

SENATE BILL No. 685

November 8, 1989, Introduced by Senators CROPSEY, WELBORN,
DI NELLO, POSTHUMUS and GEAKE and referred to the
Committee on Local Government and Veterans.

A bill to amend the title of Act No. 368 of the Public Acts
of 1978, entitled as amended
"Public health code,"
as amended, being sections 333.1101 to 333.25211 of the Michigan
Compiled Laws; and to add part 25.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title of Act No. 368 of the Public Acts of
2 1978, as amended, being sections 333.1101 to 333.25211 of the
3 Michigan Compiled Laws, is amended and part 25 is added to read
4 as follows:

TITLE

5
6 An act to protect and promote the public health; to codify,
7 revise, consolidate, classify, and add to the laws relating to
8 public health; to provide for the prevention and control of
9 diseases and disabilities; to provide for the classification,

1 administration, regulation, financing, and maintenance of
2 personal, environmental, and other health services and activi-
3 ties; to create or continue, and prescribe the powers and duties
4 of, departments, boards, commissions, councils, committees, task
5 forces, and other agencies; to prescribe the powers and duties of
6 governmental entities and officials; to regulate occupations,
7 facilities, ~~and~~ agencies, AND CERTAIN BUSINESSES affecting the
8 public health; to regulate health maintenance organizations and
9 certain third party administrators and insurers; to promote the
10 efficient and economical delivery of health care services, to
11 provide for the appropriate utilization of health care facilities
12 and services, and to provide for the closure of hospitals or con-
13 solidation of hospitals or services; to provide for the collec-
14 tion and use of data and information; TO REQUIRE CERTAIN REPORTS
15 BY CERTAIN BUSINESSES AND INDIVIDUALS; to provide for the trans-
16 fer of property; to provide certain immunity from liability; to
17 regulate and prohibit the sale and offering for sale of drug par-
18 aphernalia under certain circumstances; to provide for penalties
19 and remedies; to repeal certain acts and parts of acts; to repeal
20 certain parts of this act; and to repeal certain parts of this
21 act on specific dates.

22 PART 25

23 SEC. 2501. AS USED IN THIS PART:

24 (A) "MATERIAL" MEANS 1 OR MORE OF THE FOLLOWING:

25 (i) A BOOK, MAGAZINE, NEWSPAPER, PAMPHLET, PICTURE, DRAWING,
26 OR PICTORIAL REPRESENTATION.

1 (ii) A MOTION PICTURE, PHOTOGRAPH, VIDEO TAPE, VIDEO DISK,
2 AUDIO TAPE, AUDIO DISK, FILM, TRANSPARENCY, OR SLIDE.

3 (iii) AN UNDEVELOPED PHOTOGRAPH, OR A MOLD, PRINTING PLATE,
4 OR OTHER LATENT REPRESENTATIONAL OBJECT, WHETHER OR NOT PROCESS-
5 ING OR OTHER ACTS MAY BE REQUIRED TO MAKE THE CONTENT OF THE PHO-
6 TOGRAPH, MOLD, PRINTING PLATE, OR OTHER LATENT REPRESENTATIONAL
7 OBJECT APPARENT.

8 (iv) A COMPUTER DISK, TAPE, CARD, CARTRIDGE, OR OTHER COM-
9 PUTER STORAGE MEDIA.

10 (v) A COMPUTER PROGRAM, INCLUDING DOCUMENTATION OF THAT
11 PROGRAM.

12 (B) "PERFORMANCE" MEANS A LIVE OR RECORDED THEATRICAL PLAY,
13 DANCE, ACT, SHOW, DEMONSTRATION, OR EXHIBITION, DISPLAYED OR PER-
14 FORMED BEFORE 1 OR MORE INDIVIDUALS.

15 (C) "PERSON" MEANS AN INDIVIDUAL, SOLE PROPRIETORSHIP, PART-
16 NERSHIP, CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY, OR AN
17 AGENT OR SERVANT OF AN INDIVIDUAL, SOLE PROPRIETORSHIP, PARTNER-
18 SHIP, CORPORATION, OR OTHER LEGAL ENTITY.

19 (D) "SEXUAL DEVICE" MEANS AN ARTIFICIAL PENIS, ARTIFICIAL
20 VAGINA, OR ARTIFICIAL RECTUM, USED OR INTENDED TO BE USED PRIMAR-
21 ILY FOR THE SEXUAL STIMULATION OF HUMAN GENITAL ORGANS.

22 (E) "SEXUALLY EXPLICIT MATERIAL" MEANS MATERIAL THAT IS 1 OR
23 MORE OF THE FOLLOWING:

24 (i) MATERIAL THAT DEPICTS ACTUAL OR SIMULATED ANAL, ORAL, OR
25 GENITAL SEXUAL INTERCOURSE BETWEEN INDIVIDUALS OF THE SAME SEX,
26 OR BETWEEN INDIVIDUALS OF THE OPPOSITE SEX.

