

House Research Act Summary

CHAPTER: 82

SESSION: 2007 Regular Session

TOPIC: Freedom to Breathe Act of 2007

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Overview

This act establishes the Freedom to Breathe Act of 2007. It expands the prohibition on smoking in public places to include restaurants, bars and other places of employment.

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- 1** **Definitions.** Amends § 116L.17, subd. 1. States that persons who lose employment in a restaurant, bar or lawful gambling organization between October 1, 2007, and October 1, 2009, because of a state law prohibiting smoking, are eligible for the dislocated worker program.
- 2** **Public policy.** Amends § 144.412. States that the purpose of sections 144.411 to 144.417 is to protect employees and the general public from the hazards of secondhand smoke by eliminating smoking from public places, places of employment, public transportation, and public meetings.
- 3** **Indoor area.** Amends § 144.413, by adding subd. 1a. Defines indoor area as the space between a floor and a ceiling that is bounded by walls covering more than 50 percent of the perimeter of the area. States that walls are temporary or permanent physical barriers, but that certain screens do not constitute a wall.
- 4** **Place of employment.** Amends § 144.413, by adding subd. 1b. States that a place of employment is an indoor area where two or more persons provide a service for payment or gratuitously.
 - Lists examples, such as, warehouses, restaurants, theaters, employee cafeterias,

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restrooms and hallways.

- Includes vehicles used for work purposes during hours of operation when more than one person is present.
- Includes an area where work is performed in a private residence during hours of operation, if the homeowner uses the area "exclusively and regularly" as a place of business and has one or more employees, or is used to meet with clients.

- 5 **Public place.** Amends § 144.413, subd. 2. Adds "bars" and "any other food or liquor establishment" to the list of public places where smoking is prohibited. Eliminates the exclusion for certain private, enclosed offices.
- 6 **Smoking.** Amends § 144.413, subd. 4. Clarifies the definition of smoking by adding "inhaling or exhaling smoke from any lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product." Replaces the term "smoking equipment" with "tobacco or plant product intended for inhalation."
- 7 **Public transportation.** Amends § 144.413, by adding subd. 5. States that public transportation includes light and commuter rail transit, buses and enclosed bus and transit stops. Includes for-hire vehicles, such as, taxis and limousines. Includes ticketing, boarding and waiting areas in public transportation terminals.
- 8 **Prohibitions.** Amends § 144.414. Expands the prohibitions on smoking in various settings.

Subd. 1. Public places, places of employment, public transportation, and public meetings. Prohibits smoking in public places, at public meetings, in places of employment, or in public transportation. Eliminates exceptions for designated smoking areas, certain social functions, and places of work not usually frequented by the general public.

Subd. 2. Day care premises. Requires a proprietor of a family home or group family day care to disclose to the parents and guardians whether the proprietor allows smoking on the premises outside of hours of operation. Requires a conspicuous written notice as well as orally informing the parents and guardians.

Subd. 3. Health care facilities and clinics. (a) Adds to the smoking prohibition licensed residential facilities for children. Allows adult residents in a nursing home or boarding facility to smoke in a "designated separate, enclosed room" with a separate ventilation system.

(b) Eliminates a narrow exception for participants in smoking studies (this is reinstated in section 10 of this bill). Allows smoking by patients in certain locked psychiatric units if approved by the administrator of the program and the treating physician.

Subd. 4. Public transportation vehicles. Prohibits smoking in public transportation vehicles, except by the driver when the vehicle is being used for the driver's private use and there are no passengers present. Requires a driver that smokes in the vehicle under this provision to post a conspicuous sign inside the vehicle.

