

State Government: Hammond, Chair; Carpenter, Peterson of Carroll, Renaud and
Shoning.

Reprinted

FEB 1990

HOUSE FILE 209

STATE GOVERNMENT
DOJ 38-89 (p. 12) Hammond
#3309

BY HAMMOND, OSTERBERG, and
HOLVECK

Passed House, Date 1/17/90 (p. 12) Passed Senate, Date _____

Vote: Ayes 17 Nays 22 Vote: Ayes _____ Nays _____

Approved April 24, 1990

Reprinted from House File 209 (p. 13)

A BILL FOR

1 An Act relating to the limitations on smoking in public places.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 209

3471, 3404 2
3406, 3393
3424-1 Section 1. Section 98A.1, subsections 2 and 4, Code 1989,
are amended to read as follows:

3406, 3393 2. "Public place" means any enclosed indoor area used by
4 the general public or serving as a place of work, including,
5 but not limited to, all restaurants, all retail stores,
6 offices containing three hundred or more square feet of floor
7 space, including waiting rooms of three hundred or more square
8 feet of floor space, and other commercial establishments;
9 public conveyances with departures, travel, and destination
10 entirely within this state; educational facilities; hospitals,
11 clinics, nursing homes, and other health care and medical
12 facilities; and auditoriums, elevators, theaters, libraries,
13 art museums, concert halls, indoor arenas, and meeting rooms.

3406 14 "Public place" does not include a-restaurant; a retail store
15 at which fifty percent or more of the sales result from the
16 sale of tobacco or tobacco products, the portion of a retail
17 store where tobacco or tobacco products are sold, a private,
18 enclosed office occupied exclusively by smokers even though
19 the office may be visited by nonsmokers, lobbies and malls
20 which encompass floor space of three hundred or less square
21 feet, a room used primarily as the residence of students or
22 other persons at an educational facility, a sleeping room in a
23 motel or hotel, or each resident's room in a health care
24 facility. The person in custody or control of the facility
25 shall provide a sufficient number of rooms in which smoking is
26 not permitted to accommodate all persons who desire such
27 rooms.

3400 28 4. "Bar" means an establishment or portion of an
29 establishment where one can purchase and consume alcoholic
30 beverages as defined in section 123.3, subsection 9, but
31 excluding any establishment or portion of the establishment
32 having table and seating facilities for serving of meals to
3400-233 more than fifty people at one time and where, in consideration
34 of payment, meals are served at tables to the public. An
35 establishment excluded under this subsection shall provide a

1 sufficient number of tables and seating at which smoking is
2 not permitted to accommodate all persons who desire such
3 tables and seating.

3389-
33774

4 Sec. 2. Section 98A.2, subsection 3, Code 1989, is amended
5 by adding the following new unnumbered paragraph:

6 NEW UNNUMBERED PARAGRAPH. A facility inspected by the
7 department of inspections and appeals shall be inspected by
8 the department for compliance with sections 98A.3 and 98A.4.

3389-
3421, 33757

9 Sec. 3. Section 98A.3, Code 1989, is amended by adding the
10 following new unnumbered paragraphs:

11 NEW UNNUMBERED PARAGRAPH. All public places which are
12 retail stores or public conveyances and which have a public
13 address system shall announce hourly the measures taken by the
14 public place to comply with this chapter and what is expected

3766-

15 of the person using the public place. For the purposes of
16 this paragraph, "retail store" includes retail shopping malls.

33721

17 NEW UNNUMBERED PARAGRAPH. All public places which are
18 restaurants shall provide a sufficient number of tables and
19 seating at which smoking is not permitted to accommodate all
20 persons who desire such tables and seating.

3771, 3776-

21 Sec. 4. Section 805.8, subsection 11, Code 1989, is
22 amended to read as follows:

307

23 11. SMOKING VIOLATIONS. For violations of section 98A.6,

3769, 3768, 3371

24 the scheduled fine is ~~ten~~ fifty dollars, and is a civil
25 penalty, and the criminal penalty surcharge under section
26 911.2 shall not be added to the penalty, and the court costs
27 pursuant to section 805.9, subsection 6, shall not be imposed.

28 If the civil fine is not paid in a timely manner, a citation
29 shall be issued for the violation in the manner provided in

339

30 section 804.1. The complainant shall not be charged a filing
31 fee.

32 EXPLANATION

33 The bill includes restaurants in the definition of "public
34 places" for the purpose of prohibiting smoking in other than
35 designated areas. The bill also provides that an

1 establishment excluded from the definition of "bar" due to its
2 provision of seating for meal services, and all restaurants,
3 must provide sufficient seating for accommodating persons
4 wishing to be seated in a nonsmoking area. The bill requires
5 that if the department of inspections and appeals inspects
6 facilities, it shall include inspection for compliance with
7 the chapter; that all retail stores, malls, and public
8 conveyances with public address systems are required to
9 announce the public place's measures of compliance with the
10 chapter and what is expected of persons using the public
11 place; increases the civil penalty to fifty dollars per
12 violation; and provides that no filing fee be charged a
13 complainant.

