

Offered: 2/6/84  
Referred: Rules

Original sponsors: Fritz, M.M.Miller,  
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1 IN THE HOUSE  
2 SENATE CS FOR CS FOR HOUSE BILL NO. 84 (HESS)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - - SECOND 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 AS 18.35.300 is repealed and reenacted to read:  
19 Sec. 18.35.300. SMOKING IN CERTAIN VEHICLES AND INDOOR PLACES  
20 PROHIBITED. Smoking in any form is a nuisance and a public health  
21 hazard and is prohibited in the following vehicles and indoor places,  
22 except as otherwise provided by this chapter:  
23 (1) a vehicle of public transportation and a waiting or  
24 boarding area for a vehicle of public transportation, including a bus,  
25 ferry vessel, train, limousine for hire, taxicab, or scheduled intra-  
26 state aircraft flight when consistent with federal law;  
27 (2) an elevator;  
28 (3) a place of employment, a building or other structure,  
29 or a portion of them, owned, leased, or operated by the state or a

1 political subdivision of the state, including an office, library,  
2 museum, theater, concert hall, convention hall, gymnasium, swimming  
3 pool, or other place of entertainment or recreation;

4 (4) a public or private school, pre-school, or day care  
5 facility;

6 (5) a courtroom or jury deliberation room;

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

10 (7) a patients' or visitors' waiting room or restroom of a  
11 public or private laboratory or office associated with dental care,  
12 health care, or the healing arts, and a waiting room, restroom, lobby,  
13 or hallway of a public or private hospital, nursing home, rest home,  
14 or other health care institution or facility;

15 (8) a food service establishment that has a seating  
16 capacity of at least 50 persons;

17 (9) a grocery store or other store maintained for the  
18 retail sale of food products exclusively to the public and having at  
19 least four check-out counters, registers, or lanes; and

20 (10) a place of employment in which the owner, manager,  
21 proprietor, or other person who has control of the premises posts a  
22 sign stating that smoking is prohibited by law.

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 AS 18.35.310 is repealed and reenacted to read:

24 Sec. 18.35.310. EXEMPTIONS. The prohibition set out in AS 18.-  
25 35.300 does not apply to

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

28 (2) a limousine for hire or taxicab, if the driver consents  
29 and the driver ascertains that all passengers consent to smoking in

1 the vehicle;

2 (3) smoking by performers on the stage as part of a theat-  
3 rical or entertainment production.

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

5 Sec. 18.35.320. DESIGNATION OF SMOKING SECTIONS. (a) A person  
6 in charge of an indoor place or vehicle of public transportation  
7 described in AS 18.35.300 may designate portions of the place or vehi-  
8 cle as smoking sections. For purposes of this section, "vehicle of  
9 public transportation" does not include a taxicab or limousine for  
10 hire, and "indoor place" does not include an elevator.

11 (b) A smoking section designated under this section shall make  
12 reasonable accommodations for the needs of the smokers and nonsmokers  
13 who use the place or vehicle.

14 (c) Notwithstanding any other provision in AS 18.35, a smoking  
15 section may not be designated under this section for students on the  
16 grounds of or in an elementary or secondary school, indoors or out-  
17 doors.

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

19 Sec. 18.35.330. DISPLAY OF SMOKING AND NO SMOKING SIGNS. (a) A  
20 person in charge of an place or vehicle described in AS 18.35.300  
21 shall conspicuously display in the place or vehicle a sign that reads  
22 "Smoking Prohibited by Law - Maximum Fine \$300" and that includes the  
23 international symbol for no smoking.

24 (b) In an place or vehicle in which a smoking section has been  
25 designated under AS 18.35.320, the person in charge of the place or  
26 vehicle shall conspicuously display signs that specify the portions of  
27 the place or vehicle in which smoking is allowed by law and in which  
28 smoking is prohibited by law.

29 (c) A sign required by this section must be at least 18 inches

1 wide and six inches high, with lettering at least 1.25 inches high.

2 (d) The Department of Environmental Conservation shall furnish  
3 signs required under this section to a person who requests them with  
4 the intention of displaying them.

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

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

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

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

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

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

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

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

27 (c) The supreme court shall establish a schedule of bail amounts  
28 for violations of AS 18.35.300 and 18.35.330, but in no event may the  
29 bail amount exceed \$300. The bail amount for a violation shall appear

1 on the citation.

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

6 (1) the amount of bail indicated on the citation for that  
7 violation; and

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

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

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

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

23 \* Sec. 8. AS 18.35.350 is amended to read:

24 Sec. 18.35.350. ENFORCEMENT AUTHORITY. The commissioner [OF  
25 ENVIRONMENTAL CONSERVATION] or the commissioner's [HIS] designee is  
26 responsible for enforcing the provisions of AS 18.35.300 - 18.35.365  
27 [AS 18.35.300 - 18.35.340] and the regulations adopted under AS 18.-  
28 35.360. This section does not limit the authority of peace officers.

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

1           Sec. 18.35.355. PUBLIC EDUCATION. The commissioner shall take  
2 appropriate measures to inform the public of their rights under  
3 AS 18.35.300 - 18.35.365.

4 \* Sec. 10. AS 18.35.360 is amended to read:

5           Sec. 18.35.360. REGULATIONS. The department shall [DEPARTMENT  
6 OF ENVIRONMENTAL CONSERVATION MAY] adopt regulations to implement the  
7 provisions of AS 18.35.300 - 18.35.365 but the department may not  
8 require the modification of an existing structure or the purchase of  
9 new equipment by a person subject to the provisions of this chapter  
10 [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.