

**HOUSE** \_\_\_\_\_ **AMENDMENT NO.** \_\_\_\_\_

**Offered By**

AMEND Senate Bill No. 38, Page 3, Section 191.950, Line 80, by inserting after all of said section and line the following:

“191.1200. As used in sections 191.1200 to 191.1230, the following terms shall mean:

(1) "Bar", an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages, including but not limited to taverns, nightclubs, cocktail lounges, and cabarets;

(2) "Business", a sole proprietorship, partnership, joint venture, corporation, or other business entity, either for-profit or nonprofit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs;

(3) "Employee", a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a nonprofit entity;

(4) "Employer", a person, business, partnership, association, corporation including a municipal corporation, trust, or nonprofit entity that employs the services of one or more individual persons;

(5) "Enclosed area", all space between a floor and ceiling that is enclosed on all sides by permanent or temporary walls or windows, exclusive of doorways, which extend from the floor to the ceiling;

1 (6) "Health care facility", an office or institution providing care or treatment of diseases,  
2 whether physical, mental, or emotional, or other medical, physiological, or psychological  
3 conditions, including but not limited to hospitals, rehabilitation hospitals, or other clinics,  
4 including weight control clinics, nursing homes, long-term care facilities, homes for the aging or  
5 chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians,  
6 psychiatrists, dentists, and all specialists within such professions. Health care facility includes all  
7 waiting rooms, hallways, private rooms, semiprivate rooms, and wards within such facilities;

8 (7) "Place of employment", an area under the control of a public or private employer that  
9 employees normally frequent during the course of employment, including but not limited to work  
10 areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms,  
11 classrooms, employee cafeterias, hallways, and vehicles. Place of employment does not include a  
12 private residence unless it is used as a child care, adult day care, or health care facility;

13 (8) "Playground", any park or recreational area designed in part to be used by children that  
14 has play or sports equipment installed or that has been designated or landscaped for play or sports  
15 activities, or any similar facility located on public or private school grounds or on city or county  
16 grounds;

17 (9) "Private club", a nonprofit association that:

18 (a) Has been in active and continuous existence as a private club for at least three years  
19 prior to the effective date of this section, whether incorporated or not;

20 (b) Is the owner, lessee, or occupant of a building or portion thereof used exclusively for  
21 club purposes at all times;

22 (c) Is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or  
23 athletic purpose, but not for pecuniary gain; and

24 (d) Only sells alcoholic beverages incidental to its operation.

25  
26 Private club includes an organization that is managed by a board of directors, executive

1 committee, or similar body chosen by the members at an annual meeting, has established bylaws,  
2 a constitution, or both, to govern its activities, and has been granted an exemption from the  
3 payment of federal income taxes as a club under 26 U.S.C. Section 501;

4 (10) "Public place", an enclosed area to which the public is invited or in which the public  
5 is permitted, including but not limited to banks, bars, educational facilities, gaming facilities,  
6 health care facilities, hotels and motels, laundromats, public transportation vehicles and facilities,  
7 reception areas, restaurants, retail food production and marketing establishments, retail service  
8 establishments, retail stores, shopping malls, sports arenas, theaters, and waiting rooms. Public  
9 place does not include a private residence unless it is used as a child care, adult day care, or health  
10 care facility;

11 (11) "Restaurant", an eating establishment, including but not limited to coffee shops,  
12 cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers the sale  
13 of food to the public, guests, or employees, as well as kitchens and catering facilities in which  
14 food is prepared on the premises for serving elsewhere. Restaurant includes a bar area within the  
15 restaurant;

16 (12) "Shopping mall", an enclosed public walkway or hall area that serves to connect  
17 retail or professional establishments;

18 (13) "Smoking", inhaling, exhaling, burning, or carrying any lighted or heated cigar,  
19 cigarette, or pipe in any manner or form;

20 (14) "Sports arena", sports pavilions, stadiums, gymnasiums, health spas, boxing arenas,  
21 swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of  
22 the general public assemble to engage in physical exercise, participate in athletic competition, or  
23 witness sports or other events;

24 (15) "Tobacco retail outlet", a business establishment, the primary purpose of which is the  
25 sale of tobacco, tobacco products, and accessories for such products, that receives no less than  
26 seventy-five percent of its total annual revenues from the sale of tobacco, tobacco products, and

1 accessories for such products, and does not serve food or alcohol on its premises.

2 191.1203. All enclosed facilities, including buildings and vehicles owned, leased, or  
3 operated by governmental entities, shall be subject to the provisions of sections 191.1200 to  
4 191.1230.