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HOUSE FILE 209

H-3309

Amend House File 209 as follows:

- 3704 ³⁴³² 1
~~3705~~ 2
- 3 "work" the following: "containing two hundred fifty
4 or more square feet of floor space".
- 5 2. Page 1, line 5, by inserting after the word
6 "restaurants" the following: "with a seating capacity
572,3373 7 greater than twenty-five".
- 8 3. Page 1, line 5, by inserting after the word
9 "stores," the following: "lobbies and malls,".
- 3704 10 4. Page 1, by striking lines 6 through 8 and
11 inserting the following: "offices containing-three
12 hundred-or-more-square-feet-of-floor-space, including
13 waiting rooms of-three-hundred-or-more-square-feet-of
14 floor-space, and other commercial establishments;".
- 15 5. Page 1, by striking lines 19 through 21 and
16 inserting the following: "the office may be visited
17 by nonsmokers, lobbies-and-malls-which-encompass-floor
18 space-of-three-hundred-or-less-square-feet, a room
19 used primarily as the residence of students or".
- 5404 20 6. Page 2, by inserting after line 3 the
21 following:
22 "Section 98A.1, Code 1989, is amended by adding the
23 following new subsection:
24 NEW SUBSECTION. 5. "Public address system" means
25 an apparatus including a microphone and loudspeakers
26 used for broadcasting to the public."
- 3374 27 7. Page 2, by striking lines 10 through 20 and
28 inserting the following: "following new unnumbered
29 paragraph:
30 NEW UNNUMBERED PARAGRAPH. All public places
31 including retail shopping malls which have a public
3105- 32 address system shall announce regularly the measures
33 taken by the public place and what is expected of the
34 persons using the public place to comply with this
35 chapter."

By COMMITTEE ON STATE GOVERNMENT
BLANSHAN of Greene, Chairperson

H-3309 FILED MARCH 8, 1989

*Adopted as amended by 5020, 5022, 5023
(1/19/89 127)*

HOUSE FILE 209

H-3391

- 1 Amend House File 209 as follows:
 - 2 1. Page 2, line 24, by striking the words "ten
 - 3 fifty" and inserting the following: "ten".
- By BISIGNANO of Polk

H-3391 FILED MARCH 15, 1989
3/15/89

HOUSE FILE 209

H-3392

- 1 Amend House File 209 as follows:
 - 2 1. Page 2, line 30, by striking the word "not".
- By BISIGNANO of Polk

H-3392 FILED MARCH 15, 1989
3/15/89

HOUSE FILE 209

H-3393

- 1 Amend amendment, H-3309, to House File 209 as
- 2 follows:
- 3 1. Page 1, line 7, by striking the word "twenty-
- 4 five" and inserting the following: "one hundred
- 5 fifty".

By BISIGNANO of Polk

H-3393 FILED MARCH 15, 1989
3/15/89

HOUSE FILE 209

H-3394

- 1 Amend the amendment, H-3309, to House File 209 as
 - 2 follows:
 - 3 1. Page 1, by striking lines 27 through 35.
- By BISIGNANO of Polk

H-3394 FILED MARCH 15, 1989
3/15/89

HOUSE FILE 209

H-3401

- 1 Amend House File 209 as follows:
- 2 1. Page 2, by striking lines 10 through 16 and
- 3 inserting the following: "following new unnumbered
- 4 paragraph:"

By BISIGNANO of Polk

H-3401 FILED MARCH 15, 1989

3/15 11/90

HOUSE FILE 209

H-3402

- 1 Amend House File 209 as follows:
- 2 1. Page 1, line 33, by striking the word "fifty"
- 3 and inserting the following: "fifty twenty-five".

By BISIGNANO of Polk

H-3402 FILED MARCH 15, 1989

3/15 11/90

HOUSE FILE 209

H-3403

- 1 Amend House File 209 as follows:
- 2 1. Page 1, line 14, by striking the words "a
- 3 restaurant" and inserting the following: "a
- 4 restaurant".

By BISIGNANO of Polk

H-3403 FILED MARCH 15, 1989

3/15 11/90

HOUSE FILE 209

H-3404

- 1 Amend amendment, H-3309, to House File 209 as
- 2 follows:
- 3 1. Page 1, by striking lines 20 through 26.
- 4 2. By renumbering as necessary.

By BISIGNANO of Polk

H-3404 FILED MARCH 15, 1989

3/15 11/90

HOUSE FILE 209

H-3405

- 1 Amend amendment, H-3309, to House File 209 as
- 2 follows:
- 3 1. Page 1, by striking lines 2 through 4.
- 4 2. By renumbering as necessary.

By BISIGNANO of Polk

H-3405 FILED MARCH 15, 1989

3/15 11/90

HOUSE FILE 209

H-3406

- 1 Amend House File 209 as follows:
- 2 1. Page 1, by striking lines 6 through 8 and
- 3 inserting the following: "offices-containing-three
- 4 hundred-or-more-square-feet-of-floor-space,-including
- 5 waiting-rooms-of-three-hundred-or-more-square-feet-of
- 6 floor-space, and other commercial establishments;".

