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(5) "special events" means events involving public gathering and shall include athletic and sporting events where the public congregates, which shall include but not be limited to dog sled racing, horse racing, snowmobile races, skiing events, salmon derbies, and other activities;

(6) "tavern" means a place maintained or held out to the public for purposes of sale and on-premise consumption of alcoholic beverages;

(7) "toilet accommodations" means a facility available to the public consisting of an approved flush-type commode, urinal, privy, self-contained privy or any other device approved by the department for containment and disposal of human wastes and shall include lavatory facilities where practical. (§ 1 ch 58 SLA 1974; am § 3 ch 78 SLA 1976; am E.O. No. 51, § 36 (1981))

Revisor's notes. — Reorganized in 1986 to alphabetize the defined terms.

Article 4. Health Nuisances.

<p>Section 300. Smoking in certain vehicles and indoor places prohibited 310. Exemptions 320. Designation of smoking sections 330. Display of smoking and no smoking signs 340. Civil complaints; penalties</p>	<p>Section 341. Citations; penalty 342. Multiple fines prohibited 343. Injunctions 350. Enforcement authority 355. Public education 365. Definitions</p>
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Cross references. — For legislative findings in connection with ch. 34, SLA 1984, see § 1, ch. 34, SLA 1984 in the Temporary and Special Acts.

Opinions of attorney general. — In light of the repeal of former AS 18.35.360, which granted the Department of Environmental Conservation's authority to write regulations in implementation of this article, the department may promulgate legislative-type regulations which are truly necessary to implementation of

the article; (2) the department may not promulgate other legislative-type regulations, such as those which are helpful but not strictly necessary to the statutory scheme; and (3) the department may issue interpretive regulations which offer suggested guidelines on implementing the article. June 22, 1984, Op. Att'y Gen.

Collateral references. — 39 Am. Jur. 2d, Health, §§ 24, 25, 41-44.

39A C.J.S., Health and Environment, §§ 26, 27.

Sec. 18.35.300. Smoking in certain vehicles and indoor places prohibited. Smoking in any form is a nuisance and a public health hazard and is prohibited in the following vehicles and indoor places, except as otherwise provided by this chapter:

(1) 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;

- (2) an elevator;
- (3) a place of employment, a building or other structure, or a portion of them, owned, leased, or operated by the state or a 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;
- (4) a public or private school, pre-school, or day care facility;
- (5) a courtroom or jury deliberation room;
- (6) 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;
- (7) 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, nursing home, rest home, or other health care institution or facility;
- (8) a food service establishment that has a seating capacity of at least 50 persons;
- (9) a grocery store or other store maintained primarily for the retail sale of food products; and
- (10) 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. (§ 1 ch 125 SLA 1975; am § 2 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.310. Exemptions. The prohibition set out in AS 18.35.300 does not apply to

- (1) a portion of a place or vehicle that is designated as a smoking section under AS 18.35.320;
- (2) a limousine for hire or taxicab, if the driver consents and the driver ascertains that all passengers consent to smoking in the vehicle;
- (3) smoking by performers on the stage as part of a theatrical or entertainment production. (§ 1 ch 125 SLA 1975; am § 3 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.320. Designation of smoking sections. (a) A person in charge of an indoor place or vehicle of public transportation described in AS 18.35.300 may designate portions of the place or vehicle as smoking sections. For purposes of this section, "vehicle of public transportation" does not include a taxicab or limousine for hire, and "indoor place" does not include an elevator.

(b) The person who chairs the Rules Committee in a house of the legislature is responsible for the designation of smoking sections under this section in the legislative offices, committee rooms, and other places under the control of that house. The authority to designate a smoking section may not be used to impede the work of a conference committee.

(c) A person who designates a smoking section under this section shall make reasonable accommodations for the needs of the smokers and nonsmokers who use the place or vehicle.

(d) Notwithstanding any other provision in this chapter, a smoking section may not be designated under this section for students on the grounds of or in an elementary or secondary school, indoors or outdoors. (§ 1 ch 125 SLA 1975; am § 4 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.330. Display of smoking and no smoking signs. (a) A person in charge of a place or vehicle described in AS 18.35.300, except a limousine for hire or taxicab, shall conspicuously display in the place or vehicle a sign that reads "Smoking Prohibited by Law — Maximum Fine \$50" and that includes the international symbol for no smoking.

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

(c) A sign required by this section must be at least 18 inches wide and six inches high, with lettering at least 1.25 inches high.

(d) The department shall furnish signs required under this section to a person who requests them with the intention of displaying them. (§ 1 ch 125 SLA 1975; am § 5 ch 34 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.340. Civil complaints; penalties. (a) The commissioner shall develop and maintain a procedure for processing reports of violations of AS 18.35.300 and 18.35.330.

(b) If, after investigating a report made under this section, the commissioner determines that a violation has occurred, (1) the commissioner may file a civil complaint in the district court to enforce the provisions of AS 18.35.300 — 18.35.365; or (2) an employee of the department designated by the commissioner to enforce the provisions of AS 18.35.300 — 18.35.365 may issue a citation under AS 18.35.341(b). If an employee of the department issues a citation, the violation shall be processed and disposed of under AS 18.35.341.

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

(d) The department may provide for the payment of civil fines under this section by mail. (§ 1 ch 125 SLA 1975; am § 6 ch 34 SLA 1984)

Revisor's notes. — In subsections (a) and (b) of this section, the phrase "or of a regulation adopted under AS 18.35.360" was deleted from each subsection in 1984 to correct a manifest error made when

SCS CSHB 84 (Fin) was amended to effect the repeal of AS 18.35.360. The amended bill became ch. 34, SLA 1984.

Effect of amendments. — The 1984 amendment rewrote this section.

Sec. 18.35.341. Citations; penalty. (a) A peace officer may issue a citation for a violation of AS 18.35.300 committed in the officer's presence or for a violation of AS 18.35.330. The provisions of AS 12.25.180(b) and 12.25.190 — 12.25.230 apply to the issuance of a citation under this subsection.

