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Original sponsor(s): SEN. FAIKS

1 IN THE SENATE BY THE HESS COMMITTEE
2 CS FOR SENATE BILL NO. 222 (HESS)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND 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 allowed under AS 18.-
14 35.310 [OTHERWISE PROVIDED BY 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 (3) [(4)] a public or private post-secondary educational
26 institution [SCHOOL, PRE-SCHOOL,] or adult day care facility;

27 (4) [(5)] a courtroom or jury deliberation room;

28 (5) [(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 (6) [(8)] a food service establishment that has a seating
8 capacity of at least 50 persons;

9 (7) [(9)] a grocery store or other store maintained primar-
10 ily for the retail sale of food products; [AND]

11 (8) [(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 (9) a correctional facility; and

15 (10) a Pioneers' Home.

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

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

19 (1) a public or private elementary or secondary school,
20 preschool, or children's day care facility; if the school, preschool,
21 or day care facility is in a building that is also a private resi-
22 dence, this paragraph applies only during the hours when the residence
23 is being used as an elementary or secondary school, preschool, or
24 children's day care facility; if the school, preschool, or day care
25 facility is in a building that includes more than one private resi-
26 dence or units that are not private residences, this paragraph applies
27 only to the private residence in which the elementary or secondary
28 school, preschool, or children's day care facility is located;

29 (2) a room, chamber, or other place under the control of

1 the state or a political subdivision of the state while a public
2 meeting or public assembly is in progress;

3 (3) a public or private laboratory or office associated
4 with dental care, health care, or the healing arts, and a public or
5 private hospital, or other nonresidential health care institution or
6 facility;

7 (4) an elevator.

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

9 Sec. 18.35.310. EXEMPTIONS. The prohibition set out in AS 18.-
10 35.300 does not apply to

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

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

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

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

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

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

23 (c) A person who designates a smoking section under this section
24 shall make reasonable accommodations to protect the health of the [FOR
25 THE NEEDS OF THE SMOKERS AND] nonsmokers who use the place or vehicle
26 by separation, partition, or ventilation that ensures that nonsmokers
27 in the place or vehicle are not subject to the active by-products of
28 smoke from smokers in the place or vehicle. This subsection does not
29 apply to the person in charge of a store that sells only tobacco

1 products and related articles.

2 * Sec. 6. AS 18.35.330(a) is amended to read:

3 (a) A person in charge of a place or vehicle described in
4 AS 18.35.300 or 18.35.305, except a limousine for hire or taxicab,
5 shall conspicuously display in the place or vehicle a sign that reads
6 "Smoking Prohibited by Law - Maximum Fine \$50" and that includes the
7 international symbol for no smoking.

8 * Sec. 7. AS 18.35.340(a) is amended to read:

9 (a) The commissioner shall develop and maintain a procedure for
10 processing reports of violations of AS 18.35.300, 18.35.305, and
11 18.35.330.

12 * Sec. 8. AS 18.35.340(c) is amended to read:

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

22 * Sec. 9. AS 18.35.341(a) is amended to read:

23 (a) A peace officer may issue a citation for a violation of
24 AS 18.35.300 or 18.35.305 committed in the officer's presence or for a
25 violation of AS 18.35.330. The provisions of AS 12.25.180(b) and
26 12.25.190 - 12.25.230 apply to the issuance of a citation under this
27 subsection.

28 * Sec. 10. AS 18.35.341(b) is amended to read:

29 (b) An employee of the department designated by the commissioner

1 to enforce the provisions of AS 18.35.300 - 18.35.365 may issue a
2 citation for a violation of AS 18.35.300, 18.35.305, or 18.35.330
3 regardless of whether the violation was committed in the employee's
4 presence. A citation issued under this subsection shall be in the
5 same form and shall be processed in the same manner as a citation
6 issued by a peace officer under (a) of this section. An employee of
7 the department may not arrest a person for a violation of AS 18.35.-
8 300, 18.35.305, or 18.35.330.

9 * Sec. 11. AS 18.35.341(c) is amended to read:

10 (c) A person who violates AS 18.35.300, 18.35.305, or 18.35.330
11 is guilty of a violation as defined in AS 11.81.900(b) and upon con-
12 viction is punishable by a fine of not less than \$10 nor more than \$50
13 for a violation of AS 18.35.300 or 18.35.305 and by a fine of not less
14 than \$20 nor more than \$300 for a violation of AS 18.35.330. Each day
15 a violation of AS 18.35.330 continues after a citation for the viola-
16 tion has been issued constitutes a separate violation.

17 * Sec. 12. AS 18.35.341(d) is amended to read:

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

23 * Sec. 13. AS 18.35.342 is amended to read:

24 Sec. 18.35.342. MULTIPLE FINES PROHIBITED. A person may not be
25 fined more than once for each violation of AS 18.35.300, 18.35.305, or
26 18.35.330.

27 * Sec. 14. AS 18.35.343 is amended to read:

28 Sec. 18.35.343. INJUNCTIONS. The commissioner or any affected
29 party may institute an action in the superior court to enjoin repeated

- 1 violations of AS 18.35.300, 18.35.305, or 18.35.330.
- 2 * Sec. 15. AS 18.35.320(b) is repealed.