

AMENDMENTS TO INDOOR CLEAN AIR ACT

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

LONG TITLE

General Description:

This bill amends the Indoor Clean Air Act to remove the exemption for private clubs and taverns.

Highlighted Provisions:

This bill:

- ▶ removes the exemption for private clubs and taverns from the Indoor Clean Air Act;
 - ▶ repeals the section of the Indoor Clean Air Act that grandfathered adjoining private clubs and public places that shared ventilation systems and were built prior to 1995;
- and
- ▶ makes technical amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-38-3, as enacted by Chapter 281, Laws of Utah 1994

26-38-8, as enacted by Chapter 281, Laws of Utah 1994

REPEALS:

26-38-4, as enacted by Chapter 281, Laws of Utah 1994



28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **26-38-3** is amended to read:

30 **26-38-3. Restriction on smoking in public places and in specified places --**

31 **Exceptions.**

32 (1) ~~§ [Smoking]~~ EXCEPT AS PROVIDED IN SUBSECTION (2), SMOKING § is prohibited § :

32a (a) § in all enclosed indoor places of public access and publicly

33 owned buildings and offices ~~§ [, except under Subsection (2)]~~ ; AND

33a (b) IN PRIVATE CLUBS AS DEFINED IN SECTION 26-38-2 § .

34 (2) Subsection (1) does not apply to:

35 (a) (i) any building owned, rented, leased, or otherwise operated by a social, fraternal,
36 or religious organization when used solely by the organization members or their guests or
37 families; or

38 (ii) any facility rented or leased for private functions from which the general public is
39 excluded and arrangements for the function are under the control of the function sponsor;

40 (b) workplace smoking areas as provided in Section 26-38-5;

41 (c) areas not commonly open to the public of owner-operated businesses having no
42 employees other than the owner-operator;

43 (d) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other
44 similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas
45 of these facilities, including dining areas and lobby areas; and

46 [~~(e) taverns, as defined in Section 32A-1-105;~~]

47 [~~(f) private clubs; and~~]

48 [~~(g)~~] (e) separate enclosed smoking areas:

49 (i) located in the passenger terminals of an international airport located in the city of
50 the first class;

51 (ii) vented directly to the outdoors; and

52 (iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the
53 state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

54 Section 2. Section **26-38-8** is amended to read:

55 **26-38-8. Penalties.**

56 (1) A first violation of Section 26-38-3~~[-26-38-4;]~~ or 26-38-5 is subject to a civil
57 penalty of not more than \$100.

58 (2) Any second or subsequent violation of Section 26-38-3~~[-26-38-4;]~~ or 26-38-5 is

59 subject to a civil penalty of not less than \$100 and not more than \$500.

60 Section 3. **Repealer.**

61 This bill repeals:

62 Section **26-38-4, Adjoining private clubs and public places -- Grandfather**
63 **provisions.**

Legislative Review Note
as of 12-17-04 8:02 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

While no impact is anticipated for state agencies, this bill will impact local health departments, as they are responsible for the enforcement of the Indoor Clean Air Act. Additional staff may be required for needed inspections.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst