

LC01945/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

A N A C T

RELATING TO HEALTH AND SAFETY --
RHODE ISLAND WORKERS' SAFETY ACT OF 2003

Introduced By: Senators Sosnowski, Roberts, Sheehan, DaPonte, and Perry

Date Introduced: February 13, 2003

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "Health and Safety" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 77

4 RHODE ISLAND WORKERS' SAFETY ACT OF 2003

5 **23-77-1. Short title.** – This chapter shall be known as the "Rhode Island Workers' Safety
6 Act of 2003."

7 **23-77-2. Legislative intent.** – The legislature of the State of Rhode Island and
8 Providence Plantations does hereby find that:

9 (1) Numerous studies have found that tobacco smoke is a major contributor to indoor air
10 pollution, and that breathing secondhand smoke (also known as environmental tobacco smoke) is
11 a cause of disease in healthy nonsmokers, including heart disease, stroke, respiratory disease and
12 lung cancer. The National Cancer Institute determined in 1999 that secondhand smoke is
13 responsible for the early deaths of up to 65,000 Americans annually.

14 (2) The Public Health Service's National Toxicology Program has listed secondhand
15 smoke as a known carcinogen.

16 (3) Secondhand smoke is particularly hazardous to children, individuals with
17 cardiovascular disease, individuals with impaired respiratory function, including asthmatics and
18 those with obstructive airway disease and elderly people. Children exposed to secondhand smoke

1 have an increased risk of asthma, respiratory infections, sudden infant death syndrome,
2 developmental abnormalities and cancer.

3 (4) The Americans with Disabilities Act, which requires that disabled persons have
4 access to public places and workplaces, deems impaired respiratory function to be a disability.

5 (5) The U.S. Surgeon General has determined that the simple separation of smokers and
6 nonsmokers within the same air space may reduce, but does not eliminate, the exposure of
7 nonsmokers to secondhand smoke. The environmental protection agency has determined that
8 secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air
9 cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not
10 eliminate the known toxins in secondhand smoke.

11 (6) A significant amount of secondhand smoke exposure occurs in the workplace.
12 Employees who work in smoke-filled businesses suffer a twenty-five (25) to fifty (50) percent
13 higher risk of heart attack and higher rates of death from cardiovascular disease and cancer, as
14 well as increased acute respiratory disease and measurable decrease in lung function.

15 (7) Smoke-filled workplaces result in higher worker absenteeism due to respiratory
16 disease, lower productivity, higher cleaning and maintenance costs, increased health insurance
17 rates and increased liability claims for diseases related to exposure to secondhand smoke.

18 (8) Numerous economic analyses examining restaurant and hotel receipts and controlling
19 for economic variables have shown either no difference or a positive economic impact after
20 enactment of laws requiring workplaces to be smokefree. Creation of smokefree workplaces is
21 sound economic policy and provides the maximum level of employee health and safety.

22 (9) Smoking is a potential cause of fires; cigarette and cigar burns and ash stains on
23 merchandise and fixtures causes economic damage to businesses.

24 Accordingly, the legislature finds and declares that the purposes of this chapter are: (1) to
25 protect the public health and welfare by prohibiting smoking in public places and places of
26 employment; and (2) to guarantee the right of nonsmokers to breathe smokefree air and to
27 recognize that the need to breathe smokefree air shall have priority over the desire to smoke.

28 **23-77-3. Definitions.** – The following words and phrases, whenever used in this chapter,
29 shall be construed as defined in this section:

30 (1) "Assisted living residence" means a residence that provides personal assistance, and
31 meals to adults in accordance with chapter 23-17.4 of the general laws.

32 (2) "Bar" means an establishment that is devoted to the serving of alcoholic beverages for
33 consumption by guests on the premises and in which the serving of food is only incidental to the
34 consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail

1 lounges and cabarets.

2 (3) "Business" means a sole proprietorship, partnership, joint venture, corporation, or
3 other business entity formed for profit-making purposes, including retail establishments where
4 goods or services are sold as well as professional corporations and other entities where legal,
5 medical, dental, engineering, architectural or other professional services are delivered.

6 (4) "Employee" means a person who is employed by an employer in consideration for
7 direct or indirect monetary wages or profit, and a person who volunteers his or her services for a
8 nonprofit entity.

9 (5) "Employer" means a person, business, partnership, association, corporation, including
10 a municipal corporation, trust or nonprofit entity that employs the services of one or more
11 individual persons.

12 (6) "Enclosed area" means all space between a floor and ceiling that is enclosed on all
13 sides by solid walls or windows (exclusive of doorways), which extend from the floor to the
14 ceiling.

15 (7) "Health care facility" means an office or institution providing care or treatment of
16 diseases, whether physical, mental, emotional, or other medical, physiological or psychological
17 conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics,
18 including weight control clinics, nursing homes, homes for the aging or chronically ill,
19 laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and
20 all specialists within these professions. This definition shall include all waiting rooms, hallways,
21 private rooms, semi-private rooms and wards within health care facilities.

22 (8) "Place of employment" means an area under the control of a public or private
23 employer that employees normally frequent during the course of employment, including, but not
24 limited to, work areas, employee lounges, restrooms, conference rooms, meeting rooms,
25 classrooms, employee cafeterias, and hallways. Vehicles owned by a public or private employer
26 are covered under this definition provided that the vehicle is used by more than one (1) person at
27 a time. A private residence is not a "place of employment" unless it is used as a child care, adult
28 day care or health care facility.

29 (9) "Public place" means an enclosed area to which the public is invited or in which the
30 public is permitted, including, but not limited to, banks, bars, educational facilities, health care
31 facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food
32 production and marketing establishments, retail service establishments, retail stores, shopping
33 malls, sports arenas, the state house, theaters and waiting rooms. A private residence is not a
34 "public place" unless it is used as a child care, adult day care or health care facility.

1 (10) "Restaurant" means an eating establishment, including, but not limited to, coffee
2 shops, cafeterias, and private and public school cafeterias, which gives or offers for sale food to
3 the public, guests or employees, as well as kitchens and catering facilities in which food is
4 prepared on the premises for serving elsewhere. The term "restaurant" shall include a bar area
5 within the restaurant.

6 (11) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco
7 products and accessories and in which the sale of other products is merely incidental.

8 (12) "Service line" means an indoor line in which one (1) or more persons are waiting for
9 or receiving service of any kind, whether or not the service involves the exchange of money.

10 (13) "Shopping mall" means an enclosed public walkway or hall area that serves to
11 connect retail or professional establishments.

12 (14) "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar,
13 cigarette, pipe, weed or plant.

14 (15) "Sports arena" means sports pavilions, stadiums, gymnasiums, health spas, boxing
15 arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where
16 members of the general public assemble to engage in physical exercise, participate in athletic
17 competition or witness sports or other events.

18 (16) "Legislature" means the general assembly of the state of Rhode Island.

19 **23-77-4. Application of chapter to state-owned and municipal facilities.** – All
20 enclosed facilities, including buildings and vehicles owned, leased or operated by the state of
21 Rhode Island or any municipalities within, shall be subject to the provisions of this chapter.

22 **23-77-5. Prohibition of smoking in public places.** – Smoking shall be prohibited in all
23 enclosed public places within the state of Rhode Island, including, but not limited to, the
24 following places:

25 (1) Aquariums, galleries, libraries and museums;

26 (2) Areas available to and customarily used by the general public in businesses and
27 nonprofit entities patronized by the public, including, but not limited to, professional offices,
28 banks, laundromats, hotels and motels.

