

Introduced: 3/15/89
Referred: Health, Education and
Social Services, State
Affairs and Finance

6-0448H

1 IN THE SENATE

BY FAIKS

2

SENATE BILL NO. 222

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

9 * Section 1. AS 18.35.300 is amended to read:

10 Sec. 18.35.300. PLACES WHERE SMOKING IS REGULATED [SMOKING IN
11 CERTAIN VEHICLES AND INDOOR PLACES PROHIBITED]. Smoking in any form
12 is a nuisance and a public health hazard and is prohibited in the
13 following vehicles and indoor places, except as otherwise provided by
14 this chapter:

15 (1) a vehicle of public transportation and a waiting or
16 boarding area for a vehicle of public transportation, including a bus,
17 ferry vessel, train, limousine for hire, taxicab, or scheduled inter-
18 state or intrastate aircraft flight when consistent with federal law;

19 (2) [AN ELEVATOR;

20 (3) A PLACE OF EMPLOYMENT, A BUILDING OR OTHER STRUCTURE,
21 OR A PORTION OF THEM, OWNED, LEASED, OR OPERATED BY THE STATE OR A
22 POLITICAL SUBDIVISION OF THE STATE, INCLUDING AN OFFICE, LIBRARY,
23 MUSEUM, THEATER, CONCERT HALL, CONVENTION HALL, GYMNASIUM, SWIMMING
24 POOL, OR OTHER PLACE OF ENTERTAINMENT OR RECREATION;

25 (4) A PUBLIC OR PRIVATE SCHOOL, PRE-SCHOOL, OR DAY CARE
26 FACILITY;

27 (5)] a courtroom or jury deliberation room;

28 (3) [(6) A ROOM, CHAMBER, OR OTHER PLACE UNDER THE CONTROL
29 OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE WHILE A PUBLIC

1 MEETING OR PUBLIC ASSEMBLY IS IN PROGRESS;

2 (7)] a [PATIENTS' OR VISITORS' WAITING ROOM OR RESTROOM OF
3 A PUBLIC OR PRIVATE LABORATORY OR OFFICE ASSOCIATED WITH DENTAL CARE,
4 HEALTH CARE, OR THE HEALING ARTS, AND A WAITING ROOM, RESTROOM, LOBBY,
5 OR HALLWAY OF A PUBLIC OR PRIVATE HOSPITAL,] nursing home, rest home,
6 or other residential health care institution or facility;

7 (4) [(8)] a food service establishment that has a seating
8 capacity of at least 50 persons;

9 (5) [(9)] a grocery store or other store maintained primar-
10 ily for the retail sale of food products; [AND]

11 (6) [(10)] a place of employment in which the owner, manag-
12 er, proprietor, or other person who has control of the premises posts
13 a sign stating that smoking is prohibited by law;

14 (7) a commercial establishment whose premises are open to
15 the general public, including a retail store, financial institution,
16 or shopping mall; and

17 (8) correctional facilities.

18 * Sec. 2. AS 18.35 is amended by adding a new section to read:

19 Sec. 18.35.305. PLACES WHERE SMOKING IS PROHIBITED. Smoking in
20 any form is prohibited in the following indoor places:

21 (1) a place of employment, a building or other structure,
22 or a portion of them, owned, leased, or operated by the state or a
23 political subdivision of the state, including an office, library,
24 museum, theater, concert hall, convention hall, gymnasium, swimming
25 pool, or other place of entertainment or recreation; this paragraph
26 does not apply to a correctional facility, court room, jury delib-
27 eration room, or Pioneers' Home;

28 (2) a public or private school, preschool, or day care
29 facility; if the school, preschool, or day care facility is in a

1 building that is also a private residence, this paragraph applies only
2 during the hours when the residence is being used as a school, pre-
3 school, or day care facility;

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

7 (4) a public or private laboratory or office associated
8 with dental care, health care, or the healing arts, and a public or
9 private hospital, or other nonresidential health care institution or
10 facility;

11 (5) an elevator.

