any person,
3437 firm, or corporation to deal in any such products without first
3438 paying for and procuring the license required by this section.
3439 Application for all licenses shall be made to the Fish and
3440 Wildlife Conservation Commission on blanks to be furnished by
3441 it. All licenses shall be issued by the commission upon payment
3442 to it of the license tax. The licenses are defined as:

3443 (b) A "retail dealer" is any person, firm, or corporation
3444 which sells saltwater products directly to the consumer, but no
3445 license is required of a dealer in merchandise who deals in or
3446 sells saltwater products consumed on the premises or prepared
3447 for immediate consumption and sold to be taken out of any
3448 restaurant licensed by the Department of Agriculture and
3449 Consumer Services ~~Division of Hotels and Restaurants of the~~
3450 ~~Department of Business and Professional Regulation.~~
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3452 Any person, firm, or corporation which is both a wholesale
3453 dealer and a retail dealer shall obtain both a wholesale
3454 dealer's license and a retail dealer's license. If a wholesale
3455 dealer has more than one place of business, the annual license
3456 tax shall be effective for all places of business, provided that
3457 the wholesale dealer supplies to the commission a complete list
3458 of additional places of business upon application for the annual
3459 license tax.

3460 (8) UNLAWFUL PURCHASE OF SALTWATER PRODUCTS.—It is unlawful
3461 for any licensed retail dealer or any restaurant licensed by the
3462 Department of Agriculture and Consumer Services ~~Division of~~
3463 ~~Hotels and Restaurants of the Department of Business and~~
3464 ~~Professional Regulation~~ to buy saltwater products from any
3465 person other than a licensed wholesale or retail dealer. For
3466 purposes of this subsection, any saltwater products received by
3467 a retail dealer or a restaurant are presumed to have been
3468 purchased.

3469 Section 72. Subsection (1) of section 381.0061, Florida
3470 Statutes, is amended to read:

3471 381.0061 Administrative fines.—

3472 (1) In addition to any administrative action authorized by
3473 chapter 120 or by other law, the department may impose a fine,
3474 which shall not exceed \$500 for each violation, for a violation
3475 of s. 381.006(16), s. 381.0065, s. 381.0066, ~~s. 381.0072~~, or
3476 part III of chapter 489, for a violation of any rule adopted
3477 under this chapter, or for a violation of any of the provisions
3478 of chapter 386. Notice of intent to impose such fine shall be
3479 given by the department to the alleged violator. Each day that a
3480 violation continues may constitute a separate violation.

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3481 Section 73. Subsections (1) and (3) of section 386.207,
3482 Florida Statutes, are amended to read:

3483 386.207 Administration; enforcement; civil penalties.—

3484 (1) The department, the Department of Agriculture and
3485 Consumer Services, or the Division of Hotels ~~and Restaurants~~ or
3486 the Division of Alcoholic Beverages and Tobacco of the
3487 Department of Business and Professional Regulation shall enforce
3488 this part based upon each department's specific areas of
3489 regulatory authority and to implement such enforcement shall
3490 adopt, in consultation with the State Fire Marshal, rules
3491 specifying procedures to be followed by enforcement personnel in
3492 investigating complaints and notifying alleged violators and
3493 rules specifying procedures by which appeals may be taken by
3494 aggrieved parties.

3495 (3) The department, the Department of Agriculture and
3496 Consumer Services, or the Division of Hotels ~~and Restaurants~~ or
3497 the Division of Alcoholic Beverages and Tobacco of the
3498 Department of Business and Professional Regulation, upon
3499 notification of observed violations of this part, shall issue to
3500 the proprietor or other person in charge of such enclosed indoor
3501 workplace a notice to comply with this part. If the person fails
3502 to comply within 30 days after receipt of the notice, the
3503 department, the Department of Agriculture and Consumer Services,
3504 or the Division of Hotels ~~and Restaurants~~ or the Division of
3505 Alcoholic Beverages and Tobacco of the Department of Business
3506 and Professional Regulation shall assess a civil penalty against
3507 the person of not less than \$250 and not to exceed \$750 for the
3508 first violation and not less than \$500 and not to exceed \$2,000
3509 for each subsequent violation. The imposition of the fine must

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3510 be in accordance with chapter 120. If a person refuses to comply
3511 with this part, after having been assessed such penalty, the
3512 department, the Department of Agriculture and Consumer Services,
3513 or the Division of Hotels ~~and Restaurants~~ or the Division of
3514 Alcoholic Beverages and Tobacco of the Department of Business
3515 and Professional Regulation may file a complaint in the circuit
3516 court of the county in which the enclosed indoor workplace is
3517 located to require compliance.

3518 Section 74. Subsection (5) of section 399.01, Florida
3519 Statutes, is amended to read:

3520 399.01 Definitions.—As used in this chapter, the term:

3521 (5) "Division" means the Division of Hotels ~~and Restaurants~~
3522 of the Department of Business and Professional Regulation.

