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LC01167  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2005**

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A N A C T

RELATING TO HEALTH AND SAFETY -- PUBLIC HEALTH AND WORKPLACE SAFETY  
ACT

Introduced By: Representatives Laroche, T Brien, Faria, Menard, and Winfield

Date Introduced: February 03, 2005

Referred To: House Labor

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 23-20.10-2 and 23-20.10-6 of the General Laws in Chapter 23-  
2   20.10 entitled "Public Health and Workplace Safety Act" are hereby amended to read as follows:

3           **23-20.10-2. Definitions. [Effective March 1, 2005.]** -- The following words and phrases,  
4   whenever used in this chapter, shall be construed as defined in this section:

5           (1) "Assisted living residence" means a residence that provides personal assistance, and  
6   meals to adults in accordance with chapter 17.4 of this title.

7           (2) "Bar" means an establishment that is devoted to the serving of alcoholic beverages  
8   for consumption by guests on the premises and in which the serving of food constitutes more than  
9   ten percent (10%) of its gross revenue and is only incidental to the consumption of those  
10   beverages, including, but not limited to, taverns, nightclubs, cocktail lounges and cabarets.

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

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

18          (5) "Employer" means a person, business, partnership, association, corporation,

1 including a municipal corporation, trust or nonprofit entity that employs the services of one or  
2 more individual persons.

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

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

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

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

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

31 (11) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco  
32 products and accessories in which the total annual revenues generated by the sale of other  
33 products are no greater than twenty-five percent (25%) of the total revenue for the establishment.  
34 The division of taxation shall be responsible for the determination under this section and shall

1 promulgate any rules or forms necessary for the implementation of this section.

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

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

6 (14) "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar,  
7 cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form;  
8 provided, however, that smoking shall not include burning during a religious ceremony.

9 (15) (a) "Smoking bar" means an establishment whose business is primarily devoted to  
10 the serving of tobacco products for consumption on the premises, in which the annual revenues  
11 generated by tobacco sales are greater than fifty percent (50%) of the total revenue for the  
12 establishment and the serving of food or alcohol is only incidental to the consumption of such  
13 tobacco products. The establishment must annually demonstrate that revenue generated from the  
14 serving of tobacco products is greater than the total combined revenue generated by the serving of  
15 beverages and food. The division of taxation in the department of administration shall be  
16 responsible for the determination under this section and shall promulgate any rules or forms  
17 necessary for the implementation of this section.

18 (b) Smoking bars shall only allow consumption of food and beverages sold by the  
19 establishment on the premises and the establishment shall have public access only from the street.

20 (c) Any smoking bar as defined herein, is required to provide a proper ventilation system  
21 which will prevent the migration of smoke into the street.

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

26 (17) "Legislature" means the general assembly of the state of Rhode Island.

27 (18) "Stand-alone bar" means any licensed premises devoted during any time of operation  
28 predominantly or totally to serving alcoholic beverages, intoxicating beverages, or intoxicating  
29 liquors, or any combination thereof, for consumption on the licensed premises; in which the  
30 selling of food, if any, is merely incidental to the consumption of any such beverage; and the  
31 licensed premises is not located within, and does not share any common entryway or common  
32 indoor area with, any other enclosed indoor workplace, including any business for which the sale  
33 of food or any other product or service is more than an incidental source of gross revenue. A  
34 place of business constitutes a stand-alone bar in which the service of food is merely incidental in

1 [accordance with this subsection if the licensed premises derives no more than ten percent \(10%\)](#)  
2 [or its gross revenue from the sale of food consumed on the licensed premises.](#)

3 **23-20.10-6. Where smoking not regulated. [Effective March 1, 2005.] -- (a)**

4 Notwithstanding any other provision of this chapter to the contrary, the following areas shall be  
5 exempt from the provisions of this chapter.

6 (1) Private residences, except when used as a licensed child care, adult day care or health  
7 care facility;

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

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

13 (4) Private and semi-private rooms or designated areas in assisted living residences and  
14 nursing facilities as allowed by regulation of the department of health under chapters 17.4 and 17  
15 of this title;

16 (5) Outdoor areas of places of employment, except those covered by the provisions of  
17 section 23-20.10-5;

18 (6) Any smoking bar as defined in section 23-20.10-2(15);

19 (7) Any facility operated under a class D liquor license provided the class D liquor  
20 license is held by a nonprofit or charitable corporation with a defined membership, is not  
21 ordinarily a place of public accommodation but is distinctly private, and employs not more than  
22 ten (10) employees;

23 (8) Any facility operated exclusively under a class C liquor license and employs not  
24 more than ten (10) employees.

25 (b) Exemptions (7) and (8) above shall remain in effect until October 1, 2006.

26 (c) The provisions of this chapter shall not apply to any stage performance provided that  
27 smoking is part of a theatrical production.

28 [\(9\) "Stand-alone bar" means any licensed premises devoted during any time of operation](#)  
29 [predominantly or totally to serving alcoholic beverages, intoxicating beverages, or intoxicating](#)  
30 [liquors, or any combination thereof, for consumption on the licensed premises; in which the](#)  
31 [serving of food, if any, is merely incidental to the consumption of any such beverage; and the](#)  
32 [licensed premises is not located within, and does not share any common entryway or common](#)  
33 [indoor area with, any other enclosed indoor workplace, including any business for which the sale](#)  
34 [of food or any other product or service is more than an incidental source of gross revenue. A](#)

1 place of business constitutes a stand-alone bar in which the service of food is merely incidental in  
2 accordance with this subsection if the licensed premises derives no more than ten percent (10%)  
3 or its gross revenue from the sale of food consumed on the licensed premises.

4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HEALTH AND SAFETY -- PUBLIC HEALTH AND WORKPLACE SAFETY  
ACT

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1           This act would exempt from the provisions of this chapter any bar where the service of  
2 food is merely incidental to the service of alcoholic beverages and said service of food constitutes  
3 less than ten percent (10%) of its gross revenue.

4           This act would take effect upon passage.

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