

Michigan Air Quality Tour Report

Campaign for Smokefree Air

Summary of Findings of Indoor Air Quality Testing

November 1, 2006

Contents

Executive Summary.....	3
Situation Analysis.....	4
Methods.....	4-5
Results.....	6-10
Conclusion.....	10-11
Michigan Legislation.....	11
National Trends.....	11-12
Appendix A.....	13
○ SidePak AM 510 Monitor	
Appendix B.....	14
○ US EPA Air Quality Index	
Appendix C.....	15-25
○ House Bill 4624	
○ House Bill 4625	
○ Senate Bill 394	
○ Senate Bill 395	
Appendix D.....	26-31
○ Media Coverage	

Executive Summary

The Campaign for Smokefree Air (CSA) is a grassroots coalition committed to creating smokefree air in workplaces, including restaurants and bars, in the state of Michigan. Supported by the American Cancer Society, the American Heart Association, the American Lung Association of Michigan, Michigan Health and Hospital Association and many other organizations, CSA is dedicated to educating and informing Michigan residents and lawmakers about the dangerous health effects of secondhand smoke.

Over the past year, CSA, together with the Michigan Department of Community Health, conducted an Air Quality Tour (AQT) across the state of Michigan. The AQT tested air in restaurants and bars to measure its overall quality in smoking and nonsmoking sections. The goal – to prove that there is no protection from secondhand smoke exposure in nonsmoking sections and only smokefree air will provide protection for workers and patrons.

From October 2005 to April 2006, testing was done in 90 different food establishments in eight cities across the state, including Ann Arbor, Detroit, Flint, Grand Rapids, Kalamazoo, Lansing, Novi and Saginaw. The air quality was discretely measured in each establishment using the TSI SidePak, a scientifically valid and effective tool for real-time air quality monitoring in secondhand smoke studies.

Air quality from each establishment was measured using the Environmental Protection Agency's (EPA) PM_{2.5} standards, established to effectively measure air quality for the protection of public health. The EPA has set standards of 15 µg/m³ as the average annual level of PM_{2.5} exposure and 65 µg/m³ 24-hour exposure in order to protect the public health. PM_{2.5} standards and the TSI SidePak are sensitive markers of secondhand smoke detection and monitor and record data in real time. PM_{2.5} is a marker of more than 4,000 chemicals in Environmental Tobacco Smoke (ETS). The TSI SidePak can show immediate, direct causal links between smoking and fine particle air pollution.

Results from each establishment tested on the tour conclusively support that nonsmoking sections do not provide a barrier against smoke. Examining the levels of fine particle air pollution in both the smoking and nonsmoking sections of restaurants and bars revealed that workers and patrons alike are exposed to levels of toxins that are deemed unhealthy by the EPA, on a daily basis.

The AQT proves that cigarette and cigar smoke in Michigan food establishments, decreases the overall air quality for both employees and patrons, regardless of their presence in a smoking or nonsmoking section. Establishments that have a designated nonsmoking section do not provide protection against toxins contained in secondhand smoke.

Situation Analysis

CSA conducted an air quality tour across Michigan, in various food establishments in eight cities, testing the indoor air quality in each bar and restaurant. Results from each city's air quality assessment support that nonsmoking sections do not provide a barrier against smoke. The high level of fine particle air pollution found in these venues reveals that bar and restaurant workers and patrons are exposed to toxins every day regardless of whether they work or dine in the smoking or nonsmoking sections. In some cases, the levels found in nonsmoking sections were nearly equivalent to the smoking section.

A smokefree Michigan is the only way that both employees and patrons of restaurants and bars can be protected from the unhealthy air, comprised of fine particle pollution found in secondhand smoke. Statewide smokefree legislation is the answer to the promise of quality and healthy air for Michigan citizens to breathe at work.

There are currently 23 states across the nation including Puerto Rico and Washington, D.C. that have implemented statewide legislation to ensure smokefree workplaces for employees and citizens. Worldwide, there are currently 28 countries with some form of legislation that ensures smokefree work environments or public venues (For more information on what other areas have done with smokefree policies please visit www.MakeMIAirSmokefree.org and click on Smokefree Progress).

Methods

Beginning in November 2005, the air quality was tested in food establishments in several Michigan cities. Air quality was tested in bars and restaurants to determine the quality of the air in enclosed spaces that contain secondhand smoke.

- Secondhand smoke contains at least 250 chemicals that are known to be toxic or carcinogenic, and is itself a known human carcinogen.
- Secondhand smoke is responsible for an estimated 3,000 lung cancer deaths nationwide.
- Secondhand smoke causes over 35,000 deaths nationwide from coronary heart disease annually in people who have never smoked.
- Secondhand Smoke is the third leading preventable cause of death in the United States; killing 38,000 to 65,000 nonsmokers every year.
- Secondhand smoke causes respiratory infections, aggravates asthma, Sudden Infant Death Syndrome and other illnesses.

The TSI SidePak AM510 Personal Aerosol Monitor (Appendix A) was used to record the indoor air quality in bars and restaurants tested throughout Michigan. The monitor is used to sample and record the levels of respirable suspended particles in the air. The SidePak uses a built-in sampling pump to draw air through the device and the particulate matter in the air scatters the light from a laser to assess the real-time concentration of particles smaller than 2.5 (μm) in micrograms per cubic meter, or $\text{PM}_{2.5}$. Particles of this size are released in significant amounts from burning cigarettes, are easily inhaled deep into the lungs, and are regularly associated with pulmonary and cardiovascular disease and mortality.

The monitor is able to detect more than 4,000 chemicals in secondhand smoke. For each use, the SidePak was zero-calibrated by attaching a HEPA filter prior to each use. The SidePak is a scientifically valid and effective tool to evaluate air quality and the presence of

toxins in a given environment. In testing smoking and nonsmoking sections of establishments the SidePak is able to provide an immediate measurement of fine particle air pollution at any given time.

Prior to testing, the SidePak monitor must be charged, the impactor must be cleaned and greased, zero-calibrated and a watch should be calibrated to the clock on the monitor. To begin monitoring, the monitor must be turned on, after going through a few start-up steps, the monitor will then begin logging data. The time at the start of the logging data should be recorded on the observations sheet.

The indoor air quality in Detroit, Saginaw and Kalamazoo restaurants and bars were tested for a half an hour each in both smoking and nonsmoking sections and a smokefree establishment in each city was used as a control. Indoor air quality of similar smokefree locations around the United States and the outdoor air in each Michigan city was also tested. Those results were then compared. The indoor air quality in Ann Arbor, Lansing, Novi, Grand Rapids and Flint food establishments were tested for a half an hour in the smoking section and were also compared to smokefree locations around the United States and the outdoor air in each of the five Michigan cities.

In order to achieve accurate results several items were recorded during the testing process.

- Time of entry and exit.
- Number of people and visual burning cigarettes were documented every 15 minutes.
- Room volumes were measured using the sonic measure. This procedure was used to measure both the height and the width of the area being tested.
- Whether any candles were burning or fireplace lit.
- Whether doors were opened.
- Proximity of the closest smoker to the monitor.
- Human error (time).

To ensure an accurate reading, there was a five-minute waiting period before entering the next venue to be tested.

