

ANTI-DISCRIMINATION LEGISLATION

SMOKERS' RIGHTS LEGISLATION

LOCAL PREEMPTION

<u>Bill</u>	<u>Description</u>
Alabama H437	<p><u>Summary:</u> As amended, would restrict smoking in workplaces with more than 20 employees and other public places -- Would require nonsmoking areas to be designated -- Would prohibit hiring discrimination by government or private employers based on applicant or employee's smoking/nonsmoking preferences</p> <p><u>Status:</u> Legislature adjourned without further consideration of the bill</p>
Arkansas HR1038	<p><u>Summary:</u> Directs House Speaker to appoint citizen committee to study potential public smoking policy concerns in the state, including smoker/nonsmoker discrimination</p> <p><u>Status:</u> Resolution was adopted 3/13/89</p>
Arkansas H1901	<p><u>Summary:</u> Would prohibit hiring discrimination based on employees' smoking or nonsmoking preference</p> <p><u>Status:</u> Bill died upon adjournment</p>
Arkansas H1900	<p><u>Summary:</u> State would have sole responsibility for regulating smoking</p> <p><u>Status:</u> Bill died upon adjournment</p>
California A2288	<p><u>Summary:</u> Would make it an unlawful employment practice to discriminate against an employee or applicant because of off-the-job smoking or claims to a smoke-free workplace</p> <p><u>Status:</u> Governor vetoed bill, stating that nonsmokers are already protected from discrimination</p>
Delaware S210	<p>(This bill replaces S5, S67 and S95)</p> <p><u>Summary:</u> Would prohibit discrimination against smokers by an employer</p> <p><u>Status:</u> Senate passed bill before adjournment -- Bill carries over to 1990 session in House</p>

Georgia S95

Summary: Amended bill would restrict smoking in government buildings by requiring at least 50% of square footage in publicly-owned buildings designated as smoking section and would preempt more restrictive local laws, rules and regulations

Status: Bill failed to be considered before adjournment 3/15/89 -- Bill carries over to 1990 session

Illinois H1695

Summary: As passed by legislature, would prohibit smoking in workplaces and places open to the public, except in areas designated for smoking -- Places with occupancy limit of 50 or less could designate entire facility as smoking or nonsmoking -- Would prohibit discrimination against anyone who exercises rights under this act -- Would prohibit local governments from adopting restriction ordinances after 10/1/89

Status: Conference Committee report was adopted by both houses -- Bill sent to Governor for signature

Illinois H378

Summary: Would require designation of smoking and nonsmoking areas in workplaces and places designed to accommodate more than 10 members of the public at a time to (1) prohibit discrimination in employment on the grounds that individual is a smoker, (2) preempt all local regulation of smoking

Status: Bill has been placed in interim study -- Bill carries over to 1990 legislative session

**Louisiana S818 &
S870**

Summary: Two similar bills were introduced by separate sponsors -- S818 would "allow", while S870 would "require" state government departmental secretaries to designate equivalent smoking and nonsmoking areas in departmental office workplaces -- S870 would designate size of areas to be 35% for smokers and 65% for nonsmokers -- S818 states that size of areas be based on ratio of smokers to nonsmokers

Status: Both bills died in committee when legislature adjourned

**Maryland H1239 &
S729**

Summary: Would make it unlawful employment practice to discriminate against individuals because of smoking/nonsmoking preferences -- Would prohibit rules requiring employee to abstain from use of tobacco products outside course of employment -- Bills were amended to clarify that they include both private and government employment and to allow employees to seek civil relief for monetary damages

Status: H1239 died on Senate floor despite Senate's earlier approval of almost identical bill -- Companion bill S729 was killed in House Environmental Matters Committee

Massachusetts S51

Summary: Substitute language is being considered that would regulate and license sampling and vending of tobacco products and amend current law prohibiting sale to minors -- Would preempt new local regulation of retail sales, vending and sampling of tobacco products and nullify all existing ordinances or regulations that are inconsistent with state provisions -- Original language of bill would prohibit sampling of tobacco products and prohibit distribution except at full market price in or upon any part of any public place for any commercial purpose

Status: Senate postponed consideration of S51 and proposed substitute 11/29/89 -- No new date set for action

Mississippi SR9

Summary: Would urge public agencies of the state to comply with workplace laws and polices and to treat employees fairly and reasonably with respect to physical disabilities or non-work related activities

Status: Bill died upon adjournment

Missouri S440

Summary: Would prohibit discrimination in employment based on employee smoking preference -- Would prohibit rules requiring employee or applicant to abstain from use of tobacco products outside the course of employment, as long as person complies with laws or workplace smoking policy

