

By Senator Passidomo

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20181874__

1 A bill to be entitled
2 An act relating to emergency power for nursing home
3 and assisted living facilities; amending s. 400.23,
4 F.S.; requiring the Agency for Health Care
5 Administration, in consultation with the Department of
6 Health and the Department of Elderly Affairs, to adopt
7 and enforce rules requiring each facility to have an
8 emergency power source and a supply of fuel which meet
9 certain criteria by a specified date; requiring the
10 agency to adopt rules establishing minimum criteria
11 for a comprehensive emergency management plan that
12 includes a plan to monitor residents and a plan to
13 transport them in certain situations to avoid
14 complications from heat exposure; amending s. 429.41,
15 F.S.; requiring the Department of Elderly Affairs, in
16 consultation with the agency, the Department of
17 Children and Families, and the Department of Health,
18 to adopt and enforce rules requiring each facility
19 maintain an emergency power source and a supply of
20 fuel which meet certain criteria by a specified date;
21 requiring the Department of Elderly Affairs to
22 establish minimum criteria for a comprehensive
23 emergency management plan that includes a plan to
24 monitor residents and transport them in certain
25 situations to avoid complications from heat exposure;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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28-01306-18

20181874__

30 Section 1. Paragraphs (d) and (g) of subsection (2) of
31 section 400.23, Florida Statutes, are amended to read:

32 400.23 Rules; evaluation and deficiencies; licensure
33 status.—

34 (2) Pursuant to the intention of the Legislature, the
35 agency, in consultation with the Department of Health and the
36 Department of Elderly Affairs, shall adopt and enforce rules to
37 implement this part and part II of chapter 408, which shall
38 include reasonable and fair criteria in relation to:

39 (d) The equipment essential to the health and welfare of
40 ~~the residents,~~ including an operational emergency power source
41 and a supply of fuel sufficient to sustain the emergency power
42 source for at least 96 hours during a power outage. The
43 emergency power source must provide enough electricity to
44 consistently maintain an air temperature described in rule. Each
45 facility must be in compliance with this paragraph by no later
46 than June 1, 2018.

47 (g) The preparation and annual update of a comprehensive
48 emergency management plan, which must include provisions for
49 emergency power equipment. The agency shall adopt rules
50 establishing minimum criteria for the plan after consultation
51 with the Division of Emergency Management. At a minimum, the
52 rules must provide for plan components that address emergency
53 evacuation transportation; adequate sheltering arrangements;
54 postdisaster activities, including emergency power, food, and
55 water; postdisaster transportation; supplies; staffing;
56 emergency equipment; individual identification of residents and
57 transfer of records; a plan to monitor residents to ensure they
58 do not experience complications from heat exposure during a

28-01306-18

20181874__

59 power outage; a plan to safely transport residents to an
60 appropriate facility if a facility's management knows it will be
61 unable to maintain the residents in a safe temperature range;
62 and responding to family inquiries. The comprehensive emergency
63 management plan is subject to review and approval by the local
64 emergency management agency. During its review, the local
65 emergency management agency shall ensure that the following
66 agencies, at a minimum, are given the opportunity to review the
67 plan: the Department of Elderly Affairs, the Department of
68 Health, the Agency for Health Care Administration, and the
69 Division of Emergency Management. Also, appropriate volunteer
70 organizations must be given the opportunity to review the plan.
71 The local emergency management agency shall complete its review
72 within 60 days and either approve the plan or advise the
73 facility of necessary revisions.

74 Section 2. Paragraphs (a) and (b) of subsection (1) of
75 section 429.41, Florida Statutes, are amended to read:

76 429.41 Rules establishing standards.—

77 (1) It is the intent of the Legislature that rules
78 published and enforced pursuant to this section shall include
79 criteria by which a reasonable and consistent quality of
80 resident care and quality of life may be ensured and the results
81 of such resident care may be demonstrated. Such rules shall also
82 ensure a safe and sanitary environment that is residential and
83 noninstitutional in design or nature. It is further intended
84 that reasonable efforts be made to accommodate the needs and
85 preferences of residents to enhance the quality of life in a
86 facility. Uniform firesafety standards for assisted living
87 facilities shall be established by the State Fire Marshal

28-01306-18

20181874__

88 pursuant to s. 633.206. The agency, in consultation with the
89 department, may adopt rules to administer the requirements of
90 part II of chapter 408. In order to provide safe and sanitary
91 facilities and the highest quality of resident care
92 accommodating the needs and preferences of residents, the
93 department, in consultation with the agency, the Department of
94 Children and Families, and the Department of Health, shall adopt
95 rules, policies, and procedures to administer this part, which
96 must include reasonable and fair minimum standards in relation
97 to:

98 (a) The requirements for and maintenance of facilities, not
99 in conflict with chapter 553, relating to plumbing, heating,
100 cooling, lighting, ventilation, living space, and other housing
101 conditions, which will ensure the health, safety, and comfort of
102 residents suitable to the size of the structure.