By BISIGNANO of Polk

H-3406 FILED MARCH 15, 1989

3/15 11/90

HOUSE FILE 209

H-3395

- 1 Amend House File 209 as follows:
 - 2 1. Page 2, line 10, by striking the word
 - 3 "paragraphs" and inserting the following:
 - 4 "paragraph".
 - 5 2. Page 2, by striking lines 17 through 20.
- By BISIGNANO of Polk

H-3395 FILED MARCH 15, 1989

into 209

HOUSE FILE 209

H-3396

- 1 Amend amendment, H-3309, to House File 209 as
 - 2 follows:
 - 3 1. Page 1, by striking lines 8 and 9.
 - 4 2. By renumbering as necessary.
- By BISIGNANO of Polk

H-3396 FILED MARCH 15, 1989

into 209

HOUSE FILE 209

H-3397

- 1 Amend House File 209 as follows:
 - 2 1. Page 2, by striking lines 21 through 31.
- By BISIGNANO of Polk

H-3397 FILED MARCH 15, 1989

into 209

HOUSE FILE 209

H-3398

- 1 Amend House File 209 as follows:
 - 2 1. Page 1, line 5, by striking the words "all
 - 3 restaurants".
- By BISIGNANO of Polk

H-3398 FILED MARCH 15, 1989

into 209

HOUSE FILE 209

H-3399

- 1 Amend House File 209 as follows:
 - 2 1. Page 2, by striking lines 4 through 8.
 - 3 2. By renumbering as necessary.
- By BISIGNANO of Polk

H-3399 FILED MARCH 15, 1989

into 209

HOUSE FILE 209

H-3400

- 1 Amend House File 209 as follows:
 - 2 1. By striking page 1, line 34, through page 2,
 - 3 line 3, and inserting the following: "of payment,
 - 4 meals are served at tables to the public."
- By BISIGNANO of Polk

H-3400 FILED MARCH 15, 1989

into 209

HOUSE FILE 209

H-3769

- 1 Amend House File 209 as follows:
- 2 1. Page 2, line 24, by striking the word "fifty"
- 3 and inserting the following: "twenty-five".

By LUNDBY of Linn

H-3769 FILED APRIL 3, 1989

Adopted 1/19 (p. 127)

HOUSE FILE 209

H-3770

- 1 Amend House File 209 as follows:
- 2 1. Page 2, by inserting after line 20, the
- 3 following:
- 4 "Sec. ____ . Section 98A.4, Code 1989, is amended to
- 5 read as follows:
- 6 98A.4 AREAS POSTED.
- 7 A person having custody or control of a public
- 8 place or public meeting shall cause signs to be posted
- 9 within the appropriate areas of the facility advising
- 10 patrons of smoking and no-smoking areas. All areas
- 11 designated as no-smoking areas shall be easily
- 12 accessible. In addition the statement "Smoking
- 13 prohibited except in designated areas" shall be
- 14 conspicuously posted on all major entrances to the
- 15 public place or public meeting."
- 16 2. By renumbering as necessary.

By LUNDBY of Linn

H-3770 FILED APRIL 3, 1989

2/18 1/19

HOUSE FILE 209

H-3771

- 1 Amend House File 209 as follows:
- 2 1. Page 2, by inserting after line 20, the
- 3 following:
- 4 "Sec. ____ . Section 98A.4, Code 1989, is amended to
- 5 read as follows:
- 6 98A.4 AREAS POSTED.
- 7 A person having custody or control of a public
- 8 place or public meeting shall cause signs to be posted
- 9 within the appropriate areas of the facility advising
- 10 patrons of smoking and no-smoking areas. The signs
- 11 shall be posted at intervals of no less than seventy-
- 12 five feet. In addition the statement "Smoking
- 13 prohibited except in designated areas" shall be
- 14 conspicuously posted on all major entrances to the
- 15 public place or public meeting. All signs posted
- 16 under this section shall be eighteen inches square.
- 17 The department of inspections and appeals shall
- 18 provide the required signs to a person required to
- 19 post such a sign, at no cost to the person."
- 20 2. By renumbering as necessary.

By LUNDBY of Linn

H-3771 FILED APRIL 3, 1989

2/18 1/19

HOUSE FILE 209

H-3772

- 1 Amend the amendment, H-3309, to House File 209, as
- 2 follows:
- 3 1. Page 1, line 7, by striking the words "twenty-
- 4 five" and inserting the following: "fifty".

By LUNDBY of Linn

H-3772 FILED APRIL 3, 1989

2/18 1/19

HOUSE FILE 209

H-3471

- 1 Amend House File 209 as follows:
 - 2 1. Page 2, line 10, by striking the word
 - 3 "paragraphs" and inserting the following:
 - 4 "paragraph".
 - 5 2. Page 2, by striking lines 11 through 16.
- By SVOBODA of Tama

H-3471 FILED MARCH 20, 1989
File 1/2/89

HOUSE FILE 209

H-3764

- 1 Amend the amendment, H-3309, to House File 209, as
 - 2 follows:
 - 3 1. Page 1, by striking lines 2 through 4.
 - 4 2. Page 1, by striking lines 10 through 19.
 - 5 3. By renumbering as necessary.
- By LUNDBY of Linn

H-3764 FILED APRIL 3, 1989
File 1/2/89

HOUSE FILE 209

H-3765

- 1 Amend the amendment, H-3309, to House File 209, as
 - 2 follows:
 - 3 1. Page 1, line 32, by striking the word
 - 4 "regularly" and inserting the following: "hourly".
- By LUNDBY of Linn

H-3765 FILED APRIL 3, 1989
File 1/2/89

HOUSE FILE 209

H-3766

- 1 Amend House File 209 as follows:
- 2 1. Page 2, line 15, by inserting after the word
- 3 "place." the following: "All public conveyances, not
- 4 otherwise exempted by federal law, shall provide
- 5 smoking areas."

