

## History of Smokefree Laws in Iowa

1970's & 1980's - The first statewide law to restrict where smoking was allowed in Iowa was passed in 1978. This law was considerably weaker than other legislation passed by neighboring states during the 1970's. Slight improvements were made to the law in 1987 with the passage of The Iowa Clean Indoor Air Act. In 1990, the law was weakened as restaurants were amended out of the law, other provisions were weakened and language was added that preempted Iowa localities from passing stronger measures.

1990's - In the late 1990s, Iowans questioned whether localities were in fact preempted from passing clean indoor air ordinances and in 2000, Ames, Iowa, began to draft a local clean indoor air restaurant smoking ordinance. Later that year, Attorney General Tom Miller (D) issued a formal opinion that stated that the Attorney General's Office did not believe that localities were preempted from passing smokefree ordinances regarding public places.

2000's - In March 2001, Ames passed Iowa's first clean indoor air ordinance. The Ames ordinance included a tobacco industry inspired "hours" provision that allowed smoking after 8:30pm, advocated for by hospitality interests, making the ordinance weak. In response to the ordinance going into effect, eight Ames business owners, with financial backing from Phillip Morris, filed a lawsuit claiming that the ordinance was preempted by state law. In February 2002, an Iowa District Court ruled that the Ames law was legal and not preempted by state law. In January 2002, Iowa City passed Iowa's first 100% smokefree restaurant ordinance. On May 7, 2003, the Iowa Supreme Court ruled that the 1990 Clean Indoor Air Act was preemptive invalidating both the Ames and the Iowa City ordinances.

Between January 2007 and February 2008, 31 local governments and boards of health passed resolutions requesting that the "Iowa General Assembly and Governor of the State of Iowa pass legislation allowing local control of smoking in public places," citing the dangers of secondhand smoke as the foundation for the need for local governments to be given the authority to pass clean indoor air laws.

In 2007, SF 236, a bill to grant communities local control passed the Senate. The bill was sent to the House's Local Government Committee, but no action was taken on the bill during the 2007 session.



## 2008 Iowa Smokefree Air Act

On January 22, 2008, House Study Bill 537, a comprehensive statewide smokefree bill that would repeal Iowa Code 142B and establish the Iowa Smokefree Air Act, was introduced by Rep. Janet Petersen (D-Polk). The bill sought to prohibit public smoking statewide and included a provision to allow local governments to pass stricter laws.

House File 2212, the successor to House Study Bill 537, was introduced by the House Commerce Committee on February 11, 2008. The bill included strong provisions to regulate smoking. As introduced, House File 2212 prohibited smoking in all indoor public places as well as designated outdoor areas. The bill also delineated public places that were explicitly exempt from coverage.

Several provisions were added between the discussion of House Study Bill 537 and the introduction of House File 2212 that appeared to make House File 2212 a stronger bill than House Study Bill 537. However, when introduced, House File 2212 also included important exemptions and provisions not present in House Study Bill 537 that weakened the proposed law in way that out-weighed any provisions added to extend the coverage of the bill. Most controversially, House File 2122 removed gaming facilities from the list of public places where smoking was regulated and included an explicit exemption for gambling structures and hotels/motels owned by licensed gaming facilities.

Only one amendment was adopted, House Amendment 8027, introduced by the bill's floor manager Rep. Tyler Olson (D-Linn). The amendment changed provisions pertaining to outdoor smoking regulations, reducing the proximity in which a person could smoke near a public place from either 20 or 50 feet (dependent upon the outdoor area) to 10 feet. With this revision, the bill passed the House by a 56-44 vote and the bill moved to consideration in the Senate.

In the Senate, Sen. Staci Appel (D-Warren), floor manager of the bill in the Senate, filed Senate Amendment 5035, which removed the exemption for gambling facilities and veterans homes and also removed provisions that allowed smoking sections at outdoor entertainment venues. The amendment also added new exemptions to House File 2212, including one that removed all of the provisions regarding outdoor smoking in proximity to smokefree public places, removing restrictions for smoking near windows, doors, and other places where smoke could infiltrate into smokefree environments. The amendment also added exemptions for the Iowa State Fair Grounds, correctional facilities, and facilities of the Iowa National Guard. Finally, Senate Amendment 5035 added a provision to allow incorporated family farmers to smoke on their own property. Senate Amendment 5035 passed on February 27, 2008, by a vote of 30 to 20 and later in the day House File 2212 was passed by a vote of 29 to 21. Five Republicans voted for House File 2212 and six Democrats voted against the bill. The bill was sent back to the House for consideration of the changes made by the Senate.

