

ACT 215

H.B. NO. 3673

A Bill for an Act Relating to Smoking in Public Places.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 328K-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read:

““Cruise ship” means any boat, ship, catamaran, windjammer, or other type of vessel used for a commercial, business, or purpose other than solely recreational or pleasure, operating within the jurisdictional waters of the State of Hawaii, licensed by the department of health to operate as a food-service establishment, and which serves food or meals during the course of its operation, that is nonincidental to the consumption of alcoholic beverages.”

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

“§328K-2 Prohibition in certain places open to the public. Except as otherwise provided in this part, smoking shall be prohibited in the following places within the State:

- (1) Elevators in buildings open to and used by the public, including elevators in apartment and other multiunit residential buildings;
- (2) Semiprivate rooms, wards, waiting rooms, lobbies, and public hallways of public and private health care facilities, including, but not limited to, hospitals, clinics, and physicians' and dentists' offices. Smoking shall be permitted in a private room or in a semiprivate room when there is no objection by any patient occupying such room;
- (3) Restaurants.
 - (A) All restaurants shall provide nonsmoking areas which are reasonably proportionate to the preference of the users and so located as to obtain the maximum effect of existing physical barriers and ventilation systems, and seating arrangements, to minimize the toxic effect of smoke in adjacent nonsmoking areas; provided no fixed structural or other physical modifications of the restaurant shall be required; and
 - (B) Nothing in this paragraph shall prevent a proprietor or person in charge of a facility from designating the entire restaurant as a nonsmoking area. Owners or proprietors of restaurants may expand or contract the size of designated nonsmoking areas to meet the requirements of their patrons;
- (4) Any room which is used primarily for exhibiting any motion picture, stage drama, dance, musical performance, or other similar performance during the time that the room is open to the public for such performance;
- (5) Museums, libraries, and galleries;
- (6) The following facilities or areas in state or county owned or controlled buildings:
 - (A) Meeting or conference rooms;
 - (B) Auditorium or sports areas that are enclosed;
 - (C) Community centers where persons may gather for meetings, parties, or any other purpose where the area is enclosed;
 - (D) Waiting areas, baggage claim areas, and check-in counters within buildings in all state airports; and
 - (E) All areas open to the public, including service counters and reception or waiting areas;
- (7) Except as otherwise provided in this section, all areas open to the public in the following business establishments:
 - (A) Banks;
 - (B) Credit unions;
 - (C) Financial services loan companies;
 - (D) Retail stores; and
 - (E) Savings and loan associations;
- (8) Any restroom open to the public;
- (9) Taxicabs, when carrying nonsmoking passengers; [and]
- (10) Cruise ships. The dining area of all cruise ships shall include a nonsmoking area which is reasonably proportionate to the preference of the users and so located as to obtain the maximum effect of existing physical barriers and ventilation systems, and seating arrangements, to minimize the toxic effect of smoke; provided no fixed structural

or other physical modifications of the cruise ship shall be required. This paragraph shall not apply to any cruise ship that does not serve any food or meals during its course of operation, or where the service of food is only incidental to the consumption of alcoholic beverages; and

- [(10)] (11) Notwithstanding the exceptions stated in section 328K-3, any area open to the public which has been designated by the person having control of the area as a nonsmoking area and marked with a “no smoking” sign.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 12, 1992.)