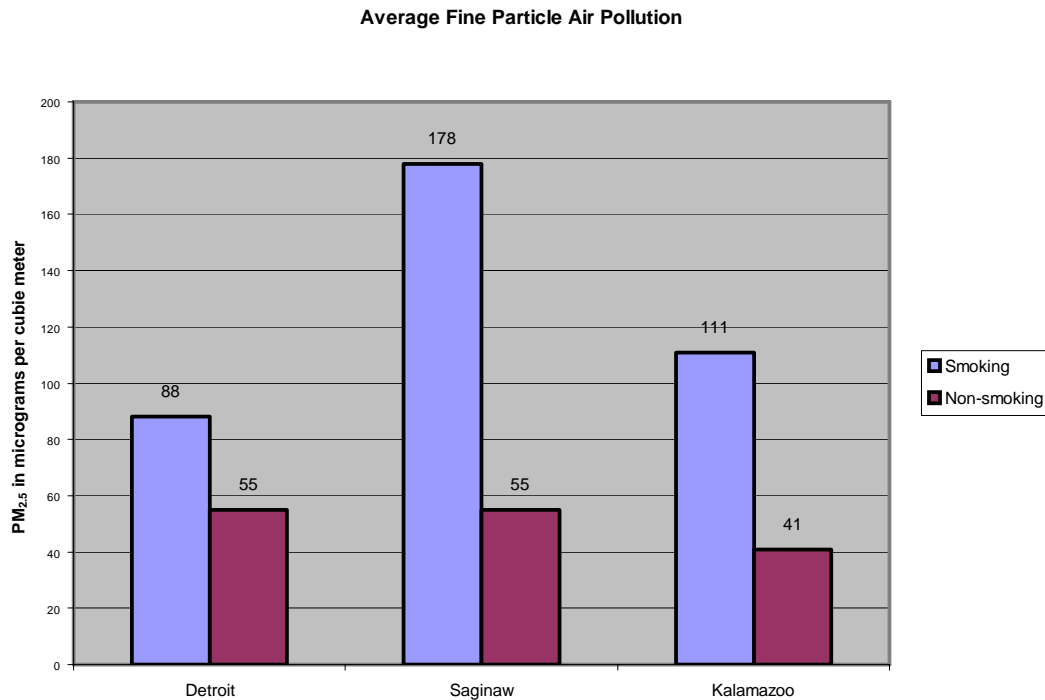
When the monitoring was complete, the machine was set to stop logging data and the record time was written down on the observation sheet. After testing:

- The monitor was turned off and recharged for the next time.
- The SidePak was then connected to a computer and data was downloaded.
- Once the data was downloaded and notes and observations were entered into an excel spreadsheet, it was sent to the Roswell Park Cancer Institute.
- Roswell Park Cancer Institute then analyzed and summarized the data and observations.

Results

The air quality in Detroit, Saginaw and Kalamazoo restaurants and bars were tested in both smoking and nonsmoking sections along with a smokefree restaurant for the control (Figure 1). The results from these three cities were also compared to smokefree locations across the United States and the average of outdoor air in each of these cities.

Figure 1

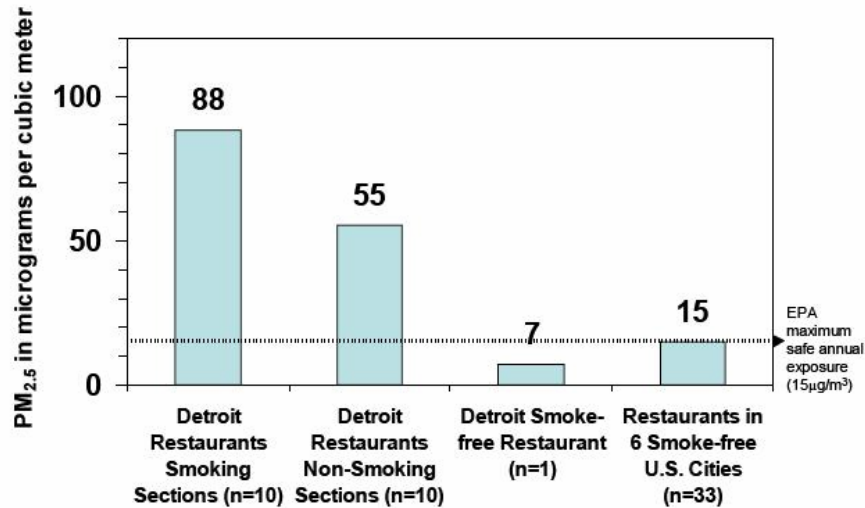


In January 2006, 11 restaurants in Detroit were tested throughout the day during lunch, dinner and after dinner hours on a Friday, Saturday and Sunday. Ten of the venues that were tested included measurement in both smoking and nonsmoking sections. The smoking sections were tested first and were followed immediately by monitoring in the nonsmoking sections. The eleventh establishment was smokefree for the control. Key findings include:

- The average air quality level found in the locations visited in Detroit measured at an 88 in the smoking sections, which the Environmental Protection Agency (EPA) deems as unhealthy (Appendix B, EPA chart). At this level the EPA recommends anyone should avoid or reduce prolonged exposure or heavy exertion at this level.
- Nonsmoking sections in Detroit restaurants measured at 55 that the EPA deems as unhealthy for sensitive groups. *[Note: The EPA deems healthy air quality levels at 15 and below]*

- The level of indoor air pollution was six times higher in the smoking sections of Detroit restaurants than the average in 33 similar restaurants in six smokefree cities around the United States.
- The amount of air pollution in the nonsmoking sections was 38 percent lower in nonsmoking sections than in the smoking sections but was still four times higher than restaurants located in smokefree cities.

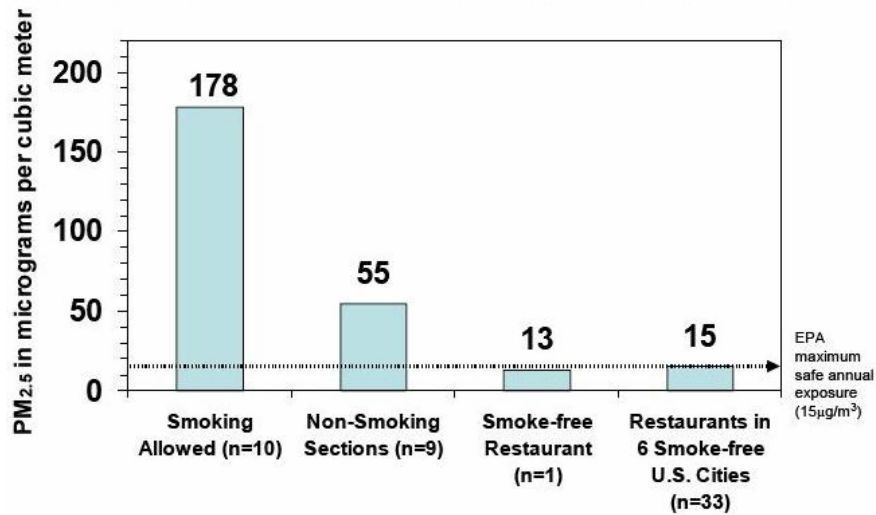
Average Fine Particle Air Pollution in Detroit, MI



Saginaw establishments were visited in February 2006 during lunch, dinner and after dinner hours. A smokefree establishment was also tested in Saginaw. Key findings include:

- The average of the nine locations in the smoking sections monitored measured at 178, which the EPA deems very unhealthy and recommends anyone who has heart or lung disease or anyone from older adults to children should avoid physical activity and avoid prolonged or heavy exertion in.
- Nonsmoking sections averaged 55, a level that the EPA deems as unhealthy for sensitive groups.
- Indoor air pollution was 12 times higher where smoking was allowed compared to restaurants in smokefree U.S. cities.
- In the nonsmoking sections the indoor air pollution was four times higher than in restaurants in smokefree cities.

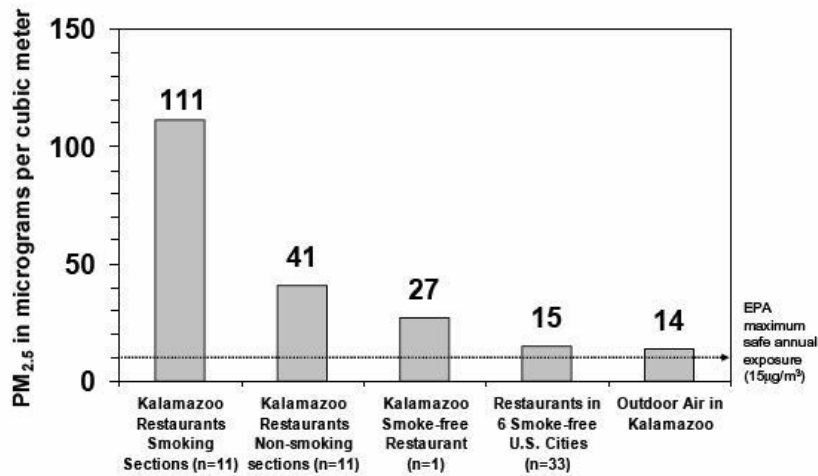
Average Fine Particle Air Pollution in Saginaw, MI



There were 12 bars and restaurants monitored between March and April 2006 in Kalamazoo. Key findings include:

- Fine particle air pollution level was 111 in the smoking sections, which the EPA deems unhealthy.
- Indoor air pollution was seven times higher in the smoking sections of Kalamazoo restaurants than the average in similar restaurants in smokefree cities around the United States.
- Kalamazoo nonsmoking sections found that the indoor air pollution is three times higher than in restaurants in smokefree cities.

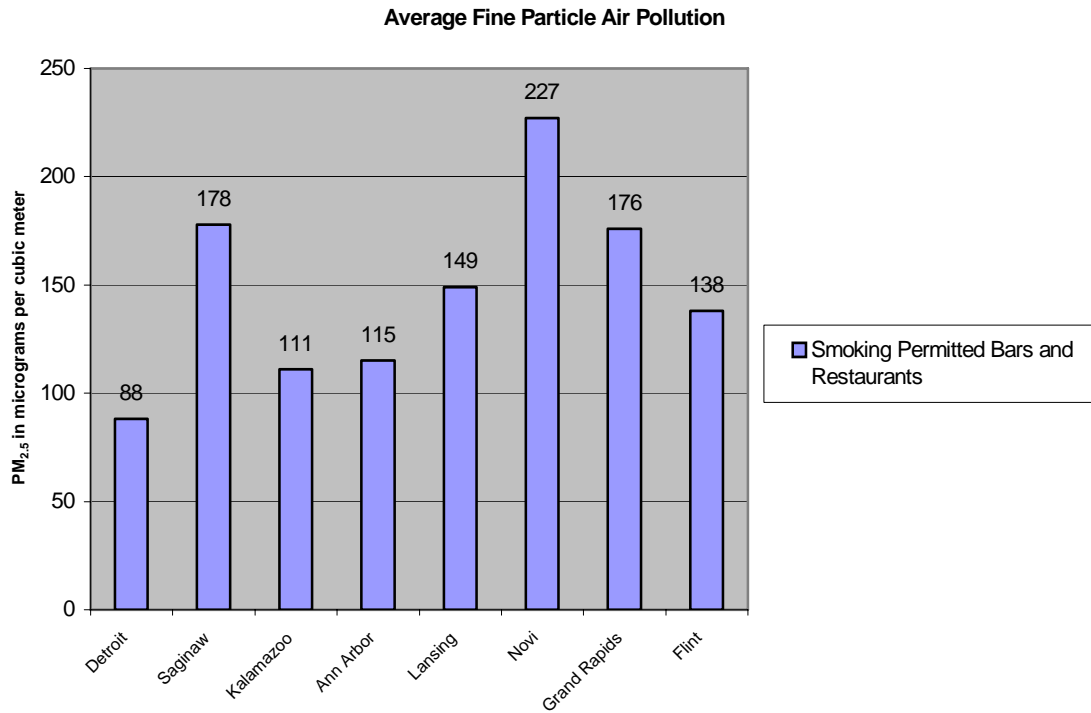
Average Fine Particle Air Pollution in Kalamazoo, MI



Results from Detroit, Saginaw and Kalamazoo air quality assessment support that nonsmoking sections do not provide a strong enough barrier against secondhand smoke.

Though the indoor air quality testing in Ann Arbor, Lansing, Novi, Grand Rapids and Flint restaurants and bars were tested in only smoking sections (Figure 2 – including Detroit, Saginaw and Kalamazoo), the results support that only smokefree air will provide protection for everyone against the toxins in secondhand smoke. The results from these five cities were also compared to smokefree cities around the United States and the average of outdoor air in each of these cities.

Figure 2



In October 2005, 10 establishments were monitored in Ann Arbor on Friday and Saturday evenings. The ten eating establishments that were tested in the smoking sections were then compared to similar smokefree locations tested around the United States and outdoors in Ann Arbor. Key findings included:

- Average air quality level in smoking sections measured at 115, which is deemed unhealthy by the EPA.
- Indoor air pollution levels were 7.2 times higher in Ann Arbor restaurants compared to similar locations in six smokefree cities around the United States.

Lansing bars and restaurants were also visited in October. Ten different bars and restaurants smoking sections were monitored. Key findings include:

- Smoking sections resulted in 149 deemed by the EPA as unhealthy.
- Indoor air pollution level was 9.3 times higher when compared to similar bars and restaurants in smokefree U.S. cities.
- Full-time bar and restaurant employees in Lansing are exposed to 2.3 times the annual EPA exposure limit of fine particulate air pollution, solely from occupational exposure.

During November 2005, 11 bars and restaurants were visited in Novi and the indoor air quality was monitored. Key findings include:

- The establishments averaged at a 227 where smoking was allowed and deemed by the EPA as very unhealthy.

- Indoor air pollution level as measured by average PM_{2.5} level was 14 times higher in Novi bars and restaurants where smoking was allowed as compared to similar food establishments in smokefree U.S. cities.
- In Novi, restaurant and bar employees that work in these establishments are exposed 3.5 times the annual EPA exposure limit on the job.

Also in November 2005 there were 10 bars and restaurants in Grand Rapids. Key findings include:

- Grand Rapids measured at a level of 176, deemed very unhealthy by the EPA.
- In Grand Rapids, the level of indoor air pollution was 12 times higher in bars and restaurants compared to similar bars and restaurants in smokefree U.S. cities.

Flint's indoor air quality was also tested in 15 bars and restaurants. This monitoring took place in November 2005 and February 2006. Key findings include:

- Bars and restaurants in the area are averaging a fine particle air pollution level of 138, which the EPA deems unhealthy.
- Indoor air pollution level as measured by average PM_{2.5} level was nine times higher in Flint bars and restaurants where smoking was allowed compared to similar food establishments in smokefree U.S. cities.

After examining the high levels of fine particle, air pollution in each location where all smoking and nonsmoking sections were tested the results reveal that bar and restaurant workers are exposed to toxins contained in secondhand smoke everyday regardless of working in smoking or nonsmoking sections. Indoor air quality findings in each city support that nonsmoking sections do not provide any protection against the toxins that are contained in secondhand smoke. Smoke does not and will not stay in the posted "nonsmoking" section.

Conclusion

The AQT report proves that cigarette and cigar smoke in Michigan bars and restaurants decreases the overall air quality for both employees and patrons, regardless of their presence in a smoking or nonsmoking section. Regardless of the bar, restaurant or city tested, the AQT conclusively supports that Michigan residents are not protected from deadly secondhand smoke exposure, even when sitting in the nonsmoking section. Without a physical barrier unhealthy levels of fine particle toxins continue to exist in bars and restaurants statewide. The AQT reveals that there is no such thing as a nonsmoking section; these establishments do not provide protection against the toxins contained in secondhand smoke.

In June 2006, U.S. Surgeon General Richard H. Carmona released a comprehensive scientific analysis of the health data surrounding secondhand smoke. This report is the first of its kind since 1986, which marked the first comprehensive scientific analysis of the health data surrounding secondhand smoke. In addition to addressing the health effects of secondhand smoke exposure and reports that ventilation systems do not protect people from the harmful particulates contained in secondhand smoke, it also refutes the argument that smokefree laws are detrimental to the financial well-being of businesses.

