

1                                   A bill to be entitled  
 2           An act relating to culinary education programs;  
 3           amending s. 381.0072, F.S.; providing for the  
 4           applicability of Department of Health sanitation rules  
 5           to a licensed culinary education program; defining the  
 6           term "culinary education program"; including certain  
 7           culinary education programs under the definition of  
 8           "food service establishment" and providing for the  
 9           applicability of food service protection requirements  
 10          thereto; conforming provisions; amending s. 509.013,  
 11          F.S.; revising the definition of the term "public food  
 12          service establishment" to include a culinary education  
 13          program; amending s. 561.20, F.S.; permitting a  
 14          culinary education program with a public food service  
 15          establishment license to obtain an alcoholic beverage  
 16          license under certain conditions; authorizing the  
 17          Division of Alcoholic Beverages and Tobacco to adopt  
 18          rules to administer such licenses; providing an  
 19          effective date.

20  
 21   Be It Enacted by the Legislature of the State of Florida:

22  
 23           Section 1.   Section 381.0072, Florida Statutes, is amended  
 24   to read:

25           381.0072   Food service protection.—

26           (1) DEPARTMENT OF HEALTH; SANITATION RULES.—

27        (a) It shall be the duty of the Department of Health to  
 28        adopt and enforce sanitation rules consistent with law to ensure  
 29        the protection of the public from food-borne illness. These  
 30        rules shall provide the standards and requirements for the  
 31        storage, preparation, serving, or display of food in food  
 32        service establishments as defined in this section ~~and which are~~  
 33        ~~not permitted or licensed under chapter 500 or chapter 509.~~

34        (b) A food service establishment is subject to the  
 35        sanitation rules adopted and enforced by the department. This  
 36        section does not apply to a food service establishment permitted  
 37        or licensed under chapter 500 or chapter 509 unless the food  
 38        service establishment is a culinary education program licensed  
 39        under chapter 509.

40        (2)~~(1)~~ DEFINITIONS.—As used in this section, the term:

41        (a) "Culinary education program" means a program that:

42        1. Educates enrolled students in the culinary arts,  
 43        including the preparation, cooking, and presentation of food, or  
 44        provides education and experience in culinary arts-related  
 45        businesses;

46        2. Is provided by:

47        a. A state university as defined in s. 1000.21;

48        b. A Florida College System institution as defined in s.  
 49        1000.21;

50        c. A nonprofit independent college or university that is  
 51        located and chartered in this state and accredited by the  
 52        Commission on Colleges of the Southern Association of Colleges

53 and Schools to grant baccalaureate degrees, that is under the  
 54 jurisdiction of the Department of Education, and that is  
 55 eligible to participate in the William L. Boyd, IV, Florida  
 56 Resident Access Grant Program; or

57 d. A nonpublic postsecondary educational institution  
 58 licensed pursuant to part III of chapter 1005; and

59 3. Is inspected by any state agency or agencies for  
 60 compliance with sanitation standards.

61 (b)(a) "Department" means the Department of Health or its  
 62 representative county health department.

63 (c)(b) "Food service establishment" means detention  
 64 facilities, public or private schools, migrant labor camps,  
 65 assisted living facilities, facilities participating in the  
 66 United States Department of Agriculture Afterschool Meal Program  
 67 that are located at a facility or site that is not inspected by  
 68 another state agency for compliance with sanitation standards,  
 69 adult family-care homes, adult day care centers, short-term  
 70 residential treatment centers, residential treatment facilities,  
 71 homes for special services, transitional living facilities,  
 72 crisis stabilization units, hospices, prescribed pediatric  
 73 extended care centers, intermediate care facilities for persons  
 74 with developmental disabilities, boarding schools, civic or  
 75 fraternal organizations, bars and lounges, vending machines that  
 76 dispense potentially hazardous foods at facilities expressly  
 77 named in this paragraph, and facilities used as temporary food  
 78 events or mobile food units at any facility expressly named in

