

Original sponsors: Fritz, H.M. Miller,
Bussell, et al

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 84 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST 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 amended to read:

19 Sec. 18.35.300. SMOKING IN PUBLIC PLACES, VEHICLES PROHIBITED.
20 Smoking in any form is [MAY CONSTITUTE] a nuisance and a public health
21 hazard and is prohibited in vehicles and indoor [THE FOLLOWING] areas
22 that are open to the public, unless otherwise exempted by this chap-
23 ter, including:

24 (1) a vehicle of public transportation, including a train,
25 limousine for hire, taxicab, bus, [STATE-OPERATED] ferry vessel,
26 scheduled intrastate aircraft flights when consistent with federal law
27 or regulation, or elevator, or an indoor waiting area or boarding area
28 for aircraft or other vehicles of public transportation;

29 (2) a library, [INDOOR] theater, museum, lecture or concert

1 hall, gymnasium, or swimming pool or other indoor [PUBLICLY OWNED AND
2 OPERATED] place of entertainment or recreation;

3 (3) a [PUBLIC] school; a jury deliberation room except
4 where allowed by order of the presiding judge; or in a room, chamber,
5 place of meeting or public assembly under the control of the state, or
6 a department or agency of the state, or a municipality, while a public
7 meeting held under the auspices of the state, or a department or
8 agency of the state, or a municipality, is in progress;

9 (4) the public waiting room or restroom of laboratories or
10 offices associated with dental care, health care or the healing arts;

11 (5) the waiting room, restroom, lobby or hallway of a
12 hospital, nursing home, rest home or other health care institution or
13 facility; [OR]

14 (6) a place of business, including a retail store, restau-
15 rant, or bank; and [IN WHICH THE OWNER, MANAGER, PROPRIETOR, OR OTHER
16 PERSON WHO HAS CONTROL OF THE PREMISES POSTS A SIGN CONVEYING THE
17 MESSAGE THAT SMOKING IS PROHIBITED BY LAW.]

18 (7) an office, factory, warehouse, or other place of em-
19 ployment.

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 AS 18.35.310 is repealed and reenacted to read:

21 Sec. 18.35.310. EXEMPTIONS. The prohibition set out in AS 18.-
22 35.300 does not apply to

23 (1) a portion of an area or vehicle that is designated as a
24 smoking section under AS 18.35.320;

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

28 (3) smoking by performers on the stage as part of a theat-
29 rical production.

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

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

8 (b) Only the following areas and vehicles may be designated in
9 their entirety as smoking sections under (a) of this section:

10 (1) a cocktail lounge or tavern, if the designation is
11 posted conspicuously at all entrances normally used by the public;

12 (2) a retail business primarily engaged in the sale of
13 tobacco or tobacco products;

14 (3) an area or vehicle while used for a private social
15 function;

16 (4) a place of employment if all the employees are smokers,
17 but this exception does not include reception areas, waiting areas,
18 lobbies, and restrooms open to the public.

19 (c) Except as provided in (b) of this section, a smoking section
20 designated under (a) of this section may not be larger than necessary
21 to accommodate the needs of the smokers who use the area or vehicle.

22 (d) A smoking section may not be designated under (a) of this
23 section in an area or vehicle unless the area or vehicle meets the
24 minimum ventilation and air quality standards adopted by the depart-
25 ment.

26 * Sec. 5. AS 18.35.330 is repealed and reenacted to read:

27 Sec. 18.35.330. DISPLAY OF SMOKING AND NO SMOKING SIGNS. (a) A
28 person in charge of an area or vehicle described in AS 18.35.300 shall
29 conspicuously display in the area or vehicle a sign reading "Smoking

1 Prohibited by Law - Maximum Fine \$300".

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

7 (c) A sign required by this section may not be smaller than 18
8 inches wide and six inches high, with lettering not less than 1.25
9 inches high.

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

11 Sec. 18.35.340. CIVIL COMPLAINTS; PENALTIES. (a) The commis-
12 sioner shall develop and maintain a procedure for processing reports
13 of violations of AS 18.35.300 - 18.35.365 or of a regulation adopted
14 under AS 18.35.360.

15 (b) If, after investigating a report made under this section,
16 the commissioner determines that a violation has occurred, the commis-
17 sioner may file a civil complaint in the superior court to enforce the
18 requirements of AS 18.35.300 - 18.35.365 or of a regulation adopted
19 under AS 18.35.360.

20 (c) A person who violates AS 18.35.300 is punishable under this
21 section by a civil fine of not less than \$10 nor more than \$50. A
22 person who violates AS 18.35.330 is punishable under this section by a
23 civil fine of not less than \$20 nor more than \$300.

24 (d) The department may provide for the payment of fines under
25 this section by mail.

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

27 Sec. 18.35.341. CITATIONS; PENALTY. (a) A peace officer may
28 issue a citation for a violation of AS 18.35.300 or AS 18.35.330.

29 (b) A person who violates AS 18.35.300 or AS 18.35.330 is guilty

1 of a violation and upon conviction is punishable by a fine of not more
2 than \$300.

3 (c) The supreme court shall establish a schedule of bail amounts
4 for violations of AS 18.35.300 and AS 18.35.330, but in no event may
5 the bail amount exceed \$300. The bail amount for a violation shall
6 appear on the citation.

7 (d) A person cited for a violation under this section may,
8 within 15 days after the date of the citation, mail or personally
9 deliver to the clerk of the court in which the citation is filed by
10 the peace officer

11 (1) the amount of bail indicated on the citation for that
12 violation; and

13 (2) a copy of the citation indicating that the right to an
14 appearance is waived, a plea of no contest is entered and the bail is
15 forfeited.

16 (e) When bail has been forfeited under (d) of this section, a
17 judgment of conviction shall be entered. Forfeiture of bail is a
18 complete satisfaction for the violation. The clerk of the court
19 accepting the bail shall provide the violator with a receipt stating
20 that fact.

21 (f) If the person cited fails to pay the bail amount established
22 under (c) of this section or to appear in court as required, the
23 citation is considered a summons for a violation.

24 Sec. 18.35.342. INJUNCTIONS. The commissioner or any affected
25 party may institute an action in the superior court to enjoin repeated
26 violations of AS 18.35.300 - 18.35.365 or of a regulation adopted
27 under AS 18.35.360.

