

Bill No. CS/HB 3527

Amendment No.     

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Burt moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 1, between lines 23 and 24,		
15			
16	insert:		
17	Section 2. Section 386.213, Florida Statutes, is		
18	created to read:		
19	<u>386.213 Smoking prohibited inside state correctional</u>		
20	<u>facilities.--</u>		
21	<u>(1) The purpose of this section is to protect the</u>		
22	<u>health, comfort, and environment of employees of the</u>		
23	<u>Department of Corrections, employees of privately operated</u>		
24	<u>correctional facilities, employees of the Correctional</u>		
25	<u>Privatization Commission, and inmates by prohibiting inmates</u>		
26	<u>from using tobacco products inside any offices or buildings</u>		
27	<u>within state correctional facilities, and by ensuring that</u>		
28	<u>employees and visitors do not use tobacco products inside any</u>		
29	<u>office or building within state correctional facilities.</u>		
30	<u>Scientific evidence links the use of tobacco products with</u>		
31	<u>numerous significant health risks. The use of tobacco products</u>		

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1 by inmates, employees, or visitors is contrary to efforts by  
2 the Department of Corrections to reduce the costs of inmate  
3 health care and to limit unnecessary litigation. The  
4 Department of Corrections and the private vendors operating  
5 correctional facilities shall make smoking cessation  
6 assistance available to inmates in order to implement this  
7 section. The Department of Corrections and the private vendors  
8 operating correctional facilities shall implement this section  
9 as soon as possible, and all provisions of this section must  
10 be fully implemented by January 1, 1999.

11 (2) As used in this section, the term:

12 (a) "Department" means the Department of Corrections.

13 (b) "Employee" means an employee of the department or  
14 a private vendor in a contractual relationship with either the  
15 Department of Corrections or the Correctional Privatization  
16 Commission, and includes persons such as contractors,  
17 volunteers, or law enforcement officers who are within a state  
18 correctional facility to perform a professional service.

19 (c) "State correctional facility" means a state or  
20 privately operated correctional institution as defined in s.  
21 944.02, or a correctional institution or facility operated  
22 under s. 944.105 or chapter 957.

23 (d) "Tobacco products" means items such as cigars,  
24 cigarettes, snuff, loose tobacco, or similar goods made with  
25 any part of the tobacco plant, which are prepared or used for  
26 smoking, chewing, dipping, sniffing, or other personal use.

27 (e) "Visitor" means any person other than an inmate or  
28 employee who is within a state correctional facility for a  
29 lawful purpose and includes, but is not limited to, persons  
30 who are authorized to visit state correctional institutions  
31 pursuant to s. 944.23, and persons authorized to visit as

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1 prescribed by departmental rule or vendor policy.

2 (f) "Prohibited areas" means any indoor areas of any  
3 building, portable or other enclosed structure within a state  
4 correctional facility.

5 (3)(a) An inmate within a state correctional facility  
6 may not use tobacco products in prohibited areas at any time  
7 while in the custody of the department or under the  
8 supervision of a private vendor operating a correctional  
9 facility.

10 (b)1. An employee or visitor may not use any tobacco  
11 products in prohibited areas.

12 2. The superintendent, warden, or supervisor of a  
13 state correctional facility shall take reasonable steps to  
14 ensure that the tobacco prohibition for employees and visitors  
15 is strictly enforced.

16 (4) An inmate who violates this section commits a  
17 disciplinary infraction and is subject to punishment  
18 determined to be appropriate by the disciplinary authority in  
19 the state correctional facility, including, but not limited  
20 to, forfeiture of gain-time or the right to earn gain-time in  
21 the future under s. 944.28.

22 (5) The department may adopt rules and the private  
23 vendors operating correctional facilities may adopt policies  
24 and procedures for the designation of prohibited areas and  
25 smoking areas and for the imposition of penalties pursuant to  
26 this section. For the purposes of this section, the  
27 designation of prohibited areas shall not include employee  
28 housing on the grounds of a state correctional facility or  
29 maximum security inmate housing areas.

30 Section 3. Subsection (1) of section 386.203, Florida  
31 Statutes, is amended to read:

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1           386.203 Definitions.--As used in this part:

2           (1) "Public place" means the following enclosed,

3 indoor areas used by the general public:

4           (a) Government buildings;

5           (b) Public means of mass transportation and their

6 associated terminals not subject to federal smoking

7 regulation;

8           (c) Elevators;

9           (d) Hospitals;

10          (e) Nursing homes;

11          (f) Educational facilities;

12          (g) Public school buses;

13          (h) Libraries;

14          (i) Courtrooms;

15          (j) Jury waiting and deliberation rooms;

16          (k) Museums;

17          (l) Theaters;

18          (m) Auditoriums;

19          (n) Arenas;

20          (o) Recreational facilities;

21          (p) Restaurants which seat more than 50 persons;

22          (q) Retail stores, except a retail store the primary

23 business of which is the sale of tobacco or tobacco related

24 products;

25          (r) Grocery stores;

26          (s) Places of employment;

27          (t) Health care facilities;

28          (u) Day care centers; ~~and~~

29          (v) Common areas of retirement homes and

30 condominiums; ~~and~~

31          (w) State correctional facilities.

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(Redesignate subsequent sections.)

===== T I T L E    A M E N D M E N T =====

And the title is amended as follows:

    On page 1, line 2, delete that line

and insert:

    An act relating to state correctional facilities; amending s. 951.23, F.S.;, relating to county and municipal detention facilities; providing criminal penalties for repeatedly, knowingly, and willfully refusing to obey certain rules and regulations while a prisoner in any such facility; creating s. 386.213, F.S.; providing legislative intent; requiring the Department of Corrections and private vendors operating state correctional facilities to make smoking-cessation assistance available to inmates; requiring full implementation of the act by a specified date; providing definitions; prohibiting an inmate within a state correctional facility from using tobacco products in prohibited areas; prohibiting employees or visitors from using tobacco products in prohibited areas; providing penalties; authorizing the department to adopt rules; amending s. 386.203 (1), F.S.; adding state correctional facilities to the definition of public place;