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1
 2 An act relating to culinary education programs;
 3 amending s. 381.0072, F.S.; providing for the
 4 applicability of Department of Health sanitation rules
 5 to a licensed culinary education program; defining the
 6 term "culinary education program"; including certain
 7 culinary education programs under the definition of
 8 "food service establishment" and providing for the
 9 applicability of food service protection requirements
 10 thereto; conforming provisions; amending s. 509.013,
 11 F.S.; revising the definition of the term "public food
 12 service establishment" to include a culinary education
 13 program; amending s. 561.20, F.S.; permitting a
 14 culinary education program with a public food service
 15 establishment license to obtain an alcoholic beverage
 16 license under certain conditions; authorizing the
 17 Division of Alcoholic Beverages and Tobacco to adopt
 18 rules to administer such licenses; providing an
 19 effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 381.0072, Florida Statutes, is amended
 24 to read:

25 381.0072 Food service protection.—

26 (1) DEPARTMENT OF HEALTH; SANITATION RULES.—

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27 (a) It shall be the duty of the Department of Health to
 28 adopt and enforce sanitation rules consistent with law to ensure
 29 the protection of the public from food-borne illness. These
 30 rules shall provide the standards and requirements for the
 31 storage, preparation, serving, or display of food in food
 32 service establishments as defined in this section ~~and which are~~
 33 ~~not permitted or licensed under chapter 500 or chapter 509.~~

34 (b) A food service establishment is subject to the
 35 sanitation rules adopted and enforced by the department. This
 36 section does not apply to a food service establishment permitted
 37 or licensed under chapter 500 or a public food service
 38 establishment licensed under chapter 509 unless the public food
 39 service establishment is a culinary education program licensed
 40 under chapter 509.

41 (2) ~~(1)~~ DEFINITIONS.—As used in this section, the term:

42 (a) "Culinary education program" means a program that:

43 1. Educates enrolled students in the culinary arts,
 44 including the preparation, cooking, and presentation of food, or
 45 provides education and experience in culinary arts-related
 46 businesses;

47 2. Is provided by:

48 a. A state university as defined in s. 1000.21;

49 b. A Florida College System institution as defined in s.
 50 1000.21;

51 c. A career center as defined in s. 1001.44;

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52 d. A charter technical career center as defined in s.
 53 1002.34;

54 e. A nonprofit independent college or university that is
 55 located and chartered in this state and accredited by the
 56 Commission on Colleges of the Southern Association of Colleges
 57 and Schools to grant baccalaureate degrees, that is under the
 58 jurisdiction of the Department of Education, and that is
 59 eligible to participate in the William L. Boyd, IV, Florida
 60 Resident Access Grant Program; or

61 f. A nonpublic postsecondary educational institution
 62 licensed pursuant to part III of chapter 1005; and

63 3. Is inspected by any state agency or agencies for
 64 compliance with sanitation standards.

65 (b) (a) "Department" means the Department of Health or its
 66 representative county health department.

67 (c) (b) "Food service establishment" means detention
 68 facilities, public or private schools, migrant labor camps,
 69 assisted living facilities, facilities participating in the
 70 United States Department of Agriculture Afterschool Meal Program
 71 that are located at a facility or site that is not inspected by
 72 another state agency for compliance with sanitation standards,
 73 adult family-care homes, adult day care centers, short-term
 74 residential treatment centers, residential treatment facilities,
 75 homes for special services, transitional living facilities,
 76 crisis stabilization units, hospices, prescribed pediatric
 77 extended care centers, intermediate care facilities for persons

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78 | with developmental disabilities, boarding schools, civic or
79 | fraternal organizations, bars and lounges, vending machines that
80 | dispense potentially hazardous foods at facilities expressly
81 | named in this paragraph, and facilities used as temporary food
82 | events or mobile food units at any facility expressly named in
83 | this paragraph, where food is prepared and intended for
84 | individual portion service, including the site at which
85 | individual portions are provided, regardless of whether
86 | consumption is on or off the premises and regardless of whether
87 | there is a charge for the food. The term includes a culinary
88 | education program where food is prepared and intended for
89 | individual portion service, regardless of whether there is a
90 | charge for the food or whether the program is inspected by
91 | another state agency for compliance with sanitation standards.

