

Representative Curtis Oda proposes the following substitute bill:

AMENDMENTS TO INDOOR CLEAN AIR ACT

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael G. Waddoups

House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill amends the Indoor Clean Air Act.

Highlighted Provisions:

This bill:

▶ expands the definition of "public place of access" in which smoking is prohibited to include:

- any tavern licensed after May 15, 2006;
- after January 1, 2010, taverns which are licensed on or before May 15, 2006;
- class C, fine dining private clubs;
- outdoor service lines; and
- playground areas of public parks;

▶ removes the exceptions from the Indoor Clean Air Act for public or private schools or educational facilities; and

- ▶ amends the definition of child care facilities subject to the act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2006.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **26-38-2**, as last amended by Chapter 196, Laws of Utah 1997

29 **26-38-3**, as enacted by Chapter 281, Laws of Utah 1994

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

32 Section 1. Section **26-38-2** is amended to read:

33 **26-38-2. Definitions.**

34 As used in this chapter:

35 (1) "Place of public access" means:

36 (a) any enclosed indoor place of business, commerce, banking, financial service, or
37 other service-related activity, whether publicly or privately owned and whether operated for
38 profit or not, to which persons not employed at the place of public access have general and
39 regular access or which the public uses, including:

40 [~~(a)~~] (i) buildings, offices, shops, elevators, or restrooms;

41 [~~(b)~~] (ii) means of transportation or common carrier waiting rooms;

42 [~~(c)~~] (iii) restaurants, cafes, or cafeterias;

43 [~~(d)~~] (iv) taverns as defined in Section 32A-1-105, or cabarets;

44 [~~(e)~~] (v) shopping malls, retail stores, grocery stores, or arcades;

45 [~~(f)~~] (vi) libraries, theaters, concert halls, museums, art galleries, planetariums,

46 historical sites, auditoriums, or arenas;

47 [~~(g)~~] (vii) barber shops, hair salons, or laundromats;

48 [~~(h)~~] (viii) sports or fitness facilities;

49 [~~(i)~~] (ix) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
50 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
51 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
52 of these;

53 [~~(j)~~] (x) (A) any child care facility or program subject to licensure or certification
54 under this title, including those operated in private homes, when any child cared for under that
55 license is present; and

56 (B) any child care, other than child care as defined in Section 26-39-102, that is not

57 subject to licensure or certification under this title, when any child cared for by the provider,
58 other than the child of the provider, is present;

59 ~~[(k)] (xi) public or private elementary or secondary school buildings and educational~~
60 ~~facilities or the property on which those facilities are located[, but adults may smoke in~~
61 ~~designated smoking areas in private schools or educational facilities or on the grounds of~~
62 ~~private schools or facilities during nonschool hours]; [and]~~

63 ~~[(h)] (xii) any area where the proprietor or manager of the area has posted a~~
64 ~~conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement[-];~~
65 ~~and~~

66 (xiii) any "private club" licensed under Title 32A, Chapter 5, Private Club Liquor
67 Licenses; and

68 (b) the following outdoor places of public access, whether publicly or privately owned
69 and whether operated for profit or not, to which persons at the place of public access have
70 general and regular access or which the public uses:

71 (i) "service lines" which:

72 (A) means any line in which one or more people are waiting for or receiving service of
73 any kind, whether or not the service involves the exchange of money; and

74 (B) includes:

75 (I) lines for automated teller machines, banks, or food; and

76 (II) any area within 25 feet of the service line; and

77 (ii) "playgrounds" which means any area located in a park with public access that is
78 within 25 feet of any equipment or facility intended for use by children while children are
79 present.

80 ~~[(2) "Private club" means a private club licensed under Title 32A, Chapter 5, Private~~
81 ~~Club Liquor Licenses.]~~

82 ~~[(3)] (2) "Publicly owned building or office" means any enclosed indoor place or~~
83 ~~portion of a place owned, leased, or rented by any state, county, or municipal government, or~~
84 ~~by any agency supported by appropriation of, or by contracts or grants from, funds derived~~
85 ~~from the collection of federal, state, county, or municipal taxes.~~

86 ~~[(4)] (3) "Smoking" means the possession of any lighted tobacco product in any form.~~

87 Section 2. Section **26-38-3** is amended to read:

88 **26-38-3. Restriction on smoking in public places and in specified places --**

89 **Exceptions.**

90 (1) ~~[Smoking]~~ Except as provided in Subsection (2), smoking is prohibited;

91 (a) in all enclosed indoor places of public access and publicly owned buildings and
92 offices~~[-except under Subsection (2)-]; and~~

93 (b) in all outdoor places of public access as defined in Subsection 26-38-2(1)(b).

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

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

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

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

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

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

106 (e) taverns, as defined in Section 32A-1-105, that are licensed on or before May 15,
107 2006, until January 1, 2010, after which date, smoking is prohibited in all taverns;

108 (f) class A, B, and D private clubs as defined in Section 32A-5-101, but not a class C,
109 fine dining private club; and

110 (g) separate enclosed smoking areas:

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

113 (ii) vented directly to the outdoors; and

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

116 Section 3. **Effective date.**

117 This bill takes effect on July 1, 2006.