

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 06-1175

BY REPRESENTATIVE(S) May M. and Pommer, Larson, Balmer, Benefield, Berens, Boyd, Carroll T., Frangas, Hall, Lindstrom, McCluskey, McGihon, Riesberg, Soper, Stengel, Sullivan, Todd, Vigil, Borodkin, Plant, Coleman, Green, Marshall, Merrifield, and Romanoff; also SENATOR(S) Grossman and Evans, Fitz-Gerald, Groff, Johnson, Tupa, Windels, Gordon, Shaffer, Veiga, and Williams.

CONCERNING ENACTMENT OF THE "COLORADO CLEAN INDOOR AIR ACT",
AND, IN CONNECTION THEREWITH, PROHIBITING SMOKING IN INDOOR
ENCLOSED AREAS, INCLUDING PLACES OF EMPLOYMENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 14 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 2 COLORADO CLEAN INDOOR AIR ACT

25-14-201. Short title. THIS PART 2 SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO CLEAN INDOOR AIR ACT".

25-14-202. Legislative declaration. THE GENERAL ASSEMBLY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

HEREBY FINDS AND DETERMINES THAT IT IS IN THE BEST INTEREST OF THE PEOPLE OF THIS STATE TO PROTECT NONSMOKERS FROM INVOLUNTARY EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE IN MOST INDOOR AREAS OPEN TO THE PUBLIC, PUBLIC MEETINGS, FOOD SERVICE ESTABLISHMENTS, AND PLACES OF EMPLOYMENT. THE GENERAL ASSEMBLY FURTHER FINDS AND DETERMINES THAT A BALANCE SHOULD BE STRUCK BETWEEN THE HEALTH CONCERNS OF NONCONSUMERS OF TOBACCO PRODUCTS AND THE NEED TO MINIMIZE UNWARRANTED GOVERNMENTAL INTRUSION INTO, AND REGULATION OF, PRIVATE SPHERES OF CONDUCT AND CHOICE WITH RESPECT TO THE USE OR NONUSE OF TOBACCO PRODUCTS IN CERTAIN DESIGNATED PUBLIC AREAS AND IN PRIVATE PLACES. THEREFORE, THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE PURPOSE OF THIS PART 2 IS TO PRESERVE AND IMPROVE THE HEALTH, COMFORT, AND ENVIRONMENT OF THE PEOPLE OF THIS STATE BY LIMITING EXPOSURE TO TOBACCO SMOKE.

25-14-203. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AIRPORT SMOKING CONCESSION" MEANS A BAR OR RESTAURANT, OR BOTH, IN A PUBLIC AIRPORT WITH REGULARLY SCHEDULED DOMESTIC AND INTERNATIONAL COMMERCIAL PASSENGER FLIGHTS, IN WHICH BAR OR RESTAURANT SMOKING IS ALLOWED IN A FULLY ENCLOSED AND INDEPENDENTLY VENTILATED AREA BY THE TERMS OF THE CONCESSION.

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

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

(4) "CIGAR-TOBACCO BAR" MEANS A BAR THAT, IN THE CALENDAR YEAR ENDING DECEMBER 31, 2005, GENERATED AT LEAST FIVE PERCENT OR MORE OF ITS TOTAL ANNUAL GROSS INCOME OR FIFTY THOUSAND DOLLARS IN ANNUAL SALES FROM THE ON-SITE SALE OF TOBACCO PRODUCTS AND THE RENTAL OF ON-SITE HUMIDORS, NOT INCLUDING ANY SALES FROM VENDING MACHINES. IN ANY CALENDAR YEAR AFTER DECEMBER 31, 2005, A BAR

THAT FAILS TO GENERATE AT LEAST FIVE PERCENT OF ITS TOTAL ANNUAL GROSS INCOME OR FIFTY THOUSAND DOLLARS IN ANNUAL SALES FROM THE ON-SITE SALE OF TOBACCO PRODUCTS AND THE RENTAL OF ON-SITE HUMIDORS SHALL NOT BE DEFINED AS A "CIGAR-TOBACCO BAR" AND SHALL NOT THEREAFTER BE INCLUDED IN THE DEFINITION REGARDLESS OF SALES FIGURES.

(5) (a) "EMPLOYEE" MEANS ANY PERSON WHO:

(I) PERFORMS ANY TYPE OF WORK FOR BENEFIT OF ANOTHER IN CONSIDERATION OF DIRECT OR INDIRECT WAGES OR PROFIT; OR

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

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

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

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

(8) "ENVIRONMENTAL TOBACCO SMOKE", "ETS", OR "SECONDHAND SMOKE" MEANS THE COMPLEX MIXTURE FORMED FROM THE ESCAPING SMOKE OF A BURNING TOBACCO PRODUCT, ALSO KNOWN AS "SIDESTREAM SMOKE",

AND SMOKE EXHALED BY THE SMOKER.

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

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

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

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

(13) "PUBLIC BUILDING" MEANS ANY BUILDING OWNED OR OPERATED BY:

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

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

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

(14) "PUBLIC MEETING" MEANS ANY MEETING OPEN TO THE PUBLIC PURSUANT TO PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S., OR ANY OTHER LAW OF THIS STATE.