79 | this paragraph, where food is prepared and intended for  
80 | individual portion service, including the site at which  
81 | individual portions are provided, regardless of whether  
82 | consumption is on or off the premises and regardless of whether  
83 | there is a charge for the food. The term includes a culinary  
84 | education program where food is prepared and intended for  
85 | individual portion service, regardless of whether there is a  
86 | charge for the food or whether the program is inspected by  
87 | another state agency for compliance with sanitation standards.  
88 | The term does not include any entity not expressly named in this  
89 | paragraph; nor does the term include a domestic violence center  
90 | certified by the Department of Children and Families and  
91 | monitored by the Florida Coalition Against Domestic Violence  
92 | under part XII of chapter 39 if the center does not prepare and  
93 | serve food to its residents and does not advertise food or drink  
94 | for public consumption.

95 |       ~~(d)-(e)~~ "Operator" means the owner, operator, keeper,  
96 | proprietor, lessee, manager, assistant manager, agent, or  
97 | employee of a food service establishment.

98 |       ~~(3)-(2)~~ DUTIES.—

99 |       (a) The department may advise and consult with the Agency  
100 | for Health Care Administration, the Department of Business and  
101 | Professional Regulation, the Department of Agriculture and  
102 | Consumer Services, and the Department of Children and Families  
103 | concerning procedures related to the storage, preparation,  
104 | serving, or display of food at any building, structure, or

105 facility not expressly included in this section that is  
106 inspected, licensed, or regulated by those agencies.

107 (b) The department shall adopt rules, including  
108 definitions of terms which are consistent with law prescribing  
109 minimum sanitation standards and manager certification  
110 requirements as prescribed in s. 509.039, and which shall be  
111 enforced in food service establishments as defined in this  
112 section. The sanitation standards must address the construction,  
113 operation, and maintenance of the establishment; lighting,  
114 ventilation, laundry rooms, lockers, use and storage of toxic  
115 materials and cleaning compounds, and first-aid supplies; plan  
116 review; design, construction, installation, location,  
117 maintenance, sanitation, and storage of food equipment and  
118 utensils; employee training, health, hygiene, and work  
119 practices; food supplies, preparation, storage, transportation,  
120 and service, including access to the areas where food is stored  
121 or prepared; and sanitary facilities and controls, including  
122 water supply and sewage disposal; plumbing and toilet  
123 facilities; garbage and refuse collection, storage, and  
124 disposal; and vermin control. Public and private schools, if the  
125 food service is operated by school employees, bars and lounges,  
126 civic organizations, and any other facility that is not  
127 regulated under this section are exempt from the rules developed  
128 for manager certification. The department shall administer a  
129 comprehensive inspection, monitoring, and sampling program to  
130 ensure such standards are maintained. With respect to food

131 service establishments permitted or licensed under chapter 500  
132 or chapter 509, the department shall assist the Division of  
133 Hotels and Restaurants of the Department of Business and  
134 Professional Regulation and the Department of Agriculture and  
135 Consumer Services with rulemaking by providing technical  
136 information.

137 (c) The department shall carry out all provisions of this  
138 chapter and all other applicable laws and rules relating to the  
139 inspection or regulation of food service establishments as  
140 defined in this section, for the purpose of safeguarding the  
141 public's health, safety, and welfare.

142 (d) The department shall inspect each food service  
143 establishment as often as necessary to ensure compliance with  
144 applicable laws and rules. The department shall have the right  
145 of entry and access to these food service establishments at any  
146 reasonable time. In inspecting food service establishments under  
147 this section, the department shall provide each inspected  
148 establishment with the food recovery brochure developed under s.  
149 595.420.

150 (e) The department or other appropriate regulatory entity  
151 may inspect theaters ~~exempted in subsection (1)~~ to ensure  
152 compliance with applicable laws and rules pertaining to minimum  
153 sanitation standards. A fee for inspection shall be prescribed  
154 by rule, but the aggregate amount charged per year per theater  
155 establishment shall not exceed \$300, regardless of the entity  
156 providing the inspection.