By LUNDBY of Linn

H-3766 FILED APRIL 3, 1989
File 1/2/89

HOUSE FILE 209

H-3767

- 1 Amend House File 209 as follows:
 - 2 1. Page 2, by striking lines 30 and 31 and
 - 3 inserting the following: "section 804.1. The
 - 4 complainant shall pay the cost of any filing fee."
- By LUNDBY of Linn

H-3767 FILED APRIL 3, 1989
File 1/2/89

HOUSE FILE 209

H-3768

- 1 Amend House File 209 as follows:
 - 2 1. Page 2, line 24, by striking the words "ten
 - 3 fifty" and inserting the following: "ten".
- By LUNDBY of Linn

H-3768 FILED APRIL 3, 1989
File 1/2/89

HOUSE FILE 209

H-5012

1 Amend House File 209 as follows:

2 1. Page 2, by inserting after line 20, the
3 following:

4 "Sec. _____. Section 601A.6, subsection 1,
5 paragraphs a, b, and c, Code 1989, are amended to read
6 as follows:

7 a. Person to refuse to hire, accept, register,
8 classify, or refer for employment, to discharge any
9 employee, or to otherwise discriminate in employment
10 against any applicant for employment or any employee
11 because of the age, race, creed, color, sex, national
12 origin, religion, smoking preference, or disability of
13 such applicant or employee, unless based upon the
14 nature of the occupation. If a disabled person is
15 qualified to perform a particular occupation, by
16 reason of training or experience, the nature of that
17 occupation shall not be the basis for exception to the
18 unfair or discriminating practices prohibited by this
19 subsection.

20 b. Labor organization or the employees, agents or
21 members thereof to refuse to admit to membership any
22 applicant, to expel any member, or to otherwise
23 discriminate against any applicant for membership or
24 any member in the privileges, rights, or benefits of
25 such membership because of the age, race, creed,
26 color, sex, national origin, religion, smoking
27 preference, or disability of such applicant or member.

28 c. Employer, employment agency, labor
29 organization, or the employees, agents, or members
30 thereof to directly or indirectly advertise or in any
31 other manner indicate or publicize that individuals of
32 any particular age, race, creed, color, sex, national
33 origin, religion, smoking preference, or disability
34 are unwelcome, objectionable, not acceptable, or not
35 solicited for employment or membership unless based on
36 the nature of the occupation. If a disabled person is
37 qualified to perform a particular occupation by reason
38 of training or experience, the nature of that
39 occupation shall not be the basis for exception to the
40 unfair or discriminating practices prohibited by this
41 subsection.

42 An employer, employment agency, or their employees,
43 servants or agents may offer employment or advertise
44 for employment to only the disabled, when other
45 applicants have available to them, other employment
46 compatible with their ability which would not be
47 available to the disabled because of their handicap.
48 Any such employment or offer of employment shall not
49 discriminate among the disabled on the basis of race,
50 color, creed, sex or national origin."

Page 2

1 2. By renumbering as necessary.

By LUNDBY of Linn

H-5012 FILED JANUARY 17, 1990

w/25 1/17/90

HOUSE FILE 209

H-3924

- 1 Amend House File 209 as follows:
2 1. Page 1, line 1, by inserting after the word
3 "subsections" the following: "1,".
4 2. Page 1, by inserting after line 2 the
5 following:
6 "1. "Smoking" means the carrying of or control
7 over a lighted cigar, cigarette, pipe, or other
8 lighted smoking equipment or the chewing of tobacco."
By LUNDBY of Linn

H-3924 FILED APRIL 7, 1989
Adopted 4/7/89 (g, r, s)

HOUSE FILE 209

H-3932

- 1 Amend the amendment, H-3309, to House File 209 as
2 follows:
3 1. Page 1, by inserting after line 1, the
4 following:
5 "____. Page 1, line 1, by inserting after the word
6 "subsections" the following: "1,".
7 "____. Page 1, by inserting after line 2, the
8 following:
9 "1. "Smoking" means the carrying of or control
10 over a lighted cigar, cigarette, pipe, or other
11 lighted smoking equipment or the chewing of tobacco."
12 2. By renumbering as necessary.
By LUNDBY of Linn

H-3932 FILED APRIL 7, 1989
Adopted 4/7/89 (g, r, s)

HOUSE FILE 209

H-5010

- 1 Amend House File 209 as follows:
2 1. Page 1, line 5, by inserting after the word
3 "restaurants" the following: "with seating for more
4 than fifty people".

