

HOUSE BILL No. 5887

March 12, 2008, Introduced by Reps. Polidori, Hood, Constan, Accavitti, Clack, Vagnozzi, Warren, Robert Jones, Donigan, Wojno, Rick Jones, Stakoe, Brown, Gonzales, Spade, Clemente and Hammel and referred to the Committee on Regulatory Reform.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 12608.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 12608. (1) THIS SECTION PROVIDES REQUIREMENTS THAT ARE
2 DESIGNED TO DIMINISH THE HEALTH RISKS ASSOCIATED WITH HOOKAH USE
3 AND ARE IN ADDITION TO ANY OTHER REQUIREMENT OF FEDERAL, STATE, OR
4 LOCAL LAW, RULE, ORDINANCE, REGULATION, GUIDELINE, OR OTHER LEGAL
5 PRONOUNCEMENT REGARDING THE RETAIL SALE OF CERTAIN TOBACCO
6 PRODUCTS. IF A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO OTHER
7 FEDERAL, STATE, OR LOCAL REGULATORY AUTHORITY, THE DEPARTMENT SHALL
8 NOTIFY THE APPROPRIATE REGULATORY AUTHORITY OF THAT VIOLATION.

1 (2) BEFORE THE EXPIRATION OF 30 DAYS AFTER THE EFFECTIVE DATE
2 OF THIS SECTION, THE DEPARTMENT SHALL DEVELOP THE CONTENT AND FORM
3 OF A LABEL TO BE AFFIXED TO A HOOKAH TOBACCO PRODUCT THAT WARNS OF
4 THE EFFECTS HOOKAH TOBACCO USE HAS ON AN INDIVIDUAL'S HEALTH. ON
5 AND AFTER THE EXPIRATION OF 30 DAYS AFTER THE EFFECTIVE DATE OF
6 THIS SECTION, A PERSON WHO POSSESSES HOOKAH TOBACCO FOR RETAIL SALE
7 SHALL AFFIX TO EACH PRODUCT THAT CONTAINS ANY DETECTABLE QUANTITY
8 OF HOOKAH TOBACCO THE WARNING LABEL DEVELOPED BY THE DEPARTMENT
9 UNDER THIS SUBSECTION.

10 (3) THE OWNER, OPERATOR, MANAGER, OR PERSON HAVING CONTROL OF
11 A FOOD SERVICE ESTABLISHMENT OR A BAR THAT OFFERS ITS PATRONS THE
12 OPPORTUNITY TO PURCHASE HOOKAH TOBACCO AND SMOKE THAT TOBACCO IN A
13 HOOKAH ON ITS PREMISES SHALL DIMINISH THE HEALTH RISKS ASSOCIATED
14 WITH HOOKAH USE BY DOING ALL OF THE FOLLOWING:

15 (A) PROVIDING INFORMATION, EDUCATION, AND TRAINING TO ITS
16 EMPLOYEES REGARDING THE PROVISIONS OF THIS SECTION AND OTHER
17 FEDERAL, STATE, OR LOCAL LAWS, RULES, ORDINANCES, REGULATIONS,
18 GUIDELINES, AND OTHER LEGAL PRONOUNCEMENTS REGARDING THE SALE,
19 TAXATION, STORAGE, OR HANDLING OF TOBACCO PRODUCTS, INCLUDING, BUT
20 NOT LIMITED TO, THE PROHIBITION ON THE SALE OF TOBACCO PRODUCTS TO
21 MINORS. IF AVAILABLE, THE OWNER, OPERATOR, MANAGER, OR PERSON
22 HAVING CONTROL OF THE FOOD SERVICE ESTABLISHMENT OR BAR MAY UTILIZE
23 INFORMATION PROVIDED ON THE DEPARTMENT'S WEBSITE TO PROVIDE THE
24 INFORMATION, EDUCATION, AND TRAINING REQUIRED UNDER THIS
25 SUBDIVISION.

26 (B) PROVIDING FOR THE THOROUGH AND COMPLETE CLEANING AND
27 SANITATION OF EACH HOOKAH BEFORE EACH USE BY A PATRON ON ITS

1 PREMISES. CLEANING AND SANITATION INCLUDE, BUT ARE NOT LIMITED TO,
2 REMOVING THE WATER, SANITIZING ALL INTERNAL AREAS OF THE HOOKAH
3 BODY AND BOWL, AND PROVIDING A STERILE, SINGLE-USE PLASTIC
4 MOUTHPIECE AND HOSE.

5 (4) A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A
6 STATE CIVIL INFRACTION AS PROVIDED UNDER CHAPTER 88 OF THE REVISED
7 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.8801 TO 600.8835, AND
8 MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$100.00 FOR
9 EACH VIOLATION.

10 (5) AS USED IN THIS SECTION:

11 (A) "BAR" MEANS AN ESTABLISHMENT THAT OPERATES UNDER AN ON-
12 PREMISES LICENSE ISSUED UNDER THE MICHIGAN LIQUOR CONTROL CODE OF
13 1998, 1998 PA 58, MCL 436.1101 TO 436.2303.

14 (B) "FOOD SERVICE ESTABLISHMENT" MEANS A FOOD SERVICE
15 ESTABLISHMENT THAT IS SUBJECT TO SECTION 12905.

16 (C) "HOOKAH" MEANS A TOBACCO PIPE IN WHICH THE SMOKE IS DRAWN
17 THROUGH WATER BEFORE REACHING THE LIPS AND INCLUDES A NARGHILE OR
18 OTHER SIMILAR INSTRUMENT.

19 (D) "HOOKAH TOBACCO" MEANS A NONCIGARETTE SMOKING TOBACCO THAT
20 IS SMOKED USING A HOOKAH, WHICH TOBACCO MAY BE FLAVORED OR
21 SWEETENED.

22 (E) "NONCIGARETTE SMOKING TOBACCO" MEANS THAT TERM AS DEFINED
23 IN SECTION 2 OF THE TOBACCO PRODUCTS TAX ACT, 1993 PA 327, MCL
24 205.422.

25 (F) "TOBACCO PRODUCT" MEANS A PRODUCT THAT CONTAINS TOBACCO
26 AND IS INTENDED FOR HUMAN CONSUMPTION, INCLUDING, BUT NOT LIMITED
27 TO, A CIGARETTE, NONCIGARETTE SMOKING TOBACCO, OR SMOKELESS

1 TOBACCO, AS THOSE TERMS ARE DEFINED IN SECTION 2 OF THE TOBACCO
2 PRODUCTS TAX ACT, 1993 PA 327, MCL 205.422, AND CIGARS.