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CS/HB 401

2015 Legislature

1
2 An act relating to public lodging and public food
3 service establishments; amending s. 509.032, F.S.;
4 revising the frequency at which the Division of Hotels
5 and Restaurants of the Department of Business and
6 Professional Regulation must reassess the inspection
7 frequency of public food service establishments;
8 revising the department's duties with respect to
9 distribution of a specified food-recovery brochure;
10 deleting a restriction on the length of time that a
11 licensed public food service establishment may operate
12 at a temporary food service event; amending s.
13 509.091, F.S.; authorizing the division to deliver
14 lodging inspection reports and food service inspection
15 reports electronically; amending s. 509.101, F.S.;
16 requiring operators of public food service
17 establishments to maintain copies of food service
18 inspection reports and make them available to the
19 division; amending s. 509.251, F.S.; revising certain
20 delinquent fees for license renewal; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraphs (a) and (g) of subsection (2) and
26 paragraph (c) of subsection (3) of section 509.032, Florida

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27 Statutes, are amended to read:

28 509.032 Duties.—

29 (2) INSPECTION OF PREMISES.—

30 (a) The division has jurisdiction and is responsible for
31 all inspections required by this chapter. The division is
32 responsible for quality assurance. The division shall inspect
33 each licensed public lodging establishment at least biannually,
34 except for transient and nontransient apartments, which shall be
35 inspected at least annually. Each establishment licensed by the
36 division shall be inspected at such other times as the division
37 determines is necessary to ensure the public's health, safety,
38 and welfare. The division shall, ~~by no later than July 1, 2014,~~
39 adopt by rule a risk-based inspection frequency for each
40 licensed public food service establishment. The rule must
41 require at least one, but not more than four, routine
42 inspections that must be performed annually, and may include
43 guidelines that consider the inspection and compliance history
44 of a public food service establishment, the type of food and
45 food preparation, and the type of service. The division shall
46 ~~annually~~ reassess the inspection frequency of all licensed
47 public food service establishments at least annually. Public
48 lodging units classified as vacation rentals or timeshare
49 projects are not subject to this requirement but shall be made
50 available to the division upon request. If, during the
51 inspection of a public lodging establishment classified for
52 renting to transient or nontransient tenants, an inspector

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53 identifies vulnerable adults who appear to be victims of
54 neglect, as defined in s. 415.102, or, in the case of a building
55 that is not equipped with automatic sprinkler systems, tenants
56 or clients who may be unable to self-preserve in an emergency,
57 the division shall convene meetings with the following agencies
58 as appropriate to the individual situation: the Department of
59 Health, the Department of Elderly Affairs, the area agency on
60 aging, the local fire marshal, the landlord and affected tenants
61 and clients, and other relevant organizations, to develop a plan
62 that improves the prospects for safety of affected residents
63 and, if necessary, identifies alternative living arrangements
64 such as facilities licensed under part II of chapter 400 or
65 under chapter 429.

66 (g) In inspecting public food service establishments, the
67 department shall notify ~~provide~~ each inspected establishment of
68 the availability of ~~with~~ the food-recovery brochure developed
69 under s. 595.420.

70 (3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD
71 SERVICE EVENTS.—The division shall:

72 (c) Administer a public notification process for temporary
73 food service events and distribute educational materials that
74 address safe food storage, preparation, and service procedures.

75 1. Sponsors of temporary food service events shall notify
76 the division not less than 3 days before the scheduled event of
77 the type of food service proposed, the time and location of the
78 event, a complete list of food service vendors participating in

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79 | the event, the number of individual food service facilities each
80 | vendor will operate at the event, and the identification number
81 | of each food service vendor's current license as a public food
82 | service establishment or temporary food service event licensee.
83 | Notification may be completed orally, by telephone, in person,
84 | or in writing. A public food service establishment or food
85 | service vendor may not use this notification process to
86 | circumvent the license requirements of this chapter.

87 | 2. The division shall keep a record of all notifications
88 | received for proposed temporary food service events and shall
89 | provide appropriate educational materials to the event sponsors
90 | and notify the event sponsors of the availability of,~~including~~
91 | the food-recovery brochure developed under s. 595.420.

92 | 3.a. A public food service establishment or other food
93 | service vendor must obtain one of the following classes of
94 | license from the division: an individual license, for a fee of
95 | no more than \$105, for each temporary food service event in
96 | which it participates; or an annual license, for a fee of no
97 | more than \$1,000, that entitles the licensee to participate in
98 | an unlimited number of food service events during the license
99 | period. The division shall establish license fees, by rule, and
100 | may limit the number of food service facilities a licensee may
101 | operate at a particular temporary food service event under a
102 | single license.

