

# HOUSE BILL No. 5688

May 24, 2016, Introduced by Reps. Yanez, Moss, Darany, Plawecki, Greig, Liberati, Cochran, Hovey-Wright, Love, Faris and Wittenberg and referred to the Committee on Regulatory Reform.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending sections 470 and 473 (MCL 750.470 and 750.473), section  
470 as amended by 1998 PA 38 and section 473 as added by 1993 PA  
140.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 470. (1) ~~Except as provided in subsection (2), a~~  
2       person, in a place of public accommodation to which access by  
3       minors is not prohibited by law, shall not sell or distribute  
4       ~~cigarettes, cigars, or other tobacco products through the use of a~~  
5       vending machine, or install or maintain a vending machine with the  
6       intent of selling or distributing ~~cigarettes, cigars, or other~~  
7       tobacco products. ~~For purposes of this section, "place of public~~  
8       ~~accommodation" has the same meaning as that term has in section~~  
9       ~~301(a) of the persons with disabilities civil rights act, 1976 PA~~

1 ~~220, MCL 37.1301.~~

2 ~~—— (2) This section does not apply to a cigarette vending machine~~  
3 ~~that meets either of the following criteria:~~

4 ~~—— (a) The cigarette vending machine is located in an~~  
5 ~~establishment that has a class C license as defined in section 2t~~  
6 ~~of the Michigan liquor control act, 1933 (Ex Sess) PA 8, MCL~~  
7 ~~436.2t, and 1 of the following applies:~~

8 ~~—— (i) If the establishment has a bar that is located in a room~~  
9 ~~that is separated from the remainder of the establishment by a wall~~  
10 ~~and a doorway, the cigarette vending machine is located entirely in~~  
11 ~~that room.~~

12 ~~—— (ii) If the establishment has a bar that is not located in a~~  
13 ~~room that is separated from the remainder of the establishment by a~~  
14 ~~wall and a doorway, the cigarette vending machine is located not~~  
15 ~~more than 20 feet from the bar, is located clearly within the bar~~  
16 ~~area and not in a hallway, coat room, rest room, or similar~~  
17 ~~unrelated area, and is under the direct visual supervision of an~~  
18 ~~adult.~~

19 ~~—— (b) The cigarette vending machine is located entirely in an~~  
20 ~~area, office, plant, factory, or private membership club that is~~  
21 ~~not open to the public, and is located not less than 20 feet from~~  
22 ~~all entrances and exits that are accessible to the general public.~~

23 (2) ~~(3)~~ A person who violates this section is guilty of a  
24 misdemeanor, punishable by imprisonment for not more than 6 months,  
25 service to the community for a period of not more than 45 days, or  
26 a fine of not more than \$1,000.00, or any combination of  
27 imprisonment, community service, or fine. Each day that a person

1 has a vending machine that dispenses ~~cigarettes, cigars, or other~~  
2 tobacco products constitutes a separate offense.

3 (3) ~~(4)~~—The provisions of this section shall be enforceable by  
4 a local health department to the same extent and by the same means  
5 as regulations adopted by that local health department.

6 (4) AS USED IN THIS SECTION:

7 (A) "PLACE OF PUBLIC ACCOMMODATION" MEANS THAT TERM AS DEFINED  
8 IN SECTION 301 OF THE PERSONS WITH DISABILITIES CIVIL RIGHTS ACT,  
9 1976 PA 220, MCL 37.1301.

10 (B) "TOBACCO PRODUCT" MEANS THAT TERM AS DEFINED IN SECTION 2  
11 OF THE TOBACCO PRODUCTS TAX ACT, 1993 PA 327, MCL 205.422, AND, FOR  
12 PURPOSES OF THIS SECTION, INCLUDES ELECTRONIC SMOKING DEVICES THAT  
13 HAVE BEEN SPECIFICALLY APPROVED BY THE UNITED STATES FOOD AND DRUG  
14 ADMINISTRATION FOR SALE AS A TOBACCO CESSATION PRODUCT.

15 Sec. 473. (1) Except as otherwise provided in subsection (4),  
16 a person shall not use a tobacco product on school property.

17 (2) A person who violates subsection (1) is guilty of a  
18 misdemeanor, punishable by a fine of not more than \$50.00.

19 (3) As used in this section:

20 (a) "School district" means a school district, local act  
21 school district, or intermediate school district, as those terms  
22 are defined in the **REVISED** school code, ~~of 1976, Act No. 451 of the~~  
23 ~~Public Acts of 1976, being sections 380.1 to 380.1852 of the~~  
24 ~~Michigan Compiled Laws; a joint high school district formed under~~  
25 ~~part 3A of Act No. 451 of the Public Acts of 1976, being sections~~  
26 ~~380.171 to 380.187 of the Michigan Compiled Laws; or a consortium~~  
27 ~~or cooperative arrangement consisting of any combination of~~

1 ~~these~~ 1976 PA 451, MCL 380.1 TO 380.1852.

2 (b) "School property" means a building, facility, or structure  
3 and other real estate owned, leased, or otherwise controlled by a  
4 school district.

5 (c) "Tobacco product" means ~~a preparation of tobacco to be~~  
6 ~~inhaled, chewed, or placed in a person's mouth.~~ **THAT TERM AS DEFINED**  
7 **IN SECTION 2 OF THE TOBACCO PRODUCTS TAX ACT, 1993 PA 327, MCL**  
8 **205.422, AND, FOR PURPOSES OF THIS SECTION, INCLUDES ELECTRONIC**  
9 **SMOKING DEVICES THAT HAVE BEEN SPECIFICALLY APPROVED BY THE UNITED**  
10 **STATES FOOD AND DRUG ADMINISTRATION FOR SALE AS A TOBACCO CESSATION**  
11 **PRODUCT.**

12 (d) "Use a tobacco product" means any of the following:

13 (i) The carrying by a person of a lighted cigar, cigarette,  
14 pipe, or other lighted smoking device.

15 (ii) The inhaling or chewing of a tobacco product.

16 (iii) The placing of a tobacco product within a person's  
17 mouth.

18 (4) Subsection (1) does not apply to that part of school  
19 property consisting of outdoor areas including, but not limited to,  
20 an open-air stadium, during either of the following time periods:

21 (a) Saturdays, Sundays, and other days on which there are no  
22 regularly scheduled school hours.

23 (b) After 6 p.m. on days during which there are regularly  
24 scheduled school hours.

25 Enacting section 1. This amendatory act does not take effect  
26 unless Senate Bill No. \_\_\_\_ or House Bill No. 5687 (request no.  
27 03233'15 \*\*) of the 98th Legislature is enacted into law.