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

29 Sec. 18.35.350. ENFORCEMENT AUTHORITY. The commissioner [OF

1 ENVIRONMENTAL CONSERVATION] or the commissioner's [HIS] designee is
2 responsible for enforcing the provisions of AS 18.35.300 - 18.35.365
3 [AS 18.35.300 - 18.35.340] and the regulations adopted under AS 18.-
4 35.360. This section does not limit the authority of peace officers.

5 * Sec. 9. AS 18.35 is amended by adding a new section to read:

6 Sec. 18.35.355. PUBLIC EDUCATION. The commissioner shall take
7 appropriate measures to inform the public of their rights under
8 AS 18.35.300 - 18.35.365.

9 * Sec. 10. AS 18.35.360 is amended to read:

10 Sec. 18.35.360. REGULATIONS. The department shall [THE DEPART-
11 MENT OF ENVIRONMENTAL CONSERVATION MAY] adopt regulations to implement
12 the provisions of AS 18.35.300 - 18.35.365 [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 (3) "peace officer" means any officer of the state troop-
20 ers, members of the police force of any incorporated city or borough,
21 United States marshals and their deputies, and other officers whose
22 duty it is to enforce and preserve the public peace, including a
23 village public safety officer.

24 * Sec. 12. 18 AAC 55.060 is annulled.
25
26
27
28
29

PROPOSED fiscal note

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. CS HB 84 (FINANCE/Judiciary)
 Title Smoking in Public Places
 Requested by House Finance Committee Date 5/19/83

II. FISCAL DETAIL
 Agency Affected _____
 Program Category Affected _____
 BRU, Program, Or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		0				

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

It is the opinion of the House Finance Committee that no funding is necessary to implement this legislation during the next fiscal year. If necessary, agencies should request any needed funding through the FY 85 budget process.

IV. DATE 5/19/83 PREPARED BY Al Adams, Chair *ABA*
 AGENCY House Finance Committee
 PHONE 465-3706
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

POSITION PAPER

CS FOR HOUSE BILL NO. 84 (Judiciary)

"An Act Relating to smoking in public places and vehicles."

BACKGROUND INFORMATION:

First, there is mounting evidence in the medical literature that passive smoking by children, particularly young children, and adults with heart or lung ailments cause them to suffer physiological and eventually anatomic consequences that adversely affect their health status. Second, there is a mounting public awareness of the annoyance caused by persons smoking indoors in public areas. Third, and this is the fact of greatest significance, in 1981, there were 92 deaths in Alaska due to cancer of the respiratory system and 145 premature deaths due to coronary disease. Smoking undoubtedly contributed heavily to these numbers.

WHAT THE BILL DOES:

This bill strengthens the rights of persons who choose not to damage their lungs and cardiovascular systems by smoking - either active or passive smoking. It recognizes several features of indoor air quality that are not adequately recognized by the present statute.

Starting on page 4 through the end of the bill there is considerable discussion adding and amending items regarding size of no smoking signs, civil complaints/penalties, citations/penalty, injunctions, enforcement authority, public education and definitions which delineate the context of the subject.

SUGGESTION FOR IMPROVEMENT:

On page 3, line 14: Due to the difficulty of defining a "smoker" this line could be more effectively stated; "(4) a place of employment if all the employees consent to the designation in entirety,".

On page 3, line 27: Addition of "per Alaska statute 18.35.300" would make the sign more effective.

DEPARTMENT POSITION:

This bill is an enlightened public health policy statement and is strongly endorsed by this department.

Recommended by: E. S. Rabeau
E. S. Rabeau, M.D., Director
Division of Public Health

Date: _____

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner *Acting*
Department of Health and
Social Services

Date: 19 May 83

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

HB 81

I. REQUEST
Bill/Resolution No.: CS HB 84 (Judiciary)
Title: Smoking in public places & vehicles
Sponsor: Rep. Fritz, et al
Requestor: House Judiciary

II. FISCAL DETAIL
Agency Affected: Health & Soc. Services
Program Category Affected: Health
BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LANDS & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Source)						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dean Tirador Phone: 465-2113
Division: Public Health Date: 4-13-83

Approved by Commissioner: Robert Landon Smith, Ph.D. Date: 4/18/83
Department: Health and Social Services

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date April 18, 1983

HB 84

I. REQUEST

Bill/Resolution No.: CS for HB 84
 Title: An Act relating to Smoking in public places
 Sponsor: Fritz, M.M. Miller et al
 Requestor: Hein

II. FISCAL DETAIL

Agency Affected: ADEC
 Program Category Affected: Public Info. Office
 BRU, Program of Subprogram(s) Affected:
EQM - Environmental Sanitation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES	0	10.0	0	0		
200 TRAVEL		2.0				
300 CONTRACTUAL		3.0	7.0	7.0		
400 COMMODITIES		5.0	3.0	3.0		
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		20.0	10.0	10.0		
CAPITAL		-	-	-		
REVENUE		-	-	-		

FUNDING: (Thousands of Dollars)

GENERAL FUND		20.0	10.0	10.0		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME		.25	-	-		
PART-TIME		-	-	-		
TEMPORARY		-	-	-		

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

None identified in the legislation

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Joe Cladouhos Phone: 465-2640
 Division: Environmental Quality Mgmt. Date: 4/18/83

Approved by Commissioner: Richard A. Neuf Date: 4/22/83
 Department: ENVIRONMENTAL Conservation

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
 Copy to Sponsor
 Copy to Requestor (if different from Sponsor)

3/8/83

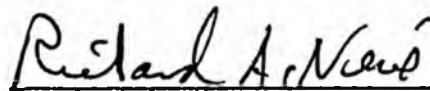
ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

POSITION PAPER

CS for HB 84

April 22, 1983

The Department of Environmental Conservation supports this proposed legislation because it extends and clarifies the existing statute. If HB 84 is enacted, the Department would amend 18 AAC 55, Smoking In Public Places. We would also take appropriate measures to inform the public of the new law.


