

Offered: 3/20/84
Referred: Rules

Original sponsors: Fritz, M.M.Miller,
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1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 84 (Finance)
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 AS 18.35.300 is repealed and reenacted to read: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 capac-
16 ity of at least 50 persons;

17 (9) a grocery store or other store maintained for the
18 retail sale of food products; and

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

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 AS 18.35.310 is repealed and reenacted to read:

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

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

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

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

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 AS 18.35.320 is repealed and reenacted to read:

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

10 (b) The person who chairs the Rules Committee in a house of the
11 legislature is responsible for the designation of smoking sections
12 under this section in the legislative offices, committee rooms, and
13 other places under the control of that house. The authority to desig-
14 nate a smoking section may not be used to impede the work of a confer-
15 ence committee.

16 (c) A person who designates a smoking section under this section
17 shall make reasonable accommodations for the needs of the smokers and
18 nonsmokers who use the place or vehicle.

19 (d) Notwithstanding any other provision in AS 18.35, a smoking
20 section may not be designated under this section for students on the
21 grounds of or in an elementary or secondary school, indoors or out-
22 doors.

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 a place or vehicle described in AS 18.35.300,
26 except a limousine for hire or taxicab, shall conspicuously display in
27 the place or vehicle a sign that reads "Smoking Prohibited by Law -
28 Maximum Fine \$50" and that includes the international symbol for no
29 smoking.

1 (b) In a place or vehicle in which a smoking section has been
2 designated under AS 18.35.320, the person in charge of the place or
3 vehicle shall conspicuously display signs that specify the portions of
4 the place or vehicle in which smoking is allowed by law and in which
5 smoking is prohibited by law.

6 (c) A sign required by this section must be at least 18 inches
7 wide and six inches high, with lettering at least 1.25 inches high.

8 (d) The department shall furnish signs required under this
9 section to a person who requests them with the intention of displaying
10 them.

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

12 Sec. 18.35.340. CIVIL COMPLAINTS; PENALTIES. (a) The commis-
13 sioner shall develop and maintain a procedure for processing reports
14 of violations of AS 18.35.300 and 18.35.330 or of a regulation adopted
15 under AS 18.35.360.

16 (b) If, after investigating a report made under this section,
17 the commissioner determines that a violation has occurred, (1) the
18 commissioner may file a civil complaint in the district court to
19 enforce the provisions of AS 18.35.300 - 18.35.365 or of a regulation
20 adopted under AS 18.35.360; or (2) an employee of the department
21 designated by the commissioner to enforce the provisions of AS 18.-
22 35.300 - 18.35.365 may issue a citation under AS 18.35.341(b). If an
23 employee of the department issues a citation, the violation shall be
24 processed and disposed of under AS 18.35.341.

25 (c) A person who violates AS 18.35.300 and against whom the
26 commissioner has filed a civil complaint under this section is punish-
27 able by a civil fine of not less than \$10 nor more than \$50. A person
28 who violates AS 18.35.330 and against whom the commissioner has filed
29 a civil complaint under this section is punishable by a civil fine of

1 not less than \$20 nor more than \$300. Each day a violation of AS
2 18.35.330 continues after a civil complaint for the violation has been
3 filed and served on the defendant constitutes a separate violation.

4 (d) The department may provide for the payment of civil fines
5 under this section by mail.

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

7 Sec. 18.35.341. CITATIONS; PENALTY. (a) A peace officer may
8 issue a citation for a violation of AS 18.35.300 committed in the
9 officer's presence or for a violation of AS 18.35.330. The provisions
10 of AS 12.25.180(b) and 12.25.190 - 12.25.230 apply to the issuance of
11 a citation under this subsection.

12 (b) An employee of the department designated by the commissioner
13 to enforce the provisions of AS 18.35.300 - 18.35.365 may issue a
14 citation for a violation of AS 18.35.300 or 18.35.330 regardless of
15 whether the violation was committed in the employee's presence. A
16 citation issued under this subsection shall be in the same form and
17 shall be processed in the same manner as a citation issued by a peace
18 officer under (a) of this section. An employee of the department may
19 not arrest a person for a violation of AS 18.35.300 or 18.35.330.

20 (c) A person who violates AS 18.35.300 or 18.35.330 is guilty of
21 a violation as defined in AS 11.81.900(b)(56) and upon conviction is
22 punishable by a fine of not less than \$10 nor more than \$50 for a
23 violation of AS 18.35.300 and by a fine of not less than \$20 nor more
24 than \$300 for a violation of AS 18.35.330. Each day a violation of
25 AS 18.35.330 continues after a citation for the violation has been
26 issued constitutes a separate violation.

27 (d) 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 the maximum fine that may be imposed for the

1 violation under (c) of this section. The bail amount for a violation
2 shall appear on the citation.

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

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 (f) When bail has been forfeited under (e) 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 (g) If the person cited fails to pay the bail amount established
17 under (d) 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. MULTIPLE FINES PROHIBITED. A person may not be
20 fined more than once for each violation of AS 18.35.300 or 18.35.330.

21 Sec. 18.35.343. INJUNCTIONS. The commissioner or any affected
22 party may institute an action in the superior court to enjoin repeated
23 violations of AS 18.35.300 or 18.35.330 or of a regulation adopted
24 under AS 18.35.360.

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

26 Sec. 18.35.350. ENFORCEMENT AUTHORITY. The commissioner [OF
27 ENVIRONMENTAL CONSERVATION] or the commissioner's [HIS] designee is
28 responsible for enforcing the provisions of AS 18.35.300 - 18.35.365
29 [AS 18.35.300 - 18.35.340] and the regulations adopted under AS 18.-

1 35.360. This section does not limit the authority of peace officers.
2 * Sec. 9. AS 18.35 is amended by adding a new section to read:
3 Sec. 18.35.355. PUBLIC EDUCATION. The commissioner shall take
4 appropriate measures to inform the public of the provisions of AS 18.-
5 35.300 - 18.35.365.
6 * Sec. 10. AS 18.35.360 is amended to read:
7 Sec. 18.35.360. REGULATIONS. The department [DEPARTMENT OF
8 ENVIRONMENTAL CONSERVATION] may adopt regulations to implement the
9 provisions of AS 18.35.300 - 18.35.365 but the department may not
10 require the modification of an existing structure or the purchase of
11 new equipment by a person subject to the provisions of this chapter
12 [AS 18.35.300 - 18.35.350].
13 * Sec. 11. AS 18.35 is amended by adding a new section to read:
14 Sec. 18.35.365. DEFINITIONS. In AS 18.35.300 - 18.35.365,
15 (1) "commissioner" means commissioner of environmental
16 conservation;
17 (2) "department" means the Department of Environmental
18 Conservation.
19 * Sec. 12. AS 12.25.190(c) is amended to read:
20 (c) The person cited for the crime shall give a [HIS] written
21 promise to appear in court by signing at least one copy of the written
22 citation prepared by the peace officer and the officer shall deliver a
23 copy of the citation to the person. The written promise requirement
24 of this subsection does not apply to motor vehicle and traffic cita-
25 tions under AS 28.05.151 or a citation issued under AS 18.35.341.
26 * Sec. 13. 18 AAC 55.060 is annulled.