

By the Committee on Corrections and Representatives Brooks  
and Feeney

1                                   A bill to be entitled  
2           An act relating to state correctional  
3           facilities; creating the "Tobacco-free Prisons  
4           Act"; providing legislative intent; requiring  
5           the Department of Corrections and private  
6           vendors operating state correctional facilities  
7           to make smoking-cessation assistance available  
8           to inmates; requiring full implementation of  
9           the act by a specified date; providing  
10          definitions; prohibiting an inmate within a  
11          state correctional facility from possessing or  
12          using tobacco products; permitting certain  
13          inmates to possess or use tobacco products;  
14          prohibiting employees or visitors from  
15          possessing or using tobacco products while in a  
16          state correctional facility; authorizing the  
17          department to adopt rules allowing tobacco  
18          possession or use by employees and visitors  
19          under certain circumstances; providing  
20          penalties; providing legislative intent to  
21          direct the Department of Corrections to  
22          identify and maintain data that can be used to  
23          estimate health care cost savings attributable  
24          to removal of tobacco products from  
25          correctional facilities; providing legislative  
26          intent that a certain percentage of the  
27          estimated cost savings be appropriated for  
28          incentive bonuses for correctional officers and  
29          correctional probation officers; requiring the  
30          Office of Program Policy Analysis and  
31          Governmental Accountability to conduct a study

1           and to report its findings to the Legislature;  
2           providing for future repeal; providing an  
3           effective date.  
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5 Be It Enacted by the Legislature of the State of Florida:  
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7           Section 1. (1) SHORT TITLE.--This section may be  
8 cited as the "Tobacco-free Prisons Act."

9           (2) LEGISLATIVE INTENT.--The purpose of this section  
10 is to protect the health, comfort, and environment of  
11 employees of the Department of Corrections, employees of  
12 privately operated correctional facilities, employees of the  
13 Correctional Privatization Commission, and inmates by  
14 prohibiting inmates from using tobacco products in state  
15 correctional facilities, and by ensuring that employees and  
16 visitors do not use tobacco products in state correctional  
17 facilities. Scientific evidence links the use of tobacco  
18 products with numerous significant health risks. The use of  
19 tobacco products by inmates, employees, or visitors is  
20 contrary to efforts by the Department of Corrections to reduce  
21 the costs of inmate health care and to limit unnecessary  
22 litigation. The Department of Corrections and the private  
23 vendors operating correctional facilities shall make smoking  
24 cessation assistance available to inmates in order to  
25 implement this section. The Department of Corrections and the  
26 private vendors operating correctional facilities shall  
27 implement this section as soon as possible, and all provisions  
28 of this section must be fully implemented by July 1, 1998.

29           (3) DEFINITIONS.--As used in this section, the term:  
30           (a) "Department" means the Department of Corrections.  
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1       (b) "Employee" means an employee of the department or  
2 a private vendor in a contractual relationship with either the  
3 Department of Corrections or the Correctional Privatization  
4 Commission, and includes persons such as contractors,  
5 volunteers, or law enforcement officers who are within a state  
6 correctional facility to perform a professional service.

7       (c) "State correctional facility" means a state or  
8 privately operated correctional institution as defined in s.  
9 944.02, or a correctional institution or facility operated  
10 under s. 944.105 or chapter 957.

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

15       (e) "Visitor" means any person other than an inmate or  
16 employee who is within a state correctional facility for a  
17 lawful purpose and includes, but is not limited to, persons  
18 who are authorized to visit state correctional institutions  
19 pursuant to s. 944.23, and persons authorized to visit as  
20 prescribed by departmental rule.

21       (4) POSSESSION OR USE OF TOBACCO PRODUCTS  
22 PROHIBITED.--

23       (a) An inmate within a state correctional facility may  
24 not possess or use tobacco products at any time while in the  
25 custody of the department or under the supervision of a  
26 private vendor operating a correctional facility, unless an  
27 inmate leaves the confines of the facility pursuant to s.  
28 945.091. Except as provided in s. 945.091, this prohibition  
29 applies regardless of an inmate's location in relation to the  
30 physical plant of a state correctional facility.

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1           (b)1. An employee or visitor may not possess or use  
2 any tobacco products while in a state correctional facility.  
3 However, the department may promulgate rules and private  
4 vendors operating correctional facilities may adopt policies  
5 and procedures allowing the possession or use of tobacco  
6 products by employees and visitors outside of the secure  
7 perimeter of a state correctional facility, provided that such  
8 tobacco possession or use does not occur in the presence of an  
9 inmate. Under no circumstances shall possession or use of  
10 tobacco products by employees or visitors be allowed inside  
11 the secure perimeter. For state correctional facilities that  
12 do not have a secure perimeter, the department shall define  
13 the appropriate boundaries for purposes of implementing this  
14 subsection.

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

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

25           Section 2. The Legislature has recognized, in the  
26 passage of the Government Performance and Accountability Act,  
27 the importance of measuring and evaluating the efficiency of  
28 state agencies and providing incentives to reward agency  
29 performance. It is the intent of the Legislature that the  
30 Department of Corrections identify and maintain data that can  
31 be used to estimate any health care cost savings directly

1 attributable to the removal of tobacco products from  
2 state-operated correctional facilities, and develop a measure  
3 relating to such cost savings. The department shall begin  
4 identifying and maintaining the data as soon as this act  
5 becomes law. It is further the intent of the Legislature that  
6 any health care cost savings achieved through the removal of  
7 tobacco from correctional facilities be identified. It is the  
8 intent of the Legislature that 50 percent of the cost savings  
9 identified be appropriated for incentive bonuses for  
10 correctional officers, as defined in s. 943.10(2), and  
11 correctional probation officers, as defined in s. 943.10(3),  
12 who are employed at a correctional facility operated by the  
13 state. Contingent upon available funding, such bonuses shall  
14 be paid beginning on July 1, 1999, and for each fiscal year  
15 thereafter. The incentive bonuses shall be in addition to any  
16 general salary increases and step increases given to  
17 correctional officers and correctional probation officers.

18       Section 3. The Office of Program Policy Analysis and  
19 Governmental Accountability shall conduct a study to determine  
20 whether the prohibition against tobacco use in state  
21 correctional facilities is effectively serving its intended  
22 purpose of protecting the health, comfort, and environment of  
23 inmates and employees. The study shall include a review of  
24 inmate health care costs to determine whether any decrease in  
25 those costs can be directly attributable to the removal of  
26 tobacco products from correctional facilities. The Office of  
27 Program Policy Analysis and Governmental Accountability shall  
28 report its findings to the Legislature by December 31, 2000.

29       Section 4. Effective July 1, 2001, this act shall  
30 stand repealed, unless saved from repeal through reenactment  
31 by the Legislature.

1           Section 5. This act shall take effect upon becoming a  
2 law.  
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