

By Senator Aronberg

27-841-06

See HB 333

1 A bill to be entitled
2 An act relating to public food service
3 establishments; creating s. 509.233, F.S.;
4 providing legislative findings and intent;
5 creating a pilot program; authorizing
6 municipalities to adopt an ordinance
7 establishing a local exemption to certain
8 provisions of general law and agency rules
9 relating to public food service establishments
10 in order to permit patrons' dogs at certain
11 designated outdoor portions of such
12 establishments; providing for implementation
13 and enforcement procedures; providing for state
14 assistance; providing for future review and
15 repeal; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. 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) FINDINGS AND INTENT.--

25 (a) The Legislature finds and declares the following:

26 1. This chapter requires the division to carry out all
27 laws and rules relating to the inspection and regulation of
28 public food service establishments for the purpose of
29 safeguarding the public health, safety, and welfare.

30 2. Section 509.013(5) defines the term "public food
31 service establishment" as "any building, vehicle, place, or

1 structure, or any room or division of a building, vehicle,
2 place, or structure where food is prepared, served, or sold
3 for immediate consumption on or in the vicinity of the
4 premises; called for or taken out by customers; or prepared
5 prior to being delivered to another location for consumption."

6 3. Section 509.032 requires the division to adopt and
7 enforce such rules as are necessary to ensure the protection
8 of the public from food-borne illness in public food service
9 establishments.

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

21 5. Pursuant to the grant of rulemaking authority cited
22 in subparagraph 4., the division has adopted chapter 61C-4,
23 Florida Administrative Code, concerning public food service
24 establishments.

25 6. Section 61C-4.010, Florida Administrative Code,
26 concerning the sanitation and safety requirements of public
27 food service establishments, includes section 61C-4.010(6),
28 relating to physical facilities, which adopts by reference
29 chapter 6 of the 2001 FDA Food Code as developed by the Food
30 and Drug Administration of the United States Department of
31 Health and Human Services.

1 7. Section 6-501.115, 2001 FDA Food Code, generally
2 prohibits live animals from public food service
3 establishments.

4 8. Section 509.032(7) expressly preempts to the state
5 regulation of public lodging establishments and public food
6 service establishments for compliance with the sanitation
7 standards adopted by the division.

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

11 10. The purpose of this section is to allow
12 participating municipalities to enact an ordinance
13 establishing procedures by which public food service
14 establishments could exempt their establishments from section
15 6-501.115, 2001 FDA Food Code, and allow patrons' dogs within
16 certain designated outdoor portions of their respective
17 establishments.

18 (b) It is therefore the intent of the Legislature by
19 this section to establish a 3-year pilot program for
20 municipalities to allow patrons' dogs within certain
21 designated outdoor portions of public food service
22 establishments.

23 (2) LOCAL EXEMPTION AUTHORIZED.--The governing body of
24 a municipality participating in the pilot program is
25 authorized to establish, by ordinance, a local exemption
26 procedure to section 6-501.115, 2001 FDA Food Code, as adopted
27 and incorporated by the Division of Hotels and Restaurants at
28 chapter 61C-4.010(6), Florida Administrative Code.

29 (3) LOCAL DISCRETION; CODIFICATION.--

30 (a) The adoption of the local exemption procedure
31 shall be at the sole discretion of the governing body of a

1 participating municipality. Nothing in this section shall be
2 construed to require or compel a municipal governing body to
3 adopt an ordinance pursuant to this section.

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

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

8 (a) Any local exemption procedure adopted pursuant to
9 this section shall only provide a variance to section
10 6-501.115, 2001 FDA Food Code, to allow patrons' dogs within
11 certain designated outdoor portions of public food service
12 establishments.

13 (b) In order to protect the health, safety, and
14 general welfare of the public, the local exemption procedure
15 shall require participating public food service establishments
16 to apply for and receive a permit from the governing body of
17 the municipality before allowing patrons' dogs on their
18 premises. The municipality shall require such information from
19 the applicant as the municipality deems reasonably necessary
20 to enforce the provisions of this section, but shall require,
21 at a minimum, the following information:

22 1. Name, location, and mailing address of the public
23 food service establishment.

24 2. Name, mailing address, and telephone contact
25 information of the permit applicant.

26 3. A diagram and description of the outdoor area to be
27 designated as available to patrons' dogs, including dimensions
28 of the designated area; a depiction of the number and
29 placement of tables, chairs, and restaurant equipment, if any;
30 the entryways and exits to the designated outdoor area; the
31 boundaries of the designated area and of other areas of

1 outdoor dining not available for patrons' dogs; any fences or
2 other barriers; surrounding property lines and public
3 rights-of-way, including sidewalks and common pathways; and
4 such other information reasonably required by the permitting
5 authority. The diagram or plan shall be accurate and to scale
6 but need not be prepared by a licensed design professional.

7 4. A description of the days of the week and hours of
8 operation that patrons' dogs will be permitted in the
9 designated outdoor area.

10 (c) In order to protect the health, safety, and
11 general welfare of the public, the local exemption ordinance
12 shall include such regulations and limitations as deemed
13 necessary by the participating municipality and shall include,
14 but not be limited to, the following requirements:

15 1. All public food service establishment employees
16 shall wash their hands promptly after touching, petting, or
17 otherwise handling dogs. Employees shall be prohibited from
18 touching, petting, or otherwise handling dogs while serving
19 food or beverages or handling tableware or before entering
20 other parts of the food service establishment.

21 2. Patrons in a designated outdoor area shall be
22 advised that they should wash their hands before eating.
23 Waterless hand sanitizer shall be provided at all tables in
24 the designated outdoor area.

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

29 4. Patrons shall keep their dogs on a leash at all
30 times and shall keep their dogs under reasonable control.
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1 5. Dogs shall not be allowed on chairs, tables, or
2 other furnishings.

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

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

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

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

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

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

24 (6) STATE ASSISTANCE.--The division shall provide
25 reasonable assistance to participating municipalities in the
26 development of enforcement procedures and regulations.

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

30 Section 2. This act shall take effect July 1, 2006.

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