By LUNDBY of Linn

H-5010 FILED JANUARY 17, 1990
Adopted 1/17/90 (g, r, s)

HOUSE FILE 209

H-5013

- 1 Amend House File 209 as follows:
2 1. Page 2, by inserting after line 20, the
3 following:
4 "Sec. ____ . Section 98A.6, Code 1989, is amended by
5 adding the following new unnumbered paragraph:
6 NEW UNNUMBERED PARAGRAPH. Enforcement of this
7 chapter shall be implemented in an equitable manner
8 throughout the state."
9 2. By renumbering as necessary.

By LUNDBY of Linn
BISIGNANO of Polk

H-5013 FILED JANUARY 17, 1990
Adopted 1/17/90 (g, r, s)

H-5020

1 Amend the committee amendment H-3309 to House File
2 209 as follows:

3 1. Page 1, by inserting before line 2, the
4 following:

5 "____. Page 1, by inserting before line 1, the
6 following:

7 "Section 1. Section 98.36, subsection 6, Code
8 1989, is amended to read as follows:

9 6. a. Any sales of cigarettes made through a
10 cigarette vending machine are subject to rules and
11 penalties relative to retail sales of cigarettes
12 provided for in this division. No cigarettes shall be
13 sold through any cigarette vending machine unless the
14 cigarettes have been properly stamped or metered as
15 provided by this division, and in case of violation of
16 this provision, the permit of the dealer authorizing
17 retail sales of cigarettes shall be canceled. Payment
18 of the license fee as provided in section 98.13
19 authorizes a cigarette vendor to sell cigarettes
20 through vending machines, provided that the machines
21 are located in places where the machines are ~~under the~~
22 supervision in clear view of a person of legal age who
23 is responsible for prevention of purchase by minors
24 from the machines and the location where the machines
25 are placed is covered by a local retail permit. This
26 section does not require a retail licensee to buy a
27 cigarette vendor's permit if the retail licensee is in
28 fact the owner of the cigarette vending machines and
29 the machines are operated in the location described in
30 the retail permit.

31 b. As applicable to the sale of cigarettes to
32 minors through vending machines, if a cigarette vendor
33 or the retail licensee does not place a cigarette
34 vending machine in clear view of a person of legal age
35 who is responsible for prevention of purchase by
36 minors from the machines, both the cigarette vendor
37 and the retail licensee are in violation of this
38 paragraph and are each subject to a civil penalty in
39 the amount of five hundred dollars for a first
40 offense. If a cigarette vendor or a retail licensee
41 commits a subsequent violation of this paragraph, the
42 cigarette vendor permit and the retail license of the
43 cigarette vendor and the retail licensee shall be
44 revoked."

45 2. Page 1, by inserting after line 35 the
46 following:

47 "____. Title page, line 1, by striking the words
48 "in public places" and inserting the following: ",
49 and providing penalties".

By SHERZAN of Polk

H-5020 FILED JANUARY 19, 1990
ADOPTED (1/12/90)

HOUSE FILE 209

H-5022

- 1 Amend the Committee amendment, H-3309, to House
2 File 209, as follows:
3 1. Page 1, by inserting before line 2, the fol-
4 lowing:
5 "_____. Page 1, by striking lines 1 and 2 and in-
6 serting the following:
7 "Section 1. Section 98A.1, subsection 2, Code
8 1989, is amended to read as follows:""
9 2. Page 1, by inserting after line 19, the fol-
10 lowing:
11 "_____. By striking page 1, line 28, through page
12 2, line 3."
13 3. Page 1, by striking lines 20 through 35, and
14 inserting the following:
15 "_____. Page 2, by striking lines 9 through 20."
By BISIGNANO of Polk
HAMMOND of Story

H-5022 FILED JANUARY 19, 1990
ADOPTED (y 22)

HOUSE FILE 209

H-5023

- 1 Amend the amendment, H-3309, to House File 209, as
2 follows:
3 1. Page 1, line 7, by striking the words "twenty-
4 five" and inserting the following: "fifty".
By BISIGNANO of Polk

H-5023 FILED JANUARY 19, 1990
ADOPTED (y 27)

HOUSE FILE 209

H-5017

- 1 Amend House File 209 as follows:
2 1. Page 2, by inserting after line 20, the
3 following:
4 "Sec. _____. Section 601A.6, subsection 1, Code
5 1989, is amended by adding the following new
6 paragraph:
7 NEW PARAGRAPH. e. Person to refuse to hire,
8 accept, register, classify, or refer for employment
9 any applicant for employment, or to discharge any
10 employee, or to otherwise discriminate in employment
11 against any applicant for employment or any employee
12 on the ground that the person is a smoker or
13 nonsmoker. However, this paragraph does not apply to
14 employees under a collective bargaining agreement
15 which prohibits the use of tobacco products during
16 nonworking hours."
17 2. By renumbering as necessary.
By LUNDBY of Linn.

