

ALASKA STATE HOUSE

Session:

State Capitol Building,
Room 104
Juneau, AK 99801
Phone: (907) 465-4922
Fax: (907) 465-2197



Interim:

1292 Sadler Way, Suite 308
Fairbanks, AK 99701
Phone: (907) 452-4448
Fax: (907) 456-3346

REPRESENTATIVE DAVE TALERICO

Sectional Analysis – House Bill 328

“An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date.”

Sec. 1 – AS 18.35

Creates a new article in AS 18.35: Prohibition of Smoking in Certain Places. The new Article 4 will consist of the following sections:

AS 18.35.301: Prohibition of smoking

- (a)** Creates a new section that would prohibit smoking in an enclosed public area, including enclosed areas
- (1) At an entertainment venue
 - (2) On any vehicle used for public transportation
 - (3) Any public transportation facility
 - (4) At a retail store or shopping center
 - (5) At a public building located on property owned or operated by the state, a municipality, or a regional educational attendance area
- (b)** Creates a new section that prohibits smoking in the following enclosed areas:
- (1) An office building, office, hotel, motel, restaurant, bar, retail store, or common area of an apartment or multiple-family dwelling.
 - (2) Any place of employment, including a vehicle used for employment or marine vessel used as a shore-based business
 - (3) Any building used for paid child care or the care of adults
 - (4) A health care facility
 - (5) A public or private educational facility
 - (6) At a residence in a health care facility, hotel, or motel
- (c)** Creates a new section that prohibits outdoors in the following areas:
- (1) A public or private school, or at a park that is designated for children to play
 - (2) In a seating area for an outdoor arena, stadium, or amphitheater

- (3) Within 10 feet of the entrance of a bar or restaurant that serves alcohol, within 20 feet of an entrance, open window, or air intake vent at a place where smoking is prohibited, or within a reasonable distance from an entrance, open window, or air intake vent on a marine vessel covered by this bill.
- (d) Creates a new section that allows smoking at a retail tobacco or e-cigarette store unless the owner or operator prohibits it, and defines “retail tobacco or e-cigarette store” to include:
 - (1) Where cigarettes or other tobacco related products are the primary products sold and the sale of other products is incidental
 - (2) A freestanding building not attached to another business or to a residence and that is not within an indoor public place
 - (3) No business that is also a restaurant, grocery store, one that serves alcohol at an outdoor location, or one that sells pull-tabs
- (e) Creates a new section that permits an enclosed smoking area at Alaska International Airport System airports for international passengers who are in-transit and restricted by federal law from leaving the airport and establishes ventilation requirements.
- (f) Creates a new section that allows smoking in a vehicle that is a place of employment used exclusively by one person and on a marine vessel when it is engaged in commercial fishing or sport charter fishing or is otherwise used as a place of employment.
- (g) Creates a new section that allows smoking in a private residence that is not used for paid childcare, adult care, and as a healthcare facility.
- (h) Creates a new section for the Department of Environmental Conservation (DEC) to regulate smoking in a stand-alone shelter, including not allowing the sale of food or drink in a shelter and distance requirements.

AS 18.35.306: Notice of prohibition

- (a) Creates a new section requiring a person in charge of a place or vehicle where smoking is prohibited to post a sign indicating that smoking is prohibited.
- (b) Creates a new section requiring a person in charge of a building at which smoking is prohibited within a certain distance to post signs at each entrance stating that smoking within that certain distance is not allowed.
- (c) Creates a new section requiring DEC to provide signs to a person that requests for the purpose of displaying them.

AS 18.35.311: Duty of employers and building managers

- (a) Creates a new section stating that an employer may not permit any person to smoke inside an enclosed area at the place of employment.
- (b) Creates a new section prohibiting a building manager, owner, or operator from providing smoking accessories within a building where smoking is prohibited.

AS 18.35.316: Powers and duties of the commissioner

- (a) Creates a new section requiring the commissioner of DEC to enforce the requirements of this act and adopt necessary regulations.

- (b) Creates a new section allowing the commissioner of DEC to delegate the authority under this section to another agency.

AS 18.35.321: Public Education

- (a) Creates a new section requiring the commissioner of DEC to provide ongoing access to educational programs to employers, property owners or operators, and other members of the public.
- (b) Creates a new section allowing the education programs under (a) to be provided alongside other smoking and tobacco use education under AS 44.29.020(a)(14).

AS 18.35.326: Nonretaliation

- (a) Creates new section prohibiting an employer from retaliating against an employee due to their cooperation or enforcement of this act.
- (b) Creates a new section prohibiting an owner or operator of a vehicle or other place where smoking is prohibited from retaliating against a customer or any other person due to their cooperation or enforcement of this act.

AS 18.35.331: Conflicts with local requirements

Creates a new section stating that a municipality is not prohibited from adopting and enforcing local laws with additional prohibitions on smoking or additional duties for employers, owners, operators, and other persons subject to the requirements of AS 18.35.306 and 18.35.311.

AS 18.35.336: Violations and civil penalties

- (a) Creates a new section giving the commissioner of DEC authority to adopt regulations regarding the filing, processing, and investigating reports of violations of this act.
- (b) Creates a new section allowing the commissioner of DEC to file a civil complaint in a district court to enforce this act if a violation has occurred.
- (c) Creates a new section setting the fine for a civil penalty at \$50 for a violation of AS 18.35.301 (Prohibition of smoking).
- (d) Creates a new section providing for additional civil penalties, ranging from \$100-300, for a person who fails to comply with AS 18.35.306 (Notice of prohibition) or 18.35.311 (Duties of employer) and a civil complaint has been filed against them.
- (e) Creates a new section providing for a \$500 civil penalty for a violation of AS 18.35.326 (Nonretaliation) when a civil complaint has been filed.
- (f) Creates a new section allowing for a violator of this act to pay a civil penalty by mail.

AS 18.35.351: Injunctions

Creates a new section allowing for a civil action dealing with a violation of this act to be brought before the superior court.

AS 18.35.399: Definitions

Creates a new section that defines the following terms used in this act: business, commissioner, department, e-cigarette, employee, employer, enclosed area, health care facility, place of employment, public place, and smoking.

Sec. 2 – Uncodified Law

Repeals AS 18.35.300-365, Article 3: Regulation of smoking in public facilities.

Sec. 3 – Uncodified Law

Creates uncodified law stating that this act only applies to violations or failures to comply with this act that occur on or after the effective date of Section 1 of this act.

Sec. 4 – Uncodified Law

Creates uncodified law allowing the Department of Health and Social Services to adopt regulations that are necessary to implement this act.

Sec. 5 – Effective Date

Creates an immediate effective date for Section 4 of this act.

Sec. 6 – Effective Date

Creates an effective date for Sections 1-3 of this act to be October 1, 2016.

Staff contact: Joshua Banks, (907) 465-2847