

Bill No. HB 1757

Amendment No. Barcode 220674

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

WD/2R
04/30/2003 09:47 AM

.
. .
. .
. .
. .
. .

Senator Diaz de la Portilla moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 386.201, Florida Statutes, is reenacted to read:

386.201 Short title.--This part may be cited as the "Florida Clean Indoor Air Act."

Section 2. Section 386.202, Florida Statutes, is amended to read:

386.202 Legislative intent.--The purpose of this part is to protect people from the public health hazards of second-hand, comfort, and environment by creating areas in public places and at public meetings that are reasonably free from tobacco smoke and to implement the Florida health initiative in s. 20, Art. X of the State Constitution by providing a uniform statewide maximum code. This part does shall not be interpreted to require the designation of smoking rooms areas. However, it is the intent of the Legislature to

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 discourage the designation of any room located area within a
 2 government building as a smoking room area. It is the intent
 3 of the Legislature to not inhibit, or otherwise obstruct,
 4 smoking cessation programs, medical research, or scientific
 5 research in this state. The Legislature finds that tobacco
 6 smoking that is integral to a smoking cessation program,
 7 medical research, or scientific research does not present a
 8 credible public health hazard from second-hand smoke. The
 9 Legislature finds that the performance of essential services
 10 in an enclosed indoor place, including janitorial services,
 11 repairs, renovations, and other services essential to the
 12 maintenance of any enclosed indoor place, does not transform a
 13 nonworkplace into a workplace.

14 Section 3. Section 386.203, Florida Statutes, is
 15 amended to read:

16 386.203 Definitions.--As used in this part, the term:

17 (1) "Commercial use of a private residence" means any
 18 time during which the owner, lessee, or other person occupying
 19 or controlling the use of a private residence is furnishing in
 20 the private residence, or causing or allowing to be furnished
 21 in the private residence, child care, adult care, or health
 22 care, or any combination thereof, and receiving or expecting
 23 to receive compensation therefor.

24 (2) "Common area" means a hallway, corridor, lobby,
 25 aisle, water fountain area, restroom, stairwell, entryway, or
 26 conference room in a public place.

27 (3) "Department" means the Department of Health.

28 (4) "Designated smoking room" means a room complying
 29 with the requirements in ss. 386.205 and 386.206.

30 (5) "Designated smoking quest room" means a sleeping
 31 room or directly associated private area, including, but not

Bill No. HB 1757

Amendment No. Barcode 220674

1 limited to, a bathroom, living room, or kitchen area, if
2 applicable, which is rented to a guest for his or her
3 exclusive transient occupancy at a public lodging
4 establishment and which is designated by the operator of the
5 public lodging establishment as a room in which smoking may be
6 permitted.

7 (6) "Enclosed indoor workplace" means a workplace that
8 is predominantly or totally bounded on all sides and above by
9 physical barriers.

10 (a) Except as provided in paragraph (b), the term does
11 not include a workplace that does not have physical barriers
12 of any kind from above, a workplace that is totally bounded
13 from above but of which at least 25 percent of contiguous
14 surface area of the sides is without a physical barrier of any
15 kind separating the workplace from the exterior of the
16 building within which the workplace is located, or a workplace
17 that is bounded on all sides and above by physical barriers
18 consisting of no more than 50 percent of the total bounded
19 surface area of the workplace.

20 (b) The term does not apply to a workplace in a
21 restaurant that is bounded on all sides and above by physical
22 barriers consisting of no more than 25 percent of the total
23 bounded surface area of the workplace. A restaurant must
24 provide a ventilation system to significantly reduce the
25 accumulation of second-hand tobacco smoke in any unenclosed
26 workplace of the restaurant in which tobacco smoking is
27 permitted.

28 (c) The term also does not include a smoking room
29 designated under s. 386.205.

30 (7) "Essential services" means those services that are
31 essential to the maintenance of any enclosed indoor room,

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 regardless of whether the room is a workplace, including, but
2 not limited to, janitorial services, repairs, or renovations.