Ventilation systems will not protect the 500,000 food service workers in Michigan and all residents from the cancer-causing effects of secondhand smoke and the thousands of harmful particulates it carries into the lungs of workers. Even the best ventilators are incapable of removing the free-floating poisons of secondhand smoke. The only way hospitality venue workers and patrons in Michigan will be protected from the dangers of secondhand smoke is if all of Michigan workplaces, including bars and restaurants, become smokefree.

According to a statewide poll conducted by Troy Mich.-based John Bailey & Associates on behalf of CSA, nearly two-thirds of Michigan registered voters polled favor a new law creating smokefree environments in all Michigan workplaces. Nearly 80 percent said they would be more likely or just as likely to patronize their favorite restaurants if they went smokefree. Of those Michigan voters polled, 90 percent see secondhand smoke as harmful to their health, including 55 percent who see it as very harmful.

A smokefree Michigan will assure residents protection from the unhealthy air, comprised of fine particle toxins found in secondhand smoke is if those bars and restaurants become entirely smokefree. Regardless of location, size or method of being sectioned off, nonsmoking sections and ventilation systems in restaurants do not provide any kind of protection from the secondhand smoke exposure. In order to protect the health of Michigan residents, the Campaign for Smokefree Air believes that it is imperative that Michigan create smokefree workplaces, including bars and restaurants.

Michigan Legislation

House Bill 4624 (see Appendix C), sponsored by Rep. Barb Vander Veen, R-Allendale, and Senate Bill 394 (see Appendix C), sponsored by Sen. Raymond Basham, D-Taylor, both create smokefree worksites in restaurants and bars. If passed, all restaurants and bars in the state will be smokefree.

House Bill 4625 (see Appendix C), sponsored by Rep. Brenda Clack, D-Flint, and Senate Bill 395 (see Appendix C), sponsored by Sen. Thomas George, R-Kalamazoo, both create smokefree worksites in Michigan. Under this legislation, all worksites including schools, hospitals, public meetings and all other public places will be smokefree.

The four bills were introduced in April 2005; however, there have been similar bills in legislation for more than a decade. The house bills were referred to the Commerce Committee and the senate bills were referred to the Government Operations Committee. . To date, neither the House nor the Senate committees have voted on the legislation.

National Trends

After 50 years of science, anti-smoking advocacy and public education efforts and lawmaking at every level of government, smokefree environments in the public places and workplaces including restaurants and bars are becoming more and more prevalent. Each month that passes bars, restaurants, hotel chains, cities, counties and states across the nation are becoming smokefree. Time and again, the voting public has voiced a preference for smokefree environments. In a January poll done nationwide for the Robert Wood Johnson Foundation, nearly seven in ten voters favored laws to ban smoking in most indoor public places, including restaurants and bars.

According to a 2004 Gallup Poll, 32 percent of smokers also favored these smoking bans. Recent studies in several states have also revealed that smokefree does not harm businesses. The National Restaurant Association knows that a majority of its members support smokefree establishments. In a 2003 survey of National Restaurant Association members, 56 percent of the restaurateurs said, “they believe that a smoking ban would not hurt business.” According to the National Restaurant Association, 50 percent of owners want smokefree environments.

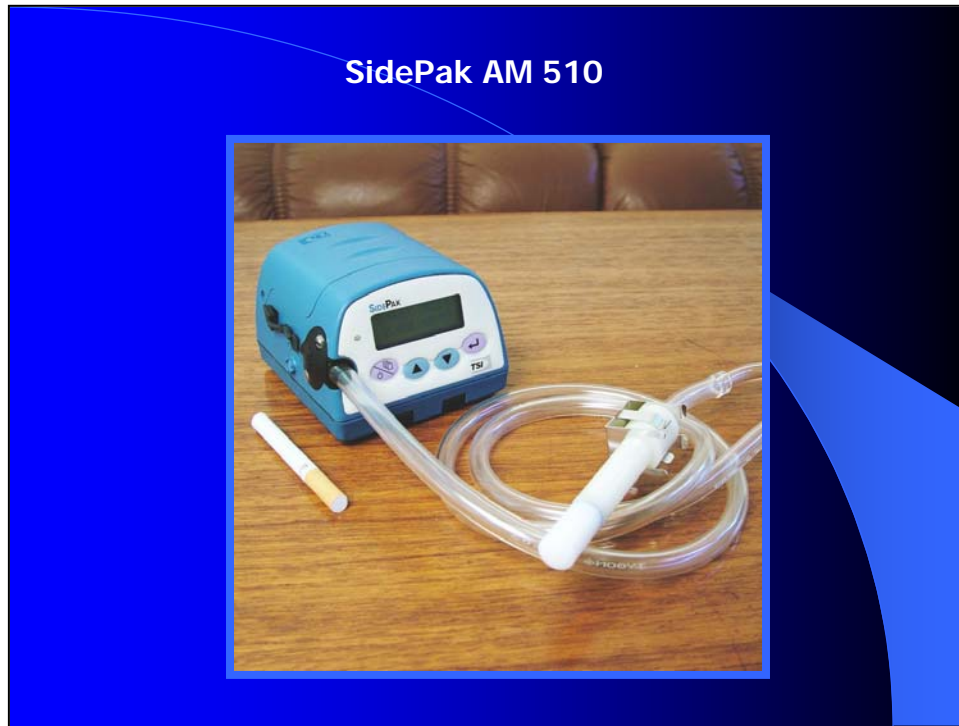
As stated earlier, smokefree worksites continue to be a new, healthy trend across the U.S. and the globe. California is currently enjoying its eleventh year of smokefree work places, and reaping the success that smokefree laws bring. Many states have since followed and will also see the positive effects on employees’ health and the economy that California has shown. California was the first U.S. state to pass a tobacco control program, and 11 years ago an unprecedented statewide smokefree workplace law that includes restaurants and bars. The latest data shows that ninety percent of Californians approve of the state's smokefree workplace law and smoking among youth continues to decline since the law has passed. Other states such as New York and Florida are also reaping the benefits of smokefree air.

Following its smokefree status, data from the New York City Department of Finance shows that tax receipts increased by 8.7 percent, or approximately \$1.4 million. Similar results were found in the state of Florida, where studies show restaurant sales were up seven percent one year after the state’s smokefree law took effect in July 2003. The EPA estimates that smokefree business nationwide collectively save \$3 to \$66 billion a year due to a decrease in premature deaths and tobacco-related illnesses. By allowing smoking in the workplace, business owners unwittingly take on a variety of associated costs, including higher health, life, and fire insurance premiums, higher worker absenteeism, lower work productivity, and higher worker’s compensation payments.

Studies in Pueblo, Colorado, Montana and Ohio have linked smokefree workplaces with immediate reductions in heart attack rates, while research from New York, Boston, Delaware, and other places has demonstrated the immediate improvement in worker health and indoor air quality that comes with the implementation of smokefree workplace laws.

Appendix A

SidePak AM 510



The SidePak AM 510 weighs 1 pound and measures different particle sizes in the air. This small machine measures airborne particle mass-concentration.

The monitor can be adjusted to capture different particle size. Cigarettes, cigars and pipes are major emitters of respirable suspended particles less than 2.5 microns (PM_{2.5}) in diameter that are easily inhaled deep into the lungs.

This particle size is not specific to tobacco smoke, however the meter can measure this secondhand smoke.

Appendix B

US EPA Air Quality Index

Air Quality	Air Quality Index	PM _{2.5} (µg/m ³)	Health Advisory
Good	0-50	≤15	None.
Moderate	51-100	16-40	Unusually sensitive people should consider reducing prolonged or heavy exertion.
Unhealthy for Sensitive Groups	101-150	41-65	People with heart or lung disease, older adults, and children should reduce prolonged or heavy exertion.
Unhealthy	151-200	66-150	People with heart or lung disease, older adults, and children should avoid prolonged or heavy exertion. Everyone else should reduce prolonged or heavy exertion.
Very Unhealthy	201-300	151-250	People with heart or lung disease, older adults, and children should avoid all physical activity outdoors. Everyone else should avoid prolonged or heavy exertion.
Hazardous	>301	>251	People with heart or lung disease, older adults, and children should remain indoors and keep activity levels low. Everyone else should avoid all physical activity outdoors.

