

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

INTRODUCED

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.

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

9 (2) "BAR" MEANS ANY INDOOR AREA THAT IS OPERATED AND
10 LICENSED UNDER ARTICLE 47 OF TITLE 12, C.R.S., PRIMARILY FOR THE
11 SALE AND SERVICE OF ALCOHOL BEVERAGES FOR ON-PREMISES
12 CONSUMPTION AND WHERE THE SERVICE OF FOOD IS SECONDARY TO THE
13 CONSUMPTION OF SUCH BEVERAGES.

14 (3) "CIGAR-TOBACCO BAR" MEANS A BAR THAT, IN THE CALENDAR
15 YEAR ENDING DECEMBER 31, 2005, GENERATED AT LEAST FIVE PERCENT
16 OR MORE OF ITS TOTAL ANNUAL GROSS INCOME OR FIFTY THOUSAND
17 DOLLARS IN ANNUAL SALES FROM THE ON-SITE SALE OF TOBACCO
18 PRODUCTS AND THE RENTAL OF ON-SITE HUMIDORS, NOT INCLUDING ANY
19 SALES FROM VENDING MACHINES. IN ANY CALENDAR YEAR AFTER
20 DECEMBER 31, 2005, A BAR THAT FAILS TO GENERATE AT LEAST FIVE
21 PERCENT OF ITS TOTAL ANNUAL GROSS INCOME OR FIFTY THOUSAND
22 DOLLARS IN ANNUAL SALES FROM THE ON-SITE SALE OF TOBACCO
23 PRODUCTS AND THE RENTAL OF ON-SITE HUMIDORS SHALL NOT BE DEFINED
24 AS A "CIGAR-TOBACCO BAR" AND SHALL NOT THEREAFTER BE INCLUDED
25 IN THE DEFINITION REGARDLESS OF SALES FIGURES.

26 (4) (a) "EMPLOYEE" MEANS ANY PERSON WHO:

27 (I) PERFORMS ANY TYPE OF WORK FOR BENEFIT OF ANOTHER IN

1 CONSIDERATION OF DIRECT OR INDIRECT WAGES OR PROFIT; OR

2 (II) PROVIDES UNCOMPENSATED WORK OR SERVICES TO A
3 BUSINESS OR NONPROFIT ENTITY.

4 (b) "EMPLOYEE" INCLUDES EVERY PERSON DESCRIBED IN
5 PARAGRAPH (a) OF THIS SUBSECTION (4), REGARDLESS OF WHETHER SUCH
6 PERSON IS REFERRED TO AS AN EMPLOYEE, CONTRACTOR, INDEPENDENT
7 CONTRACTOR, OR VOLUNTEER OR BY ANY OTHER DESIGNATION OR TITLE.

8 (5) "EMPLOYER" MEANS ANY PERSON, PARTNERSHIP, ASSOCIATION,
9 CORPORATION, OR NONPROFIT ENTITY THAT EMPLOYS ONE OR MORE
10 PERSONS. "EMPLOYER" INCLUDES, WITHOUT LIMITATION, THE
11 LEGISLATIVE, EXECUTIVE, AND JUDICIAL BRANCHES OF STATE
12 GOVERNMENT; ANY COUNTY, CITY AND COUNTY, CITY, OR TOWN, OR
13 INSTRUMENTALITY THEREOF, OR ANY OTHER POLITICAL SUBDIVISION OF
14 THE STATE, SPECIAL DISTRICT, AUTHORITY, COMMISSION, OR AGENCY; OR
15 ANY OTHER SEPARATE CORPORATE INSTRUMENTALITY OR UNIT OF STATE
16 OR LOCAL GOVERNMENT.

17 (6) "ENTRYWAY" MEANS THE OUTSIDE OF THE FRONT OR MAIN
18 DOORWAY LEADING INTO A BUILDING OR FACILITY THAT IS NOT EXEMPTED
19 FROM THIS PART 2 UNDER SECTION 25-14-205. "ENTRYWAY" ALSO
20 INCLUDES THE AREA OF PUBLIC OR PRIVATE PROPERTY WITHIN A SPECIFIED
21 RADIUS OUTSIDE OF THE DOORWAY. THE SPECIFIED RADIUS SHALL BE
22 DETERMINED BY THE LOCAL AUTHORITY OR, IF THE LOCAL AUTHORITY HAS
23 NOT ACTED, THE SPECIFIED RADIUS SHALL BE FIFTEEN FEET.

