

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 714

INTRODUCER: Regulated Industries Committee and Senator Hooper

SUBJECT: Department of Business and Professional Regulation

DATE: February 23, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|-----------------|------------|-----------------------------|
| 1. | <u>Kraemer</u> | <u>Imhof</u> | <u>RI</u> | Fav/CS |
| 2. | <u>Davis</u> | <u>Betta</u> | <u>AEG</u> | Recommend: Favorable |
| 3. | <u>Davis</u> | <u>Sadberry</u> | <u>AP</u> | Favorable |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 714 revises licensing and regulatory requirements for businesses and professions administered by the Department of Business and Professional Regulation (DBPR), including mold-related professionals, asbestos abatement professionals, electrical and alarm system contractors, certain public lodging establishments, and certain public food service establishments.

Related to mold-related professional licensing regulations, the bill authorizes a method for persons who have held a license in another state or territory for at least 10 years to obtain a Florida license.

Related to asbestos professional licensing regulations, the bill:

- Authorizes a method for persons who have held a license in another state for at least 10 years and meet examination and education requirements to obtain a Florida license; and
- Removes limits of bondability and credit as required criteria for determining the financial stability of an applicant for licensure.

Related to electrical and alarm system contractors licensing, the bill removes an existing deadline for registered electrical and alarm systems contractors to seek authorization to engage in their trades throughout the state at any time.

Related to the licensing, inspection, and regulation of public lodging establishments and public food service establishments by the Division of Hotels and Restaurants (DHR) in the DBPR which are not otherwise exempt, the bill:

- Requires licensees to submit forms, documents, and fees to the DHR electronically;
- Requires licensees to provide an email address to the DHR as a primary contact method;
- Allows the DHR's inspection reports and other notices to be served to operators of such establishments by email, in-person delivery, or mail;
- Allows the guest register at a transient public lodging establishment to be kept in an electronic format and removes the requirement for guests to sign the register;
- Authorizes a licensee to obtain a renewal license for two years rather than one year upon payment of the associated fee; and
- Removes the requirement for licensees to pay either a prorated or full fee for an initial license depending on when the application is made.

Related to boxing matches held solely for training purposes, the bill removes a restriction on the maximum difference in weight of participants, eliminating the 12 pound weight differential for such matches in current law.

According to the DBPR, the bill has a significant negative fiscal impact to state government and may result in an indeterminate fiscal impact to local government.¹ See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

For ease of reference, the Present Situation for each section of the bill is addressed below in the Effect of Proposed Changes portion of this bill analysis. Background information about the Department of Business and Professional Regulation (DBPR) is provided below.

Organization of the DBPR

Section 20.165, F.S., establishes the organizational structure of the DBPR, which has the following 12 divisions:

- Administration;
- Alcoholic Beverages and Tobacco;
- Certified Public Accounting;
- Drugs, Devices, and Cosmetics;
- Florida Condominiums, Timeshares, and Mobile Homes;
- Hotels and Restaurants;
- Pari-mutuel Wagering;
- Professions;
- Real Estate;
- Regulation;

¹ See Department of Business and Professional Regulation (DBPR), *2022 Agency Legislative Bill Analysis for SB 714* at 6 (Dec. 14, 2021) (on file with the Senate Committee on Regulated Industries).

- Service Operations; and
- Technology.

The Florida Athletic Commission is assigned to the DBPR for administrative and fiscal accountability purposes only.² The DBPR also administers the Child Labor Law and Farm Labor Contractor Registration Law.³

Powers and Duties of the DBPR

Chapter 455, F.S., applies to the regulation of professions constituting “any activity, occupation, profession, or vocation regulated by the [DBPR] in the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.”⁴ The chapter also provides the procedural and administrative framework for those divisions and the professional boards within the DBPR.⁵ The DBPR’s regulation of professions is to be undertaken “only for the preservation of the health, safety, and welfare of the public under the police powers of the state.”⁶ Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.⁷

However, “neither the [DBPR] nor any board may create a regulation that has an unreasonable effect on job creation or job retention,” or a regulation that unreasonably restricts the ability of those desiring to engage in a profession or occupation from finding employment.⁸

Division of Hotels and Restaurants

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida. The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices.⁹

² Section 548.003(1), F.S.

