

(Rec'd. 3.3.83)

Action TAN Request

Tobacco Action Network, 1875 Eye Street, N.W., Washington, D.C. 20006 800-424-9876

March 1, 1983

W-O.K. to Jack Kelly
JRC
3.3.83
OK to Claudette
3/3/83 ml

MEMORANDUM

TO: Mr. W. E. Ainsworth, Jr. Mr. Stanley S. Scott
James R. Cherry, Esquire J. Kendrick Wells, Esquire
Mr. Steven C. Cohen

FROM: Jack Kelly *JK*

RE: TAN Mobilization in the State of Michigan -- SB 22

BACKGROUND

On February 1, 1983, Senator Jack Faxon (D-Detroit) introduced Senate Bill 22, a watered-down version of his 1982 "Clean Indoor Air Act" (SB 486), period. As with SB 948, this bill exempts "licensed premises" (liquor) and restaurants and reduces the penalty to \$25, which was tabled by the Senate Labor Committee in February, 1982. SB 22 is also an exact duplicate of SB 948, which was introduced in September of 1982 and was never considered by the Senate Environmental and Agricultural Committee.

SB 22 was referred to the Senate Committee on Health and Social Services, the third committee in a year to consider Senator Faxon's smoking restriction bill.

STATUS

No hearings are scheduled by the Committee on Health and Social Services as of yet. We must prepare now for an anticipated public hearing.

ACTION REQUESTED

At the request of the local legislative counsel, your approval is sought for the following:

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We would request Michigan TAN activists to sign, carry, distribute and solicit signatures for a petition (Exhibit B) opposing SB 22. The program would run for eight weeks.

Petitions will be mailed to TAN activists and given to Company Representatives for distribution. At the completion of the petition program, the signed petitions will be held for presentation at the anticipated public hearing(s).

A sample of the letter to be sent to each activist is attached (Exhibit C). These activities should not be performed on company time.

After review of the Michigan lobbying law, Covington & Burling has advised that this request does not require registration or reporting on the part of TAN volunteers.

If you have any questions regarding this action request, please call Bob Hanrahan.

/mb

Attachments

cc: Mr. Larry Bewley	Ernest Pepples, Esquire
James T. Breedlove, Esquire	Mr. Shepard P. Pollack
Mr. Samuel Chilcote, Jr.	J. Bernard Robinson, Esquire
Mr. K.v.R. Dey, Jr.	John P. Rupp, Esquire
Mr. Hugh W. Foley	Mr. Robert P. Hanrahan
Mr. William A. O'Flaherty	Mr. Richard Seely
Mr. Raymond A. Oliverio	Michael R. Spaniolo, Esquire

03668955

MICHAEL R. SPANILO
ATTORNEY AND COUNSELOR AT LAW
3833 Waverly Hills Rd.
Lansing, Michigan 48917
Phone 517-372-2323

SENATE BILL No. 22

February 1, 1983, Introduced by Senator FAXON and referred to the
Committee on Health and Social Services.

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 Michigan
Compiled Laws, 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 Michigan
3 Compiled Laws, is amended by adding part 126 to read as follows:

PART 126. SMOKING IN PUBLIC PLACES

5 SEC. 12601. (1) AS USED IN THIS PART:

6 (A) "EDUCATIONAL FACILITY" MEANS A BUILDING OWNED, LEASED,
7 OR UNDER THE CONTROL OF A PUBLIC SCHOOL SYSTEM, COLLEGE, OR
8 UNIVERSITY OR A PRIVATE SCHOOL, COLLEGE, OR UNIVERSITY AND USED
9 FOR EDUCATIONAL ACTIVITIES APPROVED BY THE DEPARTMENT OF

1 EDUCATION OR THE GOVERNING BOARD OF THE COLLEGE OR UNIVERSITY
2 WHICH ACTIVITIES ARE NOT INCIDENTAL TO OTHER ACTIVITIES CONDUCTED
3 IN THE BUILDING.

4 (B) "FOOD SERVICE ESTABLISHMENT" MEANS A FOOD SERVICE ESTAB-
5 LISHMENT AS DEFINED IN SECTION 12901.

6 (C) "HEALTH FACILITY" MEANS A HEALTH FACILITY AS DEFINED IN
7 SECTION 20106.

8 (D) "LICENSED PREMISES" MEANS ANY PORTION OF A BUILDING,
9 STRUCTURE, ROOM, OR ENCLOSURE LOCATED ON REAL ESTATE WHICH IS
10 OWNED, LEASED, USED, CONTROLLED, OR OPERATED BY A LICENSEE AUTHO-
11 RIZED BY THE MICHIGAN LIQUOR CONTROL COMMISSION TO SELL ALCOHOLIC
12 LIQUOR FOR CONSUMPTION ON THE PREMISES.