24 (7) "ENVIRONMENTAL TOBACCO SMOKE", "ETS", OR
25 "SECONDHAND SMOKE" MEANS THE COMPLEX MIXTURE FORMED FROM THE
26 ESCAPING SMOKE OF A BURNING TOBACCO PRODUCT, ALSO KNOWN AS
27 "SIDESTREAM SMOKE", AND SMOKE EXHALED BY THE SMOKER.

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

6 (9) "INDOOR AREA" MEANS ANY ENCLOSED AREA OR PORTION
7 THEREOF. THE OPENING OF WINDOWS OR DOORS, OR THE TEMPORARY
8 REMOVAL OF WALL PANELS, DOES NOT CONVERT AN INDOOR AREA INTO AN
9 OUTDOOR AREA.

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

12 (11) "PLACE OF EMPLOYMENT" MEANS ANY INDOOR AREA OR
13 PORTION THEREOF UNDER THE CONTROL OF AN EMPLOYER IN WHICH
14 EMPLOYEES OF THE EMPLOYER PERFORM SERVICES FOR, OR ON BEHALF OF,
15 THE EMPLOYER.

16 (12) "PUBLIC BUILDING" MEANS ANY BUILDING OWNED OR
17 OPERATED BY:

18 (a) THE STATE, INCLUDING THE LEGISLATIVE, EXECUTIVE, AND
19 JUDICIAL BRANCHES OF STATE GOVERNMENT;

20 (b) ANY COUNTY, CITY AND COUNTY, CITY, OR TOWN, OR
21 INSTRUMENTALITY THEREOF, OR ANY OTHER POLITICAL SUBDIVISION OF
22 THE STATE, A SPECIAL DISTRICT, AN AUTHORITY, A COMMISSION, OR AN
23 AGENCY; OR

24 (c) ANY OTHER SEPARATE CORPORATE INSTRUMENTALITY OR UNIT
25 OF STATE OR LOCAL GOVERNMENT.

26 (13) "PUBLIC MEETING" MEANS ANY MEETING OPEN TO THE PUBLIC
27 PURSUANT TO PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S., OR ANY OTHER

1 LAW OF THIS STATE.

2 (14) "SMOKE-FREE WORK AREA" MEANS AN INDOOR AREA IN A
3 PLACE OF EMPLOYMENT WHERE SMOKING IS PROHIBITED UNDER THIS PART
4 2.

5 (15) "SMOKING" MEANS THE BURNING OF A LIGHTED CIGARETTE,
6 CIGAR, PIPE, OR ANY OTHER MATTER OR SUBSTANCE THAT CONTAINS
7 TOBACCO.

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

18 (17) "TOBACCO BUSINESS" MEANS A SOLE PROPRIETORSHIP,
19 CORPORATION, PARTNERSHIP, OR OTHER ENTERPRISE ENGAGED PRIMARILY
20 IN THE SALE, MANUFACTURE, OR PROMOTION OF TOBACCO, TOBACCO
21 PRODUCTS, OR SMOKING DEVICES OR ACCESSORIES, EITHER AT WHOLESALE
22 OR RETAIL, AND IN WHICH THE SALE, MANUFACTURE, OR PROMOTION OF
23 OTHER PRODUCTS IS MERELY INCIDENTAL.

24 (18) "WORK AREA" MEANS AN AREA IN A PLACE OF EMPLOYMENT
25 WHERE ONE OR MORE EMPLOYEES ARE ROUTINELY ASSIGNED AND
26 PERFORM SERVICES FOR OR ON BEHALF OF THEIR EMPLOYER.

