

A bill to be entitled

An act relating to the City of Orlando, Orange County; providing legislative findings; creating a pilot program; authorizing the City of Orlando to adopt an ordinance establishing a local exemption to certain provisions of general law and agency rules relating to public food service establishments in order to permit patrons' dogs at certain designated outdoor portions of public food service establishments; providing for implementation and enforcement procedures; providing for future review and repeal; providing an effective date.

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

Section 1. Public food service establishment requirements; local exemption for dogs in designated outdoor portions; findings and intent; pilot program.--The Legislature finds and declares the following:

(1) This act shall apply only to the City of Orlando.

(2) Chapter 509, Florida Statutes, requires that the Division of Hotels and Restaurants of the Department of Business and Professional Regulation carry out all laws and rules relating to the inspection and regulation of public food service establishments for the purpose of safeguarding the public health, safety, and welfare.

(3) Section 509.013(5), Florida Statutes, defines a public food service establishment as "any building, vehicle, place, or structure, or any room or division of a building, vehicle,

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

34 (4) Section 509.032, Florida Statutes, requires that the
35 Division of Hotels and Restaurants adopt and enforce such rules
36 as are necessary to ensure the protection of the public from
37 food-borne illness in public food service establishments.

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

49 (6) Pursuant to the grant of rulemaking authority cited in
50 subsection (5), the Division of Hotels and Restaurants has
51 adopted chapter 61C-4, Florida Administrative Code, concerning
52 public food service establishments.

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

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57 the 2001 FDA Food Code as developed by the Food and Drug
58 Administration of the United States Department of Health and
59 Human Services.

60 (8) Section 6-501.115, 2001 FDA Food Code, generally
61 prohibits live animals from public food service establishments.

62 (9) Section 509.032(7), Florida Statutes, expressly
63 preempts to the state regulation of public lodging
64 establishments and public food service establishments for
65 compliance with the sanitation standards adopted by the
66 division.

67 (10) Section 509.032(7), Florida Statutes, expressly
68 limits the general home rule powers of local governments as it
69 relates to the regulation of public food service establishments.

70 (11) The purpose of this act is to allow the City of
71 Orlando to enact an ordinance establishing procedures by which
72 public food service establishments could exempt their
73 establishments from section 6-501.115, 2001 FDA Food Code, and
74 allow patrons' dogs within certain designated outdoor portions
75 of their respective establishments.

76 (12) It is therefore the intent of the Legislature by this
77 act to establish a 3-year pilot program in the City of Orlando
78 to allow patrons' dogs within certain designated outdoor
79 portions of participating public food service establishments.

80 Section 2. Local exemption authorized.--The governing
81 board of the City of Orlando is authorized to establish, by
82 ordinance, a local exemption procedure to section 6-501.115,
83 2001 FDA Food Code, as adopted and incorporated by the Division

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84 of Hotels and Restaurants at chapter 61C-4.010(6), Florida
85 Administrative Code.

86 Section 3. Local discretion; codification.--

87 (1) The adoption of the local exemption procedure shall be
88 at the sole discretion of the governing board of the City of
89 Orlando. Nothing in this act shall be construed to require or
90 compel the governing board of the City of Orlando to adopt an
91 ordinance pursuant to this act.

92 (2) Any ordinance adopted pursuant to this act shall
93 provide for codification within the land development code of the
94 City of Orlando.

95 Section 4. Limitations on exemption; permit
96 requirements.--

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

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

109 (a) Name, location, and mailing address of the public food
110 service establishment.

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111 (b) Name, mailing address, and telephone contact
112 information of the permit applicant.

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

125 (d) A description of the days of the week and hours of
126 operation that patrons' dogs will be permitted in the designated
127 outdoor area.

128 (3) In order to protect the health, safety, and general
129 welfare of the public, the local exemption ordinance shall
130 include such regulations and limitations as deemed necessary by
131 the City of Orlando and shall include, but not be limited to,
132 the following requirements:

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

139 (b) Patrons in a designated outdoor area shall be advised
140 that they should wash their hands before eating. Waterless hand
141 sanitizer shall be provided at all tables in the designated
142 outdoor area.

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

147 (d) Patrons shall keep their dogs on a leash at all times
148 and shall keep their dogs under reasonable control.

149 (e) Dogs shall not be allowed on chairs, tables, or other
150 furnishings.

151 (f) All table and chair surfaces shall be cleaned and
152 sanitized with an approved product between seatings of patrons.
153 Spilled food and drink shall be removed from the floor or ground
154 between seatings of patrons.

155 (g) Accidents involving dog waste shall be cleaned
156 immediately and the area sanitized with an approved product. A
157 kit with the appropriate materials for this purpose shall be
158 kept near the designated outdoor area.

159 (h) A sign or signs reminding employees of the applicable
160 rules shall be posted on premises in a manner and place as
161 determined by the local permitting authority.

162 (i) A sign or signs reminding patrons of the applicable
163 rules shall be posted on premises in a manner and place as
164 determined by the local permitting authority.

165 (j) A sign or signs shall be posted in a manner and place
166 as determined by the local permitting authority that places the

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167 public on notice that the designated outdoor area is available
168 for the use of patrons and patrons' dogs.

169 Section 5. Powers; enforcement.--The City of Orlando shall
170 have such powers as are reasonably necessary to regulate and
171 enforce the provisions of this act.

172 Section 6. State assistance.--The Division of Hotels and
173 Restaurants shall provide reasonable assistance to the City of
174 Orlando in the development of enforcement procedures and
175 regulations.

176 Section 7. This act shall expire July 1, 2009, unless
177 reviewed and saved from repeal through reenactment by the
178 Legislature.

179 Section 8. This act shall take effect July 1, 2006.