

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 a public food service  
 38 establishment licensed under chapter 509 unless the public food  
 39 service establishment is a culinary education program licensed  
 40 under chapter 509.

41        (2) ~~(1)~~ DEFINITIONS.—As used in this section, the term:

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

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

47        2. Is provided by:

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

49        b. A Florida College System institution as defined in s.  
 50 1000.21;

51        c. A nonprofit independent college or university that is  
 52 located and chartered in this state and accredited by the

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

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

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

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

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

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

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

99 |        (3)~~(2)~~ DUTIES.—

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

105 | serving, or display of food at any building, structure, or  
106 | facility not expressly included in this section that is  
107 | inspected, licensed, or regulated by those agencies.

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

131 ensure such standards are maintained. With respect to food  
 132 service establishments permitted or licensed under chapter 500  
 133 or chapter 509, the department shall assist the Division of  
 134 Hotels and Restaurants of the Department of Business and  
 135 Professional Regulation and the Department of Agriculture and  
 136 Consumer Services with rulemaking by providing technical  
 137 information.

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

143 (d) The department shall inspect each food service  
 144 establishment as often as necessary to ensure compliance with  
 145 applicable laws and rules. The department shall have the right  
 146 of entry and access to these food service establishments at any  
 147 reasonable time. In inspecting food service establishments under  
 148 this section, the department shall provide each inspected  
 149 establishment with the food recovery brochure developed under s.  
 150 595.420.

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

157 providing the inspection.

158 (4)~~(3)~~ LICENSES REQUIRED.—

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

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

178 (5)~~(4)~~ LICENSE; INSPECTION; FEES.—

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

183 assessed under this section be in an amount sufficient to meet  
 184 the cost of carrying out the provisions of this section.

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

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

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

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

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

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

209 (d) No license shall be suspended under this section for a  
210 period of more than 12 months. At the end of such period of  
211 suspension, the establishment may apply for reinstatement or  
212 renewal of the license. A food service establishment which has  
213 had its license revoked may not apply for another license for  
214 that location prior to the date on which the revoked license  
215 would have expired.

216 (7)~~(6)~~ IMMEDIATE DANGERS; STOP-SALE ORDERS.—

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

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

235 closed shall remain closed until allowed by the department or by  
236 judicial order to reopen.

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

244 Section 2. Paragraph (a) of subsection (5) of section  
245 509.013, Florida Statutes, is amended to read:

246 509.013 Definitions.—As used in this chapter, the term:

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

258 Section 3. Paragraph (a) of subsection (2) of section  
259 561.20, Florida Statutes, is amended to read:

260 561.20 Limitation upon number of licenses issued.—

261 (2) (a) No such limitation of the number of licenses as  
262 herein provided shall henceforth prohibit the issuance of a  
263 special license to:

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

287 shall supersede local laws requiring a greater number of hotel  
288 rooms;

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

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

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

312         5. Any caterer, deriving at least 51 percent of its gross

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

339 licensee under this subparagraph must maintain for a period of 3  
340 years all records required by the department by rule to  
341 demonstrate compliance with the requirements of this  
342 subparagraph, including licensed vendor receipts for the  
343 purchase of alcoholic beverages and records identifying each  
344 customer and the location and date of each catered event.  
345 Notwithstanding any provision of law to the contrary, any vendor  
346 licensed under s. 565.02(1) subject to the limitation imposed in  
347 subsection (1), may, without any additional licensure under this  
348 subparagraph, serve or sell alcoholic beverages for consumption  
349 on the premises of a catered event at which prepared food is  
350 provided by a caterer licensed under chapter 509. If a licensee  
351 under this subparagraph also possesses any other license under  
352 the Beverage Law, the license issued under this subparagraph  
353 shall not authorize the holder to conduct activities on the  
354 premises to which the other license or licenses apply that would  
355 otherwise be prohibited by the terms of that license or the  
356 Beverage Law. Nothing in this section shall permit the licensee  
357 to conduct activities that are otherwise prohibited by the  
358 Beverage Law or local law. The Division of Alcoholic Beverages  
359 and Tobacco is hereby authorized to adopt rules to administer  
360 the license created in this subparagraph, to include rules  
361 governing licensure, recordkeeping, and enforcement. The first  
362 \$300,000 in fees collected by the division each fiscal year  
363 pursuant to this subparagraph shall be deposited in the  
364 Department of Children and Families' Operations and Maintenance

365 Trust Fund to be used only for alcohol and drug abuse education,  
366 treatment, and prevention programs. The remainder of the fees  
367 collected shall be deposited into the Hotel and Restaurant Trust  
368 Fund created pursuant to s. 509.072.

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

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

382 b. If the culinary education program provides catering  
383 services, this special license shall also allow the sale and  
384 consumption of alcoholic beverages on the premises of a catered  
385 event at which the licensee is also providing prepared food. A  
386 culinary education program that provides catering services is  
387 not required to derive at least 51 percent of its gross revenue  
388 from the sale of food and nonalcoholic beverages.

389 Notwithstanding any other provision of law to the contrary, a  
390 licensee that provides catering services under this sub-

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

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

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

415 e. A license issued pursuant to this subparagraph does not  
416 permit the licensee to sell alcoholic beverages by the package

417 for off-premises consumption.

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

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

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