³ See Parts I and III of ch. 450, F.S.

⁴ Section 455.01(6), F.S.

⁵ See s. 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by staff counsel of the DBPR. See s. 455.221(1), F.S.

⁶ Section 455.201(2), F.S.

⁷ *Id.*

⁸ Section 455.201(4)(b), F.S.

⁹ DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Feb. 8, 2022).

III. Effect of Proposed Changes:

Mold-Related Professionals

Present Situation

The Department of Business and Professional Regulation (DBPR) licenses and regulates mold-related professionals.¹⁰ Specifically, mold assessors and mold remediators are regulated by Part XVI of ch. 468, F.S., and licensed by the Mold-Related Services Licensing Program¹¹ in DBPR. In Fiscal Year 2020-2021, there were 5,070 active licensees, and 617 inactive licensees.¹² Of 120 complaints against licensees, 44 met the standard of legal sufficiency in s. 455.225(1), F.S., and the DBPR found probable cause that would reasonably indicate that a violation of the practice act or rules occurred in five cases.¹³

“Mold assessment” means a process performed by a mold assessor that includes the physical sampling and detailed evaluation of data obtained from a building history and inspection to formulate an initial hypothesis about the origin, identity, location, and extent of amplification of mold growth of greater than 10 square feet.¹⁴

“Mold remediation” means the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter of greater than 10 square feet that was not purposely grown at that location; however, it may not include work that requires a contractor license under ch. 489, F.S.¹⁵

In order to be licensed as a mold assessor or mold remediator, an applicant must:

- Be of good moral character;
- Pass the required DBPR-approved examination offered by a nationally recognized organization that certifies persons in the specialty of mold assessment or mold remediation;
- Have required liability insurance; and
- Complete either:
 - At least a two-year associate of arts degree with certain course requirements and a minimum of one year of experience; or
 - A high school diploma or the equivalent with a minimum of four years of experience.¹⁶

A person who is licensed in another state is eligible for a license by endorsement in Florida if they:¹⁷

- Are of good moral character;
- Hold required general liability insurance;

¹⁰ See part XIV of ch. 468, F.S., Mold-Related Services; and *Annual Report, Fiscal Year 2020-2021, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation* (2020-2021 Annual Report) at 20, available at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Feb. 8, 2022).

¹¹ Section 468.84, F.S.

¹² See 2020-2021 Annual Report at 20.

¹³ *Id.* at 89.

¹⁴ Section 468.8411(3), F.S.

¹⁵ Section 468.8411(5), F.S.

¹⁶ Section 468.8413(2), F.S.

¹⁷ Section 468.8414(3), (4), F.S.

- Hold a valid license to practice as a mold assessor or mold remediator in another state or territory of the United States whose educational requirements are substantially equivalent to Florida; and
- Have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the required Florida examination.

Applicants for a mold-related license pay an initial licensure fee of \$230.

Effect of Proposed Changes

Section 1 amends s. 468.8414, F.S., to allow licensure by endorsement to practice mold assessment or mold remediation for applicants who have held a valid license to practice mold assessment or mold remediation for at least 10 years in another state or territory.

Applicants pursuing this avenue for licensure must apply either while they hold an active license in another state or territory, or within two years after such license was last active.

The bill clarifies the provision relating to licensure certification examination requirements.

Asbestos Abatement

Present Situation

The DBPR also licenses and regulates asbestos consultants and asbestos contractors.¹⁸

Asbestos abatement” means the removal, encapsulation, enclosure, or disposal of asbestos.¹⁹

An asbestos consultant may:

- Conduct an asbestos survey;
- Develop an operation and maintenance plan;
- Monitor and evaluate asbestos abatement; and
- Prepare asbestos abatement specifications.²⁰

An asbestos contractor may perform the work of an asbestos consultant and conduct asbestos abatement work.²¹

An asbestos consultant’s license may only be issued to an applicant who:

- Holds a current, valid, active license as an architect issued under ch. 481, F.S.;
- Holds a current, valid, active license as a professional engineer issued under ch. 471, F.S.;
- Holds a current, valid, active license as a professional geologist issued under ch. 492, F.S.;
- Is a diplomat of the American Board of Industrial Hygiene; or

¹⁸ See ch. 469, F.S., Asbestos Abatement; and *Annual Report, Fiscal Year 2020-2021, for the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation (2020-2021 Annual Report)* at 20, available at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY2021.pdf (last visited Jan. 19, 2022).