5 191.1206. Smoking shall be prohibited in all enclosed public places within the state of  
6 Missouri, including but not limited to the following places:

7 (1) Aquariums, galleries, libraries, and museums;

8 (2) Areas available to and customarily used by the general public in businesses and  
9 nonprofit entities patronized by the public, including but not limited to banks, laundromats,  
10 professional offices, and retail service establishments;

11 (3) Bars;

12 (4) Bingo facilities;

13 (5) Child care and adult day care facilities;

14 (6) Convention facilities;

15 (7) Educational facilities, both public and private;

16 (8) Elevators;

17 (9) Gaming facilities;

18 (10) Health care facilities;

19 (11) At least eighty percent of hotel and motel rooms that are rented to guests;

20 (12) All common areas including lobbies, hallways in apartment buildings,  
21 condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit  
22 residential facilities;

23 (13) Polling places;

24 (14) Private clubs;

25 (15) Public transportation vehicles, including buses, trains, and taxicabs, under the  
26 authority of an agency, board, commission, committee, or a political subdivision of the state, and

1 ticket, boarding, and waiting areas of public transportation facilities, including bus, train, and  
2 airport facilities;

3 (16) All private and semiprivate rooms in nursing homes and long-term care facilities;

4 (17) Restaurants;

5 (18) Retail stores;

6 (19) Rooms, chambers, places of meeting or public assembly, including school buildings,  
7 under the control of an agency, board, commission, committee, or a political subdivision of this  
8 state;

9 (20) Shopping malls;

10 (21) Sports arenas, including enclosed places in outdoor arenas;

11 (22) Theaters and other facilities primarily used for exhibiting motion pictures, stage  
12 dramas, lectures, musical recitals, or other similar performances.

13 191.1209. 1. Smoking shall be prohibited in all enclosed facilities within places of  
14 employment without exception, including common work areas, auditoriums, classrooms,  
15 conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias,  
16 employee lounges, stairs, restrooms, vehicles, and all other enclosed facilities.

17 2. The prohibition in subsection 1 of this section shall be communicated to all existing  
18 employees by the effective date of this section and to all prospective employees upon their  
19 application for employment.

20 191.1212. Smoking shall be prohibited in the following outdoor places:

21 (1) Within a distance of fifteen feet outside entrances, operable windows, and ventilation  
22 systems of enclosed areas where smoking is prohibited, so as to ensure that tobacco smoke does  
23 not enter such areas;

24 (2) In all outdoor arenas, stadiums, and amphitheaters. Smoking shall also be prohibited  
25 in and within fifteen feet of bleachers and grandstands for use by spectators at sporting and other  
26 public events;

1 (3) In and within fifteen feet of all outdoor public transportation stations, platforms, and  
2 shelters; and

3 (4) In and within fifteen feet of outdoor playgrounds.

4 191.1215. Notwithstanding any other provision of law to the contrary, the following areas  
5 shall be exempt from the provisions of sections 191.1200 to 191.1230:

6 (1) Private residences, except when used as a child care, adult day care, or health care  
7 facility, or as otherwise excepted under sections 191.1200 to 191.1230;

8 (2) Tobacco retail outlets;

9 (3) Not more than twenty percent of hotel and motel rooms rented to guests and  
10 designated as smoking rooms. All smoking rooms on the same floor shall be contiguous and  
11 smoke from such rooms shall not infiltrate into areas where smoking is prohibited under sections  
12 191.1200 to 191.1230. The status of rooms as smoking or nonsmoking shall not be changed  
13 except to add additional nonsmoking rooms; and

14 (4) Outdoor areas of places of employment except those otherwise covered under sections  
15 191.1200 to 191.1230.

16 191.1218. 1. No smoking signs or the international no smoking symbol, consisting of a  
17 pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall  
18 be clearly and conspicuously posted in every public place and place of employment where  
19 smoking is prohibited under sections 191.1200 to 191.1230 by the owner, operator, manager, or  
20 other person in control of such place.

21 2. All ashtrays shall be removed from any area where smoking is prohibited under  
22 sections 191.1200 to 191.1230 by the owner, operator, manager, or other person having control of  
23 such area.

24 191.1221. 1. No person or employer shall discharge, refuse to hire, or in any manner  
25 retaliate against an employee, applicant for employment, or customer because such employee,  
26 applicant, or customer exercises any rights afforded under sections 191.1200 to 191.1230, or

1 reports or attempts to prosecute a violation of sections 191.1200 to 191.1230. Any person or  
2 employer who violates this section is guilty of a class A misdemeanor.

