

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

Prepared By: Health Regulation Committee

BILL: CS/SB 1462

INTRODUCER: Health Regulation Committee and Senator Crist

SUBJECT: Food Service Establishments/Toilets/Inspection

DATE: March 23, 2007                      REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Bedford | Wilson         | HR        | Fav/CS |
| 2. |         |                | RI        |        |
| 3. |         |                | HA        |        |
| 4. |         |                |           |        |
| 5. |         |                |           |        |
| 6. |         |                |           |        |

**I. Summary:**

The bill amends the definition of “food service establishment,” as it applies to sanitation rules of the Department of Health (DOH) and the Department of Business and Professional Regulation (DBPR), to exclude restrooms in a public airport, which are not located within a food service establishment. The bill requires the Division of Hotels and Restaurants (division) within the DBPR to inspect the toilet facilities of food service establishments regulated by the DBPR. The division shall have access and right of entry to these food service establishments at any reasonable time. The bill specifies minimum sanitation standards for toilet facilities in food service establishments. The bill provides that certain minimum standards only apply to food service establishments constructed or substantially remodeled after July 1, 2007.

This bill amends ss. 381.0072 and 509.013, F.S., and creates one undesignated section of law.

**II. Present Situation:**

**Regulation of Food Service Establishments/Toilet Facilities by the Department of Health**

Section 381.0074, F.S., provides that it is the duty of the DOH to adopt and enforce sanitation rules to ensure the protection of the public from food-borne illness. The rules must provide the standards and requirements for the storage, preparation, serving, or display of food in food service establishments. Food service establishments permitted or licensed under ch. 500, F.S. (by the Department of Agriculture and Consumer Services) or ch. 509, F.S., (by the DBPR) are excluded.

This section defines food service establishment to mean any facility where food is prepared and intended for individual portion service, including detention facilities, child care facilities, schools, institutions, civic or fraternal organizations, bars, and lounges and facilities used at temporary food events, mobile food units, and vending machines. Certain places where food is prepared and intended for individual portion service are exempt. Among other things, the rules adopted by DOH must include standards for plumbing and toilet facilities.

The DOH currently inspects toilet facilities in food service establishments it regulates using standards in: Chapter 64E-11, Food Hygiene, Florida Administrative Code (F.A.C.); Chapter 64E-10, Sanitary Facilities for Buildings Serving the Public and Places of Employment, F.A.C.; Chapter 64E-12, Community Based Residential Facilities, F.A.C. (some smaller food service operations are regulated by this rule chapter), and the Florida Building Code.

### **Regulation of Food Service Establishments by the Department of Agriculture and Consumer Services**

The Department of Agriculture and Consumer Services regulates certain food service establishments under ch. 500, F.S. Section 500.03, F.S., defines food service establishment to mean any place where food is prepared and intended for individual portion service, including delicatessens that offer prepared food in individual service portions. The delicatessens may be in convenience stores, grocery stores, supermarkets, or discount stores. Certain entities are exempt from this definition of food service establishment.

### **Regulation of Food Service Establishments/Toilet Facilities by the Department of Business and Professional Regulation**

The DBPR regulates certain food service establishments under ch. 509, F.S. Section 509.013, F.S., defines public food service establishment to mean any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. Certain places, entities, and events are excluded from this definition, including those regulated by the DOH or the Department of Agriculture and Consumer Services.

Section 509.221, F.S., requires each public food service establishment to be supplied with potable water and to provide adequate sanitary facilities for the accommodation of its employees and guests, including toilets. Each public food service establishment must maintain not less than one public bathroom for each sex, properly designated, and must provide in the main public bathroom soap and clean towels or other approved hand-drying devices.

#### *61C-1.004 General Sanitation and Safety Requirements*

The following general requirements and standards must be met by public lodging and public food service establishments.

##### (2) Public bathrooms.

(a) Each public lodging and food service establishment shall be provided with adequate and conveniently located bathroom facilities for its employees and guests in accordance with provisions of these rules and the plumbing authority having jurisdiction. Public access to toilet

facilities shall not be permitted through food preparation, storage, or warewashing areas. Bathroom fixtures shall be of readily cleanable sanitary design. Bathroom facilities shall be kept clean, in good repair and free from objectionable odors. Bathrooms shall provide at least 20-foot candles of light. The walls, ceilings, and floors of all bathrooms shall be kept in good condition.

(b) Public bathrooms shall be completely enclosed and shall have tight-fitting, self-closing doors or, in public lodging establishments or bathrooms located outside a public food service establishment, have entrances and exits constructed in such a manner as to ensure privacy of occupants. Such doors shall not be left open except during cleaning or maintenance.

(c) Hand-washing signs shall be posted in each bathroom used by employees.