13 (E) "MEETING" MEANS A MEETING AS DEFINED IN SECTION 2 OF THE
14 OPEN MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF 1976, BEING
15 SECTION 15.262 OF THE MICHIGAN COMPILED LAWS.

16 (F) "PUBLIC BODY" MEANS A PUBLIC BODY AS DEFINED IN SECTION
17 2 OF THE OPEN MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF
18 1976.

19 (G) "PUBLIC PLACE" MEANS AN ENCLOSED, INDOOR AREA USED BY
20 THE GENERAL PUBLIC OR SERVING AS A PLACE OF WORK OR A MEETING
21 PLACE FOR A PUBLIC BODY, INCLUDING A RETAIL STORE, OFFICE, COM-
22 Mercial ESTABLISHMENT, EDUCATIONAL FACILITY, HEALTH FACILITY,
23 AUDITORIUM, ARENA, MEETING ROOM, OR PUBLIC CONVEYANCE. PUBLIC
24 PLACE DOES NOT INCLUDE A PRIVATE, ENCLOSED OFFICE OCCUPIED EXCLU-
25 SIVELY BY A SMOKER, EVEN IF THE OFFICE MAY BE VISITED BY A
26 NONSMOKER.

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1 (B) "SMOKING" MEANS THE CARRYING BY A PERSON OF A LIGHTED
2 CIGAR, CIGARETTE, PIPE, OR OTHER LIGHTED SMOKING DEVICE.

3 (2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND
4 PRINCIPLES OF CONSTRUCTION APPLICABLE TO ALL ARTICLES OF THIS
5 CODE.

6 SEC. 12603. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART
7 OR IN RULES PROMULGATED UNDER THIS PART, A PERSON SHALL NOT SMOKE
8 IN A PUBLIC PLACE OR AT A MEETING OF A PUBLIC BODY, EXCEPT IN A
9 DESIGNATED SMOKING AREA.

10 (2) THIS SECTION SHALL NOT APPLY TO A MEETING ROOM, HALL, OR
11 BUILDING USED FOR A PRIVATE SOCIAL FUNCTION IF THE SEATING
12 ARRANGEMENTS ARE UNDER THE CONTROL OF THE SPONSOR OF THE FUNCTION
13 AND NOT UNDER THE CONTROL OF THE PROPRIETOR OR OTHER PERSON IN
14 CHARGE OF THE MEETING ROOM, HALL, OR BUILDING.

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

18 (4) THE DEPARTMENT MAY PROMULGATE RULES TO RESTRICT SMOKING
19 IN THOSE PLACES OF WORK DESCRIBED IN SUBSECTION (3) IF THERE IS
20 SMOKE POLLUTION IN THE PLACE OF WORK WHICH POSES AN IMMINENT
21 DANGER TO THE HEALTH OF NONSMOKING EMPLOYEES.

22 (5) THIS SECTION SHALL NOT APPLY TO A FOOD SERVICE ESTAB-
23 LISHMENT OR TO LICENSED PREMISES.

24 SEC. 12605. A SMOKING AREA MAY BE DESIGNATED BY A PROPRI-
25 ETOR OR OTHER PERSON IN CHARGE OF A PUBLIC PLACE, EXCEPT IN A
26 PUBLIC PLACE IN WHICH SMOKING IS PROHIBITED BY LAW. IF A SMOKING
27 AREA IS DESIGNATED, EXISTING PHYSICAL BARRIERS AND VENTILATION

1 SYSTEMS SHALL BE USED TO MINIMIZE THE TOXIC EFFECT OF SMOKE IN
2 ADJACENT NONSMOKING AREAS. IN THE CASE OF A PUBLIC PLACE CON-
3 SISTING OF A SINGLE ROOM, THE PROPRIETOR OR OTHER PERSON IN
4 CHARGE OF THE SINGLE ROOM SHALL BE IN COMPLIANCE WITH THIS ACT IF
5 1/2 OF THE ROOM IS RESERVED AND POSTED AS A NO SMOKING AREA.

6 SEC. 12607. THE PROPRIETOR OR OTHER PERSON IN CHARGE OF A
7 PUBLIC PLACE SHALL DO ALL OF THE FOLLOWING IN ORDER TO PREVENT
8 SMOKING:

9 (A) POST SIGNS WHICH STATE THAT SMOKING IN THAT PUBLIC PLACE
10 IS PROHIBITED EXCEPT IN DESIGNATED SMOKING AREAS, PURSUANT TO
11 THIS ACT.

