



General Assembly

January Session, 2005

**Committee Bill No. 5138**

LCO No. 3146

\*03146HB05138GL\_\*

Referred to Committee on General Law

Introduced by:

(GL)

**AN ACT CONCERNING SMOKING IN CERTAIN ESTABLISHMENTS.**

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

1 Section 1. (NEW) (*Effective October 1, 2005*) For the purposes of  
2 sections 2 to 5, inclusive, of this act, "designated smoking area" means  
3 a separate area of no more than fifty per cent of the square footage of a  
4 restaurant, bowling establishment, cafe or tavern permit premises  
5 having: (1) Either a physical barrier or an air barrier system that creates  
6 an air curtain to prevent drift or penetration of tobacco smoke from a  
7 smoking area to a nonsmoking area; and (2) an air ventilation and  
8 purification system that has the capacity of an electrically powered  
9 hospital grade HEPA Media Filter that cleans all the air in a designated  
10 smoking area at the minimum of the American Lung Association's  
11 standards and the commercial air cleaner manufacturers'  
12 recommended range of six to ten air changes per hour and filters not  
13 less than ninety-five per cent of three-tenths micron particulates  
14 efficiency, including dust, pollen, mold spores, bacteria, tobacco smoke  
15 and allergens and not less than ninety-five per cent removal of gases,  
16 vapors, volatile organic compounds and odor.

17 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) Notwithstanding the  
18 provisions of section 19a-342 of the general statutes, a restaurant  
19 permittee, as described in section 30-22 of the general statutes, bowling  
20 establishment permittee, as described in section 30-37c of the general  
21 statutes, cafe permittee, as described in section 30-22a of the general  
22 statutes or tavern permittee, as described in section 30-26 of the  
23 general statutes, may permit smoking in designated smoking areas if  
24 such permittee obtains a smoking permit from the Commissioner of  
25 Consumer Protection to allow smoking in such areas.

26 (b) The Commissioner of Consumer Protection may issue a smoking  
27 permit to a restaurant, bowling establishment, cafe or tavern to allow  
28 smoking (1) in a designated smoking area; or (2) on the entire permit  
29 premises, if (A) the permit premises has less than two thousand square  
30 feet of space available for use by the public, (B) its food sales represent  
31 thirty per cent or less of its gross sales, and (C) it has an air purification  
32 and ventilation system that has the capacity of an electrically powered  
33 hospital grade HEPA Media Filter that cleans all the air in a designated  
34 smoking area at the minimum of the American Lung Association's  
35 standards and the commercial air cleaner manufacturers'  
36 recommended range of six to ten air changes per hour and filters not  
37 less than ninety-five per cent of three-tenths micron particulates  
38 efficiency, including dust, pollen, mold spores, bacteria, tobacco smoke  
39 and allergens and not less than ninety-five per cent removal of gases,  
40 vapors, volatile organic compounds and odor.

41 (c) Upon application or renewal of its liquor permit, a restaurant,  
42 bowling establishment, cafe or tavern that has a designated smoking  
43 area or that allows smoking pursuant to subdivision (2) of subsection  
44 (b) of this section shall provide the Department of Consumer  
45 Protection with proof that the air barrier system and air ventilation  
46 and purification system for the designated smoking area are operating  
47 and being maintained.

48 (d) The annual fee for a smoking permit shall be two hundred fifty

49 dollars.

50 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) A restaurant permittee,  
51 bowling establishment permittee, cafe permittee or tavern permittee  
52 with a smoking permit issued pursuant to subdivision (1) of subsection  
53 (b) of section 2 of this act shall provide access to restrooms through the  
54 nonsmoking area of the premises. Smoking shall be prohibited in such  
55 restrooms.

56 (b) Any restaurant permittee, bowling establishment permittee, cafe  
57 permittee or tavern permittee with a smoking permit shall  
58 conspicuously post, at all entrances, a two foot by three foot sign  
59 stating: "SMOKING IS PERMITTED IN DESIGNATED AREAS IN  
60 THIS ESTABLISHMENT".

61 Sec. 4. (NEW) (*Effective October 1, 2005*) (a) On and after October 1,  
62 2005, any restaurant permittee, bowling establishment permittee, cafe  
63 permittee or tavern permittee with a designated smoking area shall  
64 allow its employees the option of working only in the nonsmoking  
65 portion of the establishment. Such permittee who fails to allow such  
66 option shall be subject to a civil penalty of two thousand dollars for  
67 each offense. After any such third offense, such permittee shall be  
68 subject to the revocation of such liquor permit by the Department of  
69 Consumer Protection, pursuant to section 30-47 of the general statutes.

70 (b) On and after October 1, 2005, any restaurant permittee, bowling  
71 establishment permittee, cafe permittee or tavern permittee with a  
72 smoking permit shall inform prospective employees that such  
73 permittee has a smoking permit and that the second-hand smoke  
74 within the permit premises may be harmful to such prospective  
75 employee's health. Such permittee shall require each new and existing  
76 employee to sign a statement that such employee has been so  
77 informed.