27 **25-14-204. General smoking restrictions.** (1) EXCEPT AS

1 PROVIDED IN SECTION 25-14-205, AND IN ORDER TO REDUCE THE LEVELS
2 OF EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE, SMOKING SHALL NOT
3 BE PERMITTED AND NO PERSON SHALL SMOKE IN ANY INDOOR AREA,
4 INCLUDING, BUT NOT LIMITED TO:

5 (a) PUBLIC MEETING PLACES;

6 (b) ELEVATORS;

7 (c) GOVERNMENT-OWNED OR -OPERATED MEANS OF MASS
8 TRANSPORTATION, INCLUDING, BUT NOT LIMITED TO, BUSES, VANS, AND
9 TRAINS;

10 (d) TAXICABS AND LIMOUSINES;

11 (e) GROCERY STORES;

12 (f) GYMNASIUMS;

13 (g) JURY WAITING AND DELIBERATION ROOMS;

14 (h) COURTROOMS;

15 (i) CHILD DAY CARE FACILITIES;

16 (j) HEALTH CARE FACILITIES INCLUDING HOSPITALS, HEALTH CARE
17 CLINICS, DOCTOR'S OFFICES, AND OTHER HEALTH CARE RELATED
18 FACILITIES;

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

20 (II) IN THE CASE OF EMPLOYERS WHO OWN FACILITIES OTHERWISE
21 EXEMPTED FROM THIS PART 2, EACH SUCH EMPLOYER SHALL PROVIDE A
22 SMOKE-FREE WORK AREA FOR EACH EMPLOYEE REQUESTING NOT TO HAVE
23 TO BREATHE ENVIRONMENTAL TOBACCO SMOKE. EVERY EMPLOYEE SHALL
24 HAVE A RIGHT TO WORK IN AN AREA FREE OF ENVIRONMENTAL TOBACCO
25 SMOKE.

26 (l) FOOD SERVICE ESTABLISHMENTS;

27 (m) BARS;

- 1 (n) LIMITED GAMING FACILITIES AND ANY OTHER FACILITIES IN
2 WHICH ANY GAMING OR GAMBLING ACTIVITY IS CONDUCTED;
- 3 (o) INDOOR SPORTS ARENAS;
- 4 (p) RESTROOMS, LOBBIES, HALLWAYS, AND OTHER COMMON AREAS
5 IN PUBLIC AND PRIVATE BUILDINGS, CONDOMINIUMS, AND OTHER
6 MULTIPLE-UNIT RESIDENTIAL FACILITIES;
- 7 (q) RESTROOMS, LOBBIES, HALLWAYS, AND OTHER COMMON AREAS
8 IN HOTELS AND MOTELS, AND IN AT LEAST SEVENTY-FIVE PERCENT OF THE
9 SLEEPING QUARTERS WITHIN A HOTEL OR MOTEL THAT ARE RENTED TO
10 GUESTS;
- 11 (r) BOWLING ALLEYS;
- 12 (s) BILLIARD OR POOL HALLS;
- 13 (t) FACILITIES IN WHICH GAMES OF CHANCE ARE CONDUCTED;
- 14 (u) THE COMMON AREAS OF RETIREMENT FACILITIES AND NURSING
15 HOMES, NOT INCLUDING ANY RESIDENT'S PRIVATE RESIDENTIAL QUARTERS;
- 16 (v) PUBLIC BUILDINGS;
- 17 (w) AUDITORIA;
- 18 (x) THEATERS;
- 19 (y) MUSEUMS;
- 20 (z) LIBRARIES;
- 21 (aa) TO THE EXTENT NOT OTHERWISE PROVIDED IN SECTION
22 25-14-103.5, PUBLIC AND NONPUBLIC SCHOOLS;
- 23 (bb) OTHER EDUCATIONAL AND VOCATIONAL INSTITUTIONS; AND
- 24 (cc) THE ENTRYWAYS OF ALL BUILDINGS AND FACILITIES LISTED IN
25 PARAGRAPHS (a) TO (bb) OF THIS SUBSECTION (1).
- 26 (2) A CIGAR-TOBACCO BAR SHALL NOT EXPAND ITS SIZE OR
27 CHANGE ITS LOCATION FROM THE SIZE AND LOCATION IN WHICH IT EXISTED

1 AS OF DECEMBER 31, 2005. A CIGAR-TOBACCO BAR SHALL DISPLAY
2 SIGNAGE IN AT LEAST ONE CONSPICUOUS PLACE AND AT LEAST FOUR
3 INCHES BY SIX INCHES IN SIZE STATING: "SMOKING ALLOWED. CHILDREN
4 UNDER EIGHTEEN YEARS OF AGE MUST BE ACCOMPANIED BY A PARENT OR
5 GUARDIAN."