(b) An employee of the department designated by the commissioner to enforce the provisions of AS 18.35.300 — 18.35.365 may issue a citation for a violation of AS 18.35.300 or 18.35.330 regardless of whether the violation was committed in the employee's presence. A citation issued under this subsection shall be in the same form and shall be processed in the same manner as a citation issued by a peace officer under (a) of this section. An employee of the department may not arrest a person for a violation of AS 18.35.300 or 18.35.330.

(c) A person who violates AS 18.35.300 or 18.35.330 is guilty of a violation as defined in AS 11.81.900(b) and upon conviction is punishable by a fine of not less than \$10 nor more than \$50 for a violation of AS 18.35.300 and by a fine of not less than \$20 nor more than \$300 for

a violation of AS 18.35.330. Each day a violation of AS 18.35.330 continues after a citation for the violation has been issued constitutes a separate violation.

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

(e) A person cited for a violation under this section may, within 15 days after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed

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

(2) 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.

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

(g) If the person cited fails to pay the bail amount established under (d) of this section or to appear in court as required, the citation is considered a summons for a misdemeanor. (§ 7 ch 34 SLA 1984)

Sec. 18.35.342. Multiple fines prohibited. A person may not be fined more than once for each violation of AS 18.35.300 or 18.35.330. (§ 7 ch 34 SLA 1984)

Sec. 18.35.343. Injunctions. The commissioner or any affected party may institute an action in the superior court to enjoin repeated violations of AS 18.35.300 or 18.35.330. (§ 7 ch 34 SLA 1984)

Revisor's notes. — The phrase "or of a regulation adopted under AS 18.35.360" was deleted from this section in 1984 to correct a manifest error made when SCS

CSHB 84 (Fin) was amended to effect the repeal of AS 18.35.360. The amended bill became ch. 34, SLA 1984.

Sec. 18.35.350. Enforcement authority. The commissioner or the commissioner's designee is responsible for enforcing the provisions of AS 18.35.300 — 18.35.365. This section does not limit the authority of peace officers. (E.O. No. 51 § 37 (1981); am § 8 ch 34 SLA 1984)

Revisor's notes. — The phrase "and the regulations adopted under AS 18.35.360" was deleted from this section in 1984 to correct a manifest error made when SCS CSHB 84 (Fin) was amended to effect the repeal of AS 18.35.360. The

amended bill became ch. 34, SLA 1984. The word "section" was added in the second sentence in 1981.

Effect of amendments. — The 1984 amendment rewrote the first section, which read "The commissioner of environ-

mental conservation or his designee is responsible for enforcing the provisions of AS 18.35.300 — 18.35.340 and the regulations adopted under AS 18.35.360."

Sec. 18.35.355. Public education. The commissioner shall take appropriate measures to inform the public of the provisions of AS 18.35.300 — 18.35.365. (§ 9 ch 34 SLA 1984)

Sec. 18.35.360. Regulations. [Repealed, § 10 ch 34 SLA 1984.]

Sec. 18.35.365. Definitions. In AS 18.35.300 — 18.35.365,

- (1) "commissioner" means commissioner of environmental conservation;
- (2) "department" means the Department of Environmental Conservation. (§ 11 ch 34 SLA 1984)

Chapter 40. Shelter Cabins and Comfort Stations.

Section	Section
10. Shelter cabins and comfort stations on airports	50. Prohibited acts and penalties
20. Shelter cabins on roads and trails	60. Exception
30. Inspection of cabins	70. Damages for destruction of or injury to shelter cabins
40. Cabins and furnishings property of state	

Collateral references. — Establishment, maintenance, and regulation of tourist or trailer camps by public authorities. 22 ALR2d 774.

Racial or religious discrimination in furnishing of public utilities, services, or facilities. 53 ALR3d 1027.

Validity of statutes, ordinances, and regulation requiring the installation or maintenance of various bathroom facilities in dwelling units. 79 ALR3d 716.

Sec. 18.40.010. Shelter cabins and comfort stations on airports. The Department of Transportation and Public Facilities may erect and maintain shelter cabins and comfort stations for the accommodation of travelers on the airports throughout the state where the facilities are required and necessary out of funds appropriated for the construction and maintenance of roads and on fields. Each shelter cabin or comfort station shall contain a stove and other facilities considered necessary by the Department of Transportation and Public Facilities. (§ 40-10-1 ACLA 1949 and 152 SLA 1957)

(9) "nonattainment area" means a geographic area where the air quality is shown by monitored data to exceed national air quality standards for any air pollutant;

(10) "pollutant emissions" means unburned hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate matter;

(11) "proper maintenance" means the use of maintenance practices set out in this chapter;

(12) "qualified mechanic" means a mechanic who meets competency requirements imposed by the implementing agency for persons who repair vehicles subject to this chapter;

(13) "repair cost ceiling" means a limit that the implementing agency may establish on the cost of repairs necessary to obtain a certificate of inspection when repair work is done by a qualified mechanic; and

(14) "unauthorized modification" means an engine or emissions control system-related modification that has not been performed according to a recall campaign or service bulletin authorized by a vehicle's manufacturer; "unauthorized modification" includes the use of a replacement emissions-related part that is not functionally equivalent to the original equipment part that it replaces, and the use of any added part or system unless that part or system has been specifically approved for use by the U.S. Environmental Protection Agency, the California Air Resources Board, or by the Alaska Department of Environmental Conservation. (Eff. 5/19/85, Register 94; am 6/2/88, Register 106)

Authority: AS 11.56.210 AS 46.03.190
AS 46.03.020(10) AS 46.03.790(a)
AS 46.03.140

Editor's note. — A list of approved parts and systems mentioned in 18 AAC 52.900(14) can be found in the State Air Quality Plan, Volume III, which is avail-

able for viewing at state libraries and regional offices of the Department of Environmental Conservation.

