

Legislation Details (With Text)

File #: 01881 **Version:** 1 **Name:** Hardship exemption to the smoking ban for taverns
Type: Ordinance **Status:** Filed
File created: 8/25/2005 **In control:** BOARD OF HEALTH FOR MADISON AND DANE COUNTY
On agenda: 9/20/2005 **Final action:** 9/20/2005
Enactment date: **Enactment #:**
Title: Creating Section 23.05(7)(f) of the Madison General Ordinances to create a hardship exemption to the smoking regulations for taverns which meet certain requirements.
Sponsors: Zachariah Brandon, Larry Palm, Lauren Cnare, Paul J. Van Rooy, Isadore Knox Jr.
Indexes:
Code sections:
Attachments: 1. 01881 registration statement.pdf, 2. 01881 Registrations neither support nor oppose.pdf, 3. 01881 Registrations in Support.pdf, 4. 01881 Registrations in Opposition 2.pdf, 5. 01881 Registrations in Opposition 1.pdf

Date	Ver.	Action By	Action	Result
9/20/2005	1	COMMON COUNCIL	Place On File Without Prejudice	Pass
9/14/2005	1	BOARD OF HEALTH FOR MADISON AND DANE COUNTY	RECOMMEND TO COUNCIL WITH THE FOLLOWING RECOMMENDATIONS - REPORT OF OFFICER	Pass
9/7/2005	1	ECONOMIC DEVELOPMENT COMMITTEE	Return to Lead with the Recommendation for Denial	Pass
9/6/2005	1	COMMON COUNCIL	Refer	
9/6/2005	1	BOARD OF HEALTH FOR MADISON AND DANE COUNTY	Refer	
9/1/2005	1	Attorney's Office	Referred for Introduction	
8/31/2005	1	Finance Dept/Approval Group	Approved Fiscal Note By The Comptroller's Office	
8/25/2005	1	Attorney's Office/Approval Group	Approved As To Form	
8/25/2005	1	Attorney's Office	Fiscal Note Required / Approval	

Fiscal Note

This proposed ordinance would establish a procedure whereby taverns could apply for a temporary hardship exemption from the City's smoking ban by submitting written proof of eligibility "subscribed and sworn to by a Certified Public Accountant." Any costs of preparing the required documentation and obtaining such CPA's "certification" of eligibility would be borne by the applicant. It is unclear if CPA firms would "subscribe and swear to" the cause of a revenue reduction, as required by the ordinance, and no reliable estimate is available as to how many applications might be submitted.

The City would incur costs only to the extent that staff or other resources were used to review or verify the accuracy of any exemption applications received. Because the ordinance provides for an automatic approval if no determination is made by the Comptroller within 30 days, and if no resources are committed to review or verify the legitimacy or accuracy of applications, then all applications would become approved without additional cost. Any substantive review of the accuracy of applications would, however, require an immediate staff or contracted service effort, to be completed prior to the expiration of the 30 day automatic approval period. No resources have been budgeted or are available for any significant enforcement related to this proposed ordinance amendment.

Title

Creating Section 23.05(7)(f) of the Madison General Ordinances to create a hardship exemption to the smoking regulations for taverns which meet certain requirements.

Body

DRAFTER'S ANALYSIS: This ordinance creates a hardship exemption to the smoking ban for taverns that experience a loss of gross receipts greater than ten percent (10%). The tavern must prove that the loss of revenue is due to compliance with the smoking ban and not some other circumstance unrelated to the smoking ban. This ordinance is not effective unless the Council also approves the smoking ban advisory referendum to be held in April, 2006.

The Common Council of the City of Madison do hereby ordain as follows:
Subdivision (f) entitled "Hardship" of Subsection (7) entitled "Exemptions" of Section 23.05 entitled "Smoking Prohibited in Certain Areas" of the Madison General Ordinances is created to read as follows:

- "(f) Hardship. As a result of complying with this ordinance, a tavern which realizes a loss of gross receipts greater than ten percent (10%) for the three (3) months immediately following July 1, 2005, when compared to the average for the same three (3) months of the preceding three (3) years, may apply to the City of Madison Comptroller for a one-time temporary hardship exemption. Upon granting of the hardship exemption, the tavern shall be exempt from the requirements of this ordinance until April 19, 2006. This hardship provision shall be automatically repealed on April 19, 2006.
1. To obtain a hardship exemption, application to the Comptroller must be made by submitting the following:
 - a. Written proof subscribed and sworn to by a Certified Public Accountant certifying that the gross receipts have declined by ten percent (10%) for the time period indicated above.
 - b. Written proof subscribed and sworn to by a Certified Public Accountant certifying that the tavern has complied with this ordinance and that the ten percent (10%) decline in gross receipts is the direct result of complying with this ordinance and not a result of other factors unrelated to this ordinance.
 2. The Comptroller shall make its determination regarding hardship within thirty (30) days of receipt of a hardship application or the application will be deemed granted.
 3. This hardship provision does not apply to any tavern not in existence as of July 1, 2005."
2. This ordinance shall not take effect unless the Common Council also approves an advisory referendum on the smoking ban to be held in April, 2006.