

Legislative Analysis



ALLOW DOGS IN OUTDOOR DINING AREAS

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House Bill 4335

Sponsor: Rep. Margaret O'Brien

Committee: Tourism

Complete to 4-17-13

A SUMMARY OF HOUSE BILL 4335 AS INTRODUCED 2-27-13

The bill would amend the Food Law to allow dogs to be present in outdoor dining areas under certain conditions.

The Michigan Food Law incorporates several sections of the Food and Drug Administration Food Code by reference. In adopting the FDA Food Code, 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, which is incorporated by reference, to allow dogs that are controlled by a customer to be present in an outdoor dining area, as long as their presence or activities would not result in a health or safety violation.

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

MCL 289.3113 and 289.6101

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.

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 that are 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; and
 - 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.

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