CHAPTER 55. SMOKING IN PUBLIC PLACES

Section

10. Exemptions from smoking prohibition
20. Smoking areas
30. Signs
40. Penalties

Section

50. Complaint procedure
60. Waiver of provisions
900. Definitions

18 AAC 55.010. EXEMPTIONS FROM SMOKING PROHIBITION. (a) An area may be designated as a smoking area under AS 18.35.310(1) only by the owner, manager, proprietor, or other person who has control over the premises.

(b) An exemption under AS 18.35.310(4) must be in writing, contain a description of the exempted area and its location, and be based upon documentation by a mechanical engineer registered in the state that

(1) the building or room has total air circulation which meets the minimum standards established by ASHRAE Standard 62-73 (1973); or

(2) an electrostatic precipitator, a high-efficiency filter, or other device yields air quality in the building or room which meets the minimum standards established by ASHRAE Standard 62-73 (1973).

(c) A copy of an exemption and appropriate documentation under (b) of this section must be filed with the department before the exemption becomes effective.

(d) The department will, in its discretion, revoke an exemption described in (b) of this section if the ventilating equipment or other device upon which the exemption is based is not properly maintained or is not used while the room or building is occupied.

(e) A state agency or department which exempts a room or building under AS 18.35.310(4) must provide for and designate a clearly separate no-smoking area in the room or building to which the exemption applies. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.310 AS 46.03.020
 AS 18.35.360 AS 46.03.140

Editor's notes. — Copies of ASHRAE Standard 62-73 (1973) are available from ASHRAE, 345 East 47th Street, New York, N.Y. 10017.

18 AAC 55.020. SMOKING AREAS. (a) Subject to (d) and (e) of this section and where smoking is not otherwise prohibited by law, the owner, manager, proprietor, or other person who has control of a vehicle or place described in AS 18.35.300(1), (4) or (6) may designate a smoking area in the vehicle or place.

(b) Subject to (d) and (e) of this section and where smoking is not otherwise prohibited by law, the owner, manager, proprietor, or person who has control of a building described in AS 18.35.300(2), (3), or (5), or which contains a room described in AS 18.35.300(2), (3), or (5), must designate at least one smoking area in the building.

(c) A smoking area designated under this section must be a separate room, hallway, or entrance area. However, in a building described in AS 18.35.300(5), or which contains a room described in AS 18.35.300(5), the designated smoking area may not be a lobby or hallway.

(d) If a smoking area designated is in a bus, it must be clearly separated from the part of the bus in which smoking is prohibited, and it may not occupy more than one-half of the total passenger area of the

bus. A smoking area may not be designated in a limousine for hire or in an elevator.

(e) A smoking area may not be designated in a building, vehicle, or other place if the department determines in writing that prohibiting the designation is necessary to protect the public safety or to protect and preserve the building, vehicle, or place and its contents. The department will deliver a written determination under this subsection to the owner, manager, proprietor, or person who has control of the building, vehicle, or place. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.310 AS 46.03.020
AS 18.35.320 AS 46.03.140
AS 18.35.360

18 AAC 55.030. SIGNS. (a) An owner, manager, proprietor, or other person who has control of a vehicle or place described in AS 18.35.300(1) — (5) shall conspicuously display in the vehicle or place signs reading "Smoking Prohibited by Law," unless smoking is permitted in the vehicle or place under AS 18.35.310. The person shall display the signs so that at least one sign is legible from any part of the vehicle or place in which smoking is prohibited. A sign required by this subsection must include the international smoking-prohibited symbol.

(b) An owner, manager, proprietor, or other person who has control of a vehicle or place in which a smoking area has been designated under 18 AAC 55.020 shall conspicuously display in the smoking area signs designating the area as one in which smoking is permitted. These signs may not be larger than the "Smoking Prohibited by Law" signs in the same vehicle or place. Signs required by this subsection must include the international smoking-permitted symbol.

(c) "Smoking Prohibited by Law" signs in elevators must be permanently and conspicuously mounted under glass or other clear, durable, and protective material.

(d) Additional signs of the appropriate type may be posted at entrances to vehicles, places, and areas of vehicles and places. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.330 AS 46.03.020
AS 18.35.360 AS 46.03.140

18 AAC 55.040. PENALTIES. (a) A person who willfully violates AS 18.35.300 by smoking where smoking is prohibited is punishable by a civil fine of \$15 for the first offense and by a civil fine of \$25 for each subsequent offense.

(b) A person who willfully violates AS 18.3. 0 or 18 AAC 55.030 by not displaying the required sign is punishable by a civil fine of \$50 for the first offense and by a civil fine of \$100 for each subsequent

offense. However, the department may dismiss a first offense complaint without payment of a fine if the defendant demonstrates that the required sign has been posted. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.340 46.03.020
 AS 18.35.360 46.03.140

18 AAC 55.050. COMPLAINT PROCEDURE. (a) A person who observes a violation of this chapter or of AS 18.35.300 — 18.35.360 may notify an office of the department.

(b) The department will provide an affidavit in which the complainant may describe the observed violation and a form agreement in which the complainant may promise to testify in court under subpoena concerning the observed violation if testimony becomes necessary.

(c) If the complainant executes both documents the department, with the assistance of the attorney general's office, will, in its discretion, file a complaint in small claims court for a civil fine, court costs, and attorney's fees against the person who was observed violating this chapter or AS 18.35.300 — 18.35.360. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.340 AS 46.03.020
 AS 18.35.350 AS 46.03.140
 AS 18.35.360

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 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 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) The department will answer a request for a waiver in writing within 30 days after receipt of the request. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.350 AS 46.03.020
 AS 18.35.360 AS 46.03.140

18 AAC 55.900. DEFINITIONS. (a) In this chapter

(1) "ASHRAE" means the American Society of Heating, Refrigeration and Air Conditioning Engineers;

(2) "complainant" means a person who has observed a violation of this chapter and notifies the department;

(3) "department" means the Department of Environmental Conservation.

