

**2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: House
Number: 99

Category: Bill
Type: Introduced

Date (of THIS analysis): 01/17/2024
Sponsor(s): Elizabeth “Liz” Thomson
Short Title: NO SMOKING IN RACINOS

Reviewing Agency: Agency 665 - Department of Health
Person Writing Analysis: Arya Lamb
Phone Number: 505 470 4141
e-Mail: Arya.Lamb@doh.nm.gov

Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 24	FY 25		
\$0	\$0	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 24	FY 25	FY 26		
\$0	\$0	\$0	N/A	N/A

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 24	FY 25	FY 26	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$0	\$0	\$0	\$0	N/A	N/A

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a. Synopsis

House Bill 99 (HB99) proposes to amend the Dee Johnson Clean Indoor Air to exclude racinos from those entities allowed as “smoking-permitted areas” in the Dee Johnson Clean Indoor Act.

- *E. a state-licensed gaming facility, casino or bingo parlor, except a racetrack licensed by the state racing commission with a gaming operator's license issued by the gaming control board.*

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b. Significant Issues

Gaming facility employees often suffer more severe secondhand smoke exposure than other workers. Prohibiting smoking and vaping is the only way to effectively protect employees and patrons from the dangers of secondhand smoke and e-cigarette aerosols. To date, 21 states, including the neighboring states of Arizona and Colorado, have passed laws making all their state-regulated gambling facilities 100% smoke-free (<https://www.gamingdirectory.com/smokefree/commercial/#map>). A total of 1,037 United States casinos as well as other gaming properties are operating smokefree and at least 149 Native American gaming facilities are operating smokefree by their own sovereign policies (<https://www.gamingdirectory.com/smokefree/properties/>).

HB99 would strengthen the Dee Johnson Clean Indoor Air Act to further protect New Mexicans from the harms of secondhand smoke and e-cigarette aerosols. Smoking causes health problems to the user and those around them. The Centers for Disease Control and Prevention states that being a current or former cigarette smoker increases risk of severe illness from COVID-19 (<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>). As evidenced by the American Lung Association, there is an increased risk for severe illness to current or former cigarette smokers who are infected by COVID-19. Cigarettes are known to compromise the immune system, which is linked to lung inflammation that also puts people at increased risk for pulmonary infection. (<https://www.lung.org/getmedia/7c65fb45-6787-46d6-ac07-79543f37bbc5/COVID-Tobacco.pdf>).

In addition to health benefits, smoke-free gambling facilities report financial benefits, such as fewer employee sick days, a reduction in employee health care related costs, less money spent cleaning and removing nicotine tar from surfaces, and less money spent on air filters. Claims that smoke-free laws push customers towards casinos where smoking is permitted are unsupported by research as evidence by the American

Nonsmoker's Rights Foundation. There is a growing number of executives and industry experts who agree that smokefree policies do not hurt revenue and recognize the potential to attract a new base of customers by providing guests with a modern, clean air experience. Casino workers across the country continue to speak out against outdated smoking practices (<https://no-smoke.org/casino-workers-praise-nm-casino-for-adopting-permanent-smokefree-policy-2/>).

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes No

If yes, describe how.

- Is this proposal related to the NMDOH Strategic Plan? Yes No

Goal 1: We expand equitable access to services for all New Mexicans

Goal 2: We ensure safety in New Mexico healthcare environments

Goal 3: We improve health status for all New Mexicans

Goal 4: We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

NM DOH Strategic Plan

Program Objective: Work with health system and surveillance partners to monitor health status to identify community problems

Decrease diseases of despair (suicide & drug and alcohol related deaths), decrease mortality rates and thereby reduce SHIP priorities by 5%

Performance Measure 7: Percent of adolescents who smoke

Performance Measure 8 : Percent of adults who smoke

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?

Yes No N/A

- If there is an appropriation, is it included in the LFC Budget Request?

Yes No N/A

- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No

- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

None

8. **DISPARITIES ISSUES**

This bill will significantly expand the benefits of smoke-free environments to population groups that experience significant health disparities. Populations with a lower socioeconomic status have higher smoking rates, higher risk of workplace exposure, and higher likelihood of living in low-income multi-unit housing and have their communities targeted more by tobacco companies ([Disparities in Secondhand Smoke Exposure in the US: NHNES, JAMA 2011-2018](#)).

In the United States, people living below the poverty level (45.0%) have a higher prevalence of secondhand smoke exposure than those with incomes at or above the poverty level (21.4%). People aged 25 or older with a high-school education (24.3%) or those with less than high-school education (26.4%) have a higher prevalence of secondhand smoke exposure than people with a college diploma or higher (11.1%). People who live in rental housing (36.6%) have a higher prevalence of secondhand smoke exposure than people who own their housing (18.6%). People that live in multi-unit or low-income housing have little control over their neighbors' habits. Therefore, even when no one in the home smokes, families can be affected by secondhand smoke because it can drift from other units including via hallways, stairwells, and ventilation systems (<https://www.cdc.gov/tobacco/secondhand-smoke/disparities.html>).

9. **HEALTH IMPACT(S)**

It is well documented that there is no safe level of exposure to secondhand smoke. Health problems caused by secondhand smoke in adults who do not smoke include coronary heart disease, stroke, and lung cancer. Among infants and young children, secondhand smoke can cause sudden infant death syndrome (SIDS), respiratory infections, ear infections, and asthma attacks. Secondhand smoke can also cause adverse reproductive health effects in women, including low-birthrate and health complications (<https://www.cdc.gov/tobacco/secondhand-smoke/health.html>).

Most efforts to reduce health problems from secondhand smoke, such as opening windows and using fans do not protect people from secondhand smoke. Smoke from one cigarette can stay in a room for hours (<https://www.cdc.gov/tobacco/secondhand-smoke/home.html>).

Outside of the home, New Mexico laws regarding smoking and business policies have already reduced health adverse events in many schools, public places, multi-unit housing facilities, and workplaces (<https://www.cdc.gov/mmwr/volumes/65/wr/mm6524a4.htm>). These policies do not have an adverse economic impact on businesses or multi-unit housing (<https://www.cdc.gov/tobacco/secondhand-smoke/policy.html>).

10. **ALTERNATIVES**

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If HB99 is not enacted, racinos will not be eliminated from smoking-permitted areas allowed in the Dee Johnson Clean Indoor Act.

12. AMENDMENTS

None