

By Representatives Brooks and Trovillion

1 A bill to be entitled
2 An act relating to the Florida Clean Indoor Air
3 Act; creating s. 386.213, F.S.; providing
4 restrictions on the use of tobacco products in
5 state correctional facilities; providing intent
6 and definitions; requiring the Department of
7 Corrections and private vendors operating state
8 correctional facilities to make
9 smoking-cessation assistance available to
10 inmates to implement the section; requiring
11 full implementation of the section by a
12 specified date; prohibiting inmates within
13 state correctional facilities from using
14 tobacco products in prohibited areas;
15 prohibiting employees or visitors from using
16 tobacco products in prohibited areas; providing
17 penalties; authorizing the department to adopt
18 rules and private vendors to adopt policies and
19 procedures for the designation of prohibited
20 areas and smoking areas and for the imposition
21 of penalties authorized; amending s. 386.203,
22 F.S.; adding state correctional facilities to
23 the definition of "public place" applicable to
24 the act; providing an effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. 386.213, Florida Statutes, is created to
29 read:
30 386.213 Restrictions on use of tobacco products in
31 state correctional facilities; penalties.--

1 (1) The purpose of this section is to protect the
2 health, comfort, and environment of employees of the
3 Department of Corrections, employees of privately operated
4 correctional facilities, employees of the Correctional
5 Privatization Commission, and inmates by prohibiting inmates
6 from using tobacco products inside any offices or buildings
7 within state correctional facilities and by ensuring that
8 employees and visitors do not use tobacco products inside any
9 offices or buildings within state correctional facilities.
10 Scientific evidence links the use of tobacco products with
11 numerous significant health risks. The use of tobacco products
12 by inmates, employees, or visitors is contrary to efforts by
13 the Department of Corrections to reduce the costs of inmate
14 health care and to limit unnecessary litigation. The
15 Department of Corrections and the private vendors operating
16 correctional facilities shall make smoking-cessation
17 assistance available to inmates in order to implement this
18 section. The Department of Corrections and the private vendors
19 operating correctional facilities shall implement this section
20 as soon as possible, and all provisions of this section must
21 be fully implemented by January 1, 2000.

22 (2) As used in this section, the term:
23 (a) "Department" means the Department of Corrections.
24 (b) "Employee" means an employee of the department or
25 a private vendor in a contractual relationship with either the
26 department or the Correctional Privatization Commission and
27 includes persons such as contractors, volunteers, or law
28 enforcement officers who are within a state correctional
29 facility to perform a professional service.

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1 (c) "Prohibited area" means any indoor area of any
2 building or portable or other enclosed structure within a
3 state correctional facility.

4 (d) "State correctional facility" means a state or
5 privately operated correctional institution as defined in s.
6 944.02 or a correctional institution or facility operated
7 under s. 944.105 or chapter 957.

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

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

18 (3)(a) An inmate within a state correctional facility
19 may not use a tobacco product in a prohibited area at any time
20 while in the custody of the department or under the
21 supervision of a private vendor operating a correctional
22 facility.

23 (b)1. An employee of or a visitor to a state
24 correctional facility may not use a tobacco product in a
25 prohibited area.

26 2. The superintendent, warden, or supervisor of a
27 state correctional facility shall take reasonable steps to
28 ensure that the tobacco prohibition for employees and visitors
29 is strictly enforced.

30 (4) An inmate who violates this section commits a
31 disciplinary infraction and is subject to punishment

1 determined to be appropriate by the disciplinary authority in
2 the state correctional facility, including, but not limited
3 to, forfeiture of gain-time or the right to earn gain-time in
4 the future under s. 944.28.

5 (5) The department may adopt rules and the private
6 vendors operating correctional facilities may adopt policies
7 and procedures for the designation of prohibited areas and
8 smoking areas and for the imposition of penalties authorized
9 under subsection (4). For the purposes of this section, the
10 designation of prohibited areas shall not include employee
11 housing on the grounds of a state correctional facility or
12 maximum security inmate housing areas.

13 Section 2. Subsection (1) of section 386.203, Florida
14 Statutes, is amended to read:

15 386.203 Definitions.--As used in this part:

16 (1) "Public place" means the following enclosed,
17 indoor areas used by the general public:

18 (a) Government buildings;

19 (b) Public means of mass transportation and their
20 associated terminals not subject to federal smoking
21 regulation;

22 (c) Elevators;

23 (d) Hospitals;

24 (e) Nursing homes;

25 (f) Educational facilities;

26 (g) Public school buses;

27 (h) Libraries;

28 (i) Courtrooms;

29 (j) Jury waiting and deliberation rooms;

30 (k) Museums;

31 (l) Theaters;

- 1 (m) Auditoriums;
- 2 (n) Arenas;
- 3 (o) Recreational facilities;
- 4 (p) Restaurants which seat more than 50 persons;
- 5 (q) Retail stores, except a retail store the primary
- 6 business of which is the sale of tobacco or tobacco related
- 7 products;
- 8 (r) Grocery stores;
- 9 (s) Places of employment;
- 10 (t) Health care facilities;
- 11 (u) Day care centers; ~~and~~
- 12 (v) Common areas of retirement homes and condominiums;
- 13 and-
- 14 (w) State correctional facilities.

15 Section 3. This act shall take effect upon becoming a
16 law.

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19 HOUSE SUMMARY

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21 Revises the Florida Clean Indoor Air Act to provide
22 restrictions on the use of tobacco products in state
23 correctional facilities. Provides intent and definitions.
24 Requires the Department of Corrections and private
25 vendors operating state correctional facilities to make
26 smoking-cessation assistance available to inmates to
27 implement the section and requires full implementation of
28 the section by a specified date. Prohibits inmates within
29 state correctional facilities from using tobacco products
30 in prohibited areas. Prohibits employees or visitors from
31 using tobacco products in prohibited areas. Provides
penalties. Authorizes the department to adopt rules and
private vendors to adopt policies and procedures for the
designation of prohibited areas and smoking areas and for
the imposition of penalties authorized. Adds state
correctional facilities to the definition of "public
place" applicable to the act. See bill for details.