

1 A bill to be entitled
 2 An act relating to alcoholic beverages; creating s.
 3 877.28, F.S.; providing that it shall be unlawful for
 4 persons to consume or possess alcoholic beverages in
 5 certain locations; providing definitions; requiring
 6 certain stores to post a specified notice; providing areas
 7 of applicability and exceptions; providing a penalty;
 8 providing an effective date.

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

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

14 877.28 Alcohol in open containers near certain locations;
 15 signs for certain stores.--

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

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

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

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

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

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

33 (f) "Package store" means any store primarily engaged in
34 the business of selling alcoholic beverages that has a license
35 for package sales from the Division of Alcoholic Beverages and
36 Tobacco of the Department of Business and Professional
37 Regulation in the classifications of 1-APS, 2-APS, or PS.

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

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

51 (c) The owner or operator of any package store or food
52 store selling alcoholic beverages shall prominently post on the
53 outside of each store entrance and on the inside of the main
54 customer exit of each such store a sign with letters at least 2

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55 inches tall and in a color contrasting from the background,
 56 stating:

57
 58 IT IS UNLAWFUL FOR ANY PERSON TO CONSUME OR POSSESS, IN AN OPEN
 59 CONTAINER, ANY ALCOHOLIC BEVERAGE IN THIS STORE OR WITHIN 100
 60 FEET OF ANY PART OF THIS STORE OR OF THIS PROPERTY. VIOLATORS
 61 ARE SUBJECT TO ARREST AND PROSECUTION.

62
 63 (d) The sign required by this subsection shall be posted
 64 in English, Spanish, and Haitian Creole.

65 (3) For the purpose of this section, the area within 100
 66 feet of any property described in paragraphs (2) (a) and (b) is
 67 the area within a 100-foot radius of any part of such property,
 68 but does not include any property lawfully used for a private
 69 residence or any area where possession or consumption of
 70 alcoholic beverages is specifically prohibited or permitted by
 71 the Beverage Law or by any license or permit issued pursuant
 72 thereto. This section does not apply to any alcoholic beverage
 73 served by a religious organization, community center, senior
 74 citizens' center, day care center, funeral home, or school and
 75 consumed on such premises as part of a religious service,
 76 community meal, or event sponsored by that organization, center,
 77 home, or school.

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

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83 (5) Any person who violates this section commits a
84 misdemeanor of the second degree, punishable as provided in s.
85 775.082 or s. 775.083.

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