

**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.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: SB 764

INTRODUCER: Senator Hays

SUBJECT: Public Food Service Establishments

DATE: February 2, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	<b>Favorable</b>
2.	Oxamendi	Caldwell	RI	<b>Favorable</b>
3.			FP	

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**I. Summary:**

SB 764 amends s. 509.013, F.S., to exclude from the definition of “public food service establishment”:

- Any temporary eating place used for food contests or cook offs and maintained by a school, college, university, church, religious organization, nonprofit fraternal organization, or nonprofit civic organization; and
- Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or temporary event lasting up to three days hosted by a church, religious organization, nonprofit fraternal organization, or nonprofit civic organization.

The bill requires that, upon request by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation (division), the organization claiming the exclusion must provide proof of its status as a church, religious organization, nonprofit fraternal organization, or nonprofit civic organization.

**II. Present Situation:**

**Public Food Service Establishments**

Section 509.013(5)(a), F.S., defines the term “public food service establishment” to mean:

any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.

At the end of the 2013-2014 fiscal year, there were 87,083 licensed public food service establishments, including seating, permanent non-seating, hotdog carts, and mobile food dispensing vehicles.<sup>1</sup>

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

### **Exclusions from the Definition of Public Food Service Establishments**

There are several exclusions from the definition of public food service establishment, including:<sup>2</sup>

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests.
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests.
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
- Any eating place maintained by a facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families.<sup>3</sup>
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services (DACS) under s. 500.12, F.S.
- Any place of business serving only ice, beverages, popcorn, and prepackaged items.
- Any vending machine that dispenses any food or beverage other than potentially hazardous foods.<sup>4</sup>
- Any research and development test kitchen limited to the use of employees and not open to the general public.

### **Temporary Food Service Events**

A “temporary food service event” is any event of 30 days or less where food is prepared, served, or sold to the general public.<sup>5</sup> During Fiscal Year 2014-2015, the division issued 7,849 temporary food service event licenses.<sup>6</sup> The division issues licenses for 1 - 3-day events, 4 - 30-day events, and an annual licenses. The division does not license temporary food service events located on the premises of a church, school, or nonprofit fraternal or civic organization or events

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<sup>1</sup> Department of Business and Professional Regulation, Division of Hotels and Restaurants, *Annual Reports*, Fiscal Year 2013-2014, available at: [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2014\\_15.pdf](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2014_15.pdf) (last visited January 27, 2016).

<sup>2</sup> Section 509.013(5)(b), F.S.

<sup>3</sup> Including other similar food service establishments that are regulated under s. 381.0072, F.S.

<sup>4</sup> Vending machines located in a facility regulated under s. 381.0072, F.S., that dispense potentially hazardous foods are also excluded from the definition.

<sup>5</sup> Section 509.13(8), F.S.

<sup>6</sup> *Supra* note 2.

located elsewhere and operated by such organizations because these types of organizations are excluded from the division's regulation.<sup>7</sup>

Current license fees are \$91 for a 1 - 3-day license, \$105 for a 4 - 30-day license, and \$456 for an annual license.<sup>8</sup> The division collected an estimated \$199,654 from 1 - 3-day license fees in Fiscal Year 2014-2015.<sup>9</sup>

### III. Effect of Proposed Changes:

SB 764 amends s. 509.013, F.S., to exclude from the definition of "public food service establishment":

- Any temporary eating place used for food contests or cook offs and maintained by a school, college, university, church, religious organization, nonprofit fraternal organization, or nonprofit civic organization; and
- Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or temporary event lasting up to three days hosted by a church, religious organization, nonprofit fraternal organization, or nonprofit civic organization.

The bill requires that, upon request by the division, the organization claiming the exclusion must provide documentation of its status as a church, religious organization, nonprofit fraternal organization, or nonprofit civic organization.

The bill also makes technical and conforming changes.

The bill establishes an effective date of July 1, 2016.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>7</sup> Florida Dep't of Business and Professional Regulation, *Do churches, schools, or nonprofit organizations need a temporary food service event license?* (updated 06/01/2012) available at [http://myfloridalicense.custhelp.com/app/answers/detail/a\\_id/104](http://myfloridalicense.custhelp.com/app/answers/detail/a_id/104) (last visited Jan. 27, 2016).

<sup>8</sup> Rule 61C-1.008, F.A.C.

<sup>9</sup> Florida Dep't of Business and Professional Regulation, *Senate Bill 764 Analysis* (Nov. 23, 2016) (on file with the Senate Committee on Regulated Industries and Committee on Health Policy).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

SB 764 may have a positive fiscal impact on any person or entity that would have been required to obtain a license for a temporary food service event, is no longer required to obtain such license.

**C. Government Sector Impact:**

The department estimates that SB 764 will likely have a negative fiscal impact on the department of up to \$199,654 annually due to the reduction in license fees being generated. Additionally, the revenue reduction will also cause a \$15,972 annual reduction in the 8 percent service charge transferred to general revenue.<sup>10</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 509.013 and 509.032 of the Florida Statutes.

**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.

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

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<sup>10</sup> Supra note 10