

CHAPTER 128

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 94-100

BY SENATORS Peterson, Hopper, and Mares;
also REPRESENTATIVES Sullivan, Kreutz, DeGette, Friednash, Lyle, Pierson, and Rupert.

AN ACT**CONCERNING A PROHIBITION AGAINST THE USE OF TOBACCO AT SCHOOLS.**

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

SECTION 1. Article 14 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

25-14-103.5. Prohibition against the use of tobacco on school property - legislative declaration - education program - special account. (1) THE GENERAL ASSEMBLY FINDS THAT MANY OF THE SCHOOLS IN THIS STATE PERMIT THE USE OF TOBACCO IN AND AROUND SCHOOL PROPERTY. THE GENERAL ASSEMBLY FURTHER FINDS THAT SECOND-HAND SMOKE GENERATED BY SUCH ACTIVITY AND THE NEGATIVE EXAMPLE SET AND FREQUENTLY IMITATED BY OUR SCHOOL CHILDREN ARE DETRIMENTAL TO THE HEALTH AND WELL-BEING OF SUCH CHILDREN AS WELL AS TO SCHOOL TEACHERS, STAFF, AND VISITORS. ACCORDINGLY, THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS APPROPRIATE TO CREATE A SAFE AND HEALTHY SCHOOL ENVIRONMENT BY PROHIBITING THE USE OF TOBACCO PRODUCTS ON ALL SCHOOL PROPERTY.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "SCHOOL" MEANS A PUBLIC NURSERY SCHOOL, DAY CARE CENTER, CHILD CARE FACILITY, HEAD START PROGRAM, KINDERGARTEN, OR ELEMENTARY OR SECONDARY SCHOOL THROUGH GRADE TWELVE.

(b) "SCHOOL PROPERTY" MEANS ALL PROPERTY, WHETHER OWNED, LEASED, RENTED, OR OTHERWISE USED BY A SCHOOL, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(I) ALL INTERIOR PORTIONS OF ANY BUILDING USED FOR INSTRUCTION, ADMINISTRATION, SUPPORT SERVICES, MAINTENANCE, AND STORAGE AND ANY OTHER STRUCTURE USED BY A SCHOOL; EXCEPT THAT SUCH TERM SHALL NOT APPLY TO A BUILDING PRIMARILY USED AS A RESIDENCE;

(II) ALL SCHOOL GROUNDS SURROUNDING ANY BUILDING SPECIFIED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) OVER WHICH THE SCHOOL IS AUTHORIZED TO EXERCISE DOMINION AND CONTROL. SUCH GROUNDS SHALL INCLUDE ANY PLAYGROUND, ATHLETIC FIELD, RECREATION AREA, AND PARKING AREA; AND

(III) ALL VEHICLES USED BY THE SCHOOL FOR THE PURPOSE OF TRANSPORTING STUDENTS, WORKERS, VISITORS, OR ANY OTHER PERSONS.

(c) "TOBACCO" MEANS CIGARETTES, CIGARS, CHEROOTS, STOGIES, PERIQUES, GRANULATED, PLUG CUT, CRIMP CUT, READY RUBBED, AND OTHER SMOKING TOBACCO, SNUFF, SNUFF FLOUR, CAVENDISH, PLUG AND TWIST TOBACCO, FINE-CUT AND OTHER CHEWING TOBACCOS, SHORTS, REFUSE SCRAPS, CLIPPINGS, CUTTINGS AND SWEEPINGS OF TOBACCO, AND OTHER KINDS AND FORMS OF TOBACCO, PREPARED IN SUCH MANNER AS TO BE SUITABLE FOR CHEWING OR FOR SMOKING IN A CIGARETTE, PIPE, OR OTHERWISE, OR BOTH FOR CHEWING AND SMOKING. "TOBACCO" ALSO INCLUDES CLOVES OR ANY OTHER PRODUCT THAT IS PACKAGED FOR SMOKING.

(d) "USE" MEANS THE LIGHTING, CHEWING, AND SMOKING OF ANY TOBACCO PRODUCT.