29 (3) Bars;

30 (4) Bingo facilities when a bingo game is in progress;

31 (5) Convention facilities;

32 (6) Elevators;

33 (7) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture,
34 musical, recital or other similar performance;

- 1 (8) Health care facilities;
- 2 (9) Licensed child care and adult day care facilities;
- 3 (10) Lobbies, hallways and other common areas in apartment buildings, condominiums,
- 4 trailer parks, retirement facilities, nursing homes and other multiple unit residential facilities with
- 5 more than four (4) units;
- 6 (11) Polling places;
- 7 (12) Public transportation facilities, including buses and taxicabs, under the authority of
- 8 the state of Rhode Island, and ticket, boarding and waiting areas of public transit depots;
- 9 (13) Restaurants;
- 10 (14) Restrooms, lobbies, reception areas, hallways and other common use areas;
- 11 (15) Retail stores;
- 12 (16) Rooms, chambers, places of meeting or public assembly, including school buildings,
- 13 under the control of an agency, board, commission, committee or council of the state of Rhode
- 14 Island or a political subdivision of the state when a public meeting is in progress, to the extent the
- 15 place is subject to the jurisdiction of the state of Rhode Island;
- 16 (17) Schools;
- 17 (18) Service lines;
- 18 (19) Shopping malls;
- 19 (20) Sports arenas, including enclosed places in outdoor arenas.

20 **23-77-6. Prohibition of smoking in places of employment.** – Smoking shall be

21 prohibited in all enclosed facilities within places of employment without exception. This includes

22 common work areas, auditoriums, classrooms, conference and meeting rooms, private offices,

23 elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, vehicles,

24 as defined in section 23-77-3(8), and all other enclosed facilities.

25 This prohibition on smoking shall be communicated to all existing employees by the

26 effective date of this chapter and to all prospective employees upon their application for

27 employment.

28 **23-77-7. Reasonable distance.** – Smoking is prohibited within a reasonable distance

29 outside an enclosed area where smoking is prohibited, so as to insure that tobacco smoke does not

30 enter the area through entrances, windows, ventilation systems or other means.

31 **23-77-8. Where smoking not regulated.** – Notwithstanding any other provision of this

32 chapter to the contrary, the following areas shall be exempt from the provisions of sections 23-77-

33 5 and 23-77-6:

- 34 (1) Private residences, except when used as a licensed child care, adult day care or health

1 care facility;

2 (2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms;
3 provided, however, that not more than fifty percent (50%) of rooms rented to guests in a hotel or
4 motel may be so designated;

5 (3) Retail tobacco stores; provided that smoke from these places does not infiltrate into
6 areas where smoking is prohibited under the provisions of this chapter;

7 (4) Private and semi-private rooms or designated areas in assisted living residences and
8 nursing facilities as allowed by regulation of the department of health under chapters 23-17.4 and
9 23-17 of the general laws;

10 (5) Outdoor areas of places of employment, except those covered by the provisions of
11 section 23-77-7.

12 **23-77-10. Posting of signs.** – (a) "No smoking" signs or the international "No smoking"
13 symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with
14 a red bar across it) shall be clearly and conspicuously posted in every public place and place of
15 employment where smoking is prohibited by this chapter, by the owner, operator, manager or
16 other person in control of that place. Signs required by this chapter may be provided by the state
17 department of health at cost.

18 (b) Every public place and place of employment where smoking is prohibited by this
19 chapter shall have posted at every entrance a conspicuous sign clearly stating that smoking is
20 prohibited.

21 **23-77-11. Nonretaliation.** – No person or employer shall discharge, refuse to hire or in
22 any manner retaliate against an employee, applicant for employment or customer because that
23 employee, applicant or customer exercises any rights afforded by this chapter or reports or
24 attempts to prosecute a violation of this chapter.

25 **23-77-12. Enforcement.** – (a) The director of health may promulgate such rules and
26 regulations as are necessary to carry out the mandates of this chapter within one hundred eighty
27 (180) days of passage.

28 (b) Notice of the provisions of this chapter shall be given to all applicants for a business
29 license in the state of Rhode Island.

30 (c) Any citizen who desires to register a complaint under this chapter may initiate such a
31 complaint with the department of health.

32 (d) The department of health, having received a written and signed letter of complaint
33 citing a violation of this chapter, shall enforce this entire chapter against violations by either of
34 the following actions:

1 (1) Serving written notice to comply to an employer, with a copy of the notice to the
2 complaining individual, requiring the employer to correct immediately any violation or section of
3 this chapter.

