

**From:** [Mahoney, Dennis](#)  
**To:** [Rosenson, Valerie](#)  
**Subject:** Fw: Smoking Ban  
**Date:** Saturday, December 07, 2019 3:57:14 PM  
**Attachments:** [statute re smoking.pdf](#)

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Can you forward this to the committee.

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**From:** Toma, Michael  
**Sent:** Friday, December 6, 2019 12:11 PM  
**To:** Mahoney, Dennis; Stella, Jeffrey; Pratt, Rodney  
**Cc:** Emmett, Kathryn  
**Subject:** Smoking Ban

Representatives Mahoney, Stella and Pratt:

I was able to take some time yesterday to review the state's statutes relating to smoking, and I came across the attached statute which contains a very significant provision in it. The statute prohibits smoking in various places, both public and private, including municipal and state buildings, hospitals, food stores, restaurants, etc. Significantly, subsection (g) of this statute states: "The provisions of this section shall supersede and preempt the provisions of any municipal law or ordinance relative to smoking effective prior to, on or after October 1, 1993." This provision means that the City cannot adopt any ordinance relative to smoking. It is the Law Department's opinion that no municipal ordinance regulating smoking in any way would be valid, given this broadly worded preemption provision.

Mike Toma

KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

Connecticut General Statutes Annotated  
Title 19a. Public Health and Well-Being (Refs & Annos)  
Chapter 368M. Nuisances and Public Places (Refs & Annos)

C.G.S.A. § 19a-342

§ 19a-342. Smoking prohibited. Exceptions. Signs required. Penalties

Effective: October 1, 2019  
Currentness

(a) As used in this section, “smoke” or “smoking” means the lighting or carrying of a lighted cigarette, cigar, pipe or similar device.

(b) (1) Notwithstanding the provisions of section 31-40q, no person shall smoke: (A) In any building or portion of a building, partially enclosed shelter on a rail platform or bus shelter owned and operated or leased and operated by the state or any political subdivision thereof; (B) in any area of a health care institution; (C) in any area of a retail food store; (D) in any restaurant; (E) in any area of an establishment with a permit issued for the sale of alcoholic liquor pursuant to section 30-20a, 30-21, 30-21b, 30-22, 30-22c, 30-28, 30-28a, 30-33a, 30-33b, 30-35a, 30-37a, 30-37e or 30-37f, in any area of an establishment with a permit for the sale of alcoholic liquor pursuant to section 30-23 issued after May 1, 2003, and, on and after April 1, 2004, in any area of an establishment with a permit issued for the sale of alcoholic liquor pursuant to section 30-22a or 30-26 or the bar area of a bowling establishment holding a permit pursuant to subsection (a) of section 30-37c; (F) within a school building or on the grounds of such school; (G) within a child care facility or on the grounds of such child care facility, except, if the child care facility is a family child care home, as defined in section 19a-77, such smoking is prohibited only when a child enrolled in such home is present; (H) in any passenger elevator, provided no person shall be arrested for violating this subsection unless there is posted in such elevator a sign which indicates that smoking is prohibited by state law; (I) in any dormitory in any public or private institution of higher education; or (J) on and after April 1, 2004, in any area of a dog race track or a facility equipped with screens for the simulcasting of off-track betting race programs or jai alai games. For purposes of this subsection, “restaurant” means space, in a suitable and permanent building, kept, used, maintained, advertised and held out to the public to be a place where meals are regularly served to the public, “school” has the same meaning as provided in section 10-154a and “child care facility” has the same meaning as provided in section 19a-342a.

(2) This section shall not apply to (A) correctional facilities; (B) designated smoking areas in psychiatric facilities; (C) public housing projects, as defined in subsection (b) of section 21a-278a; (D) any classroom where demonstration smoking is taking place as part of a medical or scientific experiment or lesson; (E) smoking rooms provided by employers for employees, pursuant to section 31-40q; (F) notwithstanding the provisions of subparagraph (E) of subdivision (1) of this subsection, the outdoor portion of the premises of any permittee listed in subparagraph (E) of subdivision (1) of this subsection, provided, in the case of any seating area maintained for the service of food, at least seventy-five per cent of the outdoor seating capacity is an area in which smoking is prohibited and which is clearly designated with written signage as a nonsmoking area, except that any temporary seating area established for special events and not used on a regular basis shall not be subject to the smoking prohibition or signage requirements of this subparagraph; (G) any medical research site where smoking is integral

to the research being conducted; or (H) any tobacco bar, provided no tobacco bar shall expand in size or change its location from its size or location as of December 31, 2002. For purposes of this subdivision, "outdoor" means an area which has no roof or other ceiling enclosure, "tobacco bar" means an establishment with a permit for the sale of alcoholic liquor to consumers issued pursuant to chapter 545<sup>1</sup> that, in the calendar year ending December 31, 2002, generated ten per cent or more of its total annual gross income from the on-site sale of tobacco products and the rental of on-site humidors, and "tobacco product" means any substance that contains tobacco, including, but not limited to, cigarettes, cigars, pipe tobacco or chewing tobacco.

(c) The operator of a hotel, motel or similar lodging may allow guests to smoke in not more than twenty-five per cent of the rooms offered as accommodations to guests.

(d) In each room, elevator, area or building in which smoking is prohibited by this section, the person in control of the premises shall post or cause to be posted in a conspicuous place signs stating that smoking is prohibited by state law. Such signs, except in elevators, restaurants, establishments with permits to sell alcoholic liquor to consumers issued pursuant to chapter 545, hotels, motels or similar lodgings, and health care institutions, shall have letters at least four inches high with the principal strokes of letters not less than one-half inch wide.

(e) Any person found guilty of smoking in violation of this section, failure to post signs as required by this section or the unauthorized removal of such signs shall have committed an infraction. Nothing in this section shall be construed to require the person in control of a building to post such signs in every room of a building, provided such signs are posted in a conspicuous place in such building.

(f) Nothing in this section shall be construed to require any smoking area in any building.

(g) The provisions of this section shall supersede and preempt the provisions of any municipal law or ordinance relative to smoking effective prior to, on or after October 1, 1993.

#### Credits

(1958 Rev., § 1-21b; 1974, P.A. 74-126, §§ 1, 2, eff. July 1, 1974; 1977, P.A. 77-284; 1979, P.A. 79-410; 1983, P.A. 83-27; 1983, P.A. 83-242; 1984, P.A. 84-546, § 5, eff. June 14, 1984; 1987, P.A. 87-201; 1987, P.A. 87-589, § 63, eff. Oct. 1, 1987; 1993, P.A. 93-110, § 2, eff. Oct. 1, 1993; 1993, P.A. 93-304; 1993, P.A. 93-368, § 2; 1993, P.A. 93-435, § 62, eff. June 28, 1993; 1995, P.A. 95-257, §§ 12, 21, eff. July 1, 1995; 2002, P.A. 02-110, § 1, eff. July 1, 2003; 2003, P.A. 03-45, § 1; 2003, P.A. 03-235, § 2; 2003, June 30 Sp.Sess., P.A. 03-3, § 33; 2004, P.A. 04-9, § 1; 2017, P.A. 17-146, § 35; 2018, P.A. 18-167, § 7; 2019, P.A. 19-13, § 17, eff. Oct. 1, 2019.)

Notes of Decisions (4)

#### Footnotes

<sup>1</sup> C.G.S.A. § 30-1 et seq.

C. G. S. A. § 19a-342, CT ST § 19a-342

The statutes and Constitution are current through the 2019 January Regular Session and the 2019 July Special Session.