(b) In AS 18.35.300 — 18.35.360 "public meeting" means a regular or special meeting of a legislative body, a board of regents, or an administrative body of the state, including but not limited to their boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions, committees, offices, organizations, and other subordinate units, advisory or otherwise, supported in whole or in part by public money or authorized to spend public money; however, "public meeting" does not include a meeting of

(1) a judicial or quasi-judicial body solely to make a decision in an adjudicatory proceeding;

(2) a jury;

(3) a parole or pardon board;

(4) the medical staff of a hospital; or

(5) the governing body or a committee of a hospital solely to act upon matters of professional qualifications, privileges, or discipline.

(c) In this chapter and in AS 18.35.300 — 18.35.360

(1) "bus" means a self-propelled vehicle with capacity for carrying more than 10 passengers which is used on public highways to transport passengers for compensation;

(2) "limousine for hire" means a self-propelled vehicle with capacity for carrying six to 10 passengers which is used on public highways to transport passengers for compensation between a transportation terminal and other designated points;

(3) "other person who has control" means the agent of the owner, manager, or proprietor authorized to give administrative direction to and exercise general supervision of the activities in a vehicle or place; in a state office building, "other person who has control" means a division director who has authority over the office or his designee;

(4) "room" means an indoor area which is bordered on all sides by walls or partitions which are continuous and solid except for door portals for entry and exit and except for windows and vents;

(5) "smoking" means holding or carrying a lighted cigar, cigarette, pipe, or other lighted smoking equipment or material. (Eff. 8/28/81, Register 79)

Authority: AS 18.35.360
AS 46.03.020
AS 46.03.140

Current Law

SB 222

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

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

- Adds "interstate" aircraft flights .
- Prohibits all smoking
- Prohibits all smoking
- Prohibits all smoking
- Prohibits all smoking

*Supported by
EAV. Conservation*

Current Law	SB 222
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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

- Same
- Same
- Same

Adds:

- A courtroom or jury deliberation room
- A nursing home, rest home or other residential health care institution or facility
- A commercial establishment whose premises are open to the general public, including a retail store, a financial institution and a shopping mall
- Correctional facilities

???



Where All Smoking is Prohibited:

- An elevator

Where All Smoking is Prohibited:

- Same
- A place of employment, a building or other structure or the portion of them, owned, leased, or operated by the state or a political sub-



Current Law

SB 222

- Smoking areas for students in elementary or secondary schools

division of the state, including an office, library, museum, theater, concert hall, convention hall, gymnasium, swimming pool, or other place of entertainment or recreation

Not included are a correctional facility, a court room, a jury deliberation room, or Pioneers' Home >

- A public or private school, pre-school, or 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
- 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

ADOPTED AT THE ALASKA STATE MEDICAL ASSOCIATION
ANNUAL MEETING HELD IN SITKA,
JUNE 10, 1989

RESOLUTION 89-02

SUBJECT: Support of SB 222

WHEREAS, the Surgeon General has concluded that:

- (1) involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers;
- (2) the children of parents who smoke have an increased frequency of respiratory infections, increased respiratory symptoms, and smaller rates of increase in lung function as the lung matures; and
- (3) the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to environmental tobacco smoke; and

WHEREAS, tobacco smoke contains about 4,000 chemicals, including 200 known poisons such as DDT, arsenic, formaldehyde and carbon monoxide; and

WHEREAS, the existing smoking in public places law in the State of Alaska does not adequately protect nonsmokers from the known hazards of second hand smoke; therefore

BE IT RESOLVED THAT, the Alaska State Medical Association supports strengthening Alaska's smoking in public places law through the passage of SB 222 or a similar measure, in order to protect the health of Alaskans statewide.

Distribution:

American Lung Association, Alaska Affiliate
Anchorage Health Department
Anchorage Neighborhood Health Center
Eagle River Health Center
Fairbanks Health Center
Division of Public Health
Drug Enforcement Administration
Veterans Administration
UAF Artic Health Research
Hospitals
Nursing Homes
Pioneer Homes
Alaska Thoracic Society
American Academy of Pediatrics
American College of Radiology
Alaska Academy of Physician Assistants
Alaska Dental Society
Alaska Health Fair

American Cancer Society
Cook Inlet Council on Alcohol
and Drug Abuse
March of Dimes, Birth Defects
Health Association of Alaska
Media)

Alaska State Legislature



Senate Judiciary Committee

February 6, 1990

MEMORANDUM

TO: Senator Paul Fischer, -Chairman
Senate Health, Education and Social Services Committee

FROM: Senator Jan Faiks

SUBJECT: Senate Bill 222 -- Smoking in Public Places

Senate Bill 222 is currently pending in your committee. I would appreciate your scheduling it for the committee's consideration at your earliest convenience.

Attached is a previously prepared background memo on the bill. Should you need any additional information, please let me know.

Thank you.

Alaska State Legislature

Chairman
(907) 465-4523



Jan Faiks
Post Office Box V
Juneau, Alaska 99811

Senate Judiciary Committee

March 17, 1989

MEMORANDUM

TO: Senator Paul Fischer, Chairman
Senate HESS 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 HESS 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

Members

Mike Szymanski, Vice-Chairman • Rick Halford • Drue Pearce • Pat Rodey

Out of Session

3111 C Street, Anchorage, Alaska 99503 • (907) 561-7610

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.

SB 222 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 many 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. It provides that a person in charge of a place on the regulated smoking list may not designate the entire place as a smoking area. 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.

SB 222 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. It moves us one step closer to a smoke-free Alaska. I urge the committee to schedule this bill at its earliest convenience. Thank you.

SECTIONAL ANALYSIS

SB 222

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 commercial establishment whose premises are open to the general public, including a retail store, a financial institution and a shopping mall; and
- correctional facilities.

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 place of employment, a building or other structure, or portion of them, owned, leased, or operated by the state or a 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. Not included are correctional facilities, a court room, a jury deliberation room, or a Pioneers' Home;
- a public or private school, pre-school, or 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;
- 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; and
- an elevator.

Sections 4 and 5. 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.

