

## INITIATIVE PETITION

Number \_\_\_\_\_

County LUCAS

Issued To John NVESTI

Date Of Issuance 5/30/07

Initiative Petition  
To be submitted Directly to the Electors

## INITIATIVE AMENDMENT

An Amendment to the Ohio Constitution to require the General Assembly to enact laws to limit or prohibit smoking of tobacco products in all enclosed, public areas of the state except for certain types of facilities or portions of facilities.

## SUMMARY OF THE AMENDMENT

The proposed amendment would require that the General Assembly to repeal Ohio Revised Code Chapter 3794 and pass laws to grant a license permit granted by the state of Ohio for a fee of \$5.00 (five-dollars), not to exceed \$2500.00 (twenty-five hundred dollars) a year, multiplied based on the total number of a occupancy permit, by record of state fire marshal, to limit or prohibit smoking of tobacco or tobacco products in all enclosed, public areas of this state and to provide that no laws may prohibit the use of tobacco or tobacco products in any of the following:

- A) RETAIL TOBACCO SHOP, - An enclosed indoor workplace dedicated to or predominantly for the retail sale of tobacco, tobacco products, and accessories;
- B) PRIVATE RESIDENCE, - A private residence whenever it is not being used commercially to provide adult care, or health care;
- C) DESIGNATED SMOKING GUEST ROOM, - A designated smoking guest room at a public lodging establishment;
- D) CHARITABLE BINGO, - A public area where bingo is played that has a Type I, Type II and Type III Charitable Bingo license under the Ohio Revised Code Chapter 2915;
- E) BOWLING CENTER, - A public area of bowling centers after 6:00pm;
- F) PRIVATE CLUBS, - A charitable, nonprofit, or veterans organization that holds a current exemption under 501 (c) (3), (4), (7), (8), (10), or (19) or 501 (d) of the Internal Revenue Code;
- G) STAND ALONE BAR, - A licensed premises devoted during anytime of operation predominantly or totally to serving alcoholic beverages where if the licensed premise derives no more than 10 percent of its gross revenue from the sale of food consumed on the licensed premises. ;
- H) SMOKING CESSATION PROGRAM, MEDICAL OR SCIENTIFIC RESEARCH, - An enclosed indoor workplace, to the extent that tobacco smoking is an integral part of a smoking cessation program approved by the department, or medical or scientific research conducted therein.
- I) NURSING HOME, - Any nursing home, as defined in section 3721.10 (A) of the Ohio Revised Code, but only to the extent necessary to comply with section 3721.13 (A) (18) of the Ohio Revised Code.
- J) POSTING OF SIGNS, - A sign will be posted on the establishments that are in the definition of exemption declaring it is a license holder to allow smoking in the color of " Green". All non-exempt public places will post a "No Smoking" sign or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red across it) in the color or "Red".

This amendment supersedes and renders invalid any state ordinance or local law in existence as of the date of this amendment to the extent such ordinance or law prohibits smoking and/or the use of tobacco products in an establishment or place exemptions by the language set forth to ORC Chapter 3794. The amendment also would prevent such laws or ordinances from taking effect in the future.

## COMMITTEE TO REPRESENT THE PETITIONERS

William J. Delaney  
2016 Bucklew Drive  
Toledo, OH 43613

William Seagraves  
1111 Brindlestone Dr  
Vandalia, OH 43577

Gary P. Nolan  
14206 Lorain Ave  
Cleveland, OH 44111

Hermann H. Tegenkamp  
7228 Blue Ash Rd.  
Deerpark Ohio 45236

## FULL TEXT OF AMENDMENT

Be it resolved by the people of the state of Ohio that the General Assembly shall pass laws to repeal ORC Chapter 3794 and pass laws to grant a license permit granted by the state of Ohio to go into the general fund for a fee of \$5.00 (five-dollars), not to exceed \$2500.00 (twenty-five hundred dollars) a year, multiplied based on the total number of a occupancy permit, by record of state fire marshal, to limit or prohibit smoking of tobacco or tobacco products in all enclosed, public areas of this state and to provide that no laws may prohibit the use of tobacco or tobacco products in any of the following:

