

SFA

BILL ANALYSIS

RECEIVED

JUN 13 1988

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

Mich. State Law Library

Senate Bill 793

Sponsor: Senator Jack Faxon

Committee: Health Policy

Date Completed: 5-9-88

SUMMARY OF SENATE BILL 793 as introduced 4-12-88:

The bill would amend the Public Health Code to:

- Revise requirements that food service establishments must follow in reserving tables for nonsmokers.
- Require that seating for nonsmokers be reserved at a "dining counter", and define "dining counter".
- Permit a food service establishment to reduce or increase the amount of the table seating capacity, or dining counter seating capacity, for nonsmokers under certain circumstances.
- Require a food service establishment to offer a patron, who has a hypersensitivity to tobacco smoke, a table or dining counter seat closest to the primary source of fresh air.
- Exempt a private facility that is served by a catering kitchen from these provisions.

Food Service Establishments

A food service establishment with a seating capacity of 50 individuals would be required to reserve at least 50% of its table seating for nonsmokers. If no persons were waiting to be seated at tables in a nonsmoking area, the food service establishment could reduce the percentage of its table seating capacity reserved for nonsmokers to no less than 40%, in order to accommodate persons waiting to be seated at tables in a smoking area. "Smoking" would mean the carrying by a person of a lighted cigar, cigarette, or other lighted smoking device.

If persons were waiting to be seated at tables in a nonsmoking area, after the food service establishment made a reduction, the food service establishment would be required to increase the percentage to accommodate these people. The increased percentage of tables would not have to exceed 50%.

Tables for nonsmokers would have to be located closer to the primary source of fresh air than tables for smokers. "Source of fresh air" would mean all of the following: an open outer window; a ventilation system outlet which supplied air from the outdoors or air cleansed of smoke; and, an outer screen door or open outer door, in the absence of the source of fresh air as described earlier.

If a patron stated that he or she had a hypersensitivity to tobacco smoke and asked to be seated at a table close to a source of fresh air, the food service establishment would have to offer the patron the available table closest to the primary source of fresh air.

Dining Counters

A food service establishment with a seating capacity of 50 or more persons that had a dining counter would be

required to reserve for nonsmokers at least 50% of its dining counter seating capacity. "Dining counter" would mean a level surface, other than a table, for the consumption of meals by patrons seated adjacent to one another in a continuous row.

If no persons were waiting to be seated in the nonsmoking area of a dining counter, the food service establishment could reduce the percentage of its dining counter seating capacity reserved for nonsmokers to no less than 40%, in order to accommodate individuals waiting to be seated in the smoking area of the counter. If persons were waiting to be seated in the dining counter's nonsmoking area, after the food service establishment had made a reduction, the establishment would be required to increase the percentage to accommodate these persons. The increased percentage would not have to exceed 50%.

The dining counter seats for nonsmokers would have to be clearly identified as nonsmoking and placed in close proximity to each other. The seats would have to be located so as not to discriminate against nonsmokers, and would have to be located closer to the source of fresh air than the counter seats for smokers. If a patron stated that he or she had a hypersensitivity to tobacco smoke and asked to be seated at a dining counter seat close to the fresh air source, the food service establishment would have to offer the patron the available dining counter seat closest to the primary source of fresh air.

Deletions

The bill would delete current provisions in the Public Health Code that require a food service establishment:

- With a seating capacity of at least 50 and not more than 100 persons, to provide at least three tables, each with a seating capacity for at least four persons, or the equivalent for nonsmokers.
- With a seating capacity of more than 100 but not more than 150 persons, to provide at least six tables, each with a seating capacity of at least four persons or the equivalent for nonsmokers.
- With a seating capacity of more than 150 persons, to provide at least nine tables, each with a seating capacity of at least four persons or the equivalent for nonsmokers.

MCL 333.12905

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: P. Graham

S.B. 793 (5-9-88)

OVER

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent