

SENATE BILL No. 1406

June 29, 2010, Introduced by Senators BASHAM and ANDERSON and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 12601 and 12603 (MCL 333.12601 and 333.12603), as amended by 2009 PA 188; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

2 ~~(a) "Casino" means that term as defined in section 2 of the~~
3 ~~Michigan gaming control and revenue act, 1996 IL 1, MCL 432.202.~~
4 ~~Casino does not include a casino operated under the Indian gaming~~
5 ~~regulatory act, 25 USC 2701 to 2721.~~

6 (A) ~~(b)~~ "Child caring institution" and "child care center"
7 mean those terms as defined in section 1 of 1973 PA 116, MCL
8 722.111.

9 (B) ~~(c)~~ "Cigar" means any roll of tobacco weighing 3 or more

1 pounds per 1,000, which roll has a wrapper or cover consisting only
2 of tobacco.

3 (C) ~~(d)~~—"Cigar bar" means an establishment or area within an
4 establishment that is open to the public and is designated for the
5 smoking of cigars, purchased on the premises or elsewhere.

6 (D) ~~(e)~~—"County medical care facility" means that term as
7 defined in section 20104.

8 (E) ~~(f)~~—"Educational facility" means a building owned, leased,
9 or under the control of a public or private school system, college,
10 or university.

11 (F) ~~(g)~~—"Food service establishment" means a food service
12 establishment as defined in section 12905.

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

17 (H) ~~(i)~~—"Home for the aged" means that term as defined in
18 section 20106.

19 (I) ~~(j)~~—"Hospice" means that term as defined in section 20106.

20 (J) ~~(k)~~—"Hospital long-term care unit" means that term as
21 defined in section 20106.

22 (K) ~~(l)~~—"Meeting" means a meeting as defined in section 2 of
23 the open meetings act, 1976 PA 267, MCL 15.262.

24 (L) ~~(m)~~—"Motor vehicle" means that term as defined in section
25 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

26 (M) ~~(n)~~—"Nursing home" means that term as defined in section
27 20109.

1 **(N)** ~~(e)~~—"Place of employment" means an enclosed indoor area
2 that contains 1 or more work areas for 1 or more persons employed
3 by a public or private employer. Place of employment does not
4 include any of the following:

5 (i) A structure used primarily as the residence of the owner or
6 lessee that is also used as an office for the owner or lessee and
7 for no other employees.

8 (ii) A food service establishment that is subject to section
9 12905.

10 (iii) A motor vehicle.

11 **(O)** ~~(p)~~—"Public body" means a public body as defined in
12 section 2 of the open meetings act, 1976 PA 267, MCL 15.262.

13 **(P)** ~~(q)~~—"Public place", except as otherwise provided in
14 subsection (2), means any of the following:

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

21 (ii) An enclosed, indoor area that is not owned or operated by
22 a state or local governmental agency, is used by the general
23 public, and is any of the following:

24 (A) An educational facility.

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

27 (C) An auditorium.

1 (D) An arena.

2 (E) A theater.

3 (F) A museum.

4 (G) A concert hall.

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

7 (iii) Unless otherwise exempt under this part, a place of
8 employment.

9 (Q) ~~(r)~~—"Smoking" or "smoke" means the burning of a lighted
10 cigar, cigarette, pipe, or any other matter or substance that
11 contains a tobacco product.

12 (R) ~~(s)~~—"Smoking paraphernalia" means any equipment,
13 apparatus, or furnishing that is used in or necessary for the
14 activity of smoking.

15 (S) ~~(t)~~—"Tobacco product" means a product that contains
16 tobacco and is intended for human consumption, including, but not
17 limited to, cigarettes, noncigarette smoking tobacco, or smokeless
18 tobacco, as those terms are defined in section 2 of the tobacco
19 products tax act, 1993 PA 327, MCL 205.422, and cigars.

20 (T) ~~(u)~~—"Tobacco specialty retail store" means an
21 establishment in which the primary purpose is the retail sale of
22 tobacco products and smoking paraphernalia, and in which the sale
23 of other products is incidental. Tobacco specialty retail store
24 does not include a tobacco department or section of a larger
25 commercial establishment or any establishment with any type of
26 liquor, food, or restaurant license.

27 (U) ~~(v)~~—"Work area" means a site within a place of employment

1 at which 1 or more employees perform services for an employer.

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

4 Sec. 12603. (1) An individual shall not smoke in a public
5 place or at a meeting of a public body, and a state or local
6 governmental agency or the person who owns, operates, manages, or
7 is in control of a public place shall make a reasonable effort to
8 prohibit individuals from smoking in a public place.

9 (2) The owner, operator, manager, or person having control of
10 a public place ~~, OR a food service establishment, or a casino~~
11 ~~subject to section 12606b~~ shall do all of the following:

12 (a) Clearly and conspicuously post "no smoking" signs or the
13 international "no smoking" symbol at the entrances to and in every
14 building or other area where smoking is prohibited under this act.

15 (b) Remove all ashtrays and other smoking paraphernalia from
16 anywhere smoking is prohibited under this act.

17 (c) Inform individuals smoking in violation of this act that
18 they are in violation of state law and subject to penalties.

19 (d) If applicable, refuse to serve an individual smoking in
20 violation of this act.

21 (e) Ask an individual smoking in violation of this act to
22 refrain from smoking and, if the individual continues to smoke in
23 violation of this act, ask him or her to leave the public place ~~,
24 OR food service establishment, or nonsmoking area of the casino.~~

25 (3) The owner, operator, manager, or person in control of a
26 hotel, motel, or other lodging facility shall comply with
27 subsection (2) and section 12606. It is an affirmative defense to a

1 prosecution or civil or administrative action for a violation of
2 this section that the owner, operator, manager, or person in
3 control of a hotel, motel, or other lodging facility where smoking
4 is prohibited under this section made a good faith effort to
5 prohibit smoking by complying with subsection (2). To assert the
6 affirmative defense under this subsection, the owner, operator,
7 manager, or person shall file a sworn affidavit setting forth his
8 or her efforts to prohibit smoking and his or her actions of
9 compliance with subsection (2).

10 (4) This section may be referred to as the "Dr. Ron Davis
11 Law".

12 Enacting section 1. Section 12606b of the public health code,
13 1978 PA 368, MCL 333.12606b, is repealed.

14 Enacting section 2. This amendatory act takes effect May 1,
15 2010.