92 | The term does not include any entity not expressly named in this
93 | paragraph; nor does the term include a domestic violence center
94 | certified by the Department of Children and Families and
95 | monitored by the Florida Coalition Against Domestic Violence
96 | under part XII of chapter 39 if the center does not prepare and
97 | serve food to its residents and does not advertise food or drink
98 | for public consumption.

99 | (d)~~(e)~~ "Operator" means the owner, operator, keeper,
100 | proprietor, lessee, manager, assistant manager, agent, or
101 | employee of a food service establishment.

102 | (3)~~(2)~~ DUTIES.—

103 | (a) The department may advise and consult with the Agency

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104 for Health Care Administration, the Department of Business and
105 Professional Regulation, the Department of Agriculture and
106 Consumer Services, and the Department of Children and Families
107 concerning procedures related to the storage, preparation,
108 serving, or display of food at any building, structure, or
109 facility not expressly included in this section that is
110 inspected, licensed, or regulated by those agencies.

111 (b) The department shall adopt rules, including
112 definitions of terms which are consistent with law prescribing
113 minimum sanitation standards and manager certification
114 requirements as prescribed in s. 509.039, and which shall be
115 enforced in food service establishments as defined in this
116 section. The sanitation standards must address the construction,
117 operation, and maintenance of the establishment; lighting,
118 ventilation, laundry rooms, lockers, use and storage of toxic
119 materials and cleaning compounds, and first-aid supplies; plan
120 review; design, construction, installation, location,
121 maintenance, sanitation, and storage of food equipment and
122 utensils; employee training, health, hygiene, and work
123 practices; food supplies, preparation, storage, transportation,
124 and service, including access to the areas where food is stored
125 or prepared; and sanitary facilities and controls, including
126 water supply and sewage disposal; plumbing and toilet
127 facilities; garbage and refuse collection, storage, and
128 disposal; and vermin control. Public and private schools, if the
129 food service is operated by school employees, bars and lounges,

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130 civic organizations, and any other facility that is not
131 regulated under this section are exempt from the rules developed
132 for manager certification. The department shall administer a
133 comprehensive inspection, monitoring, and sampling program to
134 ensure such standards are maintained. With respect to food
135 service establishments permitted or licensed under chapter 500
136 or chapter 509, the department shall assist the Division of
137 Hotels and Restaurants of the Department of Business and
138 Professional Regulation and the Department of Agriculture and
139 Consumer Services with rulemaking by providing technical
140 information.

141 (c) The department shall carry out all provisions of this
142 chapter and all other applicable laws and rules relating to the
143 inspection or regulation of food service establishments as
144 defined in this section, for the purpose of safeguarding the
145 public's health, safety, and welfare.

146 (d) The department shall inspect each food service
147 establishment as often as necessary to ensure compliance with
148 applicable laws and rules. The department shall have the right
149 of entry and access to these food service establishments at any
150 reasonable time. In inspecting food service establishments under
151 this section, the department shall provide each inspected
152 establishment with the food recovery brochure developed under s.
153 595.420.

154 (e) The department or other appropriate regulatory entity
155 may inspect theaters ~~exempted in subsection (1)~~ to ensure

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156 compliance with applicable laws and rules pertaining to minimum
 157 sanitation standards. A fee for inspection shall be prescribed
 158 by rule, but the aggregate amount charged per year per theater
 159 establishment shall not exceed \$300, regardless of the entity
 160 providing the inspection.

