

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

February 27, 2019

Committee on Health & Insurance.

After consideration on the merits, the Committee recommends the following:

HB19-1076 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 3, line 19, strike "(7) and (16); **repeal** (1) and
- 2 (18);" and substitute "(7), (16), and (18); **repeal** (1);".

- 3 Page 4, line 16, strike "FEET." and substitute "FEET UNLESS SECTION
- 4 25-14-207 (2)(a)(II)(B) OR (2)(a)(II)(C) APPLIES."

- 5 Page 4, strike lines 25 through 27.

- 6 Page 5, strike lines 1 and 2 and substitute:
- 7 "(18) "Tobacco business" means a sole proprietorship,
- 8 corporation, partnership, or other enterprise engaged primarily in the sale,
- 9 manufacture, or promotion of tobacco, tobacco products, or smoking
- 10 devices or accessories, INCLUDING ESDS, either at wholesale or retail, and
- 11 in which the sale, manufacture, or promotion of other products is merely
- 12 incidental."

- 13 Page 5, line 4, strike "(1)(k)(II)," and substitute "(1)(k)," and strike "and
- 14 (1)(cc);" and substitute "(1)(cc), and (2); **repeal** (1)(q);".

- 15 Page 5, line 5, strike "(1)(dd)" and substitute "(1)(dd), (1)(ee), (1)(ff), and
- 16 (3)".

- 17 Page 5, after line 10 insert:

1 (k) (I) Any place of employment that is not exempted, WHETHER
2 OR NOT OPEN TO THE PUBLIC AND REGARDLESS OF THE NUMBER OF
3 EMPLOYEES."

4 Page 5, line 11, strike "(k)".

5 Page 5, after line 16 insert:

6 ~~"(q) Restrooms, lobbies, hallways, and other common areas in~~
7 ~~hotels and motels, and in at least seventy-five percent of the sleeping~~
8 ~~quarters within a hotel or motel that are rented to guests;".~~

9 Page 5, line 18, strike "and;" and substitute "and".

10 Page 5, line 19, strike "AND ASSISTED LIVING FACILITIES,".

11 Page 5, line 24, strike "AND".

12 Page 5, after line 24 insert:

13 "(dd) HOTEL AND MOTEL ROOMS;

14 (ee) ASSISTED LIVING FACILITIES, INCLUDING NURSING FACILITIES
15 AS DEFINED IN SECTION 25.5-4-103 AND ASSISTED LIVING RESIDENCES AS
16 DEFINED IN SECTION 25-27-102; AND".

17 Page 5, line 25, strike "(dd)" and substitute "(ff)".

18 Page 5, line 26, strike "(1)(cc)" and substitute "(1)(ee)".

19 Page 5, after line 26 insert:

20 "(2) A cigar-tobacco bar:

21 (a) Shall not expand its size or change its location from the size
22 and location in which it existed as of December 31, 2005; ~~A~~
23 ~~cigar-tobacco bar~~ AND

24 (b) Shall PROHIBIT ENTRY BY ANY PERSON UNDER EIGHTEEN YEARS
25 OF AGE AND SHALL display signage in at least one conspicuous place and
26 at least four inches by six inches in size stating: "Smoking allowed.
27 Children under eighteen years of age ~~must be accompanied by a parent or~~
28 ~~guardian~~ MAY NOT ENTER."

29 (3) A RETAIL TOBACCO BUSINESS SHALL PROHIBIT ENTRY BY ANY
30 PERSON UNDER EIGHTEEN YEARS OF AGE AND SHALL DISPLAY SIGNAGE IN
31 AT LEAST ONE CONSPICUOUS PLACE AND AT LEAST FOUR INCHES BY SIX

1 INCHES IN SIZE STATING: "SMOKING ALLOWED. CHILDREN UNDER
2 EIGHTEEN YEARS OF AGE MAY NOT ENTER."".

3 Page 6, line 1, strike "portion;" and substitute "portion, (1)(c), (1)(g), and
4 (1)(i);" and strike "(1)(c), (1)(d),".

5 Page 6, line 7, strike "~~percent~~;" and substitute "~~percent~~ ANY PREMISES
6 THAT IS LICENSED UNDER PART 4 OF ARTICLE 12 OF TITLE 44 OR
7 AUTHORIZED BY ANY APPLICABLE MUNICIPAL ORDINANCE OR PERMIT, AT
8 WHICH MARIJUANA IS OFFERED TO PURCHASERS OR PROSPECTIVE
9 PURCHASERS FOR SALE OR SAMPLING;".

10 Page 6, strike line 8.

11 Page 6, after line 9 insert:

12 "(g) The outdoor area of any business; OR".

13 Page 6, after line 12 insert:

14 "(i) A private, nonresidential building on a farm or ranch, as
15 defined in section 39-1-102, ~~C.R.S.~~, that has annual gross income of less
16 than five hundred thousand dollars. ~~or~~".

17 Page 6, line 21, strike "~~repeal~~ 25-14-206" and substitute "25-14-206,
18 **amend** (1); and **repeal** (2)".

19 Page 6, strike lines 23 through 27.

20 Page 7, strike lines 1 and 2 and substitute:

21 "**25-14-206. Optional prohibitions.** (1) The owner or manager
22 of any place ~~not specifically listed in section 25-14-204, including a place~~
23 otherwise exempted under section 25-14-205 may post signs prohibiting
24 smoking. ~~or providing smoking and nonsmoking areas.~~ Such posting shall
25 have the effect of including such place ~~or the designated nonsmoking~~
26 ~~portion thereof~~, in the places where smoking is prohibited or restricted
27 pursuant to this part 2.".

