

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 45

Introduced by Thompson, 14

Read first time January 9, 2003

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Nebraska Clean Indoor Air Act; to amend
2 sections 71-5702 to 71-5706 and 71-5708 to 71-5713,
3 Reissue Revised Statutes of Nebraska, and section
4 71-5707, Revised Statutes Supplement, 2002; to redefine
5 terms; to change designated smoking area provisions; to
6 harmonize provisions; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-5702, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-5702. The purpose of ~~sections 71-5701 to 71-5713~~ the
4 Nebraska Clean Indoor Air Act is to protect the public health,
5 comfort, and environment by prohibiting smoking in public places
6 and at public meetings except in designated smoking areas.

7 Sec. 2. Section 71-5703, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-5703. For purposes of ~~sections 71-5701 to 71-5713~~ the
10 Nebraska Clean Indoor Air Act, unless the context otherwise
11 requires, the definitions found in sections 71-5704 to 71-5706
12 shall be used.

13 Sec. 3. Section 71-5704, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-5704. Public place ~~shall mean~~ means any enclosed,
16 indoor area used by the general public or serving as a place of
17 work, including, but not limited to, restaurants, retail stores,
18 grocery stores, convenience stores, offices and all other
19 commercial establishments, public conveyances, educational
20 facilities, hospitals, nursing homes, assisted-living facilities,
21 auditoriums, arenas, and meeting rooms. ~~7 but excluding private,~~
22 ~~enclosed offices occupied exclusively by smokers even though such~~
23 ~~offices may be visited by nonsmokers.~~

24 Sec. 4. Section 71-5705, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 71-5705. Public meeting ~~shall mean~~ means all meetings as
27 defined in Chapter 84, article 14.

28 Sec. 5. Section 71-5706, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-5706. Smoking ~~shall mean~~ means carrying a lighted
3 cigar, cigarette, pipe, or any other lighted smoking equipment.

4 Sec. 6. Section 71-5707, Revised Statutes Supplement,
5 2002, is amended to read:

6 71-5707. (1) No person shall smoke in a public place or
7 at a public meeting except in smoking areas designated ~~smoking~~
8 areas in accordance with section 71-5708. ~~This prohibition does~~
9 ~~not apply in cases in which an entire room or hall is used for a~~
10 ~~private social function and seating arrangements are under the~~
11 ~~control of the sponsor of the function and not of the proprietor or~~
12 ~~person in charge of such room or hall.~~

13 (2) With respect to factories, warehouses, and similar
14 places of work not usually frequented by the general public, the
15 Department of Health and Human Services Regulation and Licensure
16 shall, in consultation with the Department of Labor, establish
17 rules to restrict or prohibit smoking in those places of work where
18 the close proximity of workers or the inadequacy of ventilation
19 causes smoke pollution detrimental to the health and comfort of
20 nonsmoking employees.

21 (3) No person shall smoke at a site where child care
22 programs required to be licensed under section 71-1911 are
23 provided. This prohibition does not apply if the child care
24 program is located in the home of the provider.

25 (4) Smoking is prohibited in all vehicles owned or leased
26 by the state and in all buildings, and the area within ten feet of
27 any entrance of such buildings, which are owned, leased, or
28 occupied by the state except: as provided in subsections (5), (6),

1 ~~and (7) of this section.~~

2 ~~(5)~~ (a) The following buildings or areas within buildings
3 in which persons reside or lodge may be exempt from this section:
4 ~~(a)~~ (i) Nebraska veterans homes established pursuant to section
5 80-315; ~~(b)~~ (ii) private residences; ~~(c)~~ (iii) facilities and
6 institutions under the control of the Department of Health and
7 Human Services; and ~~(d)~~ (iv) overnight lodging facilities and
8 buildings managed by the Game and Parks Commission, but no more
9 than twenty-five percent of the overnight lodging facilities at
10 each park location shall permit smoking; -

11 ~~(6)~~ (b) Designated smoking areas not to exceed fifty
12 percent of the space used by the public may be established in
13 state-owned buildings at the Nebraska State Fairgrounds that
14 possess a Class C, I, or M license for the sale of alcoholic liquor
15 for consumption on the premises under the Nebraska Liquor Control
16 Act; and -

17 ~~(7)~~ (c) Smoking may be permitted in no more than forty
18 percent of the residential housing rooms or units owned or leased
19 on each campus under the control of the Board of Regents of the
20 University of Nebraska or the Board of Trustees of the Nebraska
21 State Colleges.