3 2. Any employee who works in a setting where an employer allows smoking does not  
4 waive or otherwise surrender any legal rights the employee may have against the employer or any  
5 other party.

6 191.1224. 1. Sections 191.1200 to 191.1230 shall be enforced by the department of  
7 health and senior services or an authorized designee.

8 2. The department of health and senior services, local fire department, or such  
9 departments' designees, shall, while an establishment is undergoing otherwise mandated  
10 inspections, inspect for compliance with sections 191.1200 to 191.1230.

11 3. An owner, manager, operator, or employee of an establishment regulated under sections  
12 191.1200 to 191.1230 shall inform persons in violation of sections 191.1200 to 191.1230 of the  
13 appropriate provisions thereof.

14 4. Notwithstanding any other provision of law, an employee or private citizen may bring  
15 legal action to enforce sections 191.1200 to 191.1230.

16 5. In addition to the remedies provided under this section, the department of health and  
17 senior services or any person aggrieved by the failure of an owner, operator, manager, or other  
18 person in control of a public place or place of employment to comply with the provisions of  
19 sections 191.1200 to 191.1230 may apply for injunctive relief to enforce such provisions in any  
20 court of competent jurisdiction.

21 191.1227. 1. A person who smokes in an area where smoking is prohibited under sections  
22 191.1200 to 191.1230 is guilty of an infraction.

23 2. A person who owns, operates, manages, or otherwise controls a public place or place of  
24 employment and who fails to comply with the provisions of sections 191.1200 to 191.1230 is  
25 subject to the following fines:

26 (1) For a first violation, a fine not to exceed fifty dollars;

1        (2) For a second violation within one year, a fine not to exceed one hundred dollars; and

2        (3) For a third or subsequent violation within one year, a fine not to exceed five hundred  
3 dollars.

4        3. In addition to the fines imposed under this section, a person who owns, operates,  
5 manages, or otherwise controls a public place or place of employment who violates sections  
6 191.1200 to 191.1230 may have any license issued to such person suspended or revoked.

7        4. Each day on which a violation of sections 191.1200 to 191.1230 occurs shall be  
8 considered a separate and distinct violation of sections 191.1200 to 191.1230.

9        191.1230. 1. Sections 191.1200 to 191.1230 shall not be construed or interpreted to  
10 permit smoking where it is otherwise restricted by other applicable laws.

11        2. Nothing in sections 191.1200 to 191.1230 shall prohibit a political subdivision of this  
12 state or a local board of education from enacting more stringent ordinances or rules.

13        3. The provisions of sections 191.1200 to 191.1230 shall become effective January 2,  
14 2012.

15        [191.765. As used in sections 191.765 to 191.773 and section 290.145, RSMo, the  
16 following terms mean:

17        (1) "Bar" or "tavern", any licensed establishment which serves liquor on the  
18 premises for which not more than ten percent of the gross sales receipts of the  
19 business are supplied by food purchases, either for consumption on the premises or  
20 elsewhere;

21        (2) "Other person in charge", the agent of the proprietor authorized to give  
22 administrative directions to and general supervision of the activities within the  
23 public place, work place or public meeting at any given time;

24        (3) "Proprietor", the party who ultimately controls, governs or directs the activities  
25 within the public place, work place or public meeting, regardless of whether he is  
26 the owner or lessor of such place or site. The term does not mean the owner of the  
27 property unless he ultimately controls, governs or directs the activities within the  
28 public place or public meeting. The term "proprietor" shall apply to a corporation  
29 as well as an individual;

30        (4) "Public meeting", a gathering in person of members of a governmental body,  
31 whether an open or closed session, as defined in chapter 610, RSMo;

32        (5) "Public place", any enclosed indoor area used by the general public or serving  
33 as a place of work including, but not limited to:

34        (a) Any retail or commercial establishments;

35        (b) Health care facilities, health clinics or ambulatory care facilities including, but



1 not limited to, laboratories associated with health care treatment, hospitals, nursing  
2 homes, physicians' offices and dentists' offices;  
3 (c) Any vehicle used for public transportation including, but not limited to, buses,  
4 taxicabs and limousines for hire;  
5 (d) Rest rooms;  
6 (e) Elevators;  
7 (f) Libraries, educational facilities, day care facilities, museums, auditoriums and  
8 art galleries;  
9 (g) All public areas and waiting rooms of public transportation facilities including,  
10 but not limited to, bus and airport facilities;  
11 (h) Any enclosed indoor place used for entertainment or recreation including, but  
12 not limited to, gymnasiums, theater lobbies, concert halls, arenas and swimming  
13 pools;  
14 (i) Any other enclosed indoor areas used by the general public including, but not  
15 limited to, corridors and shopping malls;  
16 (6) "Restaurant", any building, structure or area used, maintained or advertised as  
17 or held out to the public to be an enclosure where meals for consideration of  
18 payment are made available to be consumed on the premises;  
19 (7) "Smoking", possession of burning tobacco in the form of a cigarette, cigar,  
20 pipe or other smoking equipment.]

21  
22 [191.767. 1. A person shall not smoke in a public place or in a public meeting  
23 except in a designated smoking area.  
24 2. A smoking area may be designated by persons having custody or control of  
25 public places, except in places in which smoking is prohibited by the fire marshal  
26 or by other law, ordinance or regulation.  
27 3. No public place shall have more than thirty percent of its entire space  
28 designated as a smoking area.  
29 4. A designated smoking area where state employees may smoke during the work  
30 day shall be provided by each state executive department and institution of higher  
31 education, provided such area can be adequately ventilated at minimum cost,  
32 within the physical confines of each facility.  
33 5. A proprietor or other person in charge of a restaurant shall designate an area of  
34 sufficient size to accommodate usual and customary demand for nonsmoking areas  
35 by customers or patrons.]

36  
37 [191.769. The following areas are not considered a public place:  
38 (1) An entire room or hall which is used for private social functions, provided that  
39 the seating arrangements are under the control of the sponsor of the function and  
40 not of the proprietor or other person in charge;  
41 (2) Limousines for hire and taxicabs, where the driver and all passengers agree to  
42 smoking in such vehicle;  
43 (3) Performers on the stage, provided that the smoking is part of the production;  
44 (4) A place where more than fifty percent of the volume of trade or business  
45 carried on is that of the blending of tobaccos or sale of tobaccos, cigarettes, pipes,  
46 cigars or smoking sundries;

(5) Bars, taverns, restaurants that seat less than fifty people, bowling alleys and billiard parlors, which conspicuously post signs stating that "Nonsmoking Areas are Unavailable";  
(6) Private residences; and  
(7) Any enclosed indoor arena, stadium or other facility which may be used for sporting events and which has a seating capacity of more than fifteen thousand persons.]

[191.771. The person having custody or control of a public place or public meeting shall:

- (1) Make reasonable efforts to prevent smoking in the public place or public meeting by posting appropriate signs indicating no-smoking or smoking area and arrange seating accordingly. These signs shall be placed at a height and location easily seen by a person entering the public place or public meeting and not obscured in any way;
- (2) Arrange seating and utilize available ventilation systems and physical barriers to isolate designated smoking areas;
- (3) Make a reasonable request of persons smoking to move to a designated smoking area;
- (4) Allow smoking in designated areas of theater lobbies only.]

[191.773. The following persons shall be guilty of an infraction:

- (1) A person who smokes in those areas where smoking is prohibited pursuant to the provisions of sections 191.765 to 191.773 and section 290.145, RSMo;
- (2) A proprietor or other person in charge of a public place or public meeting who permits, causes, suffers or allows a person to smoke in those areas where smoking is prohibited pursuant to sections 191.765 to 191.773 and section 290.145, RSMo.]

[191.775. No person shall smoke or otherwise use tobacco or tobacco products in any indoor area of a public elementary or secondary school building or educational facility, excluding institutions of higher education, or on buses used solely to transport students to or from school or to transport students to or from any place for educational purposes. Any school board of any school district may set policy on the permissible uses of tobacco products in any other nonclassroom or nonstudent occupant facility, and on the school grounds or outdoor facility areas as the school board deems proper. Any person who violates the provisions of this section shall be guilty of an infraction.]

[191.776. No person shall smoke or otherwise use tobacco products in any area of a child care facility licensed by the department of health and senior services pursuant to the provisions of sections 210.201 to 210.245, RSMo, during the period of time when the children cared for under that license are present. Any person who violates the provisions of this section shall be guilty of an infraction.]

[191.777. Nothing in sections 191.775 and 191.776 shall prohibit local political

1 subdivisions or local boards of education from enacting more stringent ordinances  
2 or rules.]”; and

3

4 Further amend said bill by amending the title, enacting clause, and intersectional references

5 accordingly.