

**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.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: CS/CS/SB 1390

INTRODUCER: Regulated Industries Committee, Health Policy Committee, and Senator Hays

SUBJECT: Public Food Service Establishments

DATE: March 31, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harper</u>	<u>Stovall</u>	<u>HP</u>	<b>Fav/CS</b>
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1390 excludes from the definition of “public food service establishment” any place maintained and operated by a public or private school, college, or university temporarily to serve food contests and cook-offs.

The bill excludes from the definition of “public food service establishment” and licensing requirements any eating place maintained and operated by, or for the benefit of, a church or a religious, nonprofit fraternal, or nonprofit civic organization:

- For the use of members and associates;
- Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

Church or a religious, nonprofit fraternal, or nonprofit civic organizations that seek an exemption from licensure as a public food service establishment must provide with documentation of its status when requested by the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation.

The bill excludes from the definition of “public food service establishment” and licensing requirements eating places maintained and operated by an individual or entity at a food contest, cook-off, or temporary event lasting 1 to 3 days, which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization by an individual or entity at a temporary event

hosted by the church or organization. The event host must provide the division with documentation of its status when requested by the division

The effective date of the bill is July 1, 2015.

## II. Present Situation:

### Public Food Service Establishments

Section 509.013(5)(a), F.S., defines the term “public food service establishment” to mean:

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.

At the end of the 2013-2014 fiscal year, there were 87,083 licensed public food service establishments, including seating, permanent non-seating, hotdog carts, and mobile food dispensing vehicles.<sup>1</sup>

The Division of Hotels and Restaurants within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of part I of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public food service establishments for the purpose of protecting the public health, safety, and welfare.

### *Exclusions from the definition of Public Food Service Establishments*

Section 509.013(5)(b), F.S., excludes the following from the definition of the term “public food service establishment”:

- Any place maintained and operated by a public or private school, college, or university:
  - For the use of students and faculty; or
  - Temporarily to serve such events as fairs, carnivals, and athletic contests.
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:
  - For the use of members and associates; or
  - Temporarily to serve such events as fairs, carnivals, or athletic contests.
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
- Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place that is regulated under s. 381.0072, F.S.
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services under s. 500.12, F.S.

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<sup>1</sup> Department of Business and Professional Regulation, Division of Hotels and Restaurants, *Annual Reports*, Fiscal Year 2013-2014, available at: [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/hr\\_annual\\_reports.html](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/hr_annual_reports.html) (last visited Mar. 27, 2015).

- Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or prepackaged items sold without additions or preparation.
- Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.
- Any vending machine that dispenses any food or beverages other than potentially hazardous foods, as defined by division rule.
- Any vending machine that dispenses potentially hazardous food and which is located in a facility regulated under s. 381.0072, F.S.
- Any research and development test kitchen limited to the use of employees and which is not open to the general public.

**Temporary Food Service Event(s)**

In Florida, “temporary food service event” means any event of 30 days or less in duration where food is prepared, served, or sold to the general public.<sup>2</sup> During the 2013-2014 fiscal year, the Division of Hotels and Restaurants issued 7,718 temporary food service event licenses.<sup>3</sup> The division does not license temporary food service events located on the premises of a church, school, or nonprofit fraternal or civic organization. If the temporary food service is operated by a church, school, or nonprofit fraternal or civic organization at an event located elsewhere, no temporary food service event license is required by the division because these types of organizations are excluded from the division’s regulation.<sup>4</sup> The division issues temporary license for 1 to 3 day and 4 to 30 day periods.

The following license fees apply to temporary and annual licenses:<sup>5</sup>

License Type	Number Licenses	License Fee	Total Revenue
1-3 day	2,510	\$91	\$228,410
4-30 day	3,136	\$105	\$329,280
Annual	151	\$456	\$68,856
			\$626,546

**Food Contests and Cook-offs**

“Food contests” and “cook-offs” are not defined in Florida law.

<sup>2</sup> Section 509.13(8), F.S.

<sup>3</sup> *Supra* note 3.

<sup>4</sup> Florida Department of Business and Professional Regulation, “Do churches, schools, or nonprofit organizations need a temporary food service event license?” (updated June 1, 2012), available at: [http://myfloridalicense.custhelp.com/app/answers/detail/a\\_id/104](http://myfloridalicense.custhelp.com/app/answers/detail/a_id/104) (last visited on Mar. 27, 2015).

<sup>5</sup> Rule 61C-1.008, F.A.C.