Richard A. Neve
Commissioner

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

HB 84

I. REQUEST

Bill/Resolution No.: CSHB 84
 Title: "...smoking in public places..."
 Sponsor: Repr. Fritz
 Requestor: House Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Govt.
 BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		32.7	41.6	44.1	46.7	49.2
200 TRAVEL		2.5	3.2	3.4	3.6	3.8
300 CONTRACTUAL		4.5	4.8	5.1	5.4	5.7
400 COMMODITIES		3.6	1.5	1.6	1.7	1.8
500 EQUIPMENT		5.1				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	48.4	51.1	54.2	57.4	60.5

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND	-0-	48.4	51.1	54.2	57.4	60.5
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME						
PART-TIME		2	2	2	2	2
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: April 13, 1983
 Approved by Commissioner: Richard I. Pegues / AR Date: April 13, 1983
 Department: Department of Law

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

CSHB 84
Fiscal Note
Analysis

This bill extends the state's current mandatory prohibition of smoking in public places to include public meetings of municipalities and most places of business such as retail stores, restaurants, banks, offices, factories, warehouses, and other places of employment. Under existing statute, this extended prohibition is at the option of the person having control of such places of employment. The bill would also make the existing mandatory requirement to provide reasonable smoking areas, in most prohibited areas, optional. Because of the very broad changes to the existing law, requiring mandatory compliance by nearly every place of business in the state, except for cocktail lounges, taverns and tobacco shops, it is anticipated that the department will have to devote additional resources of one part-time attorney and a part-time secretary to provide the civil enforcement actions required by the bill in the Superior Court.

Consequently, the only costs shown are those that will occur in the department's civil division as result of filing and handling civil complaints on behalf of the Commissioner of the Department of Environmental Conservation. Work drafts of the committee substitute, dated 4/12/83, have added an entirely new section that provides criminal citations and penalties. So that there will be no misunderstanding, the department intends to handle these citations in the same manner as minor traffic offenses are handled. Traffic offenses are heard in magistrate court and only the arresting officer, civilian witnesses and the defendant appear before the magistrate. Prosecutors only attend these proceedings in those rare instances when defendants appear with counsel. If for any reason, it is expected that state prosecutors are to regularly prosecute violations of the proposed AS 18.35.300 or AS 18.35.330, then substantial additional funding will be required. A preliminary estimate is that 2 full-time and 1 part-time prosecutors and 1 legal secretary would be needed at an initial annual cost of \$220.0.

Fiscal Analysis - HB 84

The impact of HB 84 is expected to result in the addition of one-half the time of an Attorney IV and one-quarter of the time of a Legal Secretary I on a statewide basis. Actual placement of cumulative positions and costs can only be determined after the Legislature has acted and we know what bills and fiscal notes have been approved. For purposes of the analysis, salary schedule A has been used.

The first year of the analysis is FY 84 and costs have been calculated on a 10 month basis to account for the time required to establish new positions and the time it takes to get a new program underway. The costs after FY 84 are on a 12 month basis and include a 6% annual inflation factor.

1st Year (10 months)

	<u>Atty IV (PPT)</u>	<u>L/SI (½ equiv.)</u>	<u>Total</u>
Personal Services	26.9	5.8	32.7
Travel	2.5	-	2.5
Contractual	4.0	.5	4.5
Commod. - ongoing	.8	.4	1.2
Commod. - single time	2.0	.4	2.4
Equipment - single time	1.5	3.6	5.1
			<hr/>
			48.4

2nd Year (12 months + 6% annual inflation)

Personal Services	34.1	7.5	41.6
Travel	3.2	-	3.2
Contractual	4.3	.5	4.8
Commodities	1.0	.5	1.5
Equipment	-	-	-
			<hr/>
			51.1

Page 2. line # ² after "Room
State," add:

" ~~in a jury room~~

~~##~~ Except where allowed by
order of the Presiding Judge".

INTRODUCTION OF BILLS (House)(cont'd)

HB 79 (cont'd)

(Judicial Qualifications. Disqualification, suspension, removal, retirement and censure of judges). Provides the repeal of AS 22.20.022 has the effect of changing Rule 10(c) and Rule 25(d), Rules of Criminal Procedure, and Rule 42(c), Rules of Civil Procedure, by eliminating peremptory disqualification of a judge. Provides Act takes effect immediately.

Introduced January 19 and referred to Judiciary.

Hours for
Voting
(extension)

HOUSE BILL NO. 80, by Phillips and Liska. Provides the Director of Elections may, with the concurrence of the Lt. Governor, extend the hours for voting on election day if the Director determines that a natural disaster or other exigency has prevented a substantial number of qualified voters from voting. The Director may determine that voters were prevented from voting only if he indicates by statistics or other means that there is an actual decrease in the number of qualified voters voting, and determines that other factors including redistricting or similar factors are not the cause of the decrease in the precincts affected. Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced January 19 and referred to State Affairs, Judiciary, then to Finance.

Toll-Free
Calls to State
Agencies

HOUSE BILL NO. 81, by Malone, Phillips, Goll, Davis and Koponen. (See SB 27, page 9, identical. Also identical to SB 42 and HB 97).

Introduced January 20 and referred to State Affairs, then to Finance.

Appropriation
(supplemental)
(LAA salary
increases)

HOUSE BILL NO. 82, by the Rules Committee by Request of the Legislative Council. Makes a supplemental appropriation to certain legislative agencies for salary increases for the fiscal year ending 6/30/83 (total appropriation is \$1,102,500). Provides Act takes effect immediately.

Introduced January 20 and referred to Finance.

Appropriation
(supplemental)
(LAA salary
increases)

HOUSE BILL NO. 83, by the Rules Committee by Request of the Legislative Council. (See HB 82, above, identical).

Introduced January 20 and referred to Finance.

(Note: HB 83 was subsequently WITHDRAWN on January 21 at the request of Rep. Barnes).

Smoking in
Public Places
& Vehicles

HOUSE BILL NO. 84, by Fritz, M.M. Miller, Bussell, Koponen, Larson, Malone, Martin, McBride, Szymanski, Zharoff, M.W. Miller, Lindauer, Furnace and Vaska. Expands on current law prohibiting smoking in certain public places. Provides that

smoking is a public health hazard (currently smoking is a "nuisance"), and would prohibit smoking in certain vehicles, as well as indoor areas that are open to the public. Vehicles would now include taxicabs, unless the driver consents and ascertains that all passengers consent, and any ferry vessel (now state-operated ferry vessels). Indoor areas would include any place of entertainment or recreation (now publicly owned and operated places); municipal schools, rooms, chambers, or meeting places (currently state); public restrooms or offices associated with dental care; retail stores, restaurants or banks, offices, factories, warehouses or other places of employment.

