

Expanding West MI Presence:

On June 1, Foster Swift added six attorneys, formerly of the law firm Siebers Mohny PLC. The expansion adds a second Foster Swift office in West Michigan (Holland). Jack Siebers, Paul Yared and Thomas TerMaat practice in the firm's Grand Rapids office. Jennifer Van Regenmorter, Ryan Lamb and Mindi Johnson are based in the new Holland office.



Michigan's Smoking Ban and Its Effect on Municipalities

by [Lindsey E. Bosch](#) □

As you likely know, Michigan's smoking ban became effective on May 1, 2010. In short, the smoking ban prohibits "smoking" in all "public places." So this new law will impact municipalities directly.

The scope of the smoking ban is best understood upon reviewing the smoking ban's definitions of key terms. The smoking ban defines "smoking" as the burning of a lighted cigar, cigarette, pipe, or any other matter or substance that contains a tobacco product. And it defines "public place" as any of the following areas:

1. an enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a meeting place for a public body;
2. an enclosed, indoor area that is not owned or operated by a state or local governmental agency, is used by the general public, and is an educational facility, a home for the aged, nursing home, county medical care facility, hospice, or hospital long term care unit, an auditorium, an arena, a theater, a museum, a concert hall, or any other facility during the period of its use for a performance or exhibit of the areas; and
3. an enclosed indoor area that contains one or more work areas for one or more person employed by a public or private employer.

In other words, smoking is now prohibited in all buildings owned or operated by a municipality and which is used by the general public or serves as the municipality's meeting place.

Those who own, operate, manage, or have control of a public place must do all of the following to fully comply with the law:

- 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.
- If applicable, refuse to serve an individual who is smoking in violation of the ban.
- Ask an individual who is smoking in violation of the ban refrain from smoking and, if the individual continues to smoke in violation of the ban, ask him or her to leave.

If you have questions about the smoking ban, feel free to contact any member of Foster, Swift's Administrative and Municipal team.

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New W-2 Reporting Requirements

by Timothy P. Burkhard

A very small section of the Patient Protection and Affordable Care Act (PPACA) makes some major changes in Form W-2 reporting which will impact employers in the near future. Section 9002 of the PPACA requires an employer to calculate and report the "aggregate cost" of all employer-sponsored health coverage to an employee on that employee's W-2 form. This new reporting requirement applies starting with the 2011 tax year, which means that for most employers, the first W-2 forms that are distributed with this new information will be distributed in January of 2012. However, because an employee whose employment is terminated before the close of a calendar year may request an early W-2 form from his or her former employer, which must be provided by the employer within 30 days of such a request, employers must be prepared for and implement the new reporting requirements at the start of 2011. Employers will also need to ensure that their payroll systems are updated to reflect these changes so that they will be able to provide W-2 forms that comply with the new requirements.

One of the major unanswered questions is how to determine the aggregate cost of employer-sponsored health coverage. Although the new regulation indicates that employers should use rules similar to the

COBRA valuation rules to determine the coverage's aggregate cost, the exact formula for determining the aggregate cost of coverage has not been finalized. Reportedly, government regulations regarding how to value plans are imminent and any such regulations would presumably apply both to COBRA and the new W-2 reporting requirements. Another challenge for employers is that some of the plans covered by the new reporting requirement are not plans which previously would have been valued for COBRA purposes, such as an on-site medical clinic. Employers would now be required to determine reportable values for such programs.

Although only a small and seemingly innocuous portion of the health care reform act, Section 9002 requires employers to make some significant changes in their reporting on W-2 forms. Because the changes implemented by this section go into effect beginning January 1, 2011, employers should prepare for these changes now so that they are able to comply with the new regulations as soon as they are in effect.

If you have any questions regarding the new W-2 reporting requirements, please contact Timothy Burkhard at 248.785.4729, or tburkhard@fosterswift.com.

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