Revised Statutes of Nebraska Annotated Chapter 71. Public Health and Welfare Article 57. Smoking and Tobacco (a) Clean Indoor Air Act [Repealed]

Neb.Rev.St. § 71-5701
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5702
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5703
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5704
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5705
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5706
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5707
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5708
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5709
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5710
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5711
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Neb.Rev.St. § 71-5712
71-5701 to 71-5713. Repealed by Laws 2008, LB 395, § 22, eff. June 1, 2009

Current through End of 2013 Regular Session
The Tobacco Prevention and Control Cash Fund is created. The fund shall be used for a comprehensive statewide tobacco-related public health program administered by the Department of Health and Human Services which includes, but is not limited to (1) community programs to reduce tobacco use, (2) chronic disease programs, (3) school programs, (4) statewide programs, (5) enforcement, (6) counter marketing, (7) cessation programs, (8) surveillance and evaluation, and (9) administration. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Tobacco Prevention and Control Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The State Treasurer shall transfer, on or before June 30, 2010, as directed by the budget administrator of the budget division of the Department of Administrative Services, one million three hundred thousand dollars from the Tobacco Prevention and Control Cash Fund to the Health and Human Services Cash Fund.
Employed means hired, contracted, subcontracted, or otherwise engaged to furnish goods or services.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages, profit, or other remuneration.

Employer means a person, nonprofit entity, sole proprietorship, partnership, joint venture, corporation, limited partnership, limited liability company, cooperative, firm, trust, association, organization, or other business entity, including retail establishments where goods or services are sold, who or which employs one or more employees.

Guestroom or suite means a sleeping room and directly associated private areas, such as a bathroom, a living room, and a kitchen area, if any, rented to the public for their exclusive transient occupancy, including, but not limited to, a guestroom or suite in a hotel, motel, inn, lodge, or other such establishment.

Indoor area means an area enclosed by a floor, a ceiling, and walls on all sides that are continuous and solid except for closeable entry and exit doors and windows and in which less than twenty percent of the total wall area is permanently open to the outdoors. For walls in excess of eight feet in height, only the first eight feet shall be used in determining such percentage.
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Place of employment means an indoor area under the control of a proprietor that an employee accesses as part of his or her employment without regard to whether the employee is present or work is occurring at any given time. The indoor area includes, but is not limited to, any work area, employee breakroom, restroom, conference room, meeting room, classroom, employee cafeteria, and hallway. A private residence is a place of employment when such residence is being used as a licensed child care program and one or more children who are not occupants of such residence are present.

Neb.Rev.St. § 71-5725
71-5725. Proprietor, defined

Proprietor means any employer, owner, operator, supervisor, manager, or other person who controls, governs, or directs the activities in a place of employment or public place.

Neb.Rev.St. § 71-5726
71-5726. Public place, defined

Public place means an indoor area to which the public is invited or in which the public is permitted, whether or not the public is always invited or permitted. A private residence is not a public place.

Neb.Rev.St. § 71-5727
71-5727. Smoke or smoking, defined

Smoke or smoking means the lighting of any cigarette, cigar, pipe, or other smoking material or the possession of any lighted cigarette, cigar, pipe, or other smoking material, regardless of its composition.

Neb.Rev.St. § 71-5728
71-5728. Tobacco retail outlet, defined

Tobacco retail outlet means a store that sells only tobacco and products directly related to tobacco. Products directly related to tobacco do not include alcohol, coffee, soft drinks, candy, groceries, or gasoline.

Neb.Rev.St. § 71-5729
71-5729. Smoking in place of employment or public place prohibited

Except as otherwise provided in section 71-5730, it is unlawful for any person to smoke in a place of employment or a public place.

Neb.Rev.St. § 71-5730

Current through End of 2013 Regular Session
71-5730. Exemptions

The following indoor areas are exempt from section 71-5729:

(1) Guestrooms and suites that are rented to guests and are designated as smoking rooms, except that not more than twenty percent of rooms rented to guests in an establishment may be designated as smoking rooms. All smoking rooms on the same floor shall be contiguous, and smoke from such rooms shall not infiltrate into areas where smoking is prohibited under the Nebraska Clean Indoor Air Act;

(2) Indoor areas used in connection with a research study on the health effects of smoking conducted in a scientific or analytical laboratory under state or federal law or at a college or university approved by the Coordinating Commission for Postsecondary Education;

(3) Tobacco retail outlets; and

(4) Cigar bars as defined in section 53-103.08.

Neb.Rev.St. § 71-5731

71-5731. Proprietor; duties

A proprietor of a place of employment or public place where smoking is prohibited under the Nebraska Clean Indoor Air Act shall take necessary and appropriate steps to ensure compliance with the act at such place.

Neb.Rev.St. § 71-5732

71-5732. Department of Health and Human Services; local public health department; enjoin violations; retaliation prohibited; waiver of act

(1) The Department of Health and Human Services or a local public health department as defined in section 71-1626 may institute an action in any court with jurisdiction to enjoin a violation of the Nebraska Clean Indoor Air Act. Any interested party may report possible violations of the act to such departments.

(2) No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because such employee, applicant, or customer reports or attempts to report a violation of the act.

(3) The Department of Health and Human Services may waive provisions of the Nebraska Clean Indoor Air Act upon good cause shown and shall provide for appropriate protection of the public health and safety in the granting of such waivers.

Neb.Rev.St. § 71-5733

Current through End of 2013 Regular Session
71-5733. Prohibited acts; penalties; act of employee or agent; how construed

(1) A person who smokes in a place of employment or a public place in violation of the Nebraska Clean Indoor Air Act is guilty of a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and any subsequent offenses. A person charged with such offense may voluntarily participate, at his or her own expense, in a smoking cessation program approved by the Department of Health and Human Services, and such charge shall be dismissed upon successful completion of the program.

(2) A proprietor who fails, neglects, or refuses to perform a duty under the Nebraska Clean Indoor Air Act is guilty of a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and any subsequent offenses.

(3) Each day that a violation continues to exist shall constitute a separate and distinct violation.

(4) Every act or omission constituting a violation of the Nebraska Clean Indoor Air Act by an employee or agent of a proprietor is deemed to be the act or omission of such proprietor, and such proprietor shall be subject to the same penalty as if the act or omission had been committed by such proprietor.

Neb.Rev.St. § 71-5734

71-5734. Rules and regulations

The Department of Health and Human Services shall adopt and promulgate rules and regulations necessary to implement the Nebraska Clean Indoor Air Act. The department shall consult with interested persons and professional organizations before adopting such rules and regulations.