



# OHIO LEGISLATIVE SERVICE COMMISSION

## Bill Analysis

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### **Sub. H.B. 263\***

132nd General Assembly

(As Reported by H. Economic Development, Commerce, and Labor)

Rep. Lanese

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## **BILL SUMMARY**

- Generally authorizes a retail food establishment or food service operation to allow a person to bring a dog in an outdoor dining area of the establishment or operation.
- Requires the Directors of Agriculture and Health to adopt rules governing dogs in an outdoor dining area of an establishment or operation, including rules that do all of the following:
  - Prohibit an employee, while working at an establishment or operation, from intentionally touching a dog;
  - Require an employee who is serving a dog food or water to serve the dog's food on disposable single-use dining ware and the dog's water in a single-use container; and
  - Require an establishment or operation to post a clearly visible sign informing patrons that dogs are allowed in the outdoor dining area of the establishment or operation.
- Prohibits an establishment or operation from violating any of the above rules.
- If a violation occurs, authorizes a board of health to suspend an establishment's or operation's authority to allow dogs in an outdoor dining area.
- States that a person who brings a dog to an establishment's or operation's outdoor dining area is liable for any damage that the dog causes in the area.

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\* This analysis was prepared before the report of the House Economic Development, Commerce, and Labor Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

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## CONTENT AND OPERATION

### Background

Under current law, the Directors of Agriculture and Health jointly have adopted rules that generally prohibit live animals on the premises of a retail food establishment or food service operation. The rules exempt certain animals from the prohibition, including a service animal if the service animal is not in food preparation areas or if a health or safety hazard will not result from the presence of the activities of the service animal.<sup>1</sup>

A retail food establishment is an establishment that receives a majority of its revenue from sales of prepackaged food items or multiple servings of food products. Examples of retail food establishments are grocery stores and gas stations. An establishment is licensed to operate by a board of health with oversight by the Director of Agriculture.<sup>2</sup> A food service operation is an establishment that receives a majority of its revenue from sales of food that is prepared and served in individual portions. Examples of food service operations are restaurants, cafeterias, and schools. An operation is licensed to operate by a board of health with oversight by the Director of Health.<sup>3</sup>

### Dogs on patios

The bill authorizes a retail food establishment or food service operation to allow a person to bring a dog in an outdoor dining area of the establishment or operation. However, if the dog is a service animal, no establishment or operation can refuse to allow the dog in the outdoor dining area unless the refusal is authorized under federal and state laws governing service dogs. A service dog is a dog that is individually trained for the benefit of an individual with a disability to do work or perform tasks that are directly related to the individual's disability.<sup>4</sup>

### Rules governing dogs in an outdoor dining area

The bill requires the Directors of Agriculture and Health to adopt rules governing dogs in an outdoor dining area of an establishment or operation that do all of the following:

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<sup>1</sup> O.A.C. 3717-06.4(O).

<sup>2</sup> R.C. 3717.01 and 3717.21, not in the bill.

<sup>3</sup> R.C. 3717.01 and 3717.41, not in the bill.

<sup>4</sup> R.C. 3717.14(A) and (B).



(1) Prohibit an employee, while working at an establishment or operation, from intentionally touching a dog;

(2) Require an employee who is serving a dog food or water to serve the dog's food on disposable single-use dining ware and the dog's water in a single-use container;

(3) Require an employee to wash the employee's hands immediately if the employee does either of the following:

--Inadvertently makes contact with a dog; or

--Cleans up an area where dog waste was present.

(4) Require an establishment or operation to post a clearly visible sign informing patrons that dogs are allowed in the establishment's or operation's outdoor dining area;

(5) Require an establishment or operation to have an outdoor entrance to the establishment's or operation's outdoor dining area;

(6) Require an establishment or operation to notify the applicable local board of health at least 30 days before implementing a policy to allow dogs in an outdoor dining area;

(7) Require an establishment or operation to adopt a policy that requires patrons to keep their dog on a nonretractable leash and supervised by a responsible adult while the dog is in an outdoor dining area;

(8) Require an establishment or operation to do all of the following:

--Dispose of dog waste, excessive dog hair, or any other biological material from a dog promptly, properly, and in a sanitary manner;

--Keep a sanitary waste disposal kit in the outdoor dining area that contains nitrile gloves, liquid absorbent, a scoop, and a scraper to be used to remove dog waste; and

--Keep a sanitary waste clean-up kit in the outdoor dining area that contains disinfectant, a mop, disposable bags, and any other tool to complete the cleanup and disinfection of an area where dog waste was removed. The establishment or operation must ensure that the sanitary waste clean-up kit is used solely for cleaning an area where dog waste is or was present.

--Keep stanchions or cones on the premises of the establishment or operation to be used to isolate an area where dog waste has been cleaned as the disinfectant dries.



(9) Prohibit an establishment or operation from allowing dogs to enter the outdoor dining area through the establishment's or operation's indoor dining area;

(10) Prohibit an establishment or operation from allowing patrons with dogs to sit at an outdoor bar; and

(11) Prohibit an establishment or operation from allowing a dog in, or within five feet of, a food preparation area.<sup>5</sup>

## **Enforcement**

The bill prohibits an establishment or operation from violating any of the above rules. A board of health may order the suspension of an establishment's or operation's authority to allow dogs in the establishment's or operation's outdoor dining area if a violation occurs.

Before issuing an order, a board must give the establishment or operation written notice specifying each violation and a reasonable time within which the establishment or operation must correct each violation. However, if a violation presents a clear and present danger to the public health, the board may order the suspension of the establishment's or operation's authority to allow dogs in the establishment's or operation's outdoor dining area without giving written notice or affording the establishment or operation the opportunity to correct the violation.<sup>6</sup>

If an establishment or operation fails to correct the violation in the time specified by the board, the board must provide written notice that the board is suspending the establishment's or operation's authority to allow dogs in the establishment's or operation's outdoor dining area. The board must include in the notice information concerning the procedure for appealing the suspension. The establishment or operation may appeal the suspension by giving written notice to the board and specifying in the notice whether a hearing is requested. If a hearing is requested, the board must hold it within two business days of receiving the request.<sup>7</sup>

If the board suspends an establishment's or operation's authority to allow dogs in the establishment's or operation's outdoor dining area, it must do so for the following time periods:<sup>8</sup>

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<sup>5</sup> R.C. 3717.14(C).

<sup>6</sup> R.C. 3717.14(E)(1) to (3).

<sup>7</sup> R.C. 3717.14(E)(4) and (5), and O.A.C. 901:3-4-08 and 3701-21-26.

<sup>8</sup> R.C. 3717.14(E)(6).



Number of violations within one year	Time period of suspension
1	30 days
2	6 months
3 or more	12 months

### Liability of dog owner

Under the bill, a person who brings a dog to an establishment's or operation's outdoor dining area is liable for any damage the dog causes in the area.<sup>9</sup>

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## HISTORY

ACTION	DATE
Introduced Reported, H. Economic Development, Commerce & Labor	06-08-17 ---

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<sup>9</sup> R.C. 3717.14(D).