Further, current law does not specifically prohibit a person in charge of a facility in which smoking is regulated from designating the entire place as a smoking area. This section provides that the entire facility may not be designated as a smoking area, except for tobacco shops.

Sections 6 - 13. These sections make technical changes to the current law to reflect the addition of new AS 18.35.305.

Section 14. Repeals AS 18.35.320(b), which gives the Rules Committees of the Legislature the authority to designate smoking and non-smoking areas in facilities used by the respective houses.

Richard J. Waller
3220 East Forty First Avenue #1
Anchorage, Alaska 99508

FEB 15 1990

February 8, 1990

Senator Paul Fischer:
Box U
Juneau, AK 99811

Dear Senator Fischer:

Please support SB 222 as a means to reduce the health risks and related problems associated with smoking. The evidence on the health risks is so strong and conclusive that your support of this issue-resolution is necessary.

Sincerely,
Richard Waller
Registered and Active Voter

cc: Senators Kelly, Adams, Duncan, Jones

FEB 18/1916

Dear Senator

It is very important that Senate Bill [#]222
as regards smoking, be moved out of Committee
with a do-pass recommendation.

Thanking you for your consideration in this
matter, I remain:

Yours truly

J. L. Stenderer

2146 Crataegus

Anchorage, Ak. 99508



MAR 30 1989

ALASKA DIVISION, INC.

March 24, 1989

Sen. Paul Fischer
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fischer,

One hundred-fifty Alaskans will die from lung cancer this year. The sad fact is that most of these deaths could have been prevented. Nationally 155,000 new cases of lung cancer are estimated, while we expect 142,000 deaths this year alone.

If the death of the 142,000 were expected to be due to firearms, aircraft, or other device or conveyance we could look forward to considerable legislative outcry for increased safety or restrictions thereon. Most lung cancers are caused by cigarette smoking. Cigarette smoking is also a major risk factor in cancers of the bladder, oral cavity, and the pancreas. Cigarette smoking.

What good comes from cigarette smoking? The only advantages are those that can be said for the growers and distributors of opiates, cocaine or marijuana, an economic shot in the arm devoid of morality or ethics.

The death of the 142,000 could, for the most part, have been prevented by the elimination of cigarette smoking. It would seem to me, therefore, that we have an ethical debt to these 142,000 and the 139,000 that died in 1988, not to mention those of the preceding years. That ethical debt is simply to stop this insane waste of human life.

We can apparently proceed only a small step at a time in this endeavor to do what is morally correct. Two small steps that seem at least minimally necessary are HB 80 and SB 222. I feel that it is very important that we proceed positively on these bills this session. They have my full support and I think that they should have yours.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. H. Koenig".

A. H. Koenig
Public Education/Area Director

cc: Roland Gower, M.D., Division President
Richard Parry, M.D., Division Public Issues Chairman
Bruce Kiessling, M.D., Division Public Education Chairman
Michael Franklin, M.D., Division President-Elect

AMENDMENT

BY Faiks

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

Sec. 18.35.330. DISPLAY OF SMOKING AND NO SMOKING SIGNS.
(a) A person in charge of a place or vehicle described in AS 18.35.300 or 18.35.305, except a limousine for hire or taxicab, shall conspicuously display in the place or vehicle a sign that reads "Smoking Prohibited by Law - Maximum Fine \$50" and that includes the international symbol for no smoking.

Renumber subsequent sections accordingly

To provide clarification, we would recommend revision of AS 18.35.300 (7) and AS 18.35.320 (c) as follows:

AS 18.35.300 (7)

(7) any portion of a commercial facility or business whose premises are open to the general public, including a retail store, financial institution, or shopping mall; and

AS 18.35.320 (c)

(c) A person who designates a smoking section under this section shall make reasonable accommodations to protect the health of the [FOR THE NEEDS OF THE SMOKERS AND] nonsmokers who use the place or vehicle by separation, partition or ventilation to ensure that nonsmokers are not subject to the active by-products of second-hand smoke. In instances, where no accommodation is possible, the concerns of the nonsmoker must be given priority.

DEC. Amendments

Amendments to SB 222
Senate HESS Hearing - February 21, 1990

ok ✓
Page 1, line 20-24 (subsection 3): Do not delete this wording. Let the employer designate smoking and non-smoking areas as provided under AS 18.35.310.

Justification: Small towns may only have one theatre, library, museum, state building, etc. If you ban smoking in that building it would discourage participation of the townspeople who do smoke. Under section 6 (page 4), the person in charge can still designate non-smoking areas, or even ban smoking in the building. By leaving this language as it is, there would still be an option.

ok ✓
Page 2, line 6: Delete "or other", insert "adult day care facility and"
Delete "institution," insert "institution,"
Delete "facility," insert "facilities"

Justification: This is to make specific the difference between adult day care centers and children's day care centers.

ok ✓
Page 2, line 14 (subsection 7): Add "~~community center, or~~ Pioneers' Home."

ok ✓
Page 2, line 18-24 (subsection 1): Delete subsection (1)

Justification: This is not needed here, since we are suggesting to keep the language in AS 18.35.310 (3) on page 1 of this bill.

ok ✓
Page 2, line 25 -26 (subsection 2): Change language to read: "a public or private ELEMENTARY OR SECONDARY school, preschool, or CHILDREN'S day care facility; if the school, preschool, or CHILDREN'S day care facility is in a"

Justification: Want to make sure smoking is prohibited in elementary or secondary schools. Universities and/or trade schools are usually attended by adults and, therefore, should not be in this category. Also, we specified the day care facilities to be children's day care facilities

ok ✓
Page 4, line 4-10: Delete: "If accommodation to protect the health of the nonsmoker is not possible with these methods, the person in charge of the area shall accord higher priority to protecting the health of nonsmokers than to accommodating smokers. The person in charge of an indoor place that is open to the general public may not designate the entire place as a smoking area."

