



**House
Legislative
Analysis
Section**

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CHILD CARE: NO SMOKING

House Bill 4687 as introduced
First Analysis (6-16-93)

Sponsor: Rep. John Jamian
Committee: Public Health

THE APPARENT PROBLEM:

The hazards of exposure to cigarette smoke, including through "passive smoking" or exposure to another's smoking, are becoming increasingly well-documented. Of particular concern is the danger to children's health posed by exposure to tobacco smoke. In a report issued in December 1992, the U.S. Environmental Protection Agency (EPA) named environmental tobacco smoke (ETS) a Group A carcinogen under its carcinogen assessment guidelines. This classification is reserved for those compounds or mixtures which have been shown to cause cancer in humans, based on studies in human populations. For example, Group A carcinogens include asbestos and radon. The report also noted that exposure to tobacco smoke puts children at increased risk of bronchitis, pneumonia, and asthma; is linked to middle ear problems, upper respiratory tract irritation, and a small but significant reduction in lung function; and, causes additional episodes and increased severity of symptoms in children with asthma.

Even before the EPA issued its report, the legislature responded to growing concerns about smoking and children's health by prohibiting smoking in child care centers not located in private or public school buildings and by restricting smoking to separate, enclosed areas in child care centers that were located in school buildings and in child caring institutions. Legislation has been introduced to strengthen the existing prohibitions against smoking in child care facilities.

THE CONTENT OF THE BILL:

Public Act 178 of 1991 (enrolled House Bill 5154) amended the Public Health Code to prohibit smoking in child care institutions and child care centers not located in public or private school buildings, and to restrict smoking in those located in school buildings except in designated smoking areas.

(Child care institutions are facilities organized for child care on a 24-hour basis, such as institutions for mentally retarded or emotionally disturbed children. Child care centers are facilities, other than private residences, that provide child care for periods of less than 24 hours a day.) The bill would amend the health code to prohibit entirely any smoking in child care centers, effectively doing away with designated smoking areas in any of these centers. The bill also would make violators subject to the same penalties as those for violations of the child care licensing act (Public Act 116 of 1973), which include misdemeanor fines (of between \$100 and \$1,000) and imprisonment (for up to 90 days), as well as license revocations and denials.

The bill is tie-barred to House Bill 4688, which is one of a package of three bills (HB 4688, HB 4689, and HB 4690) which would amend the child care licensing act to prohibit or restrict smoking in facilities or homes that provided child care.

MCL 333.12604 and 333.12611

BACKGROUND INFORMATION:

According to the EPA report, every year between 150,000 and 300,000 infants and children up to 18 months old have respiratory tract infections attributable to exposure to environmental tobacco smoke (ETS), of which between 7,500 and 15,000 will result in hospitalization. The EPA report also estimates that 200,000 to 1,000,000 asthmatic children have their condition worsened by exposure to ETS.

FISCAL IMPLICATIONS:

According to the Department of Public Health, the bill would have no fiscal implications for the state. (5-14-93)

ARGUMENTS:**For:**

Exposure to tobacco smoke increases the likelihood of bronchitis and pneumonia in young children, impairs lung function in children of all ages, increases the frequency and severity of childhood asthma, and irritates the upper respiratory tract. Exposure to tobacco smoke has also been linked with increased frequency and duration of childhood ear infections, which in turn can lead to the need for surgically-inserted tubes into the ears, or, if left untreated, to hearing loss. Less certain, but still troubling, are suggestions of links to Sudden Infant Death Syndrome (SIDS), and behavioral and educational problems.

While the Public Health Code now prohibits smoking in private child care centers and restricts smoking to certain designated areas in school-based child care facilities and around-the-clock child care institutions, these provisions do not adequately protect children from the hazardous effects of second-hand smoke. Even when smoking occurs only in specially designated areas ("located in a private, enclosed room or office that is both physically and visually separate from the common areas and general child care areas"), ventilation systems circulate contaminated air throughout the building. Children whose care is provided in school buildings should have the same protections from hazardous tobacco smoke as children cared for in other settings, and all children in all child care settings should be completely free from exposure to this hazard. The bill would entirely prohibit, not just restrict, smoking, in all child care centers and institutions, closing an important loophole in existing law.

For:

The restrictions placed in the Public Health Code have been relatively mild (an administrative fine of not more than \$100 for a first offense and not more than \$500 for a second offense) and have lacked adequate enforcement. Child care facilities are inspected and regulated by the Department of Social Services (DSS) under the child care licensing act (Public Act 116 of 1973). Licensing inspectors do not have the authority to enforce the Public Health Code, and public health officials do not routinely visit child care facilities. And, as the anti-smoking unit in the state Department of Public Health consists of 1.5 full-time-equated positions, enforcement capability is limited.

The tie-bar to House Bill 4688, which would amend the child care licensing act to prohibit or restrict smoking in facilities or homes that provided child care, would increase ensure that the smoking prohibition in the Public Health Code could be meaningfully enforced by subjecting violators of health code smoking prohibitions to enforcement under the child care act.

POSITIONS:

The Department of Public Health supports the bill. (5-14-93)

The Tobacco Free Michigan Action Coalition supports the bill. (Note: The coalition consists of 67 organizations working to reduce the health effects of smoking in Michigan, and includes such groups as the Michigan chapters of the American Cancer Society, the American College of Cardiology, the American Heart Association, and the American Lung Association, as well as the League of Women Voters, the March of Dimes, the Michigan Association for Local Public Health, the Michigan Association of Counties, the Michigan Association of Osteopathic Physicians and Surgeons, the Michigan Association of School Boards, the Michigan Cancer Foundation, the Michigan Coalition on Smoking OR Health, the Michigan PTA, the Michigan Dental Association, the Michigan Hospital Association, the Michigan Nurses Association, the Michigan Pharmacists Association, the Michigan State Medical Society, the state Departments of Public Health and Education, the Michigan Commission on Indian Affairs, the Michigan Women's Commission, various school principals associations, religious associations, and county coalitions against tobacco use.) (6-9-93)