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Referred: Finance

6-0448M

Original sponsor(s): SEN. FAIKS

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 222 (State Affairs)  
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 con-  
29 trol of the state senate or state house of representatives [A

1 POLITICAL SUBDIVISION OF THE STATE] while a public meeting or public  
2 assembly is not in progress;

3 (6) [(7)] a [PATIENTS' OR VISITORS' WAITING ROOM OR REST-  
4 ROOM OF A PUBLIC OR PRIVATE LABORATORY OR OFFICE ASSOCIATED WITH  
5 DENTAL CARE, HEALTH CARE, OR THE HEALING ARTS, AND A WAITING ROOM,  
6 RESTROOM, LOBBY, OR HALLWAY OF A PUBLIC OR PRIVATE HOSPITAL,] nursing  
7 home, rest home, or other residential health care institution or  
8 facility, or a public or private office or facility that is engaged  
9 primarily in providing mental health services;

10 (7) [(8)] a food service establishment that has a seating  
11 capacity of at least 50 persons;

12 (8) [(9)] a grocery store or other store maintained primar-  
13 ily for the retail sale of food products; [AND]

14 (9) [(10)] a place of employment in which the owner, manag-  
15 er, proprietor, or other person who has control of the premises posts  
16 a sign stating that smoking is prohibited by law;

17 (10) a correctional facility; and

18 (11) a Pioneers' Home.

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

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

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

1 only to the private residence in which the elementary or secondary  
2 school, preschool, or children's day care facility is located; the  
3 prohibition in this paragraph does not apply to a public or private  
4 elementary or secondary school to the extent that a collective bar-  
5 gaining agreement covering employees who work in the school contains  
6 terms that conflict with this prohibition;

7 (2) 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 (3) a public or private laboratory or office associated  
11 with dental care, health care, or the healing arts, and a public or  
12 private hospital, or other nonresidential health care institution or  
13 facility; this paragraph does not apply to a public or private office  
14 or facility that is engaged primarily in providing mental health  
15 services;

16 (4) an elevator.

17 \* Sec. 3. AS 18.35.310 is amended to read:

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

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

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

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

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

28 (b) The prohibitions set out in AS 18.35.300 - 18.35.305 do not  
29 apply to smoking by performers on the stage as part of a theatrical

1 entertainment production.

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

3 (c) A person who designates a smoking section under this section  
4 shall make reasonable accommodations to protect the health of the [FOR  
5 THE NEEDS OF THE SMOKERS AND] nonsmokers who use the place or vehicle  
6 by separation, partition, or ventilation that ensures that nonsmokers  
7 in the place or vehicle are not subject to the active by-products of  
8 smoke from smokers in the place or vehicle.

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

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

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

16 (a) The commissioner shall develop and maintain a procedure for  
17 processing reports of violations of AS 18.35.300, 18.35.305, and  
18 18.35.330.

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

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

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

1 (a) A peace officer may issue a citation for a violation of  
2 AS 18.35.300 or 18.35.305 committed in the officer's presence or for a  
3 violation of AS 18.35.330. The provisions of AS 12.25.180(b) and  
4 12.25.190 - 12.25.230 apply to the issuance of a citation under this  
5 subsection.

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

7 (b) An employee of the department designated by the commissioner  
8 to enforce the provisions of AS 18.35.300 - 18.35.365 may issue a  
9 citation for a violation of AS 18.35.300, 18.35.305, or 18.35.330  
10 regardless of whether the violation was committed in the employee's  
11 presence. A citation issued under this subsection shall be in the  
12 same form and shall be processed in the same manner as a citation  
13 issued by a peace officer under (a) of this section. An employee of  
14 the department may not arrest a person for a violation of AS 18.35.-  
15 300, 18.35.305, or 18.35.330.

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

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

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

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

1 \* Sec. 13. AS 18.35.342 is amended to read:

2           Sec. 18.35.342. MULTIPLE FINES PROHIBITED. A person may not be  
3 fined more than once for each violation of AS 18.35.300, 18.35.305, or  
4 18.35.330.

5 \* Sec. 14. AS 18.35.343 is amended to read:

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