

**Law to Protect Against the Dangers of Passive Smoking
[Federal Non-Smoker's Protection Act]**

of July 20, 2007

The Bundestag has, with the approval of the Bundesrat, adopted the following law:

Article 1

Law on the Introduction of a Smoking Ban in Federal Facilities and Public Transport
(Bundesnichtraucherschutzgesetz – BnichtSchG)

§ 1

Smoking Ban

- (1) In accordance with paragraphs 2 and 3, smoking is prohibited
 1. In federal facilities and constitutional offices,
 2. In public passenger transport,
 3. In public train stations for passengers.
- (2) The smoking ban pursuant to paragraph 1 applies in buildings and other completely enclosed rooms; it does not apply for rooms are used for housing or overnight accommodation purposes and are ceded for the exclusive use of the residents.
- (3) In deviation from paragraph 1 and 2 first clause, separate and accordingly marked rooms in which smoking is permitted, can be reserved, if there is a sufficient number of rooms available. Clause 1 does not apply for the means of transport mentioned in § 2 no. 2(b).
- (4) The federal government is authorized by ordinance and without the approval of the Bundesrat to issue detailed provisions for the setting up and identification of smoker rooms in accordance with paragraph 3, in particular for the building requirements on the size, location, design and for the type of ventilation.

§ 2

Definitions

1. Federal facilities for the purposes of this law are
 - a) Government agencies, administrative offices, courts and other federal public facilities,
 - b) Corporations, institutions and foundations directly under federal government control
2. Public passenger transport for the purposes of this law includes
 - a) The public rail system's railway vehicles used to transport passengers pursuant to §3 para. 1 of the General Railway Act,
 - b) The streetcars, trolley busses and automobiles used to transport passengers, to the extent the transport is subject to the regulations of the Passenger Transport Act [Personenbeförderungsgesetz] or §a no. 4(d), (g) or (i) of the Exemption Regulation [Freistellungs-Verordnung],
 - c) Aircraft used for commercial or paid passenger transport or for commercial sightseeing flights,

- d) Liner passenger ships, which transport passengers.
- 3. Passenger stations of the public railway system are those that comply with § 3 para. 1 in conjunction with § 2 para. 3c no. 2 of the General Railway Act.
- 4. Rooms for the purposes of this law are
 - a) Structurally separate units of a building,
 - b) Physically separate units of a means of transport.

§ 3

Obligation to inform

In accordance with § 1, the public must be informed of the smoking ban.

§ 4

Responsibility

The title bearer or the operator of the means of transport is responsible for setting up of the smoker areas and the meeting the obligation to inform.

§ 5

Provision on administrative fines

- (1) An administrative offense shall be deemed to have been committed by anyone who smokes in violation/contravention of §1 para. 1.
- (2) The administrative offense can be punished with a fine.
- (3) Administrative authorities for the purposes of § 36 para. 1 no. of the Administrative Offences Act, to the extent this law is executed by the federal government, are the supreme federal authorities each on its own and their divisions and for the constitutional bodies of the federal government, which are each authorized to exercise domiciliary right; § 36 para. 3 of the Administrative Offences Act applies accordingly.

Article 2

Amendment of the Workplace Ordinance

The following clause is added to § 5 para. 1 of the Workplace Ordinance of August 12, 2004 (BGBl. I p. 2179), which was last amended by Article 6 para. 4 of the Ordinance of March 6, 2007 (BGBl. I p. 261):

“If necessary, the employer must issue a general smoking ban or a smoking ban restricted to individual areas of the workplace.”

Article 3

Amendment of the Protection of Young Persons Act

In § 10 para. 1 and 2 clause 2 no. 1 and 2 and § 28 para. 1 no. 12 of the Protection of Young Persons Act of July 23, 2002 (BGBl. I p. 2730, 2003 I p. 476), which was last amended by Article 2

of the Act of February 26, 2007 (BGBl. I p. 179, 251), the words “under 16 years of age” are deleted.

“If necessary, the employer must issue a general smoking ban or a smoking ban restricted to individual areas of the workplace.”