- A) License permit to go into the general fund for a fee of \$5.00 (five-dollars), not to exceed \$2500.00 (twenty-five hundred dollars) a year, multiplied based on the total number of a occupancy permit, by record of state fire marshal. The total number of occupants a building can occupy multiplied by five-dollars, not to exceed twenty-five hundred dollars every year. Example- a building that occupies 100 people based upon the State of Ohio Fire Marshals office 100 multiplied \$5.00 (five dollars)= \$500.00 (five-hundred dollars) a year to the general fund.
- B) **Retail tobacco shop** means any enclosed indoor workplace dedicated to or predominantly for the retail sale of tobacco, tobacco products, and accessories for such products, in which the sale of other products or services is merely incidental. Any enclosed indoor workplace of a business that manufactures, imports, or distributes tobacco products or of a tobacco leaf dealer is a business dedicated to or predominantly for the retail sale of tobacco and tobacco products when, as a necessary and integral part of the process of making, manufacturing, importing, or distributing a tobacco product for the eventual retail sale of such tobacco or tobacco product, tobacco is heated, burned, or smoked or a lighted tobacco product is tested.
- C) **Private residences** means except during the hours of operation as a child care or adult care facility for compensation, during the hours of operation as a business by a person other than a person residing in the private residence, or during the hours of operation as a business, when employees of the business, who are not residence of the private residence or are not related to the owner, are present.
- D) **Designated smoking guest rooms** mean rooms for sleeping in hotels, motels, and other lodging facilities designated as smoking rooms. No more than twenty percent of sleeping rooms may be so designated.
- E) **Bowling center** means to allow smoking in the bowling center facility after 6:00pm eastern standard time to allow family oriented business hours the clean air of smoke.
- F) **Private clubs** means a membership association that follows a constitution and charter of a club, charitable, nonprofit, or veterans organizations that hold a current exemption under a 501 (c) (3), (4), (7), (8), (10), or (19) or 501 (d) of the Internal Revenue Code.
- G) **Stand Alone Bar** means any licensed premises devoted during any time of operation predominantly or totally to serving alcoholic beverages, intoxicating beverages, or intoxicating liquors, or any combination thereof, for consumption on the licensed premises, in which serving food, if any, is merely incidental to the consumption of any such beverage. A place of business constitute a stand alone bar in which the service of food is merely incidental in accordance with the subsection if the licensed premises derives no more the 10 (ten) percent of its gross revenue from the sale of food consumed on the licensed premises and that the food is consumed on premise.
- H) **Smoking Cessation Program, Medical or Scientific Research** means An enclosed indoor workplace, to the extent that tobacco smoking is an integral part of a smoking cessation program approved by the department, or medical or scientific research conducted therein.
- I) **Nursing Home** means Any nursing home, as defined in section 3721.10 (A) of the Ohio Revised Code, but only to the extent necessary to comply with section 3721.13 (A) (18) of the Ohio Revised Code. If indoor smoking area is provided by a nursing home for residents of the nursing home, the designated indoor smoking area shall be separately enclosed and separately ventilated so that tobacco smoke does not enter, through entrances, windows, ventilation systems, or other means. Only residents of the nursing home may utilize the designated indoor smoking area for smoking.
- J) **Definition Of Sign Posting** means A sign will be posted on the establishments that are in the definition of exemption declaring it is a license holder that Allows Smoking in the color of "Green". All non-exempt public places will post a "No Smoking" sign or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red across it) in the color or "Red".

This amendment supersedes and renders invalid any state ordinance or local law in existence as of the date of this amendment to the extent such ordinance or law prohibits smoking and/or the use of tobacco products in an establishment or place exemptions by the language set forth to repeal the Ohio Revised Code Chapter 3794. The amendment also would prevent such laws or ordinances from taking effect in the future.



STATE OF OHIO  
OFFICE OF THE ATTORNEY GENERAL  
MARC DANN, ATTORNEY GENERAL

Constitutional Offices Section  
30 E. Broad St., 17th Fl.  
Columbus, OH 43215-3428  
Telephone: (614) 466-2872  
Facsimile: (614) 728-7592  
www.ag.state.oh.us

June 11, 2007

Mr. William J. Delaney  
2016 Bucklew Drive  
Toledo, Ohio 43613

Mr. William Seagraves  
1111 Bridlestone Drive  
Vandalia, Ohio 43577

Mr. Gary P. Nolan  
14206 Lorain Avenue  
Cleveland, Ohio 44111

Mr. Hermann H. Tegenkamp  
7228 Blue Ash Road  
Deerpark, Ohio 45236

Re: *Initiated Constitutional Amendment Submitted on June 4, 2007*

Dear Committee Members:

I am in receipt of an initiated constitutional amendment that you filed with this office on June 4, 2007. You submitted these materials for review as required by O.R.C. § 3519.01(A). I am writing to inform you that this office must reject your petition.

O.R.C. § 3519.01(A) requires that a proposed initiated constitutional amendment contains the signatures of at least one thousand qualified electors. In accordance with that provision of the Ohio Revised Code, your part-petitions were submitted to various county boards of elections.

We have received reports from all counties concerning the validity of the signatures on your petition. The petition contained only 776 valid signatures. Since your submission did not contain the verified signatures of at least one thousand qualified electors, we must reject it. We have not made any determination concerning the summary language on your submission. This rejection is based only upon the failure to obtain at least one thousand valid signatures.

Sincerely,

Marc Dann  
Attorney General

A handwritten signature in blue ink, appearing to read "R. Coglianese".

Richard N. Coglianese  
Principal Assistant Attorney General

cc: Laurel Beatty