103 | b. Public food service establishments holding current
104 | licenses from the division may operate under the regulations of

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105 such a license at temporary food service events ~~of 3 days or~~
 106 ~~less in duration.~~

107 Section 2. Section 509.091, Florida Statutes, is amended
 108 to read:

109 509.091 Notices; form and service.—

110 (1) Each notice served by the division pursuant to this
 111 chapter must be in writing and must be delivered personally by
 112 an agent of the division or by registered letter to the operator
 113 of the public lodging establishment or public food service
 114 establishment. If the operator refuses to accept service or
 115 evades service or the agent is otherwise unable to effect
 116 service after due diligence, the division may post such notice
 117 in a conspicuous place at the establishment.

118 (2) Notwithstanding subsection (1), the division may
 119 deliver lodging inspection reports and food service inspection
 120 reports to the operator of the public lodging establishment or
 121 public food service establishment by electronic means.

122 Section 3. Subsection (1) of section 509.101, Florida
 123 Statutes, is amended to read:

124 509.101 Establishment rules; posting of notice; food
 125 service inspection report; maintenance of guest register; mobile
 126 food dispensing vehicle registry.—

127 (1) Any operator of a public lodging establishment or a
 128 public food service establishment may establish reasonable rules
 129 and regulations for the management of the establishment and its
 130 guests and employees; and each guest or employee staying,

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131 | sojourning, eating, or employed in the establishment shall
 132 | conform to and abide by such rules and regulations so long as
 133 | the guest or employee remains in or at the establishment. Such
 134 | rules and regulations shall be deemed to be a special contract
 135 | between the operator and each guest or employee using the
 136 | services or facilities of the operator. Such rules and
 137 | regulations shall control the liabilities, responsibilities, and
 138 | obligations of all parties. Any rules or regulations established
 139 | pursuant to this section shall be printed in the English
 140 | language and posted in a prominent place within such public
 141 | lodging establishment or public food service establishment. In
 142 | addition, any operator of a public food service establishment
 143 | shall maintain a copy of the latest food service inspection
 144 | report ~~or a duplicate copy on premises~~ and shall make it
 145 | available to the division at the time of any division inspection
 146 | of the establishment and to the public, upon request.

147 | Section 4. Subsections (1) and (2) of section 509.251,
 148 | Florida Statutes, are amended to read:

149 | 509.251 License fees.—

150 | (1) The division shall adopt, by rule, a schedule of fees
 151 | to be paid by each public lodging establishment as a
 152 | prerequisite to issuance or renewal of a license. Such fees
 153 | shall be based on the number of rental units in the
 154 | establishment. The aggregate fee per establishment charged any
 155 | public lodging establishment may ~~shall~~ not exceed \$1,000;
 156 | however, the fees described in paragraphs (a) and (b) may not be

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157 included as part of the aggregate fee subject to this cap.
158 Vacation rental units or timeshare projects within separate
159 buildings or at separate locations but managed by one licensed
160 agent may be combined in a single license application, and the
161 division shall charge a license fee as if all units in the
162 application are in a single licensed establishment. The fee
163 schedule shall require an establishment which applies for an
164 initial license to pay the full license fee if application is
165 made during the annual renewal period or more than 6 months
166 before ~~prior to~~ the next such renewal period and one-half of the
167 fee if application is made 6 months or less before ~~prior to~~ such
168 period. The fee schedule shall include fees collected for the
169 purpose of funding the Hospitality Education Program, pursuant
170 to s. 509.302, which are payable in full for each application
171 regardless of when the application is submitted.

172 (a) Upon making initial application or an application for
173 change of ownership, the applicant shall pay to the division a
174 fee as prescribed by rule, not to exceed \$50, in addition to any
175 other fees required by law, which shall cover all costs
176 associated with initiating regulation of the establishment.

177 (b) A license renewal filed with the division ~~within 30~~
178 ~~days~~ after the expiration date shall be accompanied by a
179 delinquent fee as prescribed by rule, not to exceed \$50, in
180 addition to the renewal fee and any other fees required by law.
181 ~~A license renewal filed with the division more than 30 but not~~
182 ~~more than 60 days after the expiration date shall be accompanied~~

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183 ~~by a delinquent fee as prescribed by rule, not to exceed \$100,~~
184 ~~in addition to the renewal fee and any other fees required by~~
185 ~~law.~~

186 (2) The division shall adopt, by rule, a schedule of fees
187 to be paid by each public food service establishment as a
188 prerequisite to issuance or renewal of a license. The fee
189 schedule shall prescribe a basic fee and additional fees based
190 on seating capacity and services offered. The aggregate fee per
191 establishment charged any public food service establishment may
192 not exceed \$400; however, the fees described in paragraphs (a)
193 and (b) may not be included as part of the aggregate fee subject
194 to this cap. The fee schedule shall require an establishment
195 which applies for an initial license to pay the full license fee
196 if application is made during the annual renewal period or more
197 than 6 months before ~~prior to~~ the next such renewal period and
198 one-half of the fee if application is made 6 months or less
199 before ~~prior to~~ such period. The fee schedule shall include fees
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215 ~~by a delinquent fee as prescribed by rule, not to exceed \$100,~~
216 ~~in addition to the renewal fee and any other fees required by~~
217 ~~law.~~

218 Section 5. This act shall take effect July 1, 2015.