

Bill No. SB 1172

Barcode 061038

CHAMBER ACTION

Senate

House

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The Committee on Regulated Industries (Aronberg) recommended
the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Findings and intent.--The Legislature finds
and declares:

(1) Chapter 509, Florida Statutes, requires the
Division of Hotels and Restaurants of the Department of
Business and Professional Regulation to carry out all laws and
rules relating to the inspection and regulation of public food
service establishments for the purpose of safeguarding the
public health, safety, and welfare.

(2) Section 509.013(5), Florida Statutes, defines
"public food service establishment" as "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

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1 prior to being delivered to another location for consumption."

2 (3) Section 509.032, Florida Statutes, requires the
3 Division of Hotels and Restaurants of the Department of
4 Business and Professional Regulation to adopt and enforce such
5 rules as are necessary to ensure the protection of the public
6 from food-borne illness in public food service establishments.

7 (4) Section 509.032, Florida Statutes, further
8 requires the Division of Hotels and Restaurants of the
9 Department of Business and Professional Regulation to adopt
10 such rules in order to "provide the standards and requirements
11 for obtaining, storing, preparing, processing, serving, or
12 displaying food in public food service establishments,
13 approving public food service establishment facility plans,
14 conducting necessary public food service establishment
15 inspections for compliance with sanitation regulations,
16 cooperating and coordinating with the Department of Health in
17 epidemiological investigations, and initiating enforcement
18 actions, and for other such responsibilities deemed necessary
19 by the division."

20 (5) Pursuant to the grant of rulemaking authority
21 cited in s. 509.032, Florida Statutes, the Division of Hotels
22 and Restaurants of the Department of Business and Professional
23 Regulation has adopted by rule sanitation and safety
24 requirements of public food service establishments, including
25 requirements relating to physical facilities, which adopts by
26 reference certain portions of the Food and Drug Administration
27 Food Code, as amended from time to time, as developed by the
28 Food and Drug Administration of the United States Department
29 of Health and Human Services.

30 (6) The Food and Drug Administration Food Code
31 generally prohibits live animals from public food service

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1 establishments.

2 (7) Section 509.032(7), Florida Statutes, expressly
3 preempts to the state regulation of public lodging
4 establishments and public food service establishments for
5 compliance with the sanitation standards adopted by the
6 Division of Hotels and Restaurants of the Department of
7 Business and Professional Regulation.

8 (8) Section 509.032(7), Florida Statutes, expressly
9 limits the general home rule powers of local governments as it
10 relates to the regulation of public food service
11 establishments.

12 (9) The purpose of this act is to establish a 3-year
13 pilot program to allow participating municipalities to enact
14 an ordinance establishing procedures by which public food
15 service establishments could become exempt from certain
16 portions of the Food and Drug Administration Food Code and
17 allow patrons' dogs within certain designated outdoor portions
18 of their respective establishments.

19 Section 2. Section 509.233, Florida Statutes, is
20 created to read:

21 509.233 Public food service establishment
22 requirements; local exemption for dogs in designated outdoor
23 portions; pilot program.--

24 (1) INTENT.--It is the intent of the Legislature by
25 this section to establish a 3-year pilot program for
26 municipalities to allow patrons' dogs within certain
27 designated outdoor portions of public food service
28 establishments.

29 (2) LOCAL EXEMPTION AUTHORIZED.--Notwithstanding s.
30 509.032(7), the governing body of a municipality participating
31 in the pilot program is authorized to establish, by ordinance,

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1 a procedure for local exemption to certain provisions of the
2 Food and Drug Administration Food Code, as currently adopted
3 by the division, in order to allow patrons' dogs within
4 certain designated outdoor portions of public food service
5 establishments.

6 (3) LOCAL DISCRETION; CODIFICATION.--

7 (a) The adoption of the local exemption procedure
8 shall be at the sole discretion of the governing body of a
9 participating municipality. Nothing in this section shall be
10 construed to require or compel a municipal governing body to
11 adopt an ordinance pursuant to this section.

12 (b) Any ordinance adopted pursuant to this section
13 shall provide for codification within the land development
14 code of a participating municipality.

15 (4) LIMITATIONS ON EXEMPTION; PERMIT REQUIREMENTS.--

16 (a) Any local exemption procedure adopted pursuant to
17 this section shall provide only a variance to those portions
18 of the currently adopted Food and Drug Administration Food
19 Code in order to allow patrons' dogs within certain designated
20 outdoor portions of public food service establishments.

21 (b) In order to protect the health, safety, and
22 general welfare of the public, the local exemption procedure
23 shall require participating public food service establishments
24 to apply for and receive a permit from the governing body of
25 the municipality before allowing patrons' dogs on their
26 premises. The municipality shall require from the applicant
27 such information as the municipality deems reasonably
28 necessary to enforce the provisions of this section, but shall
29 require, at a minimum, the following information:

30 1. The name, location, and mailing address of the
31 public food service establishment.

