
A BILL FOR AN ACT

RELATING TO SMOKING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 328J-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "open to the public" to
3 read as follows:

4 "Open to the public" means enclosed or partially enclosed
5 areas to which the public is invited or permitted and areas
6 within any building available for use by or accessible to the
7 general public during the normal course of business conducted
8 therein by either private or public entities, including but not
9 limited to [~~bars,~~] educational facilities, financial
10 institutions, health care facilities, hotel and motel lobbies,
11 lanais, laundromats, public transportation facilities, including
12 airport areas from curb to cabin and including all areas within
13 and immediately in front of and adjacent to passenger terminals
14 and pick-up areas, throughout the airport facility, and up to
15 the passenger loading gates of all state airports, reception
16 areas, [~~restaurants,~~] retail food production and marketing
17 establishments, retail service establishments, retail stores,
18 shopping malls, sports arenas, theaters, and waiting rooms, but



1 does not include a private residence unless it is used as a
2 child care, adult day care, or health care facility."

3 SECTION 2. Section 328J-3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§~~328J-3~~§~~ **Prohibition in enclosed or partially**
6 **enclosed places open to the public.** Smoking shall be prohibited
7 in all enclosed or partially enclosed areas open to the public,
8 including but not limited to the following places:

- 9 (1) Airports and public transportation facilities and
10 vehicles, including buses and taxicabs, under the
11 authority of the State or county, and ticket,
12 boarding, and waiting areas of public transit depots,
13 including airports from curb to cabin and including
14 all areas within and immediately in front of and
15 adjacent to passenger terminals and pick-up areas,
16 throughout the airport facility, and up to the
17 passenger loading gates of all state airports;
- 18 (2) Aquariums, galleries, libraries, and museums;
- 19 (3) Areas available to and customarily used by the general
20 public, including but not limited to restrooms,
21 lobbies, reception areas, hallways, and other common
22 areas, in businesses and nonprofit entities patronized



- 1 by the public, including but not limited to
2 professional offices, banks, laundromats, hotels, and
3 motels;
- 4 [~~(4)~~] ~~Bars;~~
- 5 ~~(5)~~] (4) Bowling alleys;
- 6 [~~(6)~~] (5) Convention facilities;
- 7 [~~(7)~~] (6) Educational facilities, both public and private;
- 8 [~~(8)~~] (7) Elevators;
- 9 [~~(9)~~] (8) Facilities primarily used for exhibiting a motion
10 picture, stage, drama, lecture, musical recital, or
11 other similar performance, except when part of the
12 performance;
- 13 [~~(10)~~] (9) Health care facilities;
- 14 [~~(11)~~] (10) Hotel and motel lobbies, meeting rooms, and
15 banquet facilities;
- 16 [~~(12)~~] (11) Licensed child care and adult day care
17 facilities;
- 18 [~~(13)~~] (12) Lobbies, hallways, and other common areas in
19 apartment buildings, condominiums, retirement
20 facilities, nursing homes, multifamily dwellings, and
21 other multiple-unit residential facilities;
- 22 [~~(14)~~] ~~Nightclubs;~~



- 1 ~~(15)~~ (13) Polling places;
- 2 [~~(16)~~ Restaurants;
- 3 ~~(17)~~ (14) Retail stores;
- 4 [~~(18)~~ (15) Rooms, chambers, places of meeting or public
- 5 assembly under the control of an agency, board,
- 6 commission, committee or council of the State or
- 7 county, to the extent the place is subject to the
- 8 jurisdiction of the State or county;
- 9 [~~(19)~~ (16) Service lines; and
- 10 [~~(20)~~ (17) Shopping malls."

11 SECTION 3. Section 328J-7, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "[~~§~~328J-7~~§~~] **Exceptions.** Notwithstanding any other
 14 provision of this chapter to the contrary, the following areas
 15 shall be exempt from the provisions of sections 328J-3, 328J-4,
 16 and 328J-5:

- 17 (1) Private residences, except when used as a licensed
- 18 child care, adult day care, or health care facility;
- 19 (2) Hotel and motel rooms that are rented to guests and
- 20 are designated as smoking rooms; provided that not
- 21 more than twenty per cent of rooms rented to guests in
- 22 a hotel or motel may be so designated. All smoking



1 rooms on the same floor shall be contiguous and smoke
2 from these rooms shall not infiltrate into areas where
3 smoking is prohibited under this chapter. The status
4 of rooms as smoking or nonsmoking may not be changed,
5 except to add additional nonsmoking rooms;

6 (3) Retail tobacco stores; provided that smoke from these
7 places shall not infiltrate into areas where smoking
8 is prohibited under this chapter;

9 (4) Private and semiprivate rooms in nursing homes and
10 long-term care facilities that are occupied by one or
11 more persons, all of whom are smokers and have
12 requested in writing to be placed in a room where
13 smoking is permitted; provided that smoke from these
14 places shall not infiltrate into areas where smoking
15 is prohibited under this chapter;

16 (5) Outdoor areas of places of employment except those
17 covered by the provisions of sections 328J-3 and
18 328J-5;

19 (6) All areas covered by this chapter when smoking is part
20 of a production being filmed; [~~and~~]

21 (7) Bars, nightclubs, and restaurants; provided that a
22 clearly legible sign with letters of not less than one



1 inch in height is displayed outside the premises
 2 warning the public that the establishment permits
 3 smoking within the premises; and
 4 [~~7~~] (8) State correctional facilities."

5 SECTION 4. Statutory material to be repealed is bracketed
 6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.
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INTRODUCED BY: Callan Meyer
Tom Brown
Cindy Evans
Rider T.F. Cabonilla
Karen Luana
Joe Ward

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Report Title:

Smoking Law; Bars, Nightclubs and Restaurants; Exemption

Description:

Exempts bars, nightclubs, and restaurants from the smoking law, provided that exterior signage adequately warns the public and potential customers that smoking is allowed within.

