Reprinted
February 29, 2012

ENGROSSED
HOUSE BILL No. 1149

DIGEST OF HB 1149 (Updated February 28, 2012 5:22 pm - DI 110)

Citations Affected: IC 7.1-5; IC 12-7; IC 12-24; IC 16-18; IC 16-41.

Synopsis: Smoking ban. Prohibits smoking: (1) in public places; (2) in enclosed areas of a place of employment; (3) in certain state vehicles; and (4) within 8 feet of a public entrance to a public place or an enclosed area of a place of employment. Allows smoking in certain:
(Continued next page)

Effective: July 1, 2012.

Turner, Brown C, Brown T, Welch, Austin, Bauer, Burton, Candelaria Reardon, Cherry, Clere, Crawford, Crouch, Day, DeLaney, Dembowski, Dobis, Foley, Fry C, GiaQuinta, Harris, Karickhoff, Lawson L, Mahan, Moseley, Moses, Pflum, Pierce, Pryor, Reske, Riecken, Smith M, Smith V, Sullivan, Summers, VanDenburgh
(SENATE SPONSORS — GARD, ALTING, SIMPSON)

January 9, 2012, read first time and referred to Committee on Public Health.
January 12, 2012, amended, reported — Do Pass.
January 27, 2012, read second time, amended, ordered engrossed.
January 30, 2012, engrossed.
January 31, 2012, read third time, passed. Yeas 62, nays 34.

SENATE ACTION
February 1, 2012, read first time and referred to Committee on Public Policy.
February 23, 2012, amended, reported favorably — Do Pass.
February 28, 2012, read second time, amended, ordered engrossed.

C o p y

Digest Continued

(1) gaming facilities; (2) cigar and hookah bars; (3) fraternal, social, and veterans clubs; (4) tobacco stores; (5) bars and taverns; (6) cigar manufacturer facilities; and (7) residential facilities; if certain requirements are met. Allows smoking on: (1) certain premises during a charity gaming event; and (2) premises of a business that is located in the business owner's residence. Requires certain signs to be posted. Requires the alcohol and tobacco commission to enforce this prohibition. Allows certain governmental agencies and law enforcement officers to enforce the prohibition. Makes it a Class B infraction to violate the smoking prohibition and a Class A infraction if the person has been adjudged to have committed three prior unrelated infractions for violations. Prohibits firing, refusing to hire, or retaliating against a person for reporting a violation or exercising any right or performing any obligation under the smoking prohibition. Removes the authority of the director of the division of mental health and addiction to regulate smoking within certain state institutions. Provides authority for a physician to prescribe smoking cessation devices to residents of state institutions. (Current law allows prescribing nicotine patches.) Moves the prohibition against smoking on a school bus during the school week to IC 7.1. Repeals the current clean indoor air law. Makes a technical correction.

C o p y

Reprinted
February 29, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

C o p y

ENGROSSED
HOUSE BILL No. 1149

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 7.1-5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 12. Prohibition on Smoking

Sec. 0.5. As used in this chapter, "ashtray" means any receptacle that is used for disposing of smoking materials, including ash and filters.

Sec. 1. As used in this chapter, "place of employment" means an enclosed area of a structure that is a place of employment. The term does not include a private vehicle.

Sec. 2. As used in this chapter, "public place" means an enclosed area of a structure in which the public is invited or permitted.

Sec. 3. As used in this chapter, "smoking" means the:

(1) carrying or holding of a lighted cigarette, cigar, or pipe or any other lighted tobacco smoking equipment; or

(2) inhalation or exhalation of smoke from lighted tobacco smoking equipment.

Sec. 4. (a) Except as provided in section 5 of this chapter, smoking is prohibited in the following:

(1) A public place.

(2) A place of employment.

(3) A vehicle owned, leased, or operated by the state if the vehicle is being used for a governmental function.

(4) The area within eight (8) feet of a public entrance to:

(A) a public place; or

(B) a place of employment.

(b) An employer shall inform each of the employer's employees and prospective employees of the smoking prohibition applying to the place of employment.

(c) An owner, operator, manager, or official in charge of a public place or place of employment shall remove ashtrays or other smoking paraphernalia from areas of the public place or place of employment where smoking is prohibited under this chapter. However, this subsection does not prohibit the display of ashtrays or other smoking paraphernalia that are intended only for retail sale.

