

By Senator Thompson

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1 A bill to be entitled
2 An act relating to food allergies; amending s.
3 509.039, F.S.; revising the requirements for obtaining
4 a certification as a food service manager to include
5 the viewing of a video about food allergies; amending
6 s. 509.101, F.S.; requiring operators of public food
7 service establishments to display a poster having
8 information regarding food allergy awareness which is
9 developed by the Division of Hotels and Restaurants
10 within the Department of Business and Professional
11 Regulation, in consultation with Food Allergy Research
12 & Education, Inc., and the Florida Restaurant and
13 Lodging Association; providing criteria for the
14 poster; requiring operators of public food service
15 establishments to include a notice to customers of a
16 customer's obligation to inform a server about his or
17 her food allergy; requiring the division to establish
18 the notice; providing a public food service
19 establishment immunity from liability under certain
20 circumstances; requiring the division to develop a
21 program for public food service establishments to be
22 designated as "Food Allergy Friendly" and maintain a
23 listing of public food service establishments
24 receiving that designation on its website; providing
25 that participation in the program is voluntary;
26 requiring the division to adopt rules; amending s.
27 509.261, F.S.; authorizing the division to fine,
28 suspend, or revoke the license of a public food
29 service establishment under certain circumstances;

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30 providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Section 509.039, Florida Statutes, is amended to
35 read:

36 509.039 Food service manager certification. ~~It is~~ The duty
37 ~~of the~~ division shall ~~to~~ adopt, by rule, food safety protection
38 standards for the training and certification of ~~all~~ food service
39 managers who are responsible for the storage, preparation,
40 display, or serving of foods to the public in establishments
41 regulated under this chapter. The standards adopted by the
42 division must ~~shall~~ be consistent with the Standards for
43 Accreditation of Food Protection Manager Certification Programs
44 adopted by the Conference for Food Protection. The division
45 shall adopt these standards ~~are to be adopted by the division~~ to
46 ensure that, upon successfully passing a test that is, approved
47 by the Conference for Food Protection and upon viewing a video
48 regarding food allergies which is approved by the division, in
49 consultation with Food Allergy Research & Education, Inc., and
50 the Florida Restaurant and Lodging Association, a manager of a
51 food service establishment shall have demonstrated a knowledge
52 of basic food protection practices. The division may contract
53 with an organization offering a training and certification
54 program that complies with division standards and results in a
55 certification recognized by the Conference for Food Protection
56 to conduct an approved test, provide viewing of an approved
57 video, and certify all test results to the division. Other
58 organizations offering programs that meet the same requirements

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59 may also conduct approved tests, provide viewing of an approved
60 video, and certify all test results to the division. The
61 division may charge the organization it contracts with a fee of
62 up to ~~not more than~~ \$5 per certified test to cover the
63 administrative costs of the division for the food service
64 manager training and certification program. A manager ~~All~~
65 ~~managers~~ employed by a food service establishment must pass ~~have~~
66 ~~passed~~ an approved test and view a video regarding food
67 allergies which is approved by the division, in consultation
68 with Food Allergy Research & Education, Inc., and the Florida
69 Restaurant and Lodging Association. The division shall issue and
70 ~~received~~ a certificate attesting to the passing of the test and
71 viewing of the video thereto. A manager hired after July 1,
72 2014, has ~~Managers have a period of~~ 30 days after employment to
73 pass the required test and view an approved video. Each ~~All~~
74 public food service establishment shall ~~establishments must~~
75 provide the division with proof of food service manager
76 certification upon request, including, but not limited to, at
77 the time of any division inspection of the establishment. The
78 ranking of food service establishments is also preempted to the
79 state; ~~provided, however, that~~ any local ordinance ~~ordinances~~
80 establishing a ranking system in existence before ~~prior to~~
81 October 1, 1988, may remain in effect.

