



CHAMBER ACTION

The Committee on Business Regulation recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to food safety; creating s. 509.082, F.S.; authorizing the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to establish a best practices program under which certain public food service establishments may be designated as best practices facilities; providing criteria for designation; requiring the department to provide by rule for application for, and renewal and periodic review of, designation as a best practices facility and fees with respect thereto; providing that designation as a best practices facility is not transferable; providing for use of designation; providing a revised schedule of inspections for best practices facilities; providing that division action granting, denying, suspending, or revoking designation as a best practices facility constitutes agency action subject to review; providing nonliability of the division; providing for revocation of designation;



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29 | providing procedure for revocation and challenge of
30 | intention to revoke designation; providing for continued
31 | inspection authority of the division; providing rulemaking
32 | authority; providing nonseverability; providing an
33 | effective date.

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35 | WHEREAS, the health of Florida's citizens and its many
36 | visitors from around the world is directly and immediately
37 | impacted by the food safety practices employed in Florida's
38 | restaurants, and

39 | WHEREAS, world, national, and state health organizations
40 | have recognized that the most important single factor in
41 | promoting food safety and preventing food-borne illnesses is the
42 | education and training of restaurant operators, managers, and
43 | employees in safe food handling practices, and

44 | WHEREAS, effective state regulation in the area of food
45 | safety must concentrate on promoting education and training and
46 | motivating the routine use of food safety "best practices" in
47 | restaurant operations, and

48 | WHEREAS, the enforcement and inspection resources of the
49 | Division of Hotels and Restaurants of the Department of Business
50 | and Professional Regulation are used more efficiently when
51 | utilizing a risk-based focus that correlates inspection
52 | frequency to a restaurant's demonstrated commitment to education
53 | and training and demonstrated ability to incorporate this
54 | education and training into daily operations, NOW, THEREFORE,

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56 | Be It Enacted by the Legislature of the State of Florida:



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Section 1. Section 509.082, Florida Statutes, is created to read:

509.082 Best practices program for public food service establishments.--

(1) To promote the responsible and safe service of food and alcoholic beverages by public food service establishments and to help the public identify those establishments that have demonstrated a firm commitment to responsible and safe service, the Legislature hereby authorizes the division to develop and implement a best practices program for public food service establishments and to adopt rules for that purpose.

(2) Public food service establishments must meet the following criteria to receive division designation as a best practices facility under this program, which may be further specified by division rule:

(a) Train and certify all food service managers pursuant to s. 509.039.

(b) Train all food service employees pursuant to s. 509.049.

(c) Train all servers of alcoholic beverages, if any, and their managers pursuant to s. 561.705.

(d) Demonstrate sustained 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. For purposes of this program, sustained active managerial control criteria shall be established by division rule.



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85 (3) A public food service establishment may apply to the
86 division for designation as a best practices facility on forms
87 adopted for this purpose by the division. A public food service
88 establishment is eligible to apply for designation as a best
89 practices facility only if it has been licensed and operating
90 for 12 months and may apply only once during any 12-month
91 period.

92 (4)(a) The division shall establish by rule the
93 application and renewal process and periodic review process
94 required to attain and maintain designation as a best practices
95 facility. The designation of a public food service establishment
96 as a best practices facility is not transferable to any other
97 licensee, except when an existing public food service
98 establishment is being relicensed in the name of an entity
99 related to the current licensee by common ownership or control.

100 (b) The division shall establish by rule a fee for the
101 cost of the application and renewal process. Such fee shall not
102 exceed \$75 for each initial application and each subsequent
103 renewal.

104 (5)(a) Public food service establishments designated as
105 best practices facilities may use this designation in their
106 advertising and marketing as long as the designation remains in
107 good standing.

108 (b) The division shall adopt a revised schedule of
109 inspections for public food service establishments designated as
110 best practices facilities. Such an establishment shall receive
111 two routine inspections per year as long as the designation
112 remains in good standing.



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113 (c) The division may consider designation as a best
114 practices facility in determining any fine or penalty imposed
115 pursuant to this chapter.

116 (6)(a) Designation as a best practices facility shall not
117 be considered a license for purposes of chapter 120, but
118 division action granting, denying, suspending, or revoking such
119 designation shall constitute agency action subject to review
120 under chapter 120 as specified in subsection (7).

121 (b) In no event may the division be held liable for any
122 damages resulting from division action granting, denying,
123 suspending, or revoking an establishment's designation as a best
124 practices facility.

125 (7)(a) A public food service establishment's designation
126 as a best practices facility may be revoked if the division
127 determines the establishment has failed to maintain any of the
128 requirements for designation as established by division rule. If
129 the division decides to take action to revoke a public food
130 service establishment's designation as a best practices
131 facility, the division shall notify the establishment in writing
132 of its intention to revoke the designation and the grounds for
133 revocation.

134 (b) If the establishment does not timely file a petition
135 pursuant to chapter 120 to challenge the division's intended
136 revocation of the designation, the designation shall be deemed
137 revoked by operation of law.

138 (c) Upon notification pursuant to paragraph (a), and
139 during the pendency of any proceedings under chapter 120
140 challenging the division's intended revocation of a best



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141 practices facility designation, the designation shall be deemed
142 suspended by operation of law, the establishment must cease all
143 advertising or marketing using the best practices designation,
144 and the division may schedule the establishment for three
145 routine inspections per year.

146 (8) Notwithstanding designation as a best practices
147 facility, the division retains full authority under this chapter
148 to inspect any public food service establishment in response to
149 a documented public complaint or to a suspected outbreak of
150 food-borne illness and to reinspect any public food service
151 establishment facility to determine if violations identified in
152 a previous inspection have been corrected.

153 (9) Designation as a best practices facility shall remain
154 valid for 3 years, unless sooner revoked.

155 (10) The division may adopt rules pursuant to ss.
156 120.536(1) and 120.54 as necessary to administer this section,
157 including specific criteria for best practices designation, the
158 application and renewal process, the frequency of review and
159 review procedure for maintaining designation, the nature and
160 frequency of violations constituting grounds for revocation of
161 designation, and rules necessary for administration and
162 enforcement.

163 Section 2. In the event that a court of competent
164 jurisdiction determines any of the provisions of this act to be
165 unconstitutional, it is the intent of the Legislature that all
166 of the provisions contained in this act shall be null and void.
167 To this end, the Legislature declares that it would not have



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168 | enacted any of the provisions of this act individually and, to
169 | that end, expressly finds them not to be severable.

170 | Section 3. This act shall take effect upon becoming a law.