

By the Committee on Regulated Industries; and Senator Diaz de la Portilla

315-1927-03

1 A bill to be entitled
2 An act relating to the Florida Clean Indoor Air
3 Act; implementing s. 20, Art. X of the State
4 Constitution; reenacting 386.201, F.S.,
5 relating to a short title; amending s. 386.202,
6 F.S.; providing legislative intent; amending s.
7 386.203, F.S.; providing definitions; amending
8 s. 386.204, F.S.; prohibiting smoking in
9 certain places; requiring the posting of signs;
10 creating s. 386.2045, F.S.; establishing
11 specific exceptions where smoking is permitted;
12 amending s. 386.205, F.S.; providing for
13 designated smoking rooms; providing certain
14 exceptions; requiring state agencies to adopt
15 rules; amending s. 386.206, F.S.; providing
16 requirements for the posting of signs in rooms
17 designated as smoking rooms; amending s.
18 386.207, F.S.; providing for enforcement of the
19 act by the Department of Business and
20 Professional Regulation, the Department of
21 Health, and the Division of Hotels and
22 Restaurants of the Department of Business and
23 Professional Regulation; providing penalties;
24 providing for the use of moneys collected as
25 fines under the act; amending s. 386.208, F.S.;
26 providing additional penalties; reenacting s.
27 386.209, F.S., relating to preemption by the
28 state of the regulation of smoking; amending s.
29 386.211, F.S.; providing for announcements at
30 certain facilities; amending s. 386.212, F.S.;
31 prohibiting smoking near school property;

1 creating s. 386.2125, F.S.; requiring the
2 Department of Business and Professional
3 Regulation to adopt rules; creating s. 386.213,
4 F.S.; providing for effect of any invalidity of
5 the act; providing an effective date.

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

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

11 386.201 Short title.--This part may be cited as the
12 "Florida Clean Indoor Air Act."

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

15 386.202 Legislative intent.--The purpose of this part
16 is to protect people from the public health hazards of
17 ~~second-hand, comfort, and environment by creating areas in~~
18 ~~public places and at public meetings that are reasonably free~~
19 ~~from tobacco smoke and to implement the Florida health~~
20 ~~initiative in s. 20, Art. X of the State Constitution by~~
21 ~~providing a uniform statewide maximum code.~~ This part does
22 ~~shall not be interpreted to~~ require the designation of smoking
23 rooms areas. However, it is the intent of the Legislature to
24 discourage the designation of any room located area within a
25 government building as a smoking room area.

26 Section 3. Section 386.203, Florida Statutes, is
27 amended to read:

28 386.203 Definitions.--As used in this part, the term:

29 (1) "Commercial use of a private residence" means any
30 time during which the owner, lessee, or other person occupying
31 or controlling the use of a private residence is furnishing in

1 the private residence, or causing or allowing to be furnished
2 in the private residence, child care, adult care, or health
3 care, or any combination thereof, and receiving or expecting
4 to receive compensation therefor.

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

8 (3) "Department" means the Department of Agriculture
9 and Consumer Services.

10 (4) "Designated smoking guest room" means a sleeping
11 room or directly associated private area, including, but not
12 limited to, a bathroom, living room, or kitchen area, if
13 applicable, which is rented to a guest for his or her
14 exclusive transient occupancy at a public lodging
15 establishment and which is designated by the operator of the
16 public lodging establishment as a room in which smoking may be
17 permitted.

18 (5) "Division" means the Division of Hotels and
19 Restaurants of the Department of Business and Professional
20 Regulation.

21 (6) "Enclosed indoor workplace" means a workplace that
22 is predominantly or totally bounded on all sides and above by
23 physical barriers. The term does not include a workplace that
24 does not have physical barriers of any kind from above, a
25 workplace that is totally bounded from above but of which at
26 least 25 percent of contiguous surface area of the sides is
27 without a physical barrier of any kind separating the
28 workplace from the exterior of the building within which the
29 workplace is located, or a workplace that is bounded on all
30 sides and above by physical barriers consisting of no more
31 than 50 percent of the total bounded surface area of the

1 workplace. The term also does not include a smoking room
2 designated under s. 386.205.

3 (7) "Essential services" means those services that are
4 essential to the maintenance of any enclosed indoor room,
5 regardless of whether the room is a workplace, including, but
6 not limited to, janitorial services, repairs, or renovations.

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

10 (9) "Membership organization" means a charitable,
11 nonprofit, or veterans' organization that holds a current
12 exemption from federal taxation under s. 501(c)(3), s.
13 501(c)(4), s. 501(c)(7), s. 501(c)(8), or s. 501(c)(10), s.
14 501(c)(19), or s. 501(d) of the Internal Revenue Code or a
15 religious organization that is not required to apply for
16 recognition of its exemption from federal taxation under s.
17 501(c)(3) of the Internal Revenue Code.

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

22 (11) "Physical barrier" includes an uncovered opening,
23 a screened or otherwise partially covered opening, or an open
24 or closed window, jalousie, or door.