157 (4)~~(3)~~ LICENSES REQUIRED.—

158 (a) Licenses; annual renewals.—Each food service  
 159 establishment regulated under this section shall obtain a  
 160 license from the department annually. Food service establishment  
 161 licenses shall expire annually and are not transferable from one  
 162 place or individual to another. However, those facilities  
 163 licensed by the department's Office of Licensure and  
 164 Certification, the Child Care Services Program Office, or the  
 165 Agency for Persons with Disabilities are exempt from this  
 166 subsection. It shall be a misdemeanor of the second degree,  
 167 punishable as provided in s. 381.0061, s. 775.082, or s.  
 168 775.083, for such an establishment to operate without this  
 169 license. The department may refuse a license, or a renewal  
 170 thereof, to any establishment that is not constructed or  
 171 maintained in accordance with law and with the rules of the  
 172 department. Annual application for renewal is not required.

173 (b) Application for license.—Each person who plans to open  
 174 a food service establishment regulated under this section and  
 175 not regulated under chapter 500 or chapter 509 shall apply for  
 176 and receive a license prior to the commencement of operation.

177 (5)~~(4)~~ LICENSE; INSPECTION; FEES.—

178 (a) The department is authorized to collect fees from  
 179 establishments licensed under this section and from those  
 180 facilities exempted from licensure under paragraph (4)(a)  
 181 ~~(3)(a)~~. It is the intent of the Legislature that the total fees  
 182 assessed under this section be in an amount sufficient to meet

183 the cost of carrying out the provisions of this section.

184 (b) The fee schedule for food service establishments  
 185 licensed under this section shall be prescribed by rule, but the  
 186 aggregate license fee per establishment shall not exceed \$300.

187 (c) The license fees shall be prorated on a quarterly  
 188 basis. Annual licenses shall be renewed as prescribed by rule.

189 (6)~~(5)~~ FINES; SUSPENSION OR REVOCATION OF LICENSES;  
 190 PROCEDURE.—

191 (a) The department may impose fines against the  
 192 establishment or operator regulated under this section for  
 193 violations of sanitary standards, in accordance with s.  
 194 381.0061. All amounts collected shall be deposited to the credit  
 195 of the County Health Department Trust Fund administered by the  
 196 department.

197 (b) The department may suspend or revoke the license of  
 198 any food service establishment licensed under this section that  
 199 has operated or is operating in violation of any of the  
 200 provisions of this section or the rules adopted under this  
 201 section. Such food service establishment shall remain closed  
 202 when its license is suspended or revoked.

203 (c) The department may suspend or revoke the license of  
 204 any food service establishment licensed under this section when  
 205 such establishment has been deemed by the department to be an  
 206 imminent danger to the public's health for failure to meet  
 207 sanitation standards or other applicable regulatory standards.

208 (d) No license shall be suspended under this section for a



209 | period of more than 12 months. At the end of such period of  
210 | suspension, the establishment may apply for reinstatement or  
211 | renewal of the license. A food service establishment which has  
212 | had its license revoked may not apply for another license for  
213 | that location prior to the date on which the revoked license  
214 | would have expired.

215 |       (7)~~(6)~~ IMMINENT DANGERS; STOP-SALE ORDERS.—

216 |       (a) In the course of epidemiological investigations or for  
217 | those establishments regulated by the department under this  
218 | chapter, the department, to protect the public from food that is  
219 | unwholesome or otherwise unfit for human consumption, may  
220 | examine, sample, seize, and stop the sale or use of food to  
221 | determine its condition. The department may stop the sale and  
222 | supervise the proper destruction of food when the State Health  
223 | Officer or his or her designee determines that such food  
224 | represents a threat to the public health.

225 |       (b) The department may determine that a food service  
226 | establishment regulated under this section is an imminent danger  
227 | to the public health and require its immediate closure when such  
228 | establishment fails to comply with applicable sanitary and  
229 | safety standards and, because of such failure, presents an  
230 | imminent threat to the public's health, safety, and welfare. The  
231 | department may accept inspection results from state and local  
232 | building and firesafety officials and other regulatory agencies  
233 | as justification for such actions. Any facility so deemed and  
234 | closed shall remain closed until allowed by the department or by

235 judicial order to reopen.