3 (8) "Government building" means a building or portion
4 of a building owned by or leased to the state or a political
5 subdivision of the state and used for governmental purposes.

6 (9) "Membership organization" means a charitable,
7 nonprofit, or veterans' organization that holds a current
8 exemption from federal taxation under s. 501(c)(3), s.
9 501(c)(4), s. 501(c)(7), s. 501(c)(8), or s. 501(c)(10), s.
10 501(c)(19), or s. 501(d) of the Internal Revenue Code or a
11 religious organization that is not required to apply for
12 recognition of its exemption from federal taxation under s.
13 501(c)(3) of the Internal Revenue Code.

14 (10) "Package store" means a workplace in which
15 alcoholic beverages are sold only for consumption off the
16 premises and which shares an entryway or common indoor area
17 with a stand-alone bar.

18 (11) "Physical barrier" includes an uncovered opening,
19 a screened or otherwise partially covered opening, or an open
20 or closed window, jalousie, or door.

21 (12) "Public lodging establishment" has the same
22 meaning ascribed in s. 509.013.

23 (13)(1) "Public place" means the following enclosed,
24 indoor areas used by the general public:

25 (a) Government buildings;

26 (b) Public means of mass transportation and their
27 associated terminals not subject to federal smoking
28 regulation;

29 (c) Elevators;

30 (d) Hospitals;

31 (e) Nursing homes;

Bill No. HB 1757

Amendment No. ____ Barcode 220674

- 1 (f) Educational facilities;
- 2 (g) Public school buses;
- 3 (h) Libraries;
- 4 (i) Courtrooms;
- 5 (j) Jury waiting and deliberation rooms;
- 6 (k) Museums;
- 7 (l) Theaters;
- 8 (m) Auditoriums;
- 9 (n) Arenas;
- 10 (o) Recreational facilities;
- 11 (p) Restaurants;
- 12 (q) Retail stores, ~~except a retail store the primary~~
- 13 ~~business of which is the sale of tobacco or tobacco related~~
- 14 ~~products;~~
- 15 (r) Grocery stores;
- 16 (s) Buildings that contain an enclosed indoor
- 17 workplace ~~Places of employment;~~
- 18 (t) Health care facilities;
- 19 (u) Day care centers; and
- 20 (v) Common areas of retirement homes and condominiums.
- 21 ~~(2) "Government building" means any building or any~~
- 22 ~~portion of any building owned by or leased to the state or any~~
- 23 ~~political subdivision thereof and used for governmental~~
- 24 ~~purposes.~~
- 25 ~~(14)(3)~~ "Public meeting" means all meetings open to
- 26 the public, including meetings of homeowner, condominium, or
- 27 renter or tenant associations unless such meetings are held in
- 28 a private residence.
- 29 (15) "Second-hand smoke" means smoke emitted from
- 30 lighted, smoldering, or burning tobacco when the smoker is not
- 31 inhaling; smoke emitted at the mouthpiece during puff drawing;

Bill No. HB 1757

Amendment No. Barcode 220674

1 and smoke exhaled by the smoker.

2 (16)(4) "Smoking" means inhaling, exhaling, burning,
 3 carrying, or possessing a lighted tobacco product, including
 4 cigarettes, cigars, pipe tobacco possession of a lighted
 5 cigarette, lighted cigar, lighted pipe, or any other lighted
 6 tobacco product.

7 (17)(5) "Smoking room area" means a any designated
 8 room area meeting the requirements of ss. 386.205 and 386.206.

9 (18) "Work" means performing an employment or
 10 employment-type service for, or at the request of, another
 11 person or a public or private entity, regardless of whether
 12 the employment or employment-type service is performed for
 13 compensation or on a full-time or part-time basis, whether
 14 legally or not. The term includes employment or
 15 employment-type service performed by an employee, independent
 16 contractor, agent, partner, proprietor, manager, officer,
 17 director, apprentice, trainee, associate, servant, volunteer,
 18 or similar person. The term applies to employment or
 19 employment-type service performed at any given time. The term
 20 does not include noncommercial activities performed by members
 21 of a membership organization.