¹⁹ See s. 469.001(1), F.S.

²⁰ See s. 469.003, F.S.

²¹ See s. 469.003(3), F.S.

- Has been awarded designation as a Certified Safety Professional by the Board of Certified Safety Professionals.²²

An applicant for licensure as either an asbestos consultant or contractor must also:²³

- If applying for an asbestos consultant license, complete the DBPR-approved courses in the following topics:
 - Building asbestos surveys and mechanical systems;
 - Asbestos management planning;
 - Respiratory protection; and
 - Project designer.
- If applying for an asbestos contractor license, complete courses in the following topics:
 - Asbestos contractor/supervisor; and
 - Respiratory protection.
- Provide evidence of satisfactory work on ten asbestos projects within the last five years;
- Provide evidence of financial stability; and
- Pass DBPR-approved examination.

In order to determine financial stability and adopt standards in related rules,²⁴ the DBPR must use both the applicant's credit history and limits of bondability and credit.²⁵ There is no provision which specifically allows or addresses licenses by endorsement for asbestos licensees of other states.

In Fiscal Year 2020-2021, there were 449 active licensees, and nine inactive licensees.²⁶ Of eight complaints against licensees, two met the standard of legal sufficiency in s. 455.225(1), F.S., and the DBPR found probable cause that would reasonably indicate that a violation of the practice act or rules occurred in one case.²⁷

If an individual proposes to engage in asbestos consulting or contracting as any legal entity or in a name other than the individual's legal name:

- The legal entity must apply for licensure through a qualifying agent; or
- The applicant must apply for licensure under the fictitious name.²⁸

A qualifying agent must be licensed under ch. 469, F.S., in order for a business organization to be licensed in the same category for which the qualifying agent is licensed.²⁹

Effect of Proposed Changes

Sections 2 and 3 amend ss. 469.004 and 469.006, F.S., respectively, related to licensure of asbestos consultants/asbestos contractors and consulting/contracting business organizations.

²² See s. 469.004(1), F.S.

²³ See s. 469.005, F.S.

²⁴ The standards for determining an applicant's financial stability can be found in r. 61E1-4.002, F.A.C.

²⁵ See s. 469.006(2)(c)2., F.S.

²⁶ See 2020-2021 Annual Report at 20.

²⁷ *Id.* at 89.

²⁸ See s. 469.006(2)(a), F.S.

²⁹ See s. 469.005(3), F.S.

Section 2 of the bill amends s. 469.004, F.S., to allow licensure by endorsement to practice asbestos consulting or asbestos contracting for an applicant who has:

- Passed a written examination that meets the requirements of the United States Environmental Protection Agency Asbestos Model Accreditation Plan;
- Held a license as an asbestos consultant or asbestos contractor issued by another state or territory of the United States for at least 10 years before the application date and is applying for the same or similar license in Florida, subject to the requirements in s. 469.005(5), F.S., (evidence of financial stability) and s. 469.006, F.S., (licensure of business organizations and qualifying agents); and
- Successfully completed all required DBPR-approved courses, including a respiratory protection course.³⁰

Applicants for licensure by endorsement must apply either while they hold an active license in another state or territory, or within two years after such license was last active.

Section 3 amends s. 469.006(2)(c)2., F.S., to remove limits of bondability and credit as required criteria for determining financial responsibility of an applicant for licensure.