6 **25-14-205. Exceptions to smoking restrictions.** (1) THIS PART
7 SHALL NOT APPLY TO:

8 (a) PRIVATE HOMES, PRIVATE RESIDENCES, AND PRIVATE
9 AUTOMOBILES; EXCEPT THAT THIS PART 2 SHALL APPLY IF ANY SUCH
10 HOME, RESIDENCE, OR VEHICLE IS BEING USED FOR CHILD CARE OR DAY
11 CARE OR IF A PRIVATE VEHICLE IS BEING USED FOR THE PUBLIC
12 TRANSPORTATION OF CHILDREN OR AS PART OF HEALTH CARE OR DAY
13 CARE TRANSPORTATION;

14 (b) LIMOUSINES UNDER PRIVATE HIRE;

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

18 (d) ANY RETAIL TOBACCO BUSINESS;

19 (e) A CIGAR-TOBACCO BAR;

20 (f) THE ENCLOSED SMOKING AREAS AT A MUNICIPALLY OPERATED
21 INTERNATIONAL AIRPORT, AS SUCH AREAS EXISTED OR WERE UNDER
22 CONTRACT AS OF DECEMBER 31, 2005; OR

23 (g) THE OUTDOOR AREA OF ANY BUSINESS.

24 **25-14-206. Optional prohibitions.** (1) THE OWNER OR MANAGER
25 OF ANY PLACE NOT SPECIFICALLY LISTED IN SECTION 25-14-204,
26 INCLUDING A PLACE OTHERWISE EXEMPTED UNDER SECTION 25-14-205,
27 MAY POST SIGNS PROHIBITING SMOKING OR PROVIDING SMOKING AND

1 NONSMOKING AREAS. SUCH POSTING SHALL HAVE THE EFFECT OF
2 INCLUDING SUCH PLACE, OR THE DESIGNATED NONSMOKING PORTION
3 THEREOF, IN THE PLACES WHERE SMOKING IS PROHIBITED OR RESTRICTED
4 PURSUANT TO THIS PART 2.

5 (2) IF THE OWNER OR MANAGER OF A PLACE NOT SPECIFICALLY
6 LISTED IN SECTION 25-14-204, INCLUDING A PLACE OTHERWISE EXEMPTED
7 UNDER SECTION 25-14-205, IS AN EMPLOYER AND RECEIVES A REQUEST
8 FROM AN EMPLOYEE TO CREATE A SMOKE-FREE WORK AREA AS
9 CONTEMPLATED BY SECTION 25-14-204 (1) (k) (II), THE OWNER OR
10 MANAGER SHALL POST A SIGN OR SIGNS IN THE SMOKE-FREE WORK AREA
11 AS PROVIDED IN SUBSECTION (1) OF THIS SECTION.

12 **25-14-207. Other applicable regulations of smoking - local**
13 **counterpart regulations authorized.** (1) THIS PART 2 SHALL NOT BE
14 INTERPRETED OR CONSTRUED TO PERMIT SMOKING WHERE IT IS OTHERWISE
15 RESTRICTED BY ANY OTHER APPLICABLE LAW.

16 (2) (a) A LOCAL AUTHORITY MAY, PURSUANT TO ARTICLE 16 OF
17 TITLE 31, C.R.S., A MUNICIPAL HOME RULE CHARTER, OR ARTICLE 15 OF
18 TITLE 30, C.R.S., ENACT, ADOPT, AND ENFORCE SMOKING REGULATIONS
19 THAT COVER THE SAME SUBJECT MATTER AS THE VARIOUS PROVISIONS OF
20 THIS PART 2. NO LOCAL AUTHORITY MAY ADOPT ANY LOCAL REGULATION
21 OF SMOKING THAT IS LESS STRINGENT THAN THE PROVISIONS OF THIS PART
22 2; EXCEPT THAT A LOCAL AUTHORITY MAY SPECIFY A RADIUS OF LESS
23 THAN FIFTEEN FEET FOR THE AREA INCLUDED WITHIN AN ENTRYWAY.