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

13 SEC. 12609. THE DEPARTMENT MAY PROMULGATE RULES TO IMPLI-
14 MENT THIS PART.

15 SEC. 12611. THE DEPARTMENT MAY PERMIT A WAIVER OF THIS PART
16 UPON WRITTEN APPLICATION FROM A PROPRIETOR OR OTHER PERSON IN
17 CHARGE OF A PUBLIC PLACE STATING THE GROUNDS FOR A WAIVER, IF THE
18 DEPARTMENT DETERMINES THAT THE WAIVER WILL NOT ADVERSELY AFFECT
19 PUBLIC HEALTH. THE DEPARTMENT MAY REQUEST ANY OTHER INFORMATION
20 IT CONSIDERS NECESSARY TO DETERMINE THE MERITS OF THE WAIVER
21 APPLICATION.

22 SEC. 12613. A PERSON WHO VIOLATES THIS PART IS RESPONSIBLE
23 FOR A CIVIL INFRACTION, SUBJECT TO A CIVIL FINE OF NOT MORE THAN
24 \$25.00.

25 SEC. 12615. (1) THE DEPARTMENT OR A LOCAL HEALTH DEPARTMENT
26 MAY ENFORCE THIS PART AND RULES PROMULGATED UNDER THIS PART

1 THROUGH AN ACTION COMMENCED PURSUANT TO SECTION 2255 OR SECTION
2 2465 OR ANY OTHER APPROPRIATE ACTION AUTHORIZED BY LAW.

3 (2) IN ADDITION TO ANY OTHER ENFORCEMENT ACTION AUTHORIZED
4 BY LAW, A PERSON ALLEGING A VIOLATION OF THIS PART MAY BRING A
5 CIVIL ACTION FOR APPROPRIATE INJUNCTIVE RELIEF.

6 (3) THE REMEDIES UNDER THIS PART ARE INDEPENDENT AND
7 CUMULATIVE. THE USE OF 1 REMEDY BY A PERSON SHALL NOT BAR THE
8 USE OF OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A
9 LAWFUL REMEDY BY ANOTHER PERSON.

10 SEC. 12617. NOTHING IN THIS PART SHALL BE CONSTRUED TO
11 SUPERSEDE THE REQUIREMENTS FOR A POLICY REGULATING THE SMOKING OF
12 TOBACCO ON THE PREMISES OF A HOSPITAL OR NURSING HOME CONTAINED
13 IN SECTIONS 21531 AND 21733, OR THE REQUIREMENTS FOR A FOOD SERV-
14 ICE ESTABLISHMENT CONTAINED IN SECTION 12905.

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We, the undersigned, firmly believe that those issues that can be handled through mutual courtesy and respect are not issues to be handled by government intervention.

Historically, differences of opinion regarding personal practices such as smoking of tobacco products in public places, have been best handled through courtesy and mutual respect.

Government regulation and control of such relationships is unnecessary and unwise.

Therefore, we oppose Senate Bill 22 and ask our elected officials to do the same.

	<u>Name</u>	<u>Address</u>	<u>City</u>	<u>Zip</u>
1.	_____	_____	_____	_____
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20.	_____	_____	_____	_____

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TAN ACTIVIST LETTER

Dear _____:

Senator Jack Faxon has again introduced his "Michigan Clean Indoor Air Act" which will be referred to this session as SB 22.

SB 22 has been assigned to the Senate Committee on Health and Social Services. This is the third committee in a year to consider Senator Faxon's bill. Obviously he feels strongly enough about it to press the issue with anyone or any committee that will listen. Simply because we have all been successful in defeating this legislation in the past does not mean we can rest on our laurels now.

The Lung Association and other groups are vigorously working to help enact this legislation. We must rise to the occasion and declare "enough is enough," so that not only the Committee on Health and Social Services, but the full Senate understands our position and realizes that bills such as SB 22 have no place in Michigan law.

If you agree that this legislation is unnecessary and unjust, you will find attached a small supply of petitions opposing SB 22 for you to circulate. Upon completion of all the petitions, they will be presented to the members of the Committee on Health and Social Services at the anticipated public hearing(s).

Completed petitions should be forwarded to the TAN office in Lansing as soon as finished. Blank petitions can be obtained by telephoning the TAN office collect, at 517-372-2007. This program will only run until _____.

Thank you for your valuable support.

Best regards,

Richard P. Seely
Michigan Area Director

/mb
Enclosure

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RECEIVED
MAR 3 1983
D. R. CHERRY, JR.

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