

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

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

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

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

6 (a) A peace officer may issue a citation for a violation of AS 18.35.300, [OR]
7 18.35.305, or a local option adopted under AS 18.35.359 committed in the officer's
8 presence or for a violation of AS 18.35.330. The provisions of AS 12.25.175 -
9 12.25.230 apply to the issuance of a citation under this subsection.

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

11 (b) An employee of the department designated by the commissioner to enforce
12 the provisions of AS 18.35.300 - 18.35.365 may issue a citation for a violation of
13 AS 18.35.300, 18.35.305, [OR] 18.35.330, or a local option adopted under
14 AS 18.35.359 regardless of whether the violation was committed in the employee's

1 presence. A citation issued under this subsection shall be in the same form and shall be
 2 processed in the same manner as a citation issued by a peace officer under (a) of this
 3 section. An employee of the department may not arrest a person for a violation of
 4 AS 18.35.300, 18.35.305, [OR] 18.35.330, or a local option adopted under
 5 AS 18.35.359.

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

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

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

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

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

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

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

30 **Sec. 18.35.359. Local option election by an established village.** (a) If a
 31 majority of the voters voting on the question vote to approve the option, an established

1 village shall exercise a local option to prohibit smoking in public places.

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

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

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

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

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

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

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

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

1 department if the established village does not have a local governing body.

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

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

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

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

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

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

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