

CHAMBER ACTION

1 The Local Government Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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

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

22 (1) Chapter 509, Florida Statutes, requires the Division
23 of Hotels and Restaurants of the Department of Business and

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24 Professional Regulation to carry out all laws and rules relating
25 to the inspection and regulation of public food service
26 establishments for the purpose of safeguarding the public
27 health, safety, and welfare.

28 (2) Section 509.013(5), Florida Statutes, defines "public
29 food service establishment" as "any building, vehicle, place, or
30 structure, or any room or division in a building, vehicle,
31 place, or structure where food is prepared, served, or sold for
32 immediate consumption on or in the vicinity of the premises;
33 called for or taken out by customers; or prepared prior to being
34 delivered to another location for consumption."

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

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

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52 (5) Pursuant to the grant of rulemaking authority cited in
53 s. 509.032, Florida Statutes, the Division of Hotels and
54 Restaurants of the Department of Business and Professional
55 Regulation has adopted by rule sanitation and safety
56 requirements of public food service establishments, including
57 requirements relating to physical facilities, which adopts by
58 reference certain portions of the Food and Drug Administration
59 Food Code, as amended from time to time, as developed by the
60 Food and Drug Administration of the United States Department of
61 Health and Human Services.

62 (6) The Food and Drug Administration Food Code generally
63 prohibits live animals from public food service establishments.

64 (7) Section 509.032(7), Florida Statutes, expressly
65 preempts to the state regulation of public lodging
66 establishments and public food service establishments for
67 compliance with the sanitation standards adopted by the Division
68 of Hotels and Restaurants of the Department of Business and
69 Professional Regulation.

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

73 (9) The purpose of this act is to establish a 3-year pilot
74 program to allow participating municipalities to enact an
75 ordinance establishing procedures by which public food service
76 establishments could become exempt from certain portions of the
77 Food and Drug Administration Food Code and allow patrons' dogs
78 within certain designated outdoor portions of their respective
79 establishments.

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80 Section 2. Section 509.233, Florida Statutes, is created
81 to read:

82 509.233 Public food service establishment requirements;
83 local exemption for dogs in designated outdoor portions; pilot
84 program.--

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

89 (2) LOCAL EXEMPTION AUTHORIZED.--Notwithstanding s.
90 509.032(7), the governing body of a municipality participating
91 in the pilot program is authorized to establish, by ordinance, a
92 local exemption procedure to certain provisions of the Food and
93 Drug Administration Food Code, as currently adopted by the
94 division, in order to allow patrons' dogs within certain
95 designated outdoor portions of public food service
96 establishments.

97 (3) LOCAL DISCRETION; CODIFICATION.--

98 (a) The adoption of the local exemption procedure shall be
99 at the sole discretion of the governing body of a participating
100 municipality. Nothing in this section shall be construed to
101 require or compel a municipal governing body to adopt an
102 ordinance pursuant to this section.

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

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

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

112 (b) In order to protect the health, safety, and general
113 welfare of the public, the local exemption procedure shall
114 require participating public food service establishments to
115 apply for and receive a permit from the governing body of the
116 municipality before allowing patrons' dogs on their premises.
117 The municipality shall require from the applicant such
118 information as the municipality deems reasonably necessary to
119 enforce the provisions of this section, but shall require, at a
120 minimum, the following information:

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

123 2. The name, mailing address, and telephone contact
124 information of the permit applicant.

125 3. A diagram and description of the outdoor area to be
126 designated as available to patrons' dogs, including dimensions
127 of the designated area; a depiction of the number and placement
128 of tables, chairs, and restaurant equipment, if any; the
129 entryways and exits to the designated outdoor area; the
130 boundaries of the designated area and of other areas of outdoor
131 dining not available for patrons' dogs; any fences or other
132 barriers; surrounding property lines and public rights-of-way,
133 including sidewalks and common pathways; and such other
134 information reasonably required by the permitting authority. The

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135 diagram or plan shall be accurate and to scale but need not be
136 prepared by a licensed design professional.

137 4. A description of the days of the week and hours of
138 operation that patrons' dogs will be permitted in the designated
139 outdoor area.

140 (c) In order to protect the health, safety, and general
141 welfare of the public, the local exemption ordinance shall
142 include such regulations and limitations as deemed necessary by
143 the participating municipality and shall include, but not be
144 limited to, the following requirements:

145 1. All public food service establishment employees shall
146 wash their hands promptly after touching, petting, or otherwise
147 handling dogs. Employees shall be prohibited from touching,
148 petting, or otherwise handling dogs while serving food or
149 beverages or handling tableware or before entering other parts
150 of the public food service establishment.

151 2. Patrons in a designated outdoor area shall be advised
152 that they should wash their hands before eating. Waterless hand
153 sanitizer shall be provided at all tables in the designated
154 outdoor area.

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

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

161 5. Dogs shall not be allowed on chairs, tables, or other
162 furnishings.

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

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

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

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

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

181 11. Dogs shall not be permitted to travel through indoor
182 or nondesignated outdoor portions of the public food service
183 establishment.

184 (d) A permit issued pursuant to this section shall not be
185 transferred to a subsequent owner upon the sale of a public food
186 service establishment but shall expire automatically upon the
187 sale of the establishment. The subsequent owner shall be
188 required to reapply for a permit pursuant to this section if the
189 subsequent owner wishes to continue to accommodate patrons'
190 dogs.

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

194 (6) STATE AND LOCAL COOPERATION.--The division shall
195 provide reasonable assistance to participating municipalities in
196 the development of enforcement procedures and regulations, and
197 participating municipalities shall monitor permitholders for
198 compliance in cooperation with the division. At a minimum,
199 participating municipalities shall establish a procedure to
200 accept, document, and respond to complaints and to timely report
201 to the division all such complaints and the participating
202 municipalities' enforcement responses to such complaints. A
203 participating municipality shall provide the division with a
204 copy of all approved applications and permits issued, and the
205 participating municipality shall require that all applications,
206 permits, and other related materials contain the appropriate
207 division-issued license number for each public food service
208 establishment.

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

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