H-5017 FILED JANUARY 18, 1990

Filed not germane (y 25)

Don Hammond
Amended p. 5183 2/2/90 (p. 669)

HOUSE FILE 209
BY HAMMOND, OSTERBERG, and
HOLVECK

(As Amended and Passed by the House January 19, 1990)

⁵¹⁷⁷ Passed House, Date 4/7/90 (p. 2255) Passed Senate, Date 4/4/90 (p. 1548)
Vote: Ayes 90 Nays 5 Vote: Ayes 57 Nays 12

Approved April 24, 1990 *Motion to Reconsider (p. 1551)*
w/d 4/7

A BILL FOR

1 An Act relating to the limitations on smoking, and providing
2 penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____
Deleted Language *

1 Section 1. Section 98.36, subsection 6, Code 1989, is
2 amended to read as follows:

3 6. a. Any sales of cigarettes made through a cigarette
4 vending machine are subject to rules and penalties relative to
5 retail sales of cigarettes provided for in this division. No
6 cigarettes shall be sold through any cigarette vending machine
7 unless the cigarettes have been properly stamped or metered as
8 provided by this division, and in case of violation of this
9 provision, the permit of the dealer authorizing retail sales
10 of cigarettes shall be canceled. Payment of the license fee
11 as provided in section 98.13 authorizes a cigarette vendor to
12 sell cigarettes through vending machines, provided that the
13 machines are located in places where the machines are under
14 the-supervision in clear view of a person of legal age who is
15 responsible for prevention of purchase by minors from the
16 machines and the location where the machines are placed is
17 covered by a local retail permit. This section does not
18 require a retail licensee to buy a cigarette vendor's permit
19 if the retail licensee is in fact the owner of the cigarette
20 vending machines and the machines are operated in the location
21 described in the retail permit.

578322 b. As applicable to the sale of cigarettes to minors
23 through vending machines, if a cigarette vendor or the retail
24 licensee does not place a cigarette vending machine in clear
25 view of a person of legal age who is responsible for
26 prevention of purchase by minors from the machines, both the
27 cigarette vendor and the retail licensee are in violation of
28 this paragraph and are each subject to a civil penalty in the
29 amount of five hundred dollars for a first offense. If a
30 cigarette vendor or a retail licensee commits a subsequent
31 violation of this paragraph, the cigarette vendor permit and
32 the retail license of the cigarette vendor and the retail
33 licensee shall be revoked.

34 Sec. 2. Section 98A.1, subsection 2, Code 1989, is amended
35 to read as follows:

1 2. "Public place" means any enclosed indoor area used by
 2 the general public or serving as a place of work containing
 3 two hundred fifty or more square feet of floor space,
 4 including, but not limited to, all restaurants with a seating
 5 capacity greater than fifty, all retail stores, lobbies and
 6 malls, offices containing three-hundred-or-more-square-feet-of
 7 floor-space, including waiting rooms of three-hundred-or-more
 8 square-feet-of-floor-space, and other commercial
 9 establishments; public conveyances with departures, travel,
 10 and destination entirely within this state; educational
 11 facilities; hospitals, clinics, nursing homes, and other
 12 health care and medical facilities; and auditoriums,
 13 elevators, theaters, libraries, art museums, concert halls,
 14 indoor arenas, and meeting rooms. "Public place" does not
 15 include a-restaurant, a retail store at which fifty percent or
 16 more of the sales result from the sale of tobacco or tobacco
 17 products, the portion of a retail store where tobacco or
 18 tobacco products are sold, a private, enclosed office occupied
 19 exclusively by smokers even though the office may be visited
 20 by nonsmokers, lobbies-and-malls-which-encompass-floor-space
 21 of-three-hundred-or-less-square-feet, a room used primarily as
 22 the residence of students or other persons at an educational
 23 facility, a sleeping room in a motel or hotel, or each
 24 resident's room in a health care facility. The person in
 25 custody or control of the facility shall provide a sufficient
 26 number of rooms in which smoking is not permitted to
 27 accommodate all persons who desire such rooms.

28 Sec. 3. Section 98A.2, subsection 3, Code 1989, is amended
 29 by adding the following new unnumbered paragraph:

30 NEW UNNUMBERED PARAGRAPH. A facility inspected by the
 31 department of inspections and appeals shall be inspected by
 32 the department for compliance with sections 98A.3 and 98A.4.

*33 Sec. 4. Section 98A.6, Code 1989, is amended by adding the
 34 following new unnumbered paragraph:

35 NEW UNNUMBERED PARAGRAPH. Enforcement of this chapter

1 shall be implemented in an equitable manner throughout the
2 state.

3 Sec. 5. Section 805.8, subsection 11, Code 1989, is
4 amended to read as follows:

5 11. SMOKING VIOLATIONS. For violations of section 98A.6,
6 the scheduled fine is ~~ten~~ twenty-five dollars, and is a civil
7 penalty, and the criminal penalty surcharge under section
8 911.2 shall not be added to the penalty, and the court costs
9 pursuant to section 805.9, subsection 6, shall not be imposed.
10 If the civil fine is not paid in a timely manner, a citation
11 shall be issued for the violation in the manner provided in
12 section 804.1. The complainant shall not be charged a filing
13 fee.

