

**Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 06-0247.01 Duane Gall

HOUSE BILL 06-1175

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A BILL FOR AN ACT

101 **CONCERNING ENACTMENT OF THE "COLORADO CLEAN INDOOR AIR**
102 **ACT", AND, IN CONNECTION THEREWITH, PROHIBITING**
103 **SMOKING IN INDOOR ENCLOSED AREAS, INCLUDING PLACES OF**
104 **EMPLOYMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Enacts the "Colorado Clean Indoor Air Act" (act). Makes legislative findings and declares that the purpose of the act is to preserve and improve the health, comfort, and environment of the people of this state by limiting exposure to tobacco smoke.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
February 10, 2006

Specifies that, to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted in any indoor enclosed area, including, but not limited to: Public meeting places; elevators; government-owned or -operated means of mass transportation, including, but not limited to, buses, vans, and trains; taxicabs and limousines; grocery stores; gymnasiums; jury waiting and deliberation rooms; courtrooms; child day care facilities; health care facilities, including hospitals, health care clinics, doctor's offices, and other health care related facilities; any place of employment not exempted; food service establishments; bars; limited gaming facilities; indoor sports arenas; restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, other multiple-unit residential facilities, hotels, and motels; at least 75% of the sleeping quarters within a hotel or motel that are rented to guests; bowling alleys; billiard or pool halls; retirement facilities and nursing homes, not including any private residence; public buildings; auditoria; theaters; museums; libraries; public schools, nonpublic schools, and other educational and vocational institutions; and facilities in which games of chance are conducted. In the case of employers who own facilities exempted from this act, requires those employers to provide a smoke-free work area for every employee requesting not to have to breathe environmental tobacco smoke and establishes that every employee has a right to work in an area free of environmental tobacco smoke.

Makes exceptions to the general prohibitions of smoking for private homes, residences, and automobiles; limousines under private hire; hotel or motel rooms if the total percentage of the hotel or motel rooms in which smoking is permitted does not exceed 25%; retail tobacco businesses; cigar-tobacco bars; the enclosed smoking areas of a municipally operated international airport; and the outdoor area of any business.

Permits the owner or manager of any place to post, at such owner's or manager's discretion, signs prohibiting smoking or providing smoking and nonsmoking areas, which posting will have the effect of including such areas within the places where smoking is prohibited or restricted under the act.

Permits local authorities to enact smoking regulations that cover the same subject matter as the provisions of the act. Specifies that no local regulations can be less stringent than the act, except in defining the smoke-free radius around the doorway of a building, which, unless otherwise specified, shall be 15 feet. Allows enforcement of such local regulations through the municipal courts or their equivalent in any city, city and county, or town.

Makes violation of the act a class 2 petty offense punishable by a fine not to exceed \$200 for a first violation within a calendar year, a fine not to exceed \$300 for a second violation within a calendar year, and a

fine not to exceed \$500 for each additional violation within a calendar year. Deems each day of a continuing violation a separate violation of the act.

Makes it an unfair employment practice, unfair housing practice, and a discriminatory practice for a place of public accommodation to retaliate against any person or discharge any employee for requesting enforcement of the act or reporting a violation.

Repeals provisions of current law that are inconsistent with the provisions of the act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 14 of title 25, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 **PART 2**

5 **COLORADO CLEAN INDOOR AIR ACT**

6 **25-14-201. Short title.** THIS PART 2 SHALL BE KNOWN AND MAY
7 BE CITED AS THE "COLORADO CLEAN INDOOR AIR ACT".

8 **25-14-202. Legislative declaration.** THE GENERAL ASSEMBLY
9 HEREBY FINDS AND DETERMINES THAT IT IS IN THE BEST INTEREST OF THE
10 PEOPLE OF THIS STATE TO PROTECT NONSMOKERS FROM INVOLUNTARY
11 EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE IN MOST INDOOR AREAS
12 OPEN TO THE PUBLIC, PUBLIC MEETINGS, FOOD SERVICE ESTABLISHMENTS,
13 AND PLACES OF EMPLOYMENT. THE GENERAL ASSEMBLY FURTHER FINDS
14 AND DETERMINES THAT A BALANCE SHOULD BE STRUCK BETWEEN THE
15 HEALTH CONCERNS OF NONCONSUMERS OF TOBACCO PRODUCTS AND THE
16 NEED TO MINIMIZE UNWARRANTED GOVERNMENTAL INTRUSION INTO, AND
17 REGULATION OF, PRIVATE SPHERES OF CONDUCT AND CHOICE WITH
18 RESPECT TO THE USE OR NONUSE OF TOBACCO PRODUCTS IN CERTAIN
19 DESIGNATED PUBLIC AREAS AND IN PRIVATE PLACES. THEREFORE, THE
20 GENERAL ASSEMBLY HEREBY DECLARES THAT THE PURPOSE OF THIS PART

1 2 IS TO PRESERVE AND IMPROVE THE HEALTH, COMFORT, AND
2 ENVIRONMENT OF THE PEOPLE OF THIS STATE BY LIMITING EXPOSURE TO
3 TOBACCO SMOKE.