3523
3524 All other building transportation terms are defined in the
3525 current Florida Building Code.

3526 Section 75. Subsection (1) of section 399.07, Florida
3527 Statutes, is amended to read:

3528 399.07 Certificates of operation; fees.—

3529 (1) The certificate of operation is valid for a period not
3530 to exceed 2 years and shall expire at the end of the period
3531 unless revoked. The department may adopt rules establishing a
3532 procedure for certificate renewal. Certificates of operation may
3533 be renewed only for vertical conveyances having a current
3534 satisfactory inspection. The owner of an elevator operating with
3535 an expired certificate of operation is in violation of this
3536 chapter. Certificate of operation renewal applications received
3537 by the department after the date of expiration of the last
3538 current certificate must be accompanied by a late fee of \$50 in

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3539 addition to the renewal fee and any other fees required by law.
3540 The department shall adopt by rule a fee schedule for the
3541 renewal of certificates of operation. The fees must be deposited
3542 into the Hotel Regulation ~~and Restaurant~~ Trust Fund.

3543 Section 76. Subsection (5) of section 399.105, Florida
3544 Statutes, is amended to read:

3545 399.105 Administrative fines.—

3546 (5) All administrative fines collected shall be deposited
3547 into the Hotel Regulation ~~and Restaurant~~ Trust Fund.

3548 Section 77. Subsection (5) of section 404.056, Florida
3549 Statutes, is amended to read:

3550 404.056 Environmental radiation standards and projects;
3551 certification of persons performing measurement or mitigation
3552 services; mandatory testing; notification on real estate
3553 documents; rules.—

3554 (5) NOTIFICATION ON REAL ESTATE DOCUMENTS.—Notification
3555 shall be provided on at least one document, form, or application
3556 executed at the time of, or prior to, contract for sale and
3557 purchase of any building or execution of a rental agreement for
3558 any building. Such notification shall contain the following
3559 language:

3560

3561 "RADON GAS: Radon is a naturally occurring radioactive gas
3562 that, when it has accumulated in a building in sufficient
3563 quantities, may present health risks to persons who are exposed
3564 to it over time. Levels of radon that exceed federal and state
3565 guidelines have been found in buildings in Florida. Additional
3566 information regarding radon and radon testing may be obtained
3567 from your county health department."

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3568
3569 The requirements of this subsection do not apply to any
3570 residential transient occupancy, as described in s. 509.13 ~~s.~~
3571 ~~509.013(12)~~, if provided that such occupancy is 45 days or less
3572 in duration.

3573 Section 78. Subsection (6) of section 429.14, Florida
3574 Statutes, is amended to read:

3575 429.14 Administrative penalties.—

3576 (6) The agency shall provide monthly to the Department of
3577 Agriculture and Consumer Services and to the Division of Hotels
3578 ~~and Restaurants~~ of the Department of Business and Professional
3579 Regulation, ~~on a monthly basis~~, a list of those assisted living
3580 facilities that have had their licenses denied, suspended, or
3581 revoked or that are involved in an appellate proceeding pursuant
3582 to s. 120.60 related to the denial, suspension, or revocation of
3583 a license.

3584 Section 79. Subsection (4) of section 455.116, Florida
3585 Statutes, is amended to read:

3586 455.116 Regulation trust funds.—The following trust funds
3587 shall be placed in the department:

3588 (4) Hotel Regulation and Restaurant Trust Fund.

3589 Section 80. Subsection (6) of section 477.0135, Florida
3590 Statutes, is amended to read:

3591 477.0135 Exemptions.—

3592 (6) A license is not required of any individual providing
3593 makeup or special effects services in a theme park or
3594 entertainment complex to an actor, stunt person, musician,
3595 extra, or other talent, or providing makeup or special effects
3596 services to the general public. The term "theme park or

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3597 entertainment complex" has the same meaning as in s. 500.80 ~~s.~~
3598 ~~509.013(9)~~.

3599 Section 81. Paragraph (b) of subsection (4) of section
3600 509.215, Florida Statutes, is amended to read:

3601 509.215 Firesafety.—

3602 (4)

3603 (b) For such structures, provisions shall be made for a
3604 system of fire protection and lifesafety support that would meet
3605 the intent of the NFPA standards and be acceptable to, and
3606 approved by, a task force composed of the director of the
3607 Division of Hotels ~~and Restaurants~~, the director of the Division
3608 of State Fire Marshal, and the State Historic Preservation
3609 Officer. When recommending alternative systems, the task force
3610 shall consider systems which would not disturb, destroy, or
3611 alter the integrity of such historic structures. The director of
3612 the Division of State Fire Marshal shall be designated
3613 chairperson of the task force and shall record the minutes of
3614 each task force meeting, which shall be called in a timely
3615 manner to review requests for special provision considerations
3616 under this subsection.

