



**Hundredth Legislature - First Session - 2007  
Committee Statement  
LB 395**

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**Hearing Date:** February 1, 2007  
**Committee On:** Health and Human Services

**Introducer(s):** (Johnson)  
**Title:** Adopt a new Nebraska Clean Indoor Air Act

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**Roll Call Vote – Final Committee Action:**

- Advanced to General File
  - X Advanced to General File with Amendments
  - Indefinitely Postponed
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**Vote Results:**

6	Yes	Senator(s): Johnson, Gay, Hansen, Howard, Stuthman, Pankonin
1	No	Senator Erdman
	Present, not voting	
	Absent	

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**Proponents:**

Senator Johnson  
Senator Aguilar  
Michelle Hug  
Gary Krumland  
Brandi Goldapp  
D. Eugene Dunn  
Nubia Patricia Castro  
Leon Cederlind  
Linda L. Miller  
Margaret Brockman  
Kevin Nokels  
Jim Partington  
Bill Harvey  
Mark Welsch  
Christian A. Cardona  
Ron Asher  
Erin McKnelly

**Representing:**

Introducer  
Legislature  
Self  
League of Nebraska Municipalities  
Goldeez  
Self  
Hispanic Chamber of Commerce of Nebraska  
Self  
Lexington City Council  
Nebraska Nurses Association  
Alegent Health, Nebraska Hospital Association  
Nebraska Restaurant Association  
Big Red Keno  
GASP of Nebraska, Inc.  
American Lung Association  
Nebraska Medical Association  
Self

**Opponents:**

Richard Slama  
William E. Peters  
Tim Keigher

**Representing:**

Self  
Cigar Association of America  
Nebraska Petroleum Marketers and Convenience

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Mike Kelley

Ted Wright  
Jim Moylan

**Neutral:**  
Alice L. Light

Store Association  
Horsemen's Benevolent and Protective  
Association, Omaha Exposition and Racing  
(Horsemen's Park), Responsible Beverage  
Operators of Nebraska  
Ted's Tobacco  
Nebraska Licensed Beverage Association

**Representing:**  
Nebraska Hotel and Motel Association

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**Summary of purpose and/or changes:**

LB 395 adopts a new Nebraska Clean Indoor Air Act, and outright repeals the current Nebraska Clean Indoor Air Act (sections 71-5701 to 71-5713). The bill provides a declaration of public policy and legislative purposes for the act (sec. 2). The bill authorizes the Director of Regulation and Licensure, local health departments, and state and local law enforcement to administer and enforce the act. Nothing in the act may be construed to restrict or prohibit the governing body of a county, city, or village from establishing and enforcing ordinances at least as stringent as, or more stringent than the act (sec. 2).

The bill contains legislative findings (sec. 3) and defines terms (sections 4-15).

The bill prohibits any person from smoking in a place of employment or a public place (sec. 16) and prohibits smoking within 20 feet outside entrances, operable windows, and ventilation systems of enclosed areas where smoking is prohibited (sec. 17).

The bill exempts the following areas from the act: (1) private residences, (2) guestrooms and suites, and (3) areas used as part of a research study on the health effects of smoking (sec. 18).

The bill provides duties for proprietors of places of employment and public places where smoking is prohibited under the act (sec. 19).

The bill prohibits retaliation against anyone who exercises any of their rights under the act or reports or attempts to prosecute violations of the act (sec. 20). The bill permits a health director or law enforcement officer to inspect a place of employment or public place at any reasonable time to determine compliance with the act (sec. 21).

The bill provides criminal penalties for persons who smoke in violation of the act and for proprietors who violate the act (sec. 22).

The bill requires the Department of Health and Human Services Regulation and Licensure to engage in a continuing program to explain and clarify the purposes and requirements of the act (sec. 23).

The act may not be construed to permit smoking where it is otherwise restricted by applicable law (sec. 24). The act must be liberally construed to effectuate its purpose (sec. 25). The bill contains a severability clause (sec. 26).

**Explanation of amendments, if any:**

The committee amendment (AM 276): (1) makes technical changes to the bill; (2) removes the prohibition against smoking within twenty feet of the entrances to places of employment or public places; (3) exempts "retail tobacco outlets" from the no-smoking provisions of the bill; (4)

revises the “private residence” exception to prohibit smoking in a private residence when the residence is being used as a place of employment for one or more employees who are not the occupants of the residence, or as a public place; and (5) clarifies duties of a proprietor of a place of employment or public place under the act.

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**Senator Joel Johnson, Chairperson**