(d) An owner, operator, manager, or official in charge of a public place or place of employment shall post conspicuous signs at each public entrance that read "State Law Prohibits Smoking Within 8 Feet of this Entrance" or other similar language.

Sec. 5. (a) Except as provided in subsection (c) and subject to section 12 of this chapter, smoking may be allowed in the following:

(1) A horse racing facility operated under a permit under IC 4-31-5 and any other permanent structure on land owned or leased by the owner of the facility that is adjacent to the facility.

(2) A riverboat (as defined in IC 4-33-2-17) and any other permanent structure that is:

(A) owned or leased by the owner of the riverboat; and

(B) located on land that is adjacent to:

(i) the dock to which the riverboat is moored; or

(ii) the land on which the riverboat is situated in the case of a riverboat described in IC 4-33-2-17(2).

(3) A facility that operates under a gambling game license under IC 4-35-5 and any other permanent structure on land owned or leased by the owner of the facility that is adjacent to the facility.

(4) A satellite facility licensed under IC 4-31-5.5.

C o p y

(5) An establishment owned or leased by a business that meets the following requirements:

(A) The business was in business and permitted smoking on July 1, 2013.

(B) The business prohibits entry by an individual who is less than twenty-one (21) years of age.

(C) The owner or operator of the business holds a beer, liquor, or wine retailer's permit.

(D) The business limits smoking in the establishment to either:

(i) cigar smoking; or

(ii) smoking with a waterpipe or hookah device.

(E) During the preceding calendar year, at least ten percent (10%) of the business's annual gross income was from:

(i) the sale of cigars and the rental of onsite humidors; or

(ii) the sale of loose tobacco for use in a waterpipe or hookah device.

(F) The person in charge of the business posts in the establishment conspicuous signs that display the message that cigarette smoking is prohibited.

(6) A premises owned or leased by and regularly used for the activities of a business that meets all of the following:

(A) The business is exempt from federal income taxation under 26 U.S.C. 501(c).

(B) The business:

(i) meets the requirements to be considered a club under IC 7.1-3-20-1; or

(ii) is a fraternal club (as defined in IC 7.1-3-20-7).

(C) The business provides food or alcoholic beverages only to its bona fide members and their guests.

(D) The business, during a meeting of the business's members, voted within the previous two (2) years to allow smoking on the premises.

(7) A retail tobacco store used primarily for the sale of tobacco products and accessories that, on June 30, 2012, meets the following requirements:

(A) The store has a valid tobacco sales certificate issued under IC 7.1-3-18.5.

(B) The store prohibits entry by an individual who is less than eighteen (18) years of age.

(C) The sale of products other than tobacco products is

C o p y

merely incidental.

(D) The sale of tobacco products accounts for at least eighty-five percent (85%) of the store's annual gross income.

(E) Food or beverages are not sold for consumption on the premises, and there is not an area set aside for customers to consume food or beverages on the premises.

(8) A bar or tavern:

(A) for which a permittee holds:

(i) a beer retailer's permit under IC 7.1-3-4;

(ii) a liquor retailer's permit under IC 7.1-3-9; or

(iii) a wine retailer's permit under IC 7.1-3-14;

(B) that does not employ an individual who is less than eighteen (18) years of age;

(C) that does not allow an individual who:

(i) is less than twenty-one (21) years of age; and

(ii) is not an employee of the bar or tavern;

to enter any area of the bar or tavern; and

(D) that is not located in a business that would otherwise be subject to this chapter.

(9) A cigar manufacturing facility that does not offer retail sales.

(10) A premises owned or leased by and regularly used for the activities of a qualified organization (as defined in IC 4-32.2-2-24) that holds a license under IC 4-32.2, during the time that an allowable event (as defined in IC 4-32.2-2-2) is being conducted on the premises.

(11) The following facilities, if the facility chooses to provide a separate, designated smoking room or area for the residents of the facility:

(A) A health facility licensed under IC 16-28, including the Indiana Veterans Home.

(B) A residential care facility (as described in IC 12-10-6-5).

(C) A housing with services establishment (as defined by IC 12-10-15-3(a)).

(D) A group home licensed under IC 12-28-4.

(E) A continuing care retirement community (as described in IC 23-2-4-1).

(F) A state institution (as defined by IC 12-7-2-184).

(G) A community mental health center (as defined by IC 12-7-2-38) that provides inpatient services.

C o p y

(H) A community mental retardation and other developmental disabilities center (as defined by IC 12-7-2-39) that provides inpatient services.

(12) The premises of a business that is located in the business owner's residence.

(b) The owner, operator, manager, or official in charge of an establishment in which smoking is allowed under this section shall post conspicuous signs in the establishment that read "WARNING: Smoking Is Allowed In This Establishment" or other similar language.

(c) This section does not allow smoking in the following enclosed areas of an establishment described in subsection (a)(1) through (a)(5) and (a)(7) through (a)(9):

(1) Any hallway, elevator, or other common area where an individual who is less than eighteen (18) years of age is permitted.

(2) Any room that is intended for use by an individual who is less than eighteen (18) years of age.

(d) The owner, operator, or manager of an establishment that is listed under subsection (a) and that allows smoking shall provide a verified statement to the commission that states that the establishment qualifies for the exemption. The commission may require the owner, operator, or manager of an establishment to provide documentation or additional information concerning the establishment's exemption.

Sec. 6. (a) The commission shall enforce this chapter.

(b) This chapter may also be enforced by:

(1) the state department of health established by IC 16-19-1-1;

(2) a local health department, as defined in IC 16-18-2-211;

(3) a health and hospital corporation established by IC 16-22-8-6;

(4) the division of fire and building safety established within the department of homeland security by IC 10-19-7-1; and

(5) a law enforcement officer;

in cooperation with the commission.

(c) The commission, the state department of health, a local health department, a health and hospital corporation, the division of fire and building safety, or a law enforcement officer may inspect premises that are subject to this chapter to ensure that the person responsible for the premises is in compliance with this chapter.

Sec. 7. (a) This section does not apply to an establishment in

C o p y

which smoking is allowed under section 5 of this chapter.

(b) The owner, operator, manager, or official in charge of a public place shall do the following:

(1) Post conspicuous signs that read "Smoking Is Prohibited By State Law" or other similar language.

(2) Ask an individual who is smoking in violation of this chapter to refrain from smoking.

(3) Cause to be removed from the public place an individual who is smoking in violation of this chapter and fails to refrain from smoking after being asked to refrain from smoking.

(c) In addition to the requirements under subsection (b), the owner or operator of a restaurant shall post a conspicuous sign at each entrance to the restaurant informing the public that smoking is prohibited in the restaurant.

Sec. 8. (a) A person who smokes in an area where smoking is prohibited by this chapter commits prohibited smoking, a Class B infraction, except as provided in subsection (b).

(b) A person who smokes in an area where smoking is prohibited by this chapter commits prohibited smoking, a Class A infraction if the person has been adjudged to have committed at least three (3) prior unrelated infractions under:

(1) this section; or

(2) IC 16-41-37-4 (before its repeal).

(c) A local health department may enforce this chapter by filing a civil action under IC 16-20-1-26.

(d) A health and hospital corporation may enforce this chapter by filing a civil action under IC 16-22-8-31.

(e) The division of fire and building safety may enforce this chapter by filing a civil action under IC 22-12-7-13.

Sec. 9. (a) An owner, manager, operator, or official in charge of a public place or place of employment who fails to comply with a requirement imposed by this chapter commits a Class B infraction, except as provided in subsection (b).

(b) A failure to comply described in subsection (a) is a Class A infraction if the owner, manager, operator, or official has been adjudged to have committed at least three (3) prior unrelated infractions under this chapter.

Sec. 10. An owner, a manager, or an employer shall not discharge, refuse to hire, or in any manner retaliate against an individual for:

(1) reporting a violation of this chapter; or

(2) exercising any right or satisfying any obligation under this

C o p y

chapter.

Sec. 11. (a) As used in this section, "school bus" means a motor vehicle that is:

(1) designed and constructed for the accommodation of at least ten (10) passengers;

(2) owned or operated by a public or governmental agency, or privately owned and operated for compensation; and

(3) used for the transportation of school children to and from the following:

(A) School.