The House did not concur with the amendments passed by the Senate and proceeded to again amend the bill, adding two provisions that seriously weakened House File 2212. House

Amendment 8079A, filled by Rep. Mark Smith (D-Marshall) and Rep. McKinley Bailey (D-Hamilton) reinserted an exemption for the Iowa Veteran's Home. The amendment passed by a vote of 51 to 30. House Amendment 8084, introduced by McKinley Bailey (D-Hamilton), Tom Schueller (D-Jackson, Policy Score: 6.7, Industry Contributions: \$0), Roger Wendt (D-Woodbury), Wayne Ford (D-Polk), Ray Zirkelbach (D-James), Roger Thomas (D-Clayton), Dolores Mertz (D-Kossuth), Brian Quirk (D-Chicksaw), Marcella Frevert (D-Palo Alto), Rick Olson (D-Polk), Geri Huser (D-Polk) and Deborah Berry (D-Black Hawk), reincorporated an exemption for casinos, and added age restriction provisions pushed by tobacco industry lobbyists. Specifically, under House Amendment 8084, any establishment that was only open to persons 21 years and older was automatically exempt from the clean indoor air law. Additionally, any restaurant or other establishment could have hours of operation provisions, where smoking was allowed during designated times when the establishment was only open to persons 21 years and older. House Amendment 8084 passed 51 to 44 on March 12.

A severely weakened House File 2212 passed the House as amended on March 12 by a vote of 59 to 40. The Senate refused to concur with the House amendments and the House insisted on their version. As a result, the bill went to a conference committee of both chambers in order to develop a compromise bill.

The bill that emerged from the conference committee was far stronger than the final version passed from the Iowa House. As with versions passed initially from the House and Senate, the bill prohibited smoking in a broad range of public places. A compromise on the gaming exemption allowed for smoking on the floor of gaming facilities, but not in restaurants within the facilities. Additionally, the bill from conference repealed Iowa Code chapter 142B, removing preemption as it pertained to clean indoor air from Iowa law.

On April 8, the House passed the conference version of House File 2212 by a vote of 54 to 45. The same day the Senate passed the bill with a vote of 28 to 22. The following week on April 15, 2008, Governor Culver signed the Iowa Smokefree Air Act into law. The law went into effect on July 1, 2008.

## Final Votes on HF 2212

### House Vote Count

The ayes were, 54:

Abdul-Samad	Anderson	Baudler	Bell
Berry	Bukta	Clute	Cohoon
Dandekar	Davitt	Foege	Ford
Frevert	Gaskill	Gayman	Heddens
Hunter	Jacobs	Jacoby	Jochum
Kelley	Kressig	Kuhn	Lensing
Mascher	May	McCarthy	Miller, H.
Oldson	Olson, D.	Olson, R.	Olson, T.
Palmer	Petersen	Rayhons	Reasoner
Reichert	Schickel	Shomshor	Smith
Staed	Swaim	Taylor, D.	Taylor, T.
Tomenga	Wendt	Wessel-Kroeschell	Whitaker
Whitead	Wiencek	Winckler	Wise
Zirkelbach	Mr. Speaker Murphy		

The nays were, 45:

Alons	Drake	Horbach	Olson, S.	Sands	Van Fossen
Arnold	Forristall	Huseman	Paulsen	Schueller	Watts
Bailey	Gipp	Huser	Pettengill	Soderberg	Wenthe
Boal	Granzow	Kaufmann	Quirk	Struyk	Windschitl
Chambers	Grassley	Lukan	Raecker	Thomas	Worthan
De Boef	Greiner	Lykam	Rants	Tjepkes	
Deyoe	Heaton	Mertz	Rasmussen	Tymeson	
Dolecheck	Hoffman	Miller, L.	Roberts	VanEngelenhoven	

Absent or not voting, 1:

Upmeyer

Source: <https://www.legis.iowa.gov/docs/pubs/hjweb/pdf/April%2008,%202008.pdf#page=15>

### Senate Votes:

Yeas, 26:

Appel	Dvorsky	Lundby	Schoenjahn
Beall	Fraise	McCoy	Seng
Bolkcom	Gronstal	Olive	Stewart
Connolly	Hatch	Quirnbach	Warnstadt
Courtney	Hogg	Ragan	Wood
Danielson	Horn	Rielly	
Dearden	Kibbie	Schmitz	

Nays, 24:

Angelo	Hahn	Kettering	Putney
Behn	Hancock	Kreiman	Seymour
Black	Hartsuch	McKibben	Ward
Boettger	Heckroth	McKinley	Wieck
Dotzler	Houser	Mulder	Zaun
Gaskill	Johnson	Noble	Zieman

Absent: none.

