



Legislation Text

File #: 061254, **Version:** 1

061254 SUBSTITUTE 1

ALD. D'AMATO

An ordinance relating to regulation of occupancy capacity for Class "B" licensed establishments.

90-36-4 rc

This ordinance eliminates language that implies an exemption from occupancy capacity requirements and penalties at s. 90-36-4 of the code for certain Class "B" licensed establishments that also operate with a food dealer's license.

For conviction of an offense involving the posting of a placard stating occupancy limits, tampering with such placard, or refusal to comply with police orders, the penalty is not less than \$200 nor more than \$1,000.

For a first offense of exceeding occupancy limits the penalty is not less than \$200 nor more than \$10,000.

For conviction of a second offense of exceeding occupancy limits within 12 months, a penalty of not less than \$200 nor more than 15,000.

For a third or subsequent offense of exceeding occupancy limits within 12 months, the penalty is not less than \$200 nor more than \$25,000.

For the purpose of determining the amount of a forfeiture, the court may treat each person found to have been on the premises in excess of the permitted limitation as a separate violation.

Whereas, Recent tragedies involving the injuries and death of patrons and employees of establishments serving alcohol beverages to the public in Chicago, IL, where more than 25 died in a stampede to leave a crowded bar, and West Warwick, RI, where 100 died in a nightclub fire, underscore the importance of strict compliance with occupancy limitations and other building code standards; and

Whereas, From January 1, 2003, to September 30, 2006, there have been 42 charges filed with the Milwaukee municipal court for violation of occupancy limitation posting requirements for Class "B" establishments, and 19 charges filed for exceeding established occupancy limitations for Class "B" licensed establishments, 2 of which have been filed in 2006; and

Whereas, The Common Council finds that strict enforcement of building code requirements, including occupancy limitations for Class "B" licensed establishments, is essential to promote the health safety and welfare of the public and persons employed by such establishments, and should be encouraged; now, therefore,

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 90-36-4 of the code is repealed and recreated to read:

90-36. License Regulations.

4. OCCUPANCY CAPACITY FOR CLASS "B" LICENSED ESTABLISHMENTS.

a. Purpose. The common council finds that the overcrowding of establishments that serve alcohol beverages to the public constitutes a serious risk of harm, injury and death and that these risks are increased for each person over the established occupancy limits. The purpose of this subsection is to require the clear and accurate posting of occupancy limitations and to enforce occupancy limitations so as to assure the health, safety and welfare of the public and of persons employed by establishments that serve alcohol beverages.

b. Posting Required. Any establishment holding a Class "B" tavern or Class "B" fermented malt beverage license shall securely post and maintain official placards issued by the department of city development indicating the maximum permitted number of persons on the licensed premises as established by the commissioner of neighborhood services.

c. Police Orders. If, in the determination of the police department, the number of persons on the premises exceeds the limitations set on the official placard, the police department shall order the number reduced to the permitted number. The police department may also order the establishment closed until it complies with this section.

d. Prohibitions. d-1. No greater number of persons than the number indicated on the official placard shall be permitted on the licensed premises by any person responsible for operations or activities conducted on the premises.

d-2. Tampering with, obscuring, or otherwise changing the official placard is prohibited.

d-3. Refusal by a patron to comply with a police department order to leave an establishment that has been determined by the police department to exceed posted occupancy limitations is prohibited.

e. Citation. The citation for a violation of par. d-1 shall state the occupancy limitation contained upon the official placard and shall further state the number of persons determined to be present in excess of the permitted limitation.

f. Penalties. Any person convicted of a violation of this section shall be subject to the following forfeitures and penalties:

f-1. For conviction of a violation of pars. b, d-2 and d-3, not less than \$200 nor more than \$1000.

f-2. For conviction of a violation of par. d-1, not less than \$200 nor more than \$10,000.

f-3. For conviction of a second violation of par. d-1 within 12 months, not less than \$200 nor more than \$15,000.

f-4. For a third or subsequent violation of par. d-1 all within 12 months, not less than \$200 nor more

than \$25,000.

f-5. For purposes of determining the amount of a forfeiture for violation of par. d-1, the court may treat each person found to have been on the premises in excess of the permitted limit as a separate violation.

f-6. Any person convicted of a violation of this section shall, in default of payment of the prescribed forfeiture, be imprisoned in the county jail or house of correction for a period of not less than 8 days nor more than 90 days.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB06527-3

RLW

1/22/2007