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BILL ANALYSIS

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Senate Bill 186 (as introduced 2-18-03)
Sponsor: Senator Raymond E. Basham
Committee: Commerce and Labor

Date Completed: 6-21-04

CONTENT

The bill would amend the Public Health Code to require that a food service establishment prohibit smoking in its "public areas", which would include at least all areas of a food service establishment that were open to the public.

The bill would not apply to any of the following:

- A food service establishment that was owned and operated by a private club that served only club members and their guests.
- A food service establishment that was owned and operated by a fraternal organization, if service were limited to members of the organization and their guests.
- A private facility that was serviced by a catering kitchen.
- A separate room in a food service establishment that was used for private banquets.
- A bowling center or holder of an on-premises license under the Michigan Liquor Control Code that could demonstrate that less than 30% of its gross income was attributable to the sale of food.

"Food service establishment" would mean that term as it is defined in the Food Law (i.e., a fixed or mobile restaurant, coffee shop, cafeteria, short order café, 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, 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).

The bill would delete provisions of the Code under which a food service establishment with a seating capacity of less than 50, and a food service establishment that is owned and operated by a private club, may designate up to 75% of its seating capacity for smokers and an establishment with a seating capacity of 50 or more that is not owned by a private club may designate up to 50% of its seating capacity for smokers. Under those provisions, a food service establishment that designates seating for smokers must clearly identify the seats for nonsmokers, place them in close proximity to each other, and locate them in a manner that does not discriminate against nonsmokers. The current provisions do not apply to a private facility serviced by a catering kitchen, a separate room in a food service establishment that is used for private banquets, or a food service establishment owned and operated by a fraternal organization if service is limited to members of the fraternal organization and their guests.

(The Code currently requires that all public areas of a food service establishment be nonsmoking, except as otherwise provided. "Public area" presently includes a bathroom, a coatroom, and an entrance or other area used by a patron when not seated; the term does not include the lobby, waiting room, hallways, or lounge areas of a food service establishment.)

The present smoking restrictions apply both to a food service establishment that provides its own seating, and to a food service establishment or group of food service establishments located in a shopping mall, in which the seating is provided and/or maintained by the mall owner or operator. The prohibition under the bill also would apply under these circumstances.

MCL 333.12905

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Dana Patterson

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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.