

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

**BILL:** CS/SB 842

**INTRODUCER:** Regulated Industries Committee and Senator Stargel

**SUBJECT:** Premises Inspections

**DATE:** March 14, 2013      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<b>Fav/CS</b>
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

CS/SB 842 modifies the inspection frequency for licensed public food service establishments. Current law requires the Division of Hotels and Restaurants (division) of the Department of Business and Professional Regulation (department) to inspect all licensed public lodging establishments and public food service establishments at least biannually (two times per year), except for certain apartments that may be inspected only once per year. The bill requires the division to adopt a risk-based inspection frequency by rule for each licensed public food service establishment to require at least one, but not more than four, routine inspections during a year.

In addition, the bill specifies that the department’s rule may include guidelines that consider a food service establishment’s inspection and compliance history, the type of food and food preparation methods, and the type of service being provided. The bill requires that the division annually reassess the inspection frequency of all food service establishments.

According to the department, the changes in inspection frequency specified in the bill can be absorbed within existing resources; therefore, the bill will not have a fiscal impact.

The bill provides a July 1, 2014 effective date.

This bill amends section 509.032, Florida Statutes.

## II. Present Situation:

Section 509.032(2), F.S., requires the division to inspect all licensed public lodging establishments and all licensed public food service establishments at least biannually (twice per year), except for certain apartments that may be inspected only once per year. The division must also inspect any licensed establishment as the division determines is necessary to protect the health, safety, and welfare of the public, and establish a system to determine inspection frequency.<sup>1</sup>

A public food service establishment is defined as any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.<sup>2</sup> According to the department, there are more than 37,000 public lodging establishments and more than 47,000 public food service establishments in the state.<sup>3</sup> The division conducted 108,731 public food service inspections in FY 2011-2012.<sup>4</sup>

According to the department, 98 percent of food service establishments received the minimum required two routine inspections during fiscal year 2011-2012, while 27 percent (nearly 13,000) received more than two inspections related to investigations of complaints or callback inspections to confirm correction of violations.<sup>5</sup> All of the division's inspectors are cross-trained to perform inspections for public lodging establishments and food service establishments.<sup>6</sup>

Effective, January 1, 2013, the division adopted provision of the 2009 Food and Drug Administration (FDA) Food Code, which establishes provisions for reducing risk factors known to cause or contribute to food-borne illness. The new risk designations for Food Code provisions establish a three-tiered system which replaces the designations of "critical" or "non-critical" violations. The new designations include "High Priority," "Intermediate," and "Basic."

## III. Effect of Proposed Changes:

The bill creates a distinction between inspections of licensed public lodging establishments and licensed public food service establishments. The bill maintains the current requirement that the division inspect each public lodging establishment at least biannually (twice per year), except for certain apartments that may be inspected only once per year. The bill changes the inspection frequency by rule for food service establishments, by requiring the division adopt a risk-based inspection frequency for each licensed public food service establishment (food service

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<sup>1</sup>Section 509.032(2), F.S.

<sup>2</sup>Section 509.013(5)(a), F.S.

<sup>3</sup>See *2013 Legislative Analysis for SB 842*, Office of Legislative Affairs, Florida Department of Business and Professional Regulation, February 20, 2013.

<sup>4</sup>Division of Hotels and Restaurants, Annual Report: FY 2011-2012, pg. 11.

<sup>5</sup>*Supra* at n.3, at p. 2.

<sup>6</sup>*Id.*

establishment) to require at least one, but not more than four, routine inspections during a year for each food service establishment.

The bill states guidelines may be established that consider a food service establishment's inspection and compliance history, the type of food and food preparation methods, and the type of service being provided. The bill requires the division annually reassess the inspection frequency of all food service establishments. Such establishment-specific frequency categories and annual reassessment is designed to support the development of data to classify establishments with the correct frequency category each year based upon public health risk.<sup>7</sup>

The division continues to be authorized to perform inspections at such other times as the division determines is necessary to ensure the public's health, safety, and welfare,<sup>8</sup> as well as, to investigate complaints.

The bill provides a July 1, 2014 effective date.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may increase the inspection burden on a food service establishment operating with a high risk to the public's health, safety, and welfare, based on its inspection and compliance history, the type of food and food preparation methods, and the type of service being provided. Conversely, the bill may reduce the inspection frequency for a food service establishment with a lower risk to the public's health, safety, and welfare, based on those same factors.

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<sup>7</sup> See *2013 Legislative Analysis for SB 842*, Office of Legislative Affairs, Florida Department of Business and Professional Regulation, February 20, 2013.

<sup>8</sup> Section 509.032(2), F.S.

C. Government Sector Impact:

The division's current resources for conducting inspections are sufficient to accomplish the revision in the inspection frequency specified in the bill for public food service establishments. The division will be able to realign its workload to better use its resources.<sup>9</sup> Accordingly, the bill will not have any fiscal impact on the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Regulated Industries on March 14, 2013:**

The committee substitute amends the title of the bill to conform the bill to its House companion (CS/HB 795).

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>9</sup>*Supra* at n. 3, at p. 3.