

By the Committee on Community Affairs; and Senator Lynn

578-04256-11

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1 A bill to be entitled

2 An act relating to water vending machines; amending s.
3 500.459, F.S., relating to the regulation of water
4 vending machines and the permitting of water vending
5 machine operators; deleting provisions requiring the
6 permitting of water vending machines by the Department
7 of Agriculture and Consumer Services; authorizing
8 counties and municipalities to regulate the operation
9 of water vending machines; amending s. 500.511, F.S.;
10 deleting provisions for the deposit of operator
11 permitting fees, the enforcement of the state's water
12 vending machine regulations, penalties, and the
13 preemption of county and municipal water vending
14 machine regulations, to conform; providing an
15 effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 500.459, Florida Statutes, is amended to
20 read:

21 500.459 Water vending machines.—

22 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature
23 to protect the public health through ~~licensing and~~ establishing
24 standards for water vending machines to ensure that consumers
25 obtaining water through such means are given appropriate
26 information as to the nature of such water and that such
27 consumers are assured that the water meets acceptable standards
28 for human consumption.

29 (2) DEFINITIONS.—

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30 (a) "Sanitized" means treated in conformity with 21 C.F.R.
31 s. 110.3 (1996).

32 (b) "Vended water" means water dispensed by means of a
33 water vending machine and is excluded from the definition of
34 food as defined in s. 500.03(1)(1).

35 (c) "Water vending machine" means a self-service device
36 that, upon insertion of a coin or token or upon receipt of
37 payment by other means, dispenses a serving of water into a
38 container.

39 (d) "Water vending machine operator" means a person who
40 owns, leases, or manages, or is otherwise responsible for, the
41 operation of a water vending machine.

42 ~~(3) PERMITTING REQUIREMENTS.—~~

43 ~~(a) Each person or public body that establishes, maintains,~~
44 ~~or operates any water vending machine in the state must secure~~
45 ~~an operating permit from the department each year.~~

46 ~~(b) An application for an operating permit must be made in~~
47 ~~writing to the department on forms provided by the department~~
48 ~~and must be accompanied by a fee as provided in subsection (4).~~
49 ~~The application must state the location of each water vending~~
50 ~~machine, the source of the water to be vended, the treatment the~~
51 ~~water will receive prior to being vended, and any other~~
52 ~~information considered necessary by the department.~~

53 ~~(4) FEES.—A person seeking an operating permit must pay the~~
54 ~~department a fee not exceeding \$200, which fee shall be set by~~
55 ~~rule of the department. Such fees shall be deposited in the~~
56 ~~General Inspection Trust Fund.~~

57 ~~(3)(5) STATEWIDE MINIMUM OPERATING STANDARDS.—Counties and~~
58 ~~municipalities may regulate the operation of water vending~~

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59 machines, adopt and enforce such regulations, and take such
60 actions as they see fit to ensure compliance with the following
61 statewide minimum operating standards:

62 ~~(a) A water vending machine operator must obtain a permit~~
63 ~~prior to operating any water vending machine.~~

64 (a) ~~(b)~~ Each water vending machine must be located indoors
65 or otherwise protected against tampering and vandalism and must
66 be located in an area that can be maintained in a clean
67 condition and in a manner that avoids insect and rodent
68 harborage. The floor upon which the water vending machine is
69 located should be smooth and of cleanable construction.

70 (b) ~~(e)~~ The source of water supply must be an approved
71 public water system.

72 (c) ~~(d)~~ Each water vending machine must have a backflow
73 prevention device that conforms with the applicable provision of
74 the Florida Building Code and an adequate system for collecting
75 and handling dripping, spillage, and overflow of water.

76 (d) ~~(e)~~ All parts and surfaces of a water vending machine
77 with which water comes into contact must be made of nontoxic,
78 corrosion-resistant, nonabsorbent material capable of
79 withstanding repeated cleaning and sanitizing treatments.

80 (e) ~~(f)~~ Each water vending machine must be maintained in a
81 clean and sanitary condition, free from rust, dirt, and vermin.

82 (f) ~~(g)~~ The vended water must receive treatment and
83 postdisinfection according to approved methods established by
84 rule of the department. Activated carbon, if used, must comply
85 with specifications for granular activated carbon used in water
86 treatment applications as established by rule of the department.