236 ~~(8)(7)~~ MISREPRESENTING FOOD OR FOOD PRODUCTS.—No operator  
 237 of any food service establishment regulated under this section  
 238 shall knowingly and willfully misrepresent the identity of any  
 239 food or food product to any of the patrons of such  
 240 establishment. Food used by food establishments shall be  
 241 identified, labeled, and advertised in accordance with the  
 242 provisions of chapter 500.

243 Section 2. Paragraph (a) of subsection (5) of section  
 244 509.013, Florida Statutes, is amended to read:

245 509.013 Definitions.—As used in this chapter, the term:

246 (5) (a) "Public food service establishment" means any  
 247 building, vehicle, place, or structure, or any room or division  
 248 in a building, vehicle, place, or structure where food is  
 249 prepared, served, or sold for immediate consumption on or in the  
 250 vicinity of the premises; called for or taken out by customers;  
 251 or prepared prior to being delivered to another location for  
 252 consumption. The term includes a culinary education program, as  
 253 defined in s. 381.0072(2), which offers, prepares, serves, or  
 254 sells food to the general public, regardless of whether it is  
 255 inspected by another state agency for compliance with sanitation  
 256 standards.

257 Section 3. Paragraph (a) of subsection (2) of section  
 258 561.20, Florida Statutes, is amended to read:

259 561.20 Limitation upon number of licenses issued.—

260 (2) (a) No such limitation of the number of licenses as

261 herein provided shall henceforth prohibit the issuance of a  
262 special license to:

263 1. Any bona fide hotel, motel, or motor court of not fewer  
264 than 80 guest rooms in any county having a population of less  
265 than 50,000 residents, and of not fewer than 100 guest rooms in  
266 any county having a population of 50,000 residents or greater;  
267 or any bona fide hotel or motel located in a historic structure,  
268 as defined in s. 561.01(21), with fewer than 100 guest rooms  
269 which derives at least 51 percent of its gross revenue from the  
270 rental of hotel or motel rooms, which is licensed as a public  
271 lodging establishment by the Division of Hotels and Restaurants;  
272 provided, however, that a bona fide hotel or motel with no fewer  
273 than 10 and no more than 25 guest rooms which is a historic  
274 structure, as defined in s. 561.01(21), in a municipality that  
275 on the effective date of this act has a population, according to  
276 the University of Florida's Bureau of Economic and Business  
277 Research Estimates of Population for 1998, of no fewer than  
278 25,000 and no more than 35,000 residents and that is within a  
279 constitutionally chartered county may be issued a special  
280 license. This special license shall allow the sale and  
281 consumption of alcoholic beverages only on the licensed premises  
282 of the hotel or motel. In addition, the hotel or motel must  
283 derive at least 60 percent of its gross revenue from the rental  
284 of hotel or motel rooms and the sale of food and nonalcoholic  
285 beverages; provided that the provisions of this subparagraph  
286 shall supersede local laws requiring a greater number of hotel

287 rooms;

288         2. Any condominium accommodation of which no fewer than  
 289 100 condominium units are wholly rentable to transients and  
 290 which is licensed under the provisions of chapter 509, except  
 291 that the license shall be issued only to the person or  
 292 corporation which operates the hotel or motel operation and not  
 293 to the association of condominium owners;

294         3. Any condominium accommodation of which no fewer than 50  
 295 condominium units are wholly rentable to transients, which is  
 296 licensed under the provisions of chapter 509, and which is  
 297 located in any county having home rule under s. 10 or s. 11,  
 298 Art. VIII of the State Constitution of 1885, as amended, and  
 299 incorporated by reference in s. 6(e), Art. VIII of the State  
 300 Constitution, except that the license shall be issued only to  
 301 the person or corporation which operates the hotel or motel  
 302 operation and not to the association of condominium owners;

303         4. Any restaurant having 2,500 square feet of service area  
 304 and equipped to serve 150 persons full course meals at tables at  
 305 one time, and deriving at least 51 percent of its gross revenue  
 306 from the sale of food and nonalcoholic beverages; however, no  
 307 restaurant granted a special license on or after January 1,  
 308 1958, pursuant to general or special law shall operate as a  
 309 package store, nor shall intoxicating beverages be sold under  
 310 such license after the hours of serving food have elapsed; or

