



1 A bill to be entitled
2 An act relating to environmental health; creating s.
3 381.0069, F.S.; providing for the regulation of portable
4 restroom contracting; providing definitions; requiring a
5 portable restroom contractor to apply for registration with
6 the Department of Health; providing requirements for
7 registration, including an examination; providing for
8 administration; providing rulemaking authority; providing for
9 renewal of registration, including continuing education;
10 providing for certification of partnerships and corporations;
11 providing grounds for suspension or revocation of
12 registration; providing fees; providing penalties and
13 prohibitions; amending s. 381.0061, F.S.; authorizing
14 imposition of an administrative fine for violation of
15 portable restroom contracting requirements; amending s.
16 381.0065, F.S.; authorizing the department to enter the
17 business premises of any portable restroom contractor for
18 compliance determination and enforcement; authorizing
19 issuance of a citation for violation of portable restroom
20 contracting requirements which may contain an order of
21 correction or a fine; amending s. 381.0066, F.S.; authorizing
22 the continuation of permit fees for system construction
23 permits for onsite sewage treatment and disposal systems;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:
27



28 Section 1. Section 381.0069, Florida Statutes, is created
29 to read:

30 381.0069 Portable restroom contracting.--

31 (1) DEFINITIONS.--As used in this section, the term:

32 (a) "Department" means the Department of Health.

33 (b) "Portable restroom" means holding tanks, portable
34 toilets, or portable restroom facilities intended for use on a
35 permanent or nonpermanent basis, including such facilities
36 placed at construction sites when workers are present.

37 (c) "Portable restroom contractor" means a portable
38 restroom contractor who has knowledge of state health code law
39 and rules and has the experience, knowledge, and skills to
40 handle, deliver, and pick up sanitary portable restrooms, to
41 install, safely handle, and maintain portable holding tanks, and
42 to handle, transport, and dispose of domestic portable restroom
43 and portable holding tank wastewater.

44 (2) REGISTRATION REQUIRED.--A person may not hold himself
45 or herself out as a portable restroom contractor in this state
46 unless he or she is registered by the department in accordance
47 with this section. However, this section does not prohibit any
48 person licensed pursuant to s. 489.105(3)(m) or part III of
49 chapter 489 from engaging in the profession for which he or she
50 is licensed. This section shall not apply to an entity defined
51 in s. 403.70605(4)(b).

52 (3) ADMINISTRATION OF SECTION; REGISTRATION
53 QUALIFICATIONS; EXAMINATION.--



54 (a) Each person desiring to be registered pursuant to this
55 section shall apply to the department in writing upon forms
56 prepared and furnished by the department.

57 (b) The department shall administer, coordinate, and
58 enforce the provisions of this section, administer the
59 examination for applicants, and be responsible for the granting
60 of certificates of registration to qualified persons.

61 (c) The department shall adopt rules pursuant to ss.
62 120.536(1) and 120.54 to administer this section that establish
63 ethical standards of practice, requirements for registering as a
64 contractor, requirements for obtaining an initial or renewal
65 certificate of registration, disciplinary guidelines, and
66 requirements for the certification of partnerships and
67 corporations. The department may amend or repeal the rules in
68 accordance with chapter 120.

69 (d) To be eligible for registration by the department as a
70 portable restroom contractor, the applicant shall:

71 1. Be of good moral character. In considering good moral
72 character, the department may consider any matter that has a
73 substantial connection between the good moral character of the
74 applicant and the professional responsibilities of a registered
75 contractor, including, but not limited to, the applicant's being
76 convicted or found guilty of, or entering a plea of nolo
77 contendere to, regardless of adjudication, a crime in any
78 jurisdiction that directly relates to the practice of
79 contracting or the ability to practice contracting and previous
80 disciplinary action involving portable restroom contracting for
81 which all judicial reviews have been completed.



82 2. Pass an examination approved by the department which
83 demonstrates that the applicant has a fundamental knowledge of
84 the state laws relating to the installation, maintenance, and
85 wastewater disposal of portable restrooms, portable sinks, and
86 portable holding tanks.

87 3. Be at least 18 years of age.

