

**RESOLUTION 2016-13889**

**A RESOLUTION SUPPORTING LEGISLATION TO REPEAL OR LIMIT THE PREEMPTION UNDER SECTION 386.209, FLORIDA STATUTES, TO THE STATE, OF THE MUNICIPAL REGULATION OF OUTDOOR SMOKING IN OR ON CITY PARKS, PLAYGROUNDS, ATHLETIC FIELDS AND PIERS; APPROVING DRAFT STATUTORY LANGUAGE; AUTHORIZING SUBMISSION OF SUCH LANGUAGE TO THE COLLIER COUNTY LEGISLATIVE DELEGATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** the state, under the Florida Clean Indoor Air Act, Section 386.201, et seq. preempts to the state the regulation of smoking, which included outdoor smoking and prohibits cities and counties from enacting local ordinances regulating smoking outdoors; and

**WHEREAS,** the City of Naples, Florida, desires to adopt reasonable local ordinances regulating outdoor smoking in certain public areas;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:**

**Section 1.** The City Council of the City of Naples supports legislation to repeal or limit the preemption under Section 386.209, Florida Statutes, to the state, of the municipal regulation of outdoor smoking in or on city parks, playgrounds, athletic fields and piers.

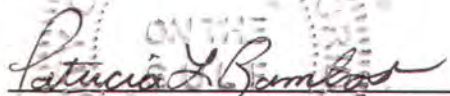
**Section 2.** The draft alternate proposed state law language attached hereto is approved in substance.

**Section 3.** The City Clerk is hereby directed to provide a copy of this Resolution to the Collier County Legislative Delegation; and the City Council authorizes the appropriate representative of the City to attend, and if possible, present this resolution and the draft document, attached as Exhibit A, to the Delegation.

**Section 4.** This resolution shall take effect immediately upon adoption.

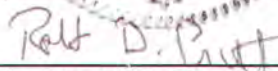
**PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA, THIS 16<sup>TH</sup> DAY OF NOVEMBER, 2016.**

Attest:

  
\_\_\_\_\_  
Patricia L. Rambos, City Clerk

  
\_\_\_\_\_  
Bill Barnett, Mayor

Approved as to form and legality:

  
\_\_\_\_\_  
Robert D. Pritt, City Attorney

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Date filed with City Clerk: 11-17-16

EXHIBIT A

Sample General Law

HB/SB NO. \_\_\_\_\_

An act relating to the Florida Clean Indoor Air Act; amending S. 386.209, F.S., which preempts smoking to the state, to allow municipal and local regulation in public parks, piers, playgrounds and athletic fields; limiting the penalty; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 386.209 is amended to read:

386.209 Regulation of smoking preempted to state.—This part expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject; except ~~however~~; a municipal or county ordinance that restricts or prohibits outdoor smoking in or upon public parks, playgrounds, athletic fields and piers, or any of the above, and that provides for no greater penalty than a non-criminal infraction; and providing that school districts may further restrict smoking by persons on school district property.

Section 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 3. This act shall take effect immediately upon becoming law.

Approved by the Governor \_\_\_\_\_, 2017

Filed in Office of Secretary of State \_\_\_\_\_, 2017.



CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Sample Local Act

An act relating to the City of Naples, Collier County; enacting a special act providing exemptions to the preemption under the Florida Clean Indoor Air Act; in S. 386.209, F.S., which preempts smoking to the state; to allow municipal regulation and prohibition of outdoor smoking in or upon public parks, playgrounds, athletic fields, and piers; limiting the penalty; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. The preemption of smoking to the state and superseding any municipal ordinance on the subject shall not apply to the City of Naples, Florida, to the extent that the city may adopt an ordinance or ordinances restricting or prohibiting outdoor smoking in or upon the city's public parks, playgrounds, athletic fields, piers, or any of the above, and that provides for no greater penalty than a non-criminal infraction.

Section 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 3. This act shall take effect immediately upon becoming law.

Approved by the Governor \_\_\_\_\_, 2017

Filed in Office of Secretary of State \_\_\_\_\_, 2017.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.