

June 10, 2005

Ms. Glenda E. Hood
Secretary of State
Florida Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Hood:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of Florida, I do hereby withhold my approval of and transmit to you with my objections, Committee Substitute for Committee Substitute for Senate Bill 1348, enacted during the 37th Session of the Legislature of Florida and convened under the Constitution of 1968, during the Regular Session of 2005 and entitled:

An act relating to indoor smoking places . . .

On November 5, 2002, voters approved an amendment to the Florida Constitution prohibiting tobacco smoking in enclosed indoor workspaces. The Legislature subsequently enacted Chapter 2003-398, Laws of Florida, to implement the amendment. One provision of the legislation was to provide an exception for "stand-alone bars" at which the service of food was merely incidental to the business. The Legislature defined "merely incidental" to mean that no more than 10 percent of such business' gross revenues is derived from food sales.

Committee Substitute for Committee Substitute for Senate Bill 1348 has two primary objectives. First, it would increase the merely incidental food sales threshold for a stand-alone bar which is located in a building individually listed in the National Historic Register of Historic Places from 10 to 20 percent. Second, the bill provides for enforcement of the statewide smoking ban: a proprietor or other person in charge of an enclosed indoor workplace would have to take certain steps if he or she observes, or is notified of, smoking in violation of the Florida Clean Indoor Air Act.

The bill creates an exception to general law that is narrowly tailored to benefit a handful of (and perhaps as few as one) establishments by allowing as much as 20 percent of such business' gross revenues to come from food sales. I am troubled by the precedent this sets. While I understand the unique challenges that historic buildings face vis-à-vis other establishments due to their near inability to renovate their facilities to ensure compliance with the smoking ban, I believe the current statewide standards are working. Historic buildings face unique challenges as a result of their designation, but they can

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also reap unique benefits and protections. I do not want to encourage a precedent for creating carve-outs to the current statewide smoking laws.

I am also troubled by the mechanism this bill identifies for enforcement of the statewide smoking ban. Proprietors have an obligation to comply with state law; this bill, however, puts them in the position of enforcing state law. It holds proprietors responsible if their patrons violate the law. Making proprietors enforcement agents of the state is an unusual and troubling precedent.

For this reason, I withhold my approval of Committee Substitute for Committee Substitute for Senate Bill 1348, and do hereby veto the same.

Sincerely,

Jeb Bush