Grandfathering Provision for Registered Electrical and Alarm System Contractors

Present Situation

Section 489.514, F.S., authorizes the Electrical Contractors' Licensing Board (ECLB) to grandfather certain applicants for registered contractor status, but only if application was made before November 1, 2021; under this provision, which now appears obsolete, the ECLB is required to certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state, upon:

- Receipt of a completed application;
- Payment of the appropriate fee;³¹ and
- Evidence that he or she qualifies for the certification in a trade category based on:
 - Having a valid registered local license;
 - Passing an approved written examination;
 - Having a minimum of five years' contracting experience in the applicable trade category (with an active license and excluding probationary periods);
 - Never having had a contractor's license revoked, and during the last five years, not having had a suspended license or been assessed a fine in excess of \$500; and
 - Meeting all required insurance and financial responsibility requirements.³²

³⁰ Section 469.005(2), F.S., also requires asbestos consultants complete courses in building asbestos surveys and mechanical systems, asbestos management planning, and project design. Section 469.005(3), F.S., also requires asbestos contractors complete an asbestos contractor/supervisor course.

³¹ The Electrical Contractors' Licensing Board (ECLB) has established a \$196 fee for applications for registered contractor certification. *See* s. 489.109, F.S., and Fla. Admin. Code R. ch. 61G6-8.

³² *See* s. 489.515(1)(b), F.S., which provides that an applicant must submit satisfactory evidence of workers' compensation insurance or an acceptable exemption issued by the DBPR, public liability and property damage insurance in amounts determined by the ECLB, and evidence of financial responsibility, credit, and business reputation of either the contractor or the business sought to be qualified for certification.

The DBPR received 766 applications from local electrical and alarm contractors for a statewide license during the last period of grandfathering, from July 1, 2019, through November 1, 2021.³³

Effect of Proposed Changes

Section 4 amends s. 489.514(3), F. S., to remove the deadline for applicants with registered contractor status seeking certified licenses to apply by November 1, 2021, allowing the ECLB to consider an application to certify an electrical, electrical specialty, or alarm system contractor to engage in the specified trade category throughout the state at any time.

The bill makes technical and conforming changes.

Public Lodging Establishments/Public Food Service Establishments

Present Situation

The Division of Hotels and Restaurants (DHR) licenses, inspects, and regulates public lodging and food service establishments in Florida.³⁴ A public lodging establishment includes establishments that are transient or nontransient.³⁵ A “transient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.³⁶

A “nontransient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or one calendar month.³⁷

³³ See DBPR, *2022 Agency Legislative Bill Analysis for SB 714* at 9 (Dec. 14, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

³⁴ The Division of Hotels and Restaurants (DHR) also licenses and regulates elevators, escalators, and other vertical conveyance devices. See DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Feb. 14, 2022).

³⁵ See s. 509.013(4)(a), F.S., which provides “license classifications of public lodging establishments, and the definitions therefor,” are set out in s. 509.242, F.S. For the purpose of licensure, the term does not include condominium common elements,” as defined in s. 718.103, F.S.

³⁶ *Id.* Section 509.013(11), F.S., further provides the term “transient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that such guests’ occupancy will be temporary.” Section 509.013(14), F.S., further provides the term “nontransient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole resident of the guest.”

³⁷ *Id.*

A “public food service establishment” means:

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. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.³⁸

Numerous food service places are exempted from the definition of public food service establishment, such as certain schools and universities operated for students and faculty, and places maintained by certain religious, fraternal, and civic organizations.³⁹

Establishments regulated under ch. 509, F.S., must be licensed and inspected by the DHR, and are subject to sanitary standards, staff training and test requirements, administrative rules, and immediate closure upon a finding that continued operation presents a severe and immediate threat to the public health.⁴⁰

Notices from the DHR pursuant to ch. 509, F.S., must be written and delivered personally by an agent of the DHR or by registered letter to the operator of the establishment, except lodging inspection reports and food service inspection reports, which may be delivered by electronic means.⁴¹

Operators of public lodging establishment or public food service establishment may establish rules for guests and employees which must be printed in English and posted prominently within the establishment.⁴² Operators of public food service establishments must also maintain a copy of the latest food service inspection report and make it available to the DHR at the time of any inspection and to the public upon request.⁴³

In addition, operators of transient establishments⁴⁴ must maintain a register in chronological order, signed by or for guests who occupy rental units in the establishment, indicating the dates of occupancy and the rates charged.⁴⁵ Registers must be available for inspection by the DHR at any time, but need not be made available if they are more than two years old.⁴⁶

³⁸ See s. 509.013(5), F.S.