(3) (a) (I) THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT SHALL ADOPT APPROPRIATE POLICIES AND RULES WHICH MANDATE A PROHIBITION AGAINST THE USE OF ALL TOBACCO PRODUCTS ON ALL SCHOOL PROPERTY BY STUDENTS, TEACHERS, STAFF, AND VISITORS AND WHICH PROVIDE FOR THE ENFORCEMENT OF SUCH POLICIES AND RULES.

(II) THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT IS AUTHORIZED TO EXEMPT ANY SCHOOL OR SCHOOL PROPERTY WITHIN THE BOARD'S DISTRICT FROM THE REQUIREMENTS OF THIS SECTION UPON THE BOARD'S DETERMINATION THAT EXTRAORDINARY CIRCUMSTANCES EXIST WHICH WARRANT THE GRANTING OF SUCH EXEMPTION. EACH BOARD SHALL ADOPT A PROCEDURE FOR THE SUBMISSION AND CONSIDERATION OF REQUESTS FOR EXEMPTION.

(b) SIGNS REGARDING SUCH PROHIBITION AND THE CONSEQUENCES OF VIOLATION SHALL BE DISPLAYED PROMINENTLY ON ALL SCHOOL PROPERTY TO ENSURE COMPLIANCE NO LATER THAN SEPTEMBER 1, 1994.

(4) THIS SECTION SHALL NOT BE APPLICABLE TO THE USE OF A TOBACCO PRODUCT IN A LIMITED CLASSROOM DEMONSTRATION TO SHOW THE HEALTH HAZARDS OF TOBACCO.

(5) THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, DONATIONS, OR GRANTS OF ANY KIND FROM ANY PRIVATE OR CHARITABLE SOURCE OR FROM ANY GOVERNMENTAL AGENCY TO MEET EXPENSES REQUIRED BY THIS SECTION. SUCH GIFTS, DONATIONS, AND GRANTS SHALL BE

ACCOUNTED FOR SEPARATELY, AND, TO THE EXTENT THAT SUCH MONEYS ARE AVAILABLE, THE BOARD OF EDUCATION OF EACH SCHOOL DISTRICT MAY MAINTAIN AND OPERATE AN EDUCATIONAL PROGRAM DESIGNED TO ASSIST STUDENTS, FACULTY, AND STAFF TO AVOID AND DISCONTINUE THE USE OF TOBACCO. SUCH PROGRAM SHALL BE OFFERED AT EACH SCHOOL UNDER THE BOARD'S DIRECTION AND CONTROL.

(6) THIS SECTION SHALL NOT PROHIBIT ANY SCHOOL FROM ENACTING MORE STRINGENT POLICIES OR RULES THAN REQUIRED BY THIS SECTION.

SECTION 2. 25-14-103 (1) (f), Colorado Revised Statutes, 1989 Repl. Vol., is repealed as follows:

25-14-103. Smoking prohibited in certain public places. (1) Except as otherwise provided in this subsection (1), smoking is prohibited in the following public places:

~~(f) Classrooms, corridors, and rest rooms in schools. All other areas in schools shall be deemed nonsmoking areas except those specifically designated for smoking by the appropriate authority having control of the physical facilities of the school.~~

SECTION 3. 22-32-109 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-32-109. Board of education - specific duties. (1) In addition to any other duty required to be performed by law, each board of education shall have and perform the following specific duties:

(bb) (I) TO ADOPT A POLICY MANDATING A PROHIBITION AGAINST THE USE OF ALL TOBACCO PRODUCTS ON SCHOOL PROPERTY AND AT SCHOOL-SPONSORED ACTIVITIES BY STUDENTS, TEACHERS, STAFF, AND VISITORS PURSUANT TO THE PROVISIONS OF SECTION 25-14-103.5, C.R.S., AND TO ADOPT SUCH RULES AS ARE NECESSARY TO ENFORCE SUCH PROHIBITION; EXCEPT THAT NO SUCH POLICY SHALL REQUIRE THE EXPULSION OF ANY STUDENT SOLELY FOR SUCH TOBACCO USE.

(II) TO THE EXTENT FUNDS ARE AVAILABLE, TO OPERATE AND MAINTAIN AN EDUCATIONAL PROGRAM TO ASSIST STUDENTS, FACULTY, AND STAFF TO AVOID AND DISCONTINUE THE USE OF TOBACCO AT EACH SCHOOL UNDER THE BOARD'S DIRECTION AND CONTROL.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 1994