(15) "SMOKE-FREE WORK AREA" MEANS AN INDOOR AREA IN A PLACE

OF EMPLOYMENT WHERE SMOKING IS PROHIBITED UNDER THIS PART 2.

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

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

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

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

25-14-204. General smoking restrictions. (1) EXCEPT AS PROVIDED IN SECTION 25-14-205, AND IN ORDER TO REDUCE THE LEVELS OF EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE, SMOKING SHALL NOT BE PERMITTED AND NO PERSON SHALL SMOKE IN ANY INDOOR AREA, INCLUDING, BUT NOT LIMITED TO:

(a) PUBLIC MEETING PLACES;

(b) ELEVATORS;

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

TRAINS;

(d) TAXICABS AND LIMOUSINES;

(e) GROCERY STORES;

(f) GYMNASIUMS;

(g) JURY WAITING AND DELIBERATION ROOMS;

(h) COURTROOMS;

(i) CHILD DAY CARE FACILITIES;

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

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

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

(l) FOOD SERVICE ESTABLISHMENTS;

(m) BARS;

(n) LIMITED GAMING FACILITIES AND ANY OTHER FACILITIES IN WHICH ANY GAMING OR GAMBLING ACTIVITY IS CONDUCTED;

(o) INDOOR SPORTS ARENAS;

(p) RESTROOMS, LOBBIES, HALLWAYS, AND OTHER COMMON AREAS IN PUBLIC AND PRIVATE BUILDINGS, CONDOMINIUMS, AND OTHER MULTIPLE-UNIT RESIDENTIAL FACILITIES;

(q) RESTROOMS, LOBBIES, HALLWAYS, AND OTHER COMMON AREAS

IN HOTELS AND MOTELS, AND IN AT LEAST SEVENTY-FIVE PERCENT OF THE SLEEPING QUARTERS WITHIN A HOTEL OR MOTEL THAT ARE RENTED TO GUESTS;

(r) BOWLING ALLEYS;

(s) BILLIARD OR POOL HALLS;

(t) FACILITIES IN WHICH GAMES OF CHANCE ARE CONDUCTED;

(u) THE COMMON AREAS OF RETIREMENT FACILITIES, PUBLICLY OWNED HOUSING FACILITIES, AND NURSING HOMES, NOT INCLUDING ANY RESIDENT'S PRIVATE RESIDENTIAL QUARTERS;

(v) PUBLIC BUILDINGS;

(w) AUDITORIA;

(x) THEATERS;

(y) MUSEUMS;

(z) LIBRARIES;

(aa) TO THE EXTENT NOT OTHERWISE PROVIDED IN SECTION 25-14-103.5, PUBLIC AND NONPUBLIC SCHOOLS;

(bb) OTHER EDUCATIONAL AND VOCATIONAL INSTITUTIONS; AND

(cc) THE ENTRYWAYS OF ALL BUILDINGS AND FACILITIES LISTED IN PARAGRAPHS (a) TO (bb) OF THIS SUBSECTION (1).

(2) A CIGAR-TOBACCO BAR SHALL NOT EXPAND ITS SIZE OR CHANGE ITS LOCATION FROM THE SIZE AND LOCATION IN WHICH IT EXISTED AS OF DECEMBER 31, 2005. A CIGAR-TOBACCO BAR SHALL DISPLAY SIGNAGE IN AT LEAST ONE CONSPICUOUS PLACE AND AT LEAST FOUR INCHES BY SIX INCHES IN SIZE STATING: "SMOKING ALLOWED. CHILDREN UNDER EIGHTEEN YEARS OF AGE MUST BE ACCOMPANIED BY A PARENT OR GUARDIAN."

25-14-205. Exceptions to smoking restrictions. (1) THIS PART 2

SHALL NOT APPLY TO:

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

(b) LIMOUSINES UNDER PRIVATE HIRE;

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

(d) ANY RETAIL TOBACCO BUSINESS;

(e) A CIGAR-TOBACCO BAR;

(f) AN AIRPORT SMOKING CONCESSION;

(g) THE OUTDOOR AREA OF ANY BUSINESS;

(h) A PLACE OF EMPLOYMENT THAT IS NOT OPEN TO THE PUBLIC AND THAT IS UNDER THE CONTROL OF AN EMPLOYER THAT EMPLOYS THREE OR FEWER EMPLOYEES;

(i) A PRIVATE, NONRESIDENTIAL BUILDING ON A FARM OR RANCH, AS DEFINED IN SECTION 39-1-102, C.R.S., THAT HAS ANNUAL GROSS INCOME OF LESS THAN FIVE HUNDRED THOUSAND DOLLARS; OR

(j) THE RETAIL FLOOR PLAN, AS DEFINED IN SECTION 12-47.1-509, C.R.S., OF A LICENSED CASINO.