24 (b) THE MUNICIPAL COURTS OR THEIR EQUIVALENT IN ANY CITY,
25 CITY AND COUNTY, OR TOWN HAVE JURISDICTION OVER VIOLATIONS OF
26 SMOKING REGULATIONS ENACTED BY ANY CITY, CITY AND COUNTY, OR
27 TOWN UNDER THIS SECTION.

1 **25-14-208. Unlawful acts - penalty.** (1) IT IS UNLAWFUL FOR A
2 PERSON WHO OWNS, MANAGES, OPERATES, OR OTHERWISE CONTROLS THE
3 USE OF A PREMISES SUBJECT TO THIS PART 2 TO VIOLATE ANY PROVISION
4 OF THIS PART 2.

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

7 (3) A PERSON WHO VIOLATES THIS PART 2 IS GUILTY OF A CLASS 2
8 PETTY OFFENSE AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY
9 A FINE NOT TO EXCEED TWO HUNDRED DOLLARS FOR A FIRST VIOLATION
10 WITHIN A CALENDAR YEAR, A FINE NOT TO EXCEED THREE HUNDRED
11 DOLLARS FOR A SECOND VIOLATION WITHIN A CALENDAR YEAR, AND A
12 FINE NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH ADDITIONAL
13 VIOLATION WITHIN A CALENDAR YEAR. EACH DAY OF A CONTINUING
14 VIOLATION SHALL BE DEEMED A SEPARATE VIOLATION.

15 **25-14-209. Severability.** IF ANY PROVISION OF THIS PART 2 OR
16 THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD
17 INVALID, SUCH INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR
18 APPLICATIONS OF THIS PART 2 THAT CAN BE GIVEN EFFECT WITHOUT THE
19 INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF
20 THIS PART 2 ARE DECLARED TO BE SEVERABLE.

21 **SECTION 2.** 24-34-402 (1), Colorado Revised Statutes, is
22 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23 **24-34-402. Discriminatory or unfair employment practices.**

24 (1) It shall be a discriminatory or unfair employment practice:

25 (i) FOR AN EMPLOYER TO RETALIATE AGAINST OR DISCHARGE AN
26 EMPLOYEE FOR REQUESTING THAT THE PROVISIONS OF THE "COLORADO
27 CLEAN INDOOR AIR ACT", PART 2 OF ARTICLE 14 OF TITLE 25, C.R.S., BE

1 ENFORCED, OR FOR REPORTING A VIOLATION OF SAID PROVISIONS.

2 **SECTION 3.** 24-34-502 (1), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **24-34-502. Unfair housing practices prohibited.** (1) It shall be
5 an unfair housing practice and unlawful and hereby prohibited:

6 (k) FOR A PERSON TO REFUSE TO SHOW, SELL, TRANSFER, RENT,
7 LEASE, OR OTHERWISE MAKE UNAVAILABLE, DENY, OR WITHHOLD FROM A
8 PERSON HOUSING IN RETALIATION AGAINST ANY PERSON FOR REQUESTING
9 THAT THE PROVISIONS OF THE "COLORADO CLEAN INDOOR AIR ACT",
10 PART 2 OF ARTICLE 14 OF TITLE 25, C.R.S., BE ENFORCED, OR FOR
11 REPORTING A VIOLATION OF SAID PROVISIONS.

