

# SENATE BILL No. 632

October 24, 1989, Introduced by Senators GEAKE, FAXON, POSTHUMUS, N. SMITH, CRUCE, CROUSEY, DE GROW, CONROY, CARL and POLLACK and referred to the Committee on Health Policy.

A bill to amend sections 12601, 12604, 12611, and 12613 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," sections 12601, 12611, and 12613 as amended by Act No. 315 of the Public Acts of 1988 and section 12604 as added by Act No. 294 of the Public Acts of 1988, being sections 333.12601, 333.12604, 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, 12604, 12611, and 12613 of Act  
2       No. 368 of the Public Acts of 1978, sections 12601, 12611, and  
3       12613 as amended by Act No. 315 of the Public Acts of 1988 and  
4       section 12604 as added by Act No. 294 of the Public Acts of 1988,  
5       being sections 333.12601, 333.12604, 333.12611, and 333.12613 of

1 the Michigan Compiled Laws, are amended and section 12604b is  
2 added to read as follows:

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

4 (a) "Child caring institution" and "child care center" mean  
5 those terms as defined in section 1 of Act No. 116 of the Public  
6 Acts of 1973, being section 722.111 of the Michigan Compiled  
7 Laws.

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

10 (c) "Educational facility" means a building OTHER THAN A  
11 SCHOOL BUILDING THAT IS owned, leased, or under the control of a  
12 public or private school system, college, or university.

13 (d) "Food service establishment" means a food service estab-  
14 lishment as defined in section 12901.

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

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

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

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

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

1 (j) "Meeting" means a meeting as defined in section 2 of the  
2 open meetings act, Act No. 267 of the Public Acts of 1976, being  
3 section 15.262 of the Michigan Compiled Laws.

4 (k) "Nursing home" means that term as defined in section  
5 20109.

6 (l) "Public body" means a public body as defined in section  
7 2 of the open meetings act, Act No. 267 of the Public Acts of  
8 1976.

9 (m) "Public place", except as otherwise provided in subsec-  
10 tion (2), means both of the following:

11 (i) An enclosed, indoor area owned or operated by a state or  
12 local governmental agency and used by the general public or serv-  
13 ing as a place of work for public employees or a meeting place  
14 for a public body, including an office, educational facility,  
15 home for the aged, nursing home, county medical care facility,  
16 hospice, hospital long-term care unit, auditorium, arena, meeting  
17 room, or public conveyance.

18 (ii) An enclosed, indoor area which is not owned or operated  
19 by a state or local governmental agency, is used by the general  
20 public, and is 1 of the following:

21 (A) An educational facility.

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

24 (C) An auditorium.

25 (D) An arena.

26 (E) A theater.

1 (F) A museum.

2 (G) A concert hall.

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

5 (N) "SCHOOL" MEANS A PUBLIC OR PRIVATE SCHOOL BUILDING IN  
6 WHICH ANY GRADE BETWEEN KINDERGARTEN AND 12 IS TAUGHT.

7 (O) ~~-(n)-~~ "Smoking" or "smoke" means the carrying by a  
8 person of a lighted cigar, cigarette, pipe, or other lighted  
9 smoking device.

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

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

16 Sec. 12604. (1) ~~Except as otherwise provided in this sec-~~  
17 ~~tion, beginning~~ BEGINNING October 1, 1988, an individual shall  
18 not smoke in a child caring institution or child care center or  
19 on the real property ~~which~~ THAT houses a child caring institu-  
20 tion or child care center, if the child caring institution or  
21 child care center is ~~owned and~~ operated by the department of  
22 social services. ~~Beginning~~

23 (2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3),  
24 BEGINNING January 1, 1990, an individual shall not smoke in a  
25 child caring institution or child care center or on the real  
26 property ~~which~~ THAT houses a child caring institution or child  
27 care center ~~, whether or not the child caring institution or~~

1 ~~child care center is owned and~~ THAT IS OWNED OR operated, OR  
2 BOTH, by AN ENTITY OTHER THAN the department of social services.  
3 ~~Within the facility of, or on the real property which houses,~~  
4 ~~the~~

5 (3) AN ENTITY OTHER THAN THE DEPARTMENT OF SOCIAL SERVICES  
6 THAT OWNS OR OPERATES, OR BOTH, A child caring institution or  
7 child care center ~~, a smoking area may be provided for~~  
8 PROVIDE A SMOKING AREA in a private, enclosed office THAT IS  
9 physically separated AND UNABLE TO BE SEEN from ~~, and out of~~  
10 ~~sight of,~~ the common and general child care areas OF THE  
11 FACILITY.

12 SEC. 12604B. AN INDIVIDUAL SHALL NOT SMOKE IN A SCHOOL.

13 Sec. 12611. A person who violates section 12603(1), 12604,  
14 ~~or~~ 12604a, OR 12604B or a person or state or local governmental  
15 agency ~~, that~~ owns or operates a public place and that violates  
16 section 12605 or 12607 shall be directed to comply with this part  
17 and shall be subject to a civil fine of not more than \$100.00 for  
18 a first violation and not more than \$500.00 for a second or sub-  
19 sequent violation.

20 Sec. 12613. (1) Subject to subsection (2), the department  
21 shall enforce this part and rules promulgated under this part  
22 pursuant to sections 2262(2) and 2263. In addition to the civil  
23 fine authorized under section 12611, the department may enforce  
24 this part and the rules promulgated under this part through an  
25 action commenced pursuant to section 2255 or any other appropri-  
26 ate action authorized by law.

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

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

19           (4) The remedies under this part are independent and  
20 cumulative. The use of 1 remedy by a person shall not bar the  
21 use of other lawful remedies by that person or the use of a  
22 lawful remedy by another person.