

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: October 28, 1997 Revised: \_\_\_\_\_

Subject: Food Permits and Disciplinary Procedures

|    | <u>Analyst</u>  | <u>Staff Director</u> | <u>Reference</u> | <u>Action</u>    |
|----|-----------------|-----------------------|------------------|------------------|
| 1. | <u>Akhavein</u> | <u>Poole</u>          | <u>AG</u>        | <u>Favorable</u> |
| 2. | <u>_____</u>    | <u>_____</u>          | <u>WM</u>        | <u>_____</u>     |
| 3. | <u>_____</u>    | <u>_____</u>          | <u>_____</u>     | <u>_____</u>     |
| 4. | <u>_____</u>    | <u>_____</u>          | <u>_____</u>     | <u>_____</u>     |
| 5. | <u>_____</u>    | <u>_____</u>          | <u>_____</u>     | <u>_____</u>     |

I. Summary:

Sections 500.12 and 500.121, F.S., are scheduled for automatic repeal on October 1, 1998, unless reenacted by the Legislature prior to that date. A legislative review of these sections was conducted to ensure that the provisions in these sections are administered by the Department of Agriculture and Consumer Services in the most effective and efficient manner possible and to determine if they continue to benefit the public.

Section 500.12, F.S., requires any person who operates a food establishment, with certain exceptions, to apply for a food permit. It also provides criteria for building permits to construct, convert, or remodel any food establishment, food outlet, or retail food store.

Section 500.121, F.S., provides disciplinary procedures for the department to follow when a permitholder violates any provision of the Food Safety Act.

Based on the findings of this report, staff concluded that these sections serve a valuable public function. The department is provided with an annual permit process that is critical in carrying out its mission of providing consumer protection by assuring that food establishments handle food in a safe and sanitary manner. The disciplinary measures are essential for the department to main effectiveness and efficiency by stating clear and uniform food safety regulatory standards for all food establishments.

This bill substantially reenacts the following sections of the Florida Statutes: 500.12 & 500.121.

**II. Present Situation:**

The laws established by the Florida Legislature which regulate certain industries are subject to periodic and systematic legislative review in order to achieve maximum efficiency and effectiveness of government and to promote quality management and accountability. Pursuant to such review, the regulations must be terminated, modified, or reenacted. The criteria for reviews of programs scheduled for automatic repeal are listed in s. 20.051(1), F.S. Reviews must determine whether the program:

- (a) Serves an identifiable purpose that benefits the public and accomplishes the purpose for which it was created;
- (b) Operates efficiently and effectively within its statutory framework, and whether there are any statutory changes that would likely increase the effectiveness and efficiency of the function, program, or entity;
- (c) Is necessary to the public health, safety, or welfare, and what would be the effect of its abolition;
- (d) Serves a beneficial purpose to state agencies in improving the effectiveness and efficiency of the operations of the state;
- (e) Directly or indirectly increases or decreases the costs of any goods or services, and whether any identified increase in cost is more harmful to the state than any of the harm that could occur absent the function, program, or entity;
- (f) Is situated within an organizational structure that promotes its efficient and effective administration and does not duplicate activities conducted in other agencies of the state; and
- (g) Could be assigned to another state agency or to private enterprise, and if so, the most efficient way of doing so.

The President of the Senate assigned the mandated review of sections 500.12 and 500.121, F.S., as an interim project to the Senate Agriculture Committee. The criteria stated above was used to determine whether they continue to benefit the public health and welfare. The review determined that section 500.12, F.S., benefits the holders of food permits and protects the public health. Repeal of this section would eliminate routine, random inspections by the Department of Agriculture and Consumer Services (department), resulting in the potential for unsafe, deceptively labeled or contaminated food being sold in the marketplace. Section 500.121, F.S., also benefits the public by protecting the integrity of food establishments operated within the state through the enforcement process. Repeal of this section would eliminate the department's authority to protect the public from food borne illness, fraudulent business practices, and unsafe, deceptively labeled or contaminated food being sold in the marketplace.

Therefore, as measured by the criteria set forth in s. 20.051(1), F.S., the review found that the benefits derived from sections 500.12 and 500.121, F.S., are sufficiently compelling in favor of reenactment.

**III. Effect of Proposed Changes:**

**Section 1.** Reenacts sections 500.12 and 500.121, F.S., to authorize the Department of Agriculture and Consumer Services to continue regulating food establishments and food service establishments and enforcing the laws and rules of the Food Safety Act.

**Section 2.** Provides an effective date of July 1, 1998.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Sections 500.12 and 500.121, F.S., are essential for the department to adequately protect consumers from unsanitary food handling and processing and from economic adulteration. As with any segment of our society, the vast majority of the food industry complies with the food safety laws and regulations even if there are no disciplinary provisions. Others within the industry comply because of the possibility of a disciplinary action being taken if the violation is discovered. However, there are always a few businesses that will comply only after having disciplinary actions imposed for non-compliance. By aggressively enforcing the laws and rules and imposing disciplinary actions in a fair and judicious manner, food establishments in full compliance of the laws and rules are not placed at a competitive disadvantage with those firms that are not in compliance.

**C. Government Sector Impact:**

Reenactment of sections 500.12 and 500.121, F.S., would authorize the Department of Agriculture and Consumer Services to continue to:

- Maintain a current inventory of food establishments;
- Inspect food establishments for food safety violations;
- Take prompt and effective regulatory action against a responsible party for violations of the Florida Food Safety Act and department rules;
- Remove unsafe, deceptively labeled, or contaminated food from the marketplace in an expeditious manner and provide effective follow-up to consumer complaints;
- Facilitate epidemiological investigations, trace back activities, and recall contaminated food products in situations involving food borne illness outbreaks;
- Provide building plan reviews on a voluntary fee for service basis, to ensure that new construction or remodeling activities will meet regulatory requirements for a food establishment;
- Restrict or limit access for minors to confectionary products containing a certain range of alcohol;
- Eliminate regulatory duplication between state agencies; and
- Train and certify managers of food establishments, food service establishments, and department personnel.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.