

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 480**

Introduced by Thompson, 14; Aguilar, 35; Brown, 6; Byars, 30;  
Foley, 29; Jensen, 20; Johnson, 37; Kruse, 13;  
Preister, 5; Price, 26; Raikes, 25; Redfield, 12;  
Schrock, 38

Read first time January 13, 2005

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Nebraska Clean Indoor Air Act; to amend  
2 sections 71-5701, 71-5702, 71-5703, 71-5704, 71-5708,  
3 71-5710, and 71-5711, Reissue Revised Statutes of  
4 Nebraska, and section 71-5707, Revised Statutes  
5 Supplement, 2004; to define and redefine terms; to change  
6 provisions for smoking in public places; to provide an  
7 operative date; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 71-5701, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           71-5701. Sections 71-5701 to 71-5713 and sections 4 and  
4 5 of this act may be cited as the Nebraska Clean Indoor Air Act.

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

7           71-5702. The purpose of ~~sections 71-5701 to 71-5713~~ the  
8 Nebraska Clean Indoor Air Act is to protect the public health,  
9 comfort, and environment by prohibiting smoking in public places  
10 and at public meetings except in designated smoking areas. Nothing  
11 in the act shall be construed to restrict or prohibit a governing  
12 body of a county, city, or village from establishing and enforcing  
13 ordinances at least as stringent as, or more stringent than, the  
14 provisions of the act.

15           Sec. 3. Section 71-5703, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           71-5703. For purposes of ~~sections 71-5701 to 71-5713~~ the  
18 Nebraska Clean Indoor Air Act, unless the context otherwise  
19 requires, the definitions found in sections 71-5704 to 71-5706 and  
20 sections 4 and 5 of this act shall be used.

21           Sec. 4. Bar shall mean an establishment that serves  
22 alcoholic beverages, may provide limited food service, and  
23 prohibits the presence of minors.

24           Sec. 5. Limited food service shall mean the serving of  
25 only snack items or commercially prepared and wrapped foods that  
26 require little or no preparation.

27           Sec. 6. Section 71-5704, Reissue Revised Statutes of  
28 Nebraska, is amended to read:

1           71-5704. Public place shall mean any enclosed, indoor  
 2 area of an establishment used by the general public or serving as a  
 3 place of work, including, but not limited to, restaurants, retail  
 4 stores, offices and other commercial establishments, public  
 5 conveyances, educational facilities, hospitals, nursing homes,  
 6 auditoriums, arenas, and meeting ~~rooms, but excluding private,~~  
 7 ~~enclosed offices occupied exclusively by smokers even though such~~  
 8 ~~offices may be visited by nonsmokers~~ rooms.

9           Sec. 7. Section 71-5707, Revised Statutes Supplement,  
 10 2004, is amended to read:

11           71-5707. (1) ~~No person shall smoke in a public place or~~  
 12 ~~at a public meeting except in designated smoking areas. This~~  
 13 ~~subsection does not apply in cases in which an entire room or hall~~  
 14 ~~is used for a private social function and seating arrangements are~~  
 15 ~~under the control of the sponsor of the function and not of the~~  
 16 ~~proprietor or person in charge of such room or hall.~~

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

25           ~~(3)~~ (2) No person shall smoke at a site where child care  
 26 programs required to be licensed under section 71-1911 are  
 27 provided. This subsection applies to a child care program located  
 28 in the home of the provider only during times one or more client's

1 children are present in any part of the home.

2           ~~(4)~~ (3) Smoking is prohibited in all vehicles owned or  
3 leased by the state and in all buildings, and the area within ten  
4 feet of any entrance of such buildings, which are owned, leased, or  
5 occupied by the state except as provided in subsection ~~subsections~~  
6 ~~(5)~~, ~~(6)~~, and ~~(7)~~ (4) of this section.

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

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

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

26           Sec. 8. Section 71-5708, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

28           71-5708. ~~Smoking areas may be designated by proprietors~~

1 or other persons in charge of public places, except in places in  
2 which smoking is prohibited by the State Fire Marshal or by other  
3 law, ordinance, or regulation.

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

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

17           71-5710. The Department of Health and Human Services  
18 Regulation and Licensure shall, not later than January 1, 1980,  
19 adopt and promulgate rules and regulations necessary and reasonable  
20 to implement the provisions of ~~sections 71-5701 to 71-5713~~ the  
21 Nebraska Clean Indoor Air Act. The Department of Health and Human  
22 Services Regulation and Licensure shall consult with interested  
23 persons and professional organizations before promulgating such  
24 rules and regulations.

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

27           71-5711. The Department of Health and Human Services  
28 Regulation and Licensure may, upon request, waive the provisions of

1 ~~sections 71-5701 to 71-5713~~ the Nebraska Clean Indoor Air Act if it  
2 determines there are compelling reasons to do so and a waiver will  
3 not significantly affect the health and comfort of nonsmokers.

4           Sec. 11. This act becomes operative on January 2, 2006.

5           Sec. 12. Original sections 71-5701, 71-5702, 71-5703,  
6 71-5704, 71-5708, 71-5710, and 71-5711, Reissue Revised Statutes of  
7 Nebraska, and section 71-5707, Revised Statutes Supplement, 2004,  
8 are repealed.