

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 Committee on Commerce and Tourism

BILL: CS/SB 394

INTRODUCER: Regulated Industries Committee and Senator Brandes

SUBJECT: Public Lodging Establishments

DATE: February 27, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Goedert</u>	<u>McKay</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>MS</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 394 requires that public lodging establishments classified as a hotel, motel, or bed and breakfast inn waive any policy that restricts accommodations to individuals based on age for active duty members of the United States Armed Forces, the United States Reserve Forces, the National Guard, and the Coast Guard upon the presentation of a Common Access Card. The bill also prohibits public lodging establishments from duplicating Common Access Cards.

II. Present Situation:

Public Lodging Establishments

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of ch. 509, F.S., “and all other applicable laws and rules relating to the inspection or regulation of public lodging establishments and public food service establishments for the purpose of safeguarding the public health, safety, and welfare.”¹

“Public lodging establishment” is defined to include both transient public lodging establishments and nontransient public lodging establishments.² The principal differences between transient and nontransient public lodging establishments are the number of times that the establishments are

¹ Section 509.032(1), F.S.

² Section 509.013(4)(a), F.S.

rented in a calendar year and the length of the rentals. Section 509.013(4)(b), F.S., exempts dormitories, hospital and medical establishments, residential units, migrant labor camps, and establishments inspected by the Department of Health from the definition of “public lodging establishment.”

A public lodging establishment can be classified as a hotel, motel, nontransient apartment, transient apartment, bed and breakfast inn, timeshare project, or vacation rental.³

Section 509.242(1)(a), F.S., defines a “hotel” as follows:

any public lodging establishment containing sleeping room accommodations for 25 or more guests and providing the services generally provided by a hotel and recognized as a hotel in the community in which it is situated or by the industry.

Section 509.242(1)(b), F.S., defines “motel” as follows:

any public lodging establishment which offers rental units with an exit to the outside of each rental unit, daily or weekly rates, offstreet parking for each unit, a central office on the property with specified hours of operation, a bathroom or connecting bathroom for each rental unit, and at least six rental units, and which is recognized as a motel in the community in which it is situated or by the industry.

Section 509.242(1)(f), F.S., defines a “bed and breakfast inn” as follows:

a family home structure, with no more than 15 sleeping rooms, which has been modified to serve as a transient public lodging establishment, which provides the accommodation and meal services generally offered by a bed and breakfast inn, and which is recognized as a bed and breakfast inn in the community in which it is situated or by the hospitality industry.

At the end of FY 2013-2014, there were 38,472 licensed public lodging establishments, divided as follows:⁴

- Hotels – 1,720 licenses;
- Motels – 2,691 licenses;
- Nontransient apartments – 17,501 licenses;
- Transient apartments – 960 licenses;
- Bed and Breakfasts – 260 licenses;
- Vacation Rentals, Condominiums – 3,904 licenses; and
- Vacation Rentals, Dwellings – 11,436 licenses.

³ Section 509.242(1), F.S.

⁴ Annual Report, Fiscal Year 2013-2014, Division of Hotels and Restaurants, Department of Business and Professional Regulation. A copy is available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2013_14.pdf (last visited February 25, 2015).

Right to Refuse Accommodations

Public lodging establishments are private enterprises and may refuse accommodations to any person who is objectionable or undesirable to the operator, so long as the refusal is not “based upon race, creed, color, sex, physical disability, or national origin.”⁵ Public lodging establishments are also allowed to “establish reasonable rules and regulations for the management of the establishment,” which become part of “a special contract between the operator and each guest or employee using the services or facilities of the operator.”⁶

A small sampling of hotels in Florida reveals that some public lodging establishments advertise age requirement policies. While employed by the military, or when traveling for military and personal purposes, some persons have been denied accommodations at public lodging establishments because of their age.⁷

United States Armed Forces

The United States Armed Forces consist of the United States Army, Navy, Air Force, Marine Corps, and Coast Guard.⁸ Each branch of the armed forces has different enlistment requirements; however, each branch requires that a person must be at least 17 years old to join.⁹ The National Guard also requires that an applicant be at least 17 years old to join.¹⁰

Members of the armed forces are issued a Common Access Card by the U.S. Department of Defense. The card is “the standard identification for active duty uniformed service personnel, Selected Reserve, DoD civilian employees, and eligible contractor personnel.”¹¹ This is the main card used to enable physical access to buildings and controlled spaces.¹²

Florida has 21 military installations,¹³ and as of August 2013, there were over 65,000 active duty military personnel stationed in Florida.¹⁴

III. Effect of Proposed Changes:

The bill creates s. 509.095, F.S., to require that public lodging establishments classified as a hotel, motel, or bed and breakfast inn waive any policy that restricts accommodations to individuals based on age for active duty members of the United States Armed Forces, the United

⁵ Section 509.092, F.S.

⁶ Section 509.101(1), F.S.

⁷ See McCarthy, Regan, “Bill to Bend Hotel Age Requirement for Military Members,” *WFSU* (Jan. 28, 2015). A copy of the article is available at: <http://news.wfsu.org/post/bill-bend-hotel-age-requirements-military-members> (last visited February 25, 2015).

⁸ 5 U.S. Code § 2101, 10 U.S. Code § 101(a)(4), and s. 250.01(4), F.S.

⁹ See <http://www.military.com/join-armed-forces/join-the-military-basic-eligibility.html?comp=7000023452387&rank=1> (last visited February 25, 2015).

¹⁰ See <http://www.nationalguard.com/eligibility> (last visited February 25, 2015).

¹¹ See <http://www.cac.mil/common-access-card/> (last visited February 25, 2015).

¹² *Id.*

¹³ See <https://militarybases.com/florida/> (last visited February 25, 2015).

¹⁴ See <http://www.governing.com/gov-data/military-civilian-active-duty-employee-workforce-numbers-by-state.html>.

States Reserve Forces, the National Guard, and the Coast Guard. The bill prevents public lodging establishments from denying such persons accommodations based upon their age once a Common Access Card is presented.

The bill further prohibits a public lodging establishment from duplicating a Common Access Card.

The bill only applies to a public lodging establishment classified as a hotel, motel, or bed and breakfast inn as defined in s. 509.242, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

The Division of Hotels and Restaurants anticipates an indeterminate increase in complaints received and inspections required to investigate such complaints.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 250.01(4), F.S., 5 U.S.C. § 2102, and 10 U.S.C. § 101(a)(4) define “armed forces” to include the Coast Guard along with the Army, Navy, Air Force, and Marine Corps. It is therefore unnecessary to list the Coast Guard separately from United States Armed Forces.

VIII. Statutes Affected:

This bill creates section 509.095 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 by Regulated Industries on February 18, 2015:

The committee substitute (CS) requires the presentation of a “common access card” instead of a “military identification card.” The CS refers to active duty members of the United States Armed Services, the United States Reserve Forces, the National Guard, and the Coast Guard. The CS prohibits duplication of Common Access Cards that are presented pursuant to s. 509.095, F.S.

- B. **Amendments:**

None.