
DIGEST

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Hoffmann

HB No. 378

Abstract: Prohibits outdoor smoking within 25 feet of certain exterior locations of buildings and other enclosed areas in which smoking is prohibited currently.

Proposed law revises legislative findings in present law relative to protection of nonsmokers from involuntary exposure to secondhand smoke.

Present law, with certain exceptions as provided in present law (R.S. 40:1300.256(B)), prohibits smoking in the following locations:

- (1) Any public building as defined in present law (R.S. 40:1300.253(8)).
- (2) Any school as defined in present law (R.S. 40:1300.253(12)).
- (3) Any public place and in any enclosed area within a place of employment as defined in present law (R.S. 40:1300.253(7) and (9)).

Proposed law retains present law and adds as a location where smoking is prohibited any outdoor area which is within 25 feet of an entrance, or wheelchair ramp or other structure which facilitates access by a disabled person of a building or other enclosed area in which smoking is prohibited by present law.

Proposed law provides that the outdoor smoking prohibition created by proposed law does not apply to any location which is exempted from a prohibition on indoor smoking pursuant to present law.

Proposed law deletes the outdoor area of a place of employment from the listing of locations provided in present law which are exempted from the smoking prohibition.

Present law provides that the owner or manager of a business may post signs prohibiting smoking in an outdoor area, which shall have the effect of making that outdoor area an area in which smoking is prohibited under the provisions of present law. Proposed law revises present law to provide that the owner or manager of a business may post signs prohibiting smoking in an outdoor area of a place of employment at a distance greater than that provided in proposed law, which shall have the effect of making that outdoor area an area in which smoking is prohibited under the provisions of present law and proposed law.

Proposed law retains provision of present law specifying that nothing in present law or proposed law shall be construed to restrict the power of any parish, city, town, or village to adopt and enforce additional local laws, ordinances, or regulations that comply with at least the minimum applicable standards to establish smokefree public places as set forth in present law and proposed law.

Proposed law provides that the areas where smoking is prohibited by proposed law are subject to the requirement of present law (R.S. 40:1300.261) that "no smoking" signs or the international "no smoking" symbol be clearly and conspicuously posted in every place where smoking is prohibited.

Proposed law provides that enforcement of proposed law shall occur in the following manner prescribed in present law (R.S. 40:1300.262(A)):

- (1) Any violation of any prohibition in proposed law or present law may be cited by any law enforcement officer by the issuance of a citation and summons to appear before a court of proper jurisdiction.
- (2) Such citations shall be in a form such that there shall be retained in each book of citations a receipt and each shall have a copy to be deposited by the law enforcement officer with a court having jurisdiction over the alleged offense.
- (3) Upon the deposit of the copy, the court shall notify the alleged violator of the time and place of his hearing or of his opportunity to plead guilty by the payment of his specified fine. Failure to appear, unless the fine is paid, may be punished within the discretion of the court as contempt of court.

Proposed law subjects any violation of proposed law to the following penalties provided in present law (R.S. 40:1300.262(B)):

- (1) Any person who is guilty of a violation of the prohibition in present law or proposed law shall, upon a first offense, be fined \$25.
- (2) Any person who is guilty of violating such prohibition a second time shall be fined \$50.
- (3) Any person who is guilty of violating such prohibition a third or subsequent time shall be fined \$100.
- (4) Any employer who is guilty of a violation of the prohibition in present law or proposed law shall, upon a first offense, be fined \$100.
- (5) Any employer who is guilty of violating such prohibition a second time shall be fined \$250.
- (6) Any employer who is guilty of violating such prohibition a third or subsequent time shall

be fined \$500.

Effective Jan. 1, 2013.

(Amends R.S. 40:1300.252 and 1300.256)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Deleted an operable window and a ventilation system as features of buildings where outdoor smoking would be prohibited within 25 feet thereof.

2. Specified that the outdoor smoking prohibition created by proposed law does not apply to any location which is exempted from a prohibition on indoor smoking pursuant to present law.
3. Made technical changes.