4 **25-14-203. Definitions.** AS USED IN THIS PART 2, UNLESS THE
5 CONTEXT OTHERWISE REQUIRES:

6 (1) "AIRPORT SMOKING CONCESSION" MEANS A BAR OR
7 RESTAURANT, OR BOTH, IN A PUBLIC AIRPORT WITH REGULARLY
8 SCHEDULED DOMESTIC AND INTERNATIONAL COMMERCIAL PASSENGER
9 FLIGHTS, IN WHICH BAR OR RESTAURANT SMOKING IS ALLOWED IN A FULLY
10 ENCLOSED AND INDEPENDENTLY VENTILATED AREA BY THE TERMS OF THE
11 CONCESSION.

12 (2) "AUDITORIUM" MEANS THE PART OF A PUBLIC BUILDING WHERE
13 AN AUDIENCE GATHERS TO ATTEND A PERFORMANCE, AND INCLUDES ANY
14 CORRIDORS, HALLWAYS, OR LOBBIES ADJACENT THERETO.

15 (3) "BAR" MEANS ANY INDOOR AREA THAT IS OPERATED AND
16 LICENSED UNDER ARTICLE 47 OF TITLE 12, C.R.S., PRIMARILY FOR THE
17 SALE AND SERVICE OF ALCOHOL BEVERAGES FOR ON-PREMISES
18 CONSUMPTION AND WHERE THE SERVICE OF FOOD IS SECONDARY TO THE
19 CONSUMPTION OF SUCH BEVERAGES.

20 (4) "CIGAR-TOBACCO BAR" MEANS A BAR THAT, IN THE CALENDAR
21 YEAR ENDING DECEMBER 31, 2005, GENERATED AT LEAST FIVE PERCENT
22 OR MORE OF ITS TOTAL ANNUAL GROSS INCOME OR FIFTY THOUSAND
23 DOLLARS IN ANNUAL SALES FROM THE ON-SITE SALE OF TOBACCO
24 PRODUCTS AND THE RENTAL OF ON-SITE HUMIDORS, NOT INCLUDING ANY
25 SALES FROM VENDING MACHINES. IN ANY CALENDAR YEAR AFTER
26 DECEMBER 31, 2005, A BAR THAT FAILS TO GENERATE AT LEAST FIVE
27 PERCENT OF ITS TOTAL ANNUAL GROSS INCOME OR FIFTY THOUSAND

1 DOLLARS IN ANNUAL SALES FROM THE ON-SITE SALE OF TOBACCO
2 PRODUCTS AND THE RENTAL OF ON-SITE HUMIDORS SHALL NOT BE DEFINED
3 AS A "CIGAR-TOBACCO BAR" AND SHALL NOT THEREAFTER BE INCLUDED
4 IN THE DEFINITION REGARDLESS OF SALES FIGURES.

5 (5) (a) "EMPLOYEE" MEANS ANY PERSON WHO:

6 (I) PERFORMS ANY TYPE OF WORK FOR BENEFIT OF ANOTHER IN
7 CONSIDERATION OF DIRECT OR INDIRECT WAGES OR PROFIT; OR

8 (II) PROVIDES UNCOMPENSATED WORK OR SERVICES TO A
9 BUSINESS OR NONPROFIT ENTITY.

10 (b) "EMPLOYEE" INCLUDES EVERY PERSON DESCRIBED IN
11 PARAGRAPH (a) OF THIS SUBSECTION (5), REGARDLESS OF WHETHER SUCH
12 PERSON IS REFERRED TO AS AN EMPLOYEE, CONTRACTOR, INDEPENDENT
13 CONTRACTOR, OR VOLUNTEER OR BY ANY OTHER DESIGNATION OR TITLE.

14 (6) "EMPLOYER" MEANS ANY PERSON, PARTNERSHIP, ASSOCIATION,
15 CORPORATION, OR NONPROFIT ENTITY THAT EMPLOYS ONE OR MORE
16 PERSONS. "EMPLOYER" INCLUDES, WITHOUT LIMITATION, THE
17 LEGISLATIVE, EXECUTIVE, AND JUDICIAL BRANCHES OF STATE
18 GOVERNMENT; ANY COUNTY, CITY AND COUNTY, CITY, OR TOWN, OR
19 INSTRUMENTALITY THEREOF, OR ANY OTHER POLITICAL SUBDIVISION OF
20 THE STATE, SPECIAL DISTRICT, AUTHORITY, COMMISSION, OR AGENCY; OR
21 ANY OTHER SEPARATE CORPORATE INSTRUMENTALITY OR UNIT OF STATE
22 OR LOCAL GOVERNMENT.