(B) School athletic games or contests.

(C) Other school functions.

(b) As used in this section, "school week" means a week that:

(1) begins on Monday and ends on Friday; and

(2) includes at least three (3) days during which, on each day, more than four (4) hours of classroom instruction are provided.

(c) A person who smokes in a school bus during a school week or while the school bus is being used for the transportation of school children to and from:

(1) a school;

(2) a school athletic game or contest; or

(3) another school function;

commits a Class B infraction, except as provided in subsection (d).

(d) A person who smokes in a school bus as described in subsection (c) commits a Class A infraction if the person, within the twelve (12) months immediately preceding the person's act of smoking in a school bus, committed at least three (3) prior unrelated acts of smoking in a school bus for which the person was adjudged to have committed infractions under this section.

Sec. 12. (a) Except as provided in section 13 of this chapter, this chapter does not prohibit a county, city, town, or other governmental unit from adopting an ordinance more restrictive than this chapter.

(b) This chapter does not supersede a smoking ordinance that is adopted by a county, city, town, or other governmental unit before the effective date of this chapter and that is more restrictive than this chapter.

Sec. 13. A county, city, town, or other governmental unit may not, after February 24, 2012, adopt an ordinance that is more restrictive than the provisions of this chapter with regard to smoking in an establishment described in section 5(a)(1) through

C o p y

5(a)(4) of this chapter.

Sec. 14. A county, city, town, or other governmental unit may not adopt or enforce an ordinance that is more restrictive than the provisions of this chapter with regard to smoking on a premises described in section 5(a)(10) of this chapter.

SECTION 2. IC 12-7-2-178.8 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 178.8. "Smoking", for purposes of IC 12-24-2-8, has the meaning set forth in IC 16-41-37-3.~~

SECTION 3. IC 12-24-2-8, AS AMENDED BY SEA 24-2012, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. ~~(a) Notwithstanding IC 12-27-3-3, the director has complete authority to regulate smoking (as defined in IC 16-41-37-3) within a state institution.~~

~~(b)~~ A physician licensed under IC 25-22.5 may prescribe ~~nicotine~~ **tobacco cessation devices** as is medically necessary for a resident of a state institution.

SECTION 4. IC 16-18-2-10, AS AMENDED BY P.L.42-2011, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. ~~(a)~~ "Agency", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-2.

~~(b) "Agency", for purposes of IC 16-41-37, has the meaning set forth in IC 16-41-37-1.~~

SECTION 5. IC 16-18-2-295, AS AMENDED BY P.L.41-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 295. (a) "Provider", for purposes of IC 16-21-8, has the meaning set forth in IC 16-21-8-0.5.

(b) "Provider", for purposes of IC 16-38-5, IC 16-39 (except for IC 16-39-7), and IC 16-41-1 through IC 16-41-9, ~~and IC 16-41-37,~~ means any of the following:

(1) An individual (other than an individual who is an employee or a contractor of a hospital, a facility, or an agency described in subdivision (2) or (3)) who is licensed, registered, or certified as a health care professional, including the following:

(A) A physician.
(B) A psychotherapist.
(C) A dentist.
(D) A registered nurse.
(E) A licensed practical nurse.
(F) An optometrist.
(G) A podiatrist.
(H) A chiropractor.
(I) A physical therapist.

C o p y

(J) A psychologist.
(K) An audiologist.
(L) A speech-language pathologist.
(M) A dietitian.
(N) An occupational therapist.
(O) A respiratory therapist.
(P) A pharmacist.
(Q) A sexual assault nurse examiner.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24-1 or IC 12-29.

(3) A health facility licensed under IC 16-28-2.

(4) A home health agency licensed under IC 16-27-1.

(5) An employer of a certified emergency medical technician, a certified emergency medical technician-basic advanced, a certified emergency medical technician-intermediate, or a certified paramedic.

(6) The state department or a local health department or an employee, agent, designee, or contractor of the state department or local health department.

(c) "Provider", for purposes of IC 16-39-7-1, has the meaning set forth in IC 16-39-7-1(a).

(d) "Provider", for purposes of IC 16-48-1, has the meaning set forth in IC 16-48-1-3.

