



General Assembly

January Session, 2003

**Amendment**

LCO No. 5488

\*SB0090805488SD0\*

Offered by:

SEN. MURPHY, 16<sup>th</sup> Dist.

To: Subst. Senate Bill No. 908

File No. 87

Cal. No. 100

**"AN ACT CONCERNING SECONDHAND SMOKE IN WORK PLACES."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

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 Section 19a-342 of the general statutes is repealed and the  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

5 (a) As used in this section, "smoke" or "smoking" means the lighting  
6 or carrying of a lighted cigarette, cigar, pipe or similar device. [and  
7 "smoking area" means a separately designated room which (1) need  
8 not be entered in order to conduct business; (2) is designated as a  
9 smoking area; and (3) when designated as a smoking area does not  
10 deprive employees or the public of an existing nonsmoking lounge or  
11 waiting area. The primary purpose of a smoking area is to provide a  
12 place for persons to smoke, while minimizing smoke in all other areas  
13 of the building. Persons in charge of public or other buildings shall not  
14 be required to make any expenditures or structural changes to create a

15 smoking area.

16 (b) No person shall smoke: (1) In any building or portion of a  
17 building owned or leased and operated by the state or any political  
18 subdivision thereof except in a smoking area; (2) in any area of a health  
19 care institution other than a smoking area, provided the smoking area  
20 may not be the institution's only waiting area, and notice shall be  
21 posted at entrances to such institutions that smoking is prohibited by  
22 state law; (3) in any area of a retail food store open to the general  
23 public; (4) in any public area of a restaurant having a seating capacity  
24 of seventy-five or more persons, unless a sign is posted which  
25 indicates that smoking is permitted in such area, provided (i) no such  
26 restaurant shall be designated, in its entirety, as a smoking area, (ii)  
27 smoking may be prohibited in rooms used for private social functions,  
28 and (iii) a sign is posted at the entrance of the restaurant indicating the  
29 availability of nonsmoking areas; (5) notwithstanding the provisions of  
30 section 31-40q, within a public school building while school is in  
31 session or student activities are being conducted; (6) in any passenger  
32 elevator, provided no person shall be arrested for violating this  
33 subsection unless there is posted in such room or elevator a sign which  
34 indicates that smoking is prohibited by state law; and (7) in any  
35 dormitory in any public institution of higher education. This  
36 subsection shall not apply to correctional facilities, psychiatric  
37 facilities, public housing projects as defined in subsection (b) of section  
38 21a-278a or classrooms where demonstration smoking is taking place  
39 as part of a medical or scientific experiment or lesson.]

40 (b) (1) Notwithstanding the provisions of section 31-40q, as  
41 amended by this act, no person shall smoke: (A) In any building or  
42 portion of a building owned and operated or leased and operated by  
43 the state or any political subdivision thereof; (B) in any area of a health  
44 care institution; (C) in any area of a retail food store; (D) in any  
45 restaurant; (E) in any area of an establishment with a permit issued for  
46 the sale of alcoholic liquor pursuant to sections 30-20a, 30-21, 30-21b,  
47 30-22, 30-22a, 30-22c, 30-23, 30-26, 30-28, 30-28a, 30-33a, 30-33b, 30-35a,  
48 30-37a, 30-37c, 30-37e or 30-37f; (F) within a school building while

49 school is in session or student activities are being conducted; (G) in any  
50 passenger elevator, provided no person shall be arrested for violating  
51 this subsection unless there is posted in such elevator a sign which  
52 indicates that smoking is prohibited by state law; or (H) in any  
53 dormitory in any public or private institution of higher education. For  
54 purposes of this subsection, "restaurant" means space, in a suitable and  
55 permanent building, kept, used, maintained, advertised and held out  
56 to the public to be a place where meals are regularly served to the  
57 public.

58 (2) This section shall not apply to (A) correctional facilities; (B)  
59 designated smoking areas in psychiatric facilities; (C) public housing  
60 projects, as defined in subsection (b) of section 21a-278a; (D)  
61 classrooms where demonstration smoking is taking place as part of a  
62 medical or scientific experiment or lesson; (E) notwithstanding the  
63 provisions of subparagraph (E) of subdivision (1) of this subsection, an  
64 establishment with a club permit pursuant to section 30-23 that  
65 employs fewer than five persons who are not members of the club; (F)  
66 smoking rooms provided by employers for employees, pursuant to  
67 section 31-40q, as amended by this act; (G) notwithstanding the  
68 provisions of subparagraph (E) of subdivision (1) of this subsection,  
69 the outdoor portion of the premises of any permittee listed in  
70 subparagraph (E) of subdivision (1) of this subsection, provided, in the  
71 case of any seating area maintained for the service of food, at least  
72 seventy-five per cent of the outdoor seating capacity is an area in  
73 which smoking is prohibited and which is clearly designated with  
74 written signage as a nonsmoking area except that any temporary  
75 seating area established for special events and not used on a regular  
76 basis shall not be subject to the smoking prohibition or signage  
77 requirements of this subparagraph; or (H) any tobacco bar, provided  
78 no tobacco bar shall expand in size or change its location from its size  
79 or location as of December 31, 2002. For purposes of this subdivision,  
80 "outdoor" means an area which has no roof or other ceiling enclosure,  
81 "tobacco bar" means an establishment with a permit for the sale of  
82 alcoholic liquor to consumers issued pursuant to chapter 545 that, in

83 the calendar year ending December 31, 2002, generated ten per cent or  
84 more of its total annual gross income from the on-site sale of tobacco  
85 products and the rental of on-site humidors, and "tobacco product"  
86 means any substance that contains tobacco, including, but not limited  
87 to, cigarettes, cigars, pipe tobacco or chewing tobacco.