23 (7) "ENTRYWAY" MEANS THE OUTSIDE OF THE FRONT OR MAIN
24 DOORWAY LEADING INTO A BUILDING OR FACILITY THAT IS NOT EXEMPTED
25 FROM THIS PART 2 UNDER SECTION 25-14-205. "ENTRYWAY" ALSO
26 INCLUDES THE AREA OF PUBLIC OR PRIVATE PROPERTY WITHIN A SPECIFIED
27 RADIUS OUTSIDE OF THE DOORWAY. THE SPECIFIED RADIUS SHALL BE

1 DETERMINED BY THE LOCAL AUTHORITY OR, IF THE LOCAL AUTHORITY HAS
2 NOT ACTED, THE SPECIFIED RADIUS SHALL BE FIFTEEN FEET.

3 (8) "ENVIRONMENTAL TOBACCO SMOKE", "ETS", OR
4 "SECONDHAND SMOKE" MEANS THE COMPLEX MIXTURE FORMED FROM THE
5 ESCAPING SMOKE OF A BURNING TOBACCO PRODUCT, ALSO KNOWN AS
6 "SIDESTREAM SMOKE", AND SMOKE EXHALED BY THE SMOKER.

7 (9) "FOOD SERVICE ESTABLISHMENT" MEANS ANY INDOOR AREA OR
8 PORTION THEREOF IN WHICH THE PRINCIPAL BUSINESS IS THE SALE OF FOOD
9 FOR ON-PREMISES CONSUMPTION. THE TERM INCLUDES, WITHOUT
10 LIMITATION, RESTAURANTS, CAFETERIAS, COFFEE SHOPS, DINERS,
11 SANDWICH SHOPS, AND SHORT-ORDER CAFES.

12 (10) "INDOOR AREA" MEANS ANY ENCLOSED AREA OR PORTION
13 THEREOF. THE OPENING OF WINDOWS OR DOORS, OR THE TEMPORARY
14 REMOVAL OF WALL PANELS, DOES NOT CONVERT AN INDOOR AREA INTO AN
15 OUTDOOR AREA.

16 (11) "LOCAL AUTHORITY" MEANS A COUNTY, CITY AND COUNTY,
17 CITY, OR TOWN.

18 (12) "PLACE OF EMPLOYMENT" MEANS ANY INDOOR AREA OR
19 PORTION THEREOF UNDER THE CONTROL OF AN EMPLOYER IN WHICH
20 EMPLOYEES OF THE EMPLOYER PERFORM SERVICES FOR, OR ON BEHALF OF,
21 THE EMPLOYER.

22 (13) "PUBLIC BUILDING" MEANS ANY BUILDING OWNED OR
23 OPERATED BY:

24 (a) THE STATE, INCLUDING THE LEGISLATIVE, EXECUTIVE, AND
25 JUDICIAL BRANCHES OF STATE GOVERNMENT;

26 (b) ANY COUNTY, CITY AND COUNTY, CITY, OR TOWN, OR
27 INSTRUMENTALITY THEREOF, OR ANY OTHER POLITICAL SUBDIVISION OF

1 THE STATE, A SPECIAL DISTRICT, AN AUTHORITY, A COMMISSION, OR AN
2 AGENCY; OR

3 (c) ANY OTHER SEPARATE CORPORATE INSTRUMENTALITY OR UNIT
4 OF STATE OR LOCAL GOVERNMENT.

5 (14) "PUBLIC MEETING" MEANS ANY MEETING OPEN TO THE PUBLIC
6 PURSUANT TO PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S., OR ANY OTHER
7 LAW OF THIS STATE.

8 (15) "SMOKE-FREE WORK AREA" MEANS AN INDOOR AREA IN A
9 PLACE OF EMPLOYMENT WHERE SMOKING IS PROHIBITED UNDER THIS PART
10 2.

11 (16) "SMOKING" MEANS THE BURNING OF A LIGHTED CIGARETTE,
12 CIGAR, PIPE, OR ANY OTHER MATTER OR SUBSTANCE THAT CONTAINS
13 TOBACCO.