3617 Section 82. Section 509.2112, Florida Statutes, is amended
3618 to read:

3619 509.2112 Public lodging establishments three stories or
3620 more in height; inspection rules.—The Division of Hotels ~~and~~
3621 ~~Restaurants~~ of the Department of Business and Professional
3622 Regulation is directed to provide rules to require that:

3623 (1) Every public lodging establishment that is three
3624 stories or more in height in the state file a certificate
3625 stating that any and all balconies, platforms, stairways, and

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3626 railways have been inspected by a person competent to conduct
3627 such inspections and are safe, secure, and free of defects.

3628 (2) The information required under subsection (1) be filed
3629 commencing January 1, 1991, and every 3 years thereafter, with
3630 the Division of Hotels ~~and Restaurants~~ and the applicable county
3631 or municipal authority responsible for building and zoning
3632 permits.

3633 (3) If a public lodging establishment that is three or more
3634 stories in height fails to file the information required in
3635 subsection (1), the Division of Hotels ~~and Restaurants~~ shall
3636 impose administrative sanctions pursuant to s. 509.261.

3637 Section 83. Paragraph (b) of subsection (5) and subsection
3638 (6) of section 553.5041, Florida Statutes, is amended to read:

3639 553.5041 Parking spaces for persons who have disabilities.-

3640 (5) Accessible perpendicular and diagonal accessible
3641 parking spaces and loading zones must be designed and located in
3642 conformance with the guidelines set forth in ADAAG ss. 4.1.2 and
3643 4.6 and Appendix s. A4.6.3 "Universal Parking Design."

3644 (b) Each space must be located on the shortest safely
3645 accessible route from the parking space to an accessible
3646 entrance. If there are multiple entrances or multiple retail
3647 stores, the parking spaces must be dispersed to provide parking
3648 at the nearest accessible entrance. If a theme park or an
3649 entertainment complex as defined in s. 500.80 ~~s. 509.013(9)~~
3650 provides parking in several lots or areas from which access to
3651 the theme park or entertainment complex is provided, a single
3652 lot or area may be designated for parking by persons who have
3653 disabilities, if the lot or area is located on the shortest
3654 safely accessible route to an accessible entrance to the theme

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3655 park or entertainment complex or to transportation to such an
3656 accessible entrance.

3657 (c)1. Each parking space must be no less than 12 feet wide.
3658 Parking access aisles must be no less than 5 feet wide and must
3659 be part of an accessible route to the building or facility
3660 entrance. In accordance with ADAAG s. 4.6.3, access aisles must
3661 be placed adjacent to accessible parking spaces; however, two
3662 accessible parking spaces may share a common access aisle. The
3663 access aisle must be striped diagonally to designate it as a no-
3664 parking zone.

3665 2. The parking access aisles are reserved for the temporary
3666 exclusive use of persons who have disabled parking permits and
3667 who require extra space to deploy a mobility device, lift, or
3668 ramp in order to exit from or enter a vehicle. Parking is not
3669 allowed in an access aisle. Violators are subject to the same
3670 penalties that are imposed for illegally parking in parking
3671 spaces that are designated for persons who have disabilities. A
3672 vehicle may not be parked in an access aisle, even if the
3673 vehicle owner or passenger is disabled or owns a disabled
3674 parking permit.

3675 3. Any provision of this subsection to the contrary
3676 notwithstanding, a theme park or an entertainment complex as
3677 defined in s. 500.80 ~~s. 509.013(9)~~ in which are provided
3678 continuous attendant services for directing individuals to
3679 marked accessible parking spaces or designated lots for parking
3680 by persons who have disabilities, may, in lieu of the required
3681 parking space design, provide parking spaces that comply with
3682 ADAAG ss. 4.1 and 4.6.

3683 (6) Each such parking space must be prominently outlined

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3684 with blue paint, and must be repainted when necessary, to be
3685 clearly distinguishable as a parking space designated for
3686 persons who have disabilities and must be posted with a
3687 permanent above-grade sign of a color and design approved by the
3688 Department of Transportation, which is placed on or at a
3689 distance of 84 inches above the ground to the bottom of the sign
3690 and which bears the international symbol of accessibility
3691 meeting the requirements of ADAAG s. 4.30.7 and the caption
3692 "PARKING BY DISABLED PERMIT ONLY." Such a sign erected after
3693 October 1, 1996, must indicate the penalty for illegal use of
3694 the space. Any provision of this section to the contrary
3695 notwithstanding, in a theme park or an entertainment complex as
3696 defined in s. 500.80 ~~s. 509.013(9)~~ in which accessible parking
3697 is located in designated lots or areas, the signage indicating
3698 the lot as reserved for accessible parking may be located at the
3699 entrances to the lot in lieu of a sign at each parking place.
3700 This subsection does not relieve the owner of the responsibility
3701 of complying with the signage requirements of ADAAG s. 4.30.

