

# Talking Points

Senate Bill 136 by Lydia Jackson

## CLARIFIES DEFINITION OF RESTAURANT IN STATE ALCOHOL LAW

### **MESSAGE: Vote YES on SB 136!**

**BACKGROUND:** For many years, the definition of "restaurant establishment" has been interpreted and applied in a way that has served our restaurants across the state very well. On January 1st of this year, the state ATC issued a policy letter to over 5000 restaurant businesses notifying them that they were possibly violating ATC's new interpretation of the law if they were engaging in one or more of the following activities: (1) using a trade name that includes the word "bar"; (2) offer drink specials or happy hours; (3) charge any type of "cover charge"; (4) provide live entertainment; (5) serve a patron alcohol when that patron is not also eating food; (6) provide a "bar" area in a "restaurant establishment"; or (7) doesn't serve food during all hours of operation. SB 136 is being offered to clarify the law to clearly codify the way our law has been interpreted and applied for many, many years.

**1. SB 136 simply clarifies existing law.** For many years, the interpretation and application of "restaurant establishment" has been clearly understood by all parties (ATC, local government, permit holders). Just recently, the state ATC changed its interpretation and application of the definition. This new interpretation renders numerous activities (e.g., trade name of business, live entertainment) illegal that were considered legal for many years. SB 136 is needed to clearly provide for what is illegal and what is legal.

**2. Restaurants must still be a "restaurant establishment."** This bill does not change the law to allow or prohibit traditional restaurant activities. It does not authorize things that have not been allowed (by ATC) and offered (by restaurant owners) across the state for many years. It just makes it clear.

**3. A "trade name," live entertainment and similar activities DO NOT disqualify a business as a "restaurant establishment."** Just because a business uses the trade name "Joe's Bar & Grill" does not automatically mean "Joe's Bar & Grill" can't qualify as a "restaurant establishment" under our state alcohol law. Existing law absolutely DOES NOT say this. Many years of interpretation and application of these laws by ATC has never required anything about a business' trade name. Activities like live entertainment, drink specials, cover charges, etc. have been conducted at "restaurant establishments" across the state for many years. Our law clearly does not prohibit such activity.

**4. This does not change the food v. alcohol percentage of sales.** Present law is interpreted and applied to mean a "restaurant establishment" must have more than 50% in food/non-alcohol monthly sales in order to qualify as a "restaurant establishment." SB 136 puts the "more than 50%" rule into the law.

**5. SB 136 has NOTHING to do with the smoking law.** Smoking is currently prohibited at "restaurant establishments." This bill will not change or affect in any way the current ban on smoking at "restaurant establishments."

**6. Wide Industry Support.** SB 136 is supported by industry trade associations and hundreds of individual "restaurant establishment" business owners across the state.

### **VOTE YES ON SB 136**

**(CLARIFIES DEFINITION OF RESTAURANT IN ALCOHOL LAW)**

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