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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/08/2019	.	
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The Committee on Innovation, Industry, and Technology (Diaz) recommended the following:

Senate Amendment to Amendment (586172)

Delete lines 8 - 203

and insert:

(1) "Advertising platform" means a person who provides an online application, software, website, system, or print advertisement through which a transient public lodging establishment located in this state is advertised or held out to the public as available to rent for transient occupancy. The term does not include the multiple listing service or an online



11 or print advertisement of a transient public lodging
12 establishment by a real estate broker or sales associate
13 licensed under chapter 475; however, a real estate broker or
14 sales associate licensed under chapter 475 must comply with s.
15 509.243(2)(c) and (3).

16 (3)~~(1)~~ "Division" means the Division of Hotels and
17 Restaurants of the Department of Business and Professional
18 Regulation.

19 (8)~~(2)~~ "Operator" means the owner, licensee, proprietor,
20 lessee, manager, assistant manager, or appointed agent of a
21 public lodging establishment or public food service
22 establishment.

23 (4)~~(3)~~ "Guest" means any patron, customer, tenant, lodger,
24 boarder, or occupant of a public lodging establishment or public
25 food service establishment.

26 (10)(a)~~(4)(a)~~ "Public lodging establishment" includes a
27 transient public lodging establishment as defined in
28 subparagraph 1. and a nontransient public lodging establishment
29 as defined in subparagraph 2.

30 1. "Transient public lodging establishment" means any unit,
31 group of units, dwelling, building, or group of buildings within
32 a single complex of buildings which is rented to guests more
33 than three times in a calendar year for periods of less than 30
34 days or 1 calendar month, whichever is less, or which is
35 advertised or held out to the public as a place regularly rented
36 to guests for less than 30 days or 1 calendar month. The term
37 includes a unit that is advertised for rent by an advertising
38 platform.

39 2. "Nontransient public lodging establishment" means any



825832

40 unit, group of units, dwelling, building, or group of buildings
41 within a single complex of buildings which is rented to guests
42 for periods of at least 30 days or 1 calendar month, whichever
43 is less, or which is advertised or held out to the public as a
44 place regularly rented to guests for periods of at least 30 days
45 or 1 calendar month.

46

47 License classifications of public lodging establishments, and
48 the definitions therefor, are set out in s. 509.242. For the
49 purpose of licensure, the term does not include condominium
50 common elements as defined in s. 718.103.

51 (b) The following are excluded from the definitions in
52 paragraph (a):

53 1. Any dormitory or other living or sleeping facility
54 maintained by a public or private school, college, or university
55 for the use of students, faculty, or visitors.

56 2. Any facility certified or licensed and regulated by the
57 Agency for Health Care Administration or the Department of
58 Children and Families or other similar place regulated under s.
59 381.0072.

60 3. Any place renting four rental units or less, unless the
61 rental units are advertised or held out to the public to be
62 places that are regularly rented to transients.

63 4. Any unit or group of units in a condominium,
64 cooperative, or timeshare plan and any individually or
65 collectively owned one-family, two-family, three-family, or
66 four-family dwelling house or dwelling unit that is rented for
67 periods of at least 30 days or 1 calendar month, whichever is
68 less, and that is not advertised or held out to the public as a



825832

69 place regularly rented for periods of less than 1 calendar
70 month, provided that no more than four rental units within a
71 single complex of buildings are available for rent.

72 5. Any migrant labor camp or residential migrant housing
73 permitted by the Department of Health under ss. 381.008-
74 381.00895.

75 6. Any establishment inspected by the Department of Health
76 and regulated by chapter 513.

77 7. Any nonprofit organization that operates a facility
78 providing housing only to patients, patients' families, and
79 patients' caregivers and not to the general public.

80 8. Any apartment building inspected by the United States
81 Department of Housing and Urban Development or other entity
82 acting on the department's behalf that is designated primarily
83 as housing for persons at least 62 years of age. The division
84 may require the operator of the apartment building to attest in
85 writing that such building meets the criteria provided in this
86 subparagraph. The division may adopt rules to implement this
87 requirement.

88 9. Any roominghouse, boardinghouse, or other living or
89 sleeping facility that may not be classified as a hotel, motel,
90 timeshare project, vacation rental, nontransient apartment, bed
91 and breakfast inn, or transient apartment under s. 509.242.

92 (9) (a) ~~(5) (a)~~ "Public food service establishment" means any
93 building, vehicle, place, or structure, or any room or division
94 in a building, vehicle, place, or structure where food is
95 prepared, served, or sold for immediate consumption on or in the
96 vicinity of the premises; called for or taken out by customers;
97 or prepared prior to being delivered to another location for



98 consumption. The term includes a culinary education program, as
99 defined in s. 381.0072(2), which offers, prepares, serves, or
100 sells food to the general public, regardless of whether it is
101 inspected by another state agency for compliance with sanitation
102 standards.

