



# SENATE BILL No. 569

May 30, 1995, Introduced by Senators DE GROW, STALLINGS, HART, GEAKE and CONROY and referred to the Committee on Health Policy and Senior Citizens.

A bill to amend sections 12601, 12603, 12604a, 12605, 12607, and 12615 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

sections 12601 and 12615 as amended and section 12604a as added by Act No. 315 of the Public Acts of 1988, section 12603 as amended by Act No. 217 of the Public Acts of 1993, and sections 12605 and 12607 as amended by Act No. 296 of the Public Acts of 1988, being sections 333.12601, 333.12603, 333.12604a, 333.12605, 333.12607, and 333.12615 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 12601, 12603, 12604a, 12605, 12607, and  
2 12615 of Act No. 368 of the Public Acts of 1978, sections 12601  
3 and 12615 as amended and section 12604a as added by Act No. 315

1 of the Public Acts of 1988, section 12603 as amended by Act  
2 No. 217 of the Public Acts of 1993, and sections 12605 and 12607  
3 as amended by Act No. 296 of the Public Acts of 1988, being  
4 sections 333.12601, 333.12603, 333.12604a, 333.12605, 333.12607,  
5 and 333.12615 of the Michigan Compiled Laws, are amended to read  
6 as follows:

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

8       (a) "Child caring institution", ~~and~~ "child care center",  
9 "FAMILY DAY CARE HOME", AND "GROUP DAY CARE HOME" mean those  
10 terms as defined in section 1 of Act No. 116 of the Public Acts  
11 of 1973, being section 722.111 of the Michigan Compiled Laws.

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

14       (c) "Educational facility" means a building owned, leased,  
15 or under the control of a public or private school OR SCHOOL  
16 system, college, or university.

17       (D) "ENVIRONMENTAL TOBACCO SMOKE" MEANS VISIBLE OR INVISIBLE  
18 SMOKE, GAS, OR A FUME GENERATED BY THE COMBUSTION OF TOBACCO OR  
19 ANY OTHER MATERIAL THAT IS BURNED OR SMOKED BY A PERSON FOR PER-  
20 SONAL PURPOSES.

21       (E) ~~(d)~~ "Food service establishment" means ~~a food service~~  
22 ~~establishment~~ THAT TERM as defined in section 12901.

23       (F) ~~(e)~~ "Health facility" means a health facility or  
24 agency licensed under article 17, except a home for the aged,  
25 nursing home, county medical care facility, hospice, or hospital  
26 long-term care unit.

1 (G) ~~(f)~~ "Home for the aged" means that term as defined in  
2 section 20106.

3 (H) ~~(g)~~ "Hospice" means that term as defined in section  
4 20106.

5 (I) ~~(h)~~ "Hospital long-term care unit" means that term as  
6 defined in section 20106.

7 (J) ~~(i)~~ "Licensed premises" means any portion of a build-  
8 ing, structure, room, or enclosure in which alcoholic liquor may  
9 be sold for consumption on the premises pursuant to a license  
10 issued by the Michigan liquor control commission.

11 (K) ~~(j)~~ "Meeting" means ~~a meeting~~ THAT TERM as defined  
12 in section 2 of the open meetings act, Act No. 267 of the Public  
13 Acts of 1976, being section 15.262 of the Michigan Compiled  
14 Laws.

15 (L) ~~(k)~~ "Nursing home" means that term as defined in sec-  
16 tion 20109.

17 (M) "PLACE OF EMPLOYMENT", EXCEPT AS OTHERWISE PROVIDED IN  
18 SUBSECTION (2), MEANS AN ENCLOSED, INDOOR AREA SERVING AS THE  
19 WORK AREA FOR 1 OR MORE PERSONS EMPLOYED BY A PUBLIC OR PRIVATE  
20 EMPLOYER.

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

24 (O) ~~(m)~~ "Public place", except as otherwise provided in  
25 subsection (2), means ~~both~~ ALL of the following:

26 (i) An enclosed, indoor area owned or operated by a state or  
27 local governmental agency and used by the general public or

1 serving as ~~a place of work for public employees or~~ a meeting  
2 place for a public body, including an office, educational facili-  
3 ty, home for the aged, nursing home, county medical care facili-  
4 ty, hospice, hospital long-term care unit, auditorium, arena,  
5 meeting room, or public conveyance.

6 (ii) An enclosed, indoor area ~~which~~ THAT is not owned or  
7 operated by a state or local governmental agency, is used by the  
8 general public, and is 1 of the following:

9 (A) An educational facility.

10 (B) A home for the aged, nursing home, county medical care  
11 facility, hospice, or hospital long-term care unit.

12 (C) An auditorium.

13 (D) An arena.

14 (E) A theater.

15 (F) A museum.

16 (G) A concert hall.

17 (H) Any other facility during the period of its use for a  
18 performance or exhibit of the arts.

