

FIRST REGULAR SESSION

SENATE BILL NO. 309

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time February 4, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1686S.011

AN ACT

To repeal sections 191.765, 191.767, 191.769, 191.771, 191.775, 191.776, and 577.070, RSMo, and to enact in lieu thereof seven new sections relating to smoking-related offenses, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 191.765, 191.767, 191.769, 191.771, 191.775, 191.776, and 577.070, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 191.765, 191.767, 191.769, 191.771, 191.775, 191.776, and 577.070, to read as follows:

191.765. As used in sections 191.765 to 191.773 and section 290.145, RSMo, the following terms mean:

(1) "Bar" or "tavern", any licensed establishment which serves liquor on the premises for which not more than ten percent of the gross sales receipts of the business are supplied by food purchases, either for consumption on the premises or elsewhere;

(2) "Other person in charge", the agent of the proprietor authorized to give administrative directions to and general supervision of the activities within the public place, work place or public meeting at any given time;

(3) "Proprietor", the party who ultimately controls, governs or directs the activities within the public place, work place or public meeting, regardless of whether he is the owner or lessor of such place or site. The term does not mean the owner of the property unless he ultimately controls, governs or directs the activities within the public place or public meeting. The term "proprietor" shall apply to a corporation as well as an individual;

(4) **"Public building or public vehicle", any building or vehicle**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 **owned, leased, or operated by:**

18 (a) **The state, including the legislative, executive, and judicial**
19 **branches of state government;**

20 (b) **Any county, city, city not within a county, town, village, or**
21 **instrumentality thereof, or any other political subdivision of the state,**
22 **a special district, an authority, a commission, or an agency; or**

23 (c) **Any other separate corporate instrumentality or unit of state**
24 **or local government;**

25 (5) "Public meeting", a gathering in person of members of a governmental
26 body, whether an open or closed session, as defined in chapter 610, RSMo;

27 [(5)] (6) "Public place", any enclosed indoor area used by the general
28 public or serving as a place of work including, but not limited to:

29 (a) Any **bars and restaurants and** retail or commercial establishments;

30 (b) Health care facilities, health clinics or ambulatory care facilities
31 including, but not limited to, laboratories associated with health care treatment,
32 hospitals, nursing homes, physicians' offices and dentists' offices;

33 (c) Any vehicle used for public transportation including, but not limited
34 to, buses, taxicabs and limousines for hire;

35 (d) Rest rooms;

36 (e) Elevators;

37 (f) Libraries, educational facilities, day care facilities, museums,
38 auditoriums and art galleries;

39 (g) All public areas and waiting rooms of public transportation facilities
40 including, but not limited to, bus and airport facilities;

41 (h) Any enclosed indoor place used for entertainment or recreation
42 including, but not limited to, gymnasiums, theater lobbies, concert halls, arenas
43 and swimming pools;

44 (i) Any other enclosed indoor areas used by the general public including,
45 but not limited to, corridors and shopping malls; **and**

46 (j) **Any public building or public vehicle;**

47 [(6)] (7) "Restaurant", any building, structure or area used, maintained
48 or advertised as or held out to the public to be an enclosure where meals for
49 consideration of payment are made available to be consumed on the premises;

50 [(7)] (8) "Smoking", possession of burning tobacco in the form of a
51 cigarette, cigar, pipe or other smoking equipment.

191.767. [1.] A person shall not smoke in a public place, [or in] a public

2 meeting [except in a designated smoking area], **or within fifteen feet of any**
3 **entrance to a public place or public meeting.**

4 [2. A smoking area may be designated by persons having custody or
5 control of public places, except in places in which smoking is prohibited by the
6 fire marshal or by other law, ordinance or regulation.

7 3. No public place shall have more than thirty percent of its entire space
8 designated as a smoking area.

9 4. A designated smoking area where state employees may smoke during
10 the work day shall be provided by each state executive department and
11 institution of higher education, provided such area can be adequately ventilated
12 at minimum cost, within the physical confines of each facility.

13 5. A proprietor or other person in charge of a restaurant shall designate
14 an area of sufficient size to accommodate usual and customary demand for
15 nonsmoking areas by customers or patrons.]

191.769. The following areas are not considered a public place:

2 (1) An entire room or hall which is used for private social functions,
3 provided that the seating arrangements are under the control of the sponsor of
4 the function and not of the proprietor or other person in charge;

5 (2) Limousines for hire and taxicabs, where the driver and all passengers
6 agree to smoking in such vehicle;

7 (3) Performers on the stage, provided that the smoking is part of the
8 production;

9 (4) A place where more than fifty percent of the volume of trade or
10 business carried on is that of the blending of tobaccos or sale of tobaccos,
11 cigarettes, pipes, cigars or smoking sundries;

12 (5) [Bars, taverns, restaurants that seat less than fifty people, bowling
13 alleys and billiard parlors, which conspicuously post signs stating that
14 "Nonsmoking Areas are Unavailable";

15 (6)] Private residences[; and

16 (7) Any enclosed indoor arena, stadium or other facility which may be
17 used for sporting events and which has a seating capacity of more than fifteen
18 thousand persons].

191.771. The person having custody or control of a public place or public
2 meeting shall[:

3 (1)] make reasonable efforts to prevent smoking in the public place or
4 public meeting by posting appropriate signs indicating no-smoking [or smoking

5 area and arrange seating accordingly]. These signs shall be placed at a height
6 and location easily seen by a person entering the public place or public meeting
7 and not obscured in any way[;

8 (2) Arrange seating and utilize available ventilation systems and physical
9 barriers to isolate designated smoking areas;

10 (3) Make a reasonable request of persons smoking to move to a designated
11 smoking area;

12 (4) Allow smoking in designated areas of theater lobbies only].

191.775. No person shall smoke or otherwise use tobacco or tobacco
2 products in any indoor area of a public elementary or secondary school building
3 or educational facility, [excluding institutions of higher education,] or on buses
4 used solely to transport students to or from school or to transport students to or
5 from any place for educational purposes. Any school board of any school district
6 may set policy on the permissible uses of tobacco products [in any other
7 nonclassroom or nonstudent occupant facility, and] on the school grounds or
8 outdoor facility areas as the school board deems proper. Any person who violates
9 the provisions of this section shall be guilty of an infraction.

191.776. No person shall smoke or otherwise use tobacco products in any
2 area of a child care facility licensed by the department of health and senior
3 services pursuant to the provisions of sections 210.201 to 210.245, RSMo[, during
4 the period of time when the children cared for under that license are
5 present]. Any person who violates the provisions of this section shall be guilty
6 of an infraction.

577.070. 1. A person commits the crime of littering if he throws or places,
2 or causes to be thrown or placed, any glass, glass bottles, **cigarettes, cigarette**
3 **packages, or other smoking-related items**, wire, nails, tacks, hedge, cans,
4 garbage, trash, refuse, or rubbish of any kind, nature or description on the
5 right-of-way of any public road or state highway or on or in any of the waters in
6 this state or on the banks of any stream, or on any land or water owned, operated
7 or leased by the state, any board, department, agency or commission thereof or
8 on any land or water owned, operated or leased by the federal government or on
9 any private real property owned by another without his **or her** consent.

10 2. Littering is a class A misdemeanor.

✓