

By Senator Smith

14-1454-06

See HB 617

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A bill to be entitled
An act relating to alcoholic beverages;
creating s. 877.28, F.S.; providing that it
shall be unlawful for persons to consume or
possess alcoholic beverages in certain
locations; providing definitions; requiring
certain stores to post a specified notice;
providing areas of applicability and
exceptions; providing a penalty; providing an
effective date.

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

Section 1. Section 877.28, Florida Statutes, is
created to read:

877.28 Alcohol in open containers near certain
locations; signs for certain stores.--

(1) As used in this section, the term:

(a) "Alcoholic beverage" means any beverage containing
more than 1 percent of alcohol by weight.

(b) "Food store selling alcoholic beverages" means any
food or convenience store that has a license for package sales
of alcoholic beverages from the Division of Alcoholic
Beverages and Tobacco of the Department of Business and
Professional Regulation in the classification 1-APS, 2-APS, or
PS.

(c) "Open container" means any bottle, can, cup,
glass, or other receptacle containing any alcoholic beverage
that is open, that has been opened, that has its seal broken,
or that has had its contents partially removed.

1 (d) "Operator" means any person physically present at
2 a store defined in paragraph (b) or paragraph (f) who is
3 managing the store or is otherwise in charge of its operation.

4 (e) "Owner" means any person holding an occupational
5 license for a store defined in paragraph (b) or paragraph (f).

6 (f) "Package store" means any store primarily engaged
7 in the business of selling alcoholic beverages that has a
8 license for package sales from the Division of Alcoholic
9 Beverages and Tobacco of the Department of Business and
10 Professional Regulation in the classifications of 1-APS,
11 2-APS, or PS.

12 (2)(a) It is a public nuisance and shall be unlawful
13 and in violation of this section for any person to consume any
14 alcoholic beverage while within 100 feet of any package store
15 or food store selling alcoholic beverages, property regularly
16 used for religious purposes, community center, senior
17 citizens' center, day care center, funeral home, or school.

18 (b) It is a public nuisance and shall be unlawful and
19 in violation of this section for any person to possess an open
20 container of alcoholic beverages while stopping, standing, or
21 remaining within 100 feet of any package store or food store
22 selling alcoholic beverages, property regularly used for
23 religious purposes, community center, senior citizens' center,
24 day care center, funeral home, or school.

25 (c) The owner or operator of any package store or food
26 store selling alcoholic beverages shall prominently post on
27 the outside of each store entrance and on the inside of the
28 main customer exit of each such store a sign with letters at
29 least 2 inches tall and in a color contrasting from the
30 background, stating:

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1 IT IS UNLAWFUL FOR ANY PERSON TO CONSUME OR POSSESS, IN AN
2 OPEN CONTAINER, ANY ALCOHOLIC BEVERAGE IN THIS STORE OR WITHIN
3 100 FEET OF ANY PART OF THIS STORE OR OF THIS PROPERTY.
4 VIOLATORS ARE SUBJECT TO ARREST AND PROSECUTION.

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6 (d) The sign required by this subsection shall be
7 posted in English, Spanish, and Haitian Creole.

8 (3) For the purpose of this section, the area within
9 100 feet of any property described in paragraphs (2)(a) and
10 (b) is the area within a 100-foot radius of any part of such
11 property, but does not include any property lawfully used for
12 a private residence or any area where possession or
13 consumption of alcoholic beverages is specifically prohibited
14 or permitted by the Beverage Law or by any license or permit
15 issued pursuant thereto. This section does not apply to any
16 alcoholic beverage served by a religious organization,
17 community center, senior citizens' center, day care center,
18 funeral home, or school and consumed on such premises as part
19 of a religious service, community meal, or event sponsored by
20 that organization, center, home, or school.

21 (4) This section does not prohibit a county or
22 municipality from enforcing an ordinance that concerns the
23 subject matter of this section but provides for a different
24 penalty or provides for additional signage requirements, if
25 the local ordinance was adopted prior to July 1, 2006.

26 (5) Any person who violates this section commits a
27 misdemeanor of the second degree, punishable as provided in s.
28 775.082 or s. 775.083.

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