311         5. Any caterer, deriving at least 51 percent of its gross  
 312 revenue from the sale of food and nonalcoholic beverages,

313 licensed by the Division of Hotels and Restaurants under chapter  
314 509. This subparagraph does not apply to a culinary education  
315 program, as defined in s. 381.0072(2), which is licensed as a  
316 public food service establishment by the Division of Hotels and  
317 Restaurants and provides catering services. Notwithstanding any  
318 other provision of law to the contrary, a licensee under this  
319 subparagraph shall sell or serve alcoholic beverages only for  
320 consumption on the premises of a catered event at which the  
321 licensee is also providing prepared food, and shall prominently  
322 display its license at any catered event at which the caterer is  
323 selling or serving alcoholic beverages. A licensee under this  
324 subparagraph shall purchase all alcoholic beverages it sells or  
325 serves at a catered event from a vendor licensed under s.  
326 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject  
327 to the limitation imposed in subsection (1), as appropriate. A  
328 licensee under this subparagraph may not store any alcoholic  
329 beverages to be sold or served at a catered event. Any alcoholic  
330 beverages purchased by a licensee under this subparagraph for a  
331 catered event that are not used at that event must remain with  
332 the customer; provided that if the vendor accepts unopened  
333 alcoholic beverages, the licensee may return such alcoholic  
334 beverages to the vendor for a credit or reimbursement.  
335 Regardless of the county or counties in which the licensee  
336 operates, a licensee under this subparagraph shall pay the  
337 annual state license tax set forth in s. 565.02(1)(b). A  
338 licensee under this subparagraph must maintain for a period of 3

339 | years all records required by the department by rule to  
340 | demonstrate compliance with the requirements of this  
341 | subparagraph, including licensed vendor receipts for the  
342 | purchase of alcoholic beverages and records identifying each  
343 | customer and the location and date of each catered event.  
344 | Notwithstanding any provision of law to the contrary, any vendor  
345 | licensed under s. 565.02(1) subject to the limitation imposed in  
346 | subsection (1), may, without any additional licensure under this  
347 | subparagraph, serve or sell alcoholic beverages for consumption  
348 | on the premises of a catered event at which prepared food is  
349 | provided by a caterer licensed under chapter 509. If a licensee  
350 | under this subparagraph also possesses any other license under  
351 | the Beverage Law, the license issued under this subparagraph  
352 | shall not authorize the holder to conduct activities on the  
353 | premises to which the other license or licenses apply that would  
354 | otherwise be prohibited by the terms of that license or the  
355 | Beverage Law. Nothing in this section shall permit the licensee  
356 | to conduct activities that are otherwise prohibited by the  
357 | Beverage Law or local law. The Division of Alcoholic Beverages  
358 | and Tobacco is hereby authorized to adopt rules to administer  
359 | the license created in this subparagraph, to include rules  
360 | governing licensure, recordkeeping, and enforcement. The first  
361 | \$300,000 in fees collected by the division each fiscal year  
362 | pursuant to this subparagraph shall be deposited in the  
363 | Department of Children and Families' Operations and Maintenance  
364 | Trust Fund to be used only for alcohol and drug abuse education,

365 treatment, and prevention programs. The remainder of the fees  
366 collected shall be deposited into the Hotel and Restaurant Trust  
367 Fund created pursuant to s. 509.072.

368 6. A culinary education program as defined in s.  
369 381.0072(2) which is licensed as a public food service  
370 establishment by the Division of Hotels and Restaurants.

371 a. This special license shall allow the sale and  
372 consumption of alcoholic beverages on the licensed premises of  
373 the culinary education program. The culinary education program  
374 shall specify designated areas in the facility where the  
375 alcoholic beverages may be consumed at the time of application.  
376 Alcoholic beverages sold for consumption on the premises may be  
377 consumed only in areas designated pursuant to s. 561.01(11) and  
378 may not be removed from the designated area. Such license shall  
379 be applicable only in and for designated areas used by the  
380 culinary education program.