SECTION 6. IC 16-18-2-323.1 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 323.1. "School bus", for purposes of IC 16-41-37, has the meaning set forth in IC 16-41-37-2.3.~~

SECTION 7. IC 16-18-2-323.4 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 323.4. "School week", for purposes of IC 16-41-37, has the meaning set forth in IC 16-41-37-2.7.~~

SECTION 8. IC 16-41-37 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Clean Indoor Air Law).

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1149, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"**Sec. 0.5. As used in this chapter, "ashtray" means any receptacle that is used for disposing of smoking materials, including ash and filters.**

Sec. 1. As used in this chapter, "place of employment" means an enclosed area of a structure that is a place of employment. The term does not include a private vehicle.".

Page 1, line 5, delete "1." and insert "**2.**".

Page 1, line 7, delete "2." and insert "**3.**".

Page 1, line 9, after "lighted" insert "**tobacco**".

Page 1, line 10, after "lighted" insert "**tobacco**".

Page 1, line 12, delete "3." and insert "**4.**".

Page 1, line 12, delete "4" and insert "**5**".

Page 1, line 15, delete "Enclosed areas of a" and insert "**A**".

Page 2, line 3, delete "an enclosed area of".

Page 2, between lines 13 and 14, begin a new paragraph and insert:

"**(d) An owner, operator, manager, or official in charge of a public place or place of employment shall post conspicuous signs at each public entrance that read "State Law Prohibits Smoking Within 12 Feet of this Entrance" or other similar language.**".

Page 2, line 14, delete "4." and insert "**5.**".

Page 2, line 15, delete "11" and insert "**12**".

Page 2, delete lines 26 through 27.

Page 2, line 28, delete "(4)" and insert "**(3)**".

Page 2, line 30, delete "(5)" and insert "**(4)**".

Page 3, line 3, delete "sale of".

Page 3, line 8, delete "(6)" and insert "**(5)**".

Page 3, between lines 21 and 22, begin a new line double block indented and insert:

"**(F) The business prohibits entry by an individual who is less than eighteen (18) years of age.**

(6) A retail tobacco store used primarily for the sale of tobacco products and accessories that, before February 3, 2012, meets the following requirements:

(A) The store has a valid tobacco sales certificate issued under IC 7.1-3-18.5.

C o p y

(B) The store prohibits entry by an individual who is less than eighteen (18) years of age.

(C) The sale of products other than tobacco is merely incidental.

(D) The sale of tobacco products accounts for at least eighty-five percent (85%) of the store's annual gross income.

(E) Food or beverages are not sold for consumption on the premises, and there is not an area set aside for customers to consume food or beverages on the premises.".

Page 3, line 34, delete "5." and insert "**6.**".

Page 3, line 38, before "and" insert "**(3) a health and hospital corporation established by IC 16-22-8-6;**".

Page 3, line 39, delete "(3)" and insert "**(4)**".

Page 4, line 5, delete "6." and insert "**7.**".

Page 4, line 6, delete "4" and insert "**5**".

Page 4, line 13, delete "Remove" and insert "**Cause to be removed**".

Page 4, line 19, delete "7." and insert "**8.**".

Page 4, between lines 27 and 28, begin a new paragraph and insert:

"**(c) A local health department may enforce this chapter by filing a civil action under IC 16-20-1-26.**

(d) A health and hospital corporation may enforce this chapter by filing a civil action under IC 16-22-8-31.".

Page 4, line 28, delete "8." and insert "**9.**".

Page 4, line 36, delete "9." and insert "**10.**".

Page 4, line 42, delete "10." and insert "**11.**".

Page 5, line 30, delete "11." and insert "**12.**".

Page 5, line 33, delete "12." and insert "**13.**".

Page 5, line 33, delete "4(b), 6(b)(1), and 6(c)" and insert "**4(d), 5(b), 7(b)(1), and 7(c)**".

Page 5, delete line 42, begin a new paragraph and insert:

"SECTION 3. IC 12-24-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. ~~(a) Notwithstanding IC 12-27-3-3, the superintendent of a state institution has complete authority to regulate smoking (as defined in IC 16-41-37-3) within the state institution.~~

~~(b)~~ A physician licensed under IC 25-22.5 may prescribe ~~nicotine~~

C o p y

tobacco cessation devices as is medically necessary for a resident of a state institution.".