3702 Section 84. Subsection (15) of section 561.01, Florida
3703 Statutes, is amended to read:

3704 561.01 Definitions.—As used in the Beverage Law:

3705 (15) "Bottle club" means a commercial establishment,
3706 operated for a profit, whether or not a profit is actually made,
3707 wherein patrons consume alcoholic beverages which are brought
3708 onto the premises and not sold or supplied to the patrons by the
3709 establishment, whether the patrons bring in and maintain custody
3710 of their own alcoholic beverages or surrender custody to the
3711 establishment for dispensing on the premises, and which is
3712 located in a building or other enclosed permanent structure.

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3713 This definition does not apply to sporting facilities where
3714 events sanctioned by nationally recognized regulatory athletic
3715 or sports associations are held, bona fide restaurants licensed
3716 by the Department of Agriculture and Consumer Services ~~Division~~
3717 ~~of Hotels and Restaurants of the Department of Business and~~
3718 ~~Professional Regulation~~ whose primary business is the service of
3719 full course meals, or hotels and motels licensed by the Division
3720 of Hotels ~~and Restaurants~~ of the Department of Business and
3721 Professional Regulation.

3722 Section 85. Subsection (2) of section 561.17, Florida
3723 Statutes, is amended to read:

3724 561.17 License and registration applications; approved
3725 person.-

3726 (2) All applications for alcoholic beverage licenses for
3727 consumption on the premises shall be accompanied by a
3728 certificate of the Division of Hotels ~~and Restaurants~~ of the
3729 Department of Business and Professional Regulation or the
3730 Department of Agriculture and Consumer Services or the
3731 Department of Health or the county health department that the
3732 place of business wherein the business is to be conducted meets
3733 all of the sanitary requirements of the state.

3734 Section 86. Paragraph (a) of subsection (2) of section
3735 561.20, Florida Statutes, is amended to read:

3736 561.20 Limitation upon number of licenses issued.-

3737 (2) (a) No such limitation of the number of licenses as
3738 herein provided shall henceforth prohibit the issuance of a
3739 special license to:

3740 1. Any bona fide hotel, motel, or motor court of not fewer
3741 than 80 guest rooms in any county having a population of less

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3742 than 50,000 residents, and of not fewer than 100 guest rooms in
3743 any county having a population of 50,000 residents or greater;
3744 or any bona fide hotel or motel located in a historic structure,
3745 as defined in s. 561.01(21), with fewer than 100 guest rooms
3746 which derives at least 51 percent of its gross revenue from the
3747 rental of hotel or motel rooms, which is licensed as a public
3748 lodging establishment by the Division of Hotels ~~and Restaurants~~;
3749 provided, however, that a bona fide hotel or motel with no fewer
3750 than 10 and no more than 25 guest rooms which is a historic
3751 structure, as defined in s. 561.01(21), in a municipality that
3752 on the effective date of this act has a population, according to
3753 the University of Florida's Bureau of Economic and Business
3754 Research Estimates of Population for 1998, of no fewer than
3755 25,000 and no more than 35,000 residents and that is within a
3756 constitutionally chartered county may be issued a special
3757 license. This special license shall allow the sale and
3758 consumption of alcoholic beverages only on the licensed premises
3759 of the hotel or motel. In addition, the hotel or motel must
3760 derive at least 60 percent of its gross revenue from the rental
3761 of hotel or motel rooms and the sale of food and nonalcoholic
3762 beverages; provided that the provisions of this subparagraph
3763 shall supersede local laws requiring a greater number of hotel
3764 rooms;

3765 2. Any condominium accommodation of which no fewer than 100
3766 condominium units are wholly rentable to transients and which is
3767 licensed under the provisions of chapter 509, except that the
3768 license shall be issued only to the person or corporation which
3769 operates the hotel or motel operation and not to the association
3770 of condominium owners;

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3771 3. Any condominium accommodation of which no fewer than 50
3772 condominium units are wholly rentable to transients, which is
3773 licensed under the provisions of chapter 509, and which is
3774 located in any county having home rule under s. 10 or s. 11,
3775 Art. VIII of the State Constitution of 1885, as amended, and
3776 incorporated by reference in s. 6(e), Art. VIII of the State
3777 Constitution, except that the license shall be issued only to
3778 the person or corporation which operates the hotel or motel
3779 operation and not to the association of condominium owners;

3780 4. Any restaurant having 2,500 square feet of service area
3781 and equipped to serve 150 persons full course meals at tables at
3782 one time, and deriving at least 51 percent of its gross revenue
3783 from the sale of food and nonalcoholic beverages; however, no
3784 restaurant granted a special license on or after January 1,
3785 1958, pursuant to general or special law shall operate as a
3786 package store, nor shall intoxicating beverages be sold under
3787 such license after the hours of serving food have elapsed; or

