

Offered: 5/6/83
Referred: Finance

Original sponsors: Fritz, M.M. Miller,
Bussell, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 84 (Judiciary)
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 sig-
11 nificant health hazard;

12 (2) recent court decisions recognize an emerging right of em-
13 ployees 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, or an indoor waiting area or boarding area for aircraft or
27 other vehicles of public transportation;

28 (2) a library, [INDOOR] theater, museum, lecture or concert
29 hall, gymnasium, or swimming pool or other indoor [PUBLICLY OWNED AND

1 OPERATED] place of entertainment or recreation;

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

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

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

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

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

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 AS 18.35.310 is repealed and reenacted to read:

19 Sec. 18.35.310. EXEMPTIONS. The prohibition set out in AS 18.-
20 35.300 does not apply to

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

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

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

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 AS 18.35.320 is repealed and reenacted to read:

29 Sec. 18.35.320. DESIGNATION OF SMOKING SECTIONS. (a) A person

1 in charge of an indoor area described in AS 18.35.300, or of a vehicle
2 of public transportation, may designate portions of the area or vehi-
3 cle as smoking sections. For purposes of this section, "vehicle of
4 public transportation" does not include a taxicab or limousine for
5 hire.

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

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

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

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

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

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

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

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

25 Sec. 18.35.330. DISPLAY OF SMOKING AND NO SMOKING SIGNS. (a) A
26 person in charge of an area or vehicle described in AS 18.35.300 shall
27 conspicuously display in the area or vehicle a sign reading "Smoking
28 Prohibited by Law - Maximum Fine \$300".

29 (b) In an area or vehicle in which a smoking section has been

1 designated under AS 18.35.320, the person in charge of the area or
2 vehicle shall conspicuously display signs that specify the portions of
3 the area or vehicle in which smoking is allowed by law and in which
4 smoking is prohibited by law.

5 (c) A sign required by this section may not be smaller than 18
6 inches wide and six inches high, with lettering not less than 1.25
7 inches high.

8 * Sec. 6. AS 18.35.340 is repealed and reenacted to read:

9 Sec. 18.35.340. CIVIL COMPLAINTS; PENALTIES. (a) The commis-
10 sioner shall develop and maintain a procedure for processing reports
11 of violations of AS 18.35.300 - 18.35.365 or of a regulation adopted
12 under AS 18.35.360.

13 (b) If, after investigating a report made under this section,
14 the commissioner determines that a violation has occurred, the commis-
15 sioner may file a civil complaint in the superior court to enforce the
16 requirements of AS 18.35.300 - 18.35.365 or of a regulation adopted
17 under AS 18.35.360.

18 (c) A person who violates AS 18.35.300 is punishable under this
19 section by a civil fine of not less than \$10 nor more than \$50. A
20 person who violates AS 18.35.330 is punishable under this section by a
21 civil fine of not less than \$20 nor more than \$300.

22 (d) The department may provide for the payment of fines under
23 this section by mail.

24 * Sec. 7. AS 18.35 is amended by adding new sections to read:

25 Sec. 18.35.341. CITATIONS; PENALTY. (a) A peace officer may
26 issue a citation for a violation of AS 18.35.300 or AS 18.35.330.

27 (b) A person who violates AS 18.35.300 or AS 18.35.330 is guilty
28 of a violation and upon conviction is punishable by a fine of not more
29 than \$300.

1 (c) The supreme court shall establish a schedule of bail amounts
2 for violations of AS 18.35.300 and AS 18.35.330, but in no event may
3 the bail amount exceed \$300. The bail amount for a violation shall
4 appear on the citation.

5 (d) A person cited for a violation under this section may,
6 within 15 days after the date of the citation, mail or personally
7 deliver to the clerk of the court in which the citation is filed by
8 the peace officer

9 (1) the amount of bail indicated on the citation for that
10 violation; and

11 (2) a copy of the citation indicating that the right to an
12 appearance is waived, a plea of no contest is entered and the bail is
13 forfeited.

14 (e) When bail has been forfeited under (d) of this section, a
15 judgment of conviction shall be entered. Forfeiture of bail is a
16 complete satisfaction for the violation. The clerk of the court
17 accepting the bail shall provide the violator with a receipt stating
18 that fact.

19 (f) If the person cited fails to pay the bail amount established
20 under (c) of this section or to appear in court as required, the
21 citation is considered a summons for a violation.

22 Sec. 18.35.342. INJUNCTIONS. The commissioner or any affected
23 party may institute an action in the superior court to enjoin repeated
24 violations of AS 18.35.300 - 18.35.365 or of a regulation adopted
25 under AS 18.35.360.

26 * Sec. 8. AS 18.35.350 is amended to read:

27 Sec. 18.35.350. ENFORCEMENT AUTHORITY. The commissioner [OF
28 ENVIRONMENTAL CONSERVATION] or the commissioner's [HIS] designee is
29 responsible for enforcing the provisions of AS 18.35.300 - 18.35.365

1 [AS 18.35.300 - 18.35.340] and the regulations adopted under AS 18.-
2 35.360. This section does not limit the authority of peace officers.

3 * Sec. 9. AS 18.35 is amended by adding a new section to read:

4 Sec. 18.35.355. PUBLIC EDUCATION. The commissioner shall take
5 appropriate measures to inform the public of their rights under
6 AS 18.35.300 - 18.35.365.

7 * Sec. 10. AS 18.35.360 is amended to read:

8 Sec. 18.35.360. REGULATIONS. The department shall [THE DEPART-
9 MENT OF ENVIRONMENTAL CONSERVATION MAY] adopt regulations to implement
10 the provisions of AS 18.35.300 - 18.35.365 [AS 18.35.300 - 18.35.350].

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

12 Sec. 18.35.365. DEFINITIONS. In AS 18.35.300 - 18.35.365,

13 (1) "commissioner" means commissioner of environmental
14 conservation;

15 (2) "department" means the Department of Environmental
16 Conservation;

17 (3) "peace officer" means any officer of the state troop-
18 ers, members of the police force of any incorporated city or borough,
19 United States marshals and their deputies, and other officers whose
20 duty it is to enforce and preserve the public peace, including a
21 village public safety officer.

22 * Sec. 12. 18 AAC 55.060 is annulled.