Rewrites section of law exempting certain places, providing the prohibition against smoking in public does not apply to a portion of an area or vehicle that is designated as a smoking section. Deletes language that would exempt buildings or rooms over which the state has control if the building or room is sufficiently well-ventilated by natural or mechanical means. Sets out certain sections of public buildings that may be designated in their entirety as smoking sections. Adds language providing a person who is aggrieved by violations of the no-smoking provisions may bring an action in the district or superior court to recover for personal injuries sustained as a result of the violation. Allows the Commissioner of Environmental Conservation to institute an action to enjoin repeated violations. The Commissioner shall also develop and maintain a procedure for processing complaints, and shall take appropriate measures to inform the public of their rights. Does not provide for an effective date (effective 90 days after Governor's signature).

Introduced January 20 and referred to State Affairs, Resources, then to Judiciary.

Permanent Fund
Dividend Prog.
(repeal of)

HOUSE BILL NO. 85, by Szymanski. Repeals the Alaska Permanent Fund Dividend Program (AS 43.23), and provides that money and other assets held in the Fund shall be transferred to the Alaska Permanent Fund (AS 37.13.010). Provides Act is retroactive to January 1, 1983 and applies to Permanent Fund Dividend distributions for years after 1982.

Deletes from law relating to compilation of the jury list (AS 09.20.050(b)) that the list be in part prepared from a list of all persons who filed for a permanent fund dividend. (See also HB 11, page 29, similar).

Introduced January 20 and referred to State Affairs, Judiciary, then to Finance.

State Land
Lotteries
(use of tele-
conference)

HOUSE BILL NO. 86, by Bettisworth. Relates to state land lotteries and the use of teleconferencing facilities at those drawings. Amends AS 38.05.057 (Disposal of land by lottery) by providing the Commissioner of Natural Resources shall conduct all sales by teleconference, using the maximum number of

COMMITTEE REPORTS (House)(cont'd)

SSHB 42 (cont'd)

permanent residents and the population of any military reservation that is a part of the taxing unit. A person who is eligible to vote shall be included in the population of the taxing unit in which that person is eligible to vote. No person may be included in the population of more than one taxing unit.").

C&RA also provides that the population of a taxing unit shall be determined annually by the latest figures of the U.S. Census Bureau or "by another method of determining the actual [OTHER] population based on current criteria of the United State Bureau of the Census that [DATA WHICH], in the judgment of the department, is equally reliable." (underlined language added, bracketed language deleted from current law).

Adds section amending AS 29.89.060 (State Aid for Miscellaneous Purposes. Population Determination), providing the Census Bureau may use another method of determining population (as in AS 29.88.015), and adds new subsection providing the population of an area includes all persons who usually reside within the area and the population of any military reservation that is a part of the area. Provides a person may not be included in the population of more than one area.

Provides Act takes effect July 1, 1983.

Appropriation HOUSE BILL NO. 74, (see pages 52;162). Reported back to (special) the House February 17 by Transportation recommending it do (Tanana dock pass. Concurring: Cato (Chairman), Abood, M.W. Miller, Lacher & waterfront) and Phillips. Not concurring: Herrmann had no recommendation. To Finance.

Smoking in HOUSE BILL NO. 84, (see pages 54;105). Reported back to the Public Places House February 15 by State Affairs as follows: Abood (Chair- & Vehicles) man), Larson and Shultz signed "do pass if amended." M.M. Miller signed "do pass." To Resources. On February 15, at the request of the Resources Co-Chairmen, the referral to Resources was waived. To Judiciary.

Permanent Fund SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 85, (see pages 55; Dividend Prog. 149). Reported back to the House February 15 by State (repeal of) Affairs with individual recommendations: Abood (Chairman), Cowdery and Furnace recommend "do pass." M.M. Miller, Shultz and Larson had no recommendation. To Judiciary.

Department of HOUSE BILL NO. 103, (see page 59). Reported back to the Corrections House February 14 by Health, Education and Social Services (creation) recommending it be replaced with a HESS Substitute, and that it do pass. Concurring: Tischer (Co-Chairman), Fritz (Co-Chairman), Goll, Koponen, Davis, and M.W. Miller. To Judiciary.

The HESS Substitute adds a new section, amending AS 33.15.010 (Parole Administration Act, State Board of Parole), providing the Chairman of the Board of Parole may not be an official or employee of the Department of Corrections (currently the Chairman may be an

COMMITTEE REPORTS (House)(cont'd)

SB 229 (cont'd)

Community College campus) into two sections. Sec. 1, \$25.3 million for classrooms at the U of A, Anchorage campus; Sec. 2, \$1 million for classrooms at the Anchorage Community College campus.

Voter
Registration
(proof of
eligibility)

HOUSE BILL NO. 30, (see pages 37;226;592). Reported back to the House May 4 by Finance recommending it be replaced with a Finance substitute and that it do pass. Concurring: Adams (Chairman), Pestinger, Flood, Ward, Zharoff, Grussendorf, Lindauer, Martin and Bettisworth. To Rules.

The Finance CS makes changes in what must be contained in the statement of eligibility on the application for registration as a voter. Applicant must certify that "() I am currently registered in another precinct in Alaska; or () I am a resident of the state and of the election district in which I seek to vote on the date of this application or I will be a resident of the state and of the election district in which I seek to vote for at least 30 days immediately preceding the date of the next election; or () I claim eligibility to vote as an overseas voter under AS 15.05.011; or () I claim eligibility to vote in a presidential election under AS 15.05.012 - 15.05.014. . . ." Under the Judiciary version a person would have had to certify that "() I am a state resident on the date of this application and I will have been a state resident for at least 30 days immediately preceding the date of the next election; . . ." It also contained the overseas and presidential provisions.

Hours for
Voting
(extension)

HOUSE BILL NO. 80, (see page 54). Reported back to the House on May 6 by State Affairs with the committee recommending as follows: Abood (Chmn.) and Shultz recommended do not pass; Furnace recommended "do not pass ever"; Larson, Cowdery and M. M. Miller had no recommendation. To Judiciary.

Appropriation
(supplemental)
(LAA salary
increases)

HOUSE BILL NO. 82, (see page 54). Reported back to the House May 6 by Finance recommending it be replaced with a Finance substitute and that it do pass. Concurring: Adams (Ch), Flood, Ward, Hurlbert, Zharoff, Duncan, Grussendorf, Lindauer, Martin and Bettisworth. To Rules.