14 (17) "TOBACCO" MEANS CIGARETTES, CIGARS, CHEROOTS,
15 STOGIES, AND PERIQUES; GRANULATED, PLUG CUT, CRIMP CUT, READY
16 RUBBED, AND OTHER SMOKING TOBACCO; SNUFF AND SNUFF FLOUR;
17 CAVENDISH; PLUG AND TWIST TOBACCO; FINE-CUT AND OTHER CHEWING
18 TOBACCO; SHORTS, REFUSE SCRAPS, CLIPPINGS, CUTTINGS, AND SWEEPINGS
19 OF TOBACCO; AND OTHER KINDS AND FORMS OF TOBACCO, PREPARED IN
20 SUCH MANNER AS TO BE SUITABLE FOR CHEWING OR FOR SMOKING IN A
21 CIGARETTE, PIPE, OR OTHERWISE, OR BOTH FOR CHEWING AND SMOKING.
22 "TOBACCO" ALSO INCLUDES CLOVES AND ANY OTHER PLANT MATTER OR
23 PRODUCT THAT IS PACKAGED FOR SMOKING.

24 (18) "TOBACCO BUSINESS" MEANS A SOLE PROPRIETORSHIP,
25 CORPORATION, PARTNERSHIP, OR OTHER ENTERPRISE ENGAGED PRIMARILY
26 IN THE SALE, MANUFACTURE, OR PROMOTION OF TOBACCO, TOBACCO
27 PRODUCTS, OR SMOKING DEVICES OR ACCESSORIES, EITHER AT WHOLESALE

1 OR RETAIL, AND IN WHICH THE SALE, MANUFACTURE, OR PROMOTION OF
2 OTHER PRODUCTS IS MERELY INCIDENTAL.

3 (19) "WORK AREA" MEANS AN AREA IN A PLACE OF EMPLOYMENT
4 WHERE ONE OR MORE EMPLOYEES ARE ROUTINELY ASSIGNED AND
5 PERFORM SERVICES FOR OR ON BEHALF OF THEIR EMPLOYER.

6 **25-14-204. General smoking restrictions.** (1) EXCEPT AS
7 PROVIDED IN SECTION 25-14-205, AND IN ORDER TO REDUCE THE LEVELS
8 OF EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE, SMOKING SHALL NOT
9 BE PERMITTED AND NO PERSON SHALL SMOKE IN ANY INDOOR AREA,
10 INCLUDING, BUT NOT LIMITED TO:

11 (a) PUBLIC MEETING PLACES;

12 (b) ELEVATORS;

13 (c) GOVERNMENT-OWNED OR -OPERATED MEANS OF MASS
14 TRANSPORTATION, INCLUDING, BUT NOT LIMITED TO, BUSES, VANS, AND
15 TRAINS;

16 (d) TAXICABS AND LIMOUSINES;

17 (e) GROCERY STORES;

18 (f) GYMNASIUMS;

19 (g) JURY WAITING AND DELIBERATION ROOMS;

20 (h) COURTROOMS;

21 (i) CHILD DAY CARE FACILITIES;

22 (j) HEALTH CARE FACILITIES INCLUDING HOSPITALS, HEALTH CARE
23 CLINICS, DOCTOR'S OFFICES, AND OTHER HEALTH CARE RELATED
24 FACILITIES;

25 (k) (I) ANY PLACE OF EMPLOYMENT THAT IS NOT EXEMPTED.

26 (II) IN THE CASE OF EMPLOYERS WHO OWN FACILITIES OTHERWISE
27 EXEMPTED FROM THIS PART 2, EACH SUCH EMPLOYER SHALL PROVIDE A

1 SMOKE-FREE WORK AREA FOR EACH EMPLOYEE REQUESTING NOT TO HAVE
2 TO BREATHE ENVIRONMENTAL TOBACCO SMOKE. EVERY EMPLOYEE SHALL
3 HAVE A RIGHT TO WORK IN AN AREA FREE OF ENVIRONMENTAL TOBACCO
4 SMOKE.

5 (l) FOOD SERVICE ESTABLISHMENTS;

6 (m) BARS;

7 (n) LIMITED GAMING FACILITIES AND ANY OTHER FACILITIES IN
8 WHICH ANY GAMING OR GAMBLING ACTIVITY IS CONDUCTED;

9 (o) INDOOR SPORTS ARENAS;

10 (p) RESTROOMS, LOBBIES, HALLWAYS, AND OTHER COMMON AREAS
11 IN PUBLIC AND PRIVATE BUILDINGS, CONDOMINIUMS, AND OTHER
12 MULTIPLE-UNIT RESIDENTIAL FACILITIES;

13 (q) RESTROOMS, LOBBIES, HALLWAYS, AND OTHER COMMON AREAS
14 IN HOTELS AND MOTELS, AND IN AT LEAST SEVENTY-FIVE PERCENT OF THE
15 SLEEPING QUARTERS WITHIN A HOTEL OR MOTEL THAT ARE RENTED TO
16 GUESTS;

17 (r) BOWLING ALLEYS;

18 (s) BILLIARD OR POOL HALLS;

