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Senate Bill 250 (as introduced 3-17-21)  
Sponsor: Senator Jon C. Bumstead  
Committee: Economic and Small Business Development

Date Completed: 3-18-21

## **CONTENT**

**The bill would amend the Public Health Code to do the following:**

- **Subject to the prescribed test positivity rate calculations, require an emergency order issued by the Director of the Department of Health and Human Services (DHHS) or a local health officer to control an epidemic related to coronavirus that placed a restriction on a qualified establishment to comply with certain parameters, depending on the positivity rate.**
- **Prescribe the method for calculating test positivity rate calculations in the State or an area served by a local health department.**

### Definitions

Under the bill, "coronavirus" would mean that term as defined by the Code: severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

"Qualified establishment" would mean any of the following: a) a food service establishment, or b) an event venue. "Food service establishment" would mean that term as defined in Section 1107 of the Food Law: a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. "Event venue" would mean an establishment other than a food service establishment that consists of an enclosed hall, building, or portion of a building, and that is regularly available for the purpose of holding a banquet, a dinner, entertainment, a luncheon, a sports event, or other similar activity or event.

"Household" would mean a group of individuals who live at the same dwelling.

### Emergency Order Restrictions

Under the Code, if the Director of the DHHS determines that control of an epidemic is necessary to protect the public health, the Director by emergency order may prohibit the gathering of people for any purpose and may establish procedures in the emergency order to be followed during the epidemic to ensure continuation of essential public health services and enforcement of health law.

Similarly, the Code specifies that if a local health officer determined that control of an epidemic is necessary to protect the public health, the local health officer may issue an emergency order to prohibit the gathering of people for any purpose and may establish procedures in the emergency order to be followed by persons, including a local governmental entity, during the epidemic to ensure continuation of essential public health services and enforcement of health laws.

The bill specifies that the provisions above would be subject to the provisions below.

Under the bill, subject to the test positivity rate calculation prescribed by the bill, an emergency order issued by the Director of the DHHS or a local health officer to control an epidemic related to coronavirus that placed a restriction on a qualified establishment would be subject to all the following provisions.

If the State or area served by a local health department had a test positivity rate of less than 3% for at least 14 consecutive days, the emergency order could not place a limitation on indoor dining occupancy or on a meeting or event held at the qualified establishment. If the State or area served by a local health department had a test positivity rate of 3% to not more than 7% for at least seven consecutive days, the emergency order would have to do the following:

- Limit the indoor dining occupancy rate to 50%.
- Limit the consumption of food and beverages in the qualified establishment to a designated dining area where an individual was seated.
- Limit the occupancy of a meeting or event held at the qualified establishment to 50 individuals per 1,000 square feet with a maximum of 250 individuals if the meeting or event were held indoors and a maximum of 500 individuals if the meeting or event were held outdoors.

If the State or area served by a local health department had a test positivity rate of greater than 7% to not more than 10% for at least seven consecutive days, the emergency order would have to do all the following:

- Limit the indoor dining occupancy rate to 50%.
- Limit the consumption of food and beverages in the qualified establishment to a designated dining area where an individual was seated.
- Limit the occupancy of a meeting or event held at the qualified establishment to 25 individuals per 1,000 square feet with a maximum of 150 individuals if the meeting or event were held indoors and a maximum of 250 individuals if the meeting or event were held outdoors.
- For the purposes of contact tracing, encourage the qualified establishment to maintain a record of the name and telephone number of each individual dining at the qualified establishment and the individual's date and time of entry into the qualified establishment.

If the State or area served by a local health department had a test positivity rate of greater than 10% to not more than 15% for at least seven consecutive days, the emergency order would have to do the following:

- Limit the indoor dining occupancy rate to 25%.
- Limit the consumption of food or beverage in the qualified establishment to a designated dining area where an individual was seated.
- Limit the occupancy of a meeting or event held at the qualified establishment to 15 individuals per 1,000 square feet with a maximum of 50 individuals if the meeting or event

- were held indoors and a maximum of 150 individuals if the meeting or event were held outdoors.
- For the purposes of contact tracing, encourage the qualified establishment to maintain a record of the name and telephone number of each individual dining at the qualified establishment and the individual's date and time of entry into the qualified establishment.

If the State or area served by a local health department had a test positivity rate of greater than 15% to not more than 20% for at least seven consecutive days, the emergency order would have to close the qualified establishment to indoor dining and limit the occupancy of a meeting or event held at the qualified establishment to a maximum of 10 individuals from not more than two households.

If the State or area served by the local health department had a positivity rate of greater than 20% for at least 14 consecutive days, the emergency order would have to close the qualified establishment to indoor dining and prohibit a meeting or event from being held at the qualified establishment.

#### Test Positivity Rate Calculation

The bill would require the test positivity rate to be calculated as follows:

- Divide the total number of positive test results for coronavirus in the State or the area served by a local health department for a single day by the total number of tests performed for coronavirus in the State or the area served by a local health department on that day.
- Calculate the daily seven-day average of the results above for the previous seven consecutive days.

MCL 333.2253 et al.

Legislative Analyst: Tyler VanHuyse

#### **FISCAL IMPACT**

The bill would have a minor negative fiscal impact on the DHHS and on local units of government. Increased costs would stem from an increase in administrative responsibilities.

Fiscal Analyst: Ellyn Ackerman

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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.