3788 5. Any caterer, deriving at least 51 percent of its gross
3789 revenue from the sale of food and nonalcoholic beverages,
3790 licensed by the Department of Agriculture and Consumer Services
3791 ~~Division of Hotels and Restaurants~~ under chapter 500 ~~chapter~~
3792 ~~509~~. Notwithstanding any other provision of law to the contrary,
3793 a licensee under this subparagraph shall sell or serve alcoholic
3794 beverages only for consumption on the premises of a catered
3795 event at which the licensee is also providing prepared food, and
3796 shall prominently display its license at any catered event at
3797 which the caterer is selling or serving alcoholic beverages. A
3798 licensee under this subparagraph shall purchase all alcoholic
3799 beverages it sells or serves at a catered event from a vendor

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3800 licensed under s. 563.02(1), s. 564.02(1), or licensed under s.
3801 565.02(1) subject to the limitation imposed in subsection (1),
3802 as appropriate. A licensee under this subparagraph may not store
3803 any alcoholic beverages to be sold or served at a catered event.
3804 Any alcoholic beverages purchased by a licensee under this
3805 subparagraph for a catered event that are not used at that event
3806 must remain with the customer; provided that if the vendor
3807 accepts unopened alcoholic beverages, the licensee may return
3808 such alcoholic beverages to the vendor for a credit or
3809 reimbursement. Regardless of the county or counties in which the
3810 licensee operates, a licensee under this subparagraph shall pay
3811 the annual state license tax set forth in s. 565.02(1)(b). A
3812 licensee under this subparagraph must maintain for a period of 3
3813 years all records required by the department by rule to
3814 demonstrate compliance with the requirements of this
3815 subparagraph, including licensed vendor receipts for the
3816 purchase of alcoholic beverages and records identifying each
3817 customer and the location and date of each catered event.
3818 Notwithstanding any provision of law to the contrary, any vendor
3819 licensed under s. 565.02(1) subject to the limitation imposed in
3820 subsection (1), may, without any additional licensure under this
3821 subparagraph, serve or sell alcoholic beverages for consumption
3822 on the premises of a catered event at which prepared food is
3823 provided by a caterer licensed under chapter 509. If a licensee
3824 under this subparagraph also possesses any other license under
3825 the Beverage Law, the license issued under this subparagraph
3826 shall not authorize the holder to conduct activities on the
3827 premises to which the other license or licenses apply that would
3828 otherwise be prohibited by the terms of that license or the

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3829 Beverage Law. Nothing in this section shall permit the licensee
3830 to conduct activities that are otherwise prohibited by the
3831 Beverage Law or local law. The Division of Alcoholic Beverages
3832 and Tobacco is hereby authorized to adopt rules to administer
3833 the license created in this subparagraph, to include rules
3834 governing licensure, recordkeeping, and enforcement. The first
3835 \$300,000 in fees collected by the division each fiscal year
3836 pursuant to this subparagraph shall be deposited in the
3837 Department of Children and Family Services' Operations and
3838 Maintenance Trust Fund to be used only for alcohol and drug
3839 abuse education, treatment, and prevention programs. The
3840 remainder of the fees collected shall be deposited into the
3841 Hotel Regulation ~~and Restaurant~~ Trust Fund created pursuant to
3842 s. 509.072.

3843
3844 However, any license heretofore issued to any such hotel, motel,
3845 motor court, or restaurant or hereafter issued to any such
3846 hotel, motel, or motor court, including a condominium
3847 accommodation, under the general law shall not be moved to a new
3848 location, such license being valid only on the premises of such
3849 hotel, motel, motor court, or restaurant. Licenses issued to
3850 hotels, motels, motor courts, or restaurants under the general
3851 law and held by such hotels, motels, motor courts, or
3852 restaurants on May 24, 1947, shall be counted in the quota
3853 limitation contained in subsection (1). Any license issued for
3854 any hotel, motel, or motor court under the provisions of this
3855 law shall be issued only to the owner of the hotel, motel, or
3856 motor court or, in the event the hotel, motel, or motor court is
3857 leased, to the lessee of the hotel, motel, or motor court; and