82 Section 2. Section 509.101, Florida Statutes, is amended to
83 read:

84 509.101 Establishment rules; posting of notice; food
85 service inspection report; maintenance of guest register; mobile
86 food dispensing vehicle registry; posting of notice for food
87 allergies; food allergy friendly designation.-

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88 (1) An ~~Any~~ operator of a public lodging establishment or a
89 public food service establishment may establish reasonable rules
90 and regulations for the management of the establishment and its
91 guests and employees; and each guest or employee staying,
92 sojourning, eating, or employed in the establishment shall
93 conform to and abide by these ~~such~~ rules and regulations so long
94 as the guest or employee remains in or at the establishment.
95 These ~~Such~~ rules and regulations shall be deemed to be a special
96 contract between the operator and each guest or employee using
97 the services or facilities of the operator. These ~~Such~~ rules and
98 regulations ~~shall~~ control the liabilities, responsibilities, and
99 obligations of all parties. Any rules or regulations established
100 pursuant to this section shall be printed in the English
101 language and posted in a prominent place within the ~~such~~ public
102 lodging establishment or public food service establishment. In
103 addition, an ~~any~~ operator of a public food service establishment
104 shall maintain the latest food service inspection report or a
105 duplicate copy on premises and shall make it available to the
106 public upon request.

107 (2) ~~It is the duty of~~ Each operator of a transient
108 establishment shall ~~to~~ maintain at all times a register, signed
109 by or for guests who occupy rental units within the
110 establishment, showing the dates upon which the rental units
111 were occupied by such guests and the rates charged for their
112 occupancy. The operator shall maintain the ~~This~~ register ~~shall~~
113 ~~be maintained~~ in chronological order and make it available for
114 inspection by the division at any time. An operator ~~Operators~~
115 need not make available a register that is ~~registers which are~~
116 more than 2 years old.

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117 (3) ~~It is the duty of~~ Each operator of a public food
118 service establishment that provides commissary services shall ~~to~~
119 maintain a daily registry verifying that each mobile food
120 dispensing vehicle that receives such services is properly
121 licensed by the division. In order that such licensure may be
122 readily verified, each mobile food dispensing vehicle operator
123 shall permanently affix in a prominent place on the side of the
124 vehicle, in figures at least 2 inches high and in contrasting
125 colors from the background, the operator's public food service
126 establishment license number. Before ~~Prior to~~ providing
127 commissary services, each public food service establishment must
128 verify that the license number displayed on the vehicle matches
129 the number on the vehicle operator's public food service
130 establishment license.

131 (4) Each operator of a public food service establishment
132 shall:

133 (a) Display in a prominent place within the public food
134 service establishment a poster having information regarding food
135 allergy awareness which is developed by the division, in
136 consultation with Food Allergy Research & Education, Inc., and
137 the Florida Restaurant and Lodging Association. The poster must
138 include, but need not be limited to, information regarding the
139 risk of an allergic reaction; and

140 (b) Include on all menus a notice regarding a customer's
141 obligation to inform the server about any food allergy that the
142 customer may suffer from and the public food service
143 establishment's immunity from liability for injury, death, or
144 property damage if the customer fails to inform the server of
145 the food allergy. The division, in consultation with Food

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146 Allergy Research & Education, Inc., and the Florida Restaurant
147 and Lodging Association, shall establish the notice.

148 (5) A public food service establishment is not liable for
149 an injury suffered by, a death of, or property damage caused by
150 a customer due to his or her food allergy that the customer
151 fails to inform the server about.

152 (6) The division shall develop a program for public food
153 service establishments to be designated "Food Allergy Friendly"
154 and shall maintain a listing of public food service
155 establishments receiving that designation on its website.
156 Participation of a public food service establishment in the
157 program is voluntary, and the division shall adopt rules for the
158 designation, which must include, but need not be limited to,
159 maintaining on the premises and making available to the public a
160 master list of all the ingredients used in preparation of each
161 food item that is available for consumption at the public food
162 service establishment.

163 Section 3. Subsection (10) is added to section 509.261,
164 Florida Statutes, to read:

165 509.261 Revocation or suspension of licenses; fines;
166 procedure.—

167 (10) The division may fine, suspend, or revoke the license
168 of any public food service establishment if the establishment is
169 not in compliance with the requirements of s. 509.101(4).

170 Section 4. This act shall take effect July 1, 2014.