Appendix C

House Bill 4624 reads as follows:

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 12905 (MCL 333.12905), as amended by 1993 PA 242, and by amending the heading to part 129; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 129. ~~FOOD SERVICE SANITATION~~ SMOKE-FREE FOOD SERVICE ESTABLISHMENTS

Sec. 12905. (1) Except as otherwise provided in this section, ~~all public areas of a food service establishment shall be nonsmoking.~~ NOT ALLOW SMOKING AND A PERSON SHALL NOT SMOKE IN A FOOD SERVICE ESTABLISHMENT. ~~As used in this subsection, "public area" includes, but is not limited to, a bathroom, a coatroom, and an entrance or other area used by a patron when not seated at a food service table or counter. Public area does not include the lobby, waiting room, hallways, and lounge areas of a food service establishment, but these areas are not required to be designated as smoking areas.~~

~~—(2) Subject to subsection (3), a food service establishment with a seating capacity of fewer than 50, whether or not it is owned and operated by a private club, and a food service establishment that is owned and operated by a private club may designate up to 75% of its seating capacity as seating for smokers. A food service establishment with a seating capacity of 50 or more that is not owned or operated by a private club may designate up to 50% of its seating capacity as seating for smokers. A food service establishment that designates seating for smokers shall clearly identify the seats for nonsmokers as nonsmoking, place the seats for nonsmokers in close proximity to each other, and locate the seats for nonsmokers so as not to discriminate against nonsmokers.~~

~~—(3) A food service establishment shall not use the definition of seating capacity and the exemption from that definition set forth in subsection (9)(c) to increase the amount of seating for smokers above 75%.~~

(2) ~~(4)~~ In addition to a food service establishment that provides its own seating, ~~subsections (1), (2), and (3) also apply.~~ SUBSECTION (1) APPLIES to a food service establishment or group of food service establishments that are located in a shopping mall ~~where~~ IN WHICH the seating for the food service establishment or group of food service establishments is provided or maintained, or both, by the person who owns or operates the shopping mall. ~~As used in this subsection, "shopping mall" means a shopping center with stores facing an enclosed mall.~~

(3) ~~(5)~~ The director, or a representative of a local health department to which the director, an authorized representative of the director, has delegated responsibility for enforcement of this part shall ~~, in accordance with R 325.25902 of the Michigan administrative code,~~ inspect each food service establishment that is subject to this section. The inspecting entity shall determine compliance with this section during each inspection.

(4) ~~(6)~~ The department or a local health department shall utilize compliance or noncompliance with this section or with rules promulgated to implement this section as criteria in the ~~determination.~~ RECOMMENDATION TO THE DEPARTMENT OF

AGRICULTURE of whether to deny, suspend, limit, or revoke a license ~~pursuant to section 12907(1)~~ ISSUED UNDER THE FOOD LAW OF 2000, 2000 PA 92, MCL 289.1101 TO 289.8111.-

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

~~—(8) This section does not apply to a private facility that is serviced by a catering kitchen or to a separate room in a food service establishment that is used for private banquets. This section does not apply to a food service establishment that is owned and operated by a fraternal organization, if service is limited to members of the fraternal organization and their guests.~~

(6) SIGNS OR THE INTERNATIONAL "NO SMOKING" SYMBOL SHALL BE CLEARLY AND CONSPICUOUSLY POSTED AT THE ENTRANCE TO AND IN EVERY BUILDING OR OTHER AREA WHERE SMOKING IS PROHIBITED UNDER THIS SECTION. THE OWNER, OPERATOR, MANAGER, OR PERSON HAVING CONTROL OF THE BUILDING OR OTHER AREA SHALL POST THE SIGNAGE. THE OWNER, OPERATOR, MANAGER, OR PERSON HAVING CONTROL OF THE AREA SHALL REMOVE ALL ASHTRAYS AND OTHER SMOKING PARAPHERNALIA FROM ANY AREA WHERE SMOKING IS PROHIBITED UNDER THIS SECTION.

(7) ~~(9)~~ As used in this section:

~~—(a) "Bar" means that term as defined in section 2a of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.2a of the Michigan Compiled Laws.~~

~~—(b) "Room" means an area that is physically distinct from the main dining area of a food service establishment and from which smoke cannot pass into the main dining area.~~

~~—(c) "Seating capacity" means the actual number of seats for patrons in a food service establishment. Seating capacity does not include seats located at a bar or seats at tables that are located adjacent to a bar, if meals are not served at those tables.~~

(A) "FOOD SERVICE ESTABLISHMENT" MEANS THAT TERM AS DEFINED IN SECTION 1107 OF THE FOOD LAW OF 2000, 2000 PA 92, MCL 289.1107.

(B) "SHOPPING MALL" MEANS A SHOPPING CENTER WITH STORES FACING AN ENCLOSED MALL.

(C) ~~(d)~~ "Smoking" means the carrying by an individual of a lighted cigar, cigarette, or other lighted smoking device.

Enacting section 1. Sections 12909 and 12915 of the public health code, 1978 PA 368, MCL 333.12909 and 333.12915, are repealed.

HB 4625 reads as follows:

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 12601 (MCL 333.12601), as amended by 1988 PA 315; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

(d) "Food service establishment" means a food service establishment as defined in section ~~42904~~ 1107 OF THE FOOD LAW OF 2000, 2000 PA 92, MCL 289.1107.

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

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

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

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

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

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

(J) ~~(k)~~ "Nursing home" means that term as defined in section 20109.

(K) "PLACE OF EMPLOYMENT" MEANS AN ENCLOSED INDOOR AREA SERVING AS THE WORK AREA FOR 1 OR MORE PERSONS EMPLOYED BY A PUBLIC OR PRIVATE EMPLOYER. PLACE OF EMPLOYMENT DOES NOT INCLUDE A STRUCTURE USED PRIMARILY AS THE RESIDENCE OF THE OWNER OR LESSEE THAT IS ALSO USED AS AN OFFICE FOR THE OWNER OR LESSEE.

(l) "Public body" means a public body as defined in section 2 of the open meetings act, ~~Act No. 267 of the Public Acts of 1976~~ 1976 PA 267, MCL 15.262.

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

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

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

(A) An educational facility.

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

(C) An auditorium.

(D) An arena.

(E) A theater.

(F) A museum.

(G) A concert hall.

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

(iii) A PLACE OF EMPLOYMENT.

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

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

(O) "WORK AREA" MEANS A SITE WITHIN A PLACE OF EMPLOYMENT AT WHICH 1 OR MORE EMPLOYEES ARE ROUTINELY ASSIGNED TO PERFORM SERVICES FOR AN EMPLOYER.

(2) AN INDIVIDUAL SHALL NOT SMOKE IN A PUBLIC PLACE OR AT A MEETING OF A PUBLIC BODY.

(3) THE STATE OR LOCAL GOVERNMENTAL AGENCY OR THE PERSON WHO OWNS OR OPERATES A PUBLIC PLACE SHALL POST SIGNS THAT STATE THAT SMOKING IN THAT PUBLIC PLACE IS PROHIBITED.

(4) A PERSON WHO VIOLATES SUBSECTION (2) OR A STATE OR LOCAL GOVERNMENTAL AGENCY OR THE PERSON WHO OWNS OR OPERATES A PUBLIC PLACE WHO VIOLATES SUBSECTION (3) SHALL BE DIRECTED TO COMPLY WITH THIS PART AND IS SUBJECT TO A CIVIL FINE OF NOT MORE

THAN \$100.00 FOR A FIRST VIOLATION AND NOT MORE THAN \$500.00 FOR A SECOND OR SUBSEQUENT VIOLATION.

