

By Mr. Sirianni of Winthrop (by request), petition of Alvan Brody relative to smoking in public buildings. Social Welfare.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Three.

**AN ACT PROVIDING FOR NO SMOKING IN PUBLIC BUILDINGS WITHIN THE COMMONWEALTH.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 *Whereas*, Every person in the Commonwealth has a right to  
2 breathe uncontaminated air,  
3 and whereas there is an increasing body of scientific literature  
4 that smoking in the presence of non-smokers constitutes a danger  
5 to the health of such non-smokers and to the health of young  
6 persons having respiratory or coronary diseases, THEREFORE  
7 **BE IT ENACTED**,

8 In any building or enclosed structure in which the public is  
9 invited or permitted, no person shall smoke or be in possession of  
10 any lighted tobacco product, except that the fire commissioner,  
11 with the concurrence of the commissioner of public health, may,  
12 at the request of any person having legal custody or control of  
13 the same, designate within such building or structure, an area or  
14 areas within which smoking is permitted, provided that (1) any  
15 such area is not a portion of the building or structure where a  
16 person who is not a smoker is required to be in furtherance of  
17 the purpose for which such person is invited or permitted into  
18 the building or structure, (2) the commissioner of public health  
19 shall find and certify to the fire commissioner that such area or  
20 areas where smoking is sought to be permitted, are vented in such  
21 a manner that no tobacco smoke shall circulate or enter into any  
22 portion of the building or structure where smoking is not per-  
23 mitted, and (3) the fire commissioner shall determine that per-

24 mitting smoking within the area to be so designated will not  
25 constitute a fire hazard.

26 No person shall smoke or be in possession of any lighted  
27 tobacco product in any building or enclosed structure in the  
28 presence of any person under sixteen years of age in circum-  
29 stances where such smoking or possession is capable of being  
30 discerned by such person under sixteen years of age by such  
31 person's olfactory sense.

32 Nothing herein shall be construed to permit smoking or posses-  
33 sion of a lighted tobacco product otherwise prohibited by the  
34 provisions of § 58 of G.L. c. 44; § 73 of G.L. c. 54; § 2B, 31C,  
35 130, 142A, 142D of G.L. c. 111; § 48, 54 of G.L. c. 148; § 173  
36 of G.L. c. 160; § 3, 18 of G.L. c. 270; § 43A, 86C of G.L. c.  
37 272.

38 Any person who smokes or is in possession of any lighted  
39 tobacco product in violation of any provision of this statute shall  
40 be guilty of a misdemeanor and shall be fined not more than \$5  
41 for the first offense, nor more than \$10 for the second unrelated  
42 offense, nor more than \$50 for each subsequent unrelated  
43 offense, except that any person who smokes or remains in pos-  
44 session of a lighted tobacco product after having been requested  
45 by any other person not to do so, shall be fined no less than \$5  
46 nor more than \$100 for each unrelated offense.