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3858 the license shall remain in the name of the owner or lessee so
3859 long as the license is in existence. Any special license now in
3860 existence heretofore issued under the provisions of this law
3861 cannot be renewed except in the name of the owner of the hotel,
3862 motel, motor court, or restaurant or, in the event the hotel,
3863 motel, motor court, or restaurant is leased, in the name of the
3864 lessee of the hotel, motel, motor court, or restaurant in which
3865 the license is located and must remain in the name of the owner
3866 or lessee so long as the license is in existence. Any license
3867 issued under this section shall be marked "Special," and nothing
3868 herein provided shall limit, restrict, or prevent the issuance
3869 of a special license for any restaurant or motel which shall
3870 hereafter meet the requirements of the law existing immediately
3871 prior to the effective date of this act, if construction of such
3872 restaurant has commenced prior to the effective date of this act
3873 and is completed within 30 days thereafter, or if an application
3874 is on file for such special license at the time this act takes
3875 effect; and any such licenses issued under this proviso may be
3876 annually renewed as now provided by law. Nothing herein prevents
3877 an application for transfer of a license to a bona fide
3878 purchaser of any hotel, motel, motor court, or restaurant by the
3879 purchaser of such facility or the transfer of such license
3880 pursuant to law.

3881 Section 87. Paragraph (d) of subsection (1) of section
3882 561.29, Florida Statutes, is amended to read:

3883 561.29 Revocation and suspension of license; power to
3884 subpoena.—

3885 (1) The division is given full power and authority to
3886 revoke or suspend the license of any person holding a license

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3887 under the Beverage Law, when it is determined or found by the
3888 division upon sufficient cause appearing of:

3889 (d) Maintaining licensed premises that are unsanitary or
3890 are not approved as sanitary by the Division of Hotels ~~and~~
3891 ~~Restaurants~~ of the Department of Business and Professional
3892 Regulation, the Department of Agriculture and Consumer Services,
3893 the county board of health, or the Department of Health,
3894 whichever has jurisdiction thereof.

3895 Section 88. Section 562.111, Florida Statutes, is amended
3896 to read:

3897 562.111 Possession of alcoholic beverages by persons under
3898 age 21 prohibited.-

3899 (1) It is unlawful for any person under the age of 21
3900 years, except a person employed under the provisions of s.
3901 562.13 acting in the scope of her or his employment, to have in
3902 her or his possession alcoholic beverages, except that nothing
3903 contained in this subsection shall preclude the employment of
3904 any person 18 years of age or older in the sale, preparation, or
3905 service of alcoholic beverages in licensed premises in any
3906 establishment licensed by the Department of Agriculture and
3907 Consumer Services, the Division of Alcoholic Beverages and
3908 Tobacco, or the Division of Hotels ~~and Restaurants~~.

3909 Notwithstanding the provisions of s. 562.45, any person under
3910 the age of 21 who is convicted of a violation of this subsection
3911 is guilty of a misdemeanor of the second degree, punishable as
3912 provided in s. 775.082 or s. 775.083; however, any person under
3913 the age of 21 who has been convicted of a violation of this
3914 subsection and who is thereafter convicted of a further
3915 violation of this subsection is, upon conviction of the further

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3916 offense, guilty of a misdemeanor of the first degree, punishable
3917 as provided in s. 775.082 or s. 775.083.

3918 (2) The prohibition in this section against the possession
3919 of alcoholic beverages does not apply to the tasting of
3920 alcoholic beverages by a student who is at least 18 years of
3921 age, who is tasting the alcoholic beverages as part of the
3922 student's required curriculum at a postsecondary educational
3923 institution that is institutionally accredited by an agency
3924 recognized by the United States Department of Education and that
3925 is licensed or exempt from licensure pursuant to the provisions
3926 of chapter 1005 or is a public postsecondary education
3927 institution; if the student is enrolled in the college and is
3928 tasting the alcoholic beverages only for instructional purposes
3929 during classes that are part of such a curriculum; if the
3930 student is allowed only to taste, but not consume or imbibe, the
3931 alcoholic beverages; and if the alcoholic beverages at all times
3932 remain in the possession and control of authorized instructional
3933 personnel of the college who are 21 years of age or older.

3934 (3) In addition to any other penalty imposed for a
3935 violation of subsection (1), the court shall direct the
3936 Department of Highway Safety and Motor Vehicles to withhold
3937 issuance of, or suspend or revoke, the violator's driver's
3938 license or driving privilege, as provided in s. 322.056.

3939 Section 89. Section 717.1355, Florida Statutes, is amended
3940 to read:

3941 717.1355 Theme park and entertainment complex tickets.—This
3942 chapter does not apply to any tickets for admission to a theme
3943 park or entertainment complex as defined in s. 500.80 ~~s.~~
3944 ~~509.013(9)~~, or to any tickets to a permanent exhibition or

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3945 recreational activity within such theme park or entertainment
3946 complex.

3947 Section 90. Section 718.508, Florida Statutes, is amended
3948 to read:

3949 718.508 Regulation by Division of Hotels ~~and Restaurants.~~-
3950 In addition to the authority, regulation, or control exercised
3951 by the Division of Florida Condominiums, Timeshares, and Mobile
3952 Homes pursuant to this act with respect to condominiums,
3953 buildings included in a condominium property are subject to the
3954 authority, regulation, or control of the Division of Hotels ~~and~~
3955 ~~Restaurants~~ of the Department of Business and Professional
3956 Regulation, to the extent provided in chapter 399.