22 (19) "Workplace" means a room where one or more
 23 persons perform work. The term does not apply to an entire
 24 building, but applies only to those rooms where work is
 25 performed. This section applies to all such workplaces without
 26 regard to whether work is occurring at any given time. The
 27 term does not include:

28 (a) A smoking room designated under s. 386.205.

29 (b) Any facility owned or leased by and used
 30 exclusively for noncommercial activities performed by the
 31 members and guests of a membership organization, including

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 social gatherings, meetings, dining, and dances, if no person
2 or persons are engaged in work as defined in subsection (18).
3 Each facility in which tobacco smoking is permitted during the
4 activities of a membership organization must comply with the
5 signage requirements for a designated smoking room in s.
6 386.206.

7 ~~(6) "Common area" means any hallway, corridor, lobby,~~
8 ~~aisle, water fountain area, restroom, stairwell, entryway, or~~
9 ~~conference room in any public place.~~

10 ~~(7) "Department" means the Department of Health.~~

11 ~~(8) "Division" means the Division of Hotels and~~
12 ~~Restaurants of the Department of Business and Professional~~
13 ~~Regulation.~~

14 Section 4. Section 386.204, Florida Statutes, is
15 amended to read:

16 386.204 Prohibition.--

17 (1) ENCLOSED INDOOR WORKPLACES.--A person may not
18 smoke in an enclosed indoor workplace, except as otherwise
19 provided in s. 386.2045.

20 (2) PUBLIC PLACES.--A person may not smoke in a public
21 place or at a public meeting except in a ~~designated~~ smoking
22 room designated under s. 386.205 areas. ~~These prohibitions do~~
23 not apply in cases in which an entire room or hall is used for
24 a private function and seating arrangements are under the
25 control of the sponsor of the function and not of the
26 proprietor or person in charge of the room or hall.

27 (3) OTHER PROHIBITED AREAS.--A person may not smoke
28 within 10 feet of the entryway to a building that contains an
29 enclosed indoor workplace or within 10 feet of intake
30 equipment for a heating, ventilating, or air conditioning
31 system (HVAC system) for a building that contains an enclosed

Bill No. HB 1757

Amendment No. Barcode 220674

1 indoor workplace. An outdoor entryway to a public
2 transportation facility, including, but not limited to,
3 railroad stations, bus stations, ship ports, ferry terminals,
4 roadside welcome stations, highway service plazas, airports
5 served by regular passenger service, and highway rest stations
6 is exempt from the prohibition in this subsection.

7 Section 5. Section 386.2045, Florida Statutes, is
8 created to read:

9 386.2045 Enclosed indoor workplaces; specific
10 exceptions.--Notwithstanding s. 386.204(1), tobacco smoking
11 may be permitted in each of the following places:

12 (1) PRIVATE RESIDENCE.--A private residence whenever
13 it is not being used commercially to provide child care, adult
14 care, or health care, or any combination thereof.

15 (2) RETAIL TOBACCO SHOP.--Any enclosed indoor
16 workplace dedicated to or predominantly for the retail sale of
17 tobacco, tobacco products, and accessories for such products,
18 in which the sale of other products or services is merely
19 incidental. Any enclosed indoor workplace of a business that
20 manufactures, imports, or distributes tobacco products or of a
21 tobacco leaf dealer is a business dedicated to or
22 predominantly for the retail sale of tobacco and tobacco
23 products when, as a necessary and integral part of the process
24 of making, manufacturing, importing, or distributing a tobacco
25 product for the eventual retail sale of such tobacco or
26 tobacco product, tobacco is heated, burned, or smoked or a
27 lighted tobacco product is tested.

28 (3) DESIGNATED SMOKING GUEST ROOM.--A designated
29 smoking guest room at a public lodging establishment.

30 (4) STAND-ALONE BAR.--Any place of business that
31 during all times of operation is devoted predominantly or

Bill No. HB 1757

Amendment No. Barcode 220674

1 totally to serving alcoholic beverages, intoxicating
 2 beverages, or intoxicating liquors, or any combination
 3 thereof, for consumption on the licensed premises; in which
 4 the serving of food, if any, is merely incidental to the
 5 consumption of any such beverage; and that is not located
 6 within, and does not share any common entryway or common
 7 indoor area with, any other enclosed indoor workplace,
 8 including any business for which the sale of food or any other
 9 product or service is more than an incidental source of gross
 10 revenue. A stand-alone bar may share an entryway or common
 11 indoor area with a package store. A business must not derive
 12 more than 25 percent of its gross revenue from the sale of
 13 food.

14 (5) SMOKING-CESSATION PROGRAM, MEDICAL RESEARCH, OR
 15 SCIENTIFIC RESEARCH.--Any enclosed indoor workplace or public
 16 place, to the extent that tobacco smoking is an integral part
 17 of a smoking-cessation program, medical research, or
 18 scientific research. Each room in which tobacco smoking is
 19 permitted must comply with the signage requirements for a
 20 designated smoking room in s. 386.206.

21 (6) EXPRESSIVE ACTIVITY.--Any enclosed indoor
 22 workplace or public place, to the extent that tobacco smoking
 23 is an integral part of expressive speech or activity,
 24 including, but not limited to, a production by the
 25 entertainment industry as defined in s. 288.125, and an
 26 exhibition of the arts as defined in s. 265.283. Each room in
 27 which tobacco smoking is permitted as part of an expressive
 28 speech or activity must comply with the signage requirements
 29 for a designated smoking room in s. 386.206.

30 (7) STATE CORRECTIONAL FACILITIES.--Any state
 31 correctional facility to the extent that tobacco smoking is

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 not prohibited under s. 944.115.

2 Section 6. Section 386.205, Florida Statutes, is
3 amended to read:

4 386.205 Designation of smoking rooms ~~areas~~.--

5 (1) A smoking ~~room~~ ~~areas~~ may be designated by the
6 person in charge of a public place. ~~Each designated smoking~~
7 room must conform to the following requirements:

8 (a) Work, other than essential services defined in s.
9 386.203, must not be performed in the room at any given time.

10 (b) Tobacco smoking must not be permitted in the room
11 for at least 30 minutes before any essential services are
12 performed in the room.

13 (c) Each smoking room must be enclosed by physical
14 barriers that are impenetrable by second-hand tobacco smoke
15 and prevent the escape of second-hand tobacco smoke into a
16 common area or an enclosed indoor workplace.

17 (d) Each smoking room must remove second-hand tobacco
18 smoke from the room using a mechanical air purification system
19 that removes no less than 99.97 percent of particles that are
20 .3 microns and larger and must not share a heating,
21 ventilating, or air-conditioning system (HVAC system) with any
22 enclosed indoor workplace.

23 (e) Each smoking room must comply with the signage
24 requirements in s. 386.206. ~~If a smoking area is designated,~~
25 ~~existing physical barriers and ventilation systems shall be~~
26 ~~used to minimize smoke in adjacent nonsmoking areas. This~~
27 ~~provision shall not be construed to require fixed structural~~
28 ~~or other physical modifications in providing these areas or to~~
29 ~~require operation of any existing heating, ventilating, and~~
30 ~~air-conditioning system (HVAC system) in any manner which~~
31 ~~decreases its energy efficiency or increases its electrical~~

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 ~~demand, or both, nor shall this provision be construed to~~
2 ~~require installation of new or additional HVAC systems.~~

3 (2)(a) A smoking room ~~area~~ may not be designated in an
4 elevator, school bus, public means of mass transportation
5 subject only to state smoking regulation, restroom, hospital,
6 nursing home, doctor's or dentist's waiting room, health care
7 facility, library, courtroom, jury waiting and deliberation
8 room, museum, theater, auditorium, arena, recreational
9 facility, retail store except as provided in s. 385.2045,
10 grocery store, county health department, day care center,
11 school or other educational facility, or any common area as
12 defined in s. 386.203. ~~However, a patient's room in a~~
13 ~~hospital, nursing home, or other health care facility may be~~
14 ~~designated as a smoking area if such designation is ordered by~~
15 ~~the attending physician and agreed to by all patients assigned~~
16 ~~to that room.~~

