

By Senator Book

32-00535-18

2018284__

1 A bill to be entitled
2 An act relating to nursing home and assisted living
3 facilities; amending s. 400.19, F.S.; requiring the
4 Agency for Health Care Administration to determine
5 compliance with standards for electricity and
6 emergency power sources during the routine inspection
7 of a licensed nursing home facility; amending s.
8 400.23, F.S.; requiring the agency, in consultation
9 with the Department of Health and the Department of
10 Elderly Affairs, to adopt and enforce rules requiring
11 a licensed nursing home facility to have adequate
12 electrical equipment, an emergency power source, and a
13 supply of fuel which meets a specified criterion;
14 amending s. 429.34, F.S.; requiring the agency to
15 determine compliance with certain standards during the
16 routine inspection of a licensed assisted living
17 facility; amending s. 429.41, F.S.; requiring the
18 Department of Elderly Affairs, in consultation with
19 the agency, the Department of Children and Families,
20 and the Department of Health, to adopt and enforce
21 rules requiring a licensed assisted living facility to
22 maintain equipment sufficient to provide adequate day-
23 to-day electricity within the facility, an emergency
24 power source, and a supply of fuel which meets a
25 specified criterion; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (3) of section 400.19, Florida

32-00535-18

2018284__

30 Statutes, is amended to read:

31 400.19 Right of entry and inspection.-

32 (3) The agency shall every 15 months conduct at least one
33 unannounced inspection to determine compliance by the licensee
34 with statutes, and with rules promulgated under the provisions
35 of those statutes, governing minimum standards of construction,
36 electricity, and emergency power sources; quality and adequacy
37 of care;~~7~~ and rights of residents. The survey shall be conducted
38 every 6 months for the next 2-year period if the facility has
39 been cited for a class I deficiency, has been cited for two or
40 more class II deficiencies arising from separate surveys or
41 investigations within a 60-day period, or has had three or more
42 substantiated complaints within a 6-month period, each resulting
43 in at least one class I or class II deficiency. In addition to
44 any other fees or fines in this part, the agency shall assess a
45 fine for each facility that is subject to the 6-month survey
46 cycle. The fine for the 2-year period shall be \$6,000, one-half
47 to be paid at the completion of each survey. The agency may
48 adjust this fine by the change in the Consumer Price Index,
49 based on the 12 months immediately preceding the increase, to
50 cover the cost of the additional surveys. The agency shall
51 verify through subsequent inspection that any deficiency
52 identified during inspection is corrected. However, the agency
53 may verify the correction of a class III or class IV deficiency
54 unrelated to resident rights or resident care without
55 reinspecting the facility if adequate written documentation has
56 been received from the facility, which provides assurance that
57 the deficiency has been corrected. The giving or causing to be
58 given of advance notice of such unannounced inspections by an

32-00535-18

2018284__

59 employee of the agency to any unauthorized person shall
60 constitute cause for suspension of not fewer than 5 working days
61 according to the provisions of chapter 110.

62 Section 2. Paragraph (d) of subsection (2) of section
63 400.23, Florida Statutes, is amended to read:

64 400.23 Rules; evaluation and deficiencies; licensure
65 status.-

66 (2) Pursuant to the intention of the Legislature, the
67 agency, in consultation with the Department of Health and the
68 Department of Elderly Affairs, shall adopt and enforce rules to
69 implement this part and part II of chapter 408, which shall
70 include reasonable and fair criteria in relation to:

71 (d) The equipment essential to the health and welfare of
72 the residents, including equipment sufficient to provide
73 adequate day-to-day electricity, a fully operational emergency
74 power source, and a supply of fuel sufficient to sustain the
75 emergency power source for at least 5 days during a power
76 outage.

77 Section 3. Subsection (2) of section 429.34, Florida
78 Statutes, is amended to read:

79 429.34 Right of entry and inspection.-

80 (2) The agency shall inspect each licensed assisted living
81 facility at least once every 24 months to determine compliance
82 by the licensee with this chapter and related rules governing
83 minimum standards of construction, electricity, and emergency
84 power sources; quality and adequacy of care; and resident
85 rights. If an assisted living facility is cited for a class I
86 violation or three or more class II violations arising from
87 separate surveys within a 60-day period or due to unrelated

32-00535-18

2018284__

88 circumstances during the same survey, the agency must conduct an
89 additional licensure inspection within 6 months.

