

Enforcement Actions

2007 June 26

The Division of Hotels and Restaurants licenses and inspects public [food service](#) and [lodging](#) establishments in Florida. The division also regulates all elevators, escalators and related people movers. Some regulatory functions are shared with the Florida Department of Agriculture & Consumer Services and the Florida Department of Health.

The Office of Compliance in the Division of Hotels and Restaurants is responsible for handling enforcement activity.

The following information is provided as a general guide. It is not intended as legal advice. Anyone receiving an Administrative Complaint should consider seeking legal counsel. Applicable statutes or administrative rules supercede the information herein.

The following situations may lead the division to begin a compliance action:

- Violations which resulted in an Emergency Suspension of License or [Emergency Closure](#).
- Operating without a required license or certificate.
- Failing to correct violations by the time given on a warning notice.
- A history of repeated [critical](#) and [non-critical](#) violations.
- Interfering with division employees performing their assigned duties.

To understand the enforcement process, it is helpful to understand the following inspection terms and definitions.

“NEXT ROUTINE INSPECTION”

The inspector has documented [non-critical](#) violations and **requires them to be corrected by the next [routine inspection](#)**. If a pattern of violations continues, the inspector may request enforcement action and penalties without the benefit of a warning notice.

“WARNING”

The inspector documented **violations that must be corrected by a certain date or within a specified number of days from receipt of the inspection report**. To speak to the inspector or supervisor before that date, call the Customer Contact Center, 850.487.1395, and leave a message including your license number, inspector name and inspection date.

At the time of the re-inspection, the inspector may issue a time extension if all critical violations are corrected, significant progress is made on all other violations, and no history of repeated violations exists.

If all violations are not corrected on time and a lack of progress is observed, the inspector may recommend enforcement action.

“ADMINISTRATIVE COMPLAINT”

Insufficient compliance with a warning, a pattern of repeat violations, or existence of serious conditions that warrant immediate action may result in the division initiating legal action, an Administrative Complaint, against the establishment.

Correcting the violations is important, but penalties may still result from violations corrected after the warning time was over.

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“EMERGENCY CLOSURE” OR “SUSPENSION OF LICENSE”

Based on an immediate threat to the public, the Division of Hotels and Restaurants director has determined that the establishment must stop doing business and any division license is suspended to protect the public health, safety or welfare.

A 24-hour callback inspection will be performed after an emergency closure or emergency suspension of license. The establishment may reopen only when a division inspection shows that all critical violations that caused the suspension are corrected.

IF YOU RECEIVE AN ADMINISTRATIVE COMPLAINT

Read all documents carefully, paying particular attention to the deadline for returning the Election of Rights form. Returning the completed Election of Rights is your answer to the legal action and preserves your rights. **Florida law requires that you request a hearing within 21 days after receiving the Administrative Complaint or the right to a hearing is waived.**

After returning the Election of Rights form, you may chose to call the settlement officer to discuss the violations and the settlement offer.

TO SETTLE WITHOUT A HEARING

1. To accept a settlement offer, sign and return the Stipulation and Consent Order with the Election of Rights form. No hearing or discussion with the settlement officer is necessary if you decide to accept the fine and other conditions offered to settle.
2. When the Director approves the settlement, the division will mail you the completed order with instructions for paying the fine.

TO REQUEST A HEARING

1. Mark one of the hearing options on the Election of Rights form. Fax or mail this form within 21 days after you received the Administrative Complaint. Be sure to provide your mailing address and telephone numbers.
2. The Office of General Counsel will mail you a notice of the hearing. The hearing may be by telephone or at a specific location. You may retain counsel or represent yourself at the hearing.
3. After the hearing the division will mail you a final order. You can comply with that order or file an appeal within 30 days of the date on the order.

COMPLIANCE SUMMARY

The Office of Compliance staff is dedicated to promoting compliance with cited violations and assisting licensees throughout the enforcement process. Other resources provided by the division include:

1. Hospitality Education Program (800.704.1076) which provides free classes and materials on a variety of topics affecting the foodservice and lodging industries.
2. Division Internet sites, particularly [inspections](#) and [regulations](#) webpages.