The Finance CS deletes all appropriations to certain legislative offices for salary increases for fiscal year 1983, with the exception of a \$69,600 appropriation to the Ombudsman's Office for salary increases for FY '83. Provides Act takes effect immediately.

Smoking in
Public Places
& Vehicles

HOUSE BILL NO. 84, (see pages 54;105;188). Reported back to the House May 6 by Judiciary recommending it be replaced with a Judiciary CS and that it do pass. Concurring: Bussell, Hayes and Clocksin. Not concurring: Liska had no recommendation. The Speaker stated that, without objection, the bill would have a further referral to the Finance Committee. There being no objection, it was referred to Finance.

The Judiciary CS adds language that would prohibit smoking in an

COMMITTEE REPORTS (House)(cont'd)

HB 84 (cont'd)

indoor waiting area or boarding area for aircraft or other vehicles of public transportation, and in a jury deliberation room. Signs displayed in areas where smoking is prohibited would also be required to state that the maximum fine for violating the law is \$300, and the sign could not be smaller than 18" wide by 6" high, with lettering not less than 1.25" high.

Section added, similar to that in original bill, requiring the Commissioner of Environmental Conservation to develop and maintain a procedure for processing reports of violations of the smoking in public laws or regulations. New subsections added that allow the Commissioner to file a civil complaint in the superior court to enforce the requirement if, after investigation, it is determined that a violation has occurred. Persons violating the smoking in public places and vehicle provisions are punishable by a civil fine of not less than \$10 nor more than \$50, and persons who do not display signs prohibiting smoking are punishable by a civil fine of not less than \$20 nor more than \$300. Fines would be payable by mail.

Under section added relating to citations and civil penalties a peace officer could issue a citation for violations. The supreme court is required to establish a schedule of bail amounts for violations, but in no event may the bail amount exceed \$300. A person cited for a violation may, within 15 days after the date of the citation, mail or personally deliver to the clerk of the court the amount of bail and a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered and the bail is forfeited. When bail has been forfeited a judgment of conviction shall be entered. Forfeiture of bail is a complete satisfaction for the violation. If the person cited fails to pay the bail or to appear in court the citation is considered a summons for a violation (eliminates section in original version stating a person who is aggrieved by a violation may bring an action in the district court or the superior court to recover for personal injuries sustained as a result of the violation).

Adds new section giving enforcement authority to the Commissioner of Environmental Conservation or the commissioner's designee. Would not limit the authority of peace officers. Adds new section requiring the Department to adopt regulations to implement no smoking laws. New section added defining terms used.

Annuls 18 AAC 55.060: "Waiver of Provisions. (a) The department will, in its discretion, waive a provision of 18 AAC 55.010 - 18 AAC 55.900 [Smoking in Public Places] if it determines that the public health and the satisfaction of the purpose of the provision are reasonably assured and that the requirements of AS 18.35.300 - 18.35.360 [prohibits smoking in public places and vehicles] are satisfied. (b) Application for a waiver must be made in writing and must include (1) identification of the provision for which the waiver is requested; (2) reasons why the provision cannot be satisfied; and (3) a description of an alternative method, if any, proposed for meeting the purpose of the provision to be waived. (c)

COMMITTEE REPORTS (House)(cont'd)

HB 84 (cont'd)

The department will answer a request for a waiver in writing within 30 days after receipt of the request."

Bank Fees and Assessments
(raising)

HOUSE BILL NO. 116. (see page 94). Reported back to the House on May 6 by Labor & Commerce with the majority recommending it do pass. Concurring: Furnace (Chmn.), Ringstad, Cowdery and Uehling. Koponen had no recommendation. To Finance.

Emergency Guards
(in exempt service)

HOUSE BILL NO. 209, (see pages 183;301;390). Reported back to the House May 5 by Rules recommending it be replaced with a Rules Committee Substitute and that it do pass. Concurring: Fuller, Chairman, Tischer, Barnes, M.W. Miller and Hayes. Not concurring: Phillips, M.M. Miller and Koponen had no recommendation. Returned to Rules for placement on calendar.

The Rules CS also includes in the partially exempt service "correctional superintendents I and II in the Department of Health and Social Services." Includes under the exempt service "youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs."

State Purchases
(payment for)

HOUSE BILL NO. 210, (see pages 183;230;670). Reported back to the House May 2 by State Affairs recommending it be replaced with a State Affairs substitute and that it do pass. Concurring: Abood (Chairman), Furnace, Cowdery, Shultz and M. M. Miller. Not concurring: Larson and Vaska had no recommendation. To Finance.

The State Affairs CS would require payment for goods or services purchased by a state agency to be made on a required payment date that is the date on which payment is due under the terms of a contract, or 30 days after receipt of a proper invoice for the amount of the payment due, if a specific date is not established by contract and if the invoice contains or is accompanied by documents required by the contract or purchase order (original version required payment for goods or services to be made within 30 days after they had been provided or an invoice received).

If a seller offers a discount from the amount otherwise due for property or services in exchange for payment within a specified period of time, the state agency may make payment in an amount equal to the discounted price only if payment is made within the specified period of time (was "If a seller of goods or services provided to the state offers a discount of at least two percent if payment in full is made within 10 days of the receipt of the goods, services, or invoice, whichever is later, the state agency responsible for payment of the bill shall make payment so as to take advantage of the discount.")

If payment is not made within 30 days "of a required payment date" the state shall pay interest on the unpaid balance "from the required payment date" at the rate of one and one-half percent a month unless an agreement exists between the seller and the state that precludes the charging of interest (quoted language added by State Affairs).

341 W 11th Ave
Anchorage, AK
99501

May 11, 1938

Rep. Al Adams, Chairman
House Finance Committee

Honorable Sir:

We understand from Representative
Don Clocksin that H B 84, re smoking
in public places, is now in your
committee.

We are senior citizens with heart
conditions which make smoke very in-
jurious to our health. We therefore
urge you to vote favorably on
H B 84 with the changes to include
prohibition of smoking in waiting
areas in airports, bus stations, taxis,
and jury rooms.

We have been especially un-
comfortable in grocery check-out lines
and jury rooms.