19 (t) FACILITIES IN WHICH GAMES OF CHANCE ARE CONDUCTED;

20 (u) THE COMMON AREAS OF RETIREMENT FACILITIES, PUBLICLY
21 OWNED HOUSING FACILITIES, AND NURSING HOMES, NOT INCLUDING ANY
22 RESIDENT'S PRIVATE RESIDENTIAL QUARTERS;

23 (v) PUBLIC BUILDINGS;

24 (w) AUDITORIA;

25 (x) THEATERS;

26 (y) MUSEUMS;

27 (z) LIBRARIES;

1 (aa) TO THE EXTENT NOT OTHERWISE PROVIDED IN SECTION
2 25-14-103.5, PUBLIC AND NONPUBLIC SCHOOLS;

3 (bb) OTHER EDUCATIONAL AND VOCATIONAL INSTITUTIONS; AND

4 (cc) THE ENTRYWAYS OF ALL BUILDINGS AND FACILITIES LISTED IN
5 PARAGRAPHS (a) TO (bb) OF THIS SUBSECTION (1).

6 (2) A CIGAR-TOBACCO BAR SHALL NOT EXPAND ITS SIZE OR
7 CHANGE ITS LOCATION FROM THE SIZE AND LOCATION IN WHICH IT EXISTED
8 AS OF DECEMBER 31, 2005. A CIGAR-TOBACCO BAR SHALL DISPLAY
9 SIGNAGE IN AT LEAST ONE CONSPICUOUS PLACE AND AT LEAST FOUR
10 INCHES BY SIX INCHES IN SIZE STATING: "SMOKING ALLOWED. CHILDREN
11 UNDER EIGHTEEN YEARS OF AGE MUST BE ACCOMPANIED BY A PARENT OR
12 GUARDIAN."

13 **25-14-205. Exceptions to smoking restrictions.** (1) THIS PART
14 2 SHALL NOT APPLY TO:

15 (a) PRIVATE HOMES, PRIVATE RESIDENCES, AND PRIVATE
16 AUTOMOBILES; EXCEPT THAT THIS PART 2 SHALL APPLY IF ANY SUCH
17 HOME, RESIDENCE, OR VEHICLE IS BEING USED FOR CHILD CARE OR DAY
18 CARE OR IF A PRIVATE VEHICLE IS BEING USED FOR THE PUBLIC
19 TRANSPORTATION OF CHILDREN OR AS PART OF HEALTH CARE OR DAY
20 CARE TRANSPORTATION;

21 (b) LIMOUSINES UNDER PRIVATE HIRE;

22 (c) A HOTEL OR MOTEL ROOM RENTED TO ONE OR MORE GUESTS IF
23 THE TOTAL PERCENTAGE OF SUCH HOTEL OR MOTEL ROOMS IN SUCH HOTEL
24 OR MOTEL DOES NOT EXCEED TWENTY-FIVE PERCENT;

25 (d) ANY RETAIL TOBACCO BUSINESS;

26 (e) A CIGAR-TOBACCO BAR;

27 (f) AN AIRPORT SMOKING CONCESSION;

- 1 (g) THE OUTDOOR AREA OF ANY BUSINESS;
- 2 (h) A PLACE OF EMPLOYMENT THAT IS NOT OPEN TO THE PUBLIC
- 3 AND THAT IS UNDER THE CONTROL OF AN EMPLOYER THAT EMPLOYS THREE
- 4 OR FEWER EMPLOYEES;
- 5 (i) A PRIVATE, NONRESIDENTIAL BUILDING ON A FARM OR RANCH,
- 6 AS DEFINED IN SECTION 39-1-102, C.R.S., THAT HAS ANNUAL GROSS
- 7 INCOME OF LESS THAN FIVE HUNDRED THOUSAND DOLLARS; OR
- 8 (j) THE RETAIL FLOOR PLAN, AS DEFINED IN SECTION 12-47.1-509,
- 9 C.R.S., OF A LICENSED CASINO.

10 **25-14-206. Optional prohibitions.** (1) THE OWNER OR MANAGER
11 OF ANY PLACE NOT SPECIFICALLY LISTED IN SECTION 25-14-204,
12 INCLUDING A PLACE OTHERWISE EXEMPTED UNDER SECTION 25-14-205,
13 MAY POST SIGNS PROHIBITING SMOKING OR PROVIDING SMOKING AND
14 NONSMOKING AREAS. SUCH POSTING SHALL HAVE THE EFFECT OF
15 INCLUDING SUCH PLACE, OR THE DESIGNATED NONSMOKING PORTION
16 THEREOF, IN THE PLACES WHERE SMOKING IS PROHIBITED OR RESTRICTED
17 PURSUANT TO THIS PART 2.