88 4. Have a total of at least 3 years of active experience
89 serving an apprenticeship as a skilled worker under the
90 supervision and control of a registered portable restroom
91 contractor. Related work experience or educational experience
92 may be substituted for no more than 2 years of active
93 contracting experience. Each 30 hours of coursework approved by
94 the department shall be substituted for 6 months of work
95 experience. Out-of-state work experience shall be accepted on a
96 year-for-year basis for any applicant who demonstrates that he
97 or she holds a current license issued by another state for
98 portable restroom contracting which was issued upon satisfactory
99 completion of an examination and continuing education courses
100 that are equivalent to the requirements in this state.

101 Individuals from a state with no state certification who have
102 successfully completed a written examination provided by the
103 Portable Sanitation Association International shall only be
104 required to take the written portion of the examination that
105 includes state health code law and rules. For purposes of this
106 section, an equivalent examination must include the topics of
107 state health code law and rules applicable to portable restrooms
108 and the knowledge required to handle, deliver, and pick up
109 sanitary portable restrooms; to install, handle, and maintain



110 portable holding tanks; and to handle, transport, and dispose of
111 domestic portable restroom and portable holding tank wastewater.
112 A person employed by and under the supervision of a licensed
113 contractor shall be granted up to 2 years of related work
114 experience.

115 5. Have not had a registration revoked the effective date
116 of which was less than 5 years before the application.

117 (e) The department shall provide each applicant for
118 registration pursuant to this section with a copy of this
119 section and any rules adopted under this section. The department
120 may also prepare and disseminate such other material and
121 questionnaires as it deems necessary to effectuate the
122 registration provisions of this section.

123 (f) Any person who was employed 1 or more years in this
124 state by a portable restroom service holding a permit issued by
125 the department on or before October 1, 2003, has until October
126 1, 2004, to be registered by the department in accordance with
127 this section and may continue to perform portable restroom
128 contracting services until that time. Such persons are exempt
129 until October 1, 2004, from the 3 years' active work experience
130 requirement of subparagraph (d)4.

131 (4) REGISTRATION RENEWAL.--

132 (a) The department shall prescribe by rule the method for
133 approval of continuing education courses and for renewal of
134 annual registration, for inactive status for late filing of
135 renewal applications, for allowing contractors to hold their
136 registration in inactive status for a specified period, and for
137 reactivating registrations. At a minimum, annual renewal shall



138 include continuing education requirements of not less than 6
139 classroom hours annually for portable restroom contractors.

140 (b) Certificates of registration shall become inactive
141 when a renewal application is not filed in a timely manner. A
142 certificate that has become inactive may be reactivated under
143 this section by application to the department. A registered
144 contractor may apply to the department for voluntary inactive
145 status at any time during the period of registration.

146 (5) CERTIFICATION OF PARTNERSHIPS AND CORPORATIONS.--

147 (a) The practice of or the offer to practice portable
148 restroom contracting services by registrants through a parent
149 corporation, corporation, subsidiary of a corporation, or
150 partnership offering portable restroom contracting services to
151 the public through registrants under this section as agents,
152 employers, officers, or partners is permitted if one or more of
153 the principal officers of the corporation or one or more
154 partners of the partnership and all personnel of the corporation
155 or partnership who act on its behalf as portable restroom
156 contractors in this state are registered as provided by this
157 section and if the corporation or partnership has been issued a
158 certificate of authorization by the department as provided in
159 this subsection. A registered contractor may not be the sole
160 qualifying contractor for more than one business that requests a
161 certificate of authorization. A business organization that loses
162 its qualifying contractor has 60 days following the date the
163 qualifier terminates his or her affiliation within which to
164 obtain another qualifying contractor. During this period, the
165 business organization may complete any existing contract or



166 continuing contract, but may not undertake any new contract.
167 This period may be extended once by the department for an
168 additional 60 days upon a showing of good cause. This subsection
169 may not be construed to mean that a certificate of registration
170 to practice portable restroom contracting must be held by a
171 corporation. A corporation or partnership is not relieved of
172 responsibility for the conduct or acts of its agents, employees,
173 or officers by reason of its compliance with this subsection,
174 and an individual practicing portable restroom contracting is
175 not relieved of responsibility for professional services
176 performed by reason of his or her employment or relationship
177 with a corporation or partnership.

