



# LAWS OF ALASKA

1990

**Source**

HCS CSSB 222(HESS)

**Chapter No.**

64

## AN ACT

Relating to smoking in certain vehicles and indoor places.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: May 16, 1990  
Actual Effective Date: August 14, 1990

AN ACT

Relating to smoking in certain vehicles and indoor places.

\* Section 1. AS 18.35.300 is amended to read:

Sec. 18.35.300. PLACES WHERE SMOKING IS REGULATED [SMOKING IN CERTAIN VEHICLES AND INDOOR PLACES PROHIBITED]. Smoking in any form is a nuisance and a public health hazard and is prohibited in the following vehicles and indoor places, except as allowed under AS 18.-35.310 [OTHERWISE PROVIDED BY THIS CHAPTER]:

(1) a vehicle of public transportation and a waiting, baggage, or boarding area for a vehicle of public transportation, including a bus, ferry vessel, train, limousine for hire, taxicab, or scheduled interstate or intrastate aircraft flight when consistent with federal law;

(2) [AN ELEVATOR;

(3)] a place of employment, a building or other structure, or a portion of them, owned, leased, or operated by the state or a political subdivision of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation;

(3) [(4)] a public or private post-secondary educational institution [SCHOOL, PRE-SCHOOL,] or adult day care facility;

(4) [(5)] a courtroom or jury deliberation room;

(5) [(6)] a room, chamber, or other place under the

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1 control of the state senate or state house of representatives [  
2 POLITICAL SUBDIVISION OF THE STATE] while a public meeting or public  
3 assembly is not in progress;

4 (6) [(7)] a [PATIENTS' OR VISITORS' WAITING ROOM OR REST  
5 ROOM OF A PUBLIC OR PRIVATE LABORATORY OR OFFICE ASSOCIATED WITH  
6 DENTAL CARE, HEALTH CARE, OR THE HEALING ARTS, AND A WAITING ROOM  
7 RESTROOM, LOBBY, OR HALLWAY OF A PUBLIC OR PRIVATE HOSPITAL,] nursing  
8 home, rest home, or other residential health care institution or  
9 facility, or a public or private office or facility that is engaged  
10 primarily in providing mental health services;

11 (7) [(8)] a food service establishment that has a seating  
12 capacity of at least 50 persons;

13 (8) [(9)] a grocery store or other store maintained primarily  
14 for the retail sale of food products; [AND]

15 (9) [(10)] a place of employment in which the owner, manager,  
16 proprietor, or other person who has control of the premises posts  
17 a sign stating that smoking is prohibited by law;

18 (10) a correctional facility; and

19 (11) a Pioneers' Home.

20 \* Sec. 2. AS 18.35 is amended by adding a new section to read:

21 Sec. 18.35.305. PLACES WHERE SMOKING IS PROHIBITED. Smoking in  
22 any form is prohibited in the following indoor places:

23 (1) a public or private elementary or secondary school,  
24 preschool, or children's day care facility; if the school, preschool,  
25 or day care facility is in a building that is also a private residence,  
26 this paragraph applies only during the hours when the residence  
27 is being used as an elementary or secondary school, preschool, or  
28 children's day care facility and to the rooms used as an elementary or  
29 secondary school, preschool or children's day care facility; if the

school, preschool, or day care facility is in a building that includes more than one private residence or units that are not private residences, this paragraph applies only to the private residence in which the elementary or secondary school, preschool, or children's day care facility is located; the prohibition in this paragraph does not apply to a designated smoking area that is properly ventilated or equipped with an exhaust fan in a public or private elementary or secondary school if the area is located in a room where minors are not permitted and a smoking area must be designated in the school to comply with a collective bargaining agreement covering employees who work in the school;

(2) a room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress;

(3) an office where dental care, health care, or the healing arts are practiced, a public or private laboratory associated with dental care, health care, or the healing arts if the laboratory is located within the same premises as an office where dental care, health care, or the healing arts are practiced, and a public or private hospital, or other nonresidential health care institution or facility; this paragraph does not apply to a public or private office or facility that is engaged primarily in providing mental health services;

(4) an elevator.