Sincerely yours,
Pauline V Burkher
Hawaii W Burkher

*Window — First Presbyterian Church
Anchorage, Alaska*

Introduced: 1/20/83
Referred: State Affairs, Resources
and Judiciary

BY FRITZ, M.M.MILLER, BUSSELL,
KOPONEN, LARSON, MALONE, MARTIN,
MCBRIDE, SZYMANSKI, ZHAROFF,
M.W.MILLER, LINDAUER, FURNACE
AND VASKA

1 IN THE HOUSE

2

HOUSE BILL NO. 84

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST 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
11 significant health hazard;

12 (2) recent court decisions recognize an emerging right of
13 employees 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 amended to read:

19 Sec. 18.35.300. SMOKING IN PUBLIC PLACES, VEHICLES PROHIBITED.
20 Smoking in any form is [MAY CONSTITUTE] a nuisance and a public health
21 hazard and is prohibited in vehicles and indoor [THE FOLLOWING] areas
22 that are open to the public, unless otherwise exempted by this chap-
23 ter, including:

24 (1) a vehicle of public transportation, including a train,
25 limousine for hire, taxicab, bus, [STATE-OPERATED] ferry vessel, or
26 elevator;

27 (2) a library, [INDOOR] theater, museum, lecture or concert
28 hall, gymnasium, or swimming pool or other indoor [PUBLICLY OWNED AND
29 OPERATED] place of entertainment or recreation;

1 (3) a [PUBLIC] school; or in a room, chamber, place of
2 meeting or public assembly under the control of the state, or a de-
3 partment or agency of the state, or a municipality, while a public
4 meeting held under the auspices of the state, or a department or
5 agency of the state, or a municipality, is in progress;

6 (4) the public waiting room or restroom of laboratories or
7 offices associated with dental care, health care or the healing arts;

8 (5) the waiting room, restroom, lobby or hallway of a
9 hospital, nursing home, rest home or other health care institution or
10 facility; [OR]

11 (6) a place of business, including a retail store, restau-
12 rant, or bank; [IN WHICH THE OWNER, MANAGER, PROPRIETOR, OR OTHER
13 PERSON WHO HAS CONTROL OF THE PREMISES POSTS A SIGN CONVEYING THE
14 MESSAGE THAT SMOKING IS PROHIBITED BY LAW.]

15 (7) an office, factory, warehouse, or other place of em-
16 ployment.

17 * Sec. 3. AS 18.35.310 is repealed and reenacted 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 an area 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 production.

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

28 Sec. 18.35.320. DESIGNATION OF SMOKING SECTIONS. (a) A person
29 in charge of an indoor area described in AS 18.35.300, or of a vehicle

1 of public transportation, may designate portions of the area or vehi-
2 cle as smoking sections. For purposes of this section, "vehicle of
3 public transportation" does not include a taxicab or limousine for
4 hire.

5 (b) Only the following areas and vehicles may be designated in
6 their entirety as smoking sections under (a) of this section:

7 (1) a cocktail lounge or tavern, if the designation is
8 posted conspicuously at all entrances normally used by the public;

9 (2) a retail business primarily engaged in the sale of
10 tobacco or tobacco products;

11 (3) an area or vehicle while used for a private social
12 function;

13 (4) a place of employment if all the employees are smokers,
14 but this exception does not include reception areas, waiting areas,
15 lobbies, and restrooms open to the public.

16 (c) Except as provided in (b) of this section, a smoking section
17 designated under (a) of this section may not be larger than necessary
18 to accommodate the needs of the smokers who use the area or vehicle.

19 (d) A smoking section may not be designated under (a) of this
20 section in an area or vehicle unless the area or vehicle meets the
21 minimum ventilation and air quality standards adopted by the Depart-
22 ment of Environmental Conservation.

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 an area or vehicle set out in AS 18.35.300(1) -
26 (7) shall conspicuously display in the area or vehicle a sign reading
27 "Smoking Prohibited by Law".

28 (b) In an area or vehicle in which a smoking section has been
29 designated in accordance with AS 18.35.320, the person in charge of

1 the area or vehicle shall conspicuously display signs that specify the
2 portions of the area or vehicle in which smoking is allowed by law and
3 in which smoking is prohibited by law.

4 * Sec. 6. AS 18.35 is amended by adding a new section to read:

5 Sec. 18.35.345. PRIVATE RIGHT OF ACTION. A person who is ag-
6 grieved by a violation of AS 18.35.300 - 18.35.360 may bring an action
7 in the district court or the superior court to recover for personal
8 injuries sustained as a result of the violation. Punitive damages may
9 not be allowed in a case based solely on a violation of AS 18.35.300 -
10 18.35.360.

11 * Sec. 7. AS 18.35 is amended by adding a new section to read:

12 Sec. 18.35.346. INJUNCTIONS. The commissioner of environmental
13 conservation or any affected party may institute an action in the dis-
14 trict court or the superior court to enjoin repeated violations of
15 AS 18.35.300 - 18.35.360.

16 * Sec. 8. AS 18.35 is amended by adding a new section to read:

17 Sec. 18.35.355. COMPLAINT PROCEDURE. The commissioner of envi-
18 ronmental conservation shall develop and maintain a procedure for
19 processing complaints regarding violations of this chapter or of
20 regulations adopted under this chapter.

21 * Sec. 9. PUBLIC EDUCATION. The commissioner of environmental conser-
22 vation shall take appropriate measures to inform the public of their rights
23 under this Act.