161 (4)~~(3)~~ LICENSES REQUIRED.—

162 (a) Licenses; annual renewals.—Each food service
 163 establishment regulated under this section shall obtain a
 164 license from the department annually. Food service establishment
 165 licenses shall expire annually and are not transferable from one
 166 place or individual to another. However, those facilities
 167 licensed by the department's Office of Licensure and
 168 Certification, the Child Care Services Program Office, or the
 169 Agency for Persons with Disabilities are exempt from this
 170 subsection. It shall be a misdemeanor of the second degree,
 171 punishable as provided in s. 381.0061, s. 775.082, or s.
 172 775.083, for such an establishment to operate without this
 173 license. The department may refuse a license, or a renewal
 174 thereof, to any establishment that is not constructed or
 175 maintained in accordance with law and with the rules of the
 176 department. Annual application for renewal is not required.

177 (b) Application for license.—Each person who plans to open
 178 a food service establishment regulated under this section and
 179 not regulated under chapter 500 or chapter 509 shall apply for
 180 and receive a license prior to the commencement of operation.

181 (5)~~(4)~~ LICENSE; INSPECTION; FEES.—

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182 (a) The department is authorized to collect fees from
 183 establishments licensed under this section and from those
 184 facilities exempted from licensure under paragraph (4) (a)
 185 ~~(3) (a)~~. It is the intent of the Legislature that the total fees
 186 assessed under this section be in an amount sufficient to meet
 187 the cost of carrying out the provisions of this section.

188 (b) The fee schedule for food service establishments
 189 licensed under this section shall be prescribed by rule, but the
 190 aggregate license fee per establishment shall not exceed \$300.

191 (c) The license fees shall be prorated on a quarterly
 192 basis. Annual licenses shall be renewed as prescribed by rule.

193 (6)~~(5)~~ FINES; SUSPENSION OR REVOCATION OF LICENSES;
 194 PROCEDURE.—

195 (a) The department may impose fines against the
 196 establishment or operator regulated under this section for
 197 violations of sanitary standards, in accordance with s.
 198 381.0061. All amounts collected shall be deposited to the credit
 199 of the County Health Department Trust Fund administered by the
 200 department.

201 (b) The department may suspend or revoke the license of
 202 any food service establishment licensed under this section that
 203 has operated or is operating in violation of any of the
 204 provisions of this section or the rules adopted under this
 205 section. Such food service establishment shall remain closed
 206 when its license is suspended or revoked.

207 (c) The department may suspend or revoke the license of

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208 any food service establishment licensed under this section when
209 such establishment has been deemed by the department to be an
210 imminent danger to the public's health for failure to meet
211 sanitation standards or other applicable regulatory standards.

212 (d) No license shall be suspended under this section for a
213 period of more than 12 months. At the end of such period of
214 suspension, the establishment may apply for reinstatement or
215 renewal of the license. A food service establishment which has
216 had its license revoked may not apply for another license for
217 that location prior to the date on which the revoked license
218 would have expired.

219 (7)~~(6)~~ IMMEDIATE DANGERS; STOP-SALE ORDERS.—

220 (a) In the course of epidemiological investigations or for
221 those establishments regulated by the department under this
222 chapter, the department, to protect the public from food that is
223 unwholesome or otherwise unfit for human consumption, may
224 examine, sample, seize, and stop the sale or use of food to
225 determine its condition. The department may stop the sale and
226 supervise the proper destruction of food when the State Health
227 Officer or his or her designee determines that such food
228 represents a threat to the public health.

229 (b) The department may determine that a food service
230 establishment regulated under this section is an imminent danger
231 to the public health and require its immediate closure when such
232 establishment fails to comply with applicable sanitary and
233 safety standards and, because of such failure, presents an

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234 | imminent threat to the public's health, safety, and welfare. The
 235 | department may accept inspection results from state and local
 236 | building and firesafety officials and other regulatory agencies
 237 | as justification for such actions. Any facility so deemed and
 238 | closed shall remain closed until allowed by the department or by
 239 | judicial order to reopen.