90 Section 4. Paragraph (a) of subsection (1) of section
91 429.41, Florida Statutes, is amended to read:

92 429.41 Rules establishing standards.—

93 (1) It is the intent of the Legislature that rules
94 published and enforced pursuant to this section shall include
95 criteria by which a reasonable and consistent quality of
96 resident care and quality of life may be ensured and the results
97 of such resident care may be demonstrated. Such rules shall also
98 ensure a safe and sanitary environment that is residential and
99 noninstitutional in design or nature. It is further intended
100 that reasonable efforts be made to accommodate the needs and
101 preferences of residents to enhance the quality of life in a
102 facility. Uniform firesafety standards for assisted living
103 facilities shall be established by the State Fire Marshal
104 pursuant to s. 633.206. The agency, in consultation with the
105 department, may adopt rules to administer the requirements of
106 part II of chapter 408. In order to provide safe and sanitary
107 facilities and the highest quality of resident care
108 accommodating the needs and preferences of residents, the
109 department, in consultation with the agency, the Department of
110 Children and Families, and the Department of Health, shall adopt
111 rules, policies, and procedures to administer this part, which
112 must include reasonable and fair minimum standards in relation
113 to:

114 (a) The requirements for and maintenance of facilities, not
115 in conflict with chapter 553, relating to electricity, plumbing,
116 heating, cooling, lighting, ventilation, living space, and other

32-00535-18

2018284__

117 housing conditions, which will ensure the health, safety, and
118 comfort of residents suitable to the size of the structure.

119 1. Firesafety evacuation capability determination.—An
120 evacuation capability evaluation for initial licensure shall be
121 conducted within 6 months after the date of licensure.

122 2. Firesafety requirements.—

123 a. The National Fire Protection Association, Life Safety
124 Code, NFPA 101 and 101A, current editions, shall be used in
125 determining the uniform firesafety code adopted by the State
126 Fire Marshal for assisted living facilities, pursuant to s.
127 633.206.

128 b. A local government or a utility may charge fees only in
129 an amount not to exceed the actual expenses incurred by the
130 local government or the utility relating to the installation and
131 maintenance of an automatic fire sprinkler system in a licensed
132 assisted living facility structure.

133 c. All licensed facilities must have an annual fire
134 inspection conducted by the local fire marshal or authority
135 having jurisdiction.

136 d. An assisted living facility that is issued a building
137 permit or certificate of occupancy before July 1, 2016, may at
138 its option and after notifying the authority having
139 jurisdiction, remain under the provisions of the 1994 and 1995
140 editions of the National Fire Protection Association, Life
141 Safety Code, NFPA 101, and NFPA 101A. The facility opting to
142 remain under such provisions may make repairs, modernizations,
143 renovations, or additions to, or rehabilitate, the facility in
144 compliance with NFPA 101, 1994 edition, and may utilize the
145 alternative approaches to life safety in compliance with NFPA

32-00535-18

2018284__

146 101A, 1995 edition. However, a facility for which a building
147 permit or certificate of occupancy is issued before July 1,
148 2016, that undergoes Level III building alteration or
149 rehabilitation, as defined in the Florida Building Code, or
150 seeks to utilize features not authorized under the 1994 or 1995
151 editions of the Life Safety Code must thereafter comply with all
152 aspects of the uniform firesafety standards established under s.
153 633.206, and the Florida Fire Prevention Code, in effect for
154 assisted living facilities as adopted by the State Fire Marshal.

155 3. Resident elopement requirements.—Facilities are required
156 to conduct a minimum of two resident elopement prevention and
157 response drills per year. All administrators and direct care
158 staff must participate in the drills which shall include a
159 review of procedures to address resident elopement. Facilities
160 must document the implementation of the drills and ensure that
161 the drills are conducted in a manner consistent with the
162 facility's resident elopement policies and procedures.

163 4. Emergency power sources for use during power outages.—
164 Facilities are required maintain a fully operational emergency
165 power source and a supply of fuel sufficient to sustain the
166 emergency power source for at least 5 days during a power
167 outage.

168 Section 5. This act shall take effect July 1, 2018.