Introduced: 1/20/83
Referred: State Affairs, Resources
and Judiciary

BY FRITZ, M.M.MILLER, BUSSELL,
KOPONEN, LARSON, MALONE, MARTIN,
MCBRIDE, SZYMANSKI, ZHAROFF,
M.W.MILLER, LINDAUER, FURNACE
AND VASKA

1 IN THE HOUSE

2

HOUSE BILL NO. 84

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST 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
11 significant health hazard;

12 (2) recent court decisions recognize an emerging right of
13 employees 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 amended to read:

19 Sec. 18.35.300. SMOKING IN PUBLIC PLACES, VEHICLES PROHIBITED.
20 Smoking in any form is [MAY CONSTITUTE] a nuisance and a public health
21 hazard and is prohibited in vehicles and indoor [THE FOLLOWING] areas
22 that are open to the public, unless otherwise exempted by this chap-
23 ter, including:

24 (1) a vehicle of public transportation, including a train,
25 limousine for hire, taxicab, bus, [STATE-OPERATED] ferry vessel, or
26 elevator;

27 (2) library, [INDOOR] theater, museum, lecture or concert
28 hall, gymnasium, or swimming pool or other indoor [PUBLICLY OWNED AND
29 OPERATED] place of entertainment or recreation;

1 (3) a [PUBLIC] school; or in a room, chamber, place of
2 meeting or public assembly under the control of the state, or a de-
3 partment or agency of the state, or a municipality, while a public
4 meeting held under the auspices of the state, or a department or
5 agency of the state, or a municipality, is in progress;

6 (4) the public waiting room or restroom of laboratories or
7 offices associated with dental care, health care or the healing arts;

8 (5) the waiting room, restroom, lobby or hallway of a
9 hospital, nursing home, rest home or other health care institution or
10 facility; [OR]

11 (6) a place of business, including a retail store, restau-
12 rant, or bank; [IN WHICH THE OWNER, MANAGER, PROPRIETOR, OR OTHER
13 PERSON WHO HAS CONTROL OF THE PREMISES POSTS A SIGN CONVEYING THE
14 MESSAGE THAT SMOKING IS PROHIBITED BY LAW.]

15 (7) an office, factory, warehouse, or other place of em-
16 ployment.

17 * Sec. 3. AS 18.35.310 is repealed and reenacted 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 an area 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 production.

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

28 Sec. 18.35.320. DESIGNATION OF SMOKING SECTIONS. (a) A person
29 in charge of an indoor area described in AS 18.35.300, or of a vehicle

1 of public transportation, may designate portions of the area or vehi-
2 cle as smoking sections. For purposes of this section, "vehicle of
3 public transportation" does not include a taxicab or limousine for
4 hire.

5 (b) Only the following areas and vehicles may be designated in
6 their entirety as smoking sections under (a) of this section:

7 (1) a cocktail lounge or tavern, if the designation is
8 posted conspicuously at all entrances normally used by the public;

9 (2) a retail business primarily engaged in the sale of
10 tobacco or tobacco products;

11 (3) an area or vehicle while used for a private social
12 function;

13 (4) a place of employment if all the employees are smokers,
14 but this exception does not include reception areas, waiting areas,
15 lobbies, and restrooms open to the public.

16 (c) Except as provided in (b) of this section, a smoking section
17 designated under (a) of this section may not be larger than necessary
18 to accommodate the needs of the smokers who use the area or vehicle.

19 (d) A smoking section may not be designated under (a) of this
20 section in an area or vehicle unless the area or vehicle meets the
21 minimum ventilation and air quality standards adopted by the Depart-
22 ment of Environmental Conservation.

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 an area or vehicle set out in AS 18.35.300(1) -
26 (7) shall conspicuously display in the area or vehicle a sign reading
27 "Smoking Prohibited by Law".

28 (b) In an area or vehicle in which a smoking section has been
29 designated in accordance with AS 18.35.320, the person in charge of

1 the area or vehicle shall conspicuously display signs that specify the
2 portions of the area or vehicle in which smoking is allowed by law and
3 in which smoking is prohibited by law.

4 * Sec. 6. AS 18.35 is amended by adding a new section to read:

5 Sec. 18.35.345. PRIVATE RIGHT OF ACTION. A person who is ag-
6 grieved by a violation of AS 18.35.300 - 18.35.360 may bring an action
7 in the district court or the superior court to recover for personal
8 injuries sustained as a result of the violation. Punitive damages may
9 not be allowed in a case based solely on a violation of AS 18.35.300 -
10 18.35.360.

11 * Sec. 7. AS 18.35 is amended by adding a new section to read:

12 Sec. 18.35.346. INJUNCTIONS. The commissioner of environmental
13 conservation or any affected party may institute an action in the dis-
14 trict court or the superior court to enjoin repeated violations of
15 AS 18.35.300 - 18.35.360.

16 * Sec. 8. AS 18.35 is amended by adding a new section to read:

17 Sec. 18.35.355. COMPLAINT PROCEDURE. The commissioner of envi-
18 ronmental conservation shall develop and maintain a procedure for
19 processing complaints regarding violations of this chapter or of
20 regulations adopted under this chapter.

21 * Sec. 9. PUBLIC EDUCATION. The commissioner of environmental conser-
22 vation shall take appropriate measures to inform the public of their rights
23 under this Act.

Offered: 5/6/83
Referred: Finance

Original sponsors: Fritz, M.M.Miller,
Bussell, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 84 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST 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 amended to read:

19 Sec. 18.35.300. SMOKING IN PUBLIC PLACES, VEHICLES PROHIBITED.
20 Smoking in any form is is [MAY CONSTITUTE] a nuisance and a public health
21 hazard and is prohibited in vehicles and indoor [THE FOLLOWING] areas
22 that are open to the public, unless otherwise exempted by this chap-
23 ter, including:

24 (1) a vehicle of public transportation, including a train,
25 limousine for hire, taxicab, bus, [STATE-OPERATED] ferry vessel, or
26 elevator, or an indoor waiting area or boarding area for aircraft or
27 other vehicles of public transportation;

28 (2) a library, [INDOOR] theater, museum, lecture or concert
29 hall, gymnasium, or swimming pool or other indoor [PUBLICLY OWNED AND

1 OPERATED] place of entertainment or recreation;

2 (3) a [PUBLIC] school; a jury deliberation room; or in a
3 room, chamber, place of meeting or public assembly under the control
4 of the state, or a department or agency of the state, or a municipal-
5 ity, while a public meeting held under the auspices of the state, or a
6 department or agency of the state, or a municipality, is in progress;

7 (4) the public waiting room or restroom of laboratories or
8 offices associated with dental care, health care or the healing arts;

9 (5) the waiting room, restroom, lobby or hallway of a
10 hospital, nursing home, rest home or other health care institution or
11 facility; [OR]

12 (6) a place of business, including a retail store, restau-
13 rant, or bank; and [IN WHICH THE OWNER, MANAGER, PROPRIETOR, OR OTHER
14 PERSON WHO HAS CONTROL OF THE PREMISES POSTS A SIGN CONVEYING THE
15 MESSAGE THAT SMOKING IS PROHIBITED BY LAW.]

