

Bill No. SB 404

Amendment No. ____

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
---------------	----------------	--------------

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

.
.
.
.
.

Senator Burt moved the following amendment:

Senate Amendment (with title amendment)

On page 1, between lines 20 and 21,

insert:

Section 2. Section 386.213, Florida Statutes, is created to read:

386.213 Smoking prohibited inside state correctional facilities.--

(1) The purpose of this section is to protect the health, comfort, and environment of employees of the Department of Corrections, employees of privately operated correctional facilities, employees of the Correctional Privatization Commission, and inmates by prohibiting inmates from using tobacco products inside any offices or buildings within state correctional facilities, and by ensuring that employees and visitors do not use tobacco products inside any office or building within state correctional facilities.

Scientific evidence links the use of tobacco products with numerous significant health risks. The use of tobacco products

Bill No. SB 404

Amendment No. ____

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

Bill No. SB 404

Amendment No. ____

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:

Bill No. SB 404
Amendment No. ____

- 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.

Bill No. SB 404

Amendment No. ____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(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, lines 2-5, delete those lines

and insert:

 An act relating to criminal justice; amending
 s. 951.23, F.S.; providing a criminal penalty
 for refusing to obey jail rules and
 regulations; 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; providing an effective date.