



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 144 (as enrolled)
Sponsor: Senator Tom Casperson
Senate Committee: Agriculture
House Committee: Agriculture

Date Completed: 10-1-15

RATIONALE

The Food Law, among other things, prescribes the requirements for licensing and inspecting food service establishments, such as restaurants, cafeterias, and delicatessens. The Law delegates the enforcement of those requirements to local health departments. A local health department must review an application for a food service establishment license to ensure that it is complete and accurate. After a local health department determines that an application is proper, complete, and accurate, the department must inspect the proposed or existing establishment to determine compliance with the Law. Some contend that temporary food establishments that sell only low-risk foods do not warrant an on-site inspection, and that the cost of inspecting those establishments is not justified based on the level of risk to the public. Such establishments might include, for example, temporary concessions that serve precooked hotdogs, popcorn, or ice cream. It has been suggested that the Food Law should allow a modified procedure for these establishments to determine their compliance with the Law.

CONTENT

The bill would amend the Food Law to allow a local health department to conduct an in-office consultation and an operational review of, rather than an inspection of, a proposed temporary food establishment that would serve only low-risk food.

"Low risk food" would mean any of the following: a) raw or prepackaged food that is not potentially hazardous food (time/temperature control for safety food); b) potentially hazardous food (time/temperature control for safety food) that is prepared in a licensed facility and is not prepared on-site; or c) commercially processed potentially hazardous food (time/temperature control for safety food) that is fully cooked and heated only for hot holding.

The Law requires a local health department to review an application for a food service establishment license and to inspect a proposed or existing establishment if the application is proper, complete, and accurate. The bill specifies that if a temporary food establishment would serve only low-risk food, the local health department, based on a public health risk assessment, could conduct an in-office consultation, including food safety education, and operational review of the proposed temporary food establishment with the license applicant, instead of the required inspection. The person in charge of the establishment would have to be present during the consultation. A local health department that conducted a consultation also could conduct an inspection.

A local health department would have to conduct an inspection (as currently required) or an in-office consultation, as applicable, before making its recommendation to the Department of Agriculture and Rural Development on the issuance of a license.

(The Law defines "food establishment" as an operation where food is processed, packed, canned, preserved, frozen, fabricated, stored, prepared, served, sold, or offered for sale, including a food processor, food warehouse, food service establishment, and retail grocery.)

A "food service establishment" is a fixed or mobile restaurant, coffee shop, cafeteria, sandwich shop, tavern, bar, drive-in, food concession, delicatessen, theater, 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.

"Temporary food establishment" means a food establishment that operates at a fixed location for a temporary period of not more than 14 consecutive days.)

The bill would take effect 90 days after its enactment.

MCL 289.1109 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Within certain regions of Michigan, a local health department might be responsible for inspecting food establishments within an area of several thousand square miles. The bill would allow local health departments to focus on operations where there could be genuine health issues, and would save those entities time and resources. Current requirements are seen by some members of the public as unnecessary in light of the risk posed by the foods served by temporary establishments. This perceived lack of necessity can strain the credibility of local health departments and hinder more significant public health initiatives. By incorporating a public health risk assessment, the bill would encourage a more consistent application of risk-based principles, and would foster confidence in local public health efforts. Furthermore, the bill would reduce the burdens on individuals and small businesses that must pay for an inspection to serve low-risk foods.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would result in a minor reduction in costs for local health departments. In-office consultations would be less intensive than inspections and thus would be less costly for a local health department to conduct. The amount of savings is indeterminate, due to limited information on the number of temporary establishments that would serve only low-risk food and the marginal costs of food inspections and in-office consultations.

Fiscal Analyst: Steve Angelotti

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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.