

House File 362 - Introduced

HOUSE FILE _____
BY SANDS, WINDSCHITL, HEATON,
PETTENGILL, SORENSON, HELLAND,
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DE BOEF, WATTS, SCHULTZ, and
HUSEMAN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to smoking prohibitions, providing penalties, and
2 providing a repeal.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1957YH 83
5 pf/rj/5

PAG LIN

1 1 Section 1. NEW SECTION. 142B.1 DEFINITIONS.
1 2 As used in this chapter, unless the context otherwise
1 3 requires:
1 4 1. "Bar" means an establishment or portion of an
1 5 establishment where one can purchase and consume alcoholic
1 6 beverages as defined in section 123.3, subsection 4, but
1 7 excluding any establishment or portion of the establishment
1 8 having table and seating facilities for serving of meals to
1 9 more than fifty people at one time and where, in consideration
1 10 of payment, meals are served at tables to the public.
1 11 2. "Public meeting" means a gathering in person of the
1 12 members of a governmental body, whether an open or a closed
1 13 session under chapter 21.
1 14 3. "Public place" means any enclosed indoor area used by
1 15 the general public or serving as a place of work containing
1 16 two hundred fifty or more square feet of floor space,
1 17 including but not limited to all restaurants with a seating
1 18 capacity greater than fifty, all retail stores, lobbies and
1 19 malls, offices, including waiting rooms, and other commercial
1 20 establishments; public conveyances with departures, travel,
1 21 and destination entirely within this state; educational
1 22 facilities; hospitals, clinics, nursing homes, and other
1 23 health care and medical facilities; and auditoriums,
1 24 elevators, theaters, libraries, art museums, concert halls,
1 25 indoor arenas, and meeting rooms. "Public place" does not
1 26 include a retail store at which fifty percent or more of the
1 27 sales result from the sale of tobacco or tobacco products, the
1 28 portion of a retail store where tobacco or tobacco products
1 29 are sold, a private, enclosed office occupied exclusively by
1 30 smokers even though the office may be visited by nonsmokers, a
1 31 room used primarily as the residence of students or other
1 32 persons at an educational facility, a sleeping room in a motel
1 33 or hotel, or each resident's room in a health care facility.
1 34 The person in custody or control of the facility shall provide
1 35 a sufficient number of rooms in which smoking is not permitted
2 1 to accommodate all persons who desire such rooms.
2 2 4. "Smoking" means the carrying of or control over a
2 3 lighted cigar, cigarette, pipe, or other lighted smoking
2 4 equipment.
2 5 Sec. 2. NEW SECTION. 142B.2 PROHIBITION.
2 6 1. A person shall not smoke in a public place or in a
2 7 public meeting except in a designated smoking area. This
2 8 prohibition does not apply in cases in which an entire room or
2 9 hall is used for a private social function and seating
2 10 arrangements are under the control of the sponsor of the
2 11 function and not of the proprietor or person in charge of the
2 12 place. This prohibition does not apply to factories,
2 13 warehouses, and similar places of work not usually frequented
2 14 by the general public, except that an employee cafeteria in
2 15 such place of work shall have a designated nonsmoking area.
2 16 2. Smoking areas may be designated by persons having

2 17 custody or control of public places, except in places in which
2 18 smoking is prohibited by the fire marshal or by other law,
2 19 ordinance, or regulation.

2 20 3. a. Where smoking areas are designated, existing
2 21 physical barriers and existing ventilation systems shall be
2 22 used to minimize the toxic effect of smoke in adjacent
2 23 nonsmoking areas. In the case of public places consisting of
2 24 a single room, the provisions of this law shall be considered
2 25 met if one side of the room is reserved and posted as a
2 26 no-smoking area. No public place other than a bar shall be
2 27 designated as a smoking area in its entirety. If a bar has
2 28 within its premises a nonsmoking area, this designation shall
2 29 be posted on all entrances normally used by the public.

2 30 b. If the public place is subject to any state inspection
2 31 process or under contract with the state, the person
2 32 performing the inspection shall check for compliance with the
2 33 posting requirement.

2 34 c. A facility inspected by the department of inspections
2 35 and appeals shall be inspected by the department for
3 1 compliance with sections 142B.3 and 142B.4.

3 2 4. Notwithstanding subsection 1, smoking is prohibited on
3 3 elevators.

3 4 Sec. 3. NEW SECTION. 142B.3 RESPONSIBILITIES OF
3 5 PROPRIETORS.