88 (c) The operator of a hotel, motel or similar lodging may allow  
89 guests to smoke in not more than twenty-five per cent of the rooms  
90 offered as accommodations to guests.

91 ~~[(c)]~~ (d) In each room, elevator, area or building in which smoking is  
92 prohibited by this section, the person in control of the premises shall  
93 post or cause to be posted in a conspicuous place signs stating that  
94 smoking is prohibited by state law. Such signs, except in elevators,  
95 restaurants, establishments with permits to sell alcoholic liquor to  
96 consumers issued pursuant to chapter 545, hotels, motels or similar  
97 lodgings, and health care institutions, shall have letters at least four  
98 inches high with the principal strokes of letters not less than one-half  
99 inch wide.

100 ~~[(d)]~~ (e) Any person found guilty of smoking in violation of this  
101 section, failure to post signs as required by this section or the  
102 unauthorized removal of such signs shall have committed an  
103 infraction.

104 ~~[(e)]~~ (f) Nothing in this section shall be construed to require any  
105 smoking area in any building.

106 ~~[(f)]~~ (g) The provisions of this section shall supersede and preempt  
107 the provisions of any municipal law or ordinance relative to smoking  
108 effective prior to, on or after October 1, 1993.

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

111 (a) As used in this section:

112 (1) "Person" means one or more individuals, partnerships,

113 associations, corporations, limited liability companies, business trusts,  
114 legal representatives or any organized group of persons.

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

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

119 (4) "Business facility" means a structurally enclosed location or  
120 portion thereof at which [twenty or more] employees perform services  
121 for their employer. The term "business facility" shall not include  
122 facilities listed in subparagraphs (A), (C), (E), or (H) of subdivision (2)  
123 of subsection (b) of section 19a-342, as amended by this act.

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

126 (b) Each employer with fewer than five employees in a business  
127 facility shall establish one or more work areas, sufficient to  
128 accommodate nonsmokers who request to utilize such an area, within  
129 each business facility under his control, where smoking is prohibited.  
130 The employer shall clearly designate the existence and boundaries of  
131 each nonsmoking area by posting signs which can be readily seen by  
132 employees and visitors. In the areas within the business facility where  
133 smoking is permitted, existing physical barriers and ventilation  
134 systems shall be used to the extent practicable to minimize the effect of  
135 smoking in adjacent nonsmoking areas. [Nothing in this section may  
136 be construed to prohibit an employer from designating an entire  
137 business facility as a nonsmoking area.

138 (c) The Labor Commissioner may exempt any employer from the  
139 provisions of this section if he finds that (1) the employer made a good  
140 faith effort to comply with the provisions of this section and (2) any  
141 further requirement to so comply would constitute an unreasonable  
142 financial burden on the employer.]

143 (c) (1) Each employer with five or more employees shall prohibit  
144 smoking in any business facility under said employer's control, except  
145 that an employer may designate one or more smoking rooms.

146 (2) Each employer that provides a smoking room pursuant to this  
147 subsection shall provide sufficient nonsmoking break rooms for  
148 nonsmoking employees.

149 (3) Each smoking room designated by an employer pursuant to this  
150 subsection shall meet the following requirements: (A) Air from the  
151 smoking room shall be exhausted directly to the outside by an exhaust  
152 fan, and no air from such room shall be recirculated to other parts of  
153 the building; (B) the employer shall comply with any ventilation  
154 standard adopted by (i) the Commissioner of Labor pursuant to  
155 chapter 571, (ii) the United States Secretary of Labor under the  
156 authority of the Occupational Safety and Health Act of 1970, as from  
157 time to time amended, or (iii) the federal Environmental Protection  
158 Agency; (C) such room shall be located in a nonwork area, where no  
159 employee, as part of his or her work responsibilities, is required to  
160 enter, except such work responsibilities shall not include any custodial  
161 or maintenance work carried out in the smoking room when it is  
162 unoccupied; and (D) such room shall be for the use of employees only.

163 (d) Nothing in this section may be construed to prohibit an  
164 employer from designating an entire business facility as a nonsmoking  
165 area.

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

168 (a) No employer or agent of any employer shall require, as a  
169 condition of employment, that any employee or prospective employee  
170 refrain from smoking or using tobacco products outside the course of  
171 his employment, or otherwise discriminate against any individual with  
172 respect to compensation, terms, conditions or privileges of  
173 employment for smoking or using tobacco products outside the course  
174 of his employment, provided any nonprofit organization or

175 corporation whose primary purpose is to discourage use of tobacco  
176 products by the general public shall be exempt from the provisions of  
177 this section.

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

184 Sec. 4. (*Effective October 1, 2003*) Section 31-40r of the general statutes  
185 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>