19 (I) A TERMINAL OR CONCOURSE.

20 (iii) A PLACE OF EMPLOYMENT IN WHICH ENVIRONMENTAL TOBACCO  
21 SMOKE MAY ACCUMULATE.

22 (iv) A MOTOR VEHICLE MAINTAINED OR PRIMARILY CONTROLLED BY  
23 AN EMPLOYER FOR USE BY AN EMPLOYEE.

24 (v) A PUBLIC CONVEYANCE.

25 (P) ~~(n)~~ "Smoking" or "smoke" means the carrying by a  
26 person of a lighted cigar, cigarette, pipe, or other lighted  
27 smoking device.

1 (Q) "WORK AREA" MEANS A SITE WITHIN A PLACE OF EMPLOYMENT AT  
2 WHICH 1 OR MORE EMPLOYEES ARE ROUTINELY ASSIGNED TO PERFORM SERV-  
3 ICES FOR AN EMPLOYER.

4 (2) ~~Public~~ PLACE OF EMPLOYMENT AND PUBLIC place ~~does~~ DO  
5 not include ~~a private, enclosed room or office occupied exclu-~~  
6 ~~sively by a smoker, even if the room or enclosed office may be~~  
7 ~~visited by a nonsmoker.~~ ANY OF THE FOLLOWING:

8 (A) LICENSED PREMISES.

9 (B) A FOOD SERVICE ESTABLISHMENT.

10 (C) A LICENSED CHILD CARE CENTER, A LICENSED CHILD CARING  
11 INSTITUTION, A LICENSED FAMILY DAY CARE HOME, OR A LICENSED GROUP  
12 DAY CARE HOME.

13 (3) In addition, article 1 contains general definitions and  
14 principles of construction applicable to all articles of this  
15 code.

16 Sec. 12603. (1) Except as otherwise provided by law, an  
17 individual shall not smoke in a public place or at a meeting of a  
18 public body, except in a designated smoking area. AN INDIVIDUAL  
19 SHALL NOT SMOKE IN A WORK AREA.

20 (2) This section does not apply to a room ~~, hall,~~ or  
21 building THAT MEETS ALL OF THE FOLLOWING CONDITIONS:

22 (A) THE ROOM OR BUILDING IS NOT A PLACE OF EMPLOYMENT WHERE  
23 EMPLOYEES ARE REGULARLY EMPLOYED.

24 (B) THE ROOM OR BUILDING IS used for a private function.  
25 ~~if the~~

26 (C) THE seating arrangements WITHIN THAT ROOM OR BUILDING  
27 are under the control of the sponsor of the function and not

1 under the control of the state or local governmental agency or  
2 the person who owns or operates the room ~~, hall,~~ or building.

3 ~~(3) This section does not apply to a food service estab-~~  
4 ~~lishment or to licensed premises.~~

5 (3) ~~(4)~~ This section ~~shall~~ DOES not apply to a private  
6 educational facility after regularly scheduled school hours.

7 Sec. 12604a. ~~(1) An individual shall not smoke in the~~  
8 ~~common or treatment area of a private practice office of an indi-~~  
9 ~~vidual who is licensed under article 15.~~

10 (1) ~~(2)~~ An individual shall not smoke in a health facility  
11 except under 1 or more of the following circumstances:

12 (a) In cases where a prohibition on smoking would be detri-  
13 mental to the patient's treatment as defined by medical condi-  
14 tions identified by the collective health facility medical  
15 staff. Patients who are permitted to smoke under this subdivi-  
16 sion shall be placed in a separate room from nonsmoking  
17 patients.

18 (b) If a health facility allows smoking, that smoking is  
19 allowed only in designated areas that are enclosed BY  
20 FLOOR-TO-CEILING WALLS and CONSTRUCTED AND ventilated ~~or other-~~  
21 ~~wise constructed which ensures a smoke free environment~~ TO PRE-  
22 VENT ENVIRONMENTAL TOBACCO SMOKE FROM REACHING NONSMOKERS in  
23 patient care areas and common areas.

24 (2) A HEALTH FACILITY THAT ALLOWS SMOKING UNDER  
25 SUBSECTION (1) SHALL COMPLY WITH SECTION 12605(2)(A).

26 Sec. 12605. (1) ~~A~~ SUBJECT TO THIS SUBSECTION AND SECTION  
27 12607(C), A smoking area may be designated by the state or local

1 governmental agency or the person who owns or operates a public  
2 place. ~~, except in a public place in which smoking is prohibited~~  
3 ~~by law. If a smoking area is designated, existing physical bar-~~  
4 ~~riers and ventilation systems shall be used to minimize the toxic~~  
5 ~~effect of smoke in both smoking and adjacent nonsmoking areas. A~~  
6 SMOKING AREA SHALL NOT BE DESIGNATED IN ANY OF THE FOLLOWING  
7 AREAS:

8 (A) A WORK AREA.

