HOUSE BILL NO. 252

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES STUTES, LeDoux

Introduced: 5/16/17
Referred: Community and Regional Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

"An Act relating to municipal regulation of smoking in certain places; relating to established villages and local option elections to prohibit smoking in public places; relating to citations for smoking; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 18.35.341(a) is amended to read:

(a) A peace officer may issue a citation for a violation of AS 18.35.300, [OR] 18.35.305, or a local option adopted under AS 18.35.359 committed in the officer's presence or for a violation of AS 18.35.330. The provisions of AS 12.25.175 - 12.25.230 apply to the issuance of a citation under this subsection.

* Sec. 2. AS 18.35.341(b) is amended to read:

(b) An employee of the department designated by the commissioner to enforce the provisions of AS 18.35.300 - 18.35.365 may issue a citation for a violation of AS 18.35.300, 18.35.305, [OR] 18.35.330, or a local option adopted under AS 18.35.359 regardless of whether the violation was committed in the employee's
presence. A citation issued under this subsection shall be in the same form and shall be processed in the same manner as a citation issued by a peace officer under (a) of this section. An employee of the department may not arrest a person for a violation of AS 18.35.300, 18.35.305, [OR] 18.35.330, or a local option adopted under AS 18.35.359.

* Sec. 3. AS 18.35.341(c) is amended to read:

(c) A person who violates AS 18.35.300, 18.35.305, [OR] 18.35.330, or a local option adopted under AS 18.35.359 is guilty of a violation as defined in AS 11.81.900(b) and upon conviction is punishable by a fine of not less than $10 nor more than $50 for a violation of AS 18.35.300, [OR] 18.35.305, or a local option adopted under AS 18.35.359 and by a fine of not less than $20 nor more than $300 for a violation of AS 18.35.330. Each day a violation of AS 18.35.330 continues after a citation for the violation has been issued constitutes a separate violation.

* Sec. 4. AS 18.35.341(d) is amended to read:

(d) The supreme court shall establish a schedule of bail amounts for violations of AS 18.35.300, 18.35.305, [AND] 18.35.330, and a local option adopted under AS 18.35.359, but in no event may the bail amount exceed the maximum fine that may be imposed for the violation under (c) of this section. The bail amount for a violation must appear on the citation.

* Sec. 5. AS 18.35 is amended by adding new sections to read:

Sec. 18.35.357. Municipal regulation. (a) A municipality may adopt and enforce an ordinance that places prohibitions or restrictions that are additional to or more strict than those required under AS 18.35.300 - 18.35.330 on smoking in or near workplaces or buildings that are open to the public.

(b) If a municipality that is in the unorganized borough dissolves under AS 29.06.450(a) or (b), a prohibition or restriction on smoking adopted by the municipality under (a) of this section shall continue in effect as a local option under AS 18.35.359 for an established village having the same perimeter as the previous boundaries of the municipality.

Sec. 18.35.359. Local option election by an established village. (a) If a majority of the voters voting on the question vote to approve the option, an established
village shall exercise a local option to prohibit smoking in public places.

(b) A ballot question to adopt a local option under this section must at least contain language substantially similar to the following: "Shall (name of village) adopt a local option to prohibit smoking in public places? (yes or no)."

(c) If a majority of the voters voting on the question vote to remove the option, an established village shall remove a local option previously adopted under (a) of this section. The option is repealed effective the first day of the month following certification of the results of the election.

(d) A ballot question to remove a local option under (c) of this section must at least contain language substantially similar to the following: "Shall (name of village) remove the local option currently in effect, that prohibits smoking in public places, so that there is no longer any local option in effect? (yes or no)."

(e) An election to adopt a local option under (a) of this section or remove a local option under (c) of this section shall be conducted as required in this section.

(f) Upon receipt of a petition of 35 percent or more of the registered voters residing within an established village, the lieutenant governor shall place on a separate ballot at a special election the local option or removal of local option that constitutes the subject of the petition. The lieutenant governor shall conduct the election under AS 15.

(g) An election under (f) of this section to remove a local option may not be conducted during the first 24 months after the local option was adopted or more than once in a 36-month period.

(h) After a petition has been certified as sufficient to meet the requirements of (f) of this section, another petition may not be filed or certified until after the question presented in the first petition has been voted on.

(i) Except as provided under (j) and (k) of this section, for purposes of this section, the perimeter of an established village is a circle around the established village that includes an area within a five-mile radius of the post office of the established village. If the established village does not have a post office, the perimeter of an established village is a circle around the established village that includes an area within a five-mile radius of another site selected by the local governing body or by the
department if the established village does not have a local governing body.

(j) If the perimeter of an established village determined under (i) of this section includes an area that is within the perimeter of another established village, and the other established village has not adopted a local option under (a) of this section, the local option does not apply in the overlapping area.

(k) If the department determines that the perimeter of an established village determined under (i) of this section does not accurately reflect the perimeter of the established village, the department may establish the perimeter of the established village and the overlapping areas described under (j) of this section for purposes of applying a local option selected under this chapter.

(l) If a majority of the voters vote to adopt or remove a local option under (a) or (c) of this section, the lieutenant governor shall notify the department of the results of the election immediately after the results are certified. The department shall immediately notify the Department of Law and the Department of Public Safety of the results of the election.

* Sec. 6. AS 18.35.365 is amended by adding new paragraphs to read:

(3) "established village" means an area that does not contain any part of an incorporated city or another established village, that is an unincorporated community in the unorganized borough, and that has 25 or more permanent residents;

(4) "public place" has the meaning given in AS 11.81.900(b).

* Sec. 7. This Act takes effect January 1, 2019.