

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 Regulated Industries

BILL: SB 394

INTRODUCER: Senator Brandes

SUBJECT: Public Lodging Establishments

DATE: February 5, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Pre-meeting
2.	_____	_____	CM	_____
3.	_____	_____	MS	_____

I. Summary:

SB 394 requires hotels, motels, and bed and breakfast inns to waive policies that restrict accommodations to persons over a certain age when a valid military identification card is presented.

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 relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. At the end of FY 2013-2014, there were 38,472 licensed public lodging establishments, including hotels, motels, nontransient and transient rooming houses, and resort condominiums and dwellings.¹

The term “public lodging establishments” includes transient 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 rented in a calendar year and the length of the rentals.

Section 509.013(4)(a)1., F.S., defines a “transient public lodging establishment” to mean:

¹ 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/hr_annual_reports.html (last visited February 5, 2015).

² Section 509.013(4)(a), F.S.

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Section 509.013(4)(a)2., F.S., defines a "nontransient public lodging establishment" to mean:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

A nontransient apartment is a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants.³ A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.⁴

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."

Public lodging establishments are classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, and timeshare project.⁵

The 38,472 public lodging establishments that were licensed by the division at the end of FY 2013-2014 were divided as follows:⁶

- 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.

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."⁷ Violations are resolved as

³ Section 509.242(1)(d), F.S.

⁴ Section 509.242(1)(e), F.S.

⁵ Section 509.242(1), F.S.

⁶ *Supra* note 1.

⁷ Section 509.092, F.S.

civil actions under s. 760.11, F.S.⁸ 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.”⁹

According to published reports, some public lodging establishments have policies that restrict accommodations to persons over a certain age. 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.¹⁰

United States Armed Forces

The United States Armed Forces consist of the Air Force, Army, Coast Guard, Marines, and Navy.¹¹

Section 250.01(19), F.S., defines the term “servicemember” to mean “any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces.”

The minimum enlistment requirements to join the Armed Forces require that a person must:

- Be a U.S. citizen or resident alien;
- Be at least 17 years old (17-year old applicants require parental consent);
- Have (with very few exceptions) a high school diploma; and
- Pass a physical medical exam.

Each branch also has addition slightly different enlistment requirements.¹² A person must also be at least 17 years of age to be a member of the National Guard.¹³

⁸ Section 760.11, F.S., requires aggrieved parties to file a complaint with the Florida Commission on Human Relations within 365 days of the alleged violation. The commission, a commissioner, or the Attorney General may also file such a complaint. The commission would then conduct an investigation to determine if there is reasonable cause to believe that discriminatory practice has occurred in violation of the Florida Civil Rights Act of 1992. Upon a finding of reasonable cause, the aggrieved person may file a civil action in a court of competent jurisdiction or request an administrative hearing under ss. 120.569 and 120.57, F.S. The court may an order to prohibit the discriminatory practice and provide affirmative relief from the effects of the practice, including back pay. The court may also award compensatory damages, including, but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, and punitive damages. The court may also order the payment of reasonable attorney’s fees.

⁹ Section 509.101, F.S.

¹⁰ 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 11, 2015).

¹¹ 5 U.S. Code § 2101 and 10 U.S. Code § 101(a)(4) define the U.S. Armed Forces as the Army, Navy, Air Force, Marine Corps, and Coast Guard.

¹² See <http://www.military.com/join-armed-forces/join-the-military-basic-eligibility.html?comp=7000023458428&rank=1> (last visited February 9, 2015).

¹³ See <http://www.nationalguard.com/eligibility> (last visited February 13, 2015).

III. Effect of Proposed Changes:

This bill creates s. 509.095, F.S., to require that public lodging establishments waive any policy they may have which restricts accommodations to individuals older than a certain age. The policy must be waived and the person must not be denied an accommodation on the basis of age upon the presentation of a valid military identification card.¹⁴

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:

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:

None.

VIII. Statutes Affected:

This bill creates section 509.095 of the Florida Statutes.

¹⁴ See <http://www.cac.mil/> , for types of cards (last visited February 13, 2015).

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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