

By the Committee on Regulated Industries; and Senator Altman

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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 term "food
8 service establishment" and providing for the
9 applicability of food service protection requirements
10 thereto; conforming provisions to changes made by the
11 act; amending s. 509.013, F.S.; revising the term
12 "public food service establishment" to include a
13 culinary education program; amending s. 561.20, F.S.;
14 authorizing a culinary education program with a public
15 food service establishment license to obtain an
16 alcoholic beverage license under certain conditions;
17 authorizing the Division of Alcoholic Beverages and
18 Tobacco to adopt rules to administer such licenses;
19 providing an 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~~

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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 career center as provided for in s. 1001.44;

51 d. A charter technical career center as defined in s.
52 1002.34;

53 e. A nonprofit independent college or university that is
54 located and chartered in this state and accredited by the
55 Commission on Colleges of the Southern Association of Colleges
56 and Schools to grant baccalaureate degrees, that is under the
57 jurisdiction of the Department of Education, and that is
58 eligible to participate in the William L. Boyd, IV, Florida
59 Resident Access Grant Program; or

60 f. A nonpublic postsecondary educational institution
61 licensed pursuant to part III of chapter 1005; and

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62 3. Is inspected by any state agency or agencies for
63 compliance with sanitation standards.

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

66 (c)(b) "Food service establishment" means detention
67 facilities, public or private schools, migrant labor camps,
68 assisted living facilities, facilities participating in the
69 United States Department of Agriculture Afterschool Meal Program
70 that are located at a facility or site that is not inspected by
71 another state agency for compliance with sanitation standards,
72 adult family-care homes, adult day care centers, short-term
73 residential treatment centers, residential treatment facilities,
74 homes for special services, transitional living facilities,
75 crisis stabilization units, hospices, prescribed pediatric
76 extended care centers, intermediate care facilities for persons
77 with developmental disabilities, boarding schools, civic or
78 fraternal organizations, bars and lounges, vending machines that
79 dispense potentially hazardous foods at facilities expressly
80 named in this paragraph, and facilities used as temporary food
81 events or mobile food units at any facility expressly named in
82 this paragraph, where food is prepared and intended for
83 individual portion service, including the site at which
84 individual portions are provided, regardless of whether
85 consumption is on or off the premises and regardless of whether
86 there is a charge for the food. The term includes a culinary
87 education program where food is prepared and intended for
88 individual portion service, regardless of whether there is a
89 charge for the food or whether the program is inspected by
90 another state agency for compliance with sanitation standards.

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91 The term does not include any entity not expressly named in this
92 paragraph; nor does the term include a domestic violence center
93 certified by the Department of Children and Families and
94 monitored by the Florida Coalition Against Domestic Violence
95 under part XII of chapter 39 if the center does not prepare and
96 serve food to its residents and does not advertise food or drink
97 for public consumption.

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

101 (3)~~(2)~~ DUTIES.—

102 (a) The department may advise and consult with the Agency
103 for Health Care Administration, the Department of Business and
104 Professional Regulation, the Department of Agriculture and
105 Consumer Services, and the Department of Children and Families
106 concerning procedures related to the storage, preparation,
107 serving, or display of food at any building, structure, or
108 facility not expressly included in this section that is
109 inspected, licensed, or regulated by those agencies.

110 (b) The department shall adopt rules, including definitions
111 of terms which are consistent with law prescribing minimum
112 sanitation standards and manager certification requirements as
113 prescribed in s. 509.039, and which shall be enforced in food
114 service establishments as defined in this section. The
115 sanitation standards must address the construction, operation,
116 and maintenance of the establishment; lighting, ventilation,
117 laundry rooms, lockers, use and storage of toxic materials and
118 cleaning compounds, and first-aid supplies; plan review; design,
119 construction, installation, location, maintenance, sanitation,

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120 and storage of food equipment and utensils; employee training,
121 health, hygiene, and work practices; food supplies, preparation,
122 storage, transportation, and service, including access to the
123 areas where food is stored or prepared; and sanitary facilities
124 and controls, including water supply and sewage disposal;
125 plumbing and toilet facilities; garbage and refuse collection,
126 storage, and disposal; and vermin control. Public and private
127 schools, if the food service is operated by school employees,
128 bars and lounges, civic organizations, and any other facility
129 that is not regulated under this section are exempt from the
130 rules developed for manager certification. The department shall
131 administer a comprehensive inspection, monitoring, and sampling
132 program to ensure such standards are maintained. With respect to
133 food service establishments permitted or licensed under chapter
134 500 or chapter 509, the department shall assist the Division of
135 Hotels and Restaurants of the Department of Business and
136 Professional Regulation and the Department of Agriculture and
137 Consumer Services with rulemaking by providing technical
138 information.

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

144 (d) The department shall inspect each food service
145 establishment as often as necessary to ensure compliance with
146 applicable laws and rules. The department shall have the right
147 of entry and access to these food service establishments at any
148 reasonable time. In inspecting food service establishments under

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149 this section, the department shall provide each inspected
150 establishment with the food recovery brochure developed under s.
151 595.420.

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

159 (4) ~~(3)~~ LICENSES REQUIRED.—

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

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

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178 and receive a license prior to the commencement of operation.

179 (5)~~(4)~~ LICENSE; INSPECTION; FEES.—

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

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

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

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

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

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

205 (c) The department may suspend or revoke the license of any
206 food service establishment licensed under this section when such

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207 establishment has been deemed by the department to be an
208 imminent danger to the public's health for failure to meet
209 sanitation standards or other applicable regulatory standards.