9 (B) A HALLWAY, CORRIDOR, STAIRWELL, OR LOBBY THAT PROVIDES  
10 DIRECT ACCESS TO A PUBLIC PLACE.

11 (C) A LAVATORY AVAILABLE TO THE GENERAL PUBLIC OR TO AN  
12 EMPLOYER'S EMPLOYEES.

13 (D) A LUNCHROOM NOT LICENSED AS A FOOD SERVICE ESTABLISHMENT  
14 UNDER PART 129.

15 (E) A LOUNGE, UNLESS THE LOUNGE IS MADE EXCLUSIVELY AVAIL-  
16 ABLE FOR THE USE OF SMOKERS.

17 (F) AN AREA WITHIN WHICH SMOKING IS PROHIBITED BY LOCAL,  
18 STATE, OR FEDERAL LAW.

19 (G) EXCEPT AS OTHERWISE PROVIDED IN SECTION 12604A, A HEALTH  
20 FACILITY.

21 ~~(2) In the case of a public place consisting of a single~~  
22 ~~room, the state or local governmental agency or the person who~~  
23 ~~owns or operates the single room shall be in compliance with this~~  
24 ~~part if 1/2 of the room is reserved and posted as a no smoking~~  
25 ~~area.~~

26 (2) ~~(3)~~ If smoking is permitted in a public place, the  
27 state or local governmental agency or the person who owns or

1 operates the public place shall ~~develop~~ DO BOTH OF THE  
2 FOLLOWING:

3 (A) DEVELOP a written policy for the separation of smokers  
4 and nonsmokers ~~which~~ THAT provides, at a minimum, for ~~all of~~  
5 ~~the following: (a) Nonsmokers to be located closest to the~~  
6 ~~source of fresh air. (b) Special consideration to be given to~~  
7 ~~individuals with a hypersensitivity to tobacco smoke. (c) A~~ A  
8 procedure to receive, investigate, and take action on  
9 complaints.

10 (B) ENSURE THAT EACH INDOOR DESIGNATED SMOKING AREA MEETS  
11 ALL OF THE FOLLOWING REQUIREMENTS:

12 (i) IS ENCLOSED BY FLOOR-TO-CEILING WALLS AND CONSTRUCTED  
13 AND VENTILATED TO DO BOTH OF THE FOLLOWING:

14 (A) PREVENT ENVIRONMENTAL TOBACCO SMOKE FROM REACHING  
15 NONSMOKERS.

16 (B) ENSURE THAT AIR FROM THE INDOOR DESIGNATED SMOKING AREA  
17 IS EXHAUSTED DIRECTLY OUTSIDE AND DOES NOT RECIRCULATE OR DRIFT  
18 TO OTHER AREAS WITHIN THE PUBLIC PLACE.

19 (ii) DOES NOT HAVE TO BE ENTERED BY A NONSMOKER FOR ANY  
20 PURPOSE.

21 (iii) IS CLOSED TO MINORS UNDER 15 YEARS OF AGE.

22 Sec. 12607. The state or local governmental agency or the  
23 person who owns or operates a public place shall, at a minimum,  
24 do all of the following: ~~in order to prevent smoking.~~

25 (a) Post signs ~~which state~~ STATING that smoking in that  
26 public place is prohibited, except in designated smoking areas,  
27 pursuant to this part.

1 ~~(b) Arrange seating to provide, as nearly as practicable, a~~  
2 ~~smoke free area.~~

3 (B) ~~(c)~~ Implement and enforce the policy for the separa-  
4 tion of smokers and nonsmokers developed under section ~~+2605(3)-~~  
5 12605(2).

6 (C) PROHIBIT SMOKING IN THE PUBLIC PLACE IF THE SAFEGUARDS  
7 DESCRIBED IN THIS PART ARE NOT SUFFICIENT TO ELIMINATE EXPOSURE  
8 TO ENVIRONMENTAL TOBACCO SMOKE BY A PERSON WHO IS HYPERSENSITIVE  
9 TO ENVIRONMENTAL TOBACCO SMOKE.

10 Sec. 12615. (1) This part is in addition to, and does not  
11 supersede the requirements for a policy regulating the smoking of  
12 tobacco on the premises of a nursing home set forth in section  
13 21733 ~~—~~ or the requirements for a food service establishment  
14 set forth in section 12905.

15 (2) THIS PART DOES NOT PREEMPT OR OTHERWISE LIMIT THE  
16 AUTHORITY OF A LOCAL UNIT OF GOVERNMENT TO ENACT AN ORDINANCE OR  
17 OTHER REGULATION REGARDING SMOKING IN PUBLIC PLACES OR IN PLACES  
18 OF EMPLOYMENT THAT IS MORE STRINGENT THAN THE REQUIREMENTS AND  
19 RESTRICTIONS OF THIS PART.