(5) THE DEPARTMENT SHALL ENFORCE THIS PART AND RULES PROMULGATED UNDER THIS PART PURSUANT TO SECTIONS 2262(2) AND 2263. IN ADDITION TO THE CIVIL FINE AUTHORIZED UNDER SUBSECTION (4), THE DEPARTMENT MAY ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART THROUGH AN ACTION COMMENCED PURSUANT TO SECTION 2255 OR ANY OTHER APPROPRIATE ACTION AUTHORIZED BY LAW. PURSUANT TO SECTION 2235, THE DEPARTMENT MAY AUTHORIZE A LOCAL HEALTH DEPARTMENT TO ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART. A LOCAL HEALTH DEPARTMENT AUTHORIZED TO ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART SHALL ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART PURSUANT TO SECTIONS 2461(2) AND 2462. IN ADDITION TO THE CIVIL FINE AUTHORIZED UNDER SUBSECTION (4), A LOCAL HEALTH DEPARTMENT MAY ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART THROUGH AN ACTION COMMENCED PURSUANT TO SECTION 2465 OR ANY OTHER APPROPRIATE ACTION AUTHORIZED BY LAW. IN ADDITION TO ANY OTHER ENFORCEMENT ACTION AUTHORIZED BY LAW, A PERSON ALLEGING A VIOLATION OF THIS PART MAY BRING A CIVIL ACTION FOR APPROPRIATE INJUNCTIVE RELIEF, IF THE PERSON HAS USED THE PUBLIC PLACE, CHILD CARING INSTITUTION, CHILD CARE CENTER, HEALTH FACILITY, OR PRIVATE PRACTICE OFFICE OF AN INDIVIDUAL WHO IS LICENSED UNDER ARTICLE 15 WITHIN 60 DAYS AFTER THE CIVIL ACTION IS FILED. THE REMEDIES UNDER THIS PART ARE INDEPENDENT AND CUMULATIVE. THE USE OF 1 REMEDY BY A PERSON SHALL NOT BAR THE USE OF OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A LAWFUL REMEDY BY ANOTHER PERSON.

(6) THE DIRECTOR SHALL REPORT BIENNIALY TO THE LEGISLATURE ON THE EFFECT AND ENFORCEMENT OF THIS PART. THE REPORT SHALL INCLUDE, AT A MINIMUM, COMPLIANCE WITH SUBSECTION (3). UPON REQUEST OF THE DEPARTMENT, THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT AND BUDGET ANNUALLY SHALL REPORT TO THE DEPARTMENT, AT A MINIMUM, A LIST OF EACH PUBLIC PLACE OWNED OR OPERATED BY THE STATE AND ITS COMPLIANCE WITH SUBSECTION (3).

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

Enacting section 1. (1) Sections 12603, 12604a, 12605, 12607, 12611, 12613, 12614, 12615, 12617, 21333, and 21733 of the public health code, 1978 PA 368, MCL 333.12603, 333.12604a, 333.12605, 333.12607, 333.12611, 333.12613, 333.12614, 333.12615, 333.12617, 333.21333, and 333.21733, are repealed.

(2) Section 6127 of the food law of 2000, 2000 PA 92, MCL 289.6127, is repealed.

Senate Bill 394 reads as follows:

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 12905 (MCL 333.12905), as amended by 1993 PA 242, and by amending the heading to part 129; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 129. ~~FOOD SERVICE SANITATION~~ SMOKE-FREE FOOD SERVICE ESTABLISHMENTS

Sec. 12905. (1) Except as otherwise provided in this section, ~~all public areas of~~ a food service establishment shall ~~be nonsmoking~~ not allow smoking and a person shall not smoke in a food service establishment. ~~As used in this subsection, "public area" includes, but is not limited to, a bathroom, a coatroom, and an entrance or other area used by a patron when not seated at a food service table or counter. Public area does not include the lobby, waiting room, hallways, and lounge areas of a food service establishment, but these areas are not required to be designated as smoking areas.~~

~~—(2) Subject to subsection (3), a food service establishment with a seating capacity of fewer than 50, whether or not it is owned and operated by a private club, and a food service establishment that is owned and operated by a private club may designate up to 75% of its seating capacity as seating for smokers. A food service establishment with a seating capacity of 50 or more that is not owned or operated by a private club may designate up to 50% of its seating capacity as seating for smokers. A food service establishment that designates seating for smokers shall clearly identify the seats for nonsmokers as nonsmoking, place the seats for nonsmokers in close proximity to each other, and locate the seats for nonsmokers so as not to discriminate against nonsmokers.~~

~~—(3) A food service establishment shall not use the definition of seating capacity and the exemption from that definition set forth in subsection (9)(c) to increase the amount of seating for smokers above 75%.~~

(2) ~~(4)~~ In addition to a food service establishment that provides its own seating, ~~subsections (1), (2), and (3) also apply~~ subsection (1) applies to a food service establishment or group of food service establishments that are located in a shopping mall ~~where~~ in which the seating for the food service establishment or group of food service establishments is provided or maintained, or both, by the person who owns or operates the shopping mall. ~~As used in this subsection, "shopping mall" means a shopping center with stores facing an enclosed mall.~~

(3) ~~(5)~~ The director, or a representative of a local health department to which the director, an authorized representative of the director, has delegated responsibility for enforcement of this part shall ~~in accordance with R 325.25902 of the Michigan administrative code,~~ inspect each food service establishment that is subject to this section. The inspecting entity shall determine compliance with this section during each inspection.

(4) ~~(6)~~ The department or a local health department shall utilize compliance or noncompliance with this section or with rules promulgated to implement this section as criteria in the ~~determination~~ RECOMMENDATION TO THE DEPARTMENT OF AGRICULTURE of whether to deny, suspend, limit, or revoke a license ~~pursuant to~~

~~section 12907(4)~~ ISSUED UNDER THE FOOD LAW OF 2000, 2000 PA 92, MCL 289.1101 TO 289.8111.-

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

~~—(8) This section does not apply to a private facility that is serviced by a catering kitchen or to a separate room in a food service establishment that is used for private banquets. This section does not apply to a food service establishment that is owned and operated by a fraternal organization, if service is limited to members of the fraternal organization and their guests.~~

(6) SIGNS OR THE INTERNATIONAL "NO SMOKING" SYMBOL SHALL BE CLEARLY AND CONSPICUOUSLY POSTED AT THE ENTRANCE TO AND IN EVERY BUILDING OR OTHER AREA WHERE SMOKING IS PROHIBITED UNDER THIS SECTION. THE OWNER, OPERATOR, MANAGER, OR PERSON HAVING CONTROL OF THE BUILDING OR OTHER AREA SHALL POST THE SIGNAGE. THE OWNER, OPERATOR, MANAGER, OR PERSON HAVING CONTROL OF THE AREA SHALL REMOVE ALL ASHTRAYS AND OTHER SMOKING PARAPHERNALIA FROM ANY AREA WHERE SMOKING IS PROHIBITED UNDER THIS SECTION.

(7) ~~(9)~~ As used in this section:—(a) "Bar" means that term as defined in section 2a of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.2a of the Michigan Compiled Laws.—(b) "Room" means an area that is physically distinct from the main dining area of a food service establishment and from which smoke cannot pass into the main dining area.—(c) "Seating capacity" means the actual number of seats for patrons in a food service establishment. Seating capacity does not include seats located at a bar or seats at tables that are located adjacent to a bar, if meals are not served at those tables.

(A) "FOOD SERVICE ESTABLISHMENT" MEANS THAT TERM AS DEFINED IN SECTION 1107 OF THE FOOD LAW OF 2000, 2000 PA 92, MCL 289.1107. (B) "SHOPPING MALL" MEANS A SHOPPING CENTER WITH STORES FACING AN ENCLOSED MALL.

(C) ~~(d)~~ "Smoking" means the carrying by an individual of a lighted cigar, cigarette, or other lighted smoking device. Enacting section 1. Sections 12909 and 12915 of the public health code, 1978 PA 368, MCL 333.12909 and 333.12915, are repealed.