4 (2) Upon receiving a second complaint at the department of health for the same or
5 continued violation by the same employer, the complaint shall be resolved by calling upon the
6 city or town solicitor, having jurisdiction over the licensed holder, to maintain, without delay, an
7 action for injunction to enforce the provisions of this chapter, to cause the correction of such
8 violation or section, and for assessment and recovery of a civil penalty for such violation.

9 (e) The department of health, local fire department, or their designees shall, while an
10 establishment is undergoing otherwise mandated inspections, inspect for compliance with this
11 chapter.

12 (f) An owner, manager, operator, or employee of an establishment regulated by this
13 chapter shall inform persons violating this chapter of the appropriate provisions thereof.

14 (g) Notwithstanding any other provision of this chapter, an employee or private citizen
15 may bring legal action to enforce this chapter.

16 (h) In addition to the remedies provided by the provisions of this section, the department
17 of health or any person, aggrieved by the failure of the owner, operator, manager or other person
18 in control of a public place or place of employment to comply with the provisions of this chapter,
19 may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

20 **23-77-13. Violations and penalties.** – (a) An employer who violates this chapter shall be
21 liable for a civil penalty as follows:

22 (1) A penalty of one hundred dollars (\$100) for the first violation;

23 (2) A penalty of two hundred fifty dollars (\$250) for the second violation;

24 (3) A penalty of five hundred dollars (\$500) for the third and subsequent violations;

25 which shall be assessed and recovered in a civil action brought by the city or town solicitor,
26 having jurisdiction over the licensed holder, in any court of competent jurisdiction. Each day the
27 violation is committed or permitted to continue shall constitute a separate offense and shall be
28 punishable as a separate offense. One-half (1/2) of any penalty assessed and recovered in an
29 action brought pursuant to this subsection shall be transferred to the municipality in which the
30 civil action originated and the other one-half (1/2) of any penalty assessed and recovered shall be
31 transferred to the general fund.

32 (b) In undertaking the enforcement of this chapter, the state is assuming an undertaking
33 only to promote the general welfare. It is not assuming, nor is it imposing on its officers and
34 employees, an obligation for breach of which it is liable in money damages to any person who

1 claims that this breach proximately caused injury.

2 **23-77-14. Public education.** – The department of health shall engage in a continuing
3 program to explain and clarify the purposes and requirements of this chapter to citizens affected
4 by it, and to guide owners, operators and managers in their compliance with it. The program may
5 include publication of a brochure for affected businesses and individuals explaining the
6 provisions of this ordinance.

7 **23-77-15. Governmental agency cooperation.** – The state of Rhode Island and its
8 designees shall annually request other governmental and educational agencies having facilities
9 within the state to establish local operating procedures in cooperation and compliance of this
10 chapter. This includes urging all federal, state, municipal and school district agencies to update
11 their existing smoking control regulations to be consistent with the current health findings
12 regarding secondhand smoke.

13 **23-77-16. Other applicable laws.** – This chapter shall not be interpreted or construed to
14 permit smoking where it is otherwise restricted by other applicable laws.

15 **23-77-18. Prohibited condition of employment – Smoking by employees outside**
16 **course of employment.** – (a) No employer or agent of any employer shall require, as a condition
17 of employment, that any employee or prospective employee refrain from smoking or using
18 tobacco products outside the course of his or her employment, or otherwise discriminate against
19 any individual with respect to his or her compensation, terms, conditions or privileges of
20 employment for smoking or using tobacco products outside the course of his or her employment.
21 Provided, however, that the following employers shall be exempt from the provisions of this
22 section: Any employer that is a nonprofit organization which as one of its primary purposes or
23 objectives discourages the use of tobacco products by the general public.

24 (b) In any civil action alleging a violation of this section, the court may:

25 (1) Award up to three (3) times the actual damages to a prevailing employee or
26 prospective employee;

27 (2) Award court costs to a prevailing employee or prospective employee;

28 (3) Afford injunctive relief against any employer who commits or proposes to commit a
29 violation of this chapter.