(d) For the purpose of this section, the term toilet shall mean a flush toilet properly plumbed, connected and discharging to an approved sewage disposal system. In a bathroom where more than one toilet is provided, each toilet shall be separated by a partition from adjoining fixtures and a door shall be provided which will partially conceal the occupant from outside view.

#### *61C-4.010 Sanitation and Safety Requirements*

(7) Bathroom Facilities – All bathrooms shall be of easy and convenient access to both patrons and employees . . . Easily cleanable receptacles shall be provided for waste materials and such receptacles in bathrooms for women shall be covered. Each public food service establishment shall maintain a minimum of one public bathroom for each sex, properly designated, except as provided herein.

### **III. Effect of Proposed Changes:**

**Section 1.** Amends s. 381.0072, F.S., relating to sanitation rules promulgated by the DOH for food service protection, to exclude restrooms in a public airport as defined in ss. 330.27(2) and 330.27(6), F.S., which are not located within a food service establishment.

**Section 2.** Amends s. 509.013, F.S., which defines public food service establishment for purposes of DBPR regulation, to exclude restrooms in a public airport as defined in ss. 330.27(2) and 330.27(6), F.S., which are not located within a food service establishment.

**Section 3.** Creates an undesignated section of law to require the Division of Hotels and Restaurants within the DBPR to inspect each food service establishment and its toilet facilities as often as necessary to ensure compliance with applicable laws and rules. The division will have reasonable access and right of entry. The division will provide each inspected establishment the food recovery brochure developed under s. 570.0725, F.S. A toilet facility regulated under ch. 509, F.S., must meet the following minimum sanitation standards:

- Each toilet facility must be completely enclosed with a tight-fitting, self-closing door. The door must be closed except during cleaning or maintenance;
- A patron must not pass through the food-preparation or utensil-washing area to get to the toilet facilities;
- Toilet fixtures must be cleanable;
- Toilet facilities must be kept clean and in good repair;
- The floors must be made of nonabsorbent material for establishments constructed or substantially remodeled after July 1, 2007, and washed and scoured daily;

- The waste receptacles must contain a trash-can liner and must be covered for women. They must be emptied at least once a day or more if necessary to prevent excessive accumulation;
- Hand-cleansing, antimicrobial soap or detergent and hot and cold water must be available at each sink. There must be towels or an air dryer in each facility. Sinks with an automatic shut-off must run for at least 20 seconds for establishments constructed or substantially remodeled after July 1, 2007. All sinks, devices, dispensers, and all related fixtures must be kept clean and in good repair;
- There must be toilet tissue at each toilet at all times;
- Each toilet facility must be lighted and ventilated for establishments constructed or substantially remodeled after July 1, 2007; and
- There must be a sign posted that notifies employees to wash their hands.

The department may issue a warning or an administrative complaint to an establishment or an emergency order of closure to an establishment that fails to meet these minimum standards.

**Section 4.** Provides an effective date of July 1, 2007.

#### **IV. Constitutional Issues:**

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

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

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

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

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

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

Owners of all food service establishments regulated by the DBPR after July 1, 2007, will have to comply with a certain portions of these requirements for the first time, including the use of antibacterial soaps for hand-washing and providing hot water at hand-washing sinks in toilet facilities that patrons use. That means establishments will have to pay the difference between the cost of regular soap that can be used in toilet facilities now and

antibacterial soap that will have to be used after July 1, 2007. There is also the potential that they will have to pay the cost of installing water heating devices to provide hot water in restrooms used by patrons if not currently available.

Food service establishments that are newly constructed or substantially remodeled after July 1, 2007, that install automatic shut-offs on their hand washing sinks must bear the costs of ensuring they run for a minimum of 20 seconds. That means establishments will have to purchase faucets that meet this standard, and repair or replace any existing ones that do not. It is unknown how many establishments may opt to use these kinds of devices.

Some existing establishments that have specially designed entranceways to their restrooms, will have to incur costs of complying with the self-closing door requirements of the bill.

Toilet facilities in food service establishments that are newly constructed or substantially remodeled after July 1, 2007, will have to have floors made of a nonabsorbent material.

**C. Government Sector Impact:**

It is not known if the bill will have a fiscal impact on any other state agencies. However, the bill does include requirements that the DBPR will have to implement, but the amount of the fiscal impact is indeterminate at this time. In addition, some of the requirements in the bill duplicate those in the Florida Building Code, which is maintained by the Department of Community Affairs, and is written under the authority of ch. 553, F.S.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Section 120.545, F.S., requires the Administrative Procedures Committee to review agency rules “for the purpose of determining whether: (c) The rule reiterates or paraphrases statutory material.” Since language in this bill duplicates the DBPR’s administrative rules in a number of areas, those administrative rules will have to be amended or deleted.



## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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