

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1302

SPONSOR: Senator Webster

SUBJECT: Florida Clean Indoor Air Act; Smoking Areas/Restaurants

DATE: March 3, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Robinson Pierce</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill amends the Florida Clean Indoor Air Act, requiring that, effective October 1, 2000, no more than 50 percent of the seats existing in any restaurant's dining room, at any time, may be located in an area designated as a smoking area. Effective October 1, 2001, no more than 35 percent of such seats may be located in a designated smoking area. This bill also changes the definition of public places to include all restaurants.

This bill amends the following sections of the Florida Statutes: 386.203 and 386.205.

II. Present Situation:

Enacted in 1985 and codified at ch. 386, part II, F.S., the Florida Clean Indoor Air Act (the act), was created as a uniform statewide maximum code. Its purpose, as stated in s. 386.202, F.S., is to protect the public health, comfort, and environment by creating areas in public places and at public meetings that are reasonably free from tobacco smoke. The definition of "public place" under s. 386.203(1), F.S., includes specified enclosed indoor areas used by the general public. This definition includes restaurants which seat more than 50 persons. (s. 386.203(1)(p), F.S.)

While smoking areas may be designated by the person in charge of a public place, it is the Legislature's intent that the act not be interpreted to require the designation of smoking areas. It is also the Legislature's intent to discourage the designation of any area within a government building as a smoking area. (s. 386.202, F.S.) If a smoking area is reserved or designated in a public place within a single enclosed indoor area, no more than one-half of the total square footage may be so designated. However, this restriction does not apply to restaurants which seat more than 50 persons. (s. 386.205(4), F.S.) Restaurants which seat more than 50 persons must ensure that no more than 65 percent of the seats existing in its dining room are designated as a smoking area at any time.

The Division of Hotels and Restaurants of the Department of Business and Professional Regulation (the division), in consultation with the State Fire Marshall, enforces the designation of smoking areas and the posting of signs designating such areas. The division is required to adopt rules specifying procedures, exemptions, and appeals to implement and enforce the act. (s. 386.207, F.S.)

III. Effect of Proposed Changes:

This bill requires that, effective October 1, 2000, no more than 50 percent of the seats existing in any restaurant's dining room, at any time, may be located in an area designated as a smoking area. Effective October 1, 2001, no more than 35 percent of such seats may be located in a designated smoking area.

This bill changes the definition of "public places" in the Florida Clean Air Act to include all restaurants.

This bill takes effect October 1, 2000, except as otherwise provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Some smokers may choose not to dine out as a result of the reduction of available reserved or designated smoking areas in restaurants. Similarly, non-smokers may choose to dine out more frequently because of the reduction of reserved or designated smoking areas in restaurants. The exact impact on the private sector is not known. For research on this issue, see *The Effect of Ordinances Requiring Smoke-Free Restaurants on Restaurant Sales*, American Journal of Public Health, June 1994 (finding no significant differences in retail sales of restaurants in smoke-free cities as compared to those of restaurants without smoke-free

ordinances) and *Tourism and Hotel Revenues Before and After Passage of Smoke-Free Restaurant Ordinances*, Journal of the American Medical Association, May 26, 1999 (concluding that smoke-free ordinances do not appear to adversely affect tourist business and may increase tourist business).

C. Government Sector Impact:

The Division of Hotels and Restaurants of the Department of Business and Professional Regulation (the division) may experience an increase in complaint investigations and requests for information as a result of this bill. The division states that this increase will most likely occur only for the short term. The division states that this increase should not have any significant fiscal impact and would be handled within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In 1993, the federal Environmental Protection Agency (EPA) issued its report, *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders*. The EPA concluded that environmental tobacco smoke (ETS), commonly known as secondhand smoke, is a human lung carcinogen. On July 21, 1993, the EPA announced voluntary guidelines on smoking in public buildings. The EPA states that it is appealing the decision of a U.S. District Court decision challenging the report.

VIII. Amendments:

None.