\* Sec. 3. AS 18.35.310 is amended to read:

Sec. 18.35.310. EXEMPTIONS. The prohibition set out in AS 18.-35.300 does not apply to

(1) a portion of a place or vehicle that is designated as a smoking section under AS 18.35.320;

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1 (2) a limousine for hire or taxicab, if the driver consent  
2 and the driver ascertains that all passengers consent to smoking in  
3 the vehicle [;

4 (3) SMOKING BY PERFORMERS ON THE STAGE AS PART OF A THEAT  
5 RICAL OR ENTERTAINMENT PRODUCTION].

6 \* Sec. 4. AS 18.35.310 is amended by adding a new subsection to read:

7 (b) The prohibitions set out in AS 18.35.300 - 18.35.305 do not  
8 apply to smoking by performers on the stage as part of a theatrical  
9 entertainment production.

10 \* Sec. 5. AS 18.35.320(c) is amended to read:

11 (c) A person who designates a smoking section under this section  
12 shall make reasonable accommodations to protect the health of the [FOR  
13 THE NEEDS OF THE SMOKERS AND] nonsmokers who use the place or vehicle  
14 by separation, partition, or ventilation that ensures that nonsmokers  
15 in the place or vehicle are not subject to the active by-products of  
16 smoke from smokers in the place or vehicle.

17 \* Sec. 6. AS 18.35.330(a) is amended to read:

18 (a) A person in charge of a place or vehicle described in  
19 AS 18.35.300 or 18.35.305, except a limousine for hire or taxicab,  
20 shall conspicuously display in the place or vehicle a sign that reads  
21 "Smoking Prohibited by Law - Maximum Fine \$50" and that includes the  
22 international symbol for no smoking.

23 \* Sec. 7. AS 18.35.340(a) is amended to read:

24 (a) The commissioner shall develop and maintain a procedure for  
25 processing reports of violations of AS 18.35.300, 18.35.305, and  
26 18.35.330.

27 \* Sec. 8. AS 18.35.340(c) is amended to read:

28 (c) A person who violates AS 18.35.300 or 18.35.305 and against  
29 whom the commissioner has filed a civil complaint under this section

is punishable by a civil fine of not less than \$10 nor more than \$50. A person who violates AS 18.35.330 and against whom the commissioner has filed a civil complaint under this section is punishable by a civil fine of not less than \$20 nor more than \$300. Each day a violation of AS 18.35.330 continues after a civil complaint for the violation has been filed and served on the defendant constitutes a separate violation.

\* Sec. 9. 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 committed in the officer's presence or for a violation of AS 18.35.330. The provisions of AS 12.25.180(b) and 12.25.190 - 12.25.230 apply to the issuance of a citation under this subsection.

\* Sec. 10. 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 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.

\* Sec. 11. 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 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 and by a fine of not less than \$20 nor more than \$300 for a violation of AS 18.35.330. Each day

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1 a violation of AS 18.35.330 continues after a citation for the viola-  
2 tion has been issued constitutes a separate violation.

3 \* Sec. 12. AS 18.35.341(d) is amended to read:

4 (d) The supreme court shall establish a schedule of bail amounts  
5 for violations of AS 18.35.300, 18.35.305, and 18.35.330, but in no  
6 event may the bail amount exceed the maximum fine that may be imposed  
7 for the violation under (c) of this section. The bail amount for a  
8 violation shall appear on the citation.

9 \* Sec. 13. AS 18.35.342 is amended to read:

10 Sec. 18.35.342. MULTIPLE FINES PROHIBITED. A person may not be  
11 fined more than once for each violation of AS 18.35.300, 18.35.305, or  
12 18.35.330.

13 \* Sec. 14. AS 18.35.343 is amended to read:

14 Sec. 18.35.343. INJUNCTIONS. The commissioner or any affected  
15 party may institute an action in the superior court to enjoin repeated  
16 violations of AS 18.35.300, 18.35.305, or 18.35.330.

17 \* Sec. 15. This Act does not supersede the provisions of a collective  
18 bargaining agreement in effect on the effective date of this Act. However  
19 a collective bargaining agreement in effect on the effective date of this  
20 Act may not be renewed or extended by agreement on or after the effective  
21 date of this Act with provisions that require the employer to provide  
22 smoking areas that would not be in compliance with this Act.