16 (7) an office, factory, warehouse, or other place of em-
17 ployment.

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

19 Sec. 18.35.310. EXEMPTIONS. The prohibition set out in AS 18.-
20 35.300 does not apply to

21 (1) a portion of an area or vehicle that is designated as a
22 smoking section under AS 18.35.320;

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

26 (3) smoking by performers on the stage as part of a theat-
27 rical production.

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

29 Sec. 18.35.320. DESIGNATION OF SMOKING SECTIONS. (a) A person

1 in charge of an indoor area described in AS 18.35.300, or of a vehicle
2 of public transportation, may designate portions of the area or vehi-
3 cle as smoking sections. For purposes of this section, "vehicle of
4 public transportation" does not include a taxicab or limousine for
5 hire.

6 (b) Only the following areas and vehicles may be designated in
7 their entirety as smoking sections under (a) of this section:

8 (1) a cocktail lounge or tavern, if the designation is
9 posted conspicuously at all entrances normally used by the public;

10 (2) a retail business primarily engaged in the sale of
11 tobacco or tobacco products;

12 (3) an area or vehicle while used for a private social
13 function;

14 (4) a place of employment if all the employees are smokers,
15 but this exception does not include reception areas, waiting areas,
16 lobbies, and restrooms open to the public.

17 (c) Except as provided in (b) of this section, a smoking section
18 designated under (a) of this section may not be larger than necessary
19 to accommodate the needs of the smokers who use the area or vehicle.

20 (d) A smoking section may not be designated under (a) of this
21 section in an area or vehicle unless the area or vehicle meets the
22 minimum ventilation and air quality standards adopted by the depart-
23 ment.

24 * Sec. 5. AS 18.35.330 is repealed and reenacted to read:

25 Sec. 18.35.330. DISPLAY OF SMOKING AND NO SMOKING SIGNS. (a) A
26 person in charge of an area or vehicle described in AS 18.35.300 shall
27 conspicuously display in the area or vehicle a sign reading "Smoking
28 Prohibited by Law - Maximum Fine \$300".

29 (b) In an area or vehicle in which a smoking section has been

1 designated under AS 18.35.320, the person in charge of the area or
2 vehicle shall conspicuously display signs that specify the portions of
3 the area or vehicle in which smoking is allowed by law and in which
4 smoking is prohibited by law.

5 (c) A sign required by this section may not be smaller than 18
6 inches wide and six inches high, with lettering not less than 1.25
7 inches high.

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

9 Sec. 18.35.340. CIVIL COMPLAINTS; PENALTIES. (a) The commis-
10 sioner shall develop and maintain a procedure for processing reports
11 of violations of AS 18.35.300 - 18.35.365 or of a regulation adopted
12 under AS 18.35.360.

13 (b) If, after investigating a report made under this section,
14 the commissioner determines that a violation has occurred, the commis-
15 sioner may file a civil complaint in the superior court to enforce the
16 requirements of AS 18.35.300 - 18.35.365 or of a regulation adopted
17 under AS 18.35.360.

18 (c) A person who violates AS 18.35.300 is punishable under this
19 section by a civil fine of not less than \$10 nor more than \$50. A
20 person who violates AS 18.35.330 is punishable under this section by a
21 civil fine of not less than \$20 nor more than \$300.

22 (d) The department may provide for the payment of fines under
23 this section by mail.

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

25 Sec. 18.35.341. CITATIONS; PENALTY. (a) A peace officer may
26 issue a citation for a violation of AS 18.35.300 or AS 18.35.330.

27 (b) A person who violates AS 18.35.300 or AS 18.35.330 is guilty
28 of a violation and upon conviction is punishable by a fine of not more
29 than \$300.

1 (c) The supreme court shall establish a schedule of bail amounts
2 for violations of AS 18.35.300 and AS 18.35.330, but in no event may
3 the bail amount exceed \$300. The bail amount for a violation shall
4 appear on the citation.

5 (d) A person cited for a violation under this section may,
6 within 15 days after the date of the citation, mail or personally
7 deliver to the clerk of the court in which the citation is filed by
8 the peace officer

9 (1) the amount of bail indicated on the citation for that
10 violation; and

11 (2) a copy of the citation indicating that the right to an
12 appearance is waived, a plea of no contest is entered and the bail is
13 forfeited.

14 (e) When bail has been forfeited under (d) of this section, a
15 judgment of conviction shall be entered. Forfeiture of bail is a
16 complete satisfaction for the violation. The clerk of the court
17 accepting the bail shall provide the violator with a receipt stating
18 that fact.

19 (f) If the person cited fails to pay the bail amount established
20 under (c) of this section or to appear in court as required, the
21 citation is considered a summons for a violation.

22 Sec. 18.35.342. INJUNCTIONS. The commissioner or any affected
23 party may institute an action in the superior court to enjoin repeated
24 violations of AS 18.35.300 - 18.35.365 or of a regulation adopted
25 under AS 18.35.360.

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

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

1 [AS 18.35.300 - 18.35.340] and the regulations adopted under AS 18.-
2 35.360. This section does not limit the authority of peace officers.

3 * Sec. 9. AS 18.35 is amended by adding a new section to read:

4 Sec. 18.35.355. PUBLIC EDUCATION. The commissioner shall take
5 appropriate measures to inform the public of their rights under
6 AS 18.35.300 - 18.35.365.

7 * Sec. 10. AS 18.35.360 is amended to read:

8 Sec. 18.35.360. REGULATIONS. The department shall [THE DEPART-
9 MENT OF ENVIRONMENTAL CONSERVATION MAY] adopt regulations to implement
10 the provisions of AS 18.35.300 - 18.35.365 [AS 18.35.300 - 18.35.350].

11 * Sec. 11. AS 18.35 is amended by adding a new section to read:

12 Sec. 18.35.365. DEFINITIONS. In AS 18.35.300 - 18.35.365,

13 (1) "commissioner" means commissioner of environmental
14 conservation;

15 (2) "department" means the Department of Environmental
16 Conservation;

17 (3) "peace officer" means any officer of the state troop-
18 ers, members of the police force of any incorporated city or borough,
19 United States marshals and their deputies, and other officers whose
20 duty it is to enforce and preserve the public peace, including a
21 village public safety officer.

22 * Sec. 12. 18 AAC 55.060 is annulled.