18 (2) IF THE OWNER OR MANAGER OF A PLACE NOT SPECIFICALLY
19 LISTED IN SECTION 25-14-204, INCLUDING A PLACE OTHERWISE EXEMPTED
20 UNDER SECTION 25-14-205, IS AN EMPLOYER AND RECEIVES A REQUEST
21 FROM AN EMPLOYEE TO CREATE A SMOKE-FREE WORK AREA AS
22 CONTEMPLATED BY SECTION 25-14-204 (1) (k) (II), THE OWNER OR
23 MANAGER SHALL POST A SIGN OR SIGNS IN THE SMOKE-FREE WORK AREA
24 AS PROVIDED IN SUBSECTION (1) OF THIS SECTION.

25 **25-14-207. Other applicable regulations of smoking - local**
26 **counterpart regulations authorized.** (1) THIS PART 2 SHALL NOT BE
27 INTERPRETED OR CONSTRUED TO PERMIT SMOKING WHERE IT IS OTHERWISE

1 RESTRICTED BY ANY OTHER APPLICABLE LAW.

2 (2) (a) A LOCAL AUTHORITY MAY, PURSUANT TO ARTICLE 16 OF
3 TITLE 31, C.R.S., A MUNICIPAL HOME RULE CHARTER, OR ARTICLE 15 OF
4 TITLE 30, C.R.S., ENACT, ADOPT, AND ENFORCE SMOKING REGULATIONS
5 THAT COVER THE SAME SUBJECT MATTER AS THE VARIOUS PROVISIONS OF
6 THIS PART 2. NO LOCAL AUTHORITY MAY ADOPT ANY LOCAL REGULATION
7 OF SMOKING THAT IS LESS STRINGENT THAN THE PROVISIONS OF THIS PART
8 2; EXCEPT THAT A LOCAL AUTHORITY MAY SPECIFY A RADIUS OF LESS
9 THAN FIFTEEN FEET FOR THE AREA INCLUDED WITHIN AN ENTRYWAY.

10 (b) THE MUNICIPAL COURTS OR THEIR EQUIVALENT IN ANY CITY,
11 CITY AND COUNTY, OR TOWN HAVE JURISDICTION OVER VIOLATIONS OF
12 SMOKING REGULATIONS ENACTED BY ANY CITY, CITY AND COUNTY, OR
13 TOWN UNDER THIS SECTION.

14 **25-14-208. Unlawful acts - penalty - disposition of fines and**
15 **surcharges.** (1) IT IS UNLAWFUL FOR A PERSON WHO OWNS, MANAGES,
16 OPERATES, OR OTHERWISE CONTROLS THE USE OF A PREMISES SUBJECT TO
17 THIS PART 2 TO VIOLATE ANY PROVISION OF THIS PART 2.

18 (2) IT IS UNLAWFUL FOR A PERSON TO SMOKE IN AN AREA WHERE
19 SMOKING IS PROHIBITED PURSUANT TO THIS PART 2.

20 (3) A PERSON WHO VIOLATES THIS PART 2 IS GUILTY OF A CLASS 2
21 PETTY OFFENSE AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY
22 A FINE NOT TO EXCEED TWO HUNDRED DOLLARS FOR A FIRST VIOLATION
23 WITHIN A CALENDAR YEAR, A FINE NOT TO EXCEED THREE HUNDRED
24 DOLLARS FOR A SECOND VIOLATION WITHIN A CALENDAR YEAR, AND A
25 FINE NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH ADDITIONAL
26 VIOLATION WITHIN A CALENDAR YEAR. EACH DAY OF A CONTINUING
27 VIOLATION SHALL BE DEEMED A SEPARATE VIOLATION.

1 (4) ALL JUDGES, CLERKS OF A COURT OF RECORD, OR OTHER
2 OFFICERS IMPOSING OR RECEIVING FINES COLLECTED PURSUANT TO OR AS
3 A RESULT OF A CONVICTION OF ANY PERSONS FOR A VIOLATION OF ANY
4 PROVISION OF THIS PART 2 SHALL TRANSMIT ALL SUCH MONEYS SO
5 COLLECTED IN THE FOLLOWING MANNER:

6 (a) SEVENTY-FIVE PERCENT OF ANY SUCH FINE FOR A VIOLATION
7 OCCURRING WITHIN THE CORPORATE LIMITS OF A CITY, TOWN, OR CITY AND
8 COUNTY SHALL BE TRANSMITTED TO THE TREASURER OR CHIEF FINANCIAL
9 OFFICER OF SAID CITY, TOWN, OR CITY AND COUNTY, AND THE REMAINING
10 TWENTY-FIVE PERCENT SHALL BE TRANSMITTED TO THE STATE
11 TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

12 (b) SEVENTY-FIVE PERCENT OF ANY FINE FOR A VIOLATION
13 OCCURRING OUTSIDE THE CORPORATE LIMITS OF A CITY OR TOWN SHALL
14 BE TRANSMITTED TO THE TREASURER OF THE COUNTY IN WHICH THE CITY
15 OR TOWN IS LOCATED, AND THE REMAINING TWENTY-FIVE PERCENT SHALL
16 BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE
17 SAME TO THE GENERAL FUND.