Senate Bill 395 reads as follows:

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 12601 (MCL 333.12601), as amended by 1988 PA 315; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

(d) "Food service establishment" means a food service establishment as defined in section ~~42901~~ 1107 OF THE FOOD LAW OF 2000, 2000 PA 92, MCL 289.1107.

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

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

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

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

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

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

(J) ~~(k)~~ "Nursing home" means that term as defined in section 20109.

(K) "PLACE OF EMPLOYMENT" MEANS AN ENCLOSED INDOOR AREA SERVING AS THE WORK AREA FOR 1 OR MORE PERSONS EMPLOYED BY A PUBLIC OR PRIVATE EMPLOYER. PLACE OF EMPLOYMENT DOES NOT INCLUDE A STRUCTURE USED PRIMARILY AS THE RESIDENCE OF THE OWNER OR LESSEE

THAT IS ALSO USED AS AN OFFICE FOR THE OWNER OR LESSEE.

(l) "Public body" means a public body as defined in section 2 of the open meetings act, ~~Act No. 267 of the Public Acts of 1976~~ 1976 PA 267, MCL 15.262.

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

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

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

(A) An educational facility.

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

(C) An auditorium.

(D) An arena.

(E) A theater.

(F) A museum.

(G) A concert hall.

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

(iii) A PLACE OF EMPLOYMENT.

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

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

(O) "WORK AREA" MEANS A SITE WITHIN A PLACE OF EMPLOYMENT AT WHICH 1 OR MORE EMPLOYEES ARE ROUTINELY ASSIGNED TO PERFORM SERVICES FOR AN EMPLOYER.

(2) AN INDIVIDUAL SHALL NOT SMOKE IN A PUBLIC PLACE OR AT A MEETING OF A PUBLIC BODY.

(3) THE STATE OR LOCAL GOVERNMENTAL AGENCY OR THE PERSON WHO OWNS OR OPERATES A PUBLIC PLACE SHALL POST SIGNS THAT STATE THAT SMOKING IN THAT PUBLIC PLACE IS PROHIBITED.

(4) A PERSON WHO VIOLATES SUBSECTION (2) OR A STATE OR LOCAL GOVERNMENTAL AGENCY OR THE PERSON WHO OWNS OR OPERATES A PUBLIC PLACE WHO VIOLATES SUBSECTION (3) SHALL BE DIRECTED TO COMPLY WITH THIS PART AND IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$100.00 FOR A FIRST VIOLATION AND NOT MORE THAN \$500.00 FOR A SECOND OR SUBSEQUENT VIOLATION.

(5) THE DEPARTMENT SHALL ENFORCE THIS PART AND RULES PROMULGATED UNDER THIS PART PURSUANT TO SECTIONS 2262(2) AND 2263. IN ADDITION TO THE CIVIL FINE AUTHORIZED UNDER SUBSECTION (4), THE DEPARTMENT MAY ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART THROUGH AN ACTION COMMENCED PURSUANT TO SECTION 2255 OR ANY OTHER APPROPRIATE ACTION AUTHORIZED BY LAW. PURSUANT TO SECTION 2235, THE DEPARTMENT MAY AUTHORIZE A LOCAL HEALTH DEPARTMENT TO ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART. A LOCAL HEALTH DEPARTMENT AUTHORIZED TO ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART SHALL ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART PURSUANT TO SECTIONS 2461(2) AND 2462. IN ADDITION TO THE CIVIL FINE AUTHORIZED UNDER SECTION

(4), A LOCAL HEALTH DEPARTMENT MAY ENFORCE THIS PART AND THE RULES PROMULGATED UNDER THIS PART THROUGH AN ACTION COMMENCED PURSUANT TO SECTION 2465 OR ANY OTHER APPROPRIATE ACTION AUTHORIZED BY LAW. IN ADDITION TO ANY OTHER ENFORCEMENT ACTION AUTHORIZED BY LAW, A PERSON ALLEGING A VIOLATION OF THIS PART MAY BRING A CIVIL ACTION FOR APPROPRIATE INJUNCTIVE RELIEF, IF THE PERSON HAS USED THE PUBLIC PLACE, CHILD CARING INSTITUTION, CHILD CARE CENTER, HEALTH FACILITY, OR PRIVATE PRACTICE OFFICE OF AN INDIVIDUAL WHO IS LICENSED UNDER ARTICLE 15 WITHIN 60 DAYS AFTER THE CIVIL ACTION IS FILED. THE REMEDIES UNDER THIS PART ARE INDEPENDENT AND CUMULATIVE. THE USE OF 1 REMEDY BY A PERSON SHALL NOT BAR THE USE OF OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A LAWFUL REMEDY BY ANOTHER PERSON.

(6) THE DIRECTOR SHALL REPORT BIENNIALY TO THE LEGISLATURE ON THE EFFECT AND ENFORCEMENT OF THIS PART. THE REPORT SHALL INCLUDE, AT A MINIMUM, COMPLIANCE WITH SUBSECTION (3). UPON REQUEST OF THE DEPARTMENT, THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT AND BUDGET ANNUALLY SHALL REPORT TO THE DEPARTMENT, AT A MINIMUM, A LIST OF EACH PUBLIC PLACE OWNED OR OPERATED BY THE STATE AND ITS COMPLIANCE WITH SUBSECTION (3).

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

Enacting section 1. (1) Sections 12603, 12604a, 12605, 12607, 12611, 12613, 12614, 12615, 12617, 21333, and 21733 of the public health code, 1978 PA 368, MCL 333.12603, 333.12604a, 333.12605, 333.12607, 333.12611, 333.12613, 333.12614, 333.12615, 333.12617, 333.21333, and 333.21733, are repealed.

(2) Section 6127 of the food law of 2000, 2000 PA 92, MCL 289.6127, is repealed.

Media Clips

Indoor pollution high in study of local restaurants

Campaign finds smoke-free areas have toxins, too

By Stacey Range
Lansing State Journal

Think you're safe sitting in the nonsmoking section?
Think again.

A recent survey of 10 Lansing area bars and restaurants found that even in nonsmoking sections, patrons are subjected to air pollution.

"Whether you can smell it or not, you're still breathing in harmful toxins," said Judy Stewart, manager of the Campaign for Smokefree Air, which conducted the study.

The campaign, which is lobbying state lawmakers to ban smoking in all Michigan bars, restaurants and workplaces, measured indoor air pollution at various Lansing area establishments. Another 10 cities have been targeted for testing and are in various stages of the process, but Lansing was first. In order to gain access to the venues, the campaign had to agree not to reveal the identities of the restaurants and bars.

Highs and lows

Pollution levels varied by site. The air at one establishment was so polluted it ranked well into the hazardous range on a scale devised by the U.S. Environmental Protection Agency. The air at two others fell in the moderate range. Altogether, the venues recorded an average pollution level at the top of the unhealthy range and nearly 10 times higher than in bars and restaurants in smoke-free cities.

"No level is safe, but that's pretty high," Stewart said.

Representatives of the Michigan Restaurant Association and the Michigan Licensed Beverage Association hadn't seen the data and thus weren't willing to comment on it. But they said most restaurant and bar owners have taken steps in recent years, some of them very costly, to clear the air.

"They are trying to protect nonsmokers," said Andy Deloney, the restaurant association's public affairs director. "They've invested in ventilation systems and expanded their nonsmoking sections. They are trying."

Volunteer testers

When testing the air quality, campaign volunteers spent 30 minutes in the smoking section and 30 minutes in the nonsmoking area. Only one venue, a bar in East Lansing, did not provide a nonsmoking section. It scored the highest level of pollution.

For some people, the smoke is merely a nuisance. But it's much more problematic for those with health problems, such as asthma and allergies, Stewart said.

And long-term exposure can lead to serious health problems for workers who spend several hours each day in the smoke-filled environments. Studies show those workers are 50 percent more likely to develop lung cancer or emphysema.

About 1,570 to 2,790 Michigan residents die from secondhand smoking each year, according to state records. Another 14,700 adults die each year from their own smoking.