178 (b) For the purposes of this subsection, a certificate of
179 authorization shall be required for a corporation, a
180 partnership, an association, or a person practicing under a
181 fictitious name when offering portable restroom contracting
182 services to the public, except that when an individual is
183 practicing portable restroom contracting in his or her own given
184 name, he or she is not required to register under this
185 subsection.

186 (c) Each certification of authorization shall be renewed
187 every 2 years. Each partnership and corporation certified under
188 this subsection shall notify the department within 1 month after
189 any change in the information contained in the application upon
190 which the certification is based.

191 (d) Disciplinary action against a corporation or
192 partnership shall be administered in the same manner and on the



193 same grounds as disciplinary action against a registered
194 portable restroom contractor.

195 (e) When a certificate of authorization has been revoked,
196 any person authorized by law to provide portable restroom
197 contracting services may not use the name or fictitious name of
198 the entity whose certificate was revoked, or any other
199 identifiers for the entity, including telephone numbers,
200 advertisements, or logos.

201 (6) SUSPENSION OR REVOCATION OF REGISTRATION.--A
202 certificate of registration may be suspended or revoked upon a
203 showing that the registrant has:

204 (a) Violated any provision of this section.

205 (b) Violated any lawful order or rule rendered or adopted
206 by the department.

207 (c) Obtained his or her registration or any other order,
208 ruling, or authorization by means of fraud, misrepresentation,
209 or concealment of material facts.

210 (d) Been found guilty of gross misconduct in the pursuit
211 of his or her profession.

212 (7) FEES; ESTABLISHMENT.--

213 (a) The department shall, by rule, establish fees as
214 follows:

215 1. For registration as a portable restroom contractor:

216 a. Application and examination fee: not less than \$25 nor
217 more than \$75.

218 b. Initial registration fee: not less than \$50 nor more
219 than \$100.



220 c. Renewal of registration fee: not less than \$50 nor more
221 than \$100.

222 2. For certification of a partnership or corporation: not
223 less than \$100 nor more than \$250.

224 (b) Fees established pursuant to paragraph (a) shall be
225 based on the actual costs incurred by the department in carrying
226 out its registration and other related responsibilities under
227 this section.

228 (8) PENALTIES AND PROHIBITIONS.--

229 (a) A person who violates any provision of this section
230 commits a misdemeanor of the first degree, punishable as
231 provided in s. 775.082 or s. 775.083.

232 (b) The department may deny a registration, authorization,
233 or registration renewal if it determines that an applicant does
234 not meet all requirements of this section or has violated any
235 provision of this section or if there is any outstanding
236 administrative penalty with the department in which the penalty
237 is final agency action and all judicial reviews are exhausted.
238 Any applicant aggrieved by such denial is entitled to a hearing,
239 after reasonable notice thereof, upon filing a written request
240 for such hearing in accordance with chapter 120.

241 Section 2. Subsection (1) of section 381.0061, Florida
242 Statutes, is amended to read:

243 381.0061 Administrative fines.--

244 (1) In addition to any administrative action authorized by
245 chapter 120 or by other law, the department may impose a fine,
246 which shall not exceed \$500 for each violation, for a violation
247 of s. 381.006(16), s. 381.0065, s. 381.0066, s. 381.0069, s.



248 381.0072, or part III of chapter 489, for a violation of any
249 rule adopted under this chapter, or for a violation of any of
250 the provisions of chapter 386. Notice of intent to impose such
251 fine shall be given by the department to the alleged violator.
252 Each day that a violation continues may constitute a separate
253 violation.

