

Bill No. CS for CS for SB 742

Amendment No. \_\_\_\_ Barcode 515360

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

2/AD/2R  
04/30/2003 11:42 AM

.  
. .  
. .  
. .  
. .  
. .

---

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

**Senate Amendment**

On page 8, line 8, through page 13, line 30, delete those lines

and insert:

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

386.204 Prohibition.--

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

(2) PUBLIC PLACES.--A person may not smoke in a public place or at a public meeting except as provided in this part  
~~in designated smoking areas. These prohibitions do not apply in cases in which an entire room or hall is used for a private function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the room or hall.~~

Bill No. CS for CS for SB 742

Amendment No. \_\_\_\_ Barcode 515360

1           (3) OTHER PROHIBITED AREAS.--A person may not smoke  
2 within 10 feet of the entryway to a building that contains an  
3 enclosed indoor workplace or within 10 feet of intake  
4 equipment for a heating, ventilating, or air conditioning  
5 system (HVAC system) for a building that contains an enclosed  
6 indoor workplace. An outdoor entryway to a public  
7 transportation facility, including, but not limited to,  
8 railroad stations, bus stations, ship ports, ferry terminals,  
9 roadside welcome stations, highway service plazas, airports  
10 served by regular passenger service, and highway rest stations  
11 is exempt from the prohibition in this subsection.

12           Section 5. Section 386.2045, Florida Statutes, is  
13 created to read:

14           386.2045 Enclosed indoor workplaces; specific  
15 exceptions.--Notwithstanding s. 386.204(1), tobacco smoking  
16 may be permitted in each of the following places:

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

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

Bill No. CS for CS for SB 742

Amendment No. \_\_\_\_ Barcode 515360

1 lighted tobacco product is tested.

2 (3) DESIGNATED SMOKING GUEST ROOM.--A designated  
3 smoking quest room at a public lodging establishment.

4 (4) STAND-ALONE BAR.--Any place of business that  
5 during all times of operation is devoted predominantly or  
6 totally to serving alcoholic beverages, intoxicating  
7 beverages, or intoxicating liquors, or any combination  
8 thereof, for consumption on the licensed premises; in which  
9 the serving of food, if any, is merely incidental to the  
10 consumption of any such beverage; and the licensed premises is  
11 not located within, and does not share any common entryway or  
12 common indoor area with, any other enclosed indoor workplace,  
13 including any business for which the sale of food or any other  
14 product or service is more than an incidental source of gross  
15 revenue. A business must not derive more than 18 percent of  
16 its gross revenue from the sale of food.

17 (5) SMOKING-CESSATION PROGRAM, MEDICAL RESEARCH, OR  
18 SCIENTIFIC RESEARCH.--Any enclosed indoor workplace or public  
19 place, to the extent that tobacco smoking is an integral part  
20 of a smoking-cessation program, medical research, or  
21 scientific research. Each room in which tobacco smoking is  
22 permitted must comply with the signage requirements in s.  
23 386.206.

24 (6) ENTERTAINMENT INDUSTRY.--Any enclosed indoor  
25 workplace or public place, to the extent that tobacco smoking  
26 is an part of a theatrical, commercial advertising, music  
27 video, television, or motion picture performance. Each room  
28 in which tobacco smoking is permitted as part of a performance  
29 must comply with the signage requirements in s. 386.206.

30 Section 6. Section 386.205, Florida Statutes, is  
31 amended to read:

Bill No. CS for CS for SB 742

Amendment No.      Barcode 515360

1           386.205 Designation of smoking ~~rooms~~ areas.--  
2           (1) A smoking room ~~areas~~ may be designated by the  
3 person in charge of an airport in-transit lounge under the  
4 authority and control of the Bureau of Customs and Border  
5 Protection of the United States Department of Homeland  
6 Security ~~a public place~~. A smoking room may be designated in  
7 an airport in-transit lounge under the authority and control  
8 of the Bureau of Customs and Border Protection of the United  
9 States Department of Homeland Security. A smoking room may not  
10 be designated in an elevator, restroom, or any common area as  
11 defined in s. 386.203. Each designated smoking room must  
12 conform to the following requirements:

13           (a) Work, other than essential services defined in s.  
14 386.203, must not be performed in the room at any given time.

15           (b) Tobacco smoking must not be permitted in the room  
16 while any essential services are being performed in the room.

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

21           (d) Each designated smoking room must exhaust tobacco  
22 smoke directly to the outside and away from air intake ducts,  
23 and be maintained under negative pressure, with respect to  
24 surrounding spaces, sufficient to contain tobacco smoke within  
25 the designated room.

26           (e) Each smoking room must comply with the signage  
27 requirements in s. 386.206. If a smoking area is designated,  
28 existing physical barriers and ventilation systems shall be  
29 used to minimize smoke in adjacent nonsmoking areas. This  
30 provision shall not be construed to require fixed structural  
31 or other physical modifications in providing these areas or to

Bill No. CS for CS for SB 742

Amendment No. \_\_\_\_ Barcode 515360

1 ~~require operation of any existing heating, ventilating, and~~  
2 ~~air-conditioning system (HVAC system) in any manner which~~  
3 ~~decreases its energy efficiency or increases its electrical~~  
4 ~~demand, or both, nor shall this provision be construed to~~  
5 ~~require installation of new or additional HVAC systems.~~

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

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

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

Bill No. CS for CS for SB 742

Amendment No.      Barcode 515360

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

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

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

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

14           ~~(3)(5) A smoking room ~~area~~ may not contain common~~  
15 ~~areas that ~~which~~ are expected to be used by the public.~~

16           ~~(4)(6) Each state agency may adopt rules for~~  
17 ~~administering this section which take into consideration the~~  
18 ~~provisions of this part.~~

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

21           386.206 Posting of signs.--The person in charge of a  
22 public place shall conspicuously post, or cause to be posted,  
23 in any public place ~~area designated as a smoking area~~ signs  
24 stating that smoking is not permitted in the public place ~~such~~  
25 ~~area~~. Each sign posted under ~~pursuant to~~ this section must  
26 ~~shall~~ have letters of reasonable size which can be easily  
27 read. The color, design, and precise place of posting of  
28 these ~~such~~ signs shall be left to the discretion of the person  
29 in charge of the premises. ~~In order to increase public~~  
30 ~~awareness, the person in charge of a public place may, at his~~  
31 ~~or her discretion, also post "NO SMOKING EXCEPT IN DESIGNATED~~

Bill No. CS for CS for SB 742

Amendment No. \_\_\_\_ Barcode 515360

1 ~~>AREAS" signs as appropriate.~~

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