

1 A bill to be entitled

2 An act relating to emergency power for health care  
3 facilities; amending s. 400.19, F.S.; requiring the  
4 Agency for Health Care Administration to conduct an  
5 annual inspection of each licensed nursing home  
6 facility to ensure that the facility is in possession  
7 of the required emergency power source and fuel;  
8 amending s. 400.23, F.S.; requiring the agency, in  
9 consultation with the Department of Health and the  
10 Department of Elderly Affairs, to adopt and enforce  
11 rules requiring each facility to have an emergency  
12 power source and a supply of fuel which meet certain  
13 criteria; amending s. 429.34, F.S.; requiring the  
14 agency to conduct an annual inspection of each  
15 licensed nursing home facility to ensure that the  
16 facility is in possession of the required emergency  
17 power source and fuel; amending s. 429.41, F.S.;  
18 requiring the Department of Elderly Affairs, in  
19 consultation with the agency, the Department of  
20 Children and Families, and the Department of Health,  
21 to adopt and enforce rules requiring each facility to  
22 have an emergency power source and a supply of fuel  
23 which meet certain criteria; providing an effective  
24 date.  
25

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

27

28 Section 1. Subsection (5) is added to section 400.19,  
29 Florida Statutes, to read:

30 400.19 Right of entry and inspection.—

31 (5) Each May, before the start of hurricane season, the  
32 agency shall conduct an announced inspection of each facility to  
33 ensure that the facility has an operational emergency power  
34 source and fuel as required in s. 400.23(2)(d) and by rule.

35 Section 2. Paragraph (d) of subsection (2) of section  
36 400.23, Florida Statutes, is amended to read:

37 400.23 Rules; evaluation and deficiencies; licensure  
38 status.—

39 (2) Pursuant to the intention of the Legislature, the  
40 agency, in consultation with the Department of Health and the  
41 Department of Elderly Affairs, shall adopt and enforce rules to  
42 implement this part and part II of chapter 408, which shall  
43 include reasonable and fair criteria in relation to:

44 (d) The equipment essential to the health and welfare of  
45 ~~the residents,~~ including an operational emergency power source  
46 and a supply of fuel sufficient to sustain the emergency power  
47 source for at least 4 days during a power outage. The emergency  
48 power source must provide enough energy to:

49 1. Consistently maintain an air temperature of less than  
50 82 degrees Fahrenheit in the facility.

51        2. Allow for the refrigeration and standard preparation of  
52 food and beverages that are served by the facility to its  
53 residents and for the production and storage of ice.

54        3. Allow for the refrigeration of medicines as may be  
55 customary.

56        Section 3. Section 429.34, Florida Statutes, is amended to  
57 read:

58        429.34 Right of entry and inspection.—

59        (1) In addition to the requirements of s. 408.811, a duly  
60 designated officer or employee of the department, the Department  
61 of Children and Families, the Medicaid Fraud Control Unit of the  
62 Office of the Attorney General, the state or local fire marshal,  
63 or a representative of the State Long-Term Care Ombudsman  
64 Program or a member of the state or local long-term care  
65 ombudsman council has the right to enter unannounced upon and  
66 into the premises of any facility licensed under this part in  
67 order to determine the state of compliance with this part, part  
68 II of chapter 408, and applicable rules. Data collected by the  
69 State Long-Term Care Ombudsman Program, local long-term care  
70 ombudsman councils, or the state or local advocacy councils may  
71 be used by the agency in investigations involving violations of  
72 regulatory standards. A person specified in this section who  
73 knows or has reasonable cause to suspect that a vulnerable adult  
74 has been or is being abused, neglected, or exploited shall  
75 immediately report such knowledge or suspicion to the central

76 | abuse hotline pursuant to chapter 415.

77 |       (2) The agency shall inspect each licensed assisted living  
78 | facility at least once every 24 months to determine compliance  
79 | with this chapter and related rules. If an assisted living  
80 | facility is cited for a class I violation or three or more class  
81 | II violations arising from separate surveys within a 60-day  
82 | period or due to unrelated circumstances during the same survey,  
83 | the agency must conduct an additional licensure inspection  
84 | within 6 months.

85 |       (3) Each May, before the start of hurricane season, the  
86 | agency shall conduct an announced inspection of each licensed  
87 | assisted living facility to ensure that the facility has an  
88 | operational emergency power source and fuel as required in s.  
89 | 429.41(1)(a)4. and by rule.

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,  
115 not in conflict with chapter 553, relating to plumbing, heating,  
116 cooling, lighting, ventilation, living space, and other housing  
117 conditions, which will ensure the health, safety, and comfort of  
118 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  
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  
156 required to conduct a minimum of two resident elopement  
157 prevention and response drills per year. All administrators and  
158 direct care staff must participate in the drills which shall  
159 include a review of procedures to address resident elopement.  
160 Facilities must document the implementation of the drills and  
161 ensure that the drills are conducted in a manner consistent with  
162 the facility's resident elopement policies and procedures.

163 4. Emergency power sources for use during power outages.—  
164 Facilities are required to possess an operational emergency  
165 power source and a supply of fuel sufficient to sustain the  
166 emergency power source for at least 4 days during a power  
167 outage. The emergency power source must provide enough energy  
168 to:

169 a. Consistently maintain an air temperature of less than  
170 82 degrees Fahrenheit in the facility.

171 b. Allow for the refrigeration and standard preparation of  
172 food and beverages that are served by the facility to its  
173 residents and for the production and storage of ice.

174 c. Allow for the refrigeration of medicines as may be  
175 customary.

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