

HOUSE BILL No. 4940

June 11, 1991, Introduced by Reps. Bennett and Pitoniak and referred to the Committee on Public Health.

A bill to amend sections 12601, 12611, and 12613 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," as amended by Act No. 315 of the Public Acts of 1988, being sections 333.12601, 333.12611, and 333.12613 of the Michigan Compiled Laws; and to add section 12604b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 12601, 12611, and 12613 of Act No. 368
2 of the Public Acts of 1978, as amended by Act No. 315 of the
3 Public Acts of 1988, being sections 333.12601, 333.12611, and
4 333.12613 of the Michigan Compiled Laws, are amended and section
5 12604b is added to read as follows:

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

7 (a) "Child caring institution" and "child care center" mean
8 those terms as defined in section 1 of Act No. 116 of the Public

1 Acts of 1973, being section 722.111 of the Michigan Compiled
2 Laws.

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

5 (c) "Educational facility" means a building owned, leased,
6 or under the control of a public or private school OR SCHOOL
7 system, college, or university, EXCEPT A SCHOOL BUILDING AS
8 DEFINED IN SUBDIVISION (N).

9 (d) "Food service establishment" means ~~a food service~~
10 ~~establishment~~ THAT TERM as defined in section 12901.

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

15 (f) "Home for the aged" means that term as defined in sec-
16 tion 20106.

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

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

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

24 (j) "Meeting" means ~~a meeting~~ THAT TERM as defined in sec-
25 tion 2 of the open meetings act, Act No. 267 of the Public Acts
26 of 1976, being section 15.262 of the Michigan Compiled Laws.

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

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

6 (m) "Public place", except as otherwise provided in subsec-
7 tion (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 serv-
10 ing as a place of work for public employees or a meeting place
11 for a public body, including an office, educational facility,
12 home for the aged, nursing home, county medical care facility,
13 hospice, hospital long-term care unit, auditorium, arena, meeting
14 room, or public conveyance.

15 (ii) An enclosed, indoor area ~~which~~ THAT is not owned or
16 operated by a state or local governmental agency, is used by the
17 general 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 (N) "SCHOOL BUILDING" MEANS A BUILDING THAT IS OWNED,
2 LEASED, OR UNDER THE CONTROL OF A PUBLIC SCHOOL OR SCHOOL SYSTEM
3 IN WHICH 1 OR MORE OF THE GRADES KINDERGARTEN TO 12 ARE TAUGHT.

4 (O) ~~(n)~~ "Smoking" or "smoke" means the carrying by a
5 person of a lighted cigar, cigarette, pipe, or other lighted
6 smoking device.

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

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

13 SEC. 12604B. AN INDIVIDUAL SHALL NOT SMOKE IN A SCHOOL
14 BUILDING OR ON THE REAL PROPERTY UPON WHICH THE SCHOOL BUILDING
15 IS LOCATED, INCLUDING RELATED BUILDINGS, IF THE REAL PROPERTY IS
16 OWNED, LEASED, OR OTHERWISE CONTROLLED BY THE SCHOOL OR SCHOOL
17 SYSTEM.

18 Sec. 12611. A person who violates section 12603(1), 12604,
19 ~~or~~ 12604a, OR 12604B or a person or state or local governmental
20 agency ~~—~~ that owns or operates a public place and that violates
21 section 12605 or 12607 ~~shall be directed to comply with this~~
22 ~~part and shall be~~ IS subject to a civil fine of not more than
23 \$100.00 for a first violation and not more than \$500.00 for a
24 second or subsequent violation.

25 Sec. 12613. (1) Subject to subsection (2), the department
26 shall enforce this part and rules promulgated under this part
27 pursuant to sections 2262(2) and 2263. In addition to the civil

1 fine authorized under section 12611, the department may enforce
2 this part and the rules promulgated under this part through an
3 action commenced pursuant to section 2255 or any other appropri-
4 ate action authorized by law.

5 (2) Pursuant to section 2235, the department may authorize a
6 local health department to enforce this part and the rules
7 promulgated under this part. A local health department autho-
8 rized to enforce this part and the rules promulgated under this
9 part shall enforce this part and the rules promulgated under this
10 part pursuant to sections 2461(2) and 2462. In addition to the
11 civil fine authorized under section 12611, a local health depart-
12 ment may enforce this part and the rules promulgated under this
13 part through an action commenced pursuant to section 2465 or any
14 other appropriate action authorized by law.

15 (3) In addition to any other enforcement action authorized
16 by law, a person alleging a violation of this part may bring a
17 civil action for appropriate injunctive relief ~~—~~ if the person
18 has used the public place, child caring institution, child care
19 center, health facility, ~~or~~ private practice office of an indi-
20 vidual who is licensed under article 15, OR SCHOOL BUILDING
21 within THE 60 days ~~after~~ IMMEDIATELY PRECEDING THE DATE the
22 civil action is filed.

23 (4) The remedies under this part are independent and
24 cumulative. The use of 1 remedy by a person ~~shall~~ DOES not bar
25 the use of other lawful remedies by that person or the use of a
26 lawful remedy by another person.