

Offered: 4/27/90
Referred: Rules

6-0448P

Original sponsor(s): SEN. FAIKS, Pourchot, Binkley

1 IN THE SENATE BY THE HESS COMMITTEE
2 HOUSE CS FOR 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,
16 baggage, or boarding area for a vehicle of public transportation,
17 including a bus, ferry vessel, train, limousine for hire, taxicab, or
18 scheduled interstate or intrastate aircraft flight when consistent
19 with federal law;
20 (2) [AN ELEVATOR;
21 (3)] 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;
26 (3) [(4)] a public or private post-secondary educational
27 institution [SCHOOL, PRE-SCHOOL,] or adult day care facility;
28 (4) [(5)] a courtroom or jury deliberation room;
29 (5) [(6)] a room, chamber, or other place under the

control of the state senate or state house of representatives [A
POLITICAL SUBDIVISION OF THE STATE] while a public meeting or public
assembly is not in progress;

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

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

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

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

(10) a correctional facility; and

(11) a Pioneers' Home.

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

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

(1) a public or private elementary or secondary school,
preschool, or children's day care facility; if the school, preschool,
or day care facility is in a building that is also a private resi-
dence, this paragraph applies only during the hours when the residence
is being used as an elementary or secondary school, preschool, or
children's day care facility and to the rooms used as an elementary or
secondary school, preschool or children's day care facility; if the

1 school, preschool, or day care facility is in a building that includes
2 more than one private residence or units that are not private resi-
3 dences, this paragraph applies only to the private residence in which
4 the elementary or secondary school, preschool, or children's day care
5 facility is located; the prohibition in this paragraph does not apply
6 to a designated smoking area that is properly ventilated or equipped
7 with an exhaust fan in a public or private elementary or secondary
8 school if the area is located in a room where minors are not permitted
9 and a smoking area must be designated in the school to comply with a
10 collective bargaining agreement covering employees who work in the
11 school;

12 (2) a room, chamber, or other place under the control of
13 the state or a political subdivision of the state while a public
14 meeting or public assembly is in progress;

15 (3) an office where dental care, health care, or the heal-
16 ing arts are practiced, a public or private laboratory associated with
17 dental care, health care, or the healing arts if the laboratory is
18 located within the same premises as an office where dental care,
19 health care, or the healing arts are practiced, and a public or pri-
20 vate hospital, or other nonresidential health care institution or
21 facility; this paragraph does not apply to a public or private office
22 or facility that is engaged primarily in providing mental health
23 services;

24 (4) an elevator.

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

26 Sec. 18.35.310. EXEMPTIONS. The prohibition set out in AS 18.-
27 35.300 does not apply to

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

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

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

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

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

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

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

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

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

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

24 (a) The commissioner shall develop and maintain a procedure for
25 processing reports of violations of AS 18.35.300, 18.35.305, and
26 18.35.330.

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

28 (c) A person who violates AS 18.35.300 or 18.35.305 and against
29 whom the commissioner has filed a civil complaint under this section

1 is punishable by a civil fine of not less than \$10 nor more than \$50.
2 A person who violates AS 18.35.330 and against whom the commissioner
3 has filed a civil complaint under this section is punishable by a
4 civil fine of not less than \$20 nor more than \$300. Each day a viola-
5 tion of AS 18.35.330 continues after a civil complaint for the viola-
6 tion has been filed and served on the defendant constitutes a separate
7 violation.

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

9 (a) A peace officer may issue a citation for a violation of
10 AS 18.35.300 or 18.35.305 committed in the officer's presence or for a
11 violation of AS 18.35.330. The provisions of AS 12.25.180(b) and
12 12.25.190 - 12.25.230 apply to the issuance of a citation under this
13 subsection.

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

15 (b) An employee of the department designated by the commissioner
16 to enforce the provisions of AS 18.35.300 - 18.35.365 may issue a
17 citation for a violation of AS 18.35.300, 18.35.305, or 18.35.330
18 regardless of whether the violation was committed in the employee's
19 presence. A citation issued under this subsection shall be in the
20 same form and shall be processed in the same manner as a citation
21 issued by a peace officer under (a) of this section. An employee of
22 the department may not arrest a person for a violation of AS 18.35.-
23 300, 18.35.305, or 18.35.330.

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

25 (c) A person who violates AS 18.35.300, 18.35.305, or 18.35.330
26 is guilty of a violation as defined in AS 11.81.900(b) and upon con-
27 viction is punishable by a fine of not less than \$10 nor more than \$50
28 for a violation of AS 18.35.300 or 18.35.305 and by a fine of not less
29 than \$20 nor more than \$300 for a violation of AS 18.35.330. Each day

1 a violation of AS 18.35.330 continues after a citation for the viola-
2 tion has been issued constitutes a separate violation.

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

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

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

10 Sec. 18.35.342. MULTIPLE FINES PROHIBITED. A person may not be
11 fined more than once for each violation of AS 18.35.300, 18.35.305, or
12 18.35.330.

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

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

17 * Sec. 15. This Act does not supersede the provisions of a collective
18 bargaining agreement in effect on the effective date of this Act. However,
19 a collective bargaining agreement in effect on the effective date of this
20 Act may not be renewed or extended by agreement on or after the effective
21 date of this Act with provisions that require the employer to provide
22 smoking areas that would not be in compliance with this Act.