

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"; conforming
 7 provisions; amending s. 509.013, F.S.; revising the
 8 definition of the term "public food service
 9 establishment" to include a culinary education
 10 program; amending s. 561.20, F.S.; permitting a
 11 culinary education program with a food service
 12 establishment license to obtain an alcoholic beverage
 13 license under certain conditions; authorizing the
 14 Division of Alcoholic Beverages and Tobacco to adopt
 15 rules to administer such licenses; requiring certain
 16 educational institutions to offer culinary education
 17 programs; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 381.0072, Florida Statutes, is amended
 22 to read:

23 381.0072 Food service protection.—

24 (1) DEPARTMENT OF HEALTH; SANITATION RULES.—

25 (a) It shall be the duty of the Department of Health to
 26 adopt and enforce sanitation rules consistent with law to ensure

27 | the protection of the public from food-borne illness. These
 28 | rules shall provide the standards and requirements for the
 29 | storage, preparation, serving, or display of food in food
 30 | service establishments as defined in this section ~~and which are~~
 31 | ~~not permitted or licensed under chapter 500 or chapter 509.~~

32 | (b) A food service establishment is subject to the
 33 | sanitation rules adopted and enforced by the department. This
 34 | section does not apply to a food service establishment permitted
 35 | or licensed under chapter 500 or chapter 509 unless the food
 36 | service establishment is a culinary education program licensed
 37 | under chapter 509.

38 | (2)-(1) DEFINITIONS.—As used in this section, the term:

39 | (a) "Culinary education program" means a program that
 40 | educates students in the culinary arts, including the
 41 | preparation, cooking, and presentation of food. The program also
 42 | may provide education and experience in culinary arts-related
 43 | businesses. The program qualifies as a culinary education
 44 | program regardless of whether it is inspected by a state agency
 45 | for compliance with sanitation standards.

46 | (b)-(a) "Department" means the Department of Health or its
 47 | representative county health department.

48 | (c)-(b) "Food service establishment" means detention
 49 | facilities, public or private schools, migrant labor camps,
 50 | assisted living facilities, facilities participating in the
 51 | United States Department of Agriculture Afterschool Meal Program
 52 | that are located at a facility or site that is not inspected by

53 another state agency for compliance with sanitation standards,
54 adult family-care homes, adult day care centers, short-term
55 residential treatment centers, residential treatment facilities,
56 homes for special services, transitional living facilities,
57 crisis stabilization units, hospices, prescribed pediatric
58 extended care centers, intermediate care facilities for persons
59 with developmental disabilities, boarding schools, civic or
60 fraternal organizations, bars and lounges, vending machines that
61 dispense potentially hazardous foods at facilities expressly
62 named in this paragraph, and facilities used as temporary food
63 events or mobile food units at any facility expressly named in
64 this paragraph, where food is prepared and intended for
65 individual portion service, including the site at which
66 individual portions are provided, regardless of whether
67 consumption is on or off the premises and regardless of whether
68 there is a charge for the food. The term includes a culinary
69 education program where food is prepared and intended for
70 individual portion service, regardless of whether there is a
71 charge for the food or whether the program is inspected by
72 another state agency for compliance with sanitation standards.
73 The term does not include any entity not expressly named in this
74 paragraph; nor does the term include a domestic violence center
75 certified by the Department of Children and Families and
76 monitored by the Florida Coalition Against Domestic Violence
77 under part XII of chapter 39 if the center does not prepare and
78 serve food to its residents and does not advertise food or drink

79 for public consumption.

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

83 (3)~~(2)~~ DUTIES.—

84 (a) The department may advise and consult with the Agency
85 for Health Care Administration, the Department of Business and
86 Professional Regulation, the Department of Agriculture and
87 Consumer Services, and the Department of Children and Families
88 concerning procedures related to the storage, preparation,
89 serving, or display of food at any building, structure, or
90 facility not expressly included in this section that is
91 inspected, licensed, or regulated by those agencies.

