

The Nebraska Clean Indoor Air Act

Effective July 16, 2004

The latest change made in-home day cares smoke free while client's children are at the day care - in section 71-5707 paragraph (3).

If you have any questions about this law or any tobacco or smoking issue, please contact GASP of NE, Inc. - the Group to Alleviate Smoking Pollution, through the contact page on our website at www.SmokeFreeNebraska.org.

**71-5701
Act, how cited.**

Sections 71-5701 to 71-5713 may be cited as the Nebraska Clean Indoor Air Act.

Source:
Laws 1979, LB 344, § 1.

**71-5702
Purpose of sections.**

The purpose of sections 71-5701 to 71-5713 is to protect the public health, comfort, and environment by prohibiting smoking in public places and at public meetings except in designated smoking areas.

Source:
Laws 1979, LB 344, § 2.

**71-5703
Definitions, where found.**

For purposes of sections 71-5701 to 71-5713, unless the context otherwise requires, the definitions found in sections 71-5704 to 71-5706 shall be used.

Source:
Laws 1979, LB 344, § 3.

**71-5704
Public place, defined.**

Public place shall mean any enclosed, indoor area used by the general public or serving as a place of work, including, but not limited to, restaurants, retail stores, offices and other commercial establishments, public conveyances, educational facilities, hospitals, nursing homes, auditoriums, arenas, and meeting rooms, but excluding private, enclosed offices occupied exclusively by smokers even though such offices may be visited by nonsmokers.

Source:

Laws 1979, LB 344, § 4.

71-5705

Public meeting, defined.

Public meeting shall mean all meetings as defined in the Open Meetings Act.

Source:

Laws 1979, LB 344, § 5; Laws 2004, LB 821, § 19.
Effective date July 16, 2004.

Cross Reference:

Open Meetings Act, see section 84-1407.

71-5706

Smoking, defined.

Smoking shall mean carrying a lighted cigar, cigarette, pipe, or any other lighted smoking equipment.

Source:

Laws 1979, LB 344, § 6.

71-5707

Smoking; designated areas; exceptions.

(1) No person shall smoke in a public place or at a public meeting except in designated smoking areas. This subsection does not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of such room or hall.

(2) With respect to factories, warehouses, and similar places of work not usually frequented by the general public, the Department of Health and Human Services Regulation and Licensure shall, in consultation with the Department of Labor, establish rules to restrict or prohibit smoking in those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employees.

(3) No person shall smoke at a site where child care programs required to be licensed under section 71-1911 are provided. This subsection applies to a child care program located in the home of the provider only during times one or more client's children are present in any part of the home.

(4) Smoking is prohibited in all vehicles owned or leased by the state and in all buildings, and the area within ten feet of any entrance of such buildings, which are owned, leased, or occupied by the state except as provided in subsections (5), (6), and (7) of this section.

(5) The following buildings or areas within buildings in which persons reside or lodge may be exempt from this section:

(a) Nebraska veterans homes established pursuant to section 80-315; (b) private residences; (c) facilities and institutions under the control of the Department of Health and Human Services; and (d) overnight lodging facilities and buildings managed by the Game and Parks Commission, but no more than twenty-five percent of the overnight lodging facilities at each park location shall permit smoking.

(6) Designated smoking areas not to exceed fifty percent of the space used by the public may be established in state-owned buildings at the Nebraska State Fairgrounds that possess a Class C, I, or M license for the sale of alcoholic liquor for consumption on the premises under the Nebraska Liquor Control Act.

(7) Smoking may be permitted in no more than forty percent of the residential housing rooms or units owned or leased on each campus under the control of the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges.

Source:

Laws 1979, LB 344, § 7; Laws 1996, LB 1044, § 732;
Laws 1999, LB 211, § 1; Laws 2000, LB 1115, § 85;
Laws 2004, LB 1005, § 109.
Operative date July 16, 2004.

Cross References:

Nebraska Liquor Control Act, see section 53-101.
Violation of section, penalty, see section 71-5712.

71-5708

Smoking areas; designation; by whom; exception.

Smoking areas may be designated by proprietors or other persons in charge of public places, except in places in which smoking is prohibited by the State Fire Marshal or by other law, ordinance, or regulation.

Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to minimize the toxic effect of smoke in adjacent nonsmoking areas. If a public place consists of a single room, one side of the room shall be reserved and posted as a no smoking area. No public place other than a bar or restaurant having a serving area of less than twelve hundred square feet shall be designated as a smoking area in its entirety. If a bar or restaurant having a serving area of less than twelve hundred square feet is designated as a smoking area in its entirety, such designation shall be posted conspicuously on all entrances normally used by the public.

Source:

Laws 1979, LB 344, § 8.

71-5709

Proprietor; public place; duty to prevent smoking.

The proprietor or other person in charge of a public place shall make reasonable efforts to prevent smoking and minimize the presence of environmental tobacco smoke in all nonsmoking areas of such place by:

- (1) Posting appropriate signs;
- (2) Arranging seating to provide a nonsmoking area;
- (3) Asking smokers to refrain from smoking in the nonsmoking area; or
- (4) Any other appropriate means.

Source:

Laws 1979, LB 344, § 9; Laws 2003, LB 45, § 1.

71-5710

Department of Health and Human Services Regulation and Licensure; rules and regulations.

The Department of Health and Human Services Regulation and Licensure shall, not later than January 1, 1980, adopt and promulgate rules and regulations necessary and reasonable to implement the provisions of sections 71-5701 to 71-5713. The Department of Health and Human Services Regulation and Licensure shall consult with interested persons and professional organizations before promulgating such rules and regulations.

Source:

Laws 1979, LB 344, § 10; Laws 1996, LB 1044, § 733.

71-5711

Department of Health and Human Services Regulation and Licensure; waiver of requirements; when.

The Department of Health and Human Services Regulation and Licensure may, upon request, waive the provisions of sections 71-5701 to 71-5713 if it determines there are compelling reasons to do so and a waiver will not significantly affect the health and comfort of nonsmokers.

Source:

Laws 1979, LB 344, § 11; Laws 1996, LB 1044, § 734.

71-5712

Violation; penalty.

Any person who violates section 71-5707 shall be guilty of a Class V misdemeanor.

Source:

Laws 1979, LB 344, § 12.

71-5713

Violation; action to enjoin; report.

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

Source:

Laws 1979, LB 344, § 13; Laws 1996, LB 1044, § 735;
Laws 2003, LB 45, § 2.