Status: Bill died in committee upon legislature adjournment

Nevada S25

Summary: As reported from conference committee, would require smoking areas to be designated in publicly-owned buildings, except schools, and allows smoking areas to be designated in medical waiting rooms, food stores, child care facilities and buses

Status: Governor signed bill; effective 7/1/90

New Mexico S662

Summary: Would prohibit differential life insurance premiums based on whether insured person is a smoker or nonsmoker

Status: Bill died upon adjournment

New York S6133

Summary: Would prohibit discrimination by an employer or licensing agency based on employee smoking preference

Status: Bill was introduced and referred to Senate Rules Committee

Oregon S986

Summary: Would ban the use of genetic screening or brainwave testing as a condition of employment -- Bill was amended to include provision prohibiting employers from requiring employees to refrain from smoking off-the-job except when the restriction relates to a bona fide occupation requirement or if off-duty smoking is prohibited by collective bargaining agreement

Status: Governor signed bill -- Effective 10/3/89

Oregon H2487

Summary: Would prohibit employers from requiring polygraph tests as condition of employment and would also prohibit employers from requiring tests to determine whether an employee uses tobacco

Status: No action was taken on bill before legislature adjourned

**S. Carolina S138 &
H3303**

Summary: Would restrict smoking in public places

Status: Both S138 and H3303 were still in committee when legislature adjourned 6/1/89 -- Both bills carry over to 1990 session -- Proposed amendments would ban hiring discrimination against smokers and would preempt local smoking restrictions tougher than state law

Virginia S607

Summary: Would prohibit governments from requiring an applicant or employee "to abstain from smoking or using tobacco products outside the course of his employment." -- Amended to exempt firefighters and police

Status: Governor signed bill

Virginia S601

Summary: Would give private employers sole authority to designate smoking and nonsmoking areas within workplace -- Preempts ability of localities to enact any type of smoking restriction ordinance during period 7/1/89 - 6/30/90

Status: Governor signed bill

Washington S5189

Summary: Would restrict smoking in state office buildings -- But provides that smokers not be discriminated against in hiring and prohibit retaliation against any employee exercising rights under this act

Status: Bill died in Senate after failing to meet 3/15/89 crossover deadline -- Carries over to 1990 session

REPEAL/MODIFY/ROLL BACK LEGISLATION

<u>Bill</u>	<u>Description</u>
Connecticut H7212	<p><u>Summary:</u> Bill prohibiting smoking on school grounds was amended to include the requirement that a smoking car be on all MTA commuter trains beginning or ending in Connecticut -- Would overturn ban imposed by Metro North line by New York MTA --</p> <p><u>Status:</u> Bill is defeated -- Failed to be reported to Senate floor before deadline</p>
Hawaii S695	<p><u>Summary:</u> Would roll back smoking ban in airport to allow for designated smoking areas</p> <p><u>Status:</u> Legislature adjourned without further action on bill -- Measure will carry over to 1990 session</p>
Massachusetts H5601	<p><u>Summary:</u> Budget bill was amended to include requirement that the Massachusetts Bay Transportation Authority maximize non-transportation related revenues, including advertising -- MBTA currently prohibits tobacco advertising</p> <p><u>Status:</u> Governor signed budget without altering MBTA provision</p>
Massachusetts various localities	<p><u>Summary:</u> Roll back existing restaurant restriction ordinances so that they are weaker or no more stringent than requirement of 1987 state law; repeal where possible</p> <p><u>Status:</u> Work to begin after final community assessments have been made</p>
Maine L604	<p><u>Summary:</u> Would roll back current smoking ban to permit smoking areas to be designated in public areas of publicly-owned buildings</p> <p><u>Status:</u> Bill is dead after receiving "ought not pass" report from Joint Committee on Human Resources</p>
New Mexico - Albuquerque	<p><u>Summary:</u> Would modify severely restrictive ordinance</p> <p><u>Status:</u> Ordinance was passed by City Council October, 1988 -- Mayor did not sign -- Attorney General's opinion stated that portions of ordinance are unconstitutional -- On 10/30/89, City Council removed bingo parlors from ordinance -- Attempts to further dilute ordinance are anticipated</p>

