

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 305

Introduced by Byars, 30

Read first time January 11, 2005

Committee: Referred to Health and Human Services

A BILL

1 FOR AN ACT relating to public health and welfare; to amend section
2 71-5707, Revised Statutes Supplement, 2004; to prohibit
3 use of tobacco products in educational institutions; to
4 harmonize provisions; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. It is the intent of the Legislature that all
2 educational facilities, grounds, and athletic venues in the state
3 be free of tobacco. The purpose of sections 1 to 5 of this act is
4 to underscore to students, teachers, administrators, parents, and
5 the general public the significant public health risks of smoking
6 and the use of tobacco products and the need to remove completely
7 such products from the state's learning environments.

8 Sec. 2. For purposes of sections 1 to 5 of this act:

9 (1) Educational institution means all:

10 (a) Public and private nursery schools, preschools, child
11 care programs located in facilities other than the home of the
12 provider, and Head Start programs;

13 (b) Public and private elementary, middle, junior high,
14 and senior high schools; and

15 (c) Public and private trade schools, postsecondary
16 career schools, community colleges, and colleges and universities
17 operating within the state;

18 (2) Educational property means all:

19 (a) Public and private school buildings, campuses,
20 grounds, recreational areas, athletic fields, and other real
21 property owned, leased, or used by any public or private
22 educational institution during school or any school-related
23 activity; and

24 (b) School buses and other vehicles owned, leased, or
25 operated by a public or private educational institution; and

26 (3) Smoking has the same meaning as in section 71-5706.

27 Sec. 3. (1) Notwithstanding any other provision of law,
28 it shall be unlawful for a person to use at any time a tobacco

1 product on an educational property in the state.

2 (2) The owner, operator, school board, or governing body
3 of a public or private educational institution shall post
4 prominently on its educational property notifications to students,
5 staff, and the general public that the educational property is
6 tobacco free.

7 Sec. 4. Section 3 of this act shall not apply to:

8 (1) Classrooms or other facilities where demonstration
9 smoking is taking place as part of an educational, medical, or
10 scientific curricula or research effort; or

11 (2) The use of tobacco by an adult as part of a
12 traditional Native American spiritual or cultural ceremony.

13 Sec. 5. Nothing in sections 1 to 5 of this act shall be
14 construed to prohibit a public or private educational institution
15 from having a more restrictive policy than the requirements of
16 section 3 of this act regarding smoking and the use of tobacco
17 products in the institution's facilities, on its grounds, or in its
18 vehicles.

19 Sec. 6. Section 71-5707, Revised Statutes Supplement,
20 2004, is amended to read:

21 71-5707. (1) No person shall smoke in a public place or
22 at a public meeting except in designated smoking areas. This
23 subsection does not apply in cases in which an entire room or hall
24 is used for a private social function and seating arrangements are
25 under the control of the sponsor of the function and not of the
26 proprietor or person in charge of such room or hall.

27 (2) With respect to factories, warehouses, and similar
28 places of work not usually frequented by the general public, the

1 Department of Health and Human Services Regulation and Licensure
2 shall, in consultation with the Department of Labor, establish
3 rules to restrict or prohibit smoking in those places of work where
4 the close proximity of workers or the inadequacy of ventilation
5 causes smoke pollution detrimental to the health and comfort of
6 nonsmoking employees.

7 (3) No person shall smoke at a site where child care
8 programs required to be licensed under section 71-1911 are
9 provided. This subsection applies to a child care program located
10 in the home of the provider only during times one or more client's
11 children are present in any part of the home.

12 (4) Smoking is prohibited in all vehicles owned or leased
13 by the state and in all buildings, and the area within ten feet of
14 any entrance of such buildings, which are owned, leased, or
15 occupied by the state except as provided in subsections (5), (6),
16 and (7) of this section.

17 (5) The following buildings or areas within buildings in
18 which persons reside or lodge may be exempt from this section: (a)
19 Nebraska veterans homes established pursuant to section 80-315; (b)
20 private residences; (c) facilities and institutions under the
21 control of the Department of Health and Human Services; and (d)
22 overnight lodging facilities and buildings managed by the Game and
23 Parks Commission, but no more than twenty-five percent of the
24 overnight lodging facilities at each park location shall permit
25 smoking.

26 (6) Designated smoking areas not to exceed fifty percent
27 of the space used by the public may be established in state-owned
28 buildings at the Nebraska State Fairgrounds that possess a Class C,

1 I, or M license for the sale of alcoholic liquor for consumption on
2 the premises under the Nebraska Liquor Control Act.

3 ~~(7) Smoking may be permitted in no more than forty~~
4 ~~percent of the residential housing rooms or units owned or leased~~
5 ~~on each campus under the control of the Board of Regents of the~~
6 ~~University of Nebraska or the Board of Trustees of the Nebraska~~
7 ~~State Colleges.~~

8 Sec. 7. Original section 71-5707, Revised Statutes
9 Supplement, 2004, is repealed.