30 (c) Nothing contained in this chapter shall be construed to affect any other provisions of
31 this title.

32 **23-77-19. Severability.** – If any section, subsection, sentence, clause, phrase or portion
33 of this chapter is for any reason held invalid or unconstitutional by any court of competent
34 jurisdiction, that portion shall be deemed a separate, distinct and independent provision and this

1 holding shall not affect the validity of the remaining portions of this chapter.

2 **23-77-20. Preemption.** – Nothing contained in this chapter shall be construed to restrict
3 the power or authority of any Rhode Island city, town or other legal subdivision to adopt and
4 enforce additional local laws, ordinances, or regulations that comply with at least the minimal
5 applicable standards to establish smokefree public places as set forth in this chapter.

6 SECTION 2. Chapter 23-20.6 of the General Laws entitled "Smoking in Public Places"
7 is hereby repealed in its entirety.

8 CHAPTER 23-20.6

9 Smoking in Public Places

10 ~~**23-20.6-1. Legislative intent.** – The use of tobacco for smoking purposes is being found~~
11 ~~to be increasingly dangerous, not only to the person smoking, but also to the non-smoking person~~
12 ~~who is required to breathe the contaminated air. The most pervasive intrusion of the non-smoker's~~
13 ~~right to unpolluted air space is the uncontrolled smoking in public places. The legislature intends,~~
14 ~~by the enactment of this chapter, to protect the health and atmospheric environment of the non-~~
15 ~~smoker by regulating smoking in certain public areas.~~

16 ~~**23-20.6-2. Smoking prohibited in certain public areas – Smoking sections in eating**~~
17 ~~facilities. – (a) Smoking tobacco in any form is a public nuisance and dangerous to public health~~
18 ~~and shall not be permitted in any of the following places used by or open to the public: the state~~
19 ~~house, elevators, indoor movie theaters, libraries, art galleries, museums, concert halls,~~
20 ~~auditoriums, buses, primary, secondary or post-secondary school buildings, colleges and~~
21 ~~universities (including dormitories), and public hallways in court buildings, hallways of elderly~~
22 ~~housing complexes, supermarkets, medical offices, public laundries as defined in chapter 16 of~~
23 ~~title 5 and hospitals and other health care and assisted living facilities.~~

24 ~~(b) The proprietor or other person in charge of a public area listed in subsection (a) shall~~
25 ~~make reasonable efforts to prevent smoking and shall post no smoking and warning signs~~
26 ~~conspicuously in these areas.~~

27 ~~(c) Any person who violates this chapter shall be deemed to be contributing to the~~
28 ~~maintenance of a public nuisance in a public place and shall be subject to a fine of not less than~~
29 ~~fifty dollars (\$50.00), nor more than five hundred dollars (\$500), which shall be assessed and~~
30 ~~recovered in a civil action brought by the attorney general in any court of competent jurisdiction.~~
31 ~~Each day the violation is committed or permitted to continue shall constitute a separate offense~~
32 ~~and shall be punishable as such. Any penalty assessed and recovered in an action brought under~~
33 ~~this subsection shall be paid to the general treasurer and added to the general fund.~~

34 ~~(d) This section does not prohibit smoking in the areas listed in subsection (a) if the~~

1 smoking is confined to areas separated from those used by the general public and identified by
2 signs as smoking areas.