92 (b) The department shall adopt rules, including
93 definitions of terms which are consistent with law prescribing
94 minimum sanitation standards and manager certification
95 requirements as prescribed in s. 509.039, and which shall be
96 enforced in food service establishments as defined in this
97 section. The sanitation standards must address the construction,
98 operation, and maintenance of the establishment; lighting,
99 ventilation, laundry rooms, lockers, use and storage of toxic
100 materials and cleaning compounds, and first-aid supplies; plan
101 review; design, construction, installation, location,
102 maintenance, sanitation, and storage of food equipment and
103 utensils; employee training, health, hygiene, and work
104 practices; food supplies, preparation, storage, transportation,

105 and service, including access to the areas where food is stored
106 or prepared; and sanitary facilities and controls, including
107 water supply and sewage disposal; plumbing and toilet
108 facilities; garbage and refuse collection, storage, and
109 disposal; and vermin control. Public and private schools, if the
110 food service is operated by school employees, bars and lounges,
111 civic organizations, and any other facility that is not
112 regulated under this section are exempt from the rules developed
113 for manager certification. The department shall administer a
114 comprehensive inspection, monitoring, and sampling program to
115 ensure such standards are maintained. With respect to food
116 service establishments permitted or licensed under chapter 500
117 or chapter 509, the department shall assist the Division of
118 Hotels and Restaurants of the Department of Business and
119 Professional Regulation and the Department of Agriculture and
120 Consumer Services with rulemaking by providing technical
121 information.

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

127 (d) The department shall inspect each food service
128 establishment as often as necessary to ensure compliance with
129 applicable laws and rules. The department shall have the right
130 of entry and access to these food service establishments at any

131 reasonable time. In inspecting food service establishments under
 132 this section, the department shall provide each inspected
 133 establishment with the food recovery brochure developed under s.
 134 595.420.

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

142 (4)~~(3)~~ LICENSES REQUIRED.-

143 (a) Licenses; annual renewals.-Each food service
 144 establishment regulated under this section shall obtain a
 145 license from the department annually. Food service establishment
 146 licenses shall expire annually and are not transferable from one
 147 place or individual to another. However, those facilities
 148 licensed by the department's Office of Licensure and
 149 Certification, the Child Care Services Program Office, or the
 150 Agency for Persons with Disabilities are exempt from this
 151 subsection. It shall be a misdemeanor of the second degree,
 152 punishable as provided in s. 381.0061, s. 775.082, or s.
 153 775.083, for such an establishment to operate without this
 154 license. The department may refuse a license, or a renewal
 155 thereof, to any establishment that is not constructed or
 156 maintained in accordance with law and with the rules of the

157 department. Annual application for renewal is not required.

158 (b) Application for license.—Each person who plans to open
 159 a food service establishment regulated under this section and
 160 not regulated under chapter 500 or chapter 509 shall apply for
 161 and receive a license prior to the commencement of operation.

162 (5)~~(4)~~ LICENSE; INSPECTION; FEES.—

163 (a) The department is authorized to collect fees from
 164 establishments licensed under this section and from those
 165 facilities exempted from licensure under paragraph (4) (a)
 166 ~~(3)~~ (a). It is the intent of the Legislature that the total fees
 167 assessed under this section be in an amount sufficient to meet
 168 the cost of carrying out the provisions of this section.

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

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

174 (6)~~(5)~~ FINES; SUSPENSION OR REVOCATION OF LICENSES;
 175 PROCEDURE.—

176 (a) The department may impose fines against the
 177 establishment or operator regulated under this section for
 178 violations of sanitary standards, in accordance with s.
 179 381.0061. All amounts collected shall be deposited to the credit
 180 of the County Health Department Trust Fund administered by the
 181 department.

182 (b) The department may suspend or revoke the license of

183 any food service establishment licensed under this section that
184 has operated or is operating in violation of any of the
185 provisions of this section or the rules adopted under this
186 section. Such food service establishment shall remain closed
187 when its license is suspended or revoked.

188 (c) The department may suspend or revoke the license of
189 any food service establishment licensed under this section when
190 such establishment has been deemed by the department to be an
191 imminent danger to the public's health for failure to meet
192 sanitation standards or other applicable regulatory standards.

193 (d) No license shall be suspended under this section for a
194 period of more than 12 months. At the end of such period of
195 suspension, the establishment may apply for reinstatement or
196 renewal of the license. A food service establishment which has
197 had its license revoked may not apply for another license for
198 that location prior to the date on which the revoked license
199 would have expired.

200 (7)~~(6)~~ IMMEDIATE DANGERS; STOP-SALE ORDERS.—

201 (a) In the course of epidemiological investigations or for
202 those establishments regulated by the department under this
203 chapter, the department, to protect the public from food that is
204 unwholesome or otherwise unfit for human consumption, may
205 examine, sample, seize, and stop the sale or use of food to
206 determine its condition. The department may stop the sale and
207 supervise the proper destruction of food when the State Health
208 Officer or his or her designee determines that such food

209 represents a threat to the public health.

210 (b) The department may determine that a food service
211 establishment regulated under this section is an imminent danger
212 to the public health and require its immediate closure when such
213 establishment fails to comply with applicable sanitary and
214 safety standards and, because of such failure, presents an
215 imminent threat to the public's health, safety, and welfare. The
216 department may accept inspection results from state and local
217 building and firesafety officials and other regulatory agencies
218 as justification for such actions. Any facility so deemed and
219 closed shall remain closed until allowed by the department or by
220 judicial order to reopen.

221 (8)~~(7)~~ MISREPRESENTING FOOD OR FOOD PRODUCTS.—No operator
222 of any food service establishment regulated under this section
223 shall knowingly and willfully misrepresent the identity of any
224 food or food product to any of the patrons of such
225 establishment. Food used by food establishments shall be
226 identified, labeled, and advertised in accordance with the
227 provisions of chapter 500.

228 Section 2. Paragraph (a) of subsection (5) of section
229 509.013, Florida Statutes, is amended to read:

230 509.013 Definitions.—As used in this chapter, the term:

231 (5) (a) "Public food service establishment" means any
232 building, vehicle, place, or structure, or any room or division
233 in a building, vehicle, place, or structure where food is
234 prepared, served, or sold for immediate consumption on or in the

235 vicinity of the premises; called for or taken out by customers;
236 or prepared prior to being delivered to another location for
237 consumption. The term includes a culinary education program, as
238 defined in s. 381.0072(2), which offers, prepares, serves, or
239 sells food to the general public, regardless of whether it is
240 inspected by another state agency for compliance with sanitation
241 standards.

242 Section 3. Paragraph (a) of subsection (2) of section
243 561.20, Florida Statutes, is amended to read:

244 561.20 Limitation upon number of licenses issued.—

245 (2)(a) No such limitation of the number of licenses as
246 herein provided shall henceforth prohibit the issuance of a
247 special license to:

248 1. Any bona fide hotel, motel, or motor court of not fewer
249 than 80 guest rooms in any county having a population of less
250 than 50,000 residents, and of not fewer than 100 guest rooms in
251 any county having a population of 50,000 residents or greater;
252 or any bona fide hotel or motel located in a historic structure,
253 as defined in s. 561.01(21), with fewer than 100 guest rooms
254 which derives at least 51 percent of its gross revenue from the
255 rental of hotel or motel rooms, which is licensed as a public
256 lodging establishment by the Division of Hotels and Restaurants;
257 provided, however, that a bona fide hotel or motel with no fewer
258 than 10 and no more than 25 guest rooms which is a historic
259 structure, as defined in s. 561.01(21), in a municipality that
260 on the effective date of this act has a population, according to

261 the University of Florida's Bureau of Economic and Business
262 Research Estimates of Population for 1998, of no fewer than
263 25,000 and no more than 35,000 residents and that is within a
264 constitutionally chartered county may be issued a special
265 license. This special license shall allow the sale and
266 consumption of alcoholic beverages only on the licensed premises
267 of the hotel or motel. In addition, the hotel or motel must
268 derive at least 60 percent of its gross revenue from the rental
269 of hotel or motel rooms and the sale of food and nonalcoholic
270 beverages; provided that the provisions of this subparagraph
271 shall supersede local laws requiring a greater number of hotel
272 rooms;

273 2. Any condominium accommodation of which no fewer than
274 100 condominium units are wholly rentable to transients and
275 which is licensed under the provisions of chapter 509, except
276 that the license shall be issued only to the person or
277 corporation which operates the hotel or motel operation and not
278 to the association of condominium owners;

279 3. Any condominium accommodation of which no fewer than 50
280 condominium units are wholly rentable to transients, which is
281 licensed under the provisions of chapter 509, and which is
282 located in any county having home rule under s. 10 or s. 11,
283 Art. VIII of the State Constitution of 1885, as amended, and
284 incorporated by reference in s. 6(e), Art. VIII of the State
285 Constitution, except that the license shall be issued only to
286 the person or corporation which operates the hotel or motel

287 operation and not to the association of condominium owners;

