

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Less Government: This bill increases the number of government bodies that have regulatory authority over health guidelines for public food service establishments in the City of Orlando.

Individual Liberty: This bill increases commercial and individual liberty by allowing public food service establishments and individuals the ability to choose to bring dogs into outdoor areas of such establishments if the City of Orlando passes the appropriate ordinance.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The legislature requires the Division of Hotels and Restaurants (H &R) to carry out laws and rules relating to the inspection and regulation of food service establishments for the purpose of safeguarding the public health, safety, and welfare. Pursuant to its rulemaking authority the Division has adopted the 2001 Food Code published by the U.S. Food and Drug Administration. The Food Code is a reference document that "provides practical, science-based guidance and manageable, enforceable provisions for mitigating risk factors known to cause food borne illness."¹ Section 6-501.115 of the Code generally prohibits live animals on the premises of food service establishments. There are limited exceptions to the prohibition including those for patrol dogs accompanying police or security officers and service animals controlled by disabled persons.²

Effect of Proposed Changes

This bill creates a three year pilot program that would permit patrons' dogs within designated outdoor areas of food service establishments in Orlando. The bill grants the City of Orlando the authority to adopt an ordinance that empowers itself to grant a variance to current H & R rules that prohibit dogs on the premises of food service establishments. Interested establishments are required to apply for and receive a permit from the governing body of their municipality. Minimum requirements for the information supplied in the application process are outlined in the bill.

The bill also sets forth specific regulations that must be included in all permits issued by the City of Orlando. The regulations include various restrictions on the dogs' mobility, sanitation measures to reduce health risks posed by dogs, and signs notifying guests and employees of applicable rules and procedures. The bill also allows municipalities to include additional regulations and limitations in the permits to protect the health, safety and general welfare of the public. The City is granted powers reasonably necessary to regulate and enforce this bill. The Division of Hotels and Restaurants is required to provide reasonable assistance to the City of Orlando in the development of enforcement procedures and regulations.

This bill will not affect those establishments regulated by the Department of Health which include: detention facilities, child care facilities, schools, institutions, civic or fraternal organizations, bars and lounges, facilities used at temporary food events, and mobile food units.

The act has an effective date of July 1, 2006 and expires on July 1, 2009 unless reenacted by the legislature.

¹ See the FDA's introduction to the Food Code at <http://www.cfsan.fda.gov/~dms/fc05-int.html>

² See section 6-501.115 at <http://www.cfsan.fda.gov/~dms/fc01-6.html#6-5>

Fiscal Impacts

The Department of Business and Professional Regulation estimates this bill will have a small fiscal impact by increasing workload to help the City of Orlando develop rules and by increasing the number of calls to the Department's Customer Contact Center. The Department maintains that this impact can be absorbed within existing resources.

The Department of Health believes there could be increased complaints of restaurant-associated illnesses resulting from this bill, which would cause an increase in workload for DOH food borne illness epidemiologists. This would result in a small additional financial burden on DOH estimated at \$1,798 annually.

C. SECTION DIRECTORY:

Section 1

Provides legislative findings and intent.

Section 2

Authorizes a local exemption for the City of Orlando.

Section 3

Requires codification of the local exemption.

Section 4

Limits exemptions and provides permit requirements.

Section 5

Provides enforcement powers.

Section 6

Provides for state assistance.

Section 7

Provides expiration date of July 1, 2009.

Section 8

Provides an effective date of July 1, 2006.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

An Affidavit of Proof of Publication states that a Notice of Intent was published on November 22, 2005.

WHERE?

The Affidavit states that the Notice was published in The Orlando Sentinel, a daily newspaper distributed in Orange County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill because the bill grants an exemption to general law which expressly limits the home rule powers of local governments in the regulation of public food service establishments.³

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

³ 509.032(7), F.S.