

By Senator Altman

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1 A bill to be entitled
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 term "food
8 service establishment" and providing for the
9 applicability of food service protection requirements
10 thereto; conforming provisions to changes made by the
11 act; amending s. 509.013, F.S.; revising the term
12 "public food service establishment" to include a
13 culinary education program; amending s. 561.20, F.S.;
14 authorizing a culinary education program with a public
15 food service establishment license to obtain an
16 alcoholic beverage license under certain conditions;
17 authorizing the Division of Alcoholic Beverages and
18 Tobacco to adopt rules to administer such licenses;
19 providing an 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.—

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

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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 chapter 509 unless the food
38 service establishment is a culinary education program licensed
39 under chapter 509.

40 (2) ~~(1)~~ DEFINITIONS.—As used in this section, the term:

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

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

46 2. Is provided by:

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

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

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

57 d. A nonpublic postsecondary educational institution
58 licensed pursuant to part III of chapter 1005; and

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59 3. Is inspected by any state agency or agencies for
60 compliance with sanitation standards.

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

63 (c)(b) "Food service establishment" means detention
64 facilities, public or private schools, migrant labor camps,
65 assisted living facilities, facilities participating in the
66 United States Department of Agriculture Afterschool Meal Program
67 that are located at a facility or site that is not inspected by
68 another state agency for compliance with sanitation standards,
69 adult family-care homes, adult day care centers, short-term
70 residential treatment centers, residential treatment facilities,
71 homes for special services, transitional living facilities,
72 crisis stabilization units, hospices, prescribed pediatric
73 extended care centers, intermediate care facilities for persons
74 with developmental disabilities, boarding schools, civic or
75 fraternal organizations, bars and lounges, vending machines that
76 dispense potentially hazardous foods at facilities expressly
77 named in this paragraph, and facilities used as temporary food
78 events or mobile food units at any facility expressly named in
79 this paragraph, where food is prepared and intended for
80 individual portion service, including the site at which
81 individual portions are provided, regardless of whether
82 consumption is on or off the premises and regardless of whether
83 there is a charge for the food. The term includes a culinary
84 education program where food is prepared and intended for
85 individual portion service, regardless of whether there is a
86 charge for the food or whether the program is inspected by
87 another state agency for compliance with sanitation standards.

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

95 (d)~~(e)~~ "Operator" means the owner, operator, keeper,
96 proprietor, lessee, manager, assistant manager, agent, or
97 employee of a food service establishment.

98 (3)~~(2)~~ DUTIES.—

99 (a) The department may advise and consult with the Agency
100 for Health Care Administration, the Department of Business and
101 Professional Regulation, the Department of Agriculture and
102 Consumer Services, and the Department of Children and Families
103 concerning procedures related to the storage, preparation,
104 serving, or display of food at any building, structure, or
105 facility not expressly included in this section that is
106 inspected, licensed, or regulated by those agencies.

107 (b) The department shall adopt rules, including definitions
108 of terms which are consistent with law prescribing minimum
109 sanitation standards and manager certification requirements as
110 prescribed in s. 509.039, and which shall be enforced in food
111 service establishments as defined in this section. The
112 sanitation standards must address the construction, operation,
113 and maintenance of the establishment; lighting, ventilation,
114 laundry rooms, lockers, use and storage of toxic materials and
115 cleaning compounds, and first-aid supplies; plan review; design,
116 construction, installation, location, maintenance, sanitation,

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117 and storage of food equipment and utensils; employee training,
118 health, hygiene, and work practices; food supplies, preparation,
119 storage, transportation, and service, including access to the
120 areas where food is stored or prepared; and sanitary facilities
121 and controls, including water supply and sewage disposal;
122 plumbing and toilet facilities; garbage and refuse collection,
123 storage, and disposal; and vermin control. Public and private
124 schools, if the food service is operated by school employees,
125 bars and lounges, civic organizations, and any other facility
126 that is not regulated under this section are exempt from the
127 rules developed for manager certification. The department shall
128 administer a comprehensive inspection, monitoring, and sampling
129 program to ensure such standards are maintained. With respect to
130 food service establishments permitted or licensed under chapter
131 500 or chapter 509, the department shall assist the Division of
132 Hotels and Restaurants of the Department of Business and
133 Professional Regulation and the Department of Agriculture and
134 Consumer Services with rulemaking by providing technical
135 information.