240 | ~~(8)-(7)~~ MISREPRESENTING FOOD OR FOOD PRODUCTS.—No operator
 241 | of any food service establishment regulated under this section
 242 | shall knowingly and willfully misrepresent the identity of any
 243 | food or food product to any of the patrons of such
 244 | establishment. Food used by food establishments shall be
 245 | identified, labeled, and advertised in accordance with the
 246 | provisions of chapter 500.

247 | Section 2. Paragraph (a) of subsection (5) of section
 248 | 509.013, Florida Statutes, is amended to read:

249 | 509.013 Definitions.—As used in this chapter, the term:

250 | (5) (a) "Public food service establishment" means any
 251 | building, vehicle, place, or structure, or any room or division
 252 | in a building, vehicle, place, or structure where food is
 253 | prepared, served, or sold for immediate consumption on or in the
 254 | vicinity of the premises; called for or taken out by customers;
 255 | or prepared prior to being delivered to another location for
 256 | consumption. The term includes a culinary education program, as
 257 | defined in s. 381.0072(2), which offers, prepares, serves, or
 258 | sells food to the general public, regardless of whether it is
 259 | inspected by another state agency for compliance with sanitation

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260 standards.

261 Section 3. Paragraph (a) of subsection (2) of section
262 561.20, Florida Statutes, is amended to read:

263 561.20 Limitation upon number of licenses issued.—

264 (2) (a) No such limitation of the number of licenses as
265 herein provided shall henceforth prohibit the issuance of a
266 special license to:

267 1. Any bona fide hotel, motel, or motor court of not fewer
268 than 80 guest rooms in any county having a population of less
269 than 50,000 residents, and of not fewer than 100 guest rooms in
270 any county having a population of 50,000 residents or greater;
271 or any bona fide hotel or motel located in a historic structure,
272 as defined in s. 561.01(21), with fewer than 100 guest rooms
273 which derives at least 51 percent of its gross revenue from the
274 rental of hotel or motel rooms, which is licensed as a public
275 lodging establishment by the Division of Hotels and Restaurants;
276 provided, however, that a bona fide hotel or motel with no fewer
277 than 10 and no more than 25 guest rooms which is a historic
278 structure, as defined in s. 561.01(21), in a municipality that
279 on the effective date of this act has a population, according to
280 the University of Florida's Bureau of Economic and Business
281 Research Estimates of Population for 1998, of no fewer than
282 25,000 and no more than 35,000 residents and that is within a
283 constitutionally chartered county may be issued a special
284 license. This special license shall allow the sale and
285 consumption of alcoholic beverages only on the licensed premises

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286 of the hotel or motel. In addition, the hotel or motel must
287 derive at least 60 percent of its gross revenue from the rental
288 of hotel or motel rooms and the sale of food and nonalcoholic
289 beverages; provided that the provisions of this subparagraph
290 shall supersede local laws requiring a greater number of hotel
291 rooms;

292 2. Any condominium accommodation of which no fewer than
293 100 condominium units are wholly rentable to transients and
294 which is licensed under the provisions of chapter 509, except
295 that the license shall be issued only to the person or
296 corporation which operates the hotel or motel operation and not
297 to the association of condominium owners;

298 3. Any condominium accommodation of which no fewer than 50
299 condominium units are wholly rentable to transients, which is
300 licensed under the provisions of chapter 509, and which is
301 located in any county having home rule under s. 10 or s. 11,
302 Art. VIII of the State Constitution of 1885, as amended, and
303 incorporated by reference in s. 6(e), Art. VIII of the State
304 Constitution, except that the license shall be issued only to
305 the person or corporation which operates the hotel or motel
306 operation and not to the association of condominium owners;

307 4. Any restaurant having 2,500 square feet of service area
308 and equipped to serve 150 persons full course meals at tables at
309 one time, and deriving at least 51 percent of its gross revenue
310 from the sale of food and nonalcoholic beverages; however, no
311 restaurant granted a special license on or after January 1,

