

Bill No. CS for CS for SB 742

Amendment No. ____ Barcode 020576

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

.
. .
. .
. .
. .
. .

Senators Diaz de la Portilla and Smith moved the following amendment:

Senate Amendment (with title amendment)

On page 14, line 1, through page 18, line 19, delete those lines

and insert:

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

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

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

Bill No. CS for CS for SB 742

Amendment No. ____ Barcode 020576

1 which appeals may be taken by aggrieved parties.

2 (2) Public agencies responsible for the management and
3 maintenance of government buildings shall report observed
4 violations to the department and the Department of Business
5 and Professional Regulation ~~or division~~. The State Fire
6 Marshal shall report to the department and the Department of
7 Business and Professional Regulation ~~or division~~ observed
8 violations of this part ss. 386.205 and 386.206 found during
9 its periodic inspections conducted under ~~pursuant to~~ its
10 regulatory authority. The department and the Department of
11 Business and Professional Regulation ~~or the division~~, upon
12 notification of observed violations of this part ss. 386.205
13 ~~and 386.206~~, shall issue to the proprietor or other person in
14 charge of such public place or enclosed indoor workplace a
15 notice to comply with this part ss. 386.205 and 386.206. If
16 ~~the such~~ person fails to comply within 30 days after receipt
17 of ~~the such~~ notice, the department and the Department of
18 Business and Professional Regulation ~~or the division~~ shall
19 assess a civil penalty against the person of not less than
20 ~~\$500 and him or her~~ not to exceed ~~\$1,000~~ ~~\$100~~ for the first
21 violation and not less than \$1000 and not to exceed ~~\$2,500~~
22 ~~\$500~~ for each subsequent violation. The imposition of ~~the such~~
23 fine ~~must~~ ~~shall~~ be in accordance with ~~the provisions of~~
24 chapter 120. If a person refuses to comply with this part ss.
25 ~~386.205 and 386.206~~, after having been assessed such penalty,
26 the department and the Department of Business and Professional
27 Regulation ~~or the division~~ may file a complaint in the circuit
28 court of the county in which ~~the such~~ public place or enclosed
29 indoor workplace is located to require compliance.

30 (3) ~~A person may request an exemption from ss. 386.205~~
31 ~~and 386.206 by applying to the department or the division.~~

Bill No. CS for CS for SB 742

Amendment No. ____ Barcode 020576

1 ~~The department or the division may grant exemptions on a~~
2 ~~case-by-case basis where it determines that substantial good~~
3 ~~faith efforts have been made to comply or that emergency or~~
4 ~~extraordinary circumstances exist.~~

5 ~~(3)(4)~~ All fine moneys collected pursuant to this
6 section shall be used by the department for children's medical
7 services programs pursuant to the provisions of part I of
8 chapter 391.

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

11 386.208 Penalties.--Any person who violates s. 386.204
12 commits a noncriminal violation as defined ~~provided for~~ in s.
13 775.08(3), punishable by a fine of not less than \$500 and not
14 more than \$1,000~~\$100~~ for the first violation and not less
15 than \$1000 and not more than~~\$2,500~~\$500 for each subsequent
16 violation. Jurisdiction shall be with the appropriate county
17 court.

18 Section 10. Section 386.209, Florida Statutes, is
19 reenacted to read:

20 386.209 Regulation of smoking preempted to
21 state.--This part expressly preempts regulation of smoking to
22 the state and supersedes any municipal or county ordinance on
23 the subject.

24 Section 11. Section 386.211, Florida Statutes, is
25 amended to read:

26 386.211 Public announcements in mass transportation
27 terminals.--Announcements about the Florida Clean Indoor Air
28 Act shall be made regularly over public address systems in
29 terminals of public transportation carriers located in
30 metropolitan statistical areas with populations over 230,000
31 according to the latest census. These announcements shall be

Bill No. CS for CS for SB 742

Amendment No. ____ Barcode 020576

1 made at least every 30 minutes and shall be made in
2 appropriate languages. Each announcement must ~~shall~~ include a
3 statement to the effect that Florida is a clean indoor air
4 state and that smoking is not allowed except as provided in
5 this part ~~only in designated areas~~.

6 Section 12. Section 386.212, Florida Statutes, is
7 amended to read:

8 386.212 Smoking prohibited near school property;
9 penalty.--

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

16 (2) A law enforcement officer may issue a citation in
17 such form as prescribed by a county or municipality to any
18 person violating the provisions of this section. Any such
19 citation must contain:

- 20 (a) The date and time of issuance.
- 21 (b) The name and address of the person cited.
- 22 (c) The date and time the civil infraction was
23 committed.
- 24 (d) The statute violated.
- 25 (e) The facts constituting the violation.
- 26 (f) The name and authority of the law enforcement
27 officer.
- 28 (g) The procedure for the person to follow to pay the
29 civil penalty, to contest the citation, or to appear in court.
- 30 (h) The applicable civil penalty if the person elects
31 not to contest the citation.

Bill No. CS for CS for SB 742

Amendment No. ____ Barcode 020576

1 (i) The applicable civil penalty if the person elects
2 to contest the citation.

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

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

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

15 386.2125 Rulemaking.--The department shall, in
16 consultation with the State Fire Marshal, the Department of
17 Agriculture and Consumer Services, and the Department of
18 Business and Professional Regulation, have the authority to
19 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
20 the provisions of this part.

21 Section 14. If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 invalidity does not affect other provisions or applications of
24 the act that can be given effect without the invalid provision
25 or application, and to this end the provisions of this act are
26 declared severable.

27
28

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

30 And the title is amended as follows:

31 On page 2, lines 1 through 3, delete those lines

Bill No. CS for CS for SB 742

Amendment No. ____ Barcode 020576

1 and insert:

2 Department of Health to adopt rules; providing
3 for

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