1 (ii) MATERIAL THAT DEPICTS ACTUAL OR SIMULATED PENETRATION
2 OF AN INDIVIDUAL'S VAGINA OR RECTUM WITH A SEXUAL DEVICE OR ANY
3 OTHER OBJECT, FOR PURPOSES OF SEXUAL GRATIFICATION FOR ANY
4 INDIVIDUAL.

5 (iii) MATERIAL THAT DEPICTS ACTUAL OR SIMULATED BESTIALITY.

6 (iv) MATERIAL THAT DEPICTS ACTUAL OR SIMULATED MASTURBATION
7 OR MANIPULATION OF THE GENITALS.

8 (F) "SEXUALLY EXPLICIT PERFORMANCE" MEANS A PERFORMANCE THAT
9 IS 1 OR MORE OF THE FOLLOWING:

10 (i) A PERFORMANCE THAT DEPICTS ACTUAL OR SIMULATED ANAL,
11 ORAL, OR GENITAL SEXUAL INTERCOURSE BETWEEN INDIVIDUALS OF THE
12 SAME SEX, OR BETWEEN INDIVIDUALS OF THE OPPOSITE SEX.

13 (ii) A PERFORMANCE THAT DEPICTS ACTUAL OR SIMULATED PENETRA-
14 TION OF AN INDIVIDUAL'S VAGINA OR RECTUM WITH A SEXUAL DEVICE OR
15 ANY OTHER OBJECT, FOR PURPOSES OF SEXUAL GRATIFICATION FOR ANY
16 INDIVIDUAL.

17 (iii) A PERFORMANCE THAT DEPICTS ACTUAL OR SIMULATED
18 BESTIALITY.

19 (iv) A PERFORMANCE THAT DEPICTS ACTUAL OR SIMULATED MASTUR-
20 BATION OR MANIPULATION OF THE GENITALS, IF THE GENITALS ARE VISI-
21 BLE, OR THAT DEPICTS ACTUAL OR SIMULATED EJACULATION.

22 (G) "SEXUALLY ORIENTED BUSINESS" MEANS A COMMERCIAL ENTER-
23 PRISE THAT EXHIBITS SEXUALLY EXPLICIT MATERIAL OR SEXUALLY
24 EXPLICIT PERFORMANCES TO PERSONS FOR CONSIDERATION.

25 (H) "VIEWING ROOM" MEANS AN ENCLOSED OR PARTIALLY ENCLOSED
26 AREA OF LESS THAN 150 SQUARE FEET THAT IS USED FOR THE EXHIBITION
27 OF SEXUALLY EXPLICIT MATERIAL OR SEXUALLY EXPLICIT PERFORMANCES.

1 SEC. 2503. A SEXUALLY ORIENTED BUSINESS THAT EXHIBITS
2 SEXUALLY EXPLICIT MATERIAL OR SEXUALLY EXPLICIT PERFORMANCES IN 1
3 OR MORE VIEWING ROOMS LOCATED ON THE PREMISES OF THAT BUSINESS
4 SHALL DO ALL OF THE FOLLOWING:

5 (A) SUBMIT TO THE LOCAL HEALTH DEPARTMENT A DIAGRAM OF THE
6 PREMISES SHOWING THE LOCATION OF EACH MANAGER'S STATION, THE
7 LOCATION AND TYPE OF EACH OVERHEAD LIGHTING FIXTURE, THE LOCATION
8 OF EACH ENTRANCE AND EXIT, THE LOCATION OF EACH WALL AND EACH
9 PARTITION, THE LOCATION OF EACH REST ROOM, THE LOCATION AND SIZE
10 OF EACH VIEWING ROOM, AND THE LOCATION OF EACH PART OF THE
11 PREMISES WHERE PATRONS ARE NOT PERMITTED. A MANAGER'S STATION
12 SHALL NOT EXCEED 32 SQUARE FEET OF FLOOR AREA. A PROFESSIONALLY
13 PREPARED BLUEPRINT IS NOT REQUIRED, BUT EACH DIAGRAM MUST BE ORI-
14 ENTED TO THE NORTH OR TO SOME DESIGNATED STREET OR OBJECT AND
15 SHALL BE DRAWN TO A DESIGNATED SCALE WITH AN ACCURACY OF PLUS OR
16 MINUS 6 INCHES.

17 (B) SUBMIT A NEW DIAGRAM TO THE LOCAL HEALTH DEPARTMENT
18 BEFORE CHANGING THE LOCATION OR TYPE OF ANY OVERHEAD LIGHTING
19 FIXTURE, CHANGING THE LOCATION OF ANY EXIT OR ENTRANCE, CHANGING
20 THE LOCATION OF ANY WALL OR PARTITION, CHANGING THE LOCATION OF
21 ANY REST ROOM, CHANGING THE SIZE OR LOCATION OF ANY VIEWING ROOM,
22 OR STRUCTURALLY ALTERING THE INTERIOR OF THE PREMISES.

