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SENATE FINANCE COMMITTEE REPORT

DATE: 3/20/90

FURTHER:

DATE TURNED INTO OFFICE: 3/23/90

The Finance Committee considered

SB 222

"An Act relating to smoking in certain vehicles and indoor places."

and recommended:

- replace with _____ CS _____
- or adopt _____ CS SB 222 (SA)
- attached amendment(s)
- _____ letter of intent adopted

- same title
- new title
- technical title change (HB only)

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

ATTACHES NEW FISCAL NOTE(S):

- fiscal note(s) _____ Dept/Date: _____
- zero fiscal note(s) _____
- _____

APPROVES PREVIOUS:

- fiscal note(s) _____ Dept/Date: _____
- zero fiscal note(s) 3/27/90 DEC
- _____

- appropriation-no fiscal note

SIGNING DO PASS:

[Handwritten Signature]

OTHER RECOMMENDATIONS:

[Handwritten Signature] Do Not Pass - to - No Rec

[Handwritten Signature]

[Handwritten Signature] (NO REC)

R/O JFC 3-23-90

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSSB 222 (SA)
PUBLISH DATE: 3/20/90

FISCAL NOTE

REQUEST:

Revision Date: 02-23-90
Title: "An Act relating to smoking in
certain vehicles and places"
Sponsor: Faiks
Requestor: _____

Agency Affected: Environmental Conservation
BRU: Environmental Health
Components: Sanitation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS : (Attach a separate page if necessary)

The fiscal impact of CSSB 222(HESS) will be zero.

Prepared by: Douglas C. Donegan, Director
Division: Environmental Health

Phone: 465-2609
Date: 02-27-90

Approved by Commissioner: _____
Agency: _____

Date: 2/27/90

Distribution (by preparer) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Offered: 3/20/90
Referred: Finance

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

09-24-8 972 0/9

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.

SECTIONAL ANALYSIS

CSSB 222 (SA)

Section 1. Makes changes to AS 18.35.300, which lists vehicles and places in which smoking must be regulated by the designation of smoking and non-smoking areas. New places added to this list include the following:

- an interstate aircraft flight;
- a public or private post-secondary educational institution or adult day care facility;
- a room, chamber or other place under the control of the Senate or House if no public meeting is in progress;
- a residential health care facility, or a public or private office or facility that is engaged primarily in providing mental health services;
- a correctional facility; and
- a Pioneers' Home.

A number of places currently on this list are deleted, and moved to new AS 18.35.305, which prohibits any smoking (see section 2).

Section 2. Adds new AS 18.35.305, which lists places in which smoking is absolutely prohibited. These places include the following:

- a public or private elementary or secondary school, pre-school, or children's day care facility. If the school or day care facility is in a private residence, then the prohibition only applies during the hours when the residence is being used as a school or day care facility. This section does not apply to an elementary or secondary school to the extent that it conflicts with a collective bargaining agreement;
 - a room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress; and
 - a public or private laboratory or office associated with dental care, health care, or the healing arts, and a public or private hospital, or other nonresidential health care institution or facility. This section does not apply to an office or facility engaged primarily in providing mental health services; and
- an elevator.

Sections 3 and 4. Makes a technical change to AS 18.35.310, to provide that smoking on stage as part of a theatrical production is not prohibited by new AS 18.35.305.

Section 5. Amends AS 18.35.320(c). Current law provides that in designating a smoking area, a person shall accommodate the needs of smokers and non-smokers. This section provides that in designating a smoking area, a person shall only consider the health consequences to the non-smokers using the facility.

Sections 6 - 14. These sections make technical changes to the current law to reflect the addition of new AS 18.35.305.

Alaska State Legislature

2/23/90



Senate Judiciary Committee

March 20, 1990

MEMORANDUM

TO: Senator Rick Uehling, Co-Chairman
Senator John Binkley, Co-Chairman
Senate Finance Committee

FROM: Senator Jan Faiks, Chairman
Senate Judiciary Committee

SUBJECT: SB 222 "An Act relating to smoking in certain vehicles and indoor places."