Page 6, delete lines 1 through 5.

and when so amended that said bill do pass.

(Reference is to HB 1149 as introduced.)

BROWN T, Chair

Committee Vote: yeas 9, nays 3.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1149 be amended to read as follows:

Page 2, line 25, delete "smoking is allowed" and insert "**an establishment may allow smoking**".

Page 2, between lines 35 and 36, begin a new line block indented and insert:

"**(3) The gaming area of a facility that operates under a gambling game license issued under IC 4-35-5.**".

Page 2, line 36, delete "(3)" and insert "**(4)**".

Page 2, line 38, delete "(4)" and insert "**(5)**".

Page 3, line 16, delete "(5)" and insert "**(6)**".

Page 3, line 27, delete "That" and insert "**The business,**".

Page 3, line 32, delete "(6)" and insert "**(7)**".

Page 3, line 39, after "tobacco" insert "**products**".

Page 4, between lines 16 and 17, begin a new paragraph and insert:

"**(d) An establishment that is listed under subsection (a) and that allows smoking shall provide a verified statement to the commission that states that the establishment qualifies for the exemption. The commission may require an establishment to provide documentation or additional information concerning the establishment's exemption.**".

Page 4, line 22, delete "and".

Page 4, line 24, after "IC 10-19-7-1;" insert "**and**".

Page 4, between lines 24 and 25, begin a new line block indented and insert:

"**(5) a law enforcement officer;**".

C o p y

Page 4, line 27, after "department," insert "**a health and hospital corporation,**".

(Reference is to HB 1149 as printed January 13, 2012.)

TURNER

HOUSE MOTION

Mr. Speaker: I move that House Bill 1149 be amended to read as follows:

Page 2, delete lines 26 through 37, begin a new line block indented and insert:

"**(1) A horse racing facility operated under a permit under IC 4-31-5 and any other permanent structure on land owned or leased by the owner of the facility that is adjacent to the facility.**

(2) A riverboat (as defined in IC 4-33-2-17) and any other permanent structure that is:

(A) owned or leased by the owner of the riverboat; and

(B) located on land that is adjacent to:

(i) the dock to which the riverboat is moored; or

(ii) the land on which the riverboat is situated in the case of a riverboat described in IC 4-33-2-17(2).

(3) A facility that operates under a gambling game license under IC 4-35-5 and any other permanent structure on land owned or leased by the owner of the facility that is adjacent to the facility.

(4) A satellite facility licensed under IC 4-31-5.5.".

Page 2, line 38, delete "(4)" and insert "**(5)**".

Page 3, line 16, delete "(5)" and insert "**(6)**".

Page 3, line 32, delete "(6)" and insert "**(7)**".

(Reference is to HB 1149 as printed January 13, 2012.)

TURNER

C o p y

HOUSE MOTION

Mr. Speaker: I move that House Bill 1149 be amended to read as follows:

Page 4, between lines 4 and 5, begin a new line block indented and insert:

"**(7) A bar or tavern:**

(A) for which a permittee holds:

(i) a beer retailer's permit under IC 7.1-3-4;

(ii) a liquor retailer's permit under IC 7.1-3-9; or

(iii) a wine retailer's permit under IC 7.1-3-14;

(B) that does not employ an individual who is less than eighteen (18) years of age;

(C) that does not allow an individual who:

(i) is less than twenty-one (21) years of age; and

(ii) is not an employee of the bar or tavern;

to enter any area of the bar or tavern;

(D) that is not located in a business that would otherwise be subject to this chapter; and

(E) that was in business and permitted smoking on February 3, 2012.

This subdivision expires September 15, 2013.".

(Reference is to HB 1149 as printed January 13, 2012.)

TURNER

HOUSE MOTION

Mr. Speaker: I move that House Bill 1149 be amended to read as follows:

Page 4, between lines 4 and 5, begin a new line block indented and insert:

"**(7) A cigar manufacturing facility that does not offer retail sales.**".

(Reference is to HB 1149 as printed January 13, 2012.)

VANNATTER

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred House Bill No. 1149, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 8 with "[EFFECTIVE JULY 1, 2012]".

Page 3, delete lines 1 through 2.