³⁹ *Id.*

⁴⁰ See ss. 509.032 and 509.035, F.S.

⁴¹ See s. 509.091, F.S.

⁴² See s. 509.101, F.S.

⁴³ *Id.*

⁴⁴ See *supra* n. 36.

⁴⁵ See s. 509.101, F.S.

⁴⁶ *Id.*

Section 509.241(1), F.S., requires each public lodging establishment and public food service establishment to obtain a license from the DHR and to renew it annually in order to operate. Further, the DHR has adopted an administrative rule establishing a staggered schedule for license issuance and renewal, in which renewal dates are determined by the county in which the establishment is located.⁴⁷

Licenses must be conspicuously displayed in the establishment's office or lobby, and public food service establishments offering catering services must also display their license number on all advertising for such services.⁴⁸

Section 509.251, F.S., provides the method of determining the license fees payable by establishments. For a public lodging establishment, the aggregate fee may not exceed \$1,000, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.⁴⁹

For a public food service establishment, there is a basic fee and additional fees based on seating capacity and services offered. The aggregate fee per establishment may not exceed \$400, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.⁵⁰

For both public lodging establishments and public food service establishments, the full license fee must be paid if the application for initial licensure is made during the annual renewal period or more than six months before the next such renewal period, but only one-half of the fee must be paid if the application is made six months or less before such period.⁵¹

Separate licensure is required for a public food service establishment operating in conjunction with a public lodging establishment.⁵²

Effect of Proposed Changes

Sections 5, 6, 7, 8, and 9 address requirements imposed upon public lodging establishments and public food service establishments.

Section 5 amends s. 509.032, F.S., to grant rulemaking authority to the DHR to adopt rules requiring electronic submission of any form, document, or fee required under ch. 509, F.S., relating to public lodging and public food service establishments, including procedures to obtain an exemption due to a technological or financial hardship.

Section 6 amends s. 509.091, F.S., to require licensees and licensed agents to provide an email address to the DHR to serve as the primary method of contact for all communications. The bill

⁴⁷ *Id.* See Fla. Admin. Code R. 61C-1.002(6).

⁴⁸ See s. 509.241(3), F.S.

⁴⁹ See s. 509.251(1), F.S. Vacation rental units or timeshare projects within separate buildings or at separate locations that are managed by one licensed agent may be combined in a single license application, and the DHR must charge a license fee as if all units in the application are in a single licensed establishment. *Id.*

⁵⁰ See s. 509.251(2), F.S.

⁵¹ See ss. 509.251(1) and (2), F.S.

⁵² See s. 509.251(3), F.S.

authorizes service of the DHR's notices and inspection reports by email or regular mail, in addition to personal delivery, and removes a requirement for the use of registered mail. The bill also authorizes the DHR to post an inspection report in a conspicuous place at the establishment, when the operator refuses to accept or evades service, or the agent is unable to serve the report after due diligence.

Section 7 amends s. 509.101, F.S., to clarify the duty for operators of transient establishments to maintain a guest register in chronological order of guests that occupy rental units in the establishment. Operators must make the register available for inspection by the DHR at any time, and the requirement for guests to sign the register is removed. The bill authorizes operators to keep the register in an electronic format.

Section 8 amends s. 509.241, F.S., related to licenses held by public lodging and public food service establishments. The bill provides that licenses expire if not renewed before the expiration date, and the license renewal period may be for two years rather than one year, at the option of the licensee. Licensees seeking initial licenses or renewal licenses must use forms provided by the DHR. Under the bill, the DHR is granted rulemaking authority to establish procedures for license issuance and renewals. Current law limits the DHR's rulemaking authority to establishing a staggered schedule for license renewals.

