

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

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

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

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

27 (2) Section 509.013(5), Florida Statutes, defines
28 "public food service establishment" as "any building, vehicle,
29 place, or structure, or any room or division in a building,
30 vehicle, place, or structure, where food is prepared, served,
31 or sold for immediate consumption on or in the vicinity of the

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 local governments to
16 enact an ordinance establishing procedures by which public
17 food 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 local
28 governments to allow patrons' dogs within certain designated
29 outdoor portions of public food service establishments.

30 (2) LOCAL EXEMPTION AUTHORIZED.--Notwithstanding s.
31 509.032(7), the governing body of a local government

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

7 (3) LOCAL DISCRETION; CODIFICATION.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 5. Dogs shall not be allowed on chairs, tables, or
12 other furnishings.

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

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

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

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

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

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1 11. Dogs shall not be permitted to travel through
2 indoor or nondesignated outdoor portions of the public food
3 service establishment, and ingress and egress to the
4 designated outdoor portions of the public food establishment
5 must not require entrance into or passage through any indoor
6 area of the food establishment.

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

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

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

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

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