Page 3, line 3, delete "(6)" and insert "**(5)**".

Page 3, line 5, delete "February 3," and insert "**June 30,**".

Page 3, line 16, delete "the sale of either:" and insert "**:**".

Page 3, line 17, after "(i)" insert "**the sale of**".

Page 3, line 18, after "(ii)" insert "**the sale of**".

Page 3, line 22, delete "(7)" and insert "**(6)**".

Page 3, line 24, delete "February 3," and insert "**June 30,**".

Page 3, line 38, delete "(8)" and insert "**(7)**".

Page 3, line 39, delete "before February 3," and insert "**on June 30,**".

Page 4, line 11, delete "(9)" and insert "**(8)**".

Page 4, line 25, delete "February 3," and insert "**June 30,**".

Page 4, line 27, delete "(10)" and insert "**(9)**".

Page 4, line 41, delete "An" and insert "**The owner, operator, or manager of an**".

Page 5, line 2, after "require" insert "**the owner, operator, or manager of**".

Page 5, line 16, delete "or".

Page 5, line 17, after "safety" insert "**, or a law enforcement officer**".

Page 5, line 31, delete "The" and insert "**In addition to the requirements under subsection (b), the**".

Page 6, between lines 4 and 5, begin a new paragraph and insert:

"**(e) The division of fire and building safety may enforce this chapter by filing a civil action under IC 22-12-7-13.**".

Page 6, line 13, delete "A person, owner, manager, or employer" and insert "**An owner, a manager, or an employer**".

Page 6, line 30, delete "normal".

Page 7, delete lines 10 through 15.

C o p y

Page 8, delete line 42.

and when so amended that said bill do pass.

(Reference is to HB 1149 as reprinted January 28, 2012.)

ALTING, Chairperson

Committee Vote: Yeas 8, Nays 2.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1149 be amended to read as follows:

Page 2, line 25, delete "an establishment may allow".

Page 2, line 25, after "smoking" insert "**may be allowed**".

Page 3, delete lines 21 through 36, begin a new line block indented and insert:

"**(6) A premises owned or leased by and regularly used for the activities of a business that meets all of the following:**

(A) The business is exempt from federal income taxation under 26 U.S.C. 501(c).

(B) The business:

(i) meets the requirements to be considered a club under IC 7.1-3-20-1; or

(ii) is a fraternal club (as defined in IC 7.1-3-20-7).

(C) The business provides food or alcoholic beverages only to its bona fide members and their guests.

(D) The business, during a meeting of the business's members, voted within the previous two (2) years to allow smoking on the premises.".

Page 4, line 34, delete "subsection (a):" and insert "**subsection (a)(1) through (a)(5) and (a)(7) through (a)(9):**".

(Reference is to EHB 1149 as printed February 24, 2012.)

ALTING

C o p y

SENATE MOTION

Madam President: I move that Engrossed House Bill 1149 be amended to read as follows:

Page 4, line 20, after "tavern;" insert "**and**".

Page 4, line 22, delete "chapter; and" and insert "**chapter.**".

Page 4, delete lines 23 through 25.

(Reference is to EHB 1149 as printed February 24, 2012.)

LEISING

SENATE MOTION

Madam President: I move that Engrossed House Bill 1149 be amended to read as follows:

Page 7, line 10, delete "This" and insert "**Except as provided in section 13 of this chapter, this**".

Page 7, between lines 12 and 13, begin a new paragraph and insert:

"**Sec. 13. A county, city, town, or other governmental unit may not, after February 24, 2012, adopt an ordinance that is more restrictive than the provisions of this chapter with regard to smoking in an establishment described in section 5(a)(1) through 5(a)(4) of this chapter.**".

(Reference is to EHB 1149 as printed February 24, 2012.)

NUGENT

SENATE MOTION

Madam President: I move that Engrossed House Bill 1149 be amended to read as follows:

Page 4, between lines 27 and 28, begin a new line block indented and insert:

"**(10) The premises of a business that is located in the business owner's residence.**".

Page 7, line 10, delete "This" and insert "**Except as provided in section 13 of this chapter, this**".