Section 9 amends s. 509.251, F.S., relating to license fees. As to public lodging establishments, the bill provides that license renewal fees be based on the number of rental units in the establishment and whether the renewal period is for one or two years; such fee may not exceed \$1,000 for a one-year renewal license or \$2,000 for a two-year renewal license.

As to public food service establishments, the bill provides that fees for initial licenses and renewal licenses be based on the classification of the license, and for renewal licenses, fees must also be based on whether the renewal period is for one or two years. Aggregate fees (a base fee and additional fees based on seating capacity and services offered) per establishment may not exceed \$400 for a one-year license or \$800 for a two-year license.

The bill removes the requirement for a public lodging or food service establishment to pay either a prorated or full fee for an initial license depending on when the application is made.

The bill makes technical and conforming changes.

Florida Athletic Commission (formerly State Boxing Commission)

Present Situation

Chapter 548, F.S., provides for the regulation of professional and amateur boxing, kickboxing,⁵³ and mixed martial arts⁵⁴ by the Florida Athletic Commission (commission), which is assigned to the DBPR for administrative and fiscal purposes.⁵⁵

The commission has exclusive jurisdiction over every boxing, kickboxing, and mixed martial arts match held in Florida,⁵⁶ which involves a professional.⁵⁷ Professional matches held in Florida must meet the requirements set forth in ch. 548, F.S., and the rules adopted by the commission.⁵⁸ Chapter 548, F.S., does not apply to certain professional or amateur “martial arts,” such as karate, aikido, judo, and kung fu; the term “martial arts” is distinct from and does not include “mixed martial arts.”⁵⁹

However, as to amateur matches, the commission’s jurisdiction is limited to the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing, kickboxing, and mixed martial arts matches held in Florida.⁶⁰ Amateur sanctioning organizations are business entities organized for sanctioning and supervising matches involving amateurs.⁶¹ During Fiscal Year 2019-2020, there were 49 sanctioned professional events and 101 amateur events.⁶²

Under current law, certain persons providing certain services for a match involving a professional competing in a boxing, kickboxing, or mixed martial arts match must be licensed by the commission before directly or indirectly performing those services. Section 548.017, F.S., requires licensing for a participant,⁶³ manager, trainer, second, referee, judge, physician, matchmaker, or promoter.⁶⁴

The commission must establish, by rule, the appropriate weight of gloves used in each boxing match. All participants in boxing matches must wear gloves weighing not less than eight ounces each, and participants in mixed martial arts matches must wear gloves weighing between four to

⁵³ The term “kickboxing” means the unarmed combat sport of fighting by striking with the fists, hands, feet, legs, or any combination, but does not include ground fighting techniques. *See* s. 548.002(12), F.S.

⁵⁴ The term “mixed martial arts” means the unarmed combat sport involving the use of a combination of techniques, including, but not limited to, grappling, kicking, striking, and using techniques from martial arts disciplines, including, but not limited to, boxing, kickboxing, Muay Thai, jujitsu, and wrestling. *See* s. 548.002(16), F.S.

⁵⁵ Section 548.003(1), F.S.

⁵⁶ Section 548.006(1), F.S.

⁵⁷ The term “professional” means a person who has received or competed for a purse or other article of a value greater than \$50, either for the expenses of training or for participating in a match. *See* s. 548.002(19), F.S.

⁵⁸ Section 548.006(4), F.S.

⁵⁹ Section 548.007(6), F.S., and *supra* n. 41 for the definition of “mixed martial arts.”

⁶⁰ Section 548.006(3), F.S.

⁶¹ Section 548.002(2), F.S.

⁶² *See* DBPR, *Florida State Boxing Commission Annual Report, Fiscal Year 2019-2020*, at 2, available at <http://www.myfloridalicense.com/dbpr/os/documents/Boxing19-20.pdf> (last visited Feb. 14, 2022).

⁶³ Section 548.002(17), F.S., defines “participant” as a professional competing in a boxing, kickboxing, or mixed martial arts match.

