

# *Missouri Revised Statutes*

## **Chapter 191**

### **Health and Welfare**

#### **Section 191.765**

August 28, 2008

#### **Definitions.**

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

- (1) "Bar" or "tavern", any licensed establishment which serves liquor on the premises for which not more than ten percent of the gross sales receipts of the business are supplied by food purchases, either for consumption on the premises or elsewhere;
- (2) "Other person in charge", the agent of the proprietor authorized to give administrative directions to and general supervision of the activities within the public place, work place or public meeting at any given time;
- (3) "Proprietor", the party who ultimately controls, governs or directs the activities within the public place, **work place** or public meeting, regardless of whether he is the owner or lessor of such place or site. The term does not mean the owner of the property unless he ultimately controls, governs or directs the activities within the public place or public meeting. The term "proprietor" shall apply to a corporation as well as an individual;
- (4) "Public meeting", a gathering in person of members of a governmental body, whether an open or closed session, as defined in chapter 610, RSMo;
- (5) "Public place", any enclosed indoor area used by the general public **or serving as a place of work including**, but not limited to:
  - (a) **Any retail or commercial establishments;**
  - (b) Health care facilities, health clinics or ambulatory care facilities including, but not limited to, laboratories associated with health care treatment, hospitals, nursing homes, physicians' offices and dentists' offices;
  - (c) Any vehicle used for public transportation including, but not limited to, buses, taxicabs and limousines for hire;
  - (d) Rest rooms;
  - (e) Elevators;
  - (f) Libraries, educational facilities, day care facilities, museums, auditoriums and art galleries;
  - (g) All public areas and waiting rooms of public transportation facilities including, but not limited to, bus and airport facilities;
  - (h) Any enclosed indoor place used for entertainment or recreation including, but not limited to, gymnasiums, theater lobbies, concert halls, arenas and swimming pools;

(i) Any other enclosed indoor areas used by the general public including, but not limited to, corridors and shopping malls;

(6) "Restaurant", any building, structure or area used, maintained or advertised as or held out to the public to be an enclosure where meals for consideration of payment are made available to be consumed on the premises;

(7) "Smoking", possession of burning tobacco in the form of a cigarette, cigar, pipe or other smoking equipment.

(L. 1992 S.B. 509, et al. § 1)

## **Section 191.767**

August 28, 2008

### **Persons not to smoke in public places or meetings, except in designated smoking areas--designation of space for smoking area, requirements.**

191.767. 1. A person shall not smoke in a public place or in a public meeting **except in** a designated smoking area.

2. A smoking area may be designated by persons having custody or control of public places, except in places in which smoking is prohibited by the fire marshal or by other law, ordinance or regulation.

3. **No public place shall have more than thirty percent** of its entire space designated as a smoking area.

4. A designated smoking area where state employees may smoke during the work day shall be provided by each state executive department and institution of higher education, provided such area can be adequately ventilated at minimum cost, within the physical confines of each facility.

5. A proprietor or other person in charge of a restaurant shall designate an area of sufficient size to accommodate usual and customary demand for nonsmoking areas by customers or patrons.

## **Section 191.769**

August 28, 2008

### **Areas not considered public places.**

191.769. The following areas are not considered a public place:

(1) An entire room or hall which is used for private social functions, provided that the seating arrangements are under the control of the sponsor of the function and not of the proprietor or other person in charge;

(2) Limousines for hire and taxicabs, where the driver and all passengers agree to smoking in such vehicle;

(3) Performers on the stage, provided that the smoking is part of the production;

(4) A place where more than fifty percent of the volume of trade or business carried on is that of the blending of tobaccos or sale of tobaccos, cigarettes, pipes, 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.

(L. 1992 S.B. 509, et al. § 3)

## **Section 191.771**

August 28, 2008

### **Person in control of public places or public meetings, duties.**

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.

(L. 1992 S.B. 509, et al. § 4)

## **Section 191.773**

August 28, 2008

### **Violators, guilty of infraction.**

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.

(L. 1992 S.B. 509, et al. § 5)

## **Section 191.775**

August 28, 2008

### **Public schools and school buses, smoking or tobacco use prohibited, penalty, permissible use of tobacco, where.**

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.

## **Section 191.776**

August 28, 2008

### **Child day care facilities, smoking or tobacco use when children are present, prohibited, penalty.**

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.

## **Section 191.777**

August 28, 2008

### **More stringent ordinances or rules may be adopted by governing bodies or school boards.**

191.777. Nothing in sections 191.775 and 191.776 shall prohibit local political subdivisions or local boards of education from enacting more stringent ordinances or rules.

**Chapter 290**  
**Wages, Hours and Dismissal Rights**  
**Section 290.145**

August 28, 2008

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**Discrimination, refusal to hire or discharge employee for alcohol or tobacco use not during working hours, prohibited, exception--not cause for legal actions.**

290.145. It shall be an improper employment practice for an employer to refuse to hire, or to discharge, any individual, or to otherwise disadvantage any individual, with respect to compensation, terms or conditions of employment because the individual uses lawful alcohol or tobacco products off the premises of the employer during hours such individual is not working for the employer, unless such use interferes with the duties and performance of the employee, the employee's coworkers, or the overall operation of the employer's business; except that, nothing in this section shall prohibit an employer from providing or contracting for health insurance benefits at a reduced premium rate or at a reduced deductible level for employees who do not smoke or use tobacco products. Religious organizations and church-operated institutions, and not-for-profit organizations whose principal business is health care promotion shall be exempt from the provisions of this section. The provisions of this section shall not be deemed to create a cause of action for injunctive relief, damages or other relief.

(L. 1992 S.B. 509, et al. § 6, A.L. 2005 H.B. 596, A.L. 2006 S.B. 567 & 792)