87 (g) ~~(h)~~ The vended water may not be described as "purified

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88 water" unless the water conforms to the definition of that term.
89 Further, a water vending machine operator must not claim that
90 the vended water has medicinal or health-giving properties and
91 must not describe any vended water as "spring water."

92 (h) ~~(i)~~ The operator shall place on each water vending
93 machine, in a position clearly visible to customers, the
94 following information: the name and address of the operator; the
95 operating permit number, if applicable; the fact that the water
96 is obtained from a public water supply; the method of treatment
97 used; the method of postdisinfection used; and a local or toll-
98 free telephone number that may be called for obtaining further
99 information, reporting problems, or making complaints.

100 ~~(6) DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT.—~~

101 ~~(a) The department has authority to adopt rules pursuant to~~
102 ~~ss. 120.536(1) and 120.54 to implement the provisions of this~~
103 ~~section conferring duties upon it.~~

104 ~~(b) If, considering the source of water and the treatment~~
105 ~~process provided by the water vending machine, the department~~
106 ~~finds that the vended water will not meet the primary and~~
107 ~~secondary drinking water quality standards as provided for in~~
108 ~~department rules, the permit shall be denied. Specific technical~~
109 ~~reasons for the denial shall be given by the department.~~

110 ~~(c) The water from each water vending machine shall be~~
111 ~~sampled and tested for compliance with the water quality~~
112 ~~standards established by rule of the department at regular~~
113 ~~intervals established by rule of the department.~~

114 ~~(d) The vended water from each water vending machine using~~
115 ~~silver-impregnated carbon filters in the treatment process shall~~
116 ~~be sampled for silver at regular intervals established by rule~~

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117 ~~of the department.~~

118 ~~(c) The department shall order a water vending machine~~
119 ~~operator to discontinue the operation of any water vending~~
120 ~~machine the condition of which represents a threat to the life~~
121 ~~or health of any person, or when the vended water does not meet~~
122 ~~the standards provided in this section. Such water vending~~
123 ~~machine must not be returned to use or be used until the~~
124 ~~department determines that the condition that caused the~~
125 ~~discontinuance of operation no longer exists.~~

126 ~~(7) PENALTIES.—~~

127 ~~(a) The department may deny, suspend, or revoke a permit if~~
128 ~~it finds that there has been a substantial failure to comply~~
129 ~~with this section or rules adopted under this section.~~

130 ~~(b) Any person who operates a water vending machine without~~
131 ~~first obtaining an operating permit as required by subsection~~
132 ~~(3), who operates a water vending machine in violation of an~~
133 ~~order to discontinue operation, or who maintains or operates a~~
134 ~~water vending machine after revocation of the operating permit~~
135 ~~is guilty of a misdemeanor of the second degree, punishable as~~
136 ~~provided in s. 775.082 or s. 775.083.~~

137 Section 2. Section 500.511, Florida Statutes, is amended to
138 read:

139 500.511 Bottled water plants; packaged ice plants Fees;
140 enforcement; preemption.—

141 ~~(1) FEES.—All fees collected under s. 500.459 shall be~~
142 ~~deposited into the General Inspection Trust Fund and shall be~~
143 ~~accounted for separately and used for the sole purpose of~~
144 ~~administering the provisions of such section.~~

145 ~~(2) ENFORCEMENT AND PENALTIES.—In addition to the~~

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146 ~~provisions contained in s. 500.459, the department may enforce~~
147 ~~s. 500.459 in the manner provided in s. 500.121. Any person who~~
148 ~~violates a provision of s. 500.459 or any rule adopted under~~
149 ~~such section shall be punished as provided in such section.~~
150 ~~However, criminal penalties may not be imposed against any~~
151 ~~person who violates a rule.~~

152 ~~(3) PREEMPTION OF AUTHORITY TO REGULATE.~~ Regulation of
153 bottled water plants, ~~water vending machines, water vending~~
154 ~~machine operators,~~ and packaged ice plants is preempted by the
155 state. No county or municipality may adopt or enforce any
156 ordinance that regulates the licensure or operation of bottled
157 water plants, ~~water vending machines,~~ or packaged ice plants,
158 unless it is determined that unique conditions exist within the
159 county which require the county to regulate such entities in
160 order to protect the public health. This section ~~subsection~~ does
161 not prohibit a county or municipality from requiring a business
162 tax pursuant to chapter 205.

163 Section 3. This act shall take effect July 1, 2011.