Justification: If you leave this language in it would mean that if any non-smoker complained that "the accommodation for non-smokers is not sufficient," then the proprietor must "accord higher priority to protecting the health of nonsmokers," this may mean closing the door to smokers. This should not be a state mandate, it should be mandated by the individual business--let their economics motivate the change. A proprietor already has the right to make the establishment a non-smoking establishment.

AMENDMENT

BY Faiks

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Sec. 18.35.330. DISPLAY OF SMOKING AND NO SMOKING SIGNS.
(a) A person in charge of a place or vehicle described in AS 18.35.300 or 18.35.305, except a limousine for hire or taxicab, shall conspicuously display in the place or vehicle a sign that reads "Smoking Prohibited by Law - Maximum Fine \$50" and that includes the international symbol for no smoking.

Renumber subsequent sections accordingly

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2/8/90
IN ACCORDANCE WITH UNIFORM RULE 23

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

FURTHER

SA
FIN

3/15/89

DATE TURNED INTO OFFICE 2/23/90

Mr. President:

HESS

Committee considered

SB 222

smoking in certain vehicles and indoor places

and recommended:

replace with CS SB 222 (HESS)

same title
 new title

attached amendment(s) and

_____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

[Signature]

OTHER RECOMMENDATIONS

Al Adams - No Rec.
Tim Kelly - No Rec
[Signature] No Rec

[Signature] Do Pass
Chairman signature and recommendation

Committee backup attached

Original sponsor(s): SEN. FAIKS

Adopted

1 IN THE SENATE

BY THE HESS COMMITTEE

2 CS FOR SENATE BILL NO. 222 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to smoking in certain vehicles and
7 indoor places."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 18.35.300 is amended to read:

10 Sec. 18.35.300. PLACES WHERE SMOKING IS REGULATED [SMOKING IN
11 CERTAIN VEHICLES AND INDOOR PLACES PROHIBITED]. Smoking in any form
12 is a nuisance and a public health hazard and is prohibited in the
13 following vehicles and indoor places, except as allowed under AS 18.-
14 35.310 [OTHERWISE PROVIDED BY THIS CHAPTER]:

15 (1) a vehicle of public transportation and a waiting or
16 boarding area for a vehicle of public transportation, including a bus,
17 ferry vessel, train, limousine for hire, taxicab, or scheduled inter-
18 state or intrastate aircraft flight when consistent with federal law;

19 (2) [AN ELEVATOR;

20 (3)] a place of employment, a building or other structure,
21 or a portion of them, owned, leased, or operated by the state or a
22 political subdivision of the state, including an office, library,
23 museum, theater, concert hall, convention hall, gymnasium, swimming
24 pool, or other place of entertainment or recreation;

25 (3) [(4)] a public or private post-secondary educational
26 institution [SCHOOL, PRE-SCHOOL,] or adult day care facility;

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

28 (5) [(6)] A ROOM, CHAMBER, OR OTHER PLACE UNDER THE CONTROL
29 OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE WHILE A PUBLIC

MEETING OR PUBLIC ASSEMBLY IS IN PROGRESS;

(7)] 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,] nursing home, rest home, or other residential health care institution or facility;

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

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

(8) [(10)] 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;

(9) a correctional facility; and

(10) 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 residence, 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; if the school, preschool, or day care facility is in a building that includes more than one private residence or units that are not private residences, this paragraph applies only to the private residence in which the elementary or secondary school, preschool, or children's day care facility is located;

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

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

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

7 (4) an elevator.

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

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

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

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

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

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

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

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

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

products and related articles.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

violations of AS 18.35.300, 18.35.305, or 18.35.330.

* Sec. 15. AS 18.35.320(b) is repealed.

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Original sponsor(s): SEN. FAIKS

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 222 ()

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4 SIXTEENTH LEGISLATURE - SECOND SESSION

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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 (4) A PUBLIC OR PRIVATE SCHOOL, PRE-SCHOOL, OR DAY CARE
26 FACILITY;

27 (5) a courtroom or jury deliberation room;

28 (3) [(6) A ROOM, CHAMBER, OR OTHER PLACE UNDER THE CONTROL
29 OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE WHILE A PUBLIC

1 MEETING OR PUBLIC ASSEMBLY IS IN PROGRESS;

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5 OR HALLWAY OF A PUBLIC OR PRIVATE HOSPITAL,] nursing home, rest home,
6 or other residential health care institution or facility;

7 (4) [(8)] a food service establishment that has a seating
8 capacity of at least 50 persons;

9 (5) [(9)] a grocery store or other store maintained primar-
10 ily for the retail sale of food products; [AND]

11 (6) [(10)] a place of employment in which the owner, manag-
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14 (7) correctional facilities. *Do allow*

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21 museum, theater, concert hall, convention hall, gymnasium, swimming
22 pool, or other place of entertainment or recreation; this paragraph
23 does not apply to a correctional facility, court room, jury delib-
24 eration room, or Pioneers' Home;

25 (2) a public or private school, preschool, or day care
26 facility; if the school, preschool, or day care facility is in a
27 building that is also a private residence, this paragraph applies only
28 during the hours when the residence is being used as a school, pre-
29 school, or day care facility; if the school, preschool, or day care

1 facility is in a building that includes more than one private resi-
2 dence or units that are not private residences, this paragraph applies
3 only to the private residence in which the school, preschool, or day
4 care facility is located;

5 (3) a room, chamber, or other place under the control of
6 the state or a political subdivision of the state while a public
7 meeting or public assembly is in progress;

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3 in the place or vehicle are not subject to the active by-products of
4 smoke from smokers in the place or vehicle. If accommodation to
5 protect the health of the nonsmokers is not possible with these meth-
6 ods, the person in charge of the area shall accord higher priority to
7 protecting the health of nonsmokers than to accommodating smokers.
8 The person in charge of an indoor place that is open to the general
9 public may not designate the entire place as a smoking area. This
10 subsection does not apply to the person in charge of a store that
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23 (c) A person who violates AS 18.35.300 or 18.35.305 and against
24 whom the commissioner has filed a civil complaint under this section
25 is punishable by a civil fine of not less than \$10 nor more than \$50.
26 A person who violates AS 18.35.330 and against whom the commissioner
27 has filed a civil complaint under this section is punishable by a
28 civil fine of not less than \$20 nor more than \$300. Each day a viola-
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1 violation has been filed and served on the defendant constitutes a
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11 to enforce the provisions of AS 18.35.300 - 18.35.365 may issue a
12 citation for a violation of AS 18.35.300, 18.35.305, or 18.35.330
13 regardless of whether the violation was committed in the employee's
14 presence. A citation issued under this subsection shall be in the
15 same form and shall be processed in the same manner as a citation
16 issued by a peace officer under (a) of this section. An employee of
17 the department may not arrest a person for a violation of AS 18.35.-
18 300, 18.35.305, or 18.35.330.

