

By Senator Brown-Waite

10-513-99

1 A bill to be entitled
2 An act relating to state correctional
3 facilities; creating s. 386.213, F.S.;
4 providing legislative intent; requiring the
5 Department of Corrections and private vendors
6 operating state correctional facilities to make
7 smoking-cessation assistance available to
8 inmates; requiring full implementation of the
9 act by a specified date; providing definitions;
10 prohibiting an inmate within a state
11 correctional facility from using tobacco
12 products in prohibited areas; prohibiting
13 employees or visitors from using tobacco
14 products in prohibited areas; providing
15 penalties; authorizing the department to adopt
16 rules; amending s. 386.203 (1), F.S.; adding
17 state correctional facilities to the definition
18 of public place; providing an effective date.

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

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22 Section 1. 386.213, Florida Statutes, is created to
23 read:

24 386.213 Smoking prohibited inside state correctional
25 facilities.--

26 (1) The purpose of this section is to protect the
27 health, comfort, and environment of employees of the
28 Department of Corrections, employees of privately operated
29 correctional facilities, employees of the Correctional
30 Privatization Commission, and inmates by prohibiting inmates
31 from using tobacco products inside any office or building

1 within state correctional facilities, and by ensuring that
2 employees and visitors do not use tobacco products inside any
3 office or building within state correctional facilities.
4 Scientific evidence links the use of tobacco products with
5 numerous significant health risks. The use of tobacco products
6 by inmates, employees, or visitors is contrary to efforts by
7 the Department of Corrections to reduce the cost of inmate
8 health care and to limit unnecessary litigation. The
9 Department of Corrections and the private vendors operating
10 correctional facilities shall make smoking-cessation
11 assistance available to inmates in order to implement this
12 section. The Department of Corrections and the private vendors
13 operating correctional facilities shall implement this section
14 as soon as possible, and all provisions of this section must
15 be fully implemented by January 1, 2000.

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

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

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

24 (c) "State correctional facility" means a state or
25 privately operated correctional institution as defined in s.
26 944.02, or a correctional institution or facility operated
27 under s. 944.105 or chapter 957.

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

1 (e) "Visitor" means any person other than an inmate or
2 employee who is within a state correctional facility for a
3 lawful purpose and includes, but is not limited to, persons
4 who are authorized to visit state correctional institutions
5 pursuant to s. 944.23 and persons authorized to visit as
6 prescribed by departmental rule or vendor policy.

7 (f) "Prohibited areas" means any indoor areas of any
8 building, portable, or other enclosed structure within a state
9 correctional facility.

10 (3)(a) An inmate within a state correctional facility
11 may not use tobacco products in prohibited areas at any time
12 while in the custody of the department or under the
13 supervision of a private vendor operating a correctional
14 facility.

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

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

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

27 (5) The department may adopt rules and the private
28 vendors operating correctional facilities may adopt policies
29 and procedures for the designation of prohibited areas and
30 smoking areas and for the imposition of penalties under this
31 section. Neither employee housing on the grounds of a state

1 correctional facility nor maximum security inmate housing
2 areas may be designated as prohibited areas under this
3 section.

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

6 386.203 Definitions.--As used in this part:

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

9 (a) Government buildings;

10 (b) Public means of mass transportation and their
11 associated terminals not subject to federal smoking
12 regulation;

13 (c) Elevators;

14 (d) Hospitals;

15 (e) Nursing homes;

16 (f) Educational facilities;

17 (g) Public school buses;

18 (h) Libraries;

19 (i) Courtrooms;

20 (j) Jury waiting and deliberation rooms;

21 (k) Museums;

22 (l) Theaters;

23 (m) Auditoriums;

24 (n) Arenas;

25 (o) Recreational facilities;

26 (p) Restaurants that ~~which~~ seat more than 50 persons;

27 (q) Retail stores, except a retail store the primary
28 business of which is the sale of tobacco or tobacco related
29 products;

30 (r) Grocery stores;

31 (s) Places of employment;

- 1 (t) Health care facilities;
- 2 (u) Day care centers; ~~and~~
- 3 (v) Common areas of retirement homes and
- 4 ~~condominiums~~; and
- 5 (w) State correctional facilities.

6 Section 3. This act shall take effect upon becoming a
7 law.

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10 SENATE SUMMARY

11 Prohibits inmates in state correctional facilities from
12 using tobacco products in prohibited areas. Prohibits
13 employees of and visitors to such facilities from using
14 tobacco products in prohibited areas. Provides penalties.
15 Requires the Department of Corrections and private
16 vendors operating state correctional facilities to make
17 smoking-cessation assistance available to inmates.
18 Requires full implementation of this act by a specified
19 date. Authorizes the department to adopt rules. Adds
20 state correctional facilities to the definition of the
21 term "public place" which is found in the Florida Clean
22 Indoor Air Act.
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