

## **CSSB 209: Smoke-Free Work Places & Enclosed Public Places**

### **SECTIONAL ANALYSIS (Version “C”)**

**Page 1, line 4: Section 1** creates new Article 4 within AS 18.35 describing where smoking is prohibited or regulated.

- **Page 1, lines 6-14 & page 2, lines 1-15: Sec. 18.35.301(a)(1)** prohibits smoking in enclosed areas within or at places of employment, public places, transportation facilities, schools, health care facilities, restaurants, bars, hotels, motels, child care locations, marine vessels operating as a shore-based fisheries business, and public meeting rooms.
- **Page 2, lines 16-26: Sec. 18.35.301(a)(2)** describes other areas where smoking is prohibited including outdoor arenas, stadiums or amphitheaters, areas at a public school or playgrounds, and within a certain distance of health care facilities, bars and other buildings.
- **Page 2, lines 27-31 & page 3, lines 1-25: Sec. 18.35.301(b)** lists five exceptions to the prohibitions in (a) of this section. Exceptions are provided for certain private clubs, most private residences unless used for adult or child care, or if located within a health care facility or within a hotel or motel, marine vessels when the vessel is operating as a work place for commercial or sport charter fishing, vehicles used exclusively by one employee, and stand-alone retail tobacco stores.
- **Page 3, lines 26-31 & Page 4, lines 1-13: Sec. 18.35.331** describes the obligations of employers, owners and operators to post no smoking signs within places or vehicles where smoking is prohibited. Signs are also required at or near the entrance of buildings at which smoking is prohibited within a specific distance from the entrance to the building. Ashtrays or other smoking accessories cannot be provided at a building or place where smoking is prohibited. This section also requires the Department of Health & Social Services to furnish signs upon request.
- **Page 4, lines 14-20: Secs. 18.35.344(a) & (b)** re-enacts existing law to require the commissioner of health and social services to develop and maintain a procedure for processing and investigating reports of violations of the subsections above. This section allows the commissioner considerable flexibility to establish an implementation system that includes filing civil complaints or issuing citations. The expectation is this law will be largely self-enforcing, which is the experience around the state with local smoke-free work place ordinances.

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- **Pages 4, lines 22-31 & page 5, lines 1-4: Secs. 18.35.344(c) through (e)** establishes fine amounts for violations of different sections of the law. Under subsection (c), a person who smokes where smoking is prohibited will be subject to a fine of \$100. Under subsection (d), a person who fails to comply the duties under Sec. 18.35.331 is subject to a fine of \$100 for the first failure to comply, \$200 for a second failure that occurs within 24 months of the first violation, and \$500 for the third and each consecutive failure to comply within 24 months of the second violations. A person who violates the nonretaliation provision in Sec. 18.35.357 is subject to a fine not to exceed \$1,000.
- **Page 5, lines 5-6: Sec. 18.35.344(f)** allows the department to accept fine payments by mail.
- **Page 5, lines 7-31: Secs. 18.35.345(a) through (e)** re-enacts existing law to allow a peace officer or an employee designated by the commissioner to issue citations for violations of the new law. Violations by a person who smokes where smoking is prohibited must occur in the presence of a peace officer, but this is not the case for any employee designated by the department to issue a citation. Fines for any violations alleged in a citation are subject to the same fine schedule described in Sec. 18.35.344.
- **Page 6, lines 1-17: Secs. 18.35.345(f) through (i)** re-enacts existing law to allow courts to implement ticketing and bail procedures for violations.
- **Page 6, lines 18-20: Sec. 18.35.346** re-enacts existing law to permit the commissioner or another affected party to bring a civil action to enjoin a violation of the law. It is unlikely that this section will be needed except in unusual cases.
- **Page 6, lines 21-31: Sec. 18.35.351** requires the commissioner of health and social services to administer and implement the provisions of the new law and adopt regulations as needed. Authority is provided for the commissioner to delegate to another agency the authority to implement one or more provisions of the law.
- **Page 7, lines 1-10: Sec. 18.35.356** requires the commissioner to provide ongoing access to public education about the law, including an electronically published brochure explaining the new requirements for employers, property owners, property operators and the public.

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- **Page 7, lines 11-18: Sec. 18.35.357** prohibits an employer to discharge, refuse to hire, or to retaliate against an employee or applicant for employment because the employee or applicant cooperates with or initiates enforcement of a requirement in the law.
- **Page 7, lines 19-23: Sec. 18.35.359** establishes a municipality may adopt and enforce local laws with additional prohibitions on smoking or additional duties for employers, owners, operators, and other persons related to enforcement of such provisions.
- **Page 7, lines 24-31: Sec. 18.35.361** establishes a local option to permit smoking in public places.
- **Page 8, lines 1-25: Sec. 18.35.362** provides the procedure to allow a local municipality to opt out of these requirements through an initiative process. Approval requires a majority vote of the persons voting. This option may not be used more than once every 12 months.
- **Page 8, lines 26-28: Sec. 18.35.363** permits property owners and government agencies to establish restrictions within a municipality that elects to opt out of this law.
- **Page 8, lines 29-31, page 9 & page 10, lines 1-10: Sec. 18.35.366** is the definitions section. Definitions are provided for business, commissioner, department, e-cigarette, employee, employer, enclosed area, health care facility, place of employment, private club, public place, and smoking.

**Page 10, lines 11-16: Sections 2 & 3** are conforming changes adding sections into Title 29 to reflect the local opt out option.

**Page 10, lines 17-18: Section 4** repeals the state’s existing statutes (AS 18.35.300, 18.35.305, 18.35.310, 18.35.320, 18.35.330, 18.35.340, 18.35.341-343, 18.35.350, 18.35.355, and 18.35.365) that regulate smoking in enclosed and public places.

**Page 10, lines 19-22: Section 5** is uncodified law and clarifies that the new provisions of this bill apply to violations or failures to comply that occur on or after the effective date of Section 1 of the bill.

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**Page 10, lines 23-28: Section 6** is uncodified law and permits the Department of Health and Social Services to adopt regulations to implement Section 1 of the bill. Regulations cannot take effect before the effective date of Section 1 of the bill.

**Page 10, lines 29-30: Sections 7 & 8** set effective dates for different sections. Section 4 takes effect immediately. The rest of the bill will be effective on October 1, 2014.