

New Michigan "No Smoking" Law

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Effective May 1, 2010, Michigan PA 188 of 2009 will prohibit smoking in any "place of employment" in Michigan, with narrow exceptions for Detroit casinos and for certain "cigar bars," "tobacco specialty retail stores" and home offices.

"Place of employment" is defined as: ". . . an enclosed indoor area that contains 1 or more work areas for 1 or more persons employed by a public or private employer." "Place of employment" does not include a motor vehicle or outdoor areas.

"Smoking" is defined as: ". . . the burning of a lighted cigar, cigarette, pipe, or any other matter or substance that contains a tobacco product."

The new law requires employers to take the following actions:

- Clearly and conspicuously post "no smoking" signs or the international "no smoking" symbol at the entrances to and in every building or other area where smoking is prohibited.
- Remove all ashtrays and other smoking paraphernalia from anywhere smoking is prohibited.
- Inform individuals smoking in violation of this Act that they are in violation of state law and subject to penalties.
- Ask an individual smoking in violation of this Act to refrain from smoking and, if the individual continues to smoke in violation of the Act, ask him or her to leave the place of employment.

A person who violates the new law is subject to a civil fine of up to \$100 for a first violation and up to \$500 for a second or subsequent violation. A person alleging violation of the new law may bring an action for injunctive relief within 60 days after being on premises where smoking is prohibited by the new law.

The new law prohibits an employer from taking any retaliatory or adverse personnel action against an employee on the basis of the individual's exercise of or attempt to exercise his or her rights regarding a place of employment (presumably, the right to insist that smoking not occur in the place of employment).