381 b. If the culinary education program provides catering  
382 services, this special license shall also allow the sale and  
383 consumption of alcoholic beverages on the premises of a catered  
384 event at which the licensee is also providing prepared food. A  
385 culinary education program that provides catering services is  
386 not required to derive at least 51 percent of its gross revenue  
387 from the sale of food and nonalcoholic beverages.  
388 Notwithstanding any other provision of law to the contrary, a  
389 licensee that provides catering services under this sub-  
390 subparagraph shall prominently display its beverage license at

391 any catered event at which the caterer is selling or serving  
392 alcoholic beverages. Regardless of the county or counties in  
393 which the licensee operates, a licensee under this sub-  
394 subparagraph shall pay the annual state license tax set forth in  
395 s. 565.02(1)(b). A licensee under this sub-subparagraph must  
396 maintain for a period of 3 years all records required by the  
397 department by rule to demonstrate compliance with the  
398 requirements of this sub-subparagraph.

399 c. If a licensee under this subparagraph also possesses  
400 any other license under the Beverage Law, the license issued  
401 under this subparagraph does not authorize the holder to conduct  
402 activities on the premises to which the other license or  
403 licenses apply that would otherwise be prohibited by the terms  
404 of that license or the Beverage Law. Nothing in this  
405 subparagraph shall permit the licensee to conduct activities  
406 that are otherwise prohibited by the Beverage Law or local law.  
407 Any culinary education program that holds a license to sell  
408 alcoholic beverages shall comply with the age requirements set  
409 forth in ss. 562.11(4), 562.111(2), and 562.13.

410 d. The Division of Alcoholic Beverages and Tobacco may  
411 adopt rules to administer the license created in this  
412 subparagraph, to include rules governing licensure,  
413 recordkeeping, and enforcement.

414 e. A license issued pursuant to this subparagraph does not  
415 permit the licensee to sell alcoholic beverages by the package  
416 for off-premises consumption.



417  
418 However, any license heretofore issued to any such hotel, motel,  
419 motor court, or restaurant or hereafter issued to any such  
420 hotel, motel, or motor court, including a condominium  
421 accommodation, under the general law shall not be moved to a new  
422 location, such license being valid only on the premises of such  
423 hotel, motel, motor court, or restaurant. Licenses issued to  
424 hotels, motels, motor courts, or restaurants under the general  
425 law and held by such hotels, motels, motor courts, or  
426 restaurants on May 24, 1947, shall be counted in the quota  
427 limitation contained in subsection (1). Any license issued for  
428 any hotel, motel, or motor court under the provisions of this  
429 law shall be issued only to the owner of the hotel, motel, or  
430 motor court or, in the event the hotel, motel, or motor court is  
431 leased, to the lessee of the hotel, motel, or motor court; and  
432 the license shall remain in the name of the owner or lessee so  
433 long as the license is in existence. Any special license now in  
434 existence heretofore issued under the provisions of this law  
435 cannot be renewed except in the name of the owner of the hotel,  
436 motel, motor court, or restaurant or, in the event the hotel,  
437 motel, motor court, or restaurant is leased, in the name of the  
438 lessee of the hotel, motel, motor court, or restaurant in which  
439 the license is located and must remain in the name of the owner  
440 or lessee so long as the license is in existence. Any license  
441 issued under this section shall be marked "Special," and nothing  
442 herein provided shall limit, restrict, or prevent the issuance

443 of a special license for any restaurant or motel which shall  
444 hereafter meet the requirements of the law existing immediately  
445 prior to the effective date of this act, if construction of such  
446 restaurant has commenced prior to the effective date of this act  
447 and is completed within 30 days thereafter, or if an application  
448 is on file for such special license at the time this act takes  
449 effect; and any such licenses issued under this proviso may be  
450 annually renewed as now provided by law. Nothing herein prevents  
451 an application for transfer of a license to a bona fide  
452 purchaser of any hotel, motel, motor court, or restaurant by the  
453 purchaser of such facility or the transfer of such license  
454 pursuant to law.

455 Section 4. This act shall take effect July 1, 2016.