Page 7, between lines 12 and 13, begin a new paragraph and insert:

"**Sec. 13. A county, city, town, or other governmental unit may**

C o p y

not adopt or enforce an ordinance that is more restrictive than the provisions of this chapter with regard to smoking on a premises described in section 5(a)(10) of this chapter.".

(Reference is to EHB 1149 as printed February 24, 2012.)

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Engrossed House Bill 1149 be amended to read as follows:

Page 4, between lines 27 and 28, begin a new line block indented and insert:

"**(10) A premises owned or leased by and regularly used for the activities of a qualified organization (as defined in IC 4-32.2-2-24) that holds a license under IC 4-32.2, during the time that an allowable event (as defined in IC 4-32.2-2-2) is being conducted on the premises.**".

(Reference is to EHB 1149 as printed February 24, 2012.)

LEISING

SENATE MOTION

Madam President: I move that Engrossed House Bill 1149 be amended to read as follows:

Page 7, line 10, after "12." insert "**(a)**".

Page 7, between lines 12 and 13, begin a new paragraph and insert:

"**(b) This chapter does not supersede a smoking ordinance that is adopted by a county, city, town, or other governmental unit before the effective date of this chapter and that is more restrictive than this chapter.**".

(Reference is to EHB 1149 as printed February 24, 2012.)

ALTING

C o p y

SENATE MOTION

Madam President: I move that Engrossed House Bill 1149 be amended to read as follows:

Page 2, line 7, delete "twelve (12)" and insert "**eight (8)**".

Page 2, line 23, delete "12" and insert "**8**".

(Reference is to EHB 1149 as printed February 24, 2012.)

GARD

SENATE MOTION

Madam President: I move that Engrossed House Bill 1149 be amended to read as follows:

Page 7, delete lines 16 through 23, begin a new paragraph and insert:

"SECTION 3. IC 12-24-2-8, AS AMENDED BY SEA 24-2012, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 8. ~~(a) Notwithstanding IC 12-27-3-3, the director has complete authority to regulate smoking (as defined in IC 16-41-37-3) within a state institution.~~

~~(b)~~ A physician licensed under IC 25-22.5 may prescribe ~~nicotine~~ **tobacco cessation devices** as is medically necessary for a resident of a state institution.".

(Reference is to EHB 1149 as printed February 24, 2012.)

GARD

SENATE MOTION

Madam President: I move that Engrossed House Bill 1149 be amended to read as follows:

Page 4, between lines 27 and 28, begin a new line block indented and insert:

"(10) The following facilities, if the facility chooses to provide a separate, designated smoking room or area for the residents of the facility:

(A) A health facility licensed under IC 16-28, including the Indiana Veterans Home.

(B) A residential care facility (as described in

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IC 12-10-6-5).
(C) A housing with services establishment (as defined by IC 12-10-15-3(a)).
(D) A group home licensed under IC 12-28-4.
(E) A continuing care retirement community (as described in IC 23-2-4-1).
(F) A state institution (as defined by IC 12-7-2-184).
(G) A community mental health center (as defined by IC 12-7-2-38) that provides inpatient services.
(H) A community mental retardation and other developmental disabilities center (as defined by IC 12-7-2-39) that provides inpatient services.".

(Reference is to EHB 1149 as printed February 24, 2012.)

LEISING

SENATE MOTION

Madam President: I move that Engrossed House Bill 1149 be amended to read as follows:

Page 3, delete lines 1 through 20, begin a new line block indented and insert:

"**(5) An establishment owned or leased by a business that meets the following requirements:**
(A) The business was in business and permitted smoking on July 1, 2013.
(B) The business prohibits entry by an individual who is less than twenty-one (21) years of age.
(C) The owner or operator of the business holds a beer, liquor, or wine retailer's permit.
(D) The business limits smoking in the establishment to either:
(i) cigar smoking; or
(ii) smoking with a waterpipe or hookah device.
(E) During the preceding calendar year, at least ten percent (10%) of the business's annual gross income was from:
(i) the sale of cigars and the rental of onsite humidors; or
(ii) the sale of loose tobacco for use in a waterpipe or hookah device.
(F) The person in charge of the business posts in the

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establishment conspicuous signs that display the message that cigarette smoking is prohibited.".

(Reference is to EHB 1149 as printed February 24, 2012.)

ALTING

C o p y