

Legislative Analysis



ALLOW DOGS IN OUTSIDE EATING AREAS AT RESTAURANTS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4335 (Reported from committee as Substitute H-2)

Sponsor: Rep. Margaret E. O'Brien

Committee: Tourism

Complete to 6-4-14

BRIEF SUMMARY: The bill would amend the Food Law to allow dogs to be present in outdoor dining areas under certain conditions and require restaurants to follow certain procedures if dogs are present.

FISCAL IMPACT: House Bill 4335 as introduced has no fiscal implications for state government. The bill may have a fiscal impact on local government public health departments related to food safety inspection and enforcement responsibilities. Under Part 24 of the Public Health Code, the governing entity of a local public health department sets fees for services. Related to House Bill 4335, local governments may elect to modify food service licensing, inspection, or other fees to reflect possible increased inspection and enforcement costs, if there is no local adoption of an ordinance more restrictive than the provisions of House Bill 4335, as permitted by the bill.

THE CONTENT OF THE BILL:

The Michigan Food Law incorporates several sections of the Food and Drug Administration Food Code by reference. The adopting of the FDA Food Code means that Michigan food establishments are generally prohibited from allowing live animals on the premises (see *Background Information*).

House Bill 4335 would amend Section 6-501.115(B) of the Food Code by adding subparagraph (6), which would create guidelines for food service establishments wanting to allow dogs in an outdoor dining area. Briefly put, the guidelines would regulate how dogs are to enter the outdoor area, how the area is to be cleaned, and require that each restaurant have written procedures that ensure compliance with the regulations. Also, a food establishment would have to post a sign at public entrances stating: "Dog friendly outdoor dining area – dog access only though outdoor area," or similar wording.

The bill would allow a local unit of government to adopt and enforce an ordinance more restrictive than the criteria the bill would establish.

MCL 289.3113 and 289.6101

BACKGROUND INFORMATION:

Section 6-501.115 of the Food and Drug Administration Food Code prohibits live animals from being present on the premises of a food establishment except under the following conditions (as taken from the FDA website):

- ❖ Live animals may be allowed in the following situations if the contamination of food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles cannot result:
 - Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems.
 - Patrol dogs accompanying police or security officers in offices and dining, sales, and storage areas, and sentry dogs running loose in outside fenced areas.
 - In areas not used for food preparation and that are usually open for customers, such as dining and sales areas, service animals that are controlled by the disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal.
 - Pets in the common dining areas of institutional care facilities such as nursing homes, assisted living facilities, group homes, or residential care facilities at times other than during meals if:
 - Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas;
 - Condiments, equipment, and utensils are stored in enclosed cabinets or removed from the common dining areas when pets are present; and
 - Dining areas including tables, countertops, and similar surfaces are effectively cleaned before the next meal service.
 - In areas that are not used for food preparation, storage, sales, display, or dining, in which there are caged animals or animals that are similarly confined, such as in a variety store that sells pets or a tourist park that displays animals.
- ❖ Live or dead fish bait may be stored if contamination of food; clean equipment, utensils, and linens and unwrapped single-service and single-use articles cannot result.

ARGUMENTS:

For:

Supporters say the bill would provide a way for willing restaurant owners to allow patrons to bring dogs onto restaurant property in a regulated outdoor setting. They note the large number of individuals who take their dogs with them when they travel on

vacation, and say that allowing willing restaurant owners to let patrons bring their dogs with them while they eat will lead to increased tourism.

Against:

Opponents of the bill say that they worry about cleanliness and health issues, as well as who would be liable if a dog transmitted disease to other patrons of the establishment. In addition to those concerns, opponents also have noted some restaurants already allow dogs in outdoor eating areas in violation of current law, which they worry will lead to inconsistent enforcement of the bill's requirements and increased inspection costs for local health departments.

POSITIONS:

Support: Michigan Department of Agriculture and Rural Development (5-28-14)

Oppose: Michigan Association for Local Public Health (5-28-14)

Legislative Analyst: Jeff Stoutenburg
Josh Roesner
Fiscal Analyst: Susan Frey

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.