

House File 44 - Introduced

HOUSE FILE _____
BY REICHERT

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

A BILL FOR

1 An Act relating to the regulation of smoking in outdoor areas of
2 bars and restaurants and on gaming floors under the smokefree
3 air Act.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1199HH 83
6 pf/rj/8

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1 1 Section 1. Section 142D.2, subsections 1 and 17, Code
1 2 2009, are amended to read as follows:
1 3 1. "Bar" means an establishment where one may purchase
1 4 alcoholic beverages, as defined in section 123.3, for
1 5 consumption on the premises and ~~in which the serving of food~~
~~1 6 is only incidental to the consumption of those derives fifty~~
~~1 7 percent or more of the establishment's annual gross revenue~~
~~1 8 from the sale of such beverages.~~
1 9 17. "Restaurant" means ~~an eating establishments~~
1 10 ~~establishment which derives fifty percent or more of the~~
1 11 ~~establishment's annual gross revenue from the sale of food,~~
1 12 ~~including a private and or public school cafeterias cafeteria,~~
1 13 ~~which offer offers food to the public, guests, or employees,~~
1 14 ~~including the kitchen and catering facilities in which food is~~
1 15 ~~prepared on the premises for serving elsewhere, and including~~
1 16 ~~a bar an area within a restaurant where one may purchase~~
1 17 ~~alcoholic beverages, as defined in section 123.3, for~~
1 18 ~~consumption on the premises.~~

1 19 Sec. 2. Section 142D.4, subsection 10, Code 2009, is
1 20 amended by striking the subsection.

1 21 Sec. 3. Section 142D.8, subsection 1, Code 2009, is
1 22 amended to read as follows:

1 23 1. This chapter shall be enforced by the department of
1 24 public health or the department's designee. The department of
1 25 public health shall adopt rules to administer this chapter,
1 26 including rules regarding enforcement ~~and including rules~~
~~1 27 regarding any proof of revenues generated by the sale of food~~
~~1 28 and alcoholic beverages by and any audit or review of the~~
~~1 29 financial records of bars and restaurants to determine~~
~~1 30 compliance with annual gross revenue requirements.~~ The
1 31 department of public health shall provide information
1 32 regarding the provisions of this chapter and related
1 33 compliance issues to employers, owners, operators, managers,
1 34 and other persons having custody or control of a public place,
1 35 place of employment, area declared a nonsmoking place pursuant
2 1 to section 142D.5, or outdoor area where smoking is
2 2 prohibited, and the general public via the department's
2 3 internet site. The internet site shall include sample signage
2 4 and the telephone number for reporting complaints. Judicial
2 5 magistrates shall hear and determine violations of this
2 6 chapter.

EXPLANATION

2 7
2 8 This bill amends the smokefree air Act relating to the
2 9 definition of "bar" and "restaurant". The bill changes the
2 10 definition of "bar" by eliminating the requirement of the
2 11 incidental service of food, and instead defining a bar as an
2 12 establishment where alcoholic beverages may be purchased for
2 13 consumption on the premises and which derives 50 percent or
2 14 more of the establishment's annual gross revenue from the sale
2 15 of such beverages. The bill defines "restaurant" to mean an
2 16 eating establishment which derives 50 percent or more of its
2 17 annual gross revenue from the sale of food.
2 18 The bill authorizes the department of public health to
2 19 include in the rules adopted for enforcement of the Act, rules

2 20 regarding any proof of revenues generated by the sale of food
2 21 and alcoholic beverages by and any audit or review of the
2 22 financial records of bars and restaurants to determine
2 23 compliance with the gross revenue requirements.

2 24 Under the smokefree air Act, both bars and restaurants are
2 25 subject to the prohibition against smoking to the extent that
2 26 the bar or restaurant is an enclosed area. The distinction
2 27 between a restaurant and a bar is only consequential as it
2 28 pertains to outdoor areas of these establishments in that
2 29 smoking is only prohibited in the outdoor seating and serving
2 30 areas of restaurants but not bars.

2 31 The bill also eliminates the exemption of gaming floors
2 32 from the prohibition of the smokefree air Act. The Act
2 33 currently prohibits smoking in public places including
2 34 gambling structures, excursion gambling boats, and racetrack
2 35 enclosures, with the exception of the gaming floors of
3 1 premises licensed pursuant to Code chapter 99F (excursion
3 2 gambling boats and racetracks). The bill thereby subjects the
3 3 entirety of gambling structures, excursion gambling boats, and
3 4 racetrack enclosures to the smoking prohibitions of the
3 5 smokefree air Act.

3 6 LSB 1199HH 83

3 7 pf/rj/8.1