

## THE NEBRASKA SMOKING BAN: HOW WILL IT IMPACT YOUR BUSINESS?

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**O**n February 26, 2008, Governor Dave Heineman signed the Nebraska Clean Indoor Air Act (the "Act"), LB 395, into law. The Act affectionately or not so affectionately designates Nebraska as a Smoke-Free State, thus, grouping Nebraska with the 28 other states that ban smoking in bars, restaurants, workplaces, or some combination of those. Before Governor Heineman signed the Act into law, Nebraska lawmakers approved the ban on a 34-14 vote.

The Act is a statewide ban on smoking in all public buildings and workplaces, including bars and restaurants and will take effect on June 1, 2009. The Act contains only four narrow exemptions:

- private residences, unless being used as licensed child care facilities;
- guest rooms and suites that are rented and designated as smoking;
- areas used for research on the health effects of smoking; and
- retail stores selling only tobacco and products directly related to tobacco.

The Act is patterned after Lincoln's smoking ban, and is considerably tougher than Omaha's existing ordinance which grants exemptions to licensed keno establishments, Horseman's Park, and bars that do not prepare food. However, the new law will supersede all local smoking ordinances, including Omaha and Lincoln, as of June 1, 2009. Cities and towns in Nebraska will have the option to pass stricter ordinances, but the Act will set the minimum standards regarding smoking in public buildings and workplaces. The harshest blow will be dealt to all businesses that are currently exempt from their respective city's smoking ordinances; such businesses will no longer reap the benefits of these exemptions once June 1, 2009, arrives, unless they fit into one of the four exceptions set forth above.

Employers and business owners who fail, neglect, or refuse to comply with the Act will be charged with a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and subsequent offenses. Likewise, any member of the public who smokes in a place of employment or a public place in violation of the Act will also be charged with a Class V misdemeanor for the first offense and a Class IV misdemeanor for the second and subsequent offenses.

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