

HOUSE BILL No. 5087

August 10, 2005, Introduced by Rep. Lemmons, III and referred to the Committee on Commerce.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 12601, 12604, 12604a, 12605, and 12611 (MCL 333.12601, 333.12604, 333.12604a, 333.12605, and 333.12611), section 12601 as amended and section 12604a as added by 1988 PA 315, sections 12604 and 12611 as amended by 1993 PA 217, and section 12605 as amended by 1988 PA 296.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12601. (1) As used in this part:

2 (a) "Child caring institution" and "child care center" mean
3 those terms as defined in section 1 of ~~Act No. 116 of the Public~~
4 ~~Acts of 1973, being section 722.111 of the Michigan Compiled Laws~~
5 1973 PA 116, MCL 722.111.

1 (b) "County medical care facility" means that term as defined
2 in section 20104.

3 (c) "Educational facility" means a building owned, leased, or
4 under the control of a public or private school system, college, or
5 university.

6 (d) "Food service establishment" means ~~a food service~~
7 ~~establishment~~ **THAT TERM** as defined in section ~~12901~~ **1107 OF THE**
8 **FOOD LAW OF 2000, 2000 PA 92, MCL 289.1107.**

9 (e) "Health facility" means a health facility or agency
10 licensed under article 17, except a home for the aged, nursing
11 home, county medical care facility, hospice, or hospital long-term
12 care unit.

13 (f) "Home for the aged" means that term as defined in section
14 20106.

15 (g) "Hospice" means that term as defined in section 20106.

16 (h) "Hospital long-term care unit" means that term as defined
17 in section 20106.

18 (i) "Licensed premises" means any portion of a building,
19 structure, room, or enclosure in which alcoholic liquor may be sold
20 for consumption on the premises pursuant to a license issued by the
21 Michigan liquor control commission.

22 (j) "Meeting" means a meeting as defined in section 2 of the
23 open meetings act, ~~Act No. 267 of the Public Acts of 1976, being~~
24 ~~section 15.262 of the Michigan Compiled Laws~~ **1976 PA 267, MCL**
25 **15.262.**

26 (K) **"MINOR" MEANS AN INDIVIDUAL WHO IS LESS THAN 18 YEARS OF**
27 **AGE.**

1 (l) ~~(k)~~ "Nursing home" means that term as defined in section
2 20109.

3 (m) ~~(l)~~ "Public body" means a public body as defined in
4 section 2 of the open meetings act, ~~Act No. 267 of the Public Acts~~
5 ~~of 1976~~ **1976 PA 267, MCL 15.262.**

6 (n) ~~(m)~~ "Public place", except as otherwise provided in
7 subsection (2), means both of the following:

8 (i) An enclosed, indoor area owned or operated by a state or
9 local governmental agency and used by the general public or serving
10 as a place of work for public employees or a meeting place for a
11 public body, including an office, educational facility, home for
12 the aged, nursing home, county medical care facility, hospice,
13 hospital long-term care unit, auditorium, arena, meeting room, or
14 public conveyance.

15 (ii) An enclosed, indoor area which is not owned or operated
16 by a state or local governmental agency, is used by the general
17 public, and is 1 of the following:

18 (A) An educational facility.

19 (B) A home for the aged, nursing home, county medical care
20 facility, hospice, or hospital long-term care unit.

21 (C) An auditorium.

22 (D) An arena.

23 (E) A theater.

24 (F) A museum.

25 (G) A concert hall.

26 (H) Any other facility during the period of its use for a
27 performance or exhibit of the arts.

1 (0) ~~(n)~~ "Smoking" or "smoke" means the carrying by a person
2 of a lighted cigar, cigarette, pipe, or other lighted smoking
3 device.

4 (2) Public place does not include a private, enclosed room or
5 office occupied exclusively by a smoker, even if the room or
6 enclosed office may be visited by a nonsmoker.

7 (3) In addition, article 1 contains general definitions and
8 principles of construction applicable to all articles of this code.

9 Sec. 12604. (1) An individual shall not smoke in a child
10 caring institution or child care center or on real property that is
11 under the control of a child caring institution or a child care
12 center and upon which the child caring institution or child care
13 center is located, including other related buildings.

14 **(2) AN INDIVIDUAL SHALL NOT SMOKE IN AN ENCLOSED, INDOOR AREA**
15 **IF A MINOR IS PRESENT WITHIN THAT SAME AREA.**

16 (3) ~~(2)~~ An individual who violates ~~this section~~ **SUBSECTION**
17 **(1)** is subject to all the penalties described in section 15 of ~~Act~~
18 ~~No. 116 of the Public Acts of 1973, being section 722.125 of the~~
19 ~~Michigan Compiled Laws~~ **1973 PA 116, MCL 722.125**, except
20 imprisonment.

21 Sec. 12604a. (1) An individual shall not smoke in the common
22 or treatment area of a private practice office of an individual who
23 is licensed under article 15.

24 (2) An individual shall not smoke in a health facility except
25 under 1 or more of the following circumstances:

26 (a) In cases where a prohibition on smoking would be
27 detrimental to the patient's treatment as defined by medical

1 conditions identified by the collective health facility medical
2 staff. Patients who are permitted to smoke under this subdivision
3 shall be placed in a separate room from nonsmoking patients.

4 (b) If a health facility allows smoking, that smoking is
5 allowed only in designated areas that are enclosed and ventilated
6 or otherwise constructed which ensures a smoke free environment in
7 patient care areas and common areas. **A MINOR SHALL BE PROHIBITED**
8 **FROM ENTERING A DESIGNATED AREA.**

9 Sec. 12605. (1) A smoking area may be designated by the state
10 or local governmental agency or the person who owns or operates a
11 public place, except in a public place in which smoking is
12 prohibited by law. If a smoking area is designated, existing
13 physical barriers and ventilation systems shall be used to minimize
14 the toxic effect of smoke in both smoking and adjacent nonsmoking
15 areas **AND MINORS SHALL BE PROHIBITED FROM ENTERING THE DESIGNATED**
16 **AREA.**

17 (2) In the case of a public place consisting of a single room,
18 the state or local governmental agency or the person who owns or
19 operates the single room shall be in compliance with this part if
20 1/2 of the room is reserved and posted as a no smoking area.

21 (3) If smoking is permitted in a public place, the state or
22 local governmental agency or the person who owns or operates the
23 public place shall develop a written policy for the separation of
24 smokers and nonsmokers which provides, at a minimum, for all of the
25 following:

26 (a) Nonsmokers to be located closest to the source of fresh
27 air.

1 (b) Special consideration to be given to individuals with a
2 hypersensitivity to tobacco smoke.

3 (c) A procedure to receive, investigate, and take action on
4 complaints.

5 Sec. 12611. A person who violates section 12603(1), **12604(2)**,
6 or 12604a or a person or state or local governmental agency that
7 owns or operates a public place and that violates section 12605 or
8 12607 shall be directed to comply with this part and is subject to
9 a civil fine of not more than ~~-\$100.00-~~ **\$500.00** for a first
10 violation and not more than ~~-\$500.00-~~ **\$1,000.00** for a second or
11 subsequent violation.