12 **SECTION 4.** 24-34-601, Colorado Revised Statutes, is amended
13 BY THE ADDITION OF A NEW SUBSECTION to read:

14 **24-34-601. Discrimination in places of public accommodation.**

15 (4) IT IS A DISCRIMINATORY PRACTICE AND UNLAWFUL FOR A PERSON,
16 DIRECTLY OR INDIRECTLY, TO REFUSE, WITHHOLD FROM, OR DENY TO AN
17 INDIVIDUAL THE FULL AND EQUAL ENJOYMENT OF THE GOODS, SERVICES,
18 FACILITIES, PRIVILEGES, ADVANTAGES, OR ACCOMMODATIONS OF A PLACE
19 OF PUBLIC ACCOMMODATION FOR REQUESTING THAT THE PROVISIONS OF
20 THE "COLORADO CLEAN INDOOR AIR ACT", PART 2 OF ARTICLE 14 OF
21 TITLE 25, C.R.S., BE ENFORCED, OR FOR REPORTING A VIOLATION OF SAID
22 PROVISIONS.

23 **SECTION 5. Repeal.** 25-14-101, Colorado Revised Statutes, is
24 repealed as follows:

25 **25-14-101. Legislative declaration.** ~~The general assembly~~
26 ~~hereby declares that the smoking of tobacco or any other plant or weed~~
27 ~~under certain conditions is a matter of public concern and that in order to~~

1 protect the public health, safety, and welfare it is necessary to control
2 such smoking in certain public places.

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

5 **25-14-102. Definitions.** As used in this article, unless the context
6 otherwise requires:

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

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

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

20 **SECTION 7. Repeal.** 25-14-103, Colorado Revised Statutes, is
21 repealed as follows:

22 **25-14-103. Smoking prohibited in certain public places.**

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

25 (a) Elevators, museums, galleries, and libraries of any
26 establishment doing business with the general public;

27 (b) (1) All hospital elevators and corridors and wherever

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

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

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

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

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

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

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

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

22 ~~(d) Any building used or designed primarily for the purpose of~~
23 ~~exhibiting any motion picture, stage drama, lecture, musical recital, or~~
24 ~~other such performance whenever open to the public; except that, unless~~
25 ~~otherwise prohibited by local ordinance or regulation, smoking shall be~~
26 ~~allowed in an area commonly referred to as a lobby if such lobby is~~
27 ~~reasonably separated from the spectator area and in designated seating~~

1 areas of moving picture theaters where ventilation is adequate to achieve
2 the purposes of this article. This prohibition applies also to enclosed
3 sporting arenas.

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

6 (f) Repealed.

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

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

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

27 **SECTION 8. Repeal.** 25-14-103.7, Colorado Revised Statutes,

1 is repealed as follows:

2 **25-14-103.7. Control of smoking in state legislative buildings.**

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

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

7 ~~(a) May designate areas in legislative buildings where smoking is~~
8 ~~permitted;~~

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

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

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

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

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

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

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

26 **SECTION 9. Repeal.** 25-14-104, Colorado Revised Statutes, is
27 repealed as follows:

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

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

9 **25-14-105. Local regulations.** ~~Nothing in this article shall~~
10 ~~prevent any town, city, or city and county, nor any county within the~~
11 ~~unincorporated areas thereof, from regulating smoking; and such county,~~
12 ~~town, city, or city and county is hereby expressly authorized to adopt~~
13 ~~ordinances embodying such regulations. Where such regulations are~~
14 ~~adopted on the local level as authorized in this section, the local~~
15 ~~regulations shall control to the extent of any inconsistency between them~~
16 ~~and this article.~~

17 **SECTION 11. Repeal.** 2-2-404 (1.5), Colorado Revised Statutes,
18 is repealed as follows:

19 **2-2-404. Legislative rules.** ~~(1.5) Smoking in the state capitol and~~
20 ~~other legislative buildings shall be governed by section 25-14-103.7,~~
21 ~~C.R.S.; except that the senate and the house of representatives each has~~
22 ~~the exclusive authority to adopt rules or joint rules, or both, governing the~~
23 ~~control or limitation of smoking in their respective chambers,~~
24 ~~antechambers, committee rooms, and office space assigned to and~~
25 ~~occupied by legislators.~~

26 **SECTION 12. Effective date - applicability.** This act shall take
27 effect July 1, 2006, and shall apply to acts occurring on or after said date.

1 **SECTION 13. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.