⁶⁴ *See* s. 548.002, F.S., for the definitions of “manager,” “second,” “judge,” “physician,” “matchmaker,” and “promoter.” The terms “trainer” and “referee,” are not defined in ch. 548, F.S.

eight ounces each. Participants must also wear any protective devices the commission deems necessary.⁶⁵

Effect of Proposed Changes

Section 10 amends s. 548.043, F.S., to remove a restriction requiring that the weight differential between participants in a boxing match held solely for training purposes not exceed 12 pounds. According to the DBPR, this change will provide greater flexibility to promoters and participants who wish to promote and participate in exhibition matches.⁶⁶

The bill makes technical and conforming changes.

Re-enactment related to License Fees and License Renewal

Present Situation

Under s. 509.102, F.S., the regulation of mobile food dispensing vehicles⁶⁷ involving licensing, registration, permitting, and fees, is preempted to the state, although local governments may regulate operation of such vehicles in other respects.

Effect of Proposed Changes

Section 11 re-enacts s. 509.102, F.S., relating to mobile food dispensing vehicles, for the purpose of incorporating the amendment to s. 509.251, F.S., relating to license fees for public lodging establishments and food service establishments.

Effective Date

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁶⁵ Section 548.043(3), F.S.

⁶⁶ See DBPR, *2022 Agency Legislative Bill Analysis for SB 714* at 4 (Dec. 14, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

⁶⁷ Section 509.102(1), F.S., provides the term “mobile food dispensing vehicle” means “any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.”

D. State Tax or Fee Increases:

The bill does not increase fees for public lodging establishments or public food service establishments. It allows the licensees to pay for either one or two years at the same annual rate.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Division of Hotels and Restaurants (DHR) in the Department of Business and Professional Regulation (DBPR) indicates the bill will reduce license fees, as follows:⁶⁸

The bill will generally reduce license fees paid by food and lodging licensees during their first 12 months of licensure. The division estimates licensees will save about \$1.65 million in Fiscal Year 2022-2023. The decrease comes from eliminating the staggered schedule and outdated prorating system which in turn provides new licensees with a full year of licensure.

Under the current license fee structure, new applicants often pay for a new license and pay to renew their license within the same fiscal year. Under the initiative this would not happen.

The division is unable to predict how many licensees would opt for a two-year license renewal.

According to the Division of Professions in the DBPR, eliminating limits of bondability and credit as criteria for determining financial responsibility of asbestos professionals will reduce the cost to applicants by approximately \$100 each.⁶⁹

There may be a positive impact on the private sector by expanding the geographical scope of practice for those registered electrical contractors that choose to take advantage of the grandfathering provision.

⁶⁸ See DBPR, *2022 Agency Legislative Bill Analysis for SB 714* at 7 (Dec. 14, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment, and General Government).

⁶⁹ *Id.* at 9. During FY 2018-2019, FY 2019-2020, and FY 2020-2021, an average of 33 applications were received for new asbestos professional licensure for each of the last three fiscal years. *Id.*

C. Government Sector Impact:

The DBPR expects the following fiscal impacts on revenues:⁷⁰

Division of Hotels and Restaurants

The DBPR’s internal projections for Fiscal Year 2022-2023 indicate the bill would reduce the DHR’s license revenues in the Hotel and Restaurant Trust Fund by approximately \$1.7 million (six percent) and a total of \$5.1 million over the next three fiscal years. These figures assume a 2.81 percent annual growth rate in DHR license revenue.

| | FY 2022-23 | FY 2023-24 | FY 2024-25 |
|--|---------------|---------------|---------------|
| Impact of CS/SB 714 on Licensing Revenue ⁷¹ | \$(1,652,302) | \$(1,698,775) | \$(1,746,556) |
| Change as % | - 6% | - 6% | - 6% |

Under the current license fee structure, about 58 percent of new applicants pay an initial license fee for some fraction of time and then pay the DHR again to renew their license within the same fiscal year.