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

217 (7) ~~(6)~~ IMMEDIATE DANGERS; STOP-SALE ORDERS.-

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

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

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

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

245 Section 2. Paragraph (a) of subsection (5) of section
246 509.013, Florida Statutes, is amended to read:

247 509.013 Definitions.—As used in this chapter, the term:

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

259 Section 3. Paragraph (a) of subsection (2) of section
260 561.20, Florida Statutes, is amended to read:

261 561.20 Limitation upon number of licenses issued.—

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

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

290 2. Any condominium accommodation of which no fewer than 100
291 condominium units are wholly rentable to transients and which is
292 licensed under the provisions of chapter 509, except that the
293 license shall be issued only to the person or corporation which

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294 operates the hotel or motel operation and not to the association
295 of condominium owners;

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

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

313 5. Any caterer, deriving at least 51 percent of its gross
314 revenue from the sale of food and nonalcoholic beverages,
315 licensed by the Division of Hotels and Restaurants under chapter
316 509. This subparagraph does not apply to a culinary education
317 program, as defined in s. 381.0072(2), which is licensed as a
318 public food service establishment by the Division of Hotels and
319 Restaurants and provides catering services. Notwithstanding any
320 other provision of law to the contrary, a licensee under this
321 subparagraph shall sell or serve alcoholic beverages only for
322 consumption on the premises of a catered event at which the

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323 licensee is also providing prepared food, and shall prominently
324 display its license at any catered event at which the caterer is
325 selling or serving alcoholic beverages. A licensee under this
326 subparagraph shall purchase all alcoholic beverages it sells or
327 serves at a catered event from a vendor licensed under s.
328 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject
329 to the limitation imposed in subsection (1), as appropriate. A
330 licensee under this subparagraph may not store any alcoholic
331 beverages to be sold or served at a catered event. Any alcoholic
332 beverages purchased by a licensee under this subparagraph for a
333 catered event that are not used at that event must remain with
334 the customer; provided that if the vendor accepts unopened
335 alcoholic beverages, the licensee may return such alcoholic
336 beverages to the vendor for a credit or reimbursement.
337 Regardless of the county or counties in which the licensee
338 operates, a licensee under this subparagraph shall pay the
339 annual state license tax set forth in s. 565.02(1)(b). A
340 licensee under this subparagraph must maintain for a period of 3
341 years all records required by the department by rule to
342 demonstrate compliance with the requirements of this
343 subparagraph, including licensed vendor receipts for the
344 purchase of alcoholic beverages and records identifying each
345 customer and the location and date of each catered event.
346 Notwithstanding any provision of law to the contrary, any vendor
347 licensed under s. 565.02(1) subject to the limitation imposed in
348 subsection (1), may, without any additional licensure under this
349 subparagraph, serve or sell alcoholic beverages for consumption
350 on the premises of a catered event at which prepared food is
351 provided by a caterer licensed under chapter 509. If a licensee

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352 under this subparagraph also possesses any other license under
353 the Beverage Law, the license issued under this subparagraph
354 shall not authorize the holder to conduct activities on the
355 premises to which the other license or licenses apply that would
356 otherwise be prohibited by the terms of that license or the
357 Beverage Law. Nothing in this section shall permit the licensee
358 to conduct activities that are otherwise prohibited by the
359 Beverage Law or local law. The Division of Alcoholic Beverages
360 and Tobacco is hereby authorized to adopt rules to administer
361 the license created in this subparagraph, to include rules
362 governing licensure, recordkeeping, and enforcement. The first
363 \$300,000 in fees collected by the division each fiscal year
364 pursuant to this subparagraph shall be deposited in the
365 Department of Children and Families' Operations and Maintenance
366 Trust Fund to be used only for alcohol and drug abuse education,
367 treatment, and prevention programs. The remainder of the fees
368 collected shall be deposited into the Hotel and Restaurant Trust
369 Fund created pursuant to s. 509.072.

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

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

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381 be applicable only in and for designated areas used by the
382 culinary education program.

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

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

401 c. If a licensee under this subparagraph also possesses any
402 other license under the Beverage Law, the license issued under
403 this subparagraph does not authorize the holder to conduct
404 activities on the premises to which the other license or
405 licenses apply that would otherwise be prohibited by the terms
406 of that license or the Beverage Law. This subparagraph does not
407 permit the licensee to conduct activities that are otherwise
408 prohibited by the Beverage Law or local law. Any culinary
409 education program that holds a license to sell alcoholic

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410 beverages shall comply with the age requirements set forth in
411 ss. 562.11(4), 562.111(2), and 562.13.

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

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

419
420 However, any license heretofore issued to any such hotel, motel,
421 motor court, or restaurant or hereafter issued to any such
422 hotel, motel, or motor court, including a condominium
423 accommodation, under the general law shall not be moved to a new
424 location, such license being valid only on the premises of such
425 hotel, motel, motor court, or restaurant. Licenses issued to
426 hotels, motels, motor courts, or restaurants under the general
427 law and held by such hotels, motels, motor courts, or
428 restaurants on May 24, 1947, shall be counted in the quota
429 limitation contained in subsection (1). Any license issued for
430 any hotel, motel, or motor court under the provisions of this
431 law shall be issued only to the owner of the hotel, motel, or
432 motor court or, in the event the hotel, motel, or motor court is
433 leased, to the lessee of the hotel, motel, or motor court; and
434 the license shall remain in the name of the owner or lessee so
435 long as the license is in existence. Any special license now in
436 existence heretofore issued under the provisions of this law
437 cannot be renewed except in the name of the owner of the hotel,
438 motel, motor court, or restaurant or, in the event the hotel,

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

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

458