

STATE J. 24 1986

J # 795

REFERENCE TITLE: public smoking prohibition; exceptions

State of Arizona  
House of Representatives  
Thirty-seventh Legislature  
Second Regular Session  
1986

H. B. \_\_\_\_\_

Introduced by \_\_\_\_\_

AN ACT

RELATING TO PUBLIC HEALTH AND SAFETY; PROVIDING FOR THE PROHIBITION OF SMOKING IN PUBLIC AREAS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR CIVIL PENALTIES; PROVIDING FOR PREEMPTION OF MUNICIPAL OR COUNTY REGULATIONS; REPEALING SECTION 36-601.01, ARIZONA REVISED STATUTES, AND AMENDING TITLE 36, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 1.1.

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Repeal  
3 Section 36-601.01, Arizona Revised Statutes, is repealed.  
4 Sec. 2. Title 36, chapter 6, Arizona Revised Statutes, is amended  
5 by adding article 1.1, to read:  
6 ARTICLE 1.1. PUBLIC SMOKING  
7 36-611. Definitions  
8 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:  
9 1. "PUBLIC PLACE" MEANS THE FOLLOWING ENCLOSED, INDOOR AREAS USED  
10 BY THE GENERAL PUBLIC:  
11 (a) GOVERNMENT BUILDINGS.  
12 (b) RESTAURANTS WHICH SEAT MORE THAN FIFTY PERSONS.  
13 (c) RETAIL STORES WHOSE PRIMARY BUSINESS IS NOT THE SALE OF TOBACCO  
14 RELATED PRODUCTS.  
15 (d) PUBLIC MASS TRANSPORTATION AND THE ASSOCIATED TERMINALS WHICH  
16 ARE NOT SUBJECT TO FEDERAL SMOKING REGULATION.  
17 (e) ELEVATORS.  
18 (f) HOSPITALS AND NURSING HOMES.  
19 (g) EDUCATIONAL FACILITIES.  
20 (h) LIBRARIES.  
21 (i) COURTROOMS AND JURY WAITING AND DELIBERATION ROOMS.  
22 (j) GROCERY STORES.

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1 (k) PUBLIC SCHOOL BUSES.

2 (l) MUSEUMS, THEATERS, AUDITORIUMS AND ARENAS.

3 (m) RECREATIONAL FACILITIES.

4 2. "SMOKING" MEANS POSSESSION OF A LIGHTED CIGARETTE, LIGHTED  
5 CIGAR, LIGHTED PIPE OR ANY OTHER LIGHTED PRODUCT MADE OF TOBACCO OR ANY  
6 PLANT OR WOOD.

7 36-612. Smoking prohibition in a public place;  
8 exceptions; civil penalties

9 A. NO PERSON MAY SMOKE IN A PUBLIC PLACE EXCEPT IN DESIGNATED  
10 SMOKING AREAS.

11 B. THE PROHIBITION OF SUBSECTION A DOES NOT APPLY IF AN ENTIRE ROOM  
12 OR HALL IS USED FOR A PRIVATE SOCIAL FUNCTION AND SEATING ARRANGEMENTS ARE  
13 UNDER THE CONTROL OF THE SPONSOR OF THE FUNCTION AND NOT OF THE PROPRIETOR  
14 OR PERSON IN CHARGE OF THE ROOM, HALL OR OTHER FACILITY.

15 C. A COURT MAY IMPOSE A CIVIL PENALTY OF NOT TO EXCEED TWENTY-FIVE  
16 DOLLARS FOR THE FIRST VIOLATION OF THIS ARTICLE AND A CIVIL PENALTY OF NOT  
17 TO EXCEED ONE HUNDRED DOLLARS FOR EACH SUBSEQUENT VIOLATION.

18 36-613. Designated smoking areas; exception

19 A. SMOKING AREAS ~~MAY~~ BE DESIGNATED BY THE PERSON IN CHARGE OF A  
20 PUBLIC PLACE. *shall*

21 B. IF A SMOKING AREA IS DESIGNATED PURSUANT TO SUBSECTION A  
22 EXISTING PHYSICAL BARRIERS AND VENTILATION SYSTEMS SHALL BE USED TO  
23 MINIMIZE SMOKE IN ADJACENT NONSMOKING AREAS. THIS DOES NOT REQUIRE:

24 1. FIXED STRUCTURAL OR PHYSICAL MODIFICATIONS.

25 2. OPERATION OF AN EXISTING HEATING, VENTILATING AND AIR  
26 CONDITIONING SYSTEM IN A MANNER WHICH DECREASES ITS ENERGY EFFICIENCY OR  
27 INCREASES ITS ELECTRICAL DEMAND.

28 3. INSTALLATION OF A NEW OR ADDITIONAL HEATING, VENTILATING AND AIR  
29 CONDITIONING SYSTEM.

30 C. A SMOKING AREA MAY NOT BE DESIGNATED IN THE FOLLOWING PLACES:

31 1. ELEVATORS.

32 2. SCHOOL BUSES.

33 3. PUBLIC TRANSPORTATION.

34 4. REST ROOMS.

35 5. HOSPITAL EMERGENCY ROOMS.

36 6. DOCTORS' AND DENTISTS' WAITING ROOMS.

37 7. JURY DELIBERATION ROOMS.

38 8. COUNTY PUBLIC HEALTH UNITS.

39 D. A PATIENTS' ROOM IN A HOSPITAL, NURSING HOME OR OTHER HEALTH CARE  
40 FACILITY MAY NOT BE DESIGNATED AS A SMOKING AREA UNLESS ALL PATIENTS  
41 ASSIGNED TO THAT ROOM AGREE TO THAT DESIGNATION.

42 36-614. Percentage of an indoor area which may be  
43 designated a smoking area; restaurant exception

44 A. NO MORE THAN ONE-HALF OF THE TOTAL SQUARE FOOTAGE IN A PUBLIC  
45 PLACE WITHIN A SINGLE ENCLOSED INDOOR AREA USED FOR A COMMON PURPOSE SHALL  
46 BE RESERVED AND DESIGNATED AS A SMOKING AREA.

47 B. THE SQUARE FOOTAGE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO  
48 RESTAURANTS WHICH DESIGNATE SMOKING AREAS IN ACCORDANCE WITH CUSTOMER

*penalty and*

DEMAND AS DETERMINED BY THE MANAGEMENT. HOWEVER, A RESTAURANT WHICH DOES NOT HAVE DESIGNATED NONSMOKING AREAS SHALL CONSPICUOUSLY POST A NOTICE OF THIS FACT AT EACH ENTRANCE.

36-615. Posting of signs

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A. THE PERSON IN CHARGE OF A PUBLIC PLACE SHALL CONSPICUOUSLY POST SIGNS IN SMOKING AREAS STATING THAT SMOKING IS PERMITTED IN THOSE AREAS. EACH SIGN SHALL HAVE LETTERS OF REASONABLE SIZE WHICH CAN BE EASILY READ. THE COLOR, DESIGN AND PRECISE PLACEMENT OF EACH SIGN IS LEFT TO THE DISCRETION OF THE PERSON IN CHARGE OF THE PREMISES.

B. THE PERSON IN CHARGE OF A PUBLIC PLACE MAY ALSO POST "NO SMOKING" OR "NO SMOKING EXCEPT IN DESIGNATED AREAS" SIGNS AS APPROPRIATE.

36-616. Preemption

THIS ARTICLE PREEMPTS ALL MUNICIPAL OR COUNTY LAWS RELATING TO SMOKING IN PUBLIC PLACES.