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

141 (d) The department shall inspect each food service
142 establishment as often as necessary to ensure compliance with
143 applicable laws and rules. The department shall have the right
144 of entry and access to these food service establishments at any
145 reasonable time. In inspecting food service establishments under

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146 this section, the department shall provide each inspected
147 establishment with the food recovery brochure developed under s.
148 595.420.

149 (e) The department or other appropriate regulatory entity
150 may inspect theaters ~~exempted in subsection (1)~~ to ensure
151 compliance with applicable laws and rules pertaining to minimum
152 sanitation standards. A fee for inspection shall be prescribed
153 by rule, but the aggregate amount charged per year per theater
154 establishment shall not exceed \$300, regardless of the entity
155 providing the inspection.

156 (4) ~~(3)~~ LICENSES REQUIRED.—

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

172 (b) *Application for license.*—Each person who plans to open
173 a food service establishment regulated under this section and
174 not regulated under chapter 500 or chapter 509 shall apply for

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175 and receive a license prior to the commencement of operation.

176 (5)~~(4)~~ LICENSE; INSPECTION; FEES.—

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

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

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

188 (6)~~(5)~~ FINES; SUSPENSION OR REVOCATION OF LICENSES;
189 PROCEDURE.—

190 (a) The department may impose fines against the
191 establishment or operator regulated under this section for
192 violations of sanitary standards, in accordance with s.
193 381.0061. All amounts collected shall be deposited to the credit
194 of the County Health Department Trust Fund administered by the
195 department.

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

202 (c) The department may suspend or revoke the license of any
203 food service establishment licensed under this section when such

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204 establishment has been deemed by the department to be an
205 imminent danger to the public's health for failure to meet
206 sanitation standards or other applicable regulatory standards.

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

214 (7) ~~(6)~~ IMMINENT DANGERS; STOP-SALE ORDERS.-

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

224 (b) The department may determine that a food service
225 establishment regulated under this section is an imminent danger
226 to the public health and require its immediate closure when such
227 establishment fails to comply with applicable sanitary and
228 safety standards and, because of such failure, presents an
229 imminent threat to the public's health, safety, and welfare. The
230 department may accept inspection results from state and local
231 building and firesafety officials and other regulatory agencies
232 as justification for such actions. Any facility so deemed and

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233 closed shall remain closed until allowed by the department or by
234 judicial order to reopen.

235 ~~(8)~~(7) MISREPRESENTING FOOD OR FOOD PRODUCTS.—No operator
236 of any food service establishment regulated under this section
237 shall knowingly and willfully misrepresent the identity of any
238 food or food product to any of the patrons of such
239 establishment. Food used by food establishments shall be
240 identified, labeled, and advertised in accordance with the
241 provisions of chapter 500.

242 Section 2. Paragraph (a) of subsection (5) of section
243 509.013, Florida Statutes, is amended to read:

244 509.013 Definitions.—As used in this chapter, the term:

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

256 Section 3. Paragraph (a) of subsection (2) of section
257 561.20, Florida Statutes, is amended to read:

258 561.20 Limitation upon number of licenses issued.—

259 (2) (a) No such limitation of the number of licenses as
260 herein provided shall henceforth prohibit the issuance of a
261 special license to:

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262 1. Any bona fide hotel, motel, or motor court of not fewer
263 than 80 guest rooms in any county having a population of less
264 than 50,000 residents, and of not fewer than 100 guest rooms in
265 any county having a population of 50,000 residents or greater;
266 or any bona fide hotel or motel located in a historic structure,
267 as defined in s. 561.01(21), with fewer than 100 guest rooms
268 which derives at least 51 percent of its gross revenue from the
269 rental of hotel or motel rooms, which is licensed as a public
270 lodging establishment by the Division of Hotels and Restaurants;
271 provided, however, that a bona fide hotel or motel with no fewer
272 than 10 and no more than 25 guest rooms which is a historic
273 structure, as defined in s. 561.01(21), in a municipality that
274 on the effective date of this act has a population, according to
275 the University of Florida's Bureau of Economic and Business
276 Research Estimates of Population for 1998, of no fewer than
277 25,000 and no more than 35,000 residents and that is within a
278 constitutionally chartered county may be issued a special
279 license. This special license shall allow the sale and
280 consumption of alcoholic beverages only on the licensed premises
281 of the hotel or motel. In addition, the hotel or motel must
282 derive at least 60 percent of its gross revenue from the rental
283 of hotel or motel rooms and the sale of food and nonalcoholic
284 beverages; provided that the provisions of this subparagraph
285 shall supersede local laws requiring a greater number of hotel
286 rooms;

287 2. Any condominium accommodation of which no fewer than 100
288 condominium units are wholly rentable to transients and which is
289 licensed under the provisions of chapter 509, except that the
290 license shall be issued only to the person or corporation which

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291 operates the hotel or motel operation and not to the association
292 of condominium owners;

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

302 4. Any restaurant having 2,500 square feet of service area
303 and equipped to serve 150 persons full course meals at tables at
304 one time, and deriving at least 51 percent of its gross revenue
305 from the sale of food and nonalcoholic beverages; however, no
306 restaurant granted a special license on or after January 1,
307 1958, pursuant to general or special law shall operate as a
308 package store, nor shall intoxicating beverages be sold under
309 such license after the hours of serving food have elapsed; or

310 5. Any caterer, deriving at least 51 percent of its gross
311 revenue from the sale of food and nonalcoholic beverages,
312 licensed by the Division of Hotels and Restaurants under chapter
313 509. This subparagraph does not apply to a culinary education
314 program, as defined in s. 381.0072(2), which is licensed as a
315 public food service establishment by the Division of Hotels and
316 Restaurants and provides catering services. Notwithstanding any
317 other provision of law to the contrary, a licensee under this
318 subparagraph shall sell or serve alcoholic beverages only for
319 consumption on the premises of a catered event at which the

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320 licensee is also providing prepared food, and shall prominently
321 display its license at any catered event at which the caterer is
322 selling or serving alcoholic beverages. A licensee under this
323 subparagraph shall purchase all alcoholic beverages it sells or
324 serves at a catered event from a vendor licensed under s.
325 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject
326 to the limitation imposed in subsection (1), as appropriate. A
327 licensee under this subparagraph may not store any alcoholic
328 beverages to be sold or served at a catered event. Any alcoholic
329 beverages purchased by a licensee under this subparagraph for a
330 catered event that are not used at that event must remain with
331 the customer; provided that if the vendor accepts unopened
332 alcoholic beverages, the licensee may return such alcoholic
333 beverages to the vendor for a credit or reimbursement.
334 Regardless of the county or counties in which the licensee
335 operates, a licensee under this subparagraph shall pay the
336 annual state license tax set forth in s. 565.02(1)(b). A
337 licensee under this subparagraph must maintain for a period of 3
338 years all records required by the department by rule to
339 demonstrate compliance with the requirements of this
340 subparagraph, including licensed vendor receipts for the
341 purchase of alcoholic beverages and records identifying each
342 customer and the location and date of each catered event.
343 Notwithstanding any provision of law to the contrary, any vendor
344 licensed under s. 565.02(1) subject to the limitation imposed in
345 subsection (1), may, without any additional licensure under this
346 subparagraph, serve or sell alcoholic beverages for consumption
347 on the premises of a catered event at which prepared food is
348 provided by a caterer licensed under chapter 509. If a licensee

