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AND VASKA

1 IN THE HOUSE

2

HOUSE BILL NO. 84

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to smoking in public places and  
7 vehicles."

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

9 \* Section 1. FINDINGS. The legislature finds that:

10 (1) numerous studies have shown second-hand smoke to be a  
11 significant health hazard;

12 (2) recent court decisions recognize an emerging right of  
13 employees to work in a smoke-free environment; and

14 (3) smoking results in increased costs to employers and the  
15 public in the form of more frequent absenteeism by employees who smoke and  
16 higher costs for health insurance, fire insurance, life insurance, and  
17 workers' compensation.

18 \* Sec. 2. AS 18.35.300 is amended to read:

19 Sec. 18.35.300. SMOKING IN PUBLIC PLACES, VEHICLES PROHIBITED.  
20 Smoking in any form is is [MAY CONSTITUTE] a nuisance and a public health  
21 hazard and is prohibited in vehicles and indoor [THE FOLLOWING] areas  
22 that are open to the public, unless otherwise exempted by this chap-  
23 ter, including:

24 (1) a vehicle of public transportation, including a train,  
25 limousine for hire, taxicab, bus, [STATE-OPERATED] ferry vessel, or  
26 elevator;

27 (2) a library, [INDOOR] theater, museum, lecture or concert  
28 hall, gymnasium, or swimming pool or other indoor [PUBLICLY OWNED AND  
29 OPERATED] place of entertainment or recreation;

1 (3) a [PUBLIC] school; or in a room, chamber, place of  
2 meeting or public assembly under the control of the state, or a de-  
3 partment or agency of the state, or a municipality, while a public  
4 meeting held under the auspices of the state, or a department or  
5 agency of the state, or a municipality, is in progress;

6 (4) the public waiting room or restroom of laboratories or  
7 offices associated with dental care, health care or the healing arts;

8 (5) the waiting room, restroom, lobby or hallway of a  
9 hospital, nursing home, rest home or other health care institution or  
10 facility; [OR]

11 (6) a place of business, including a retail store, restau-  
12 rant, or bank; [IN WHICH THE OWNER, MANAGER, PROPRIETOR, OR OTHER  
13 PERSON WHO HAS CONTROL OF THE PREMISES POSTS A SIGN CONVEYING THE  
14 MESSAGE THAT SMOKING IS PROHIBITED BY LAW.]

15 (7) an office, factory, warehouse, or other place of em-  
16 ployment.

17 \* Sec. 3. AS 18.35.310 is repealed and reenacted to read:

18 Sec. 18.35.310. EXEMPTIONS. The prohibition set out in AS 18.-  
19 35.300 does not apply to

20 (1) a portion of an area or vehicle that is designated as a  
21 smoking section under AS 18.35.320;

22 (2) a limousine for hire or taxicab, if the driver consents  
23 and the driver ascertains that all passengers consent to smoking in  
24 the vehicle;

25 (3) smoking by performers on the stage as part of a theat-  
26 rical production.

27 \* Sec. 4. AS 18.35.320 is repealed and reenacted to read:

28 Sec. 18.35.320. DESIGNATION OF SMOKING SECTIONS. (a) A person  
29 in charge of an indoor area described in AS 18.35.300, or of a vehicle

1 of public transportation, may designate portions of the area or vehi-  
2 cle as smoking sections. For purposes of this section, "vehicle of  
3 public transportation" does not include a taxicab or limousine for  
4 hire.

5 (b) Only the following areas and vehicles may be designated in  
6 their entirety as smoking sections under (a) of this section:

7 (1) a cocktail lounge or tavern, if the designation is  
8 posted conspicuously at all entrances normally used by the public;

9 (2) a retail business primarily engaged in the sale of  
10 tobacco or tobacco products;

11 (3) an area or vehicle while used for a private social  
12 function;

13 (4) a place of employment if all the employees are smokers,  
14 but this exception does not include reception areas, waiting areas,  
15 lobbies, and restrooms open to the public.

16 (c) Except as provided in (b) of this section, a smoking section  
17 designated under (a) of this section may not be larger than necessary  
18 to accommodate the needs of the smokers who use the area or vehicle.

19 (d) A smoking section may not be designated under (a) of this  
20 section in an area or vehicle unless the area or vehicle meets the  
21 minimum ventilation and air quality standards adopted by the Depart-  
22 ment of Environmental Conservation.

23 \* Sec. 5. AS 18.35.330 is repealed and reenacted to read:

24 Sec. 18.35.330. DISPLAY OF SMOKING AND NO SMOKING SIGNS. (a) A  
25 person in charge of an area or vehicle set out in AS 18.35.300(1) -  
26 (7) shall conspicuously display in the area or vehicle a sign reading  
27 "Smoking Prohibited by Law".

28 (b) In an area or vehicle in which a smoking section has been  
29 designated in accordance with AS 18.35.320, the person in charge of

1 the area or vehicle shall conspicuously display signs that specify the  
2 portions of the area or vehicle in which smoking is allowed by law and  
3 in which smoking is prohibited by law.

4 \* Sec. 6. AS 18.35 is amended by adding a new section to read:

5 Sec. 18.35.345. PRIVATE RIGHT OF ACTION. A person who is ag-  
6 grieved by a violation of AS 18.35.300 - 18.35.360 may bring an action  
7 in the district court or the superior court to recover for personal  
8 injuries sustained as a result of the violation. Punitive damages may  
9 not be allowed in a case based solely on a violation of AS 18.35.300 -  
10 18.35.360.

11 \* Sec. 7. AS 18.35 is amended by adding a new section to read:

12 Sec. 18.35.346. INJUNCTIONS. The commissioner of environmental  
13 conservation or any affected party may institute an action in the dis-  
14 trict court or the superior court to enjoin repeated violations of  
15 AS 18.35.300 - 18.35.360.

16 \* Sec. 8. AS 18.35 is amended by adding a new section to read:

17 Sec. 18.35.355. COMPLAINT PROCEDURE. The commissioner of envi-  
18 ronmental conservation shall develop and maintain a procedure for  
19 processing complaints regarding violations of this chapter or of  
20 regulations adopted under this chapter.

21 \* Sec. 9. PUBLIC EDUCATION. The commissioner of environmental conser-  
22 vation shall take appropriate measures to inform the public of their rights  
23 under this Act.