



General Assembly

Substitute Bill No. 908

January Session, 2003

AN ACT CONCERNING SECONDHAND SMOKE IN WORK PLACES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-342 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) As used in this section, "smoke" or "smoking" means the lighting
4 or carrying of a lighted cigarette, cigar, pipe or similar device and
5 ["smoking area" means a separately designated room which (1) need
6 not be entered in order to conduct business; (2) is designated as a
7 smoking area; and (3) when designated as a smoking area does not
8 deprive employees or the public of an existing nonsmoking lounge or
9 waiting area. The primary purpose of a smoking area is to provide a
10 place for persons to smoke, while minimizing smoke in all other areas
11 of the building. Persons in charge of public or other buildings shall not
12 be required to make any expenditures or structural changes to create a
13 smoking area] "smoking room" means a room that is (1) designated as
14 a room in which individuals may smoke, (2) completely separated
15 from the nonsmoking portion of a building by floor to ceiling walls
16 and a door, (3) ventilated in such a way as to prevent smoke from
17 entering a nonsmoking area, and (4) not used to serve or distribute
18 food or beverages.

19 (b) [No] Notwithstanding the provisions of section 31-40q, as
20 amended by this act, no person shall smoke: (1) In any building or

21 portion of a building owned or leased and operated by the state or any
22 political subdivision thereof except in a smoking room; (2) in
23 any area of a health care institution, [other than a smoking area,
24 provided the smoking area may not be the institution's only waiting
25 area,] and notice shall be posted at entrances to such institutions that
26 smoking is prohibited by state law except in a smoking room; (3) in
27 any area of a retail food store; [open to the general public;] (4) in any
28 [public area of a restaurant having a seating capacity of seventy-five or
29 more persons, unless a sign is posted which indicates that smoking is
30 permitted in such area, provided (i) no such restaurant shall be
31 designated, in its entirety, as a smoking area, (ii) smoking may be
32 prohibited in rooms used for private social functions, and (iii) a sign is
33 posted at the entrance of the restaurant indicating the availability of
34 nonsmoking areas; (5) notwithstanding the provisions of section 31-
35 40q,] area of an establishment with a restaurant, cafe or tavern permit,
36 in accordance with chapter 545, except in a smoking room; (5) within a
37 public school building while school is in session or student activities
38 are being conducted; (6) in any passenger elevator, provided no person
39 shall be arrested for violating this subsection unless there is posted in
40 such room or elevator a sign which indicates that smoking is
41 prohibited by state law; and (7) in any dormitory in any public
42 institution of higher education. This subsection shall not apply to
43 correctional facilities, psychiatric facilities, public housing projects as
44 defined in subsection (b) of section 21a-278a or classrooms where
45 demonstration smoking is taking place as part of a medical or scientific
46 experiment or lesson.

47 (c) In each room, elevator, area or building in which smoking is
48 prohibited by this section, the person in control of the premises shall
49 post or cause to be posted in a conspicuous place signs stating that
50 smoking is prohibited by state law. Such signs, except in elevators,
51 [restaurants] establishments with restaurant, cafe or tavern permits
52 and health care institutions, shall have letters at least four inches high
53 with the principal strokes of letters not less than one-half inch wide.

54 (d) Any person found guilty of smoking in violation of this section,

55 failure to post signs as required by this section or the unauthorized
56 removal of such signs shall have committed an infraction.

57 (e) Nothing in this section shall be construed to require any smoking
58 [area] room in any building.

59 (f) The provisions of this section shall supersede and preempt the
60 provisions of any municipal law or ordinance relative to smoking
61 effective prior to, on or after October 1, 1993.

62 Sec. 2. Section 31-40q of the general statutes is repealed and the
63 following is substituted in lieu thereof (*Effective October 1, 2003*):

64 (a) As used in this section:

65 (1) "Person" means one or more individuals, partnerships,
66 associations, corporations, limited liability companies, business trusts,
67 legal representatives or any organized group of persons.

68 (2) "Employer" means a person engaged in business who has
69 employees, including the state and any political subdivision thereof.

70 (3) "Employee" means any person engaged in service to an employer
71 in the business of his employer.

72 (4) "Business facility" means a structurally enclosed location or
73 portion thereof at which [twenty] ten or more employees perform
74 services for their employer. The term "business facility" shall not
75 include correctional facilities, psychiatric facilities, public housing
76 projects, as defined in subsection (b) of section 21a-278a, or classrooms
77 where demonstration smoking is taking place as part of a medical or
78 scientific experiment or lesson.

79 (5) "Smoking" means the burning of a lighted cigar, cigarette, pipe
80 or any other matter or substance which contains tobacco.

81 (6) "Smoking room" means a room that is (A) designated as a room
82 in which individuals may smoke, (B) completely separated from the

83 nonsmoking portion of a building by floor to ceiling walls and a door,
84 (C) ventilated in such a way as to prevent smoke from entering a
85 nonsmoking area, and (D) not used to conduct the employer's
86 business.

87 (b) Each employer shall prohibit smoking in any business facility
88 under said employer's control, except that an employer may designate
89 a smoking room.

90 [(b)] (c) Each employer who employs less than ten employees in a
91 structurally enclosed location shall establish one or more work areas,
92 sufficient to accommodate nonsmokers who request to utilize such an
93 area, within each [business facility] location under his control, where
94 smoking is prohibited. The employer shall clearly designate the
95 existence and boundaries of each nonsmoking area by posting signs
96 which can be readily seen by employees and visitors. In the areas
97 within the [business facility] location where smoking is permitted,
98 existing physical barriers and ventilation systems shall be used to the
99 extent practicable to minimize the effect of smoking in adjacent
100 nonsmoking areas. Nothing in this section may be construed to
101 prohibit an employer from designating an entire [business facility]
102 location as a nonsmoking area.

103 [(c) The Labor Commissioner may exempt any employer from the
104 provisions of this section if he finds that (1) the employer made a good
105 faith effort to comply with the provisions of this section and (2) any
106 further requirement to so comply would constitute an unreasonable
107 financial burden on the employer.]

108 Sec. 3. Section 31-40s of the general statutes is repealed and the
109 following is substituted in lieu thereof (Effective October 1, 2003):

110 (a) No employer or agent of any employer shall require, as a
111 condition of employment, that any employee or prospective employee
112 refrain from smoking or using tobacco products outside the course of
113 his employment, or otherwise discriminate against any individual with
114 respect to compensation, terms, conditions or privileges of

115 employment for smoking or using tobacco products outside the course
116 of his employment, provided any nonprofit organization or
117 corporation whose primary purpose is to discourage use of tobacco
118 products by the general public shall be exempt from the provisions of
119 this section.

120 (b) Nothing contained in this section shall be construed to affect (1)
121 the provisions of [sections 31-40q and 31-40r] section 31-40q, as
122 amended by this act, (2) municipal hiring practices involving paid
123 firefighters and paid police officers, and (3) any collective bargaining
124 agreement between a municipality and paid firefighters or paid police
125 officers.

126 Sec. 4. (*Effective October 1, 2003*) Section 31-40r of the general statutes
127 is repealed.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>

PH *Joint Favorable Subst.*

LAB *Joint Favorable*