18 **25-14-209. Severability.** IF ANY PROVISION OF THIS PART 2 OR
19 THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD
20 INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR
21 APPLICATIONS OF THIS PART 2 THAT CAN BE GIVEN EFFECT WITHOUT THE
22 INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF
23 THIS PART 2 ARE DECLARED TO BE SEVERABLE.

24 **SECTION 2. Repeal.** 25-14-101, Colorado Revised Statutes, is
25 repealed as follows:
26

27 **25-14-101. Legislative declaration.** ~~The general assembly~~

1 hereby declares that the smoking of tobacco or any other plant or weed
2 under certain conditions is a matter of public concern and that in order to
3 protect the public health, safety, and welfare it is necessary to control
4 such smoking in certain public places.

5 **SECTION 3. Repeal.** 25-14-102, Colorado Revised Statutes, is
6 repealed as follows:

7 **25-14-102. Definitions.** As used in this article, unless the context
8 otherwise requires:

9 (1) "Public meeting" means any meeting required to be open to the
10 public pursuant to part 4 of article 6 of title 24, C.R.S.

11 (2) "Public place" means any enclosed, indoor area used by the
12 general public or serving as a place of work including, but not limited to,
13 restaurants, retail stores, other commercial establishments, governmental
14 offices, waiting rooms of health care professionals, public conveyances,
15 educational facilities, hospitals, nursing homes, auditoriums, arenas,
16 assembly and meeting rooms, and rest rooms, but the term does not
17 include enclosed offices occupied exclusively by smokers, even though
18 such offices may be visited by nonsmokers.

19 (3) "Smoking" means the carrying of a lighted pipe, lighted cigar,
20 or lighted cigarette of any kind and includes the lighting of a pipe, cigar,
21 or cigarette of any kind.

22 **SECTION 4. Repeal.** 25-14-103, Colorado Revised Statutes, is
23 repealed as follows:

24 **25-14-103. Smoking prohibited in certain public places.**

25 (1) Except as otherwise provided in this subsection (1), smoking is
26 prohibited in the following public places:

27 (a) Elevators, museums, galleries, and libraries of any

1 establishment doing business with the general public;

2 (b) (I) ~~All hospital elevators and corridors and wherever~~
3 ~~combustible supplies or materials are stored and wherever flammable~~
4 ~~liquids or gases or oxygen is stored or in use in the hospital. In addition~~
5 ~~to the specific prohibitions provided in this subparagraph (I), hospitals~~
6 ~~shall:~~

7 (A) ~~Allow all patients, prior to elective admission, to choose to be~~
8 ~~in a no smoking patient room and, when possible, accommodate such~~
9 ~~request;~~

10 (B) ~~Prohibit employees from smoking in patient rooms;~~

11 (C) ~~Require that visitors obtain express approval from all patients~~
12 ~~in a patient room prior to smoking.~~

13 (H) ~~All areas of a hospital not specifically referred to in this~~
14 ~~paragraph (b) shall be considered smoking areas unless posted otherwise.~~

15 (HH) ~~Nothing in this section shall prohibit a hospital from banning~~
16 ~~smoking on all or part of its premises.~~

17 (IV) ~~No other restrictions provided in this article shall apply to~~
18 ~~hospitals licensed pursuant to article 3 of this title or holding a valid~~
19 ~~certificate of compliance pursuant to section 25-1.5-103 (1) (a) (H).~~

20 (c) ~~Waiting rooms and meeting rooms located in all buildings~~
21 ~~owned or operated by the executive and judicial branches of government~~
22 ~~of the state of Colorado or any political subdivision thereof except in~~
23 ~~areas designated for smoking;~~

24 (d) ~~Any building used or designed primarily for the purpose of~~
25 ~~exhibiting any motion picture, stage drama, lecture, musical recital, or~~
26 ~~other such performance whenever open to the public; except that, unless~~
27 ~~otherwise prohibited by local ordinance or regulation, smoking shall be~~

1 allowed in an area commonly referred to as a lobby if such lobby is
2 reasonably separated from the spectator area and in designated seating
3 areas of moving picture theaters where ventilation is adequate to achieve
4 the purposes of this article. This prohibition applies also to enclosed
5 sporting arenas.

6 (e) Public transportation vehicles when open to the public, except
7 in designated smoking areas.

8 (f) Repealed.