103 (b) The following are excluded from the definition in
104 paragraph (a):

105 1. Any place maintained and operated by a public or private
106 school, college, or university:

107 a. For the use of students and faculty; or

108 b. Temporarily to serve such events as fairs, carnivals,
109 food contests, cook-offs, and athletic contests.

110 2. Any eating place maintained and operated by a church or
111 a religious, nonprofit fraternal, or nonprofit civic
112 organization:

113 a. For the use of members and associates; or

114 b. Temporarily to serve such events as fairs, carnivals,
115 food contests, cook-offs, or athletic contests.

116

117 Upon request by the division, a church or a religious, nonprofit
118 fraternal, or nonprofit civic organization claiming an exclusion
119 under this subparagraph must provide the division documentation
120 of its status as a church or a religious, nonprofit fraternal,
121 or nonprofit civic organization.

122 3. Any eating place maintained and operated by an
123 individual or entity at a food contest, cook-off, or a temporary
124 event lasting from 1 to 3 days which is hosted by a church or a
125 religious, nonprofit fraternal, or nonprofit civic organization.

126 Upon request by the division, the event host must provide the



825832

127 division documentation of its status as a church or a religious,
128 nonprofit fraternal, or nonprofit civic organization.

129 4. Any eating place located on an airplane, train, bus, or
130 watercraft which is a common carrier.

131 5. Any eating place maintained by a facility certified or
132 licensed and regulated by the Agency for Health Care
133 Administration or the Department of Children and Families or
134 other similar place that is regulated under s. 381.0072.

135 6. Any place of business issued a permit or inspected by
136 the Department of Agriculture and Consumer Services under s.
137 500.12.

138 7. Any place of business where the food available for
139 consumption is limited to ice, beverages with or without
140 garnishment, popcorn, or prepackaged items sold without
141 additions or preparation.

142 8. Any theater, if the primary use is as a theater and if
143 patron service is limited to food items customarily served to
144 the admittees of theaters.

145 9. Any vending machine that dispenses any food or beverages
146 other than potentially hazardous foods, as defined by division
147 rule.

148 10. Any vending machine that dispenses potentially
149 hazardous food and which is located in a facility regulated
150 under s. 381.0072.

151 11. Any research and development test kitchen limited to
152 the use of employees and which is not open to the general
153 public.

154 (2)~~(6)~~ "Director" means the Director of the Division of
155 Hotels and Restaurants of the Department of Business and



825832

156 Professional Regulation.

157 ~~(11)(7)~~ "Single complex of buildings" means all buildings
158 or structures that are owned, managed, controlled, or operated
159 under one business name and are situated on the same tract or
160 plot of land that is not separated by a public street or
161 highway.

162 ~~(12)(8)~~ "Temporary food service event" means any event of
163 30 days or less in duration where food is prepared, served, or
164 sold to the general public.

165 ~~(13)(9)~~ "Theme park or entertainment complex" means a
166 complex comprised of at least 25 contiguous acres owned and
167 controlled by the same business entity and which contains
168 permanent exhibitions and a variety of recreational activities
169 and has a minimum of 1 million visitors annually.

170 ~~(14)(10)~~ "Third-party provider" means, for purposes of s.
171 509.049, any provider of an approved food safety training
172 program that provides training or such a training program to a
173 public food service establishment that is not under common
174 ownership or control with the provider.

175 ~~(16)(11)~~ "Transient establishment" means a ~~any~~ public
176 lodging establishment that is rented or leased to guests by an
177 operator whose intention is that such guests' occupancy will be
178 temporary.

179 ~~(17)(12)~~ "Transient occupancy" means occupancy when it is
180 the intention of the parties that the occupancy will be
181 temporary. There is a rebuttable presumption that, when the
182 dwelling unit occupied is not the sole residence of the guest,
183 the occupancy is transient.

184 ~~(15)(13)~~ "Transient" means a guest in transient occupancy.



825832

185 (6)~~(14)~~ "Nontransient establishment" means any public
186 lodging establishment that is rented or leased to guests by an
187 operator whose intention is that the dwelling unit occupied will
188 be the sole residence of the guest.

189 (7)~~(15)~~ "Nontransient occupancy" means occupancy when it is
190 the intention of the parties that the occupancy will not be
191 temporary. There is a rebuttable presumption that, when the
192 dwelling unit occupied is the sole residence of the guest, the
193 occupancy is nontransient.

194 (5)~~(16)~~ "Nontransient" means a guest in nontransient
195 occupancy.

196 Section 2. Effective upon this act becoming a law,
197 subsection (7) of section 509.032, Florida Statutes, is amended
198 to read:

199 509.032 Duties.—

200 (7) PREEMPTION AUTHORITY.—

201 (a) Advertising platforms, public lodging establishments
202 and public food service establishments.—The regulation of
203 advertising platforms is preempted to the state. The regulation
204 of public lodging establishments and public