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312 1958, pursuant to general or special law shall operate as a
313 package store, nor shall intoxicating beverages be sold under
314 such license after the hours of serving food have elapsed; or
315 5. Any caterer, deriving at least 51 percent of its gross
316 revenue from the sale of food and nonalcoholic beverages,
317 licensed by the Division of Hotels and Restaurants under chapter
318 509. This subparagraph does not apply to a culinary education
319 program, as defined in s. 381.0072(2), which is licensed as a
320 public food service establishment by the Division of Hotels and
321 Restaurants and provides catering services. Notwithstanding any
322 other provision of law to the contrary, a licensee under this
323 subparagraph shall sell or serve alcoholic beverages only for
324 consumption on the premises of a catered event at which the
325 licensee is also providing prepared food, and shall prominently
326 display its license at any catered event at which the caterer is
327 selling or serving alcoholic beverages. A licensee under this
328 subparagraph shall purchase all alcoholic beverages it sells or
329 serves at a catered event from a vendor licensed under s.
330 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject
331 to the limitation imposed in subsection (1), as appropriate. A
332 licensee under this subparagraph may not store any alcoholic
333 beverages to be sold or served at a catered event. Any alcoholic
334 beverages purchased by a licensee under this subparagraph for a
335 catered event that are not used at that event must remain with
336 the customer; provided that if the vendor accepts unopened
337 alcoholic beverages, the licensee may return such alcoholic

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338 beverages to the vendor for a credit or reimbursement.
 339 Regardless of the county or counties in which the licensee
 340 operates, a licensee under this subparagraph shall pay the
 341 annual state license tax set forth in s. 565.02(1)(b). A
 342 licensee under this subparagraph must maintain for a period of 3
 343 years all records required by the department by rule to
 344 demonstrate compliance with the requirements of this
 345 subparagraph, including licensed vendor receipts for the
 346 purchase of alcoholic beverages and records identifying each
 347 customer and the location and date of each catered event.
 348 Notwithstanding any provision of law to the contrary, any vendor
 349 licensed under s. 565.02(1) subject to the limitation imposed in
 350 subsection (1), may, without any additional licensure under this
 351 subparagraph, serve or sell alcoholic beverages for consumption
 352 on the premises of a catered event at which prepared food is
 353 provided by a caterer licensed under chapter 509. If a licensee
 354 under this subparagraph also possesses any other license under
 355 the Beverage Law, the license issued under this subparagraph
 356 shall not authorize the holder to conduct activities on the
 357 premises to which the other license or licenses apply that would
 358 otherwise be prohibited by the terms of that license or the
 359 Beverage Law. Nothing in this section shall permit the licensee
 360 to conduct activities that are otherwise prohibited by the
 361 Beverage Law or local law. The Division of Alcoholic Beverages
 362 and Tobacco is hereby authorized to adopt rules to administer
 363 the license created in this subparagraph, to include rules

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364 governing licensure, recordkeeping, and enforcement. The first
 365 \$300,000 in fees collected by the division each fiscal year
 366 pursuant to this subparagraph shall be deposited in the
 367 Department of Children and Families' Operations and Maintenance
 368 Trust Fund to be used only for alcohol and drug abuse education,
 369 treatment, and prevention programs. The remainder of the fees
 370 collected shall be deposited into the Hotel and Restaurant Trust
 371 Fund created pursuant to s. 509.072.

372 6. A culinary education program as defined in s.
 373 381.0072(2) which is licensed as a public food service
 374 establishment by the Division of Hotels and Restaurants.

375 a. This special license shall allow the sale and
 376 consumption of alcoholic beverages on the licensed premises of
 377 the culinary education program. The culinary education program
 378 shall specify designated areas in the facility where the
 379 alcoholic beverages may be consumed at the time of application.
 380 Alcoholic beverages sold for consumption on the premises may be
 381 consumed only in areas designated pursuant to s. 561.01(11) and
 382 may not be removed from the designated area. Such license shall
 383 be applicable only in and for designated areas used by the
 384 culinary education program.

