

SENATE BILL No. 486

October 14, 1981, Introduced by Senators FAXON, GEAKE, GEO. HART, FAUST, J. HART, VAUGHN, MONSMA, ROSS, DE SANA, VANDER LAAN, SEDERBURG, CORBIN, HERTEL and BISHOP and referred to the Committee on Labor and Retirement.

A bill to amend Act No. 368 of the Public Acts of 1978, entitled "Public health code," as amended, being sections 333.1101 to 333.25211 of the Compiled Laws of 1970, by adding part 126.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 368 of the Public Acts of 1978, as
2 amended, being sections 333.1101 to 333.25211 of the Compiled
3 Laws of 1970, is amended by adding part 126 to read as follows:

PART 126. SMOKING IN PUBLIC PLACES

4 SEC. 12601. AS USED IN THIS PART:

5 (A) "BAR" MEANS A BAR AS DEFINED IN SECTION 2A OF ACT NO. 8
6 OF THE PUBLIC ACTS OF THE EXTRA SESSION OF 1933, BEING SECTION
7 436.2A OF THE MICHIGAN COMPILED LAWS.
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1 (B) "EDUCATIONAL FACILITY" MEANS A BUILDING OWNED, LEASED,
2 OR UNDER THE CONTROL OF A PUBLIC SCHOOL SYSTEM, COLLEGE, OR
3 UNIVERSITY OR A PRIVATE SCHOOL, COLLEGE, OR UNIVERSITY AND USED
4 FOR EDUCATIONAL ACTIVITIES APPROVED BY THE DEPARTMENT OF EDUCA-
5 TION WHICH ACTIVITIES ARE NOT INCIDENTAL TO OTHER ACTIVITIES CON-
6 DUCTED IN THE BUILDING.

7 (C) "HEALTH FACILITY" MEANS A HEALTH FACILITY AS DEFINED IN
8 SECTION 20106 OF ACT NO. 368 OF THE PUBLIC ACTS OF 1978, AS
9 AMENDED, BEING SECTION 333.20106 OF THE MICHIGAN COMPILED LAWS.

10 (D) "MEETING" MEANS A MEETING AS DEFINED IN SECTION 2 OF ACT
11 NO. 267 OF THE PUBLIC ACTS OF 1976, BEING SECTION 15.262 OF THE
12 MICHIGAN COMPILED LAWS.

13 (E) "PUBLIC BODY" MEANS A PUBLIC BODY AS DEFINED IN SECTION
14 2 OF ACT NO. 267 OF THE PUBLIC ACTS OF 1976.

15 (F) "PUBLIC PLACE" MEANS AN ENCLOSED, INDOOR AREA USED BY
16 THE GENERAL PUBLIC OR SERVING AS A PLACE OF WORK OR A MEETING
17 PLACE FOR A PUBLIC BODY, INCLUDING A RESTAURANT, RETAIL STORE,
18 OFFICE, COMMERCIAL ESTABLISHMENT, EDUCATIONAL FACILITY, HEALTH
19 FACILITY, AUDITORIUM, ARENA, MEETING ROOM, OR PUBLIC CONVEYANCE.
20 PUBLIC PLACE DOES NOT INCLUDE A PRIVATE, ENCLOSED OFFICE OCCUPIED
21 EXCLUSIVELY BY A SMOKER, EVEN IF THE OFFICE MAY BE VISITED BY A
22 NONSMOKER.

23 (G) "SMOKING" MEANS THE CARRYING BY A PERSON OF A LIGHTED
24 CIGAR, CIGARETTE, PIPE, OR OTHER LIGHTED SMOKING EQUIPMENT.

25 SEC. 12603. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS
26 SECTION, A PERSON SHALL NOT SMOKE IN A PUBLIC PLACE OR AT A
27 MEETING OF A PUBLIC BODY, EXCEPT IN A DESIGNATED SMOKING AREA.

1 (2) THIS SECTION SHALL NOT APPLY TO A MEETING ROOM, HALL, OR
2 BUILDING USED FOR A PRIVATE SOCIAL FUNCTION WHEN THE SEATING
3 ARRANGEMENTS ARE UNDER THE CONTROL OF THE SPONSOR OF THE FUNCTION
4 AND NOT UNDER THE CONTROL OF THE PROPRIETOR OR OTHER PERSON IN
5 CHARGE OF THE MEETING ROOM, HALL, OR BUILDING.

6 (3) THIS SECTION SHALL NOT APPLY TO A FACTORY, WAREHOUSE, OR
7 OTHER SIMILAR PLACE OF WORK NOT USUALLY FREQUENTED BY THE GENERAL
8 PUBLIC.

9 (4) THE DIRECTOR OF THE DEPARTMENT OF LABOR, IN CONSULTATION
10 WITH THE DEPARTMENT OF PUBLIC HEALTH, SHALL PROMULGATE RULES PUR-
11 SUANT TO ACT NO. 306 OF THE PUBLIC ACTS OF 1969, AS AMENDED,
12 BEING SECTIONS 24.207 TO 24.315 OF THE MICHIGAN COMPILED LAWS, TO
13 RESTRICT OR PROHIBIT SMOKING IN THOSE PLACES OF WORK DESCRIBED IN
14 SUBSECTION (3) IF THE CLOSE PROXIMITY OF WORKERS OR THE INADE-
15 QUACY OF VENTILATION CAUSES SMOKE POLLUTION WHICH IS DETRIMENTAL
16 TO THE HEALTH AND COMFORT OF NONSMOKING EMPLOYEES.