- New York - Ithaca** Summary: Roll back smoking restrictions in restaurants
Status: Common Council approved amendment reducing restaurant contiguous nonsmoking sections from 70% to 50% of available seating 4/6/89
- Oklahoma SJR6** Summary: Would require state agencies to designate at least one indoor smoking area - (State law requires designation of smoking areas, but does not specify that they be indoors, some agencies were allowing smoking only outdoors)
Status: Bill was signed by Governor -- Regulation takes effect 9/17/89
- Oregon S815** Summary: Would require designation of smoking areas in public buildings (current law allows person in charge to ban smoking entirely in public places)
Status: Legislature adjourned without taking further action on bill
- Tennessee - Knoxville** Summary: Would repeal current ban of off-duty smoking by police and firefighters and would allow departments to regulate smoking on duty
Status: City Council overturned off-duty smoking ban -- Effective 7/14/89
- Texas - Brownsville** Summary: Roll back workplace restrictions
Status: Very restrictive ordinance has been weakened -- Definition of public place narrowed to allow smoking in more places -- Workplace restrictions are now voluntary
- Texas - Galveston** Summary: Roll back smoking restrictions
Status: Ordinance has been rolled back -- Those areas that are now excluded from provisions include: small businesses with less than 2,000 sq. ft. of floor space, bars, bowling centers, private enclosed offices, police cars
- Vermont H98, H177, S14** Summary: Roll back current law to allow simple majority control in determining smoking policies in workplaces (current law calls for three-quarters vote to allow smoking) -- [See IAQ section also]
Status: Legislature adjourned -- Bills carry over until 1990 session

INDOOR AIR QUALITY (IAQ) LEGISLATION

<u>Bill</u>	<u>Description</u>
Alaska H283	<p><u>Summary:</u> Would require state owned/occupied office buildings to meet IAQ standards, at least as stringent as ASHRAE standards, set by Department of Health & Social Services</p> <p><u>Status:</u> Legislature adjourned without taking action on bill -- Bill carries over to 1990 session</p>
Connecticut H6050	<p><u>Summary:</u> Would set standards for indoor air quality to ensure that buildings have adequate ventilation</p> <p><u>Status:</u> Bill failed to meet consideration deadline</p>
Hawaii SCR2, SR4	<p><u>Summary:</u> Would require Office of State Planning and Department of Health to study and report to legislature in 1990 on environmental management issues, including indoor air pollution and hazardous air pollutants</p> <p><u>Status:</u> Resolutions died after failing to meet cross over deadline -- Resolutions will carry over to 1990 session</p>
Idaho SCR112	<p><u>Summary:</u> Concurrent resolution would direct Legislative Council to appoint a committee to study energy efficient building standards and health effects associated with increased indoor air pollution levels</p> <p><u>Status:</u> Concurrent resolution was signed by President Pro Tem and filed with Secretary of State (Does not go to Governor for signature)</p>
Illinois H1415	<p><u>Summary:</u> Would require workplaces with more than 20 employees to meet ASHRAE standards for IAQ -- Would create an Indoor Air Pollution Advisory Council to assist Department of Labor in administration</p> <p><u>Status:</u> Bill was defeated on House floor during third reading</p>
Illinois S985	<p><u>Summary:</u> Would require public and private employers to provide ventilation in offices consistent with proposed ASHRAE standard 62-1981R and maintain acceptable IAQ in offices -- Illinois Department of Labor would be responsible for enforcement and would be authorized to adopt regulations</p> <p><u>Status:</u> Senate Executive Committee held S985 -- Carries over for possible consideration in 1990</p>

- Massachusetts H1425** Summary: Would continue Special Commission on indoor air pollution through 12/31/89 -- Created 1986
- Status: Bill was approved by both houses and signed by the Governor 10/10/89
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- Massachusetts H1479** Summary: Would set IAQ standards for state government buildings -- would define "sufficiently ventilated system"
- Status: Bill is pending in House Ways & Means Committee -- At future date, bill expected to be combined into H2771 (see below)
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- Massachusetts H2771** Summary: Would create Office of IAQ in Department of Labor -- Would require new or renovated workplace buildings (government and private sector) to be operated in accordance with ASHRAE IAQ and ventilation standards as revised -- Would authorize standards for minimum maintenance requirement for existing buildings
- Status: Joint Commerce & Labor Committee referred bill to Joint Rules Committee -- At future date, bill expected to be combined with H1479 -- Amendments to include employment protection in regards to employee behaviors
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- New Jersey-Draft** Summary: Would set IAQ standards for state, county and municipal government offices
- Status: Carried over from 1988; no action thus far in 1989
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- Oklahoma HCR1013** Summary: Concurrent resolution requests Governor to appoint special investigative committee to study and evaluate IAQ in state office buildings and to submit recommendations for legislation or regulation to Department of Labor
- Status: Bill died in House Public Health Committee -- Bill failed to meet crossover deadline
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- Vermont S14, H98** Summary: Would weaken 1987 law to allow majority vote of employees in workplaces larger than 4,000 sq. ft. that are equipped with "an air exchange system" to determine whether to allow smoking (see "Roll Back" section also)
- Status: Legislature adjourned -- Bills carry over to 1990 session

Washington H1504

Summary: Would require Department of Labor & Industries to study IAQ in state owned or leased buildings and make recommendations for improvements -- Directs Superintendent of Public Instruction to implement model IAQ program in a school district and make recommendations for improvements

Status: Governor signed bill 5/10/89