

1 premises; called for or taken out by customers; or prepared
2 prior to being delivered to another location for consumption."

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

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

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

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1 (6) The Food and Drug Administration Food Code
2 generally prohibits live animals from public food service
3 establishments.

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

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

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

21 Section 2. Section 509.233, Florida Statutes, is
22 created to read:

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

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

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1 (2) LOCAL EXEMPTION AUTHORIZED.--Notwithstanding s.
2 509.032(7), the governing body of a municipality participating
3 in the pilot program is authorized to establish, by ordinance,
4 a procedure for local exemption to certain provisions of the
5 Food and Drug Administration Food Code, as currently adopted
6 by the division, in order to allow patrons' dogs within
7 certain designated outdoor portions of public food service
8 establishments.

9 (3) LOCAL DISCRETION; CODIFICATION.--

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

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

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

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

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

3 1. The name, location, and mailing address of the
4 public food service establishment.

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

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

19 4. A description of the days of the week and hours of
20 operation that patrons' dogs will be permitted in the
21 designated outdoor area.

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

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

3 2. Patrons in a designated outdoor area shall be
4 advised that they should wash their hands before eating.
5 Waterless hand sanitizer shall be provided at all tables in
6 the designated outdoor area.

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

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

13 5. Dogs shall not be allowed on chairs, tables, or
14 other furnishings.

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

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

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

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

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

3 11. Dogs shall not be permitted to travel through
4 indoor or nondesignated outdoor portions of the public food
5 service establishment.

6 (d) A permit issued pursuant to this section shall not
7 be transferred to a subsequent owner upon the sale of a public
8 food service establishment but shall expire automatically upon
9 the sale of the establishment. The subsequent owner shall be
10 required to reapply for a permit pursuant to this section if
11 the subsequent owner wishes to continue to accommodate
12 patrons' dogs.

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

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

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

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

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6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 Senate Bill 1172

9 The CS provides that notwithstanding s. 509.032(7), F.S. the
10 governing body of a municipality participating in the pilot
11 program is authorized to establish, by ordinance, the
12 procedure for the exemption created in this bill.

13 The CS provides that the local ordinance must include a
14 regulation that provides that dogs shall not be permitted to
15 travel through indoor or nondesignated outdoor portions of the
16 public food service establishment.

17 The CS provides that a permit issued under this section shall
18 not be transferred to a subsequent owner upon the sale of the
19 public food service establishment, that the permit shall
20 expire at the sale of the establishment, and the subsequent
21 owner must reapply for the permit if he or she wishes to
22 continue to accommodate patrons dogs.

23 The bill requires that participating municipalities monitor
24 permitholders for compliance. The CS requires that a
25 participating municipality must have a procedure to accept,
26 document, and respond to complaints and to timely report to
27 the Division of Hotels and Restaurants all complaints and the
28 participating municipality's response to all complaints. A
29 participating municipality is required to provide the division
30 with a copy of all applications and permits issued, and these
31 and all related materials must contain the appropriate
division issued licensed number.