23 (C) PROVIDE 1 OR MORE MANAGER'S STATIONS WHICH HAVE AN UNOB-
24 STRUCTED VIEW OF EVERY AREA OF THE PREMISES TO WHICH A PATRON IS
25 PERMITTED ACCESS FOR ANY PURPOSE EXCLUDING REST ROOMS. REST
26 ROOMS MAY NOT CONTAIN VIDEO REPRODUCTION EQUIPMENT OR BE USED FOR
27 LIVE PERFORMANCES. THE VIEW REQUIRED UNDER THIS SUBDIVISION

1 SHALL BE DETERMINED BY DIRECT LINE OF SIGHT FROM EACH MANAGER'S
2 STATION.

3 (D) ENSURE THAT AT LEAST 1 EMPLOYEE IS SITUATED IN EACH
4 MANAGER'S STATION AT ALL TIMES THAT A PATRON IS PRESENT INSIDE
5 THE PREMISES.

6 (E) REQUIRE THE OPERATOR OF THE BUSINESS, AND ANY AGENTS,
7 MANAGERS, AND EMPLOYEES WHO ARE PRESENT ON THE PREMISES, TO
8 ENSURE THAT THE VIEW SPECIFIED IN SUBDIVISION (D) REMAINS UNOB-
9 STRUCTED BY ANY DOORS, WALLS, MERCHANDISE, DISPLAY RACKS, OR
10 OTHER MATERIALS AT ALL TIMES AND THAT NO PATRON IS PERMITTED
11 ACCESS TO ANY PART OF THE PREMISES WHICH HAS BEEN DESIGNATED AS
12 AN AREA IN WHICH PATRONS ARE NOT PERMITTED.

13 (F) ENSURE THAT NO VIEWING ROOM IS OCCUPIED BY MORE THAN 1
14 PERSON AT ANY TIME.

15 (G) EQUIP THE PREMISES WITH OVERHEAD LIGHTING FIXTURES OF
16 SUFFICIENT INTENSITY TO ADEQUATELY ILLUMINATE EVERY PLACE TO
17 WHICH PATRONS ARE PERMITTED ACCESS.

18 SEC. 2506. (1) A PERSON WHO OWNS A SEXUALLY ORIENTED BUSI-
19 NESS SHALL NOT OPERATE THAT BUSINESS OR ALLOW ANOTHER PERSON TO
20 OPERATE THAT BUSINESS UNLESS AN OWNERSHIP DISCLOSURE FORM HAS
21 BEEN FILED WITH THE LOCAL HEALTH DEPARTMENT. IF MORE THAN 1
22 PERSON IS LISTED AS THE OWNER OF A SEXUALLY ORIENTED BUSINESS,
23 EACH INDIVIDUAL WHO HAS A 10% OR GREATER INTEREST IN THE BUSINESS
24 MUST BE LISTED ON, AND MUST SIGN THE OWNERSHIP DISCLOSURE FORM.
25 IF A CORPORATION IS LISTED AS OWNER OF A SEXUALLY ORIENTED BUSI-
26 NESS, EACH INDIVIDUAL HAVING A 10% OR GREATER INTEREST IN THE

1 CORPORATION MUST SIGN THE OWNERSHIP DISCLOSURE FORM. ALL
2 SIGNATURES MUST BE NOTARIZED.

3 (2) WITHIN 30 DAYS AFTER THE TRANSFER OF A 10% OR GREATER
4 OWNERSHIP INTEREST IN A SEXUALLY ORIENTED BUSINESS, A NEW OWNER-
5 SHIP DISCLOSURE FORM SHALL BE FILED WITH THE LOCAL HEALTH DEPART-
6 MENT AS PROVIDED UNDER SUBSECTION (1).

7 SEC. 2508. (1) LOCAL HEALTH DEPARTMENTS SHALL ENFORCE THIS
8 ACT.

9 (2) A LOCAL HEALTH DEPARTMENT SHALL CONDUCT, AT A MINIMUM,
10 AN ANNUAL INSPECTION OF EACH SEXUALLY ORIENTED BUSINESS WITHIN
11 ITS JURISDICTION.

12 (3) A LOCAL HEALTH DEPARTMENT SHALL REGULATE CONDUCT BY A
13 SEXUALLY ORIENTED BUSINESS THAT POSES AN IMMINENT DANGER TO THE
14 HEALTH OR LIVES OF INDIVIDUALS AS PROVIDED IN SECTION 2451.

15 SEC. 2510. A PERSON WHO VIOLATES THIS ACT IS RESPONSIBLE
16 FOR A CIVIL VIOLATION AND MAY BE FINED NOT MORE THAN \$1,000.00
17 FOR EACH DAY THAT EACH VIOLATION EXISTS.