

By Mr. Larkin of Needham, petition of Robert F. Larkin, Jr., relative to regulating smoking in certain public places. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT REGULATING SMOKING IN CERTAIN PUBLIC PLACES.

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

1 Chapter 270 is hereby amended by striking out Section 21 and
2 inserting in place thereof the following section: —

3 Section 21. (1) No person shall smoke or have in his possession
4 any lighted cigar, cigarette, pipe or other tobacco product in a
5 public elevator, supermarket, single vehicle public mass transit
6 conveyance, school bus, or at meetings of governmental bodies as
7 defined in Section 11 A 1/2 of Chapter 30A of the General Laws,
8 Section 23A of Chapter 39 of the General Laws, and Section 9F of
9 Chapter 34 of the General Laws which are open to the public.

10 (2) Except as otherwise provided in (1) smoking of any tobacco
11 product or having in one's possession any lighted cigar, cigarette,
12 or other tobacco product in any school, college, and university,
13 health care facility as defined in Section 9 of Chapter 112 of the
14 General Laws, museum, library, train, airplane, and other mass
15 transit conveyances, at any restaurant with the seating capacity of
16 over fifty people, shall be permitted only in an area or areas, if any,
17 specifically designated by sign, provided that, non-smoking areas
18 of sufficient size and capacity are available to accommodate per-
19 sons who wish to use them for any purpose for which such facilities
20 are normally used. Any of the above areas measuring less than 100
21 square feet of floor space shall be designated as a no smoking area.

22 (3) The owner, manager or other person in charge of facilities,
23 buildings, or vehicles, as defined in (1), shall post a sign at each
24 entrance indicating that possession of lighted cigarettes, cigars, or

25 other tobacco products is prohibited. The owner, manager or other
26 person in charge of facilities, buildings or vehicles as defined in (2)
27 shall post a sign at each entrance indicating that possession of
28 lighted cigarettes, cigars or other tobacco products is prohibited
29 except in areas specifically designated by signs to permit smoking.

30 The owner, manager, or other person in charge of facilities,
31 buildings or vehicles as defined in (1) and (2) shall post conspicu-
32 ously an appropriate number of signs indicating that smoking is
33 prohibited, except, where applicable, in specifically designated
34 areas. There shall be, at a minimum, one such sign for every two
35 hundred square feet of floor space up to two thousand square feet.

36 (4) Any agency or agent of the Commonwealth or any of its
37 political subdivisions, including but not limited to the State Fire
38 Marshall's Office and the Department of Public Health, who, upon
39 any inspection of such facilities, building, or vehicle for purposes of
40 enforcing this or any other state or local rule, ordinance, or regula-
41 tion finds that the provisions of this section are being violated, shall
42 enforce said provisions.

43 (5) If the owner, manager, or person in charge of any building,
44 place, facility, or vehicle covered by this section refuses or fails to
45 display the signs required by (3), or upon request of any person
46 using the facility, building, or vehicle, or upon request of any
47 inspector included within the provisions of Section (4), refuses or
48 fails to enforce this section, he or she shall be subject to a fine of no
49 more than \$50 for each violation.

50 (6) Any person in charge of such facilities listed in Sections (1)
51 and (2) who permits smoking in a non-smoking area under such
52 persons control, or refuses to act on a request of any person using
53 the facility, building, or vehicle, or upon request of any inspector
54 included within the provisions of Section (4) shall be subject to a
55 fine of no more than \$50 for each violation.

56 (7) Nothing in this act shall make lawful smoking in any area in
57 which smoking is or may hereafter be prohibited by law, including
58 without limiting the generality of the foregoing, any other provi-
59 sion of the General Laws of the Commonwealth, any local law,
60 by-law, or ordinance, or any fire, health, or safety regulation.

61 (8) The Department of Public Health shall make such rules and
62 regulations as may be necessary to implement this section under
63 their licensure and rulemaking authority.