288 4. Any restaurant having 2,500 square feet of service area
289 and equipped to serve 150 persons full course meals at tables at
290 one time, and deriving at least 51 percent of its gross revenue
291 from the sale of food and nonalcoholic beverages; however, no
292 restaurant granted a special license on or after January 1,
293 1958, pursuant to general or special law shall operate as a
294 package store, nor shall intoxicating beverages be sold under
295 such license after the hours of serving food have elapsed; or

296 5. Any caterer, deriving at least 51 percent of its gross
297 revenue from the sale of food and nonalcoholic beverages,
298 licensed by the Division of Hotels and Restaurants under chapter
299 509. This subparagraph does not apply to a culinary education
300 program, as defined in s. 381.0072(2), which is licensed as a
301 public food service establishment by the Division of Hotels and
302 Restaurants and provides catering services. Notwithstanding any
303 other provision of law to the contrary, a licensee under this
304 subparagraph shall sell or serve alcoholic beverages only for
305 consumption on the premises of a catered event at which the
306 licensee is also providing prepared food, and shall prominently
307 display its license at any catered event at which the caterer is
308 selling or serving alcoholic beverages. A licensee under this
309 subparagraph shall purchase all alcoholic beverages it sells or
310 serves at a catered event from a vendor licensed under s.
311 563.02(1), s. 564.02(1), or licensed under s. 565.02(1) subject
312 to the limitation imposed in subsection (1), as appropriate. A

313 licensee under this subparagraph may not store any alcoholic
314 beverages to be sold or served at a catered event. Any alcoholic
315 beverages purchased by a licensee under this subparagraph for a
316 catered event that are not used at that event must remain with
317 the customer; provided that if the vendor accepts unopened
318 alcoholic beverages, the licensee may return such alcoholic
319 beverages to the vendor for a credit or reimbursement.

320 Regardless of the county or counties in which the licensee
321 operates, a licensee under this subparagraph shall pay the
322 annual state license tax set forth in s. 565.02(1)(b). A
323 licensee under this subparagraph must maintain for a period of 3
324 years all records required by the department by rule to
325 demonstrate compliance with the requirements of this
326 subparagraph, including licensed vendor receipts for the
327 purchase of alcoholic beverages and records identifying each
328 customer and the location and date of each catered event.

329 Notwithstanding any provision of law to the contrary, any vendor
330 licensed under s. 565.02(1) subject to the limitation imposed in
331 subsection (1), may, without any additional licensure under this
332 subparagraph, serve or sell alcoholic beverages for consumption
333 on the premises of a catered event at which prepared food is
334 provided by a caterer licensed under chapter 509. If a licensee
335 under this subparagraph also possesses any other license under
336 the Beverage Law, the license issued under this subparagraph
337 shall not authorize the holder to conduct activities on the
338 premises to which the other license or licenses apply that would

339 otherwise be prohibited by the terms of that license or the
340 Beverage Law. Nothing in this section shall permit the licensee
341 to conduct activities that are otherwise prohibited by the
342 Beverage Law or local law. The Division of Alcoholic Beverages
343 and Tobacco is hereby authorized to adopt rules to administer
344 the license created in this subparagraph, to include rules
345 governing licensure, recordkeeping, and enforcement. The first
346 \$300,000 in fees collected by the division each fiscal year
347 pursuant to this subparagraph shall be deposited in the
348 Department of Children and Families' Operations and Maintenance
349 Trust Fund to be used only for alcohol and drug abuse education,
350 treatment, and prevention programs. The remainder of the fees
351 collected shall be deposited into the Hotel and Restaurant Trust
352 Fund created pursuant to s. 509.072.

353 6. A culinary education program as defined in s.
354 381.0072(2) which is licensed as a public food service
355 establishment by the Division of Hotels and Restaurants.

356 a. This special license shall allow the sale and
357 consumption of alcoholic beverages on the licensed premises of
358 the culinary education program. The culinary education program
359 shall specify designated areas in the facility where the
360 alcoholic beverages may be consumed at the time of application.
361 Alcoholic beverages sold for consumption on the premises may be
362 consumed only in areas designated pursuant to s. 561.01(11) and
363 may not be removed from the designated area. Such license shall
364 be applicable only in and for designated areas used by the

365 culinary education program.

