

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

13

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

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16           Section 1. Section 509.233, Florida Statutes, is created  
 17 to read:

18           509.233 Public food service establishment requirements;  
 19 local exemption for dogs in designated outdoor portions; pilot  
 20 program.--

21           (1) FINDINGS AND INTENT.--

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

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

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

29 structure, or any room or division of a building, vehicle,  
 30 place, or structure where food is prepared, served, or sold for  
 31 immediate consumption on or in the vicinity of the premises;  
 32 called for or taken out by customers; or prepared prior to being  
 33 delivered to another location for consumption."

34 3. Section 509.032 requires the division to adopt and  
 35 enforce such rules as are necessary to ensure the protection of  
 36 the public from food-borne illness in public food service  
 37 establishments.

38 4. Section 509.032 further requires the division to adopt  
 39 such rules in order to "provide the standards and requirements  
 40 for obtaining, storing, preparing, processing, serving, or  
 41 displaying food in public food service establishments, approving  
 42 public food service establishment facility plans, conducting  
 43 necessary public food service establishment inspections for  
 44 compliance with sanitation regulations, cooperating and  
 45 coordinating with the Department of Health in epidemiological  
 46 investigations, and initiating enforcement actions, and for  
 47 other such responsibilities deemed necessary by the division."

48 5. Pursuant to the grant of rulemaking authority cited in  
 49 subparagraph 4., the division has adopted chapter 61C-4, Florida  
 50 Administrative Code, concerning public food service  
 51 establishments.

52 6. Section 61C-4.010, Florida Administrative Code,  
 53 concerning the sanitation and safety requirements of public food  
 54 service establishments, includes section 61C-4.010(6), relating  
 55 to physical facilities, which adopts by reference chapter 6 of  
 56 the 2001 FDA Food Code as developed by the Food and Drug

57 Administration of the United States Department of Health and  
 58 Human Services.

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

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

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

68 10. The purpose of this section is to allow participating  
 69 municipalities to enact an ordinance establishing procedures by  
 70 which public food service establishments could exempt their  
 71 establishments from section 6-501.115, 2001 FDA Food Code, and  
 72 allow patrons' dogs within certain designated outdoor portions  
 73 of their respective establishments.

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

78 (2) LOCAL EXEMPTION AUTHORIZED.--The governing body of a  
 79 municipality participating in the pilot program is authorized to  
 80 establish, by ordinance, a local exemption procedure to section  
 81 6-501.115, 2001 FDA Food Code, as adopted and incorporated by  
 82 the Division of Hotels and Restaurants at chapter 61C-4.010(6),  
 83 Florida Administrative Code.

84 (3) LOCAL DISCRETION; CODIFICATION.--

85 (a) The adoption of the local exemption procedure shall be  
 86 at the sole discretion of the governing body of a participating  
 87 municipality. Nothing in this section shall be construed to  
 88 require or compel a municipal governing body to adopt an  
 89 ordinance pursuant to this section.

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

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

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

98 (b) In order to protect the health, safety, and general  
 99 welfare of the public, the local exemption procedure shall  
 100 require participating public food service establishments to  
 101 apply for and receive a permit from the governing body of the  
 102 municipality before allowing patrons' dogs on their premises.  
 103 The municipality shall require such information from the  
 104 applicant as the municipality deems reasonably necessary to  
 105 enforce the provisions of this section, but shall require, at a  
 106 minimum, the following information:

107 1. Name, location, and mailing address of the public food  
 108 service establishment.

109 2. Name, mailing address, and telephone contact  
 110 information of the permit applicant.

111 3. A diagram and description of the outdoor area to be  
 112 designated as available to patrons' dogs, including dimensions

113 of the designated area; a depiction of the number and placement  
 114 of tables, chairs, and restaurant equipment, if any; the  
 115 entryways and exits to the designated outdoor area; the  
 116 boundaries of the designated area and of other areas of outdoor  
 117 dining not available for patrons' dogs; any fences or other  
 118 barriers; surrounding property lines and public rights-of-way,  
 119 including sidewalks and common pathways; and such other  
 120 information reasonably required by the permitting authority. The  
 121 diagram or plan shall be accurate and to scale but need not be  
 122 prepared by a licensed design professional.

123 4. A description of the days of the week and hours of  
 124 operation that patrons' dogs will be permitted in the designated  
 125 outdoor area.

126 (c) In order to protect the health, safety, and general  
 127 welfare of the public, the local exemption ordinance shall  
 128 include such regulations and limitations as deemed necessary by  
 129 the participating municipality and shall include, but not be  
 130 limited to, the following requirements:

131 1. All public food service establishment employees shall  
 132 wash their hands promptly after touching, petting, or otherwise  
 133 handling dogs. Employees shall be prohibited from touching,  
 134 petting, or otherwise handling dogs while serving food or  
 135 beverages or handling tableware or before entering other parts  
 136 of the food service establishment.

137 2. Patrons in a designated outdoor area shall be advised  
 138 that they should wash their hands before eating. Waterless hand  
 139 sanitizer shall be provided at all tables in the designated  
 140 outdoor area.

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

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

147 5. Dogs shall not be allowed on chairs, tables, or other  
148 furnishings.

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

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

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

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

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

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

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

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

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