

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1825

DATE: February 14, 2008

Version: First engrossment

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Subject: Non-Smoking Hotel Rooms; Civil Penalty

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Overview

This bill provides a civil process for recovery of costs, a service charge, and a civil penalty against an individual who smokes in a designated non-smoking hotel room. The innkeeper may only recover if sufficient notice is given and the alleged violator has had an opportunity to dispute the claim. The bill also removes the existing \$100 cap on liability against a person convicted of a petty misdemeanor for smoking in a non-smoking room; an innkeeper would be able to recover the entire actual cost of restoring a damaged room to its pre-violation condition.

Section

- 1 Criminal Penalty.** Current law provides that a person who smokes in a hotel sleeping room designated as “non-smoking” may be convicted of a petty misdemeanor for the offense, and may be required to reimburse the innkeeper for the actual costs to restore the room to its pre-violation condition, up to \$100. This section removes the \$100 cap, allowing the innkeeper to seek reimbursement for the full actual cost of restoration. The innkeeper may not recover lost income incurred as a result of a room being vacant during a restoration.
- 2 Civil Penalty; Service Charge.** Provides that, even without a criminal conviction and court-ordered reimbursement, a person may still be liable for costs of restoring the hotel room to its pre-violation condition, plus an additional service charge of \$30. The innkeeper

Section

may not recover lost income incurred as a result of a room being vacant during a restoration. The service charge may be imposed immediately upon mailing a required notice to the person, as provided in section 4 of this bill, so long as a notice of the innkeeper's right to seek reimbursement, a civil penalty, and service charge is posted conspicuously in all non-smoking rooms.

If the person does not reimburse the innkeeper within 30 days, the innkeeper may seek a civil judgment to secure the costs of restoring the room and the \$30 service charge, plus a civil penalty of up to \$100. If the innkeeper wins the judgment, the person will also be required to pay accrued interest, and reasonable attorney's fees (up to \$500).

3 Notice of Law. Specifies that the signs required to be posted by innkeepers stating that smoking is not permitted in a room and advising occupants of the law must also state the innkeeper's right to seek reimbursement for a room damaged by smoking and to recover a civil penalty and service charge for restoration.

4 Notice of Damage. Requires an innkeeper to send, by mail, a notice of nonpayment to a person alleged to have smoked in a non-smoking room. The notice must be sent to the address provided by the person, and must be supported by an affidavit of service by mail. The notice must state that additional civil penalties will be imposed if payment is not received within 30 days.

This section also prohibits a person from claiming they did not receive the notice as a defense to their liability, and provides that only one service charge may be imposed per incident.

5 Notice of Dispute. Provides that an alleged violator may send a written notice to the innkeeper disputing the claim. If the notice is sent within the 30-day period established in section 2 of the bill, all collection efforts by the innkeeper must stop, and the costs and penalties may only be recovered by the innkeeper upon a judgment by a court.

6 Criminal Liability Preserved. Provides that a person subject to civil liability as provided in this bill may still be subject to criminal liability for the violation.