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HOUSE FILE 209

S-5183

1 Amend House File 209, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 1, by striking lines 22 through 33 and
4 inserting the following:

5 "b. As applicable to the sale of cigarettes to
6 minors through vending machines, if a retail licensee
7 does not place a cigarette vending machine in clear
8 view of a person of legal age who is responsible for
9 prevention of purchase by minors from the machines,
10 the retail licensee is in violation of this paragraph
11 and is subject to a civil penalty in the amount of
12 five hundred dollars for a first offense. If a retail
13 licensee commits a subsequent violation of this
14 paragraph, the retail license of the retail licensee
15 shall be revoked."

By COMMITTEE ON HUMAN RESOURCES
BEVERLY HANNON, Chairperson

S-5183 FILED FEBRUARY 21, 1990

Place in 315 (p. 108)

HOUSE FILE 209

S-5498

1 Amend House File 209, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1, the
4 following:

5 "Section 1. Section 2.42, subsection 8, Code 1989,
6 is amended to read as follows:

7 8. To recommend changes or revisions in the senate
8 and house rules and the joint rules for more efficient
9 operation of the general assembly and draft proposed
10 rule amendments, resolutions, and bills as may be
11 required to carry out such recommendations, for
12 consideration by the general assembly. The council
13 shall recommend that the senate and house rules
14 provide for a prohibition of smoking in the chambers
15 and committee rooms of the senate and house."

16 2. By renumbering as necessary.

By JULIA GENTLEMAN

S-5498 FILED MARCH 14, 1990

Place in 315 (p. 108)

HOUSE FILE 209

S-5490

1 Amend House File 209, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 1, by inserting after line 33 the
 4 following:
 5 "Sec. . . . Section 98.49, Code 1989, is amended by
 6 adding the following new unnumbered paragraph:
 7 NEW UNNUMBERED PARAGRAPH. In order to provide
 8 uniform application of this chapter and chapter 98A
 9 relating to the regulation of cigarettes, the
 10 imposition of tobacco taxes, and the enforcement of
 11 smoking prohibitions, this chapter and chapter 98A
 12 shall preempt all inconsistent laws and regulations of
 13 political subdivisions of this state relating to the
 14 consumption, sale, distribution, or use of tobacco and
 15 tobacco products. Any laws or regulations of
 16 political subdivisions of this state, whether or not
 17 enacted prior to July 1, 1990, which are inconsistent
 18 with the provisions of this chapter or chapter 98A,
 19 are void."
 20 2. By renumbering as necessary.

By CALVIN O. HULTMAN DONALD E. GETTINGS
 GEORGE R. KINLEY C. JOSEPH COLEMAN
 RICHARD F. DRAKE DALE L. TIEDEN
 JOE J. WEUSH

S-5490 FILED MARCH 14, 1990

Revised and approved 3/15/90

HOUSE FILE 209

S-5493

1 Amend House File 209, as amended, passed, and
 2 reprinted by the House, as follows:
 3 1. Page 1, line 29, by striking the word "five"
 4 and inserting the following: "one".

By RICHARD F. DRAKE JOHN P. KIBBIE
 EMIL HUSAK DONALD V. DOYLE
 CALVIN O. HULTMAN ALVIN V. MILLER
 C. JOSEPH COLEMAN

S-5493 FILED MARCH 14, 1990

Revised 3/15/90

HOUSE FILE 209

S-5504

1 Amend the amendment, S-5183, to House File 209, as
 2 amended, passed, and reprinted by the House, as
 3 follows:
 4 1. Page 1, line 12, by striking the word "five"
 5 and inserting the following: "one".

By RICHARD F. DRAKE JOHN P. KIBBIE
 EMIL J. HUSAK DONALD V. DOYLE
 CALVIN O. HULTMAN ALVIN V. MILLER
 C. JOSEPH COLEMAN

S-5504 FILED MARCH 15, 1990

RULED OUT OF ORDER *(3/15/90)*

HOUSE FILE 209

S-5557

1 Amend House File 209 as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 3, line 2, by inserting after the word
4 "state." the following: "For the purpose of equitable
5 and uniform implementation, application, and
6 enforcement of state and local laws and regulations,
7 the provisions of this chapter shall supersede any
8 local law or regulation which is inconsistent with or
9 conflicts with the provisions of this chapter."

By JOE WELSH
CALVIN O. HULTMAN
GEORGE R. KINLEY

DALE L. TIEDEN
RICHARD F. DRAKE
C. JOSEPH COLEMAN

S-5557 FILED MARCH 19, 1990
ADOPTED (p. 1179)

HOUSE FILE 209

S-5523

- 1 Amend House File 209, as amended, passed, and
 - 2 reprinted by the House as follows:
 - 3 1. Page 1, by striking lines 1 through 33.
- By CALVIN O. HULTMAN
C. JOSEPH COLEMAN

S-5523 FILED MARCH 15, 1990
ADOPTED (p. 1107)

HOUSE FILE 209

S-5567

- 1 Amend House File 209, as amended, passed, and re-
- 2 printed by the House, as follows:
- 3 1. Page 2, lines 4 and 5, by striking the words
- 4 "all restaurants with a seating capacity greater than
- 5 fifty."
- 6 2. Page 2, line 15, by striking the words "a
- 7 restaurant" and inserting the following: "a
- 8 restaurant".