78 (c) Any restaurant permittee, bowling establishment permittee, cafe  
79 permittee or tavern permittee with a smoking permit for a designated

80 smoking area shall post a sign in a conspicuous location within the  
81 permit premises notifying employees of their right to work in a  
82 nonsmoking environment in a permit premises with designated  
83 smoking areas.

84 Sec. 5. (NEW) (*Effective October 1, 2005*) The Department of  
85 Consumer Protection, as part of its routine inspections of permit  
86 premises, shall inspect the air barrier system and air ventilation and  
87 purification system required in a designated smoking area of a  
88 restaurant permittee, bowling establishment permittee, cafe permittee  
89 or tavern permittee that holds a smoking permit pursuant to section 2  
90 of this act. The department shall determine if such systems are  
91 operating and are being maintained within the manufacturer's  
92 required maintenance schedules. The department shall also inspect  
93 maintenance logs kept by such permittees. Failure to pass three such  
94 routine inspections of permit premises shall result in a two-thousand-  
95 dollar civil penalty.

96 Sec. 6. Subsection (b) of section 30-6a of the general statutes is  
97 repealed and the following is substituted in lieu thereof (*Effective*  
98 *October 1, 2005*):

99 (b) More specifically, with respect to part V of this chapter, the  
100 Department of Consumer Protection may adopt regulations, in  
101 accordance with the provisions of chapter 54, [regulations] that are  
102 necessary to (1) carry out the purposes of section 30-64 and prevent the  
103 circumvention thereof by the offering or giving of any rebate,  
104 allowance, free goods, discount or any other thing or service of value;  
105 (2) permit the withdrawal of, an addition to, a deletion from or an  
106 amendment of any schedule, or a modification of prices therein, when  
107 not inconsistent with the purposes of said section 30-64, whenever  
108 necessary to avoid practical difficulties or unnecessary hardships to  
109 any permittee affected by said section 30-64 or because of acts or  
110 circumstances beyond the control of such permittee and under such  
111 terms and conditions as are necessary to carry out the purposes of said

112 section 30-64; (3) permit the sale by a retailer of a brand of alcoholic  
113 liquor or wine for which a schedule of suggested consumer resale  
114 prices has not been and cannot be filed, whenever necessary to avoid  
115 practical difficulties or unnecessary hardships to any permittee  
116 affected by said section or because of acts or circumstances beyond the  
117 control of such permittee, and under such terms and conditions as are  
118 necessary to carry out the purposes of said section 30-64; (4) subject to  
119 the provisions of section 30-63e, permit the closeout of a brand for the  
120 purpose of discontinuing its sale, under such terms and conditions as  
121 are necessary to carry out the purposes of said section 30-64; (5) carry  
122 out the purposes of sections 30-68k to 30-68m, inclusive, and section  
123 30-76a and prevent their circumvention; (6) on verified application,  
124 and for good cause shown, permit any adjustment or change of any  
125 item on the schedule required to be filed under section 30-63 and said  
126 section 30-64; [and] (7) permit the sale at a price which is less than cost  
127 by a supplier, wholesaler or retailer for any item of alcoholic liquor,  
128 except beer, that is damaged or deteriorated in quality, or, subject to  
129 the provisions of section 30-63f, permit the closeout of a brand or size  
130 for the purpose of discontinuing its sale, under such terms and  
131 conditions as are necessary to carry out the purposes of sections 30-68k  
132 to 30-68m, inclusive, and section 30-76a; and (8) carry out the purposes  
133 of sections 1 to 5, inclusive, of this act.

134 Sec. 7. Subsection (a) of section 31-40q of the general statutes is  
135 repealed and the following is substituted in lieu thereof (*Effective*  
136 *October 1, 2005*):

137 (a) As used in this section:

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

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

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

145 (4) "Business facility" means a structurally enclosed location or  
146 portion thereof at which employees perform services for their  
147 employer. The term "business facility" does not include: (A) Facilities  
148 listed in subparagraph (A), (C) or (G) of subdivision (2) of subsection  
149 (b) of section 19a-342; (B) any establishment with a permit for the sale  
150 of alcoholic liquor pursuant to section 30-23 issued on or before May 1,  
151 2003; (C) for any business that is engaged in the testing or  
152 development of tobacco or tobacco products, the areas of such business  
153 designated for such testing or development; or (D) during the period  
154 from October 1, 2003, to [April 1, 2004] October 1, 2005, establishments  
155 with a permit issued for the sale of alcoholic liquor pursuant to section  
156 30-22a or 30-26 or the bar area of a bowling establishment holding a  
157 permit pursuant to subsection (a) of section 30-37c.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	New section
Sec. 6	<i>October 1, 2005</i>	30-6a(b)
Sec. 7	<i>October 1, 2005</i>	31-40q(a)

**Statement of Purpose:**  
To allow smoking in certain establishments.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: REP. GREENE, 105th Dist.; REP. DELGOBBO, 70th Dist.  
REP. D'AMELIO, 71st Dist.; REP. WILLIAMS, 68th Dist.