Senate Bill 222 has been referred to the Senate Finance Committee for consideration. This bill amends Alaska law relating to smoking in certain public places. It was introduced at the request of the American Lung Association of Alaska, as part of their Tobacco Free Alaska 2000 program.

At the present time, approximately 26% of Americans over the age of 16 smoke cigarettes. Alaskans smoke at a rate 5% greater than the national rate.

According to the Surgeon General, cigarette smoking is the single most important environmental factor contributing to premature mortality in the United States. Each year, smoking causes the deaths of more than 300,000 Americans, principally from heart disease, cancer and chronic obstructive lung disease. In 1985, there were estimated to be 261 smoking attributable deaths in Alaska. This was 14% of the state's mortality that year. The estimated total for medical care due to smoking in Alaska in 1985 was \$52.8 million. This does not take into account lost wages due to illness, or losses to employers because of increased insurance premiums and absenteeism.

The tremendous social harms caused directly or indirectly by cigarette smoking cannot be disputed. In an effort to

encourage people not to smoke, and to protect the health and well being of non-smokers who must breathe secondary smoke, many jurisdictions including Alaska have enacted laws restricting smoking in public places.

At the present time, 42 states and the District of Columbia restrict smoking in some manner in public places. These laws range from simple, limited prohibitions to comprehensive clean indoor air laws that limit or ban smoking in virtually all public places. Alaska's law was enacted in 1984, and was predicated on the following legislative findings:

1. numerous studies have shown second-hand smoke to be a significant health hazard;
2. recent court decisions recognize an emerging right of employees to work in a smoke-free environment; and
3. smoking results in increased costs to employers and the public in the form of more frequent absenteeism by employees who smoke and higher costs for health insurance, fire insurance, life insurance and workers' compensation.

In order to address these findings, current law specifies certain public places and vehicles in which smoking is regulated. In these specified places, smoking and non-smoking areas must be designated. Signs must be posted to accomplish this. Persons who violate the requirement to post signs or who smoke in a designated non-smoking area are subject to civil penalties.

CSSB 222 (State Affairs) revises current law by establishing two categories of public place: those in which smoking is regulated, as with current law, and those in which smoking is absolutely prohibited. The bill takes some of the places currently on the regulated smoking list and moves them to the new smoking prohibited list. It adds several types of places not currently mentioned in the law to the regulated smoking list. Finally, it provides that a person in charge of a place on the regulated smoking list must consider only the health of non-smokers in designating a smoking area, and not the convenience of smokers. A sectional analysis of the bill is attached.

CSSB 222 (State Affairs) will close loopholes in the current law, and more adequately address the findings contained in the 1984 legislation. It protects the health of non-smokers, the prime duty of government in this area, and it moves us one step closer to a smoke-free Alaska.



MAR 10 1990

Alaska Court System
State of Alaska
OFFICE OF ADMINISTRATIVE DIRECTOR

JANALEE R. STRANDBERG
Staff Counsel

March 13, 1990

303 K Street
Anchorage, AK 99501
(907) 264-8228

Senator Pat Pourchot
Chair, Senate State Affairs
P.O. Box V
Juneau, Alaska 99811

Re: CSSB 222--An Act relating to smoking in certain vehicles and indoor places

Dear Senator Pourchot:

The Alaska Supreme Court prohibited smoking in court system offices, facilities and courtrooms on September 1, 1987 with one exception. The court permits smoking in jury deliberation rooms. Because smokers who are called for jury service have no choice but to appear, the supreme court was uncomfortable about forcing people into a situation in which they could not smoke.

The court was also concerned that judges might have to excuse prospective jurors who smoke if these citizens asserted that they could not concentrate on the evidence or otherwise participate in the proceedings because they were not allowed to smoke. The jury pool might then be decreased.