### III. Effect of Proposed Changes:

The bill amends s. 509.0163(5)(b)1.b., F.S., to exclude from the definition of “public food service establishment” any place maintained and operated by a public or private school, college, or university temporarily to serve food contests and cook-offs.

The bill amends s. 509.0163(5)(b)2., F.S., to exclude from the definition of “public food service establishment” any eating place maintained and operated for the benefit of a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates.

The bill amends s. 509.0163(5)(b)2.b., F.S., to exclude from the definition of “public food service establishment” any eating place maintained and operated by, or for the benefit of, a church or a religious, nonprofit fraternal, or nonprofit civic organization temporarily to serve food contests or cook-offs.

The terms “food contests” and “cook-offs” are not defined and it is not clear how the department may interpret the term in determining what type of event may be excluded from the definition of public food service establishments.

The bill requires that churches or religious, nonprofit fraternal, or nonprofit civic organization that claim to be excluded from the definition of public food service establishment must provide the division with documentation of its status when requested by the division.

The bill creates s. 509.0163(5)(b)3., F.S., to exempt from the definition of “public lodging establishment eating places maintained and operated by an individual or entity at a food contest, cook-off, or temporary event lasting 1 to 3 days, which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization by an individual or entity at a temporary event hosted by the church or organization. It also requires that the event host must provide the division with documentation of its status when requested by the division.

The bill amends s. 509.032(3)(c)3.a., F.S., to provide that persons excluded from the definition of public food service establishment in s. 509.013(5)(b), F.S., are not required to obtain, and pay the license fee for, one of the classes of food service or food vendor license specified in this subparagraph.

The bill provides an effective date of July 1, 2015.

### 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:

The department indicates that the additional exclusions to the definition of “public food services establishment” will result in a reduction in license fees for temporary food service vendors who operate for the benefit of a church, religious organization, or nonprofit fraternal or civic organization.

B. Private Sector Impact:

The public food service establishments that are currently required to be licensed would not be required to pay the applicable license fee of \$91 for a 1 to 3 day temporary license, \$105 for 4 to 30 day temporary license, or \$456 for an annual license.

C. Government Sector Impact:

The Division of Hotels and Restaurants estimates a loss of up to 100 percent of temporary event license fees revenue, however, the bill would not impact the number of inspections completed by the division, as the division would focus resources on other required inspections. The department estimates a reduction in revenue of \$626,546 per fiscal year.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The terms “food contests” and “cook-offs” are not defined and it is not clear how the department may interpret the term in determining what type of event may be excluded from the definition of public food service establishments.

**VIII. Statutes Affected:**

This bill substantially amends sections 509.013 and 509.032 of the Florida Statutes.

**IX. Additional Information:**

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

**CS/CS by Regulated Industries Committee on March 31, 2015:**

The committee substitute:

- Amends s. 509.0163(5)(b)1.b., F.S., to exclude from the definition of “public food service establishment” any place maintained and operated by a public or private school, college, or university temporarily to serve cook-offs;
- Amends s. 509.0163(5)(b)3., to require that churches or religious, nonprofit fraternal, or nonprofit civic organization that claim to be excluded from the definition of public food service establishment must provide the division with documentation of its status when requested by the division;
- Does not create s. 509.0163(5)(b)2.c., F.S., to exclude from the definition of “public food service establishment” any eating place maintained and operated by, or for the benefit of, a church or a religious, nonprofit fraternal, or nonprofit civic organization by an individual or entity at a temporary event hosted by the church or organization, provided that the individual or entity guarantees a percentage of the profit to the host and does not generate more than \$2,000 in revenue from the single event or \$4,000 annually from all temporary food service events;
- Creates s. 509.0163(5)(b)3., F.S., to exempt from the definition of “public lodging establishment eating places maintained and operated by an individual or entity at a food contest, cook-off, or temporary event lasting 1 to 3 days, which is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization by an individual or entity at a temporary event hosted by the church or organization. It also requires that the event host must provide the division with documentation of its status when requested by the division; and
- Amends s. 509.032(3)(c)3.a., F.S., to provide that persons excluded from the definition of public food service establishment in s. 509.013(5)(b), F.S., are not required to obtain, and pay the license fee for, one of the classes of food service or food vendor license specified in this subparagraph.

**CS by Health Policy on March 17, 2015:**

The Committee Substitute excludes from the definition of “public food service establishments” certain eating places maintained or operated for the benefit of a church, a religious organization, a nonprofit fraternal organization, or a nonprofit civic organization by an individual or an entity at a temporary event hosted by the church or organization.

**B. Amendments:**

None.