

By the Committee on Criminal Justice and Senator Brown-Waite

307-1763-99

1 A bill to be entitled
2 An act relating to state correctional
3 facilities; creating s. 944.115, 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; providing an effective date.

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

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20 Section 1. Section 944.115, Florida Statutes, is
21 created to read:

22 944.115 Smoking prohibited inside state correctional
23 facilities.--

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

1 office or building within state correctional facilities.
2 Scientific evidence links the use of tobacco products with
3 numerous significant health risks. The use of tobacco products
4 by inmates, employees, or visitors is contrary to efforts by
5 the Department of Corrections to reduce the cost of inmate
6 health care and to limit unnecessary litigation. The
7 Department of Corrections and the private vendors operating
8 correctional facilities shall make smoking-cessation
9 assistance available to inmates in order to implement this
10 section. The Department of Corrections and the private vendors
11 operating correctional facilities shall implement this section
12 as soon as possible, and all provisions of this section must
13 be fully implemented by January 1, 2000.

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

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

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

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

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

30 (e) "Visitor" means any person other than an inmate or
31 employee who is within a state correctional facility for a

1 lawful purpose and includes, but is not limited to, persons
2 who are authorized to visit state correctional institutions
3 pursuant to s. 944.23 and persons authorized to visit as
4 prescribed by departmental rule or vendor policy.

5 (f) "Prohibited areas" means any indoor areas of any
6 building, portable, or other enclosed structure within a state
7 correctional facility. The secretary of the department may, by
8 rule, designate other areas, including vehicles, as
9 "prohibited areas" to be regulated under this section. Neither
10 employee housing on the grounds of a state correctional
11 facility nor maximum security inmate housing areas may be
12 designated as prohibited areas under this section.

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

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

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

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

30 (5) The department may adopt rules and the private
31 vendors operating correctional facilities may adopt policies

1 and procedures for the implementation of this section, the
2 designation of prohibited areas and smoking areas, and for the
3 imposition of the following penalties:

4 (a) Inmates who violate this section will be subject
5 to disciplinary action as provided by rule and in accordance
6 with this section.

7 (b) Employees who violate this section will be subject
8 to disciplinary action as provided by rule.

9 (c) Visitors who violate this section will be subject
10 to removal of authorization to enter a correctional facility
11 as provided by rule.

12 Section 2. This act shall take effect upon becoming a
13 law.

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15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 Senate Bill 734

- 18 - Shifts the prohibition against indoor smoking in prisons
19 from chapter 386, the Clean Indoor Air Act, to chapter
20 944.
21 - Deletes the inclusion of "state correctional facilities"
22 in the definition of "public places" in the Clean Indoor
23 Air Act.
24 - Broadens the rule-making authority of the department to
25 implement the bill, to impose penalties on persons who
26 use tobacco in prohibited areas in state-operated and
27 privately operated facilities, and to designate
28 additional "prohibited areas" for tobacco use.
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