17 (b) ~~Notwithstanding anything in this part to the~~
18 ~~contrary, no more than one-half of the rooms in any health~~
19 ~~care facility may be designated as smoking areas.~~

20 (3) ~~In a workplace where there are smokers and~~
21 ~~nonsmokers, employers shall develop, implement, and post a~~
22 ~~policy regarding designation of smoking and nonsmoking areas.~~
23 ~~Such a policy shall take into consideration the proportion of~~
24 ~~smokers and nonsmokers. Employers who make reasonable efforts~~
25 ~~to develop, implement, and post such a policy shall be deemed~~
26 ~~in compliance. An entire area may be designated as a smoking~~
27 ~~area if all workers routinely assigned to work in that area at~~
28 ~~the same time agree. With respect to the square footage in any~~
29 ~~public place as described in subsection (4), this square~~
30 ~~footage shall not include private office work space which is~~
31 ~~not a common area as defined in s. 386.203(6) and which is~~

Bill No. HB 1757Amendment No. Barcode 220674

1 ~~ordinarily inaccessible to the public.~~

2 ~~(4)(a) No more than one-half of the total square~~
3 ~~footage in any public place within a single enclosed indoor~~
4 ~~area used for a common purpose shall be reserved and~~
5 ~~designated as a smoking area.~~

6 ~~(b) The square footage limitation set forth in~~
7 ~~paragraph (a) shall not apply to any restaurant subject to~~
8 ~~this part. With respect to such restaurants:~~

9 ~~1. No more than 50 percent of the seats existing in a~~
10 ~~restaurant's dining room at any time shall be located in an~~
11 ~~area designated as a smoking area.~~

12 ~~2. Effective October 1, 2001, no more than 35 percent~~
13 ~~of the seats existing in a restaurant's dining room at any~~
14 ~~time shall be located in an area designated as a smoking area.~~

15 ~~(3)(5) A smoking room area may not contain common~~
16 ~~areas that ~~which~~ are expected to be used by the public.~~

17 ~~(4)(6) Each state agency may adopt rules for~~
18 ~~administering this section which take into consideration the~~
19 ~~provisions of this part.~~

20 Section 7. Section 386.206, Florida Statutes, is
21 amended to read:

22 386.206 Posting of signs.--The person in charge of a
23 public place shall conspicuously post, or cause to be posted,
24 outside the entryway of and in any room ~~area~~ designated as a
25 smoking room ~~area~~ signs stating that smoking is permitted in
26 that room ~~such~~ area. Each sign posted under ~~pursuant to~~ this
27 section must ~~shall~~ have letters of reasonable size which can
28 be easily read. The color, design, and precise place of
29 posting of these ~~such~~ signs shall be left to the discretion of
30 the person in charge of the premises. In order to increase
31 public awareness, the person in charge of a public place may,

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 at his or her discretion, also post "NO SMOKING EXCEPT IN
2 DESIGNATED SMOKING ROOMS AREAS" signs as appropriate.

3 Section 8. Section 386.207, Florida Statutes, is
4 amended to read:

5 386.207 Administration; enforcement; civil penalties;
6 exceptions ~~exemptions~~.--

7 (1) The department and the Department of Business and
8 Professional Regulation ~~or the division~~ shall enforce this
9 part ss. 386.205 and 386.206 and to implement such enforcement
10 shall adopt, in consultation with the Department of
11 Agriculture and Consumer Services and the State Fire Marshal,
12 rules specifying procedures to be followed by enforcement
13 personnel in investigating complaints and notifying alleged
14 violators, rules defining types of cases for which exceptions
15 ~~exemptions~~ may be granted, and rules specifying procedures by
16 which appeals may be taken by aggrieved parties.

