

Marquette Restaurateurs, Michigan Restaurant Association File Lawsuit Against City of Marquette: Suit Says Smoking Ban Breaks State Law

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ABSTRACT (ABSTRACT)

MARQUETTE, Mich., Dec. 1 /PRNewswire/ -- Five Marquette restaurant owners and the Michigan Restaurant Association filed a lawsuit today in Marquette County Circuit Court against the City of Marquette's ban on smoking in restaurants.

The suit charges that the City of Marquette is prohibited by Michigan state laws -- set forth in the Public Health Code -- from enacting more stringent laws than the ones already in the Public Health Code.

"The city's ban clearly goes beyond what Michigan's Public Health Code states," said Rob Gifford, executive director of the Michigan Restaurant Association. "In fact, a state statute expressly prohibits local codes, regulations and ordinances from further regulating smoking in restaurants."

FULL TEXT

Industry: RESTAURANTS; TOBACCO

MARQUETTE, Mich., Dec. 1 /PRNewswire/ -- Five Marquette restaurant owners and the Michigan Restaurant Association filed a lawsuit today in Marquette County Circuit Court against the City of Marquette's ban on smoking in restaurants.

The suit charges that the City of Marquette is prohibited by Michigan state laws -- set forth in the Public Health Code -- from enacting more stringent laws than the ones already in the Public Health Code.

In 1997, the City of Marquette enacted amendments to its smoking ordinance which bans all smoking in city restaurants effective Jan. 1, 1999.

"The city's ban clearly goes beyond what Michigan's Public Health Code states," said Rob Gifford, executive director of the Michigan Restaurant Association. "In fact, a state statute expressly prohibits local codes, regulations and ordinances from further regulating smoking in restaurants."

Restaurants are already required by the state's Public Health Code (Section 333.12905 (2)) to make a percentage of their seating capacities available to non-smokers. The code states that a restaurant with less than 50 seats may designate up to 75 percent of its seating (or at most 37 seats) capacity for smokers. A restaurant with more than 50 seats may designate up to half of its seating capacity for smokers.

"Any restaurant owner who wants to can voluntarily provide a totally smoke-free environment for his or her customers. That decision should be left to individual restaurant owners who best know their clientele," Gifford said. "Local municipalities, however, cannot require restaurants to do so, according to state law."

The five restaurants filing the suit include: Team Landmark, Inc.; Market Mountain Food and Beverage; Park Third, Inc.; Starburst Corp., and Office Lounge, Inc.

"We need to make sure that all of our customers -- smokers and non-smokers -- feel welcome to enjoy a meal and relax when they come to our restaurants," said Bob Green, owner of Office Lounge, Inc. "All restaurant owners are already required by the state to have a certain percentage of their restaurant smoke-free by the state. There's no reason for the city to go further."

Marquette's smoking ban and the legal challenge could set a statewide precedent, Gifford said.

"Other cities in Michigan have looked into setting regulations that exceed the state's health code but none have imposed a ban," he said. "That's one of the reasons we're so serious about challenging this ban -- it could have statewide implications." SOURCE Michigan Restaurant Association

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