



# HOUSE BILL No. 4457

March 9, 1993, Introduced by Reps. Pitoniak, Brown, Gubow, Jamian, Anthony, Leland, Freeman, Jaye and Rivers and referred to the Committee on Public Health.

A bill to amend section 12905 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 297 of the Public Acts of 1988, being section 333.12905 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 12905 of Act No. 368 of the Public Acts  
2 of 1978, as amended by Act No. 297 of the Public Acts of 1988,  
3 being section 333.12905 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5 Sec. 12905. (1) ~~Subject to subsections (2), (3), and (4),~~  
6 a A food service establishment with a seating capacity of 50 or  
7 more individuals shall post a sign at the entrance to the dining  
8 area indicating the availability of a nonsmoking area. Upon the  
9 request of a patron, the food service establishment — shall

1 seat the patron in a nonsmoking area ~~which shall be~~ THAT IS  
2 clearly marked by A sign.

3 (2) A food service establishment with a seating capacity of  
4 ~~not fewer than 50 and not more than 100 persons~~ 50 OR MORE  
5 INDIVIDUALS shall provide not less than ~~3 tables, each with a~~  
6 50% OF ITS seating capacity FOR NONSMOKERS. ~~of not fewer than 4~~  
7 ~~persons, or the equivalent, for nonsmokers. A food service~~  
8 ~~establishment with a seating capacity of more than 100 but not~~  
9 ~~more than 150 persons shall provide not less than 6 tables, each~~  
10 ~~with a seating capacity of not fewer than 4 persons, or the~~  
11 ~~equivalent, for nonsmokers. A food service establishment with a~~  
12 ~~seating capacity of more than 150 persons shall provide not less~~  
13 ~~than 9 tables, each with a seating capacity of not fewer than 4~~  
14 ~~persons, or the equivalent, for nonsmokers. The tables shall be~~  
15 ~~clearly identified as nonsmoking, placed~~ THE FOOD SERVICE ESTAB-  
16 LISHMENT SHALL CLEARLY IDENTIFY THE SEATS FOR NONSMOKERS AS NON-  
17 SMOKING, PLACE THE SEATS FOR NONSMOKERS in close proximity to  
18 each other, and ~~located~~ LOCATE THE SEATS FOR NONSMOKERS so as  
19 not to discriminate against nonsmokers.

20 (3) If a patron requests to be seated in either a smoking or  
21 nonsmoking area, and seating in the area requested is not avail-  
22 able, the food service establishment may seat the patron at a  
23 ~~table~~ SEAT LOCATED in either a smoking or nonsmoking area, if  
24 the ~~table~~ SEAT is contiguous to the area requested. ~~This sub-~~  
25 ~~section shall not be used to reduce the number of tables~~ A FOOD  
26 SERVICE ESTABLISHMENT SHALL NOT USE THIS SUBSECTION TO REDUCE THE

1 AMOUNT OF SEATING for nonsmokers below the minimum ~~number of~~  
2 ~~tables for nonsmokers~~ AMOUNT required under subsection (2).

3 (4) In addition to a food service establishment that pro-  
4 vides its own seating, subsection (2) also applies to a food  
5 service establishment or group of food service establishments  
6 that are located in a shopping mall, ~~if~~ WHERE the seating for  
7 the food service establishment or group of food service estab-  
8 lishments is provided or maintained, or both, by the person who  
9 owns or operates the shopping mall. As used in this subsection,  
10 "shopping mall" means a shopping center with stores facing an  
11 enclosed mall.

12 ~~(5) As used in this section, "smoking" means the carrying~~  
13 ~~by a person of a lighted cigar, cigarette, or other lighted smok-~~  
14 ~~ing device.~~

15 (5) ~~(6)~~ The director, ~~or~~ an authorized representative of  
16 the director, or a representative of a local health department to  
17 which the director has delegated responsibility for enforcement  
18 of this part shall, in accordance with R 325.25902 of the  
19 Michigan administrative code, inspect each food service estab-  
20 lishment that is subject to this section. ~~Compliance~~ THE  
21 INSPECTING ENTITY SHALL DETERMINE COMPLIANCE with this section  
22 ~~shall be determined~~ during each inspection.

23 (6) ~~(7)~~ The department or a local health department shall  
24 utilize compliance or noncompliance with this section or with  
25 rules promulgated to implement this section as criteria in the  
26 determination of whether to deny, suspend, limit, or revoke a  
27 license pursuant to section 12907(1).

1       (7) ~~-(8)-~~ Within 5 days after receipt of a written complaint  
2 of violation of this section a local health department shall  
3 investigate the complaint to determine compliance. If a viola-  
4 tion of this section is identified and not corrected as ordered  
5 by the local health department within 2 days after receipt of the  
6 order by the food service establishment, the local health officer  
7 may issue an order to cease food service operations until compli-  
8 ance with this section is achieved.

9       (8) ~~-(9)-~~ This section does not apply to a private facility  
10 that is serviced by a catering kitchen.

11       (9) ~~-(10)-~~ As used in this section: ~~-, "seating"~~

12       (A) "SEATING capacity" means the actual number of seats for  
13 patrons in a food service establishment.

14       (B) "SMOKING" MEANS THE CARRYING BY AN INDIVIDUAL OF A  
15 LIGHTED CIGAR, CIGARETTE, OR OTHER LIGHTED SMOKING DEVICE.