Tom Kelly, who recently moved back to the area after graduating from Boston College, briefly considered becoming a bartender to help put him through medical school. But the Michigan State University student changed his mind after spending some time in area bars.

"They're so smoky it's disgusting," said Kelly, 22 of Lansing. "Boston was smoke-free, and it was so nice not to walk out of the bar always smelling like an ashtray."

For his mother, it's a matter of health. She has a mild form of asthma and is allergic to smoke.

"We know which restaurants she can go to and the ones to avoid," Kelly said. "If it's too smoky, she starts coughing real bad and can't breathe."

Package of bills

Stewart's campaign, a grass roots coalition including the American Cancer Society, American Heart Association and the American Lung Association among other groups, is hoping the data will help convince lawmakers to pass a package of bills that has languished for months in committees.

A four-bill package from two Republican and two Democratic lawmakers has awaited a hearing since it was unveiled in April.

While previous attempts to nix smoking in public places have faltered, state Rep. Barb Vander Veen, a Republican registered nurse from Allendale, and Sen. Tom George, a Republican doctor from Kalamazoo, had hoped their support would push the bills through the GOP-controlled Legislature. Sen. Ray Basham, D-Taylor, and Rep. Brenda Clack, D-Flint, are the bills' other sponsors.

But the package has strong resistance from the restaurant and licensed beverage associations. They say private businesses dictated by the marketplace, not government, should be left to decide whether to allow smoking.

They also argue that as more consumers demand more smoke-free venues, businesses will either conform or die. Already, at least 3,500 of more than 17,000 Michigan restaurants are nonsmoking, Deloney said.

"Our guests are adults who can make decisions for themselves," he said. "If they don't care for the environment, they can choose to go somewhere else."

Carrie Rathbun Hawks worries about the effects of secondhand smoke on her 3-year-old son, Brady. "We try to go to smoke-free restaurants as much as possible," the Laingsburg woman said. "If there is a smoking section, we always ask to be seated as far away from it as possible."

Contact Stacey Range at 377-1157 or srange@lsj.com.

Box

Smoke-free eateries

Here is a list of some local restaurants that ban smoking:

* All Seasons Bistro, East Lansing

* Apple Jade Restaurant, Lansing

- * Bravo Cucina Italiana, Lansing
- * Buffalo's Southwest Cafe, Holt
- * Christie's Bistro, Delta Township
- * The Classic Diner, Delta Township
- * Coral Gables, East Lansing
- * Flap Jack Family Restaurants, various locations
- * McAlister's Deli, Okemos and Lansing Township
- * Smokey Bones Barbeque and Grill, Lansing
- * The State Room, East Lansing

On the Web

- * For a list of smoke-free restaurants in the state, go to www.smokefreemichigan.org/restaurants.htm.

Online

- * Campaign for Smoke-free Air: www.makemaiirsmokefree.org

Graphic

Chart/Lansing State Journal

Lansing eateries, bars smoky

A recent survey of 10 bars and restaurants in Greater Lansing found the average level of indoor air pollution 9.3 times higher than in similar establishments in smokefree cities around the United States. The survey by the Campaign for

Smokefree Air, was conducted between 8 p.m. and 1 a.m. Oct. 21-27.

lansing restaurants and bars 149 other locations 16 Outside air quality in Lansing 14

Locations in 6 smoke free U.S. cities

Note: 2005 Average for Lansing, MI, 2005 U.S. EPA AirData report generated Oct. 31.

No ifs, ands or butts

U.S. Surgeon General says secondhand tobacco smoke is deadly, citing need to eliminate indoor smoking

Kimberly Hayes Taylor

Rhianna Turner hates breathing secondhand smoke and does her best to avoid it wherever she goes.

Now that U.S. Surgeon General Richard Carmona released a landmark report Tuesday saying any exposure to secondhand smoke can be harmful and increases the chance of lung cancer and heart disease up to 30 percent, Turner said lawmakers must do more to keep nonsmokers safe.

"This is a serious matter," said the 26-year-old Detroit, who had just asked a smoking friend to leave the table at Fishbone's in Greektown. "Smokers should be fined at least twice and be sent to jail for at least 180 days. I should say they should be sent away for life because they are taking mine."

The Surgeon General's report on secondhand smoke -- the first of its kind in 20 years -- also concluded there is no risk-free level of secondhand-smoke exposure. In other words, separating smokers from nonsmokers in public places is ineffective and ventilation systems don't help.

"The health effects of secondhand-smoke exposure are more pervasive than we previously thought," said Carmona, vice admiral of the U.S. Public Health Service, in a statement. "The scientific evidence is now indisputable: Secondhand smoke is not a mere annoyance. It is a serious health hazard that can lead to disease and premature death in children and nonsmoking adults."

There are more than 50 carcinogens and at least 250 toxic or carcinogenic chemicals found in secondhand smoke. Only smoke-free homes, vehicles, workplaces, restaurants and enclosed public places will protect nonsmokers, he said.

Dr. Ron Davis, director of the Center for Health Promotion at Henry Ford Health System, said the report is a call to action.

"Nonsmokers should do all they can to eliminate secondhand smoke to the environment, to make their homes smoke-free," Davis said Tuesday. "Don't allow anybody to smoke there -- not a repairman, a housekeeper or babysitter or visiting family member."

Davis, a nationally recognized smoking expert who formerly headed the Center for Disease Control's Office on Smoking and Health, said it's time for nonsmokers to appeal to local and state governments and state legislators to ban indoor smoking in public spaces and workplaces.

Currently 14 states, including California, Connecticut, Massachusetts and New York, have passed smoke-free air laws. Voters in Arizona, Ohio and Nevada will have a chance to make similar decisions in November.

Four bills to ban smoking statewide in workplaces, bars and restaurants have been introduced in the Michigan Legislature. Some local governments, including the city of Detroit and Wayne County, have banned smoking in public places and at work; the bans, however, don't affect smoking in bars and restaurants.

On Tuesday, the Michigan-based Campaign for Smokefree Air concurred with Carmona's report with its study of restaurants and bars in Detroit, Novi, Ann Arbor, Lansing and Saginaw that showed levels of indoor air pollution were high in nonsmoking areas. In Detroit, for example, the nonsmoking sections were 38 percent lower in pollutants than in smoking sections, but still were four times higher than in restaurants in smoke-free cities.

Judy Stewart, government relations manager for the Great Lakes Division of the American Cancer Society and campaign manager for Campaign for Smokefree Air, said that it's time for Michigan to impose smoking bans.

"We're concerned about protecting the rights of all Michigan citizens," Stewart said. "Only 43 percent of the food service workers are protected, but 76 percent of white-collar workers are protected. It's quite a big disparity. Michigan lawmakers should take the steps to make Michigan totally smoke-free."

A March 2005 statewide poll, conducted by John Bailey & Associates for the campaign, found that nearly two-thirds of registered Michigan voters polled favored a new law creating smoke-free environments in Michigan.

"I'm all for it," said Rochester resident Danny Ng, who was used to an indoor smoking ban in Boston before relocating to Metro Detroit. "When I'm out, I sit in nonsmoking sections; but, sometimes, breathing is uncomfortable."

SherRon Moore of Detroit, who left Turner's table at Fishbone's to smoke, said people such as Ng should stay at home if indoor smoking bothers them.

"If you breathe carbon dioxide, you are being harmed," said the 34-year-old who's been a smoker for 20 years. "Where are you safe? Where am I safe?"
"We've been subjected to secondhand smoke all our lives. I get upset about the big deal they make about smoking, but they allow cigarettes to be sold. Who's making a big deal about that?"

Karen Mudreyko of Dearborn Heights said she goes outside to smoke at home. But when she's out, she wants a place to smoke and she does consider nonsmokers.

"When you go to public places, you move to a smoking section or the bar," said Mudreyko, 28. "I have been thinking about quitting, but I don't know if this is going to be the catalyst."