



STATE OF MICHIGAN

DEPARTMENT OF COMMUNITY HEALTH
LANSING

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GOVERNOR

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DATE: April 9, 2010
TO: All Local Health Departments (LHD's)
Attn: Medical Director / Health Officer / Director of Environmental Health
Michigan Department of Agriculture (MDA)
Attn: Food and Dairy Division Managers

FROM: Betsy Pash, Director
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**Subject: Administering Michigan's smoking law as amended by Act 188,
PA 2009**

Michigan's smoking law is divided into two parts. Part 126 regulates workplaces and is implemented by the Michigan Department of Community Health (MDCH). Part 129 regulates food service establishments and is implemented by the Michigan Department of Agriculture (MDA). This memo addresses local health department delegation as well as state agency coordination for implementing Part 129.

Local Health Department Delegation

Part 129 requires routine inspection of food service establishments for compliance with the smoking law and authorizes enforcement for noncompliance. Implementation of Part 129 has been continuously delegated by the State of Michigan to Local Health Departments (LHDs) since the 1980s and remains in effect today. Initially, the delegation to LHDs was by the former Michigan Department of Public Health. In 1996, responsibility for Part 129 was transferred to MDA and MDA continued the delegation to LHDs.

The key changes regarding food service establishments, contained in Act 188:

- Made food service establishments 100% instead of partially smoke-free.
- Modified the available enforcement tools.
- Amended Part 126 so that MDCH is authorized to enforce Part 129 and to delegate enforcement to LHDs.



While MDCH is the lead state agency on smoking, compliance with the law is partially completed during food service establishment inspections and MDA (and LHDs) still have certain responsibilities under Part 129 for this function. This means that LHDs should continue verifying compliance with Part 129 during inspections. Compliance should be noted in the designated location on the food service inspection form. When non-compliance is found, a joint MDCH/MDA supplemental form has been developed and approved to facilitate follow-up.

To assure proper implementation of Act 188, MDA will assist MDCH with coordination of:

- Sections 12905 (3-4) relating to:
 - food service establishment inspections.
 - enforcement conducted through an order to cease food service operations under food law section 2113.
 - seamless complaint handling and enforcement systems for the entire act.

MDCH and MDA intend to develop a memorandum of understanding to clarify the responsibilities of each department and reflect this cooperative arrangement.

As noted above, PA 188 has resulted in some changes to state oversight between the two state agencies and changed the standard from a partial to a complete ban on smoking in food service establishments. However, the delegation to LHDs has not changed with LHDs continuing their current responsibilities and activities for implementing Part 129.

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