17 SEC. 12605. (1) A SMOKING AREA MAY BE DESIGNATED BY A PRO-
18 PRIETOR OR OTHER PERSON IN CHARGE OF A PUBLIC PLACE, EXCEPT IN A
19 PUBLIC PLACE IN WHICH SMOKING IS PROHIBITED BY LAW. IF A SMOKING
20 AREA IS DESIGNATED, EXISTING PHYSICAL BARRIERS AND VENTILATION
21 SYSTEMS SHALL BE USED TO MINIMIZE THE TOXIC EFFECT OF SMOKE IN
22 ADJACENT NONSMOKING AREAS. IN THE CASE OF A PUBLIC PLACE CON-
23 SISTING OF A SINGLE ROOM, THE PROPRIETOR OR OTHER PERSON IN
24 CHARGE OF THE SINGLE ROOM SHALL BE IN COMPLIANCE WITH THIS ACT IF--
25 / SIDE OF THE ROOM IS RESERVED AND POSTED AS A NO SMOKING AREA.

26 (2) A BAR MAY BE POSTED AS A SMOKING AREA IN ITS ENTIRETY.
27 IF A BAR IS POSTED AS A SMOKING AREA IN ITS ENTIRETY, THE

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1 PROPRIETOR OR OTHER PERSON IN CHARGE OF THE BAR SHALL POST NOTICE
2 OF THAT FACT ON ALL ENTRANCES USED BY THE PUBLIC.

3 SEC. 12607. THE PROPRIETOR OR OTHER PERSON IN CHARGE OF A
4 PUBLIC PLACE SHALL DO ALL OF THE FOLLOWING IN ORDER TO PREVENT
5 SMOKING:

6 (A) POST SIGNS WHICH STATE THAT SMOKING IN THAT PUBLIC PLACE
7 IS PROHIBITED EXCEPT IN DESIGNATED SMOKING AREAS, PURSUANT TO
8 THIS ACT.

9 (B) ARRANGE SEATING TO PROVIDE A SMOKE-FREE AREA.

10 (C) UPON REQUEST OF A PATRON, CLIENT, CUSTOMER, EMPLOYEE, OR
11 OTHER PERSON LAWFULLY ON THE PREMISES WHO IS SUFFERING DISCOMFORT
12 FROM SMOKE, ASK A SMOKER IN THE PUBLIC PLACE TO REFRAIN FROM
13 SMOKING.

14 SEC. 12609. THE STATE DIRECTOR OF PUBLIC HEALTH SHALL
15 PROMULGATE RULES PURSUANT TO ACT NO. 306 OF THE PUBLIC ACTS OF
16 1969, AS AMENDED, TO IMPLEMENT THIS PART.

17 SEC. 12611. THE DEPARTMENT OF PUBLIC HEALTH MAY PERMIT A
18 WAIVER OF THIS PART UPON WRITTEN APPLICATION FROM A PROPRIETOR OR
19 OTHER PERSON IN CHARGE OF A PUBLIC PLACE STATING THE GROUNDS FOR
20 A WAIVER. THE DEPARTMENT OF PUBLIC HEALTH MAY REQUEST ANY OTHER
21 INFORMATION IT CONSIDERS NECESSARY TO DETERMINE THE MERITS OF THE
22 WAIVER APPLICATION.

23 SEC. 12613. A PERSON WHO VIOLATES THIS PART IS GUILTY OF A
24 MISDEMEANOR, PUNISHABLE BY A FINE OF NOT LESS THAN \$25.00 OR MORE
25 THAN \$500.00, OR BY IMPRISONMENT FOR NOT MORE THAN 30 DAYS.

26 SEC. 12615. (1) THE DIRECTOR OF PUBLIC HEALTH MAY ENFORCE
27 THIS PART AND RULES PROMULGATED UNDER THIS PART THROUGH AN ACTION

1 COMMENCED PURSUANT TO SECTION 2255 OR ANY OTHER APPROPRIATE
2 ACTION AUTHORIZED BY LAW.

3 (2) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION AUTHORIZED
4 BY LAW, A PERSON ALLEGING A VIOLATION OF THIS ACT MAY BRING A
5 CIVIL ACTION FOR APPROPRIATE INJUNCTIVE RELIEF OR DAMAGES, OR
6 BOTH. AS USED IN THIS SUBSECTION, "DAMAGES" MEANS COMPENSATION
7 FOR INJURY OR LOSS CAUSED BY EACH VIOLATION OF THIS PART, INCLUD-
8 ING REASONABLE ATTORNEY'S FEES.

9 (3) A COURT, IN RENDERING A JUDGMENT IN AN ACTION BROUGHT
10 PURSUANT TO THIS PART, MAY AWARD ALL OR A PORTION OF THE COSTS OF
11 THE ACTION, INCLUDING REASONABLE ATTORNEY'S FEES, TO THE COM-
12 PLAINANT IN THE ACTION IF THE COURT DETERMINES THAT THE AWARD IS
13 APPROPRIATE.

14 (4) THE REMEDIES UNDER THIS PART ARE INDEPENDENT AND
15 CUMULATIVE. THE USE OF 1 REMEDY BY A PERSON SHALL NOT BAR THE
16 USE OF OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A
17 LAWFUL REMEDY BY ANOTHER PERSON.

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