Under the bill, the DHR will collect a slightly larger initial license fee and a lower amount of renewal fees during the first year of licensure for each new license. The initiative would eliminate half year prorating of license fees, replacing it with a full year which slightly increases division revenue but results in a true “annual license” from the start with no same fiscal year renewals.⁷²

The DHR indicates it cannot predict the number of licensees who will seek license renewals for two years, so it is unknown how the two-year option would affect revenue.⁷³

The DHR notes the following about the revisions to the license, issuance, renewal, and fee provisions:⁷⁴

The benefits of this are two-fold: first, it simplifies the division’s licensing structure, thereby reducing escalations, refunds, deficiencies, customer contact, and labor hours. Second, simplifying the fee structure benefits the division’s licensees by reducing the costs of the license over twelve months and decreasing the number of application delays, thereby helping to ensure Florida businesses open on schedule with lower fees paid during the critical first year of operation.

⁷⁰ *Id.* at 6-7.
⁷¹ *Id.* at 10.
⁷² *Id.* at 6.
⁷³ *Id.*
⁷⁴ *Id.* at 9-10.

The division’s intent is that the revised renewal and license fee schedule would only apply to new license applications processed after implementation of this initiative. The bill is not retroactive, thus, existing licenses will retain their current renewal dates. The division also anticipates a reduction in fee related issues which are a common cause of delayed or deficient applications, which would result in faster processing times.

The DHR also estimates an anticipated reduction in the eight percent service charge to General Revenue due to reduced license fees and a possible reduction in postage expenditures.⁷⁵

Due to the reduction of licensing revenue, the amount transferred to the General Revenue Fund for the eight percent service charge from the Hotel and Restaurant Trust Fund would be reduced by approximately \$407,810 over three fiscal years.⁷⁶ The DHR also anticipates a reduction of expenditures for postage and bank fees due to the reduction in license renewals.⁷⁷

| CS/SB 714 Impact | FY 2022-23 | FY 2023-24 | FY 2024-25 |
|---|------------|------------|------------|
| Reduction in 8% Service Charge to General Revenue | \$132,184 | \$135,902 | \$139,724 |
| Cost Savings on Postage and Bank Fees | \$12,439 | \$12,789 | \$13,148 |

Division of Professions

As to electrical and alarm system license revenue, the Division of Professions of the DBPR indicates revenue from license fees for licensees using the grandfathering provision to seek statewide licensing is indeterminate as it is unknown how many eligible licensees will apply, but estimates a range of \$150,136 to \$399,056 in potential grandfathering fee revenue over the next three fiscal years.⁷⁸

The Division of Professions notes there are 2,036 registered licensees with current or inactive licenses who may seek statewide licensing using the grandfathering provision; only 766 applications were during the last period of grandfathering, which was from July 1, 2019, to November 1, 2021.⁷⁹ Local governments could experience a decrease in fees from registered electrical and alarm system contractors who seek statewide licensing using the grandfathering provision, but the impact is indeterminate.⁸⁰

The charts below shows the projected impact of the bill.⁸¹

⁷⁵ *Id.* at 10.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.* at 6 and 9.

⁷⁹ *Id.* at 9.

⁸⁰ *Id.* at 6.

⁸¹ *Id.*

| Hotel and Restaurant Trust Fund | FY 2022-23 | FY 2023-24 | FY 2024-25 |
|--|----------------------|----------------------|----------------------|
| Estimated Revenue – Current Licensing System | \$27,287,063 | \$28,054,554 | \$28,843,632 |
| Impact of CS/SB 714 on Licensing Revenues | (\$1,652,302) | (\$1,698,775) | (\$1,746,556) |
| Estimated Revenue under Proposed Change | \$25,634,761 | \$26,355,779 | \$27,097,076 |
| Impact of CS/SB 714 on Expenditures | \$144,623 | \$148,691 | \$152,872 |
| Net Impact of CS/SB 714 (Line 2 + Line 4) | (\$1,507,679) | (\$1,550,084) | (\$1,593,684) |

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.8414, 469.004, 469.006, 489.514, 509.032, 509.091, 509.101, 509.241, 509.251, and 548.043.

This bill re-enacts section 509.102 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.)

CS by Regulated Industries Committee on January 25, 2022:

The CS amends s. 469.004(1), F.S., to include an applicant who qualifies for licensure as an asbestos consultant by endorsement as a person to whom an asbestos consultant’s license may be issued by the Department of Business and Professional Regulation.

B. Amendments:

None