28 Page 7, line 3, strike "~~(2)~~" and substitute "(2)".

29 Page 7, line 12, after "(a)" insert "(I)".

30 Page 7, line 13, after "charter," add "SECTION 44-12-309,".

1 Page 7, line 16, strike "THAT" and substitute "THAT, UNLESS OTHERWISE
2 AUTHORIZED UNDER SUBSECTION (2)(a)(II)(B) OR (2)(a)(II)(C) OF THIS
3 SECTION,".

4 Page 7, line 18, strike "~~except that A~~" and substitute "~~except that~~
5 (II) (A) A".

6 Page 7, after line 20 insert:

7 "(B) A LOCAL REGULATION THAT WAS ADOPTED BY A LOCAL
8 AUTHORITY BEFORE JANUARY 1, 2019, AND THAT SPECIFIES A RADIUS OF
9 LESS THAN TWENTY-FIVE FEET FOR THE AREA INCLUDED WITHIN AN
10 ENTRYWAY REMAINS VALID AND MUST BE GIVEN EFFECT AFTER THE
11 EFFECTIVE DATE OF THIS SECTION, AS AMENDED.

12 (C) IF A PERSON OWNS OR LEASES BUSINESS PREMISES THAT WERE
13 UNDER CONSTRUCTION OR RENOVATION ON JULY 1, 2019, AND THAT
14 COMPLIED WITH A LOCAL REGULATION OF SMOKING THAT SPECIFIED A
15 RADIUS OF LESS THAN TWENTY-FIVE FEET FOR THE AREA INCLUDED WITHIN
16 AN ENTRYWAY, AND, AS OF JULY 1, 2019, HAS APPLIED FOR OR RECEIVED
17 FROM THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY IN WHICH THE
18 PREMISES ARE LOCATED, A CERTIFICATE OF OCCUPANCY FOR THE
19 STRUCTURE TO BE USED FOR THE BUSINESS PREMISES, THE PERSON IS
20 DEEMED IN COMPLIANCE WITH ALL LOCAL REGULATIONS SPECIFYING THE
21 RADIUS OF THE AREA INCLUDED WITHIN AN ENTRYWAY."

22 Page 7, before line 21 insert:

23 "SECTION 7. In Colorado Revised Statutes, 25-14-208, **amend**
24 (3) as follows:

25 **25-14-208. Unlawful acts - penalty - disposition of fines and**
26 **surcharges.** (3) EXCEPT AS OTHERWISE PROVIDED IN SECTION
27 25-14-208.5, a person who violates this part 2 is guilty of a class 2 petty
28 offense and, upon conviction thereof, shall be punished by a fine not to
29 exceed two hundred dollars for a first violation within a calendar year, a
30 fine not to exceed three hundred dollars for a second violation within a
31 calendar year, and a fine not to exceed five hundred dollars for each
32 additional violation within a calendar year. Each day of a continuing
33 violation shall be deemed a separate violation.

34 **SECTION 8.** In Colorado Revised Statutes, **add** 25-14-208.5 as
35 follows:

36 **25-14-208.5. Signage violations - limitation on fines.** (1) FOR
37 A VIOLATION OF SECTION 25-14-204 (2), THE PENALTY SHALL BE AS

1 FOLLOWS:

2 (a) A WRITTEN WARNING FOR A FIRST VIOLATION COMMITTED
3 WITHIN A TWENTY-FOUR-MONTH PERIOD; AND

4 (b) FINES AS SPECIFIED IN SECTION 25-14-208 (3) FOR A SECOND OR
5 SUBSEQUENT VIOLATION WITHIN A TWENTY-FOUR-MONTH PERIOD.

6 (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, NO FINE
7 FOR A VIOLATION OF SECTION 25-14-204 (2) SHALL BE IMPOSED UPON A
8 PERSON THAT CAN ESTABLISH AS AN AFFIRMATIVE DEFENSE THAT, PRIOR
9 TO THE DATE OF THE VIOLATION, IT:

10 (a) HAD ADOPTED AND ENFORCED A WRITTEN POLICY AGAINST
11 ALLOWING PERSONS UNDER EIGHTEEN YEARS OF AGE TO ENTER THE
12 PREMISES;

13 (b) HAD INFORMED ITS EMPLOYEES OF THE APPLICABLE LAWS
14 REGARDING THE PROHIBITION OF PERSONS UNDER EIGHTEEN YEARS OF AGE
15 TO ENTER OR REMAIN IN AREAS WHERE SMOKING IS PERMITTED;

16 (c) REQUIRED EMPLOYEES TO VERIFY THE AGE OF PERSONS ON THE
17 PREMISES BY WAY OF PHOTOGRAPHIC IDENTIFICATION; AND

18 (d) HAD ESTABLISHED AND IMPOSED DISCIPLINARY SANCTIONS FOR
19 NONCOMPLIANCE.

20 (3) THE AFFIRMATIVE DEFENSE ESTABLISHED IN SUBSECTION (2)
21 OF THIS SECTION MAY BE USED ONLY TWICE AT EACH LOCATION WITHIN
22 ANY TWENTY-FOUR-MONTH PERIOD."

23 Renumber succeeding sections accordingly.

24 Page 8, strike line 5 and substitute:

25 **"SECTION 10. Effective date.** (1) Except as provided in
26 subsection (2) of this section, this act takes effect July 1, 2019.

27 (2) Section 25-14-204 (2) and (3), as amended and enacted,
28 respectively, in section 3 of this act, take effect October 1, 2019."

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