3957 Section 91. Subsection (1) of section 760.01, Florida
3958 Statutes, is amended to read:

3959 760.01 Purposes; construction; title.-

3960 (1) Sections 760.01-760.11, 500.808, and 509.092 may
3961 ~~Sections 760.01-760.11 and 509.092 shall be cited as the~~
3962 "Florida Civil Rights Act of 1992."

3963 Section 92. Section 760.02, Florida Statutes, is amended to
3964 read:

3965 760.02 Definitions.-For the purposes of ss. 760.01-760.11,
3966 500.808, and 509.092 ~~ss. 760.01-760.11 and 509.092~~, the term:

3967 (1) "Florida Civil Rights Act of 1992" means ss. 760.01-
3968 760.11, 500.808, and 509.092 ~~ss. 760.01-760.11 and 509.092~~.

3969 (2) "Commission" means the Florida Commission on Human
3970 Relations created by s. 760.03.

3971 (3) "Commissioner" or "member" means a member of the
3972 commission.

3973 (4) "Discriminatory practice" means any practice made

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3974 unlawful by the Florida Civil Rights Act of 1992.

3975 (5) "National origin" includes ancestry.

3976 (6) "Person" includes an individual, association,
3977 corporation, joint apprenticeship committee, joint-stock
3978 company, labor union, legal representative, mutual company,
3979 partnership, receiver, trust, trustee in bankruptcy, or
3980 unincorporated organization; any other legal or commercial
3981 entity; the state; or any governmental entity or agency.

3982 (7) "Employer" means any person employing 15 or more
3983 employees for each working day in each of 20 or more calendar
3984 weeks in the current or preceding calendar year, and any agent
3985 of such a person.

3986 (8) "Employment agency" means any person regularly
3987 undertaking, with or without compensation, to procure employees
3988 for an employer or to procure for employees opportunities to
3989 work for an employer, and includes an agent of such a person.

3990 (9) "Labor organization" means any organization which
3991 exists for the purpose, in whole or in part, of collective
3992 bargaining or of dealing with employers concerning grievances,
3993 terms or conditions of employment, or other mutual aid or
3994 protection in connection with employment.

3995 (10) "Aggrieved person" means any person who files a
3996 complaint with the Human Relations Commission.

3997 (11) "Public accommodations" means places of public
3998 accommodation, lodgings, facilities principally engaged in
3999 selling food for consumption on the premises, gasoline stations,
4000 places of exhibition or entertainment, and other covered
4001 establishments. Each of the following establishments which
4002 serves the public is a place of public accommodation within the

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4003 meaning of this section:

4004 (a) Any inn, hotel, motel, or other establishment which
4005 provides lodging to transient guests, other than an
4006 establishment located within a building which contains not more
4007 than four rooms for rent or hire and which is actually occupied
4008 by the proprietor of such establishment as his or her residence.

4009 (b) Any restaurant, cafeteria, lunchroom, lunch counter,
4010 soda fountain, or other facility principally engaged in selling
4011 food for consumption on the premises, including, but not limited
4012 to, any such facility located on the premises of any retail
4013 establishment, or any gasoline station.

4014 (c) Any motion picture theater, theater, concert hall,
4015 sports arena, stadium, or other place of exhibition or
4016 entertainment.

4017 (d) Any establishment which is physically located within
4018 the premises of any establishment otherwise covered by this
4019 subsection, or within the premises of which is physically
4020 located any such covered establishment, and which holds itself
4021 out as serving patrons of such covered establishment.

4022 Section 93. Subsection (1) of section 760.11, Florida
4023 Statutes, is amended to read:

4024 760.11 Administrative and civil remedies; construction.—

4025 (1) Any person aggrieved by a violation of ss. 760.01-
4026 760.10 may file a complaint with the commission within 365 days
4027 of the alleged violation, naming the employer, employment
4028 agency, labor organization, or joint labor-management committee,
4029 or, in the case of an alleged violation of s. 760.10(5), the
4030 person responsible for the violation and describing the
4031 violation. Any person aggrieved by a violation of s. 500.808 or

