

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1595 w/CS Public Food Service Establishments

SPONSOR(S): Representative Paul

TIED BILLS: **IDEN./SIM. BILLS:** SB 2032

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Trades, Professions & Regulated Business</u>	<u>7 Y, 0 N</u>	<u>Morris</u>	<u>Liepshutz</u>
2) <u>Business Regulation</u>	<u>32 Y, 0 N w/CS</u>	<u>Morris</u>	<u>Liepshutz</u>
3) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill authorizes the Division of Hotels and Restaurants to develop and implement a *best practices recognition program* for public food service establishments. To receive recognition under the program, a food service establishment must demonstrate a commitment to ensuring food safety by requiring that its employees and managers are trained and by meeting other best practices standards established by the Division of Hotels and Restaurants.

The bill will reduce inspections at recognized facilities to no more than twice per year as long as the facility maintains the standards associated with the designation. This will not prohibit the division from conducting re-inspections to verify that violations have been corrected, nor will it prohibit inspections in response to a documented public complaint or a suspected outbreak of a food-borne illness.

An estimate of fiscal impact was not available at the time of publication of this analysis.

The bill provides that the act will take effect upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1595b.br.doc

DATE: April 6, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill creates a new "best practices" facilities designation program and establishes a \$75 fee for restaurants wishing to obtain a best practices facilities designation. The bill will also reduce inspections at those facilities qualifying and maintaining a "best practices" facility designation.

B. EFFECT OF PROPOSED CHANGES:

Chapter 509, F.S., authorizes the Division of Hotels and Restaurants [division] of the Department of Business and Professional Regulation to regulate public lodging and public food service establishments.

Florida Administrative Code 61C-4.010, provides that public food service establishments shall be subject to the provisions of federal law, Chapter 3, Food Code, for purposes of food safety and sanitation issues, except when specifically authorized otherwise by rule. Combined, the Federal Food Code and Florida's Administrative Code provide comprehensive food service safety standards.

Section 509.039, F.S., requires the division to implement training and certification standards for all *food service managers* who are responsible for the storage, preparation, display, or serving of foods to the public. The division has adopted, by rule, the Conference for Food Protection's recommended accredited examination providers as those approved to examine individuals employed as food managers in the state. Certifications provided by these examinations are recognized and have nationwide reciprocity.

Similarly, s. 509.049, F.S., requires the division to adopt, by rule, minimum food safety protection standards for *food service employees*. These standards are to be used in the training of food service employees who are responsible for the storage, preparation, display, or serving of food to the public in establishments subject to the regulation of Chapter 509, F.S.

According to the division, there are approximately 39,000 licensed public food service establishments in the state. Section 509.032(2)(a), F.S., requires each public food service establishment to be inspected biannually; however, Florida Administrative Code 61C-1.002 (8)(d)1 requires food service establishments to be inspected a minimum of three times annually.

This bill authorizes the division to develop and implement a best practices recognition program for public food service establishments. To receive recognition under the program, a food service establishment must train and certify all food service managers and food service employees and, if the establishment serves alcoholic beverages, train all alcoholic beverage servers and their managers pursuant to s. 561.705, the Responsible Vendor Law. In addition, the establishment must demonstrate active managerial control of risk factors known to cause or contribute to food-borne illness as identified by the United States Centers for Disease Control and Prevention. Sustained active managerial control criteria shall be established by division rule.

A restaurant must be licensed and operating for at least 12 months before becoming eligible to apply for recognition under this program and may apply only once during any 12-month period. The bill authorizes the division to establish, by rule, the frequency of review required to maintain the designation and the circumstances under which a restaurant may be denied the use or continued use of the designation. The division is authorized to establish by rule a fee, not to exceed \$75, to cover the cost of application and renewal process.

The designation as a best practices facility is not transferable except when an existing establishment is being re-licensed in the name of an entity related to the current licensee by common ownership or control.

The bill requires the division to adopt a revised schedule of inspections for public food service establishments awarded the designation established under this program. Recognized facilities may be inspected *no more than two times* per year as long as the facility maintains the standards associated with the designation. This does not prohibit the division from conducting re-inspections to verify that violations have been corrected, nor does it prohibit inspections in response to a *documented* public complaint or a suspected outbreak of a food-borne illness.

The bill authorizes the division to consider a restaurant's designation as a best practices facility in mitigation of a fine or penalty pursuant to a violation of chapter 509.

Designation as a best practices facility is not considered a license for purposes of chapter 120 but the bill establishes a chapter 120 procedure for agency actions granting, denying, suspending, or revoking the designation.

C. SECTION DIRECTORY:

Section 1. Creates s. 509.082, F.S., which establishes a recognition program for public food service establishments.

Section 2. Provides that provisions of the act are not severable.

Section 3. Provides that the act will take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

An estimate of fiscal impact was not available at the time of publication of this analysis.

2. Expenditures:

An estimate of fiscal impact was not available at the time of publication of this analysis.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or cities to spend funds or take an action requiring the expenditure of funds; does not reduce the authority that cities or counties have to raise revenues in the aggregate; and does not reduce the percentage of a state tax shared with cities or counties.

2. Other:

None noted.

B. RULE-MAKING AUTHORITY:

The bill provides significant rule-making authority to the division.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Subcommittee on Trades, Professions & Regulated Business

The Subcommittee on Trades, Professions & Regulated Business adopted one strike-all amendment on March 25, 2003. The amendment expands the criteria for designation as a best practices facility; imposes a fee in an amount up to \$75 to cover the cost of the application and renewal process; allows the division to consider a restaurant's designation as a best practices facility in mitigation of a fine or penalty; and establishes ch.120 procedures for agency actions granting, denying, suspending, or revoking the designation.

Business Regulation Committee

On April 1, 2003, the Business Regulation Committee adopted the traveling amendment from the subcommittee and reported the bill favorably with committee substitute.