25-14-206. Optional prohibitions. (1) THE OWNER OR MANAGER OF ANY PLACE NOT SPECIFICALLY LISTED IN SECTION 25-14-204, INCLUDING A PLACE OTHERWISE EXEMPTED UNDER SECTION 25-14-205, MAY POST SIGNS PROHIBITING SMOKING OR PROVIDING SMOKING AND NONSMOKING AREAS. SUCH POSTING SHALL HAVE THE EFFECT OF INCLUDING SUCH PLACE, OR THE DESIGNATED NONSMOKING PORTION THEREOF, IN THE PLACES WHERE SMOKING IS PROHIBITED OR RESTRICTED PURSUANT TO THIS PART 2.

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

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

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

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

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

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

(3) A PERSON WHO VIOLATES THIS PART 2 IS GUILTY OF A CLASS 2 PETTY OFFENSE AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE NOT TO EXCEED TWO HUNDRED DOLLARS FOR A FIRST VIOLATION WITHIN A CALENDAR YEAR, A FINE NOT TO EXCEED THREE HUNDRED DOLLARS FOR A SECOND VIOLATION WITHIN A CALENDAR YEAR, AND A FINE

NOT TO EXCEED FIVE HUNDRED DOLLARS FOR EACH ADDITIONAL VIOLATION WITHIN A CALENDAR YEAR. EACH DAY OF A CONTINUING VIOLATION SHALL BE DEEMED A SEPARATE VIOLATION.

(4) ALL JUDGES, CLERKS OF A COURT OF RECORD, OR OTHER OFFICERS IMPOSING OR RECEIVING FINES COLLECTED PURSUANT TO OR AS A RESULT OF A CONVICTION OF ANY PERSONS FOR A VIOLATION OF ANY PROVISION OF THIS PART 2 SHALL TRANSMIT ALL SUCH MONEYS SO COLLECTED IN THE FOLLOWING MANNER:

(a) SEVENTY-FIVE PERCENT OF ANY SUCH FINE FOR A VIOLATION OCCURRING WITHIN THE CORPORATE LIMITS OF A CITY, TOWN, OR CITY AND COUNTY SHALL BE TRANSMITTED TO THE TREASURER OR CHIEF FINANCIAL OFFICER OF SAID CITY, TOWN, OR CITY AND COUNTY, AND THE REMAINING TWENTY-FIVE PERCENT SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

(b) SEVENTY-FIVE PERCENT OF ANY FINE FOR A VIOLATION OCCURRING OUTSIDE THE CORPORATE LIMITS OF A CITY OR TOWN SHALL BE TRANSMITTED TO THE TREASURER OF THE COUNTY IN WHICH THE CITY OR TOWN IS LOCATED, AND THE REMAINING TWENTY-FIVE PERCENT SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND.

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

SECTION 2. Repeal. 25-14-101, Colorado Revised Statutes, is repealed as follows:

25-14-101. Legislative declaration. ~~The general assembly hereby declares that the smoking of tobacco or any other plant or weed under certain conditions is a matter of public concern and that in order to protect the public health, safety, and welfare it is necessary to control such smoking in certain public places.~~

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

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

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

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

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

SECTION 4. Repeal. 25-14-103, Colorado Revised Statutes, is repealed as follows:

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

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

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

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

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

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

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

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

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

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

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

~~(d) Any building used or designed primarily for the purpose of exhibiting any motion picture, stage drama, lecture, musical recital, or other such performance whenever open to the public; except that, unless otherwise prohibited by local ordinance or regulation, smoking shall be allowed in an area commonly referred to as a lobby if such lobby is reasonably separated from the spectator area and in designated seating areas of moving picture theaters where ventilation is adequate to achieve the purposes of this article. This prohibition applies also to enclosed sporting arenas.~~

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

~~(f) Repealed.~~

~~(2) Restaurants and taverns are not subject to the specific prohibitions of this article, but restaurants and taverns are encouraged, whenever possible, to seat nonsmokers in an area away from smokers. Any public place where food is sold or served and in which neither a smoking nor a nonsmoking area is designated shall post a sign in a conspicuous place~~

~~at or inside its entrance indicating whether or not provisions have been made for nonsmokers.~~

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

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

SECTION 5. Repeal. 25-14-103.7, Colorado Revised Statutes, is repealed as follows:

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

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

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

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

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

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

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

~~(3) Notwithstanding the provisions of this section, the control or limitation of smoking in the chambers, antechambers, committee rooms of~~

~~the senate and the house of representatives, and office space assigned to and occupied by legislators shall be governed by the provisions of section 2-2-404 (1.5), C.R.S.~~

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

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

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

SECTION 6. Repeal. 25-14-104, Colorado Revised Statutes, is repealed as follows:

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

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

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

SECTION 8. Repeal. 2-2-404 (1.5), Colorado Revised Statutes, is repealed as follows:

2-2-404. Legislative rules. ~~(1.5) Smoking in the state capitol and other legislative buildings shall be governed by section 25-14-103.7, C.R.S.; except that the senate and the house of representatives each has the~~

~~exclusive authority to adopt rules or joint rules, or both, governing the control or limitation of smoking in their respective chambers, antechambers, committee rooms, and office space assigned to and occupied by legislators.~~

SECTION 9. Effective date - applicability. This act shall take effect July 1, 2006, and shall apply to acts occurring on or after said date.

SECTION 10. Safety clause. The general assembly hereby finds,

