

SB 42-FN – VERSION ADOPTED BY BOTH BODIES

2007 SESSION

07-0003

01/03

SENATE BILL **42-FN**

AN ACT prohibiting smoking in restaurants, cocktail lounges, and certain enclosed public places.

SPONSORS: Sen. Gottesman, Dist 12; Sen. D'Allesandro, Dist 20; Sen. Hassan, Dist 23; Sen. Fuller Clark, Dist 24; Sen. Odell, Dist 8; Sen. Janeway, Dist 7; Sen. Kelly, Dist 10; Sen. DeVries, Dist 18; Sen. Larsen, Dist 15; Sen. Estabrook, Dist 21; Rep. Emerton, Hills 7; Rep. Rosenwald, Hills 22; Rep. Dokmo, Hills 6; Rep. W. Chase, Ches 1

COMMITTEE: Commerce, Labor and Consumer Protection

ANALYSIS

This bill:

- I. Prohibits smoking in restaurants, cocktail lounges, and certain enclosed public places in New Hampshire.
- II. Clarifies the smoking prohibited section of the indoor smoking act.
- III. Clarifies certain definitions under the indoor smoking act.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

07-0003

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Seven

AN ACT prohibiting smoking in restaurants, cocktail lounges, and certain enclosed public places.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Indoor Smoking Act; Definition of "Effectively Segregated." Amend RSA 155:65, V to read as follows:

V. "Effectively segregated" means all the following conditions have been met:

(a) Procedures for accurately and fairly determining preference have been followed;

(b) The size and location of no-smoking and smoking-permitted areas are designed, designated, or juxtaposed so that smoke does not cause harm or unreasonably intrude into the area occupied by persons who are not smoking;

~~[(c) A contiguous portion of the enclosed public place, including any seating arrangements, measures a minimum of 200 square feet, and at least one of the following 2 contingencies exist:~~

~~(1) There is a continuous, physical barrier such as a wall, partition or furnishing at least 56 inches in height to separate the no-smoking area from a smoking permitted area. The barrier may contain doors or portals for exit and entry; or~~

~~(2) There is a space of at least 4 feet in width to separate the smoking permitted and no-smoking areas. This space may be either an unoccupied area or a section of seating area representing a buffer zone in which smoking is not permitted, but which itself is not part of the no-smoking designated area;] and~~

~~[(d)]~~ (c) In buildings where existing ventilation systems are in place, areas designated as smoking areas are located, where reasonably possible, proximate to exhaust vents.

2 Indoor Smoking Act; Definition of "Restaurant." Amend RSA 155:65, XIV to read as follows:

XIV. "Restaurant" means any room or enclosed place used and kept open on a regular basis and in a bona fide manner for the serving of meals to guests for compensation. **"Restaurant" shall include any such room or place in resorts, hotels, and motels.**

3 Indoor Smoking Act; Smoking Prohibited. RSA 155:66 is repealed and reenacted to read as follows:

155:66 Smoking Prohibited.

I. Except as provided in RSA 155:67 and notwithstanding any law to the contrary, smoking is prohibited in:

(a) Public educational facilities at any time, and in child care agencies licensed under RSA 170-E during the hours of operation, except foster family homes and foster family group homes.

(b) Hospitals and other acute care facilities.

(c) Grocery stores by customers.

(d) Elevators, tramways, gondolas, and other such public conveyances.

(e) Public conveyances.

(f) Restaurants.

(g) Cocktail lounges.

(h) Enclosed places owned and operated by social, fraternal, or religious organizations when open to the general public. Purposes for which such places may be open to the general public may include, but not be limited to, public meetings, voting, suppers, bingo games, theatrical events, fairs, and bazaars.

II. Smoking may be permitted in enclosed places of public access and publicly-owned buildings and offices, including workplaces, other than those listed in paragraph I, in effectively segregated smoking-permitted areas designated by the person in charge. Smoking shall be totally prohibited in any such enclosed place, if smoking cannot be effectively segregated. The person in charge may declare any facility non-smoking in its entirety.

4 Repeal. The following are repealed:

I. RSA 155:67, VIII, relative to an exemption for certain restaurants.

II. RSA 155:67, IX, relative to an exemption for cocktail lounges.

5 Effective Date. This act shall take effect 90 days after its passage.

LBAO

07-0003

1/17/07

SB 42-FN - FISCAL NOTE

AN ACT prohibiting smoking in restaurants, cocktail lounges, and certain enclosed public places.

FISCAL IMPACT:

The Department of Health and Human Services states this bill may increase state general fund expenditures by \$64,362 in FY 2008, \$63,573 in FY 2009, \$66,481 in FY 2010, and \$69,531 in FY 2011. This bill will have no fiscal impact on state, county, and local revenue or county and local expenditures.

METHODOLOGY:

This Department states this bill revises the definition of effective segregation of the NH Indoor Smoking Act and prohibits smoking in restaurants, cocktail lounges, and certain enclosed public places. Under RSA 155:74, the Tobacco Prevention and Control Program

(TPCP) within the Department, the Division of Public Health Services is charged with investigating any complaint regarding non-compliance with the NH Indoor Smoking Act. Currently the TPCP receives approximately 120 secondhand smoke complaints per year. In FY 2004, the Program Specialist III position (LG 23) that once covered these duties was abolished, and currently other staff perform these duties as they are able. The Department assumes this bill will increase the number of contacts handled by the TPCP and ongoing need for enforcement of the law. The Department assumes it will need one Program Planner III position (LG 23) to carry out the purposes of this bill. The position would be responsible for preparing information packets detailing the terms of the NH Indoor Smoking Act; preparing educational materials on the effects of secondhand smoke; marketing materials to the public, especially the restaurant and lodging industry; receiving and responding to complaints from the public; maintaining records of complaints, actions, and outcomes; and preparing reports relative to compliance with the NH Indoor Smoking Act. Funds would be necessary for salary, benefits, printing, equipment, rent, office supplies, current expense, and in-state travel. This bill does not establish a new position or contain an appropriation. Assuming an effective date of July 1, 2007, and benefits at 48.3% of salary, the Department estimates the fiscal impact as follows:

	FY 2010	FY 2011	FY 2008	FY 2009
Salary	\$36,621	\$38,240	\$39,975	\$41,789
Benefits	17,688	18,470	19,308	20,184
Current Expense	2,000	2,000	2,000	2,000
Rent	4,153	4,463	4,798	5,158
Equipment	3,500	0	0	0
In-State Travel	<u>400</u>	<u>400</u>	<u>400</u>	<u>400</u>
Total Cost	\$64,362	\$63,573	\$66,481	\$69,531