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4032 s. 509.092 ~~s. 509.092~~ may file a complaint with the commission
4033 within 365 days of the alleged violation naming the person
4034 responsible for the violation and describing the violation. The
4035 commission, a commissioner, or the Attorney General may in like
4036 manner file such a complaint. On the same day the complaint is
4037 filed with the commission, the commission shall clearly stamp on
4038 the face of the complaint the date the complaint was filed with
4039 the commission. In lieu of filing the complaint with the
4040 commission, a complaint under this section may be filed with the
4041 federal Equal Employment Opportunity Commission or with any unit
4042 of government of the state which is a fair-employment-practice
4043 agency under 29 C.F.R. ss. 1601.70-1601.80. If the date the
4044 complaint is filed is clearly stamped on the face of the
4045 complaint, that date is the date of filing. The date the
4046 complaint is filed with the commission for purposes of this
4047 section is the earliest date of filing with the Equal Employment
4048 Opportunity Commission, the fair-employment-practice agency, or
4049 the commission. The complaint shall contain a short and plain
4050 statement of the facts describing the violation and the relief
4051 sought. The commission may require additional information to be
4052 in the complaint. The commission, within 5 days of the complaint
4053 being filed, shall by registered mail send a copy of the
4054 complaint to the person who allegedly committed the violation.
4055 The person who allegedly committed the violation may file an
4056 answer to the complaint within 25 days of the date the complaint
4057 was filed with the commission. Any answer filed shall be mailed
4058 to the aggrieved person by the person filing the answer. Both
4059 the complaint and the answer shall be verified.

4060 Section 94. Paragraph (b) of subsection (3) of section

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4061 877.06, Florida Statutes, is amended to read:

4062 877.06 Labeling of beef not slaughtered according to state
4063 or United States standards; enforcement; penalty.—

4064 (3)

4065 (b) It shall be the duty of the Department of Agriculture
4066 and Consumer Services ~~Division of Hotels and Restaurants of the~~
4067 ~~Department of Business and Professional Regulation~~ through its
4068 agents or inspectors to enforce the provisions of this
4069 subsection.

4070 Section 95. Subsection (8) of section 877.24, Florida
4071 Statutes, is amended to read:

4072 877.24 Nonapplication of s. 877.22.—Section 877.22 does not
4073 apply to a minor who is:

4074 (8) Attending an organized event held at and sponsored by a
4075 theme park or entertainment complex as defined in s. 500.80 ~~s.~~
4076 ~~509.013(9)~~.

4077 Section 96. Paragraph (a) of subsection (3) of section
4078 921.0022, Florida Statutes, is amended to read:

4079 921.0022 Criminal Punishment Code; offense severity ranking
4080 chart.—

4081 (3) OFFENSE SEVERITY RANKING CHART

4082 (a) LEVEL 1

Florida	Felony
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Statute	Degree	Description
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4083	24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
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4084	212.054(2)(b)	3rd	Discretionary sales surtax; limitations,
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administration, and collection.

4085

212.15(2)(b) 3rd Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.

4086

316.1935(1) 3rd Fleeing or attempting to elude law enforcement officer.

4087

319.30(5) 3rd Sell, exchange, give away certificate of title or identification number plate.

4088

319.35(1)(a) 3rd Tamper, adjust, change, etc., an odometer.

4089

320.26(1)(a) 3rd Counterfeit, manufacture, or sell registration license plates or validation stickers.

4090

322.212(1)(a)-(c) 3rd Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.

4091

322.212(4) 3rd Supply or aid in supplying unauthorized driver's license or identification card.

4092

322.212(5)(a) 3rd False application for driver's license or identification card.

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414.39(2) 3rd Unauthorized use, possession, forgery, or alteration of food stamps, Medicaid ID, value greater than \$200.

4095

414.39(3) (a) 3rd Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.

4096

443.071(1) 3rd False statement or representation to obtain or increase unemployment compensation benefits.

4097

500.813(1) 3rd Defraud a public food service establishment value greater than \$300.

4098

509.151(1) 3rd Defraud an innkeeper, ~~feed~~ or lodging value greater than \$300.

4099

517.302(1) 3rd Violation of the Florida Securities and Investor Protection Act.

4100

562.27(1) 3rd Possess still or still apparatus.

4101

713.69 3rd Tenant removes property upon which lien has accrued, value more than \$50.

812.014(3) (c) 3rd Petit theft (3rd conviction); theft of any property not specified in subsection (2).

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812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
817.569(2)	3rd	Use of public record or public records information to facilitate commission of a felony.
826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.

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4112	832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
4113	838.15(2)	3rd	Commercial bribe receiving.
4114	838.16	3rd	Commercial bribery.
4115	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
4116	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
4117	849.01	3rd	Keeping gambling house.
4118	849.09(1)(a)- (d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
4119	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
4120	849.25(2)	3rd	Engaging in bookmaking.
4121	860.08	3rd	Interfere with a railroad signal.

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860.13(1)(a) 3rd Operate aircraft while under the
influence.

4123

893.13(2)(a)2. 3rd Purchase of cannabis.

4124

893.13(6)(a) 3rd Possession of cannabis (more than 20
grams).

4125

934.03(1)(a) 3rd Intercepts, or procures any other person
to intercept, any wire or oral
communication.

4126

Section 97. This act shall take effect July 1, 2009.