17 (2) Public agencies responsible for the management and
18 maintenance of government buildings shall report observed
19 violations to the department and the Department of Business
20 and Professional Regulation ~~or division~~. The State Fire
21 Marshal shall report to the department and the Department of
22 Business and Professional Regulation ~~or division~~ observed
23 violations of this part ss. 386.205 and 386.206 found during
24 its periodic inspections conducted under ~~pursuant to~~ its
25 regulatory authority. The department and the Department of
26 Business and Professional Regulation ~~or the division~~, upon
27 notification of observed violations of this part ss. 386.205
28 ~~and 386.206~~, shall issue to the proprietor or other person in
29 charge of such public place or enclosed indoor workplace a
30 notice to comply with this part ss. 386.205 and 386.206. If
31 the ~~such~~ person fails to comply within 30 days after receipt

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 of ~~the such~~ notice, the department ~~and the Department of~~
 2 Business and Professional Regulation ~~or the division~~ shall
 3 assess a civil penalty against him or her not to exceed ~~\$1,000~~
 4 ~~\$100~~ for the first violation and not to exceed ~~\$2,500~~ ~~\$500~~ for
 5 each subsequent violation. The imposition of ~~the such~~ fine
 6 ~~must shall~~ be in accordance with ~~the provisions of~~ chapter
 7 120. If a person refuses to comply with ~~this part ss. 386.205~~
 8 ~~and 386.206~~, after having been assessed such penalty, the
 9 department ~~and the Department of Business and Professional~~
 10 Regulation ~~or the division~~ may file a complaint in the circuit
 11 court of the county in which ~~the such~~ public place ~~or enclosed~~
 12 indoor workplace is located to require compliance.

13 ~~(3) A person may request an exemption from ss. 386.205~~
 14 ~~and 386.206 by applying to the department or the division.~~
 15 ~~The department or the division may grant exemptions on a~~
 16 ~~case-by-case basis where it determines that substantial good~~
 17 ~~faith efforts have been made to comply or that emergency or~~
 18 ~~extraordinary circumstances exist.~~

19 ~~(3)(4)~~ All fine moneys collected pursuant to this
 20 section shall be used by the department for children's medical
 21 services programs pursuant to the provisions of part I of
 22 chapter 391.

23 Section 9. Section 386.208, Florida Statutes, is
 24 amended to read:

25 386.208 Penalties.--Any person who violates s. 386.204
 26 commits a noncriminal violation as defined ~~provided for~~ in s.
 27 775.08(3), punishable by a fine of not more than ~~\$1,000~~ ~~\$100~~
 28 for the first violation and not more than ~~\$2,500~~ ~~\$500~~ for each
 29 subsequent violation. Jurisdiction shall be with the
 30 appropriate county court.

31 Section 10. Section 386.209, Florida Statutes, is

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 reenacted to read:

2 386.209 Regulation of smoking preempted to
3 state.--This part expressly preempts regulation of smoking to
4 the state and supersedes any municipal or county ordinance on
5 the subject.

6 Section 11. Section 386.211, Florida Statutes, is
7 amended to read:

8 386.211 Public announcements in mass transportation
9 terminals.--Announcements about the Florida Clean Indoor Air
10 Act shall be made regularly over public address systems in
11 terminals of public transportation carriers located in
12 metropolitan statistical areas with populations over 230,000
13 according to the latest census. These announcements shall be
14 made at least every 30 minutes and shall be made in
15 appropriate languages. Each announcement must ~~shall~~ include a
16 statement to the effect that Florida is a clean indoor air
17 state and that smoking is allowed only in designated smoking
18 rooms ~~areas~~.

19 Section 12. Section 386.212, Florida Statutes, is
20 amended to read:

21 386.212 Smoking prohibited near school property;
22 penalty.--

23 (1) It is unlawful for any person under 18 years of
24 age to smoke tobacco in, on, or within 1,000 feet of the real
25 property comprising a public or private elementary, middle, or
26 secondary school between the hours of 6 a.m. and midnight.
27 This section does ~~shall~~ not apply to any person occupying a
28 moving vehicle or within a private residence.