Article 4

Amendment of the Railway Transport Act

§14 of the Railway Transport Act as amended and published on April 20, 1999 (BGBl. I p. 782), which was last amended by Article 2 of the Act of October 15, 2002 (BGBl. I p. 4046), shall be repealed.

Article 5

Amendment of Book XII of the Social Code

§ 32 of Book XII of the Social Code – Social Assistance Benefits – (Article 1 of the law of December 27, 2003, BGBl. I p. 3022, 3023), which was last amended by Article 7 of the law of April 20, 2007 (BGBl. I p. 554), shall be worded as follows:

“§ 32

Health and Long-Term Care Insurance Contributions

- (1) For persons with compulsory insurance within the meaning of § 5 para. 1 no. 1 of Book V of § 2 para. 1 no. 7 of the Second Law concerning Health Insurance of Farmers, for persons with optional continued insurance within the meaning of § 6 para. 1 no. 1 of the Second Law concerning Health Insurance of Farmers and for pension claimants, who are considered members of a health insurance fund in accordance with § 189 of Book V, the health insurance contributions shall be assumed if the persons mentioned meet the requirements of § 19 para. 1. § 82 para. 2 no. 2 and 3 are not to be applied in this respect. For persons insured with compulsory insurance within the meaning of § 5 para. 1 no. 13 of Book V and of § 2 para. 1 no. 7 of the Second Law concerning the health insurance of farmers, who only meet the requirements of § 19 para. 1 due to the payment of the contributions, the contributions are to be paid immediately and in full upon request of the responsible health insurance fund; the Beneficiary are to be informed of this and of an obligation under § 19 para. 5. The health insurance fund’s request under clause 4 must contain proof that an appropriate use of the benefits for contributions by the Beneficiary is not insured.
- (2) For persons with voluntary insurance within the meaning of § 5 para. 1 no. 1 of Book V of § 2 para. 1 no. 7 of the Second Law concerning Health Insurance of Farmers, the health insurance contributions can be assumed if the requirements of § 19 para. 1 are met. To maintain voluntary health insurance, such contributions must be assumed if assistance with a subsistence allowance is to be provided only for a short period. § 82 para. 2 no. 2 and 3 are not to be applied in this respect.
- (3) As long as contributions for health insurance pursuant to paragraphs 1 and 2 are assumed, the associated contributions for long-term care insurance are also assumed.

- (4) For those insured under Book V, the assumption of contributions pursuant to paragraphs 1 and 2 also includes the additional contribution under § 242 of Book V in version as of January 1, 2009.
- (5) If a health insurance is at a health insurance company, the expenses are assumed as long as they are reasonable and meet the requirements of § 19 para. 1. If the entitlement to benefits is only expected to last for a short period, higher expenses shall also be assumed to maintain health insurance at a health insurance company. § 82 para. 2 no. 2 and 3 are not to be applied in this respect. As long as expenses for the health insurance are being assumed in accordance with clauses 1 and 2, expenses for long-term care insurance shall also be assumed.”

Article 6

Amendment of the GKV-Wettbewerbsstärkungsgesetz

The law on strengthening competition conditions within the statutory health insurance system (GKV-Wettbewerbsstärkungsgesetz) of March 26, 2007 (BGBl. I p. 378), amended by Article 9 of the law of June 14, 2007 (BGBl. p. 1066), shall be amended as follows:

1. Article 10 will be deleted.

Article 7

Entry into force

- (1) This law shall enter into force on September 1, 2007 as long as it is not stipulated otherwise in the following.
- (2) Article 5 and 6 take effect on April 1, 2007.
- (3) Article (§ 10 para. 2 clause 2 no. 1 and 2) enters into force on January 1, 2009.

The above law is hereby adopted. It is to be published in the Federal Law Gazette.

Berlin, July 20, 2007

The President
Horst Köhler

The Chancellor
Dr. Angela Merkel

The Federal Minister
for Food, Agriculture and Consumer Protection
Horst Seehofer

The Federal Minister
for Labour and Social Affairs
Franz Müntefering