

# House Study Bill 24

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
COMMERCE BILL BY  
CHAIRPERSON PETERSEN)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to establishing smokefree public places and  
2 workplaces, and providing penalties.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1163YC 82  
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1 1 Section 1. NEW SECTION. 142D.1 TITLE == FINDINGS ==  
1 2 PURPOSE.  
1 3 1. This chapter shall be known and may be cited as the  
1 4 "Smokefree Public Places and Workplace Safety Act".  
1 5 2. The general assembly finds that environmental tobacco  
1 6 smoke causes and exacerbates disease in nonsmoking adults and  
1 7 children. These findings are sufficient to warrant measures  
1 8 that regulate smoking in public places and places of  
1 9 employment in order to protect the public health and the  
1 10 health of employees.  
1 11 3. The purpose of this chapter is to reduce the level of  
1 12 exposure by the general public and employees to environmental  
1 13 tobacco smoke in order to improve the public health of Iowans.  
1 14 Sec. 2. NEW SECTION. 142D.2 DEFINITIONS.  
1 15 As used in this chapter, unless the context otherwise  
1 16 requires:  
1 17 1. "Bar" means an establishment where one may purchase  
1 18 alcoholic beverages as defined in section 123.3, for  
1 19 consumption on the premises and in which the serving of food  
1 20 is only incidental to the consumption of those beverages.  
1 21 2. "Common area" means a reception area, lobby, hallway,  
1 22 restroom, elevator, stairwell, or other area to which the  
1 23 public is invited or in which the public is permitted.  
1 24 3. "Employee" means a person who is employed by an  
1 25 employer in consideration for direct or indirect monetary  
1 26 wages or profit, or a person who provides services to an  
1 27 employer on a voluntary basis.  
1 28 4. "Employer" means a person including a sole  
1 29 proprietorship, partnership, joint venture, corporation,  
1 30 association, or other business entity whether for-profit or  
1 31 not-for-profit, including state government and its political  
1 32 subdivisions, that employs the services of one or more  
1 33 individuals as employees.  
1 34 5. "Enclosed area" means all space between a floor and  
1 35 ceiling that is contained on all sides by solid walls or  
2 1 windows, exclusive of doorways, which extend from the floor to  
2 2 the ceiling.  
2 3 6. "Environmental tobacco smoke" means a mixture of gases  
2 4 and particles that includes the escaping smoke of a burning  
2 5 tobacco product and the smoke exhaled by a smoker.  
2 6 7. "Health care provider location" means an office or  
2 7 institution providing care or treatment of disease whether  
2 8 physical, mental, or emotional, or other medical,  
2 9 physiological, or psychological conditions, including but not  
2 10 limited to a hospital as defined in section 135B.1, a health  
2 11 care facility as defined in section 135C.1, an elder group  
2 12 home as defined in section 231B.1, an assisted living program  
2 13 as defined in section 231C.2, an adult day services program as  
2 14 defined in section 231D.1, clinics, laboratories, and the  
2 15 locations of professionals regulated pursuant to Title IV,  
2 16 subtitle III, and includes all enclosed areas of the location  
2 17 including waiting rooms, hallways, other common areas, private  
2 18 rooms, semiprivate rooms, and wards within the location.

2 19 8. "Long-term care facility" means a health care facility  
2 20 as defined in section 135C.1, an elder group home as defined  
2 21 in section 231B.1, or an assisted living program as defined in  
2 22 section 231C.2.

2 23 9. "Place of employment" means an area under the control  
2 24 of an employer and includes all areas that an employee  
2 25 frequents during the course of employment or volunteering,  
2 26 including but not limited to work areas, private offices,  
2 27 conference and meeting rooms, classrooms, auditoriums,  
2 28 employee lounges and cafeterias, hallways, restrooms,  
2 29 elevators, stairways, and vehicles. "Place of employment"  
2 30 does not include a private residence, unless the private  
2 31 residence is used as a child care facility, a child care home,  
2 32 or as a health care provider location.

2 33 10. "Political subdivision" means a city, county,  
2 34 township, or school district.

2 35 11. "Private club" means an organization, whether or not  
3 1 incorporated, that is the owner, lessee, or occupant of a  
3 2 location used exclusively for club purposes at all times and  
3 3 that meets all of the following criteria:

3 4 a. Is operated solely for a recreational, fraternal,  
3 5 social, patriotic, political, benevolent, or athletic purpose,  
3 6 but not for pecuniary gain.

3 7 b. Sells alcoholic beverages only as incidental to its  
3 8 operation.

3 9 c. Is managed by a board of directors, executive  
3 10 committee, or similar body chosen by the members.

3 11 d. Has established bylaws or another document to govern  
3 12 its activities.

3 13 e. Has been granted an exemption from the payment of  
3 14 federal income tax as a club pursuant to 26 U.S.C. } 501.

3 15 12. "Public place" means an enclosed area to which the  
3 16 public is invited or in which the public is permitted,  
3 17 including common areas, and including but not limited to all  
3 18 of the following:

3 19 a. Financial institutions.

3 20 b. Child care facilities and child care homes.

3 21 c. Public and private educational facilities and places of  
3 22 public assembly in indoor locations under the control of the  
3 23 state or its political subdivisions.

3 24 d. Health care provider locations.

3 25 e. Hotel and motel lobbies.

3 26 f. Laundromats.

3 27 g. Public transportation facilities and conveyances with  
3 28 departures, travel, and destinations entirely within this  
3 29 state, including buses, vans, trains, taxicabs, and  
3 30 limousines, and private vehicles used to transport children or  
3 31 adults as part of health care provider location  
3 32 transportation, or child care facility or child care home  
3 33 transportation.

3 34 h. The common areas of a multiunit residential property.

3 35 i. Restaurants and bars.

4 1 j. Retail food production and marketing establishments.

4 2 k. Retail service establishments.

4 3 l. Shopping malls, retail stores, and grocery stores.

4 4 m. Elevators.

4 5 n. Aquariums, galleries, libraries, and museums.

4 6 o. Public buildings, including all buildings owned or  
4 7 operated by state government or a political subdivision.

4 8 p. Entertainment venues, including theaters, auditoriums,  
4 9 concert halls, convention facilities and meeting rooms, bingo  
4 10 facilities, and indoor arenas including sports arenas.

4 11 q. Polling places.

4 12 r. Private clubs when being used for a function to which  
4 13 the general public is invited.

4 14 s. Service lines.

4 15 t. Other commercial establishments and locations.

4 16 13. "Restaurant" means eating establishments, including  
4 17 private and public school cafeterias, which offer food to the  
4 18 public, guests, or employees, including the kitchen and  
4 19 catering facilities in which food is prepared on the premises  
4 20 for serving elsewhere, and including a bar area within a  
4 21 restaurant.

4 22 14. "Retail tobacco store" means a retail store utilized  
4 23 primarily for the sale of tobacco products and accessories and  
4 24 in which the sale of other products is incidental to the sale  
4 25 of tobacco products.

4 26 15. "Service line" means an indoor line in which one or  
4 27 more individuals are waiting for or receiving service of any  
4 28 kind, whether or not the service involves the exchange of  
4 29 money.

4 30 16. "Shopping mall" means an enclosed public walkway or  
4 31 hall area that serves to connect retail or professional  
4 32 establishments.  
4 33 17. "Smoking" means inhaling, exhaling, burning, or  
4 34 carrying any lighted cigar, cigarette, pipe, or other tobacco  
4 35 product in any manner or in any form.  
5 1 18. "Sports arena" means a sports pavilion, stadium,  
5 2 gymnasium, health spa, boxing arena, swimming pool, roller or  
5 3 ice rink, bowling alley, or other similar place where members  
5 4 of the general public assemble to engage in physical exercise,  
5 5 participate in athletic competition, or witness sports or  
5 6 other events.

5 7 Sec. 3. NEW SECTION. 142D.3 PROHIBITION OF SMOKING ==  
5 8 PUBLIC PLACES, PLACES OF EMPLOYMENT, AND OUTDOOR ARENAS AND  
5 9 THEATERS == SURROUNDING AREA.

5 10 1. Smoking is prohibited and a person shall not smoke in  
5 11 any of the following:  
5 12 a. Public places.  
5 13 b. All enclosed areas within places of employment.  
5 14 c. Outdoor sports arenas and other entertainment venues  
5 15 where members of the general public assemble to witness  
5 16 entertainment events.

5 17 2. In addition to the prohibitions specified in subsection  
5 18 1, smoking is prohibited within fifty feet of any public place  
5 19 where smoking is prohibited in order to insure that tobacco  
5 20 smoke does not enter that area through entrances, windows,  
5 21 ventilation systems, or other means.

5 22 Sec. 4. NEW SECTION. 142D.4 AREAS WHERE SMOKING NOT  
5 23 REGULATED.

5 24 Notwithstanding any provision of this chapter to the  
5 25 contrary, the following areas are exempt from the prohibitions  
5 26 of section 142D.3:

5 27 1. Private residences, unless used as a child care  
5 28 facility, child care home, or a health care provider location.

5 29 2. Hotel and motel rooms that are rented to guests and are  
5 30 designated as smoking rooms; provided that not more than  
5 31 twenty percent of the rooms of a hotel or motel rented to  
5 32 guests are designated as smoking rooms, all smoking rooms on  
5 33 the same floor are contiguous, and smoke from smoking rooms  
5 34 does not infiltrate into areas in which smoking is otherwise  
5 35 prohibited under this chapter.

6 1 3. Retail tobacco stores, provided that smoke from these  
6 2 locations does not infiltrate into areas in which smoking is  
6 3 otherwise prohibited under this chapter.

6 4 4. Private and semiprivate rooms in long-term care  
6 5 facilities, occupied by one or more individuals, all of whom  
6 6 are smokers and have requested in writing to be placed in a  
6 7 room where smoking is permitted, provided that smoke from  
6 8 these locations does not infiltrate into areas in which  
6 9 smoking is otherwise prohibited under this chapter.

6 10 5. Private clubs that have no employees, except when being  
6 11 used for a function to which the general public is invited.

6 12 6. Outdoor areas that are places of employment except  
6 13 those areas where smoking is prohibited pursuant to section  
6 14 142D.3, subsection 1, paragraph "c", and section 142D.3,  
6 15 subsection 2.

6 16 7. Limousines under private hire.

6 17 8. An enclosed indoor workplace if the smoking is an  
6 18 integral part of a smoking cessation program or a medical or  
6 19 scientific research program.

6 20 Sec. 5. NEW SECTION. 142D.5 DECLARATION OF ESTABLISHMENT  
6 21 AS NONSMOKING.

6 22 1. Notwithstanding any provision of this chapter to the  
6 23 contrary, an owner, operator, manager, or other person having  
6 24 custody or control of an area otherwise exempt from the  
6 25 prohibitions of section 142D.3 may declare the entire area as  
6 26 a nonsmoking place.

6 27 2. Smoking shall be prohibited in any location under this  
6 28 section declared a nonsmoking place in which a sign is posted  
6 29 conforming to the provisions of section 142D.6.

6 30 Sec. 6. NEW SECTION. 142D.6 NOTICE OF NONSMOKING  
6 31 REQUIREMENTS == POSTING OF SIGNS.

6 32 1. Notice of the provisions of this chapter shall be  
6 33 provided to all applicants for a business license in this  
6 34 state, to all law enforcement agencies, and to any business  
6 35 required to be registered with the office of the secretary of  
7 1 state.

7 2 2. All employers subject to the prohibitions of this  
7 3 chapter shall communicate to all existing employees and to all  
7 4 prospective employees upon application for employment the  
7 5 smoking prohibitions prescribed in this chapter.

7 6 3. The owner, operator, manager, or other person having  
7 7 custody or control of a public place or place of employment  
7 8 where smoking is prohibited under this chapter shall clearly  
7 9 and conspicuously post in and at every entrance to the public  
7 10 place or place of employment "no smoking" signs or the  
7 11 international "no smoking" symbol.

7 12 4. The owner, operator, manager, or other person having  
7 13 custody or control of a public place or place of employment  
7 14 where smoking is prohibited under this chapter shall remove  
7 15 all ashtrays from these locations.

7 16 Sec. 7. NEW SECTION. 142D.7 NONRETALIATION == NONWAIVER  
7 17 OF RIGHTS.

7 18 1. A person or employer shall not discharge, refuse to  
7 19 employ, or in any manner retaliate against an employee,  
7 20 applicant for employment, or customer because that employee,  
7 21 applicant, or customer exercises any rights afforded under  
7 22 this chapter, registers a complaint, or attempts to prosecute  
7 23 a violation of this chapter.

7 24 2. An employee who works in a location where an employer  
7 25 allows smoking does not waive or surrender any legal rights  
7 26 the employee may have against the employer or any other  
7 27 person.

7 28 Sec. 8. NEW SECTION. 142D.8 ENFORCEMENT.

7 29 1. This chapter shall be enforced by local boards of  
7 30 health. The department of public health shall adopt rules to  
7 31 administer this chapter, including rules regarding  
7 32 enforcement. Judicial magistrates shall hear and determine  
7 33 violations of this chapter.

7 34 2. If a public place is subject to any state or political  
7 35 subdivision inspection process or is under contract with the  
8 1 state or a political subdivision, the person performing the  
8 2 inspection shall assess compliance with the requirements of  
8 3 this chapter and shall report any violations to the local  
8 4 board of health.

8 5 3. An owner, operator, manager, or other person having  
8 6 custody or control of a public place or place of employment  
8 7 regulated under this chapter shall inform persons violating  
8 8 this chapter of the provisions of this chapter.

8 9 4. An employee or private citizen may bring a legal action  
8 10 to enforce this chapter. Any person may register a complaint  
8 11 under this chapter by filing a complaint with the department  
8 12 of public health or a local board of health.

8 13 5. In addition to the remedies provided in this section,  
8 14 the local board of health or any other person aggrieved by the  
8 15 failure of the owner, operator, manager, or other person  
8 16 having custody or control of a public place or place of  
8 17 employment to comply with this chapter may seek injunctive  
8 18 relief to enforce this chapter.

8 19 Sec. 9. NEW SECTION. 142D.9 CIVIL PENALTIES.

8 20 1. A person who smokes in an area where smoking is  
8 21 prohibited pursuant to this chapter shall pay a civil penalty  
8 22 pursuant to section 805.8C, subsection 3, paragraph "a", for  
8 23 each violation.

8 24 2. A person who owns, manages, operates, or otherwise has  
8 25 custody or control of a public place or place of employment  
8 26 and who fails to comply with this chapter shall pay a civil  
8 27 penalty as follows:

8 28 a. For a first violation, a monetary penalty not to exceed  
8 29 one hundred dollars.

8 30 b. For a second violation within one year, a monetary  
8 31 penalty not to exceed two hundred dollars.

8 32 c. For each violation in excess of a second violation  
8 33 within one year, a monetary penalty not to exceed five hundred  
8 34 dollars for each additional violation.

8 35 3. An employer who discharges or in any manner  
9 1 discriminates against an employee because the employee has  
9 2 made a complaint or has provided information or instituted a  
9 3 legal action under this chapter shall pay a civil penalty of  
9 4 not less than two thousand dollars and not more than ten  
9 5 thousand dollars for each violation.

9 6 4. In addition to the penalties established in this  
9 7 section, violation of this chapter by a person who owns,  
9 8 manages, operates, or who otherwise has custody or control of  
9 9 a public place or place of employment may result in the  
9 10 suspension or revocation of any permit or license issued to  
9 11 the person for the premises on which the violation occurred.

9 12 5. Violation of this chapter constitutes a public nuisance  
9 13 which may be abated by the department of public health or a  
9 14 local board of health by restraining order, preliminary or  
9 15 permanent injunction, or other means provided by law, and the  
9 16 entity abating the public nuisance may take action to recover

9 17 the costs of such abatement.  
9 18 6. Each day on which a violation of this chapter occurs is  
9 19 considered a separate and distinct violation.  
9 20 7. Civil penalties paid pursuant to this chapter shall be  
9 21 deposited in the general fund of the county.  
9 22 Sec. 10. NEW SECTION. 142D.10 PUBLIC EDUCATION.  
9 23 The department of public health shall provide a program to  
9 24 educate employers, owners, operators, managers, and others  
9 25 having custody or control of a public place or a place of  
9 26 employment and the general public regarding the provisions of  
9 27 and compliance with this chapter. The education program may  
9 28 include the publication of a written document regarding the  
9 29 provisions of and compliance with this chapter.  
9 30 Sec. 11. NEW SECTION. 142D.11 INTERPRETATION ==  
9 31 APPLICATION.  
9 32 1. This chapter shall not be interpreted or construed to  
9 33 permit smoking where smoking is otherwise restricted or  
9 34 prohibited by other applicable laws.  
9 35 2. This chapter shall not be interpreted to prevent  
10 1 political subdivisions from adopting ordinances or regulations  
10 2 which are more restrictive than the provisions of this  
10 3 chapter.  
10 4 Sec. 12. Section 135.1, unnumbered paragraph 1, Code 2007,  
10 5 is amended to read as follows:  
10 6 For the purposes of chapter 155 and Title IV, subtitle 2,  
10 7 excluding chapters ~~142B~~, 145B, and 146, unless otherwise  
10 8 defined:  
10 9 Sec. 13. Section 135.11, subsection 14, Code 2007, is  
10 10 amended to read as follows:  
10 11 14. Establish, publish, and enforce rules not inconsistent  
10 12 with law for the enforcement of the provisions of chapters 125  
10 13 and 155, and Title IV, subtitle 2, excluding chapters ~~142B~~,  
10 14 142D, 145B, and 146 and for the enforcement of the various  
10 15 laws, the administration and supervision of which are imposed  
10 16 upon the department.  
10 17 Sec. 14. Section 237A.3A, subsection 5, Code 2007, is  
10 18 amended to read as follows:  
10 19 5. Smoking, as defined in section ~~142B.1~~, 142D.2, shall  
10 20 not be permitted during a child development home's hours of  
10 21 operation in an area of the child development home which may  
10 22 be used by the children receiving child care.  
10 23 Sec. 15. Section 331.427, subsection 1, unnumbered  
10 24 paragraph 1, Code 2007, is amended to read as follows:  
10 25 Except as otherwise provided by state law, county revenues  
10 26 from taxes and other sources for general county services shall  
10 27 be credited to the general fund of the county, including  
10 28 revenues received under sections 9I.11, 101A.3, 101A.7,  
10 29 123.36, 123.143, ~~142B.6~~, 142D.9, 176A.8, 321.105, 321.152,  
10 30 321G.7, 321I.8, section 331.554, subsection 6, sections  
10 31 341A.20, 364.3, 368.21, 423A.7, 428A.8, 430A.3, 433.15,  
10 32 434.19, 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1,  
10 33 583.6, 602.8108, 904.908, and 906.17, and the following:  
10 34 Sec. 16. Section 805.8C, subsection 3, paragraph a, Code  
10 35 2007, is amended to read as follows:  
11 1 a. For violations of ~~section 142B.6 described in section~~  
11 2 142D.9, subsection 1, the scheduled fine is ~~twenty-five~~ fifty  
11 3 dollars, and is a civil penalty, and the criminal penalty  
11 4 surcharge under section 911.1 shall not be added to the  
11 5 penalty, and the court costs pursuant to section 805.9,  
11 6 subsection 6, shall not be imposed. If the civil penalty  
11 7 assessed for a violation of ~~described in section 142B.6~~  
11 8 142D.9, subsection 1, is not paid in a timely manner, a  
11 9 citation shall be issued for the violation in the manner  
11 10 provided in section 804.1. However, a person under age  
11 11 eighteen shall not be detained in a secure facility for  
11 12 failure to pay the civil penalty. The complainant shall not  
11 13 be charged a filing fee.  
11 14 Sec. 17. Chapter 142B, Code 2007, is repealed.  
11 15 EXPLANATION  
11 16 This bill creates a new Code chapter 142D, the "Smokefree  
11 17 Public Places and Workplace Safety Act". The bill provides  
11 18 findings relating to environmental tobacco smoke, and the  
11 19 purpose of the new chapter which is to reduce the level of  
11 20 exposure by the general public and employees to environmental  
11 21 tobacco smoke in order to improve the public health of Iowans.  
11 22 The bill provides definitions, including definitions of  
11 23 "public place" and "place of employment".  
11 24 The bill prohibits smoking in public places, all enclosed  
11 25 locations within places of employment, and outdoor sports  
11 26 arenas and other entertainment venues where members of the  
11 27 general public assemble to witness entertainment events. In

11 28 addition, smoking is prohibited within 50 feet of any public  
11 29 place where smoking is prohibited in order to ensure that  
11 30 tobacco smoke does not enter that area through entrances,  
11 31 windows, ventilation systems, or other means.  
11 32 Smoking is not regulated in private residences, unless used  
11 33 as a child care facility or child care home, or a health care  
11 34 provider location; hotel and motel rooms which meet certain  
11 35 specifications; retail tobacco stores; private and semiprivate  
12 1 rooms in long-term care facilities under certain conditions;  
12 2 private clubs; outdoor areas that are places of employment,  
12 3 with some exceptions; limousines under private hire; and  
12 4 enclosed indoor workplaces if the smoking is an integral part  
12 5 of a smoking cessation program or a medical or scientific  
12 6 research program.  
12 7 Additionally, an owner, operator, manager, or other person  
12 8 having custody or control of an area exempt from the  
12 9 prohibition against smoking may declare the entire area as a  
12 10 nonsmoking place.  
12 11 The bill requires notice of the provisions of the Code  
12 12 chapter to be provided to all applicants for a business  
12 13 license in the state, to all law enforcement agencies, and to  
12 14 any business required to be registered with the office of the  
12 15 secretary of state; that all employers subject to the  
12 16 prohibitions of the Code chapter communicate to all existing  
12 17 employees and to all prospective employees upon application  
12 18 for employment the smoking prohibitions prescribed in the Code  
12 19 chapter; that the owner, operator, manager, or other person in  
12 20 custody or control of each public place or place of employment  
12 21 where smoking is prohibited under the Code chapter clearly and  
12 22 conspicuously post in and at every entrance to the location  
12 23 "no smoking" signs or the international "no smoking" symbol;  
12 24 and that the owner, operator, manager, or other person having  
12 25 custody or control of each public place or place of employment  
12 26 where smoking is prohibited under the Code chapter remove all  
12 27 ashtrays from these locations.  
12 28 The bill prohibits a person or employer from discharging,  
12 29 refusing to employ, or in any manner retaliating against an  
12 30 employee, applicant for employment, or customer because that  
12 31 employee, applicant, or customer exercises any rights afforded  
12 32 under the Code chapter, registers a complaint, or attempts to  
12 33 prosecute a violation of the chapter.  
12 34 The Code chapter is to be enforced by local boards of  
12 35 health which are county, city, or district boards of health  
13 1 under Code chapter 137. The department of public health is  
13 2 required to adopt rules to administer the Code chapter.  
13 3 Judicial magistrates are to hear and determine violations of  
13 4 the Code chapter. If a public place is subject to any state  
13 5 or political subdivision inspection process or is under  
13 6 contract with the state or a political subdivision, the person  
13 7 performing the inspection is required to assess compliance  
13 8 with the requirements of the Code chapter and report  
13 9 violations to the local board of health. The bill requires an  
13 10 owner, operator, manager, or other person having custody or  
13 11 control of a public place or place of employment regulated  
13 12 under the Code chapter to inform persons violating the Code  
13 13 chapter of its provisions. The bill authorizes an employee or  
13 14 private citizen to bring a legal action to enforce the Code  
13 15 chapter and any person may register a complaint under the Code  
13 16 chapter by filing a complaint with the department of public  
13 17 health or a local board of health. In addition to other  
13 18 remedies, the county or local board of health or any other  
13 19 person aggrieved by the failure of the owner, operator,  
13 20 manager, or other person having custody or control of a public  
13 21 place or place of employment to comply with the Code chapter  
13 22 may seek injunctive relief to enforce the Code chapter.  
13 23 The bill provides civil penalties for violations of the  
13 24 Code chapter. A person who smokes in an area where smoking is  
13 25 prohibited is required to pay a civil penalty of \$50 for each  
13 26 violation. A person who owns, manages, operates, or otherwise  
13 27 has custody or control of a public place or place of  
13 28 employment and who fails to comply with the Code chapter is  
13 29 required to pay a civil penalty as follows: for a first  
13 30 violation, a monetary penalty not to exceed \$100; for a second  
13 31 violation within one year, a monetary penalty not to exceed  
13 32 \$200; and for each violation in excess of a second violation  
13 33 within one year, a monetary penalty not to exceed \$500 for  
13 34 each additional violation. An employer who discharges or in  
13 35 any manner discriminates against an employee because that  
14 1 employee has made a complaint or has provided information or  
14 2 instituted a legal action under the Code chapter is required  
14 3 to pay a civil penalty of not less than \$2,000 and not more

14 4 than \$10,000 for each violation. Civil penalties are to be  
14 5 deposited in the county general fund. In addition to the  
14 6 penalties, violation of the Code chapter by a person who owns,  
14 7 manages, operates, or who otherwise has custody or control of  
14 8 a public place or place of employment may result in the  
14 9 suspension or revocation of any permit or license issued to  
14 10 the person for the premises on which the violation occurred.

14 11 Under the bill, a violation of the Code chapter constitutes  
14 12 a public nuisance which may be abated by the department of  
14 13 public health or a local board of health by restraining order,  
14 14 preliminary or permanent injunction, or other means provided  
14 15 by law, and the entity abating the public nuisance may take  
14 16 action to recover the costs of such abatement. Each day on  
14 17 which a violation of the Code chapter occurs is considered a  
14 18 separate and distinct violation.

14 19 The bill directs the department of public health to provide  
14 20 a program to educate employers, owners, operators, managers,  
14 21 and others having custody or control of a public place or a  
14 22 place of employment and the general public regarding the  
14 23 provisions of and compliance with the Code chapter.

14 24 The bill provides that the Code chapter is not to be  
14 25 interpreted or construed to permit smoking where smoking is  
14 26 otherwise restricted or prohibited by other applicable laws  
14 27 and the Code chapter is not to be interpreted to prevent  
14 28 political subdivisions from adopting ordinances or regulations  
14 29 which are more restrictive than the provisions of the Code  
14 30 chapter.

14 31 The bill repeals existing Code chapter 142B relating to  
14 32 smoking prohibitions and makes conforming changes throughout  
14 33 the Code.

14 34 LSB 1163YC 82

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