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1 2. The name, mailing address, and telephone contact
2 information of the permit applicant.

3 3. A diagram and description of the outdoor area to be
4 designated as available to patrons' dogs, including dimensions
5 of the designated area; a depiction of the number and
6 placement of tables, chairs, and restaurant equipment, if any;
7 the entryways and exits to the designated outdoor area; the
8 boundaries of the designated area and of other areas of
9 outdoor dining not available for patrons' dogs; any fences or
10 other barriers; surrounding property lines and public
11 rights-of-way, including sidewalks and common pathways; and
12 such other information reasonably required by the permitting
13 authority. The diagram or plan shall be accurate and to scale
14 but need not be prepared by a licensed design professional.

15 4. A description of the days of the week and hours of
16 operation that patrons' dogs will be permitted in the
17 designated outdoor area.

18 (c) In order to protect the health, safety, and
19 general welfare of the public, the local exemption ordinance
20 shall include such regulations and limitations as deemed
21 necessary by the participating municipality and shall include,
22 but not be limited to, the following requirements:

23 1. All public food service establishment employees
24 shall wash their hands promptly after touching, petting, or
25 otherwise handling dogs. Employees shall be prohibited from
26 touching, petting, or otherwise handling dogs while serving
27 food or beverages or handling tableware or before entering
28 other parts of the public food service establishment.

29 2. Patrons in a designated outdoor area shall be
30 advised that they should wash their hands before eating.
31 Waterless hand sanitizer shall be provided at all tables in

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1 the designated outdoor area.

2 3. Employees and patrons shall be instructed that they
3 shall not allow dogs to come into contact with serving dishes,
4 utensils, tableware, linens, paper products, or any other
5 items involved in food service operations.

6 4. Patrons shall keep their dogs on a leash at all
7 times and shall keep their dogs under reasonable control.

8 5. Dogs shall not be allowed on chairs, tables, or
9 other furnishings.

10 6. All table and chair surfaces shall be cleaned and
11 sanitized with an approved product between seating of patrons.
12 Spilled food and drink shall be removed from the floor or
13 ground between seating of patrons.

14 7. Accidents involving dog waste shall be cleaned
15 immediately and the area sanitized with an approved product. A
16 kit with the appropriate materials for this purpose shall be
17 kept near the designated outdoor area.

18 8. A sign or signs reminding employees of the
19 applicable rules shall be posted on premises in a manner and
20 place as determined by the local permitting authority.

21 9. A sign or signs reminding patrons of the applicable
22 rules shall be posted on premises in a manner and place as
23 determined by the local permitting authority.

24 10. A sign or signs shall be posted in a manner and
25 place as determined by the local permitting authority that
26 places the public on notice that the designated outdoor area
27 is available for the use of patrons and patrons' dogs.

28 11. Dogs shall not be permitted to travel through
29 indoor or nondesignated outdoor portions of the public food
30 service establishment.

31 (d) A permit issued pursuant to this section shall not

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1 be transferred to a subsequent owner upon the sale of a public
 2 food service establishment but shall expire automatically upon
 3 the sale of the establishment. The subsequent owner shall be
 4 required to reapply for a permit pursuant to this section if
 5 the subsequent owner wishes to continue to accommodate
 6 patrons' dogs.

7 (5) POWERS; ENFORCEMENT.--Participating municipalities
 8 shall have such powers as are reasonably necessary to regulate
 9 and enforce the provisions of this section.

10 (6) STATE AND LOCAL COOPERATION.--The division shall
 11 provide reasonable assistance to participating municipalities
 12 in the development of enforcement procedures and regulations,
 13 and participating municipalities shall monitor permit holders
 14 for compliance in cooperation with the division. At a minimum,
 15 participating municipalities shall establish a procedure to
 16 accept, document, and respond to complaints and to timely
 17 report to the division all such complaints and the
 18 participating municipalities' enforcement responses to such
 19 complaints. A participating municipality shall provide the
 20 division with a copy of all approved applications and permits
 21 issued, and the participating municipality shall require that
 22 all applications, permits, and other related materials contain
 23 the appropriate division-issued license number for each public
 24 food service establishment.

25 (7) FUTURE REVIEW AND REPEAL.--This section shall
 26 expire July 1, 2009, unless reviewed and saved from repeal
 27 through reenactment by the Legislature.

28 Section 3. This act shall take effect July 1, 2006.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

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5 and insert:

6 A bill to be entitled

7 An act relating to public food service

8 establishments; providing legislative findings

9 and intent; creating s. 509.233, F.S.; creating

10 a pilot program that authorizes municipalities

11 to adopt an ordinance establishing a local

12 exemption to certain provisions of general law

13 and agency rules relating to public food

14 service establishments in order to permit

15 patrons' dogs at certain designated outdoor

16 portions of such establishments; providing for

17 implementation and enforcement procedures;

18 providing for state assistance; providing for

19 future review and repeal; providing an

20 effective date.

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