385 b. If the culinary education program provides catering
 386 services, this special license shall also allow the sale and
 387 consumption of alcoholic beverages on the premises of a catered
 388 event at which the licensee is also providing prepared food. A
 389 culinary education program that provides catering services is

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390 not required to derive at least 51 percent of its gross revenue
391 from the sale of food and nonalcoholic beverages.
392 Notwithstanding any other provision of law to the contrary, a
393 licensee that provides catering services under this sub-
394 subparagraph shall prominently display its beverage license at
395 any catered event at which the caterer is selling or serving
396 alcoholic beverages. Regardless of the county or counties in
397 which the licensee operates, a licensee under this sub-
398 subparagraph shall pay the annual state license tax set forth in
399 s. 565.02(1)(b). A licensee under this sub-subparagraph must
400 maintain for a period of 3 years all records required by the
401 department by rule to demonstrate compliance with the
402 requirements of this sub-subparagraph.

403 c. If a licensee under this subparagraph also possesses
404 any other license under the Beverage Law, the license issued
405 under this subparagraph does not authorize the holder to conduct
406 activities on the premises to which the other license or
407 licenses apply that would otherwise be prohibited by the terms
408 of that license or the Beverage Law. Nothing in this
409 subparagraph shall permit the licensee to conduct activities
410 that are otherwise prohibited by the Beverage Law or local law.
411 Any culinary education program that holds a license to sell
412 alcoholic beverages shall comply with the age requirements set
413 forth in ss. 562.11(4), 562.111(2), and 562.13.

414 d. The Division of Alcoholic Beverages and Tobacco may
415 adopt rules to administer the license created in this

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416 subparagraph, to include rules governing licensure,
 417 recordkeeping, and enforcement.

418 e. A license issued pursuant to this subparagraph does not
 419 permit the licensee to sell alcoholic beverages by the package
 420 for off-premises consumption.

421
 422 However, any license heretofore issued to any such hotel, motel,
 423 motor court, or restaurant or hereafter issued to any such
 424 hotel, motel, or motor court, including a condominium
 425 accommodation, under the general law shall not be moved to a new
 426 location, such license being valid only on the premises of such
 427 hotel, motel, motor court, or restaurant. Licenses issued to
 428 hotels, motels, motor courts, or restaurants under the general
 429 law and held by such hotels, motels, motor courts, or
 430 restaurants on May 24, 1947, shall be counted in the quota
 431 limitation contained in subsection (1). Any license issued for
 432 any hotel, motel, or motor court under the provisions of this
 433 law shall be issued only to the owner of the hotel, motel, or
 434 motor court or, in the event the hotel, motel, or motor court is
 435 leased, to the lessee of the hotel, motel, or motor court; and
 436 the license shall remain in the name of the owner or lessee so
 437 long as the license is in existence. Any special license now in
 438 existence heretofore issued under the provisions of this law
 439 cannot be renewed except in the name of the owner of the hotel,
 440 motel, motor court, or restaurant or, in the event the hotel,
 441 motel, motor court, or restaurant is leased, in the name of the

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442 lessee of the hotel, motel, motor court, or restaurant in which
443 the license is located and must remain in the name of the owner
444 or lessee so long as the license is in existence. Any license
445 issued under this section shall be marked "Special," and nothing
446 herein provided shall limit, restrict, or prevent the issuance
447 of a special license for any restaurant or motel which shall
448 hereafter meet the requirements of the law existing immediately
449 prior to the effective date of this act, if construction of such
450 restaurant has commenced prior to the effective date of this act
451 and is completed within 30 days thereafter, or if an application
452 is on file for such special license at the time this act takes
453 effect; and any such licenses issued under this proviso may be
454 annually renewed as now provided by law. Nothing herein prevents
455 an application for transfer of a license to a bona fide
456 purchaser of any hotel, motel, motor court, or restaurant by the
457 purchaser of such facility or the transfer of such license
458 pursuant to law.

459 Section 4. This act shall take effect July 1, 2016.