3 6 The person having custody or control of a public place or
3 7 public meeting shall make reasonable efforts to prevent
3 8 smoking in the public place or public meeting by posting
3 9 appropriate signs indicating no-smoking or smoking areas and
3 10 arranging seating accordingly.

3 11 Sec. 4. NEW SECTION. 142B.4 AREAS POSTED.

3 12 A person having custody or control of a public place or
3 13 public meeting shall cause signs to be posted within the
3 14 appropriate areas of the facility advising patrons of smoking
3 15 and no-smoking areas. In addition the statement "Smoking
3 16 prohibited except in designated areas" shall be conspicuously
3 17 posted on all major entrances to the public place or public
3 18 meeting.

3 19 Sec. 5. NEW SECTION. 142B.5 CIVIL PENALTY FOR VIOLATION
3 20 == UNIFORM APPLICATION.

3 21 1. A person who smokes in those areas prohibited in
3 22 section 142B.2, or who violates section 142B.4, shall pay a
3 23 civil fine pursuant to section 805.8C, subsection 3, paragraph
3 24 "a", for each violation.

3 25 2. Judicial magistrates shall hear and determine
3 26 violations of this chapter. The civil penalties paid pursuant
3 27 to this chapter shall be deposited in the county treasury.

3 28 3. Enforcement of this chapter shall be implemented in an
3 29 equitable manner throughout the state. For the purpose of
3 30 equitable and uniform implementation, application, and
3 31 enforcement of state and local laws and regulations, the
3 32 provisions of this chapter shall supersede any local law or
3 33 regulation which is inconsistent with or conflicts with the
3 34 provisions of this chapter.

3 35 Sec. 6. Section 237A.3A, Code 2009, is amended by adding
4 1 the following new subsection:

4 2 NEW SUBSECTION. 5. Smoking, as defined in section 142B.1,
4 3 shall not be permitted during a child development home's hours
4 4 of operation in an area of the child development home which
4 5 may be used by the children receiving child care.

4 6 Sec. 7. Section 331.427, subsection 1, unnumbered
4 7 paragraph 1, Code 2009, is amended to read as follows:

4 8 Except as otherwise provided by state law, county revenues
4 9 from taxes and other sources for general county services shall
4 10 be credited to the general fund of the county, including
4 11 revenues received under sections 9I.11, 101A.3, 101A.7,
4 12 123.36, 123.143, ~~142D.9~~ 142B.5, 176A.8, 321.105, 321.152,
4 13 321G.7, 321I.8, section 331.554, subsection 6, sections
4 14 341A.20, 364.3, 368.21, 423A.7, 428A.8, 433.15, 434.19,
4 15 445.57, 453A.35, 458A.21, 483A.12, 533.329, 556B.1, 583.6,
4 16 602.8108, 904.908, and 906.17, and the following:

4 17 Sec. 8. Section 805.8C, subsection 3, paragraph a, Code
4 18 2009, is amended to read as follows:

4 19 a. For violations described in section ~~142D.9~~ 142B.5,
4 20 subsection 1, the scheduled fine is ~~fifty~~ twenty-five dollars,
4 21 and is a civil penalty, and the criminal penalty surcharge
4 22 under section 911.1 shall not be added to the penalty, and the
4 23 court costs pursuant to section 805.9, subsection 6, shall not
4 24 be imposed. If the civil penalty assessed for a violation
4 25 described in section ~~142D.9~~ 142B.5, subsection 1, is not paid
4 26 in a timely manner, a citation shall be issued for the
4 27 violation in the manner provided in section 804.1. However, a

4 28 person under age eighteen shall not be detained in a secure
4 29 facility for failure to pay the civil penalty. The

4 30 complainant shall not be charged a filing fee.

4 31 Sec. 9. Chapter 142D, Code 2009, is repealed.

4 32 Sec. 10. Section 237A.3B, Code 2009, is repealed.

4 33 EXPLANATION

4 34 This bill repeals the "Smokefree Air Act", Code chapter
4 35 142D, and instead reenacts smoking prohibition provisions that
5 1 were in effect until the enactment of the "Smokefree Air Act".
5 2 The bill provides for prohibition of smoking in designated
5 3 areas, requires posting of signs to mark smoking and
5 4 no-smoking areas, provides civil penalties, and requires
5 5 enforcement of the provisions to be implemented in an
5 6 equitable manner throughout the state.

5 7 LSB 1957YH 83

5 8 pf/rj/5