For these reasons the court system requests that the phrase "jury deliberation room" be deleted from (4) of Section 1 of CSSB 222.

Thank you for your consideration of these comments. I would be happy to answer any questions you may have on the court system's smoking prohibition.

Sincerely,

Janalee R. Strandberg
Staff Counsel

cc: Senator Jan Faiks
Senator Al Adams
Senator Tim Kelly
Senator Rick Uehling

2/23/90
Faiks

Current Law v. CS Senate Bill 222 (SA)

Current Law	CS SB 222 (SA)
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Vehicles and places in which smoking must be regulated by the designation of smoking and non-smoking areas:

- A vehicle of public transportation and a waiting or boarding area for a vehicle of public transportation, including a bus, ferry vessel, train, limousine for hire, taxicab, or scheduled intrastate aircraft flight when consistent with federal law
- A place of employment, a building or other structure, or portion of them, owned, leased or operated by the state or political subdivision of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation
- A public or private school, pre-school, or day care facility
- A room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress
- A patients' or visitors' waiting room or restroom 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

Vehicles and places in which smoking must be regulated by the designation of smoking and non-smoking areas:

- Adds "interstate" aircraft flights
- Same
- Prohibits all smoking except where the prohibition conflicts with a collective bargaining agreement
- Prohibits all smoking
- Prohibits all smoking except in an office or facility that is engaged primarily in providing mental health services

Current Law	CS SB 222 (SA)
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- A food service establishment that has a seating capacity of at least 50 persons
- A grocery store or other store maintained primarily for the retail sale of food products
- A place of employment in which the owner, manager, proprietor or other person who has control of the premises posts a sign stating that smoking is prohibited by law
- A nursing home, rest home or other health care institution or facility

- Same
- Same
- Same
- Adds "residential" to describing health care institution or facility

Adds:

- A courtroom or jury deliberation room
- Correctional facilities
- Pioneers Home
- Post secondary educational institutions
- Adult day care facilities

Current Law

CS SB 222 (SA)

Where All Smoking is Prohibited:

- An elevator
- Smoking areas for students in elementary or secondary schools

Where All Smoking is Prohibited:

- Same
- A public or private elementary or secondary school, pre-school or children's day care facility. If the school or day care facility is in a private residence, then the prohibition only applies during the hours when the residence is being used as a school or day care facility. This prohibition does not apply to an elementary or secondary school to the extent that it conflicts with a collective bargaining agreement.
- A room, chamber, or other place under the control of the state or a political subdivision of the state while a public meeting or public assembly is in progress
- A public or private laboratory or office associated with dental care, health care, or the healing arts, and a public or private hospital, or other nonresidential health care institution or facility. This prohibition does not apply to an office or facility engaged primarily in providing mental health services.

FISCAL NOTE

APR 19 1989

REQUEST:

Revision Date: _____
Title: "An Act relating to smoking in certain vehicles and indoor places."
Sponsor: FAIKS
Requestor: _____

Agency Affected: Environmental Conservation
BRJ: Environmental Health

Components: Sanitation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	-0-	131.8	131.8	131.8	131.8	131.8
TRAVEL		7.5	7.5	7.5	7.5	7.5
CONTRACTUAL		10.5	7.0	7.0	5.0	5.0
SUPPLIES		2.5	2.5	2.5	2.5	2.5
EQUIPMENT		35.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		181.8	148.8	148.8	146.8	146.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	181.8	148.8	148.8	146.8	146.8
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	181.8	148.8	148.8	146.8	146.8

POSITIONS:

FULL-TIME	-0-	3	3	3	3	3
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The additional educational monitoring and enforcement responsibilities associated with the proposed legislation would require the addition of three full-time sanitarians and associated support costs.

Prepared by: Douglas C. Donegan, Director *DD*
Division: Environmental Health

Phone: 465-2609
Date: 4/18/89

Approved by Commissioner: Dennis D. Kelso *ADK*
Agency: Environmental Conservation

Date: 4/18/89

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)