

**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.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: SB 764

INTRODUCER: Senator Hays

SUBJECT: Public Food Service Establishments

DATE: February 16, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	<b>Favorable</b>
2.	Oxamendi	Caldwell	RI	<b>Favorable</b>
3.	Hrdlicka	Hrdlicka	FP	<b>Favorable</b>

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## I. Summary:

SB 764 creates new exclusions from the definition of “public food service establishment”:

- Any place maintained and operated by a public or private school, college, or university temporarily to serve food contests and cook-offs.
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization temporarily to serve food contests or cook-offs.
- Any eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting 1 to 3 days that is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization.

The bill requires an organization claiming an exclusion to provide proof of its status as a church, religious organization, nonprofit fraternal organization, or nonprofit civic organization when requested by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

Establishments excluded from the definition of “public food service establishment” are not required to obtain and pay the license fee for temporary food service events. The bill is estimated to have a negative fiscal impact of \$199,654 on the Hotels and Restaurants Trust Fund. In addition, as a result of the reduction in license fees, there will be an estimated \$15,972 annual reduction in the service charge paid to the General Revenue Fund.

## II. Present Situation:

### Public Food Service Establishments

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of part I of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of

public food service establishments for the purpose of protecting the public health, safety, and welfare.

A “public food service establishment” is any building, vehicle, place, or structure, or any room or division therein where food is prepared, served, or sold for immediate consumption on or near the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.<sup>1</sup>

At the end of Fiscal Year 2014-2015, there were 49,966 licensed public food service establishments, including seating, permanent non-seating, hotdog carts, and mobile food dispensing vehicles.<sup>2</sup>

**Exclusions from the Definition of Public Food Service Establishments**

There are several exclusions from the definition of public food service establishment, including:<sup>3</sup>

- Any place maintained and operated by a public or private school, college, or university for the use of students and faculty or temporarily to serve events such as fairs, carnivals, and athletic contests.
- Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization for the use of members and associates or temporarily to serve events such as fairs, carnivals, or athletic contests.
- Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.
- Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services (DACs) under s. 500.12, F.S.
- Any place of business serving only ice, beverages, popcorn, and prepackaged items.
- Any vending machine dispensing food or beverages other than potentially hazardous foods.

**Temporary Food Service Events**

A “temporary food service event” is any event of 30 days or less where food is prepared, served, or sold to the general public.<sup>4</sup> The division issues licenses for 1-3 day events, 4-30 day events, and an annual license. The following license fees apply to temporary and annual licenses:<sup>5</sup>

License Type	Licenses Issued FY 2014-2015	License Fee	Total Revenue
1-3 day event	2,194	\$91	\$199,654
4-30 day event	2,738	\$105	\$287,490
Annual	328	\$456	\$149,568
<b>Totals:</b>	<b>5,260</b>	<b>-</b>	<b>\$636,712</b>

<sup>1</sup> Section 509.013(5)(a), F.S.

<sup>2</sup> Department of Business and Professional Regulation, Division of Hotels and Restaurants, *Annual Report Fiscal Year 2014-2015*, available at [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2014\\_15.pdf](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2014_15.pdf) (last visited 2/13/2016).

<sup>3</sup> Section 509.013(5)(b), F.S.

<sup>4</sup> Section 509.13(8), F.S.

<sup>5</sup> Rule 61C-1.008, F.A.C. *Supra* note 2. There were also 2,590 licenses for temporary food service events that were already licensed either annually, permanently, or by the DACs.

The division does not license temporary food service events located on the premises of a church, school, or nonprofit fraternal or civic organization or events located elsewhere and operated by such organizations because these types of organizations are excluded from the division's regulation.<sup>6</sup>

### III. Effect of Proposed Changes:

The bill excludes from the definition of "public food service establishment" any:

- Place maintained and operated by a public or private school, college, or university temporarily to serve food contests and cook-offs.
- Eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization temporarily to serve food contests or cook-offs.
- Eating place maintained and operated by an individual or entity at a food contest, cook-off, or a temporary event lasting 1 to 3 days that is hosted by a church or a religious, nonprofit fraternal, or nonprofit civic organization.

The bill requires churches, religious organizations, and nonprofit fraternal or civic organizations that claim to be excluded from the definition of public food service establishment to provide the division with documentation of such status when requested by the division.

For individuals or entities at food contests, cook-offs, or temporary events, the event host must provide the division with documentation of its status as a church or a religious, nonprofit fraternal, or nonprofit civic organization when requested by the division.

The bill clarifies that establishments excluded from the definition of "public food service establishment" are not required to obtain and pay the license fee for temporary food service events.

The bill is effective July 1, 2016.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>6</sup> Department of Business and Professional Regulation, *Do churches, schools, or nonprofit organizations need a temporary food service event license?* (updated 06/01/2012), available at [http://myfloridalicense.custhelp.com/app/answers/detail/a\\_id/104](http://myfloridalicense.custhelp.com/app/answers/detail/a_id/104) (last visited 2/13/2016).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Currently, the division does not license temporary food service events located when the food is prepared and served by an excluded entity. Temporary food service vendors who operate at a 1-3 day event hosted by a church, religious organization, or nonprofit fraternal or civic organization will not be required to pay the applicable license fees.

**C. Government Sector Impact:**

The bill has an annual negative fiscal impact of \$199,654 on the Hotels and Restaurants Trust Fund of the department due to eliminating necessity of licenses for temporary food service events for certain events operated related to churches, religious organizations, and nonprofit fraternal or civic organizations.<sup>7</sup> In addition, as a result of the estimated reduction in license and delinquent fees, there will be a \$15,972 annual reduction in the service charge paid to the General Revenue Fund.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 509.013 and 509.032 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.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>7</sup> The department estimates a 31 percent loss of new temporary event license fee revenues. Department of Business and Professional Regulation, *2016 Legislative Bill Analysis: SB 764*, November 23, 2015.