103 1. Firesafety evacuation capability determination.—An
104 evacuation capability evaluation for initial licensure shall be
105 conducted within 6 months after the date of licensure.

106 2. Firesafety requirements.—

107 a. The National Fire Protection Association, Life Safety
108 Code, NFPA 101 and 101A, current editions, shall be used in
109 determining the uniform firesafety code adopted by the State
110 Fire Marshal for assisted living facilities, pursuant to s.
111 633.206.

112 b. A local government or a utility may charge fees only in
113 an amount not to exceed the actual expenses incurred by the
114 local government or the utility relating to the installation and
115 maintenance of an automatic fire sprinkler system in a licensed
116 assisted living facility structure.

28-01306-18

20181874__

117 c. All licensed facilities must have an annual fire
118 inspection conducted by the local fire marshal or authority
119 having jurisdiction.

120 d. An assisted living facility that is issued a building
121 permit or certificate of occupancy before July 1, 2016, may at
122 its option and after notifying the authority having
123 jurisdiction, remain under the provisions of the 1994 and 1995
124 editions of the National Fire Protection Association, Life
125 Safety Code, NFPA 101, and NFPA 101A. The facility opting to
126 remain under such provisions may make repairs, modernizations,
127 renovations, or additions to, or rehabilitate, the facility in
128 compliance with NFPA 101, 1994 edition, and may use ~~utilize~~ the
129 alternative approaches to life safety in compliance with NFPA
130 101A, 1995 edition. However, a facility for which a building
131 permit or certificate of occupancy is issued before July 1,
132 2016, that undergoes Level III building alteration or
133 rehabilitation, as defined in the Florida Building Code, or
134 seeks to use ~~utilize~~ features not authorized under the 1994 or
135 1995 editions of the Life Safety Code must thereafter comply
136 with all aspects of the uniform firesafety standards established
137 under s. 633.206, and the Florida Fire Prevention Code, in
138 effect for assisted living facilities as adopted by the State
139 Fire Marshal.

140 3. Resident elopement requirements.—Facilities are required
141 to conduct a minimum of two resident elopement prevention and
142 response drills per year. All administrators and direct care
143 staff must participate in the drills which shall include a
144 review of procedures to address resident elopement. Facilities
145 must document the implementation of the drills and ensure that

28-01306-18

20181874__

146 the drills are conducted in a manner consistent with the
147 facility's resident elopement policies and procedures.

148 4. Emergency power sources for use during power outages.-
149 Facilities are required to maintain an operational emergency
150 power source and a supply of fuel sufficient to sustain the
151 emergency power source for at least 96 hours during a power
152 outage. The emergency power source must provide enough
153 electricity to consistently maintain an air temperature
154 described in rule. Each facility must be in compliance with this
155 subparagraph by no later than June 1, 2018.

156 (b) The preparation and annual update of a comprehensive
157 emergency management plan. Such standards must be included in
158 the rules adopted by the department after consultation with the
159 Division of Emergency Management. At a minimum, the rules must
160 provide for plan components that address emergency evacuation
161 transportation; adequate sheltering arrangements; postdisaster
162 activities, including provision of emergency power, food, and
163 water; postdisaster transportation; supplies; staffing;
164 emergency equipment; individual identification of residents and
165 transfer of records; a plan to monitor residents to ensure they
166 do not experience complications from heat exposure during a
167 power outage; a plan to safely transport residents to an
168 appropriate facility if a facility's management knows it will be
169 unable to maintain the residents in a safe temperature range;
170 communication with families; and responses to family inquiries.
171 The comprehensive emergency management plan is subject to review
172 and approval by the local emergency management agency. During
173 its review, the local emergency management agency shall ensure
174 that the following agencies, at a minimum, are given the

28-01306-18

20181874__

175 opportunity to review the plan: the Department of Elderly
176 Affairs, the Department of Health, the Agency for Health Care
177 Administration, and the Division of Emergency Management. Also,
178 appropriate volunteer organizations must be given the
179 opportunity to review the plan. The local emergency management
180 agency shall complete its review within 60 days and either
181 approve the plan or advise the facility of necessary revisions.

182 Section 3. This act shall take effect upon becoming a law.