- 9 **Responsibilities of proprietors.** Amends § 144.416. Clarifies the requirement that proprietors and other owners of public places, public transportation, places of employment

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or public meetings make "reasonable efforts" to prevent smoking. Modifies the list of reasonable efforts as follows:

- Requires proprietors to ask persons who smoke in prohibited areas to refrain from smoking (under current law this is only required at the request of a client or employee)
- Requires proprietors to ask a person to leave if that person refuses to refrain from smoking
- Adds that if that smoker does not leave, the proprietors shall use lawful methods consistent with handling disorderly persons
- Prohibits proprietors from providing smoking equipment, such as ashtrays, in areas where smoking is prohibited
- Permits proprietors to adopt more stringent measures than those in sections 144.414 to 144.417 to protect individuals from secondhand smoke
- Eliminates the reference to a smoke-free area

10 Permitted smoking. Adds § 144.4167. Combines and clarifies exceptions to smoking prohibitions.

Subd. 1. Scientific study participants. Retains the exception for smoking done by participants of peer-reviewed scientific studies related to the health effects of smoking provided certain requirements are met.

Subd. 2. Traditional Native American ceremonies. Permits smoking by a member of an Indian tribe as part of a traditional Native America ceremony.

Subd. 3. Private places. States that smoking is not prohibited in private homes, private residences or private automobiles when they are not being used as places of employment. States that smoking is not prohibited in a hotel or motel sleeping room rented to one or more guests.

Subd. 4. Tobacco products shop. States that customers in tobacco products shops may light tobacco in order to sample products. Defines "tobacco products shop" as a retail establishment with an entrance that opens directly to the outside and earns at least 90 percent of its gross receipts from the sale of tobacco products and accessories. Provides that "tobacco products shop" does not include any business with a liquor, food, or restaurant license.

Subd. 5. Heavy commercial vehicles. Permits smoking in the cabs of certain commercial vehicles that weigh 26,001 pounds or greater.

Subd. 6. Farm vehicles and construction equipment. Permits smoking in farm trucks, implements of husbandry, and special mobile equipment, when they are being used for their intended purposes.

Subd. 7. Family farms. Permits smoking in the house, garage, barns and other buildings on family farms, provided certain specified conditions are met, including that the family farm employs two or fewer persons.

Subd. 8. Disabled veterans rest camp. Permits smoking at the disabled veterans rest

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camp in Washington county.

Subd. 9. Theatrical productions. Permits smoking by actors and actresses as part of a theatrical performance. Requires that patrons be notified that smoking is in the performance.

11 Commissioner of health, enforcement, penalties. Amends § 144.417.

Subd. 1. Rules. Removes obsolete language regarding application of adopted rules.

Subd. 2. Violations. (a) States that it is a petty misdemeanor for a proprietor or person, who owns, leases, manages, operates or otherwise controls the use of an area where smoking is prohibited, to knowingly fail to comply with sections 144.414 to 144.417.

(b) States that it is a petty misdemeanor for a person to smoke in an area where smoking is prohibited.

(c) Prohibits retaliation by a proprietor or person in charge of a public place, public meeting, place of employment or public transportation against an employee or anyone else who reports a violation of sections 144.414 to 144.417.

(d) Prohibits an employer from discharging, refusing to hire, penalizing, discriminating or retaliating against any employee, applicant or customer because such person exercises any right to a smoke-free environment.

Subd. 3. Injunction. Updates statutory references.

Subd. 4. Local government ordinances. (a) Permits local governments to enact and enforce more stringent measures relating to secondhand smoke.

(b) States that smoking is permitted outside of restaurants, bars, and bingo halls, unless limited or prohibited by local governments.

12 Charitable gambling impact study. Requires the Gambling Control Board, with the commissioner of revenue, to study the impact of a statewide smoking ban on lawful gambling. Requires the board to submit a report to the governor and the legislature before March 31, 2008.

13 Dislocated worker program; allocation of funds. Requires the Job Skills Partnership Board to provide services under the dislocated worker program to certain employees who become unemployed between October 1, 2007 and October 1, 2009, because of the provisions of this act.

14 Freedom to Breathe Act. Lends a name to this act: "Freedom to Breathe Act of 2007."

15 Repealer. Repeals section 144.415, which permits "designated smoking areas."

16 Effective date. Provides that this act is effective October 1, 2007.