254 Section 3. Subsection (5) of section 381.0065, Florida
255 Statutes, is amended to read:

256 381.0065 Onsite sewage treatment and disposal systems;
257 regulation.--

258 (5) ENFORCEMENT; RIGHT OF ENTRY; CITATIONS.--

259 (a) Department personnel who have reason to believe
260 noncompliance exists, may at any reasonable time, enter the
261 premises permitted under ss. 381.0065-381.0066, ~~or~~ the business
262 premises of any septic tank contractor or master septic tank
263 contractor registered under part III of chapter 489, the
264 business premises of any portable restroom contractor registered
265 under s. 381.0069, or any premises that the department has
266 reason to believe is being operated or maintained not in
267 compliance, to determine compliance with the provisions of this
268 section, part I of chapter 386, or part III of chapter 489 or
269 rules or standards adopted under ss. 381.0065-381.0067, s.
270 381.0069, part I of chapter 386, or part III of chapter 489. As
271 used in this paragraph, the term "premises" does not include a
272 residence or private building. To gain entry to a residence or
273 private building, the department must obtain permission from the
274 owner or occupant or secure an inspection warrant from a court
275 of competent jurisdiction.



276 (b)1. The department may issue citations that may contain
277 an order of correction or an order to pay a fine, or both, for
278 violations of ss. 381.0065-381.0067, s. 381.0069, part I of
279 chapter 386, or part III of chapter 489 or the rules adopted by
280 the department, when a violation of these sections or rules is
281 enforceable by an administrative or civil remedy, or when a
282 violation of these sections or rules is a misdemeanor of the
283 second degree. A citation issued under ss. 381.0065-381.0067, s.
284 381.0069, part I of chapter 386, or part III of chapter 489
285 constitutes a notice of proposed agency action.

286 2. A citation must be in writing and must describe the
287 particular nature of the violation, including specific reference
288 to the provisions of law or rule allegedly violated.

289 3. The fines imposed by a citation issued by the
290 department may not exceed \$500 for each violation. Each day the
291 violation exists constitutes a separate violation for which a
292 citation may be issued.

293 4. The department shall inform the recipient, by written
294 notice pursuant to ss. 120.569 and 120.57, of the right to an
295 administrative hearing to contest the citation within 21 days
296 after the date the citation is received. The citation must
297 contain a conspicuous statement that if the recipient fails to
298 pay the fine within the time allowed, or fails to appear to
299 contest the citation after having requested a hearing, the
300 recipient has waived the recipient's right to contest the
301 citation and must pay an amount up to the maximum fine.

302 5. The department may reduce or waive the fine imposed by
303 the citation. In determining whether to reduce or waive the



304 fine, the department must consider the gravity of the violation,
305 the person's attempts at correcting the violation, and the
306 person's history of previous violations including violations for
307 which enforcement actions were taken under ss. 381.0065-
308 381.0067, s. 381.0069, part I of chapter 386, part III of
309 chapter 489, or other provisions of law or rule.

310 6. Any person who willfully refuses to sign and accept a
311 citation issued by the department commits a misdemeanor of the
312 second degree, punishable as provided in s. 775.082 or s.
313 775.083.

314 7. The department, pursuant to ss. 381.0065-381.0067, s.
315 381.0069, part I of chapter 386, or part III of chapter 489,
316 shall deposit any fines it collects in the county health
317 department trust fund for use in providing services specified in
318 those sections.

319 8. This section provides an alternative means of enforcing
320 ss. 381.0065-381.0067, s. 381.0069, part I of chapter 386, and
321 part III of chapter 489. This section does not prohibit the
322 department from enforcing ss. 381.0065-381.0067, s. 381.0069,
323 part I of chapter 386, or part III of chapter 489, or its rules,
324 by any other means. However, the department must elect to use
325 only a single method of enforcement for each violation.

326 Section 4. Paragraph (k) of subsection (2) of section
327 381.0066, Florida Statutes, is amended to read:

328 381.0066 Onsite sewage treatment and disposal systems;
329 fees.--



330 (2) The minimum fees in the following fee schedule apply
331 until changed by rule by the department within the following
332 limits:

333 (k) Research: An additional \$5 fee shall be added to each
334 new system construction permit issued ~~during fiscal years 1996-~~
335 ~~2003~~ to be used for onsite sewage treatment and disposal system
336 research, demonstration, and training projects. Five dollars
337 from any repair permit fee collected under this section shall be
338 used for funding the hands-on training centers described in s.
339 381.0065(3)(j).

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341 The funds collected pursuant to this subsection must be
342 deposited in a trust fund administered by the department, to be
343 used for the purposes stated in this section and ss. 381.0065
344 and 381.00655.

345 Section 5. This act shall take effect July 1, 2003.