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

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

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

28 (d) The supreme court shall establish a schedule of bail amounts
29 for violations of AS 18.35.300, 18.35.305, and 18.35.330, but in no

1 event may the bail amount exceed the maximum fine that may be imposed
2 for the violation under (c) of this section. The bail amount for a
3 violation shall appear on the citation.

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

5 Sec. 18.35.342. MULTIPLE FINES PROHIBITED. A person may not be
6 fined more than once for each violation of AS 18.35.300, 18.35.305, or
7 18.35.330.

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

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

12 * Sec. 15. AS 18.35.320(b) is repealed.
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Original sponsor(s): SEN. FAIKS

1 IN THE SENATE

BY THE HESS COMMITTEE

2 CS FOR SENATE BILL NO. 222 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to smoking in certain vehicles and
7 indoor places."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 18.35.300 is amended to read:

10 Sec. 18.35.300. PLACES WHERE SMOKING IS REGULATED [SMOKING IN
11 CERTAIN VEHICLES AND INDOOR PLACES PROHIBITED]. Smoking in any form
12 is a nuisance and a public health hazard and is prohibited in the
13 following vehicles and indoor places, except as allowed under AS 18.-
14 35.310 [OTHERWISE PROVIDED BY THIS CHAPTER]:

15 (1) a vehicle of public transportation and a waiting or
16 boarding area for a vehicle of public transportation, including a bus,
17 ferry vessel, train, limousine for hire, taxicab, or scheduled inter-
18 state or intrastate aircraft flight when consistent with federal law;

19 (2) [AN ELEVATOR;

20 (3)] a place of employment, a building or other structure,
21 or a portion of them, owned, leased, or operated by the state or a
22 political subdivision of the state, including an office, library,
23 museum, theater, concert hall, convention hall, gymnasium, swimming
24 pool, or other place of entertainment or recreation;

25 (3) [(4)] a public or private post-secondary educational
26 institution [SCHOOL, PRE-SCHOOL,] or adult day care facility;

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

28 (5) [(6)] A ROOM, CHAMBER, OR OTHER PLACE UNDER THE CONTROL
29 OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE WHILE A PUBLIC

MEETING OR PUBLIC ASSEMBLY IS IN PROGRESS;

(7)] 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,] nursing home, rest home, or other residential health care institution or facility;

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

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

(8) [(10)] 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;

(9) a correctional facility; and

(10) 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 residence, 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; if the school, preschool, or day care facility is in a building that includes more than one private residence or units that are not private residences, this paragraph applies only to the private residence in which the elementary or secondary school, preschool, or children's day care facility is located;

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

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

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

7 (4) an elevator.

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

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

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

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

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

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

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

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

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

1 products and related articles.

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

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

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

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

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

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

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

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

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

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

10 to enforce the provisions of AS 18.35.300 - 18.35.365 may issue a
20 citation for a violation of AS 18.35.300, 18.35.305, or 18.35.330
30 regardless of whether the violation was committed in the employee's
40 presence. A citation issued under this subsection shall be in the
50 same form and shall be processed in the same manner as a citation
60 issued by a peace officer under (a) of this section. An employee of
70 the department may not arrest a person for a violation of AS 18.35.-
80 300, 18.35.305, or 18.35.330.

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

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

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

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

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

240 Sec. 18.35.342. MULTIPLE FINES PROHIBITED. A person may not be
250 fined more than once for each violation of AS 18.35.300, 18.35.305, or
260 18.35.330.

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

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

violations of AS 18.35.300, 18.35.305, or 18.35.330.

* Sec. 15. AS 18.35.320(b) is repealed.

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Original sponsor(s): SEN. FAIKS

HESS
HESS

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 222 (*HESS*)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to smoking in certain vehicles and
7 indoor places."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 18.35.300 is amended to read:

10 Sec. 18.35.300. PLACES WHERE SMOKING IS REGULATED [SMOKING IN
11 CERTAIN VEHICLES AND INDOOR PLACES PROHIBITED]. Smoking in any form
12 is a nuisance and a public health hazard and is prohibited in the
13 following vehicles and indoor places, except as allowed under AS 18.-
14 35.310 [OTHERWISE PROVIDED BY THIS CHAPTER]:

15 (1) a vehicle of public transportation and a waiting or
16 boarding area for a vehicle of public transportation, including a bus,
17 ferry vessel, train, limousine for hire, taxicab, or scheduled inter-
18 state or intrastate aircraft flight when consistent with federal law;

19 (2) [AN ELEVATOR;

20 (3) A PLACE OF EMPLOYMENT, A BUILDING OR OTHER STRUCTURE,
21 OR A PORTION OF THEM, OWNED, LEASED, OR OPERATED BY THE STATE OR A
22 POLITICAL SUBDIVISION OF THE STATE, INCLUDING AN OFFICE, LIBRARY,
23 MUSEUM, THEATER, CONCERT HALL, CONVENTION HALL, GYMNASIUM, SWIMMING
24 POOL, OR OTHER PLACE OF ENTERTAINMENT OR RECREATION;

25 (4) A PUBLIC OR PRIVATE SCHOOL, PRE-SCHOOL, OR DAY CARE
26 FACILITY;