9 (2) Restaurants and taverns are not subject to the specific
10 prohibitions of this article, but restaurants and taverns are encouraged,
11 whenever possible, to seat nonsmokers in an area away from smokers.
12 Any public place where food is sold or served and in which neither a
13 smoking nor a nonsmoking area is designated shall post a sign in a
14 conspicuous place at or inside its entrance indicating whether or not
15 provisions have been made for nonsmokers.

16 (3) The owner, manager, or any person in charge of a public place
17 specified in subsection (1) of this section shall control smoking
18 throughout such public place by posting signs which clearly designate
19 nonsmoking and, where provided, smoking areas. Such signs shall be
20 explicit and conspicuous, but the wording, size, color, design, and place
21 of posting shall be at the discretion of the owner, manager, or person in
22 charge.

23 (4) Those in charge of offices and commercial establishments that
24 provide employment for the general public are encouraged to designate
25 nonsmoking areas that are physically separated from the working
26 environments where other employees smoke. Every effort shall be made
27 to provide a separate area for nonsmokers in employee lounges and

1 cafeterias.

2 **SECTION 5. Repeal.** 25-14-103.7, Colorado Revised Statutes,
3 is repealed as follows:

4 **25-14-103.7. Control of smoking in state legislative buildings.**

5 ~~(1) Except as provided in subsection (2) of this section, smoking is~~
6 ~~prohibited in all state legislative buildings.~~

7 ~~(2) The legislative council created by section 2-3-301, C.R.S., or~~
8 ~~its designee:~~

9 ~~(a) May designate areas in legislative buildings where smoking is~~
10 ~~permitted;~~

11 ~~(b) Shall consider proposals to redesignate any area designated as~~
12 ~~a smoking area pursuant to paragraph (a) of this subsection (2);~~

13 ~~(c) Shall establish a smoking policy for office space within~~
14 ~~legislative buildings; and~~

15 ~~(d) Shall ensure that signs are posted that clearly designate~~
16 ~~nonsmoking and smoking areas.~~

17 ~~(3) Notwithstanding the provisions of this section, the control or~~
18 ~~limitation of smoking in the chambers, antechambers, committee rooms~~
19 ~~of the senate and the house of representatives, and office space assigned~~
20 ~~to and occupied by legislators shall be governed by the provisions of~~
21 ~~section 2-2-404 (1.5), C.R.S.~~

22 ~~(4) As used in this section, unless the context otherwise requires:~~

23 ~~(a) "Legislative building" means any building which is owned or~~
24 ~~operated by the legislative branch and which is under the direction and~~
25 ~~control of such branch.~~

26 ~~(b) "Smoking" shall have the same meaning as set forth in section~~
27 ~~25-14-102 (3).~~

1 **SECTION 6. Repeal.** 25-14-104, Colorado Revised Statutes, is
2 repealed as follows:

3 **25-14-104. Optional prohibition.** ~~The owner or manager of a~~
4 ~~public place other than one specifically provided in section 25-14-103 (1)~~
5 ~~may post, at his discretion, signs prohibiting smoking or providing~~
6 ~~smoking and nonsmoking areas. Such posting shall have the effect of~~
7 ~~including such public place in the public places where smoking is~~
8 ~~prohibited or restricted pursuant to section 25-14-103 (1).~~

9 **SECTION 7. Repeal.** 25-14-105, Colorado Revised Statutes, is
10 repealed as follows:

11 **25-14-105. Local regulations.** ~~Nothing in this article shall~~
12 ~~prevent any town, city, or city and county, nor any county within the~~
13 ~~unincorporated areas thereof, from regulating smoking; and such county,~~
14 ~~town, city, or city and county is hereby expressly authorized to adopt~~
15 ~~ordinances embodying such regulations. Where such regulations are~~
16 ~~adopted on the local level as authorized in this section, the local~~
17 ~~regulations shall control to the extent of any inconsistency between them~~
18 ~~and this article.~~

19 **SECTION 8. Repeal.** 2-2-404 (1.5), Colorado Revised Statutes,
20 is repealed as follows:

21 **2-2-404. Legislative rules.** ~~(1.5) Smoking in the state capitol and~~
22 ~~other legislative buildings shall be governed by section 25-14-103.7,~~
23 ~~C.R.S.; except that the senate and the house of representatives each has~~
24 ~~the exclusive authority to adopt rules or joint rules, or both, governing the~~
25 ~~control or limitation of smoking in their respective chambers,~~
26 ~~antechambers, committee rooms, and office space assigned to and~~
27 ~~occupied by legislators.~~

1 **SECTION 9. Effective date - applicability.** This act shall take
2 effect July 1, 2006, and shall apply to acts occurring on or after said date.

3 **SECTION 10. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.