3 ~~(e) (1) Eating facilities with a seating capacity of fifty (50) or more persons shall have~~
4 ~~separate seating for nonsmokers and smokers. For purposes of this section, an "eating facility"~~
5 ~~means any building, structure, room or area maintained as, or held out to the public as, an~~
6 ~~enclosure where meals are served for consideration of payment; excluded, however, are bars,~~
7 ~~nightclubs, lounges, dance clubs, and privately sponsored social affairs. Appropriate~~
8 ~~arrangements shall be made to ask patrons their preference for the non smoking or smoking~~
9 ~~section prior to being seated.~~

10 ~~(2) The proprietor or person in charge of the eating facility shall post signs as follows:~~

11 ~~(A) At the entry stating that the establishment is required by law to have a no smoking~~
12 ~~section; and~~

13 ~~(B) In the smoking sections identifying the area.~~

14 ~~(3) The department of health is authorized to adopt rules and regulations necessary for~~
15 ~~the implementation and enforcement of this subsection.~~

16 **23-20.6-3. Severability.** ~~--- If any section, subsection, sentence, clause, phrase, or portion~~
17 ~~of this chapter is for any reason held invalid or unconstitutional by any court of competent~~
18 ~~jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and this~~
19 ~~holding shall not affect the validity of the remaining portions of this chapter.~~

20 **23-20.6-4. Signs.** ~~--- Signs required by this chapter may be provided by the state~~
21 ~~department of health at cost.~~

22 SECTION 3. Chapter 23-20.7 of the General Laws entitled "Workplace Smoking
23 Pollution Control Act" is hereby repealed in its entirety.

24 ~~CHAPTER 23-20.7~~

25 ~~Workplace Smoking Pollution Control Act~~

26 **23-20.7-1. Legislative intent.** ~~--- The use of tobacco for smoking purposes is being found~~
27 ~~to be increasingly dangerous, not only to the person smoking but also to the nonsmoking person~~
28 ~~who is required to breathe the contaminated air. The most pervasive intrusion of the nonsmoker's~~
29 ~~right to unpolluted air space is the uncontrolled smoking in the workplace. The legislature~~
30 ~~intends, by the enactment of this chapter, to protect the health and atmospheric environment of~~
31 ~~the nonsmoker by regulating smoking in the workplace.~~

32 **23-20.7-2. Short title.** ~~--- This chapter shall be known as the "Rhode Island Workplace~~
33 ~~Smoking Pollution Control Act".~~

34 **23-20.7-3. Purpose.** ~~--- (a) Because the smoking of tobacco or any other weed or plant is~~

1 a danger to health and is a cause of material annoyance and discomfort to those who are present
2 in confined places, the legislature declares that the purposes of this chapter are:

- 3 ~~-(1) To protect the public health and welfare by regulating smoking in the workplace; and~~
- 4 ~~-(2) To minimize the toxic effects of smoking in the workplace by requiring an employer~~
5 ~~to adopt a policy that will accommodate, insofar as possible, the preferences of nonsmokers and~~
6 ~~smokers.~~

7 ~~-(b) This chapter is not intended to create any right to sue or to impair or alter an~~
8 ~~employer's prerogative to prohibit smoking in the workplace. If an employer allows employees to~~
9 ~~smoke in the workplace, this chapter requires:~~

- 10 ~~-(1) That the employer make reasonable accommodations for the preferences of both~~
11 ~~nonsmoking and smoking employees, particularly those employees who, as a result of physical~~
12 ~~condition, are unduly sensitive to tobacco smoke;~~
- 13 ~~-(2) All nonsmoking areas shall be designated and conspicuously marked with signs;~~
- 14 ~~-(3) Employers are prohibited from terminating, without due cause, or discriminating~~
15 ~~against an employee solely because the employee exercised his or her right under this chapter.~~

16 **23-20.7-4. Definitions.** — As used in this chapter:

- 17 ~~-(1) "Employee" means any person who is employed by any employer in consideration~~
18 ~~for direct or indirect monetary wage or profit;~~
- 19 ~~-(2) "Employer" means any person who employs the service of an individual person;~~
- 20 ~~-(3) "Enclosed" means closed in by a roof and four walls with appropriate openings for~~
21 ~~ingress and egress and is not intended to mean areas commonly described as public lobbies;~~
- 22 ~~-(4) "Legislature" means the general assembly of the state of Rhode Island;~~
- 23 ~~-(5) "Person" means any individual person, firm, partnership, association, corporation,~~
24 ~~company, organization, or legal entity of any kind;~~
- 25 ~~-(6) "Smoking" or "to smoke" or "smoke" means and includes the inhaling, exhaling,~~
26 ~~burning, or carrying of any lighted smoking equipment or paraphernalia for tobacco or any other~~
27 ~~weed or plant; and~~
- 28 ~~-(7) "Workplace" means any enclosed area of a structure or portion of the structure~~
29 ~~intended for occupancy by business entities which will provide primarily, but not exclusively,~~
30 ~~clerical, professional, or business services of the business entity, or which will provide primarily,~~
31 ~~but not exclusively, clerical, professional, or business services to other business entities or to the~~
32 ~~public, at that location. The workplace includes, but is not limited to, office spaces in office~~
33 ~~buildings, office spaces in all state and municipal office buildings, office spaces in all federal~~
34 ~~office buildings where other than federal employees are present, medical office waiting rooms, all~~

1 factory or manufacturing plant areas, libraries, museums, hospitals, nursing homes, other medical
2 treatment facilities, and in all the mentioned places.

3 ~~**23-20.7-5. Regulation of smoking in the workplace.**~~ (a) Each employer who operates
4 a workplace in this state shall within three (3) months of adoption of this chapter adopt,
5 implement, and maintain a written smoking policy which will contain, at a minimum, a policy
6 which is designed to protect the health and atmospheric environment of the nonsmoker and to
7 ensure a comfortable environment for all employees, and the requirement that any nonsmoking
8 employee may object to his or her employer about the smoke hazard or discomfort in his or her
9 workplace. Using existing means of ventilation or separation or partition of the work space:

10 ~~(1) The employer shall attempt to reach a reasonable accommodation to protect the~~
11 ~~health and atmospheric environment of the nonsmoking employees and to ensure a comfortable~~
12 ~~environment for all employees.~~

13 ~~(2) The employer shall either make accommodations or completely prohibit smoking in~~
14 ~~those areas of the workplace where nonsmoking employees may reasonably be expected to be~~
15 ~~adversely affected by passive cigarette smoke.~~

16 ~~(b) The employer's smoking policy shall be announced within three (3) weeks of~~
17 ~~adoption to all employees working in workplaces in this state and posted conspicuously in all~~
18 ~~workplaces under the employer's jurisdiction.~~

19 ~~(c) The director of the department of health shall promulgate rules and regulations to~~
20 ~~enforce the provisions of this chapter.~~

21 ~~**23-20.7-6. Where smoking not regulated.**~~ This chapter is not intended to regulate
22 smoking in the following places and under the following conditions within the state:

23 ~~(1) A private home which may serve as a workplace;~~

24 ~~(2) Any office space leased or rented by a sole independent contractor for his or her own~~
25 ~~use;~~

26 ~~(3) A private enclosed workplace occupied exclusively by smokers, even though this~~
27 ~~workplace is visited by nonsmokers, excepting places in which smoking is prohibited by the fire~~
28 ~~marshal or by other law, ordinance, or regulation.~~

29 ~~**23-20.7-7. Penalties and enforcement.**~~ (a) The department of health, having received
30 a written and signed letter of complaint from an employee citing a violation of this chapter, shall
31 enforce this entire chapter against violations by either of the following actions:

32 ~~(1) Serving written notice to comply to an employer, with a copy of the notice to the~~
33 ~~complaining employee, requiring the employer to correct within ten (10) days any violation of a~~
34 ~~section of this chapter.~~

1 ~~violation of this chapter.~~

2 ~~-(e) Nothing contained in this chapter shall be construed to affect the provisions of~~
3 ~~chapter 20.7 of this title.~~

4 SECTION 5. This act shall take effect on March 31, 2004.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY --
RHODE ISLAND WORKERS' SAFETY ACT OF 2003

- 1 This act would establish and create the "Rhode Island Workers' Safety Act of 2003."
- 2 This act would take effect on March 31, 2004.

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A N A C T

RELATING TO HEALTH AND SAFETY --
RHODE ISLAND WORKERS' SAFETY ACT OF 2003

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Presented by