22 Sec. 7. Section 71-5708, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 71-5708. Smoking areas may be designated by proprietors
25 or other persons in charge of public places, except: (1) In ~~in~~
26 places in which smoking is prohibited by the State Fire Marshal or
27 by other law, ordinance, or regulation; and (2) in common areas of
28 enclosed, indoor places of public access, including, but not

1 limited to, hallways, stairwells, water fountain areas, restrooms,
 2 lobbies, waiting areas, entrances, exits, and check-out counters.

3 Where smoking areas are designated, existing physical
 4 barriers and ventilation systems shall be used to minimize the
 5 toxic effect of smoke in adjacent nonsmoking areas. ~~If a public~~
 6 ~~place consists of a single room, one side of the room shall be~~
 7 ~~reserved and posted as a no smoking area.~~ No public place other
 8 than a bar or restaurant having a serving area of less than twelve
 9 hundred square feet shall be designated as a smoking area in its
 10 entirety. If a bar or restaurant having a serving area of less
 11 than twelve hundred square feet is designated as a smoking area in
 12 its entirety, such designation shall be posted conspicuously on all
 13 entrances normally used by the public.

14 Sec. 8. Section 71-5709, Reissue Revised Statutes of
 15 Nebraska, is amended to read:

16 71-5709. The proprietor or other person in charge of a
 17 public place shall make reasonable efforts to prevent smoking in
 18 the public place by:

- 19 (1) Posting appropriate signs;
 20 (2) Arranging seating to provide a smoke-free area;
 21 (3) Asking smokers to refrain from smoking upon request
 22 of a client or employee suffering discomfort from the smoke; or
 23 (4) Any ~~other means which may be~~ appropriate means.

24 Sec. 9. Section 71-5710, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

26 71-5710. The Department of Health and Human Services
 27 Regulation and Licensure may adopt and promulgate rules and
 28 regulations to carry out the Nebraska Clean Indoor Air Act. The

1 department shall, not later than January 1, ~~1980~~ 2004, adopt and
2 promulgate rules and regulations necessary and reasonable to
3 implement the ~~provisions of sections 71-5701 to 71-5713~~ changes to
4 the act made by this legislative bill. The ~~Department of Health~~
5 ~~and Human Services Regulation and Licensure~~ department shall
6 consult with interested persons and professional organizations
7 before promulgating such rules and regulations.

8 Sec. 10. Section 71-5711, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-5711. The Department of Health and Human Services
11 Regulation and Licensure may, upon request, waive the provisions of
12 ~~sections 71-5701 to 71-5713~~ the Nebraska Clean Indoor Air Act if it
13 determines there are compelling reasons to do so and a waiver will
14 not significantly affect the health and comfort of nonsmokers.

15 Sec. 11. Section 71-5712, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-5712. Any person who violates section 71-5707 ~~shall~~
18 ~~be~~ is guilty of a Class V misdemeanor.

19 Sec. 12. Section 71-5713, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-5713. The Department of Health and Human Services
22 Regulation and Licensure, a local board of health, or any affected
23 party may institute an action in any court with jurisdiction to
24 enjoin any violation of ~~section 71-5707~~ the Nebraska Clean Indoor
25 Air Act.

26 Sec. 13. Original sections 71-5702 to 71-5706 and
27 71-5708 to 71-5713, Reissue Revised Statutes of Nebraska, and
28 section 71-5707, Revised Statutes Supplement, 2002, are repealed.