366 b. If the culinary education program provides catering
367 services, this special license shall also allow the sale and
368 consumption of alcoholic beverages on the premises of a catered
369 event at which the licensee is also providing prepared food. A
370 culinary education program that provides catering services is
371 not required to derive at least 51 percent of its gross revenue
372 from the sale of food and nonalcoholic beverages.

373 Notwithstanding any other provision of law to the contrary, a
374 licensee that provides catering services under this sub-
375 subparagraph shall prominently display its beverage license at
376 any catered event at which the caterer is selling or serving
377 alcoholic beverages. Regardless of the county or counties in
378 which the licensee operates, a licensee under this sub-
379 subparagraph shall pay the annual state license tax set forth in
380 s. 565.02(1)(b). A licensee under this sub-subparagraph must
381 maintain for a period of 3 years all records required by the
382 department by rule to demonstrate compliance with the
383 requirements of this sub-subparagraph.

384 c. If a licensee under this subparagraph also possesses
385 any other license under the Beverage Law, the license issued
386 under this subparagraph does not authorize the holder to conduct
387 activities on the premises to which the other license or
388 licenses apply that would otherwise be prohibited by the terms
389 of that license or the Beverage Law. Nothing in this
390 subparagraph shall permit the licensee to conduct activities

391 that are otherwise prohibited by the Beverage Law or local law.
 392 Any culinary education program that holds a license to sell
 393 alcoholic beverages shall comply with the age requirements set
 394 forth in ss. 562.11(4), 562.111(2), and 562.13.

395 d. The Division of Alcoholic Beverages and Tobacco may
 396 adopt rules to administer the license created in this
 397 subparagraph, to include rules governing licensure,
 398 recordkeeping, and enforcement.

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

402
 403 However, any license heretofore issued to any such hotel, motel,
 404 motor court, or restaurant or hereafter issued to any such
 405 hotel, motel, or motor court, including a condominium
 406 accommodation, under the general law shall not be moved to a new
 407 location, such license being valid only on the premises of such
 408 hotel, motel, motor court, or restaurant. Licenses issued to
 409 hotels, motels, motor courts, or restaurants under the general
 410 law and held by such hotels, motels, motor courts, or
 411 restaurants on May 24, 1947, shall be counted in the quota
 412 limitation contained in subsection (1). Any license issued for
 413 any hotel, motel, or motor court under the provisions of this
 414 law shall be issued only to the owner of the hotel, motel, or
 415 motor court or, in the event the hotel, motel, or motor court is
 416 leased, to the lessee of the hotel, motel, or motor court; and

417 the license shall remain in the name of the owner or lessee so
418 long as the license is in existence. Any special license now in
419 existence heretofore issued under the provisions of this law
420 cannot be renewed except in the name of the owner of the hotel,
421 motel, motor court, or restaurant or, in the event the hotel,
422 motel, motor court, or restaurant is leased, in the name of the
423 lessee of the hotel, motel, motor court, or restaurant in which
424 the license is located and must remain in the name of the owner
425 or lessee so long as the license is in existence. Any license
426 issued under this section shall be marked "Special," and nothing
427 herein provided shall limit, restrict, or prevent the issuance
428 of a special license for any restaurant or motel which shall
429 hereafter meet the requirements of the law existing immediately
430 prior to the effective date of this act, if construction of such
431 restaurant has commenced prior to the effective date of this act
432 and is completed within 30 days thereafter, or if an application
433 is on file for such special license at the time this act takes
434 effect; and any such licenses issued under this proviso may be
435 annually renewed as now provided by law. Nothing herein prevents
436 an application for transfer of a license to a bona fide
437 purchaser of any hotel, motel, motor court, or restaurant by the
438 purchaser of such facility or the transfer of such license
439 pursuant to law.

440 Section 4. Culinary education programs.—Each of the
441 following accredited institutions of higher education must
442 include a culinary education program as part of its academic

443 curriculum:

444 (1) A state university.

445 (2) A Florida College System institution.

446 (3) A nonprofit independent college or university that is
447 located and chartered in this state and accredited by the
448 Commission on Colleges of the Southern Association of Colleges
449 and Schools to grant baccalaureate degrees and that is eligible
450 to participate in the William L. Boyd, IV, Florida Resident
451 Access Grant Program.

452 (4) A nonpublic postsecondary educational institution
453 licensed pursuant to part III of chapter 1005.

454 Section 5. This act shall take effect July 1, 2016.