By RICHARD RUNNING

S-5567 FILED MARCH 19, 1990

ADOPTED (p. 1177) Motion to reconsider 3/22
Reconsideration lost 4/4 (p. 1522)

HOUSE FILE 209

S-5569

- 1 Amend House File 209, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, line 3, by striking the words "two
- 4 hundred fifty" and inserting the following: "three
- 5 hundred".

By RICHARD RUNNING

S-5569 FILED MARCH 19, 1990
w/0 4/4 (p. 1522)

HOUSE FILE 209

S-5570

- 1 Amend House File 209, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 3, line 6, by striking the words "ten
- 4 twenty-five" and inserting the following: "ten".

By RICHARD RUNNING

S-5570 FILED MARCH 19, 1990
w/0 4/4 (p. 1522)

HOUSE FILE 209

S-5571

- 1 Amend House File 209, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, line 5, by striking the word "fifty"
- 4 and inserting the following: "seventy-five".

By RICHARD RUNNING

S-5571 FILED MARCH 19, 1990
w/0 4/4 (p. 1522)

~~SENATE AMENDMENT TO HOUSE FILE 209~~

H-6177

- 1 Amend House File 209, as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 1, by striking lines 1 through 33.
- 4 2. Page 3, line 2, by inserting after the word
- 5 "state." the following: "For the purpose of equitable
- 6 and uniform implementation, application, and
- 7 enforcement of state and local laws and regulations,
- 8 the provisions of this chapter shall supersede any
- 9 local law or regulation which is inconsistent with or
- 10 conflicts with the provisions of this chapter."
- 11 3. By renumbering, relettering, or redesignating
- 12 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-6177 FILED APRIL 7, 1990
CONCURRED (p. 2254)

HOUSE FILE 209

S-5891

- 1 Amend House File 209, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, line 3, by striking the words "two
- 4 hundred fifty" and inserting the following: "three
- 5 hundred".

By CALVIN O. HULTMAN

S-5891 FILED APRIL 4, 1990

WITHDRAWN (p. 1548)

HOUSE FILE 209

S-5892

- 1 Amend House File 209, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, line 5, by striking the word "fifty"
- 4 and inserting the following: "seventy-five".

By CALVIN O. HULTMAN

S-5892 FILED APRIL 4, 1990

WITHDRAWN (p. 1548)

HOUSE FILE 209

S-5893

- 1 Amend House File 209 as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 2, line 27, by inserting after the word
- 4 "rooms." the following: "The provisions of this
- 5 subsection shall not apply to a restaurant which has
- 6 posted signs designating either "Smoking Permitted" or
- 7 "Smoking Not Permitted" in conspicuous locations at
- 8 all outside entrances to the restaurant.".

By C. JOSEPH COLEMAN

S-5893 FILED APRIL 4, 1990

LOST (p. 1548)

HOUSE FILE 209

AN ACT
RELATING TO THE LIMITATIONS ON SMOKING, AND PROVIDING
PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 98A.1, subsection 2, Code 1989, is amended to read as follows:

2. "Public place" means any enclosed indoor area used by the general public or serving as a place of work containing two hundred fifty or more square feet of floor space, including, but not limited to, all restaurants with a seating capacity greater than fifty, all retail stores, lobbies and malls, offices containing three-hundred-or-more-square-feet-of floor-space, including waiting rooms of three-hundred-or-more square-feet of floor-space, and other commercial establishments; public conveyances with departures, travel, and destination entirely within this state; educational facilities; hospitals, clinics, nursing homes, and other health care and medical facilities; and auditoriums, elevators, theaters, libraries, art museums, concert halls, indoor arenas, and meeting rooms. "Public place" does not include a restaurant, a retail store at which fifty percent or more of the sales result from the sale of tobacco or tobacco

products, the portion of a retail store where tobacco or tobacco products are sold, a private, enclosed office occupied exclusively by smokers even though the office may be visited by nonsmokers, ~~lobbies and malls which encompass floor-space of three-hundred-or-less-square-feet~~; a room used primarily as the residence of students or other persons at an educational facility, a sleeping room in a motel or hotel, or each resident's room in a health care facility. The person in custody or control of the facility shall provide a sufficient number of rooms in which smoking is not permitted to accommodate all persons who desire such rooms.

Sec. 2. Section 98A.2, subsection 3, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A facility inspected by the department of inspections and appeals shall be inspected by the department for compliance with sections 98A.3 and 98A.4.

Sec. 3. Section 98A.6, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Enforcement of this chapter shall be implemented in an equitable manner throughout the state. For the purpose of equitable and uniform implementation, application, and enforcement of state and local laws and regulations, the provisions of this chapter shall supersede any local law or regulation which is inconsistent with or conflicts with the provisions of this chapter.

Sec. 4. Section 805.8, subsection 11, Code 1989, is amended to read as follows:

11. SMOKING VIOLATIONS. For violations of section 98A.6, the scheduled fine is ten twenty-five dollars, and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed. If the civil fine is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in

section 804.1. The complainant shall not be charged a filing fee.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 209, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 24, 1990

TERRY E. BRANSTAD
Governor