Source: <https://www.legis.iowa.gov/docs/pubs/sjweb/pdf/April%2008,%202008.pdf#page=16>

**The following organizations publicly opposed HF 2212:**

Wild Rose, Inc. of Clinton

Iowa Wholesale Distributors Association

Iowa Restaurant Association

Kum & Go

Wild Rose, Inc. of Emmetsburg

Reynolds American Inc.

Petroleum Marketers and Convenience Stores of America

**The following organizations publicly supported HF 2212:**

The American Cancer Society

Qwest

Community Health Charities

Urban Education Network of Iowa

Iowa Community Education Association

Allied Insurance

Nationwide Mutual Ins. Co.

Iowa Department of Public Health

Iowa Medical Society

Iowa School Nurses Association

Mercy Health Network

CAFÉ Iowa Citizen's Action Network

Iowa Osteopathic Medical Association

Iowa Hospital Association

Iowa Commission on the Status of Women

Principal Financial Group

Des Moines University

John Deere Company

Iowa Insurance Institute

Iowa Annual Conference of the United Methodist Church

American Lung Association

ABATE Iowa

School Administrators of Iowa

Nationwide Agribusiness

Coalition of Family and Children's Services for Iowa

AFSCME Iowa Council 61

Iowa Nurses Association

Iowans for Wellness and Prevention

Child and Family Policy Center

Pfizer

Polk County Medical Society

Iowa Health Systems

Iowa Hospice Organization

City of Cedar Rapids

Linn County

Wellmark, Inc.

Provisions	HSB 537	HF 2212 as introduced	HF 2212 passed by House 2/19	HF 2212 passed by Senate 2/27	HF 2212 passed by House 3/12	Final version from Conference Committee passed by House 4/8, Senate 4/8, and signed by Governor 4/15
<b>AREAS IN WHICH SMOKING WAS PROHIBITED</b>						
Indoor public places	X	X	X	X	X*	X
Gaming facilities	X			X		*smoking was permitted on the floor of gaming facilities but not in restaurants at gaming facilities
Enclosed places of employment	X	X	X	X	X*	X
Outdoor areas where smoking could filter into smokefree areas	X	X	X			X
Public transportation	X	X	X	X	X*	X
School grounds	X	X	X	X	X*	X
Grounds of public buildings	X	X	X	X	X*	X
State owned vehicles		X	X	X	X*	X
State owned private residences		X	X	X	X*	X
Outdoor seating or service area of restaurants						X
Outdoor seating areas of entertainment venues						X
<b>AREAS EXPLICITLY EXEMPTED FROM REGULATION UNDER HOUSE FILE 2212</b>						
*All places that were only open to persons 21 years and older and any restaurant or other					X	

establishment during designated hours when they only allow persons 21 or older to enter						
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<b>AREASE EXPLICITLY EXEMPTED FROM REGULATION UNDER HOUSE FILE 2212</b>						
Private residences	X	X	X	X	X	X
Up to 20% of contiguous hotel/motel rooms	X	X	X	X	X	X
Hotels/motels owned by gaming facilities		X	X	X	X	
Private/semi private rooms in long-term care facilities	X	X	X	X	X	X
Private clubs with no employees except for an event that was open to the general public or if the club was created to avoid compliance with the Act	X	X	X	X	X	X
Limousines under private hire	X	X	X	X	X	X
Work vehicles used by only one person	X	X	X	X	X	X
Enclosed places where smoking was necessary for medical or scientific research or therapy	X	X	X	X	X	X
Veterans organizations except during functions to which the public was invited	X	X				
State fair grounds				X	X	X

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<b>AREAS EXPLICITLY EXEMPTED FROM REGULATION UNDER HOUSE FILE 2212</b>						
Correctional facilities				X	X	X
Iowa National Guard facilities				X	X	X
The Iowa Veterans' Home			X		X	X
Retail tobacco stores						X
Farm tractors, farm trucks and implements of husbandry				X	X	X
<b>LOCAL CONTROL PROVISIONS</b>						
Provision that explicitly stated that HF 2212 did not preempt local action	X					
Provision repealing Iowa Code chapter 142B which contained the implied preemption clause	X	X	X	X	X	X

Source: Epps-Johnson, BA, Tiana. Barnes, JD, Richard. Glantz, PhD, Stanton. "The Stars Aligned Over the Cornfields: Tobacco Industry Political Influence and Tobacco Policy Making in Iowa 1897-2009" Series: Tobacco Control Policy Making: United States, 2009. <http://escholarship.org/uc/item/5dt9w35k> Accessed October 2015.