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

28 (3) [(6) A ROOM, CHAMBER, OR OTHER PLACE UNDER THE CONTROL
29 OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE WHILE A PUBLIC

adult day care facility

1 MEETING OR PUBLIC ASSEMBLY IS IN PROGRESS;

2 (7) a [PATIENTS' OR VISITORS' WAITING ROOM OR RESTROOM OF
3 A PUBLIC OR PRIVATE LABORATORY OR OFFICE ASSOCIATED WITH DENTAL CARE,
4 HEALTH CARE, OR THE HEALING ARTS, AND A WAITING ROOM, RESTROOM, LOBBY,
5 OR HALLWAY OF A PUBLIC OR PRIVATE HOSPITAL,] nursing home, rest home,
6 or other residential health care institution or facility;

7 (4) [(8)] a food service establishment that has a seating
8 capacity of at least 50 persons;

9 (5) [(9)] a grocery store or other store maintained primar-
10 ily for the retail sale of food products; [AND]

11 (6) [(10)] a place of employment in which the owner, manag-
12 er, proprietor, or other person who has control of the premises posts
13 a sign stating that smoking is prohibited by law; and

14 (7) correctional facilities.

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

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

18 (1) a place of employment, a building or other structure,
19 or a portion of them, owned, leased, or operated by the state or a
20 political subdivision of the state, including an office, library,
21 museum, theater, concert hall, convention hall, gymnasium, swimming
22 pool, or other place of entertainment or recreation; this paragraph
23 does not apply to a correctional facility, court room, jury delib-
24 eration room, or Pioneers' Home;

25 (2) a public or private school, preschool, or day care
26 facility; if the school, preschool, or day care facility is in a
27 building that is also a private residence, this paragraph applies only
28 during the hours when the residence is being used as a school, pre-
29 school, or day care facility; if the school, preschool, or day care

1 facility is in a building that includes more than one private resi-
2 dence or units that are not private residences, this paragraph applies
3 only to the private residence in which the school, preschool, or day
4 care facility is located;

5 (3) a room, chamber, or other place under the control of
6 the state or a political subdivision of the state while a public
7 meeting or public assembly is in progress;

8 (4) a public or private laboratory or office associated
9 with dental care, health care, or the healing arts, and a public or
10 private hospital, or other nonresidential health care institution or
11 facility;

12 (5) an elevator.

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

14 Sec. 18.35.310. EXEMPTIONS. The prohibition set out in AS 18.-
15 35.300 does not apply to

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

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

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

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

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

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

28 (c) A person who designates a smoking section under this section
29 shall make reasonable accommodations to protect the health of the [FOR

1 THE NEEDS OF THE SMOKERS AND] nonsmokers who use the place or vehicle
2 by separation, partition, or ventilation that ensures that nonsmokers
3 in the place or vehicle are not subject to the active by-products of
4 smoke from smokers in the place or vehicle. [If accommodation to
5 protect the health of the nonsmokers is not possible with these meth-
6 ods, the person in charge of the area shall accord higher priority to
7 protecting the health of nonsmokers than to accommodating smokers.
8 The person in charge of an indoor place that is open to the general
9 public may not designate the entire place as a smoking area.] This
10 subsection does not apply to the person in charge of a store that
11 sells only tobacco products and related articles.

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

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

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

19 (a) The commissioner shall develop and maintain a procedure for
20 processing reports of violations of AS 18.35.300, 18.35.305, and
21 18.35.330.

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

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

1 violation has been filed and served on the defendant constitutes a
2 separate violation.

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

4 (a) A peace officer may issue a citation for a violation of
5 AS 18.35.300 or 18.35.305 committed in the officer's presence or for a
6 violation of AS 18.35.330. The provisions of AS 12.25.180(b) and
7 12.25.190 - 12.25.230 apply to the issuance of a citation under this
8 subsection.

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

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

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

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

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

28 (d) The supreme court shall establish a schedule of bail amounts
29 for violations of AS 18.35.300, 18.35.305, and 18.35.330, but in no

1 event may the bail amount exceed the maximum fine that may be imposed
2 for the violation under (c) of this section. The bail amount for a
3 violation shall appear on the citation.

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

5 Sec. 18.35.342. MULTIPLE FINES PROHIBITED. A person may not be
6 fined more than once for each violation of AS 18.35.300, 18.35.305, or
7 18.35.330.

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

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

12 * Sec. 15. AS 18.35.320(b) is repealed.
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Original sponsor(s): SEN. FAIKS

1 IN THE SENATE BY THE HESS COMMITTEE

2 CS FOR SENATE BILL NO. 222 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to smoking in certain vehicles and
7 indoor places."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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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 ~~X~~ (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;

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1 MEETING OR PUBLIC ASSEMBLY IS IN PROGRESS;

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6 or other residential health care institution or facility;

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8 capacity of at least 50 persons;

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10 ily for the retail sale of food products; [AND]

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18 any form is prohibited in the following indoor places:

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

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

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

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4 with dental care, health care, or the healing arts, and a public or
5 private hospital, or other nonresidential health care institution or
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8 * Sec. 3. AS 18.35.310 is amended to read:

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

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

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

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

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24 shall make reasonable accommodations to protect the health of the [FOR
25 THE NEEDS OF THE SMOKERS AND] nonsmokers who use the place or vehicle
26 by separation, partition, or ventilation that ensures that nonsmokers
27 in the place or vehicle are not subject to the active by-products of
28 smoke from smokers in the place or vehicle. This subsection does not
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1 products and related articles.

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9 (a) The commissioner shall develop and maintain a procedure for
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11 18.35.330.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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violations of AS 18.35.300, 18.35.305, or 18.35.330.

* Sec. 15. AS 18.35.320(b) is repealed.

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
BRU: 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* Phone: 465-2609
Division: Environmental Health Date: 4/18/89

Approved by Commissioner: Dennis D. Kelso *ADK* Date: 4/18/89
Agency: Environmental Conservation

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
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- Impacted Agency(ies)

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