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349 under this subparagraph also possesses any other license under
350 the Beverage Law, the license issued under this subparagraph
351 shall not authorize the holder to conduct activities on the
352 premises to which the other license or licenses apply that would
353 otherwise be prohibited by the terms of that license or the
354 Beverage Law. Nothing in this section shall permit the licensee
355 to conduct activities that are otherwise prohibited by the
356 Beverage Law or local law. The Division of Alcoholic Beverages
357 and Tobacco is hereby authorized to adopt rules to administer
358 the license created in this subparagraph, to include rules
359 governing licensure, recordkeeping, and enforcement. The first
360 \$300,000 in fees collected by the division each fiscal year
361 pursuant to this subparagraph shall be deposited in the
362 Department of Children and Families' Operations and Maintenance
363 Trust Fund to be used only for alcohol and drug abuse education,
364 treatment, and prevention programs. The remainder of the fees
365 collected shall be deposited into the Hotel and Restaurant Trust
366 Fund created pursuant to s. 509.072.

367 6. A culinary education program, as defined in s.
368 381.0072(2), which is licensed as a public food service
369 establishment by the Division of Hotels and Restaurants.

370 a. This special license shall allow the sale and
371 consumption of alcoholic beverages on the licensed premises of
372 the culinary education program. The culinary education program
373 shall specify designated areas in the facility where the
374 alcoholic beverages may be consumed at the time of application.
375 Alcoholic beverages sold for consumption on the premises may be
376 consumed only in areas designated pursuant to s. 561.01(11) and
377 may not be removed from the designated area. Such license shall

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378 be applicable only in and for designated areas used by the
379 culinary education program.

380 b. If the culinary education program provides catering
381 services, this special license shall also allow the sale and
382 consumption of alcoholic beverages on the premises of a catered
383 event at which the licensee is also providing prepared food. A
384 culinary education program that provides catering services is
385 not required to derive at least 51 percent of its gross revenue
386 from the sale of food and nonalcoholic beverages.

387 Notwithstanding any other provision of law to the contrary, a
388 licensee that provides catering services under this sub-
389 subparagraph shall prominently display its beverage license at
390 any catered event at which the caterer is selling or serving
391 alcoholic beverages. Regardless of the county or counties in
392 which the licensee operates, a licensee under this sub-
393 subparagraph shall pay the annual state license tax set forth in
394 s. 565.02(1)(b). A licensee under this sub-subparagraph must
395 maintain for a period of 3 years all records required by the
396 department by rule to demonstrate compliance with the
397 requirements of this sub-subparagraph.

398 c. If a licensee under this subparagraph also possesses any
399 other license under the Beverage Law, the license issued under
400 this subparagraph does not authorize the holder to conduct
401 activities on the premises to which the other license or
402 licenses apply that would otherwise be prohibited by the terms
403 of that license or the Beverage Law. This subparagraph does not
404 permit the licensee to conduct activities that are otherwise
405 prohibited by the Beverage Law or local law. Any culinary
406 education program that holds a license to sell alcoholic

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407 beverages shall comply with the age requirements set forth in
408 ss. 562.11(4), 562.111(2), and 562.13.

409 d. The Division of Alcoholic Beverages and Tobacco may
410 adopt rules to administer the license created in this
411 subparagraph, to include rules governing licensure,
412 recordkeeping, and enforcement.

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

416
417 However, any license heretofore issued to any such hotel, motel,
418 motor court, or restaurant or hereafter issued to any such
419 hotel, motel, or motor court, including a condominium
420 accommodation, under the general law shall not be moved to a new
421 location, such license being valid only on the premises of such
422 hotel, motel, motor court, or restaurant. Licenses issued to
423 hotels, motels, motor courts, or restaurants under the general
424 law and held by such hotels, motels, motor courts, or
425 restaurants on May 24, 1947, shall be counted in the quota
426 limitation contained in subsection (1). Any license issued for
427 any hotel, motel, or motor court under the provisions of this
428 law shall be issued only to the owner of the hotel, motel, or
429 motor court or, in the event the hotel, motel, or motor court is
430 leased, to the lessee of the hotel, motel, or motor court; and
431 the license shall remain in the name of the owner or lessee so
432 long as the license is in existence. Any special license now in
433 existence heretofore issued under the provisions of this law
434 cannot be renewed except in the name of the owner of the hotel,
435 motel, motor court, or restaurant or, in the event the hotel,

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

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