29 (2) A law enforcement officer may issue a citation in
30 such form as prescribed by a county or municipality to any
31 person violating the provisions of this section. Any such

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 citation must contain:

- 2 (a) The date and time of issuance.
- 3 (b) The name and address of the person cited.
- 4 (c) The date and time the civil infraction was
5 committed.
- 6 (d) The statute violated.
- 7 (e) The facts constituting the violation.
- 8 (f) The name and authority of the law enforcement
9 officer.
- 10 (g) The procedure for the person to follow to pay the
11 civil penalty, to contest the citation, or to appear in court.
- 12 (h) The applicable civil penalty if the person elects
13 not to contest the citation.
- 14 (i) The applicable civil penalty if the person elects
15 to contest the citation.

16 (3) Any person issued a citation pursuant to this
17 section shall be deemed to be charged with a civil infraction
18 punishable by a maximum civil penalty not to exceed \$25, or 50
19 hours of community service or, where available, successful
20 completion of a school-approved anti-tobacco "alternative to
21 suspension" program.

22 (4) Any person who fails to comply with the directions
23 on the citation shall be deemed to waive his or her right to
24 contest the citation and an order to show cause may be issued
25 by the court.

26 Section 13. Section 386.2125, Florida Statutes, is
27 created to read:

28 386.2125 Rulemaking.--The department shall, in
29 consultation with the State Fire Marshal, the Department of
30 Agriculture and Consumer Services, and the Department of
31 Business and Professional Regulation, have the authority to

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
2 the provisions of this part.

3 Section 14. Section 386.213, Florida Statutes, is
4 created to read:

5 386.213 Effect of invalidity; penalties.--If a term
6 defined in s. 386.203 or an exception provided in s. 386.2045
7 is held invalid:

8 (1) The term or exception must be reviewed by the
9 Legislature at the next regular session.

10 (2) The penalties provided in ss. 386.207 and 386.208
11 may not be applied to a place described in the term or
12 exception until the term or exception is repealed and the
13 Legislature reenacts a penalty.

14 Section 15. If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 invalidity does not affect other provisions or applications of
17 the act that can be given effect without the invalid provision
18 or application, and to this end the provisions of this act are
19 declared severable.

20 Section 16. This act shall take effect July 1, 2003.

21
22

23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 Delete everything before the enacting clause delete

26

27 and insert:

28 A bill to be entitled
29 An act relating to the Florida Clean Indoor Air
30 Act; implementing s. 20, Art. X of the State
31 Constitution; reenacting s. 386.201, F.S.,

Bill No. HB 1757

Amendment No. ____ Barcode 220674

1 relating to a short title; amending s. 386.202,
2 F.S.; providing legislative intent and
3 findings; amending s. 386.203, F.S.; providing
4 definitions; amending s. 386.204, F.S.;
5 prohibiting smoking in certain places;
6 requiring the posting of signs; creating s.
7 386.2045, F.S.; establishing specific
8 exceptions where smoking is permitted; amending
9 s. 386.205, F.S.; providing for designated
10 smoking rooms; providing certain exceptions;
11 requiring state agencies to adopt rules;
12 amending s. 386.206, F.S.; providing
13 requirements for the posting of signs in rooms
14 designated as smoking rooms; amending s.
15 386.207, F.S.; providing for enforcement of the
16 act by the Department of Business and
17 Professional Regulation and the Department of
18 Health; providing penalties; providing for the
19 use of moneys collected as fines under the act;
20 amending s. 386.208, F.S.; providing additional
21 penalties; reenacting s. 386.209, F.S.,
22 relating to preemption by the state of the
23 regulation of smoking; amending s. 386.211,
24 F.S.; providing for announcements at certain
25 facilities; amending s. 386.212, F.S.;
26 prohibiting smoking near school property;
27 creating s. 386.2125, F.S.; requiring the
28 Department of Health to adopt rules; creating
29 s. 386.213, F.S.; providing for effect of any
30 invalidity of certain provisions; providing for
31 severability; providing an effective date.