12 * Sec. 3. AS 18.35.310 is amended to read:

13 Sec. 18.35.310. EXEMPTIONS. The prohibition set out in AS 18.-
14 35.300 does not apply to

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

17 (2) a limousine for hire or taxicab, if the driver consents
18 and the driver ascertains that all passengers consent to smoking in
19 the vehicle [;

20 (3) SMOKING BY PERFORMERS ON THE STAGE AS PART OF A THEAT-
21 RICAL OR ENTERTAINMENT PRODUCTION].

22 * Sec. 4. AS 18.35.310 is amended by adding a new subsection to read:

23 (b) The prohibitions set out in AS 18.35.300 - 18.35.305 do not
24 apply to smoking by performers on the stage as part of a theatrical
25 entertainment production.

26 * Sec. 5. AS 18.35.320(c) is amended to read:

27 (c) A person who designates a smoking section under this section
28 shall make reasonable accommodations to protect the health of the [FOR
29 THE NEEDS OF THE SMOKERS AND] nonsmokers who use the place or vehicle.

1 The person in charge of an indoor place that is open to the general
2 public may not designate the entire place as a smoking area. This
3 subsection does not apply to the person in charge of a store that
4 sells only tobacco products and related articles.

5 * Sec. 6. AS 18.35.340(a) is amended to read:

6 (a) The commissioner shall develop and maintain a procedure for
7 processing reports of violations of AS 18.35.300, 18.35.305, and
8 18.35.330.

9 * Sec. 7. AS 18.35.340(c) is amended to read:

10 (c) A person who violates AS 18.35.300 or 18.35.305 and against
11 whom the commissioner has filed a civil complaint under this section
12 is punishable by a civil fine of not less than \$10 nor more than \$50.
13 A person who violates AS 18.35.330 and against whom the commissioner
14 has filed a civil complaint under this section is punishable by a
15 civil fine of not less than \$20 nor more than \$300. Each day a viola-
16 tion of AS 18.35.330 continues after a civil complaint for the viola-
17 tion has been filed and served on the defendant constitutes a separate
18 violation.

19 * Sec. 8. AS 18.35.341(a) is amended to read:

20 (a) A peace officer may issue a citation for a violation of
21 AS 18.35.300 or 18.35.305 committed in the officer's presence or for a
22 violation of AS 18.35.330. The provisions of AS 12.25.180(b) and
23 12.25.190 - 12.25.230 apply to the issuance of a citation under this
24 subsection.

25 * Sec. 9. AS 18.35.341(b) is amended to read:

26 (b) An employee of the department designated by the commissioner
27 to enforce the provisions of AS 18.35.300 - 18.35.365 may issue a
28 citation for a violation of AS 18.35.300, 18.35.305, or 18.35.330
29 regardless of whether the violation was committed in the employee's

1 presence. A citation issued under this subsection shall be in the
2 same form and shall be processed in the same manner as a citation
3 issued by a peace officer under (a) of this section. An employee of
4 the department may not arrest a person for a violation of AS 18.35.-
5 300, 18.35.305, or 18.35.330.

6 * Sec. 10. 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
8 is guilty of a violation as defined in AS 11.81.900(b) and upon con-
9 viction is punishable by a fine of not less than \$10 nor more than \$50
10 for a violation of AS 18.35.300 or 18.35.305 and by a fine of not less
11 than \$20 nor more than \$300 for a violation of AS 18.35.330. Each day
12 a violation of AS 18.35.330 continues after a citation for the viola-
13 tion has been issued constitutes a separate violation.

14 * Sec. 11. AS 18.35.341(d) is amended to read:

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

20 * Sec. 12. AS 18.35.342 is amended to read:

21 Sec. 18.35.342. MULTIPLE FINES PROHIBITED. A person may not be
22 fined more than once for each violation of AS 18.35.300, 18.35.305, or
23 18.35.330.

24 * Sec. 13. AS 18.35.343 is amended to read:

25 Sec. 18.35.343. INJUNCTIONS. The commissioner or any affected
26 party may institute an action in the superior court to enjoin repeated
27 violations of AS 18.35.300, 18.35.305, or 18.35.330.

28 * Sec. 14. AS 18.35.320(b) is repealed.