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

27 (13)~~(1)~~ "Public place" means the following enclosed,
28 indoor areas used by the general public:

29 (a) Government buildings;

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

5 (15) "Second-hand smoke" means smoke emitted from
6 lighted, smoldering, or burning tobacco when the smoker is not
7 inhaling; smoke emitted at the mouthpiece during puff drawing;
8 and smoke exhaled by the smoker.

9 (16)~~(4)~~ "Smoking" means inhaling, exhaling, burning,
10 carrying, or possessing a lighted tobacco product, including
11 cigarettes, cigars, pipe tobacco ~~possession of a lighted~~
12 ~~cigarette, lighted cigar, lighted pipe,~~ or any other lighted
13 tobacco product.

14 (17)~~(5)~~ "Smoking room area" means a any designated
15 room area meeting the requirements of ss. 386.205 and 386.206.

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

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

1 The term does not include a smoking room designated under s.
2 386.205.

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

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

7 ~~(8) "Division" means the Division of Hotels and~~
8 ~~Restaurants of the Department of Business and Professional~~
9 ~~Regulation.~~

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

12 386.204 Prohibition.--

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

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

23 (3) RESTAURANTS.--A person may not smoke in a
24 restaurant, including any unenclosed area of the restaurant
25 where one or more persons engage in work. All restaurants must
26 post signs outside the entryway and on the walls of the
27 restaurant, place notices on each dining table of the
28 restaurant, and include in any advertisement for the
29 restaurant that the restaurant is a nonsmoking facility. The
30 signs must comply with the lettering and placement
31 requirements established in s. 386.206.

1 (4) 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) DESIGNATED SMOKING ROOM.--A designated smoking
18 room complying with the requirements in ss. 386.205 and
19 386.206.

20 (2) PRIVATE RESIDENCE.--A private residence whenever
21 it is not being used commercially to provide child care, adult
22 care, or health care, or any combination thereof.

23 (3) RETAIL TOBACCO SHOP.--Any enclosed indoor
24 workplace dedicated to or predominantly for the retail sale of
25 tobacco, tobacco products, and accessories for such products,
26 in which the sale of other products or services is merely
27 incidental.

28 (a) A business that manufactures tobacco products and
29 accessories is a business dedicated to or predominantly for
30 the retail sale of tobacco, tobacco products, and accessories.
31 As used in this subsection, the term "manufacture" includes

1 tobacco smoking in a manufacturing facility, distribution
2 facility, or cigar-leaf-dealer facility for the purpose of
3 testing tobacco, tobacco products, or accessories for quality
4 or compliance with federal law or regulations.

5 (b) Notwithstanding s. 386.205(1)(a), a retail tobacco
6 shop must comply with the requirements for a designated
7 smoking room in ss. 386.205 and 386.206. A retail tobacco
8 shop holding a retail tobacco products dealer permit under s.
9 569.003 on the effective date of this act is exempt from the
10 requirements of s. 386.205.

11 (4) DESIGNATED SMOKING GUEST ROOM.--A designated
12 smoking guest room at a public lodging establishment.

13 (5) STAND-ALONE BAR.--Any place of business that
14 during all times of operation is devoted predominantly or
15 totally to serving alcoholic beverages, intoxicating
16 beverages, or intoxicating liquors, or any combination
17 thereof, for consumption on the licensed premises; in which
18 the serving of food, if any, is merely incidental to the
19 consumption of any such beverage; and that is not located
20 within, and does not share any common entryway or common
21 indoor area with, any other enclosed indoor workplace,
22 including any business for which the sale of food or any other
23 product or service is more than an incidental source of gross
24 revenue. A stand-alone bar may share an entryway or common
25 indoor area with a package store. A business must derive at
26 least 70 percent of its gross revenue from the sale of
27 alcoholic beverages, intoxicating beverages, or intoxicating
28 liquors, or any combination thereof, excluding gross revenues
29 from the sale of alcoholic beverages in a package store.

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1 (6) TOBACCO MANUFACTURING FACILITY.--An enclosed
2 indoor workplace used exclusively to manufacture tobacco
3 products or accessories for such products, to the extent that:

4 (a) Tobacco smoking is essential to the manufacture of
5 tobacco products or accessories;

6 (b) Tobacco smoking essential to the manufacture of
7 tobacco products or accessories cannot be performed in another
8 place that is not an enclosed indoor workplace; and

9 (c) The prohibition of tobacco smoking would encroach
10 upon rights protected by the United States Constitution.

11
12 Each room in which tobacco smoking is permitted for the
13 purpose of manufacturing tobacco products or accessories must
14 comply with the signage requirements for a designated smoking
15 room in s. 386.206. As used in this subsection, the term
16 "manufacture" includes tobacco smoking in a manufacturing
17 facility, distribution facility, or cigar-leaf-dealer facility
18 for the purpose of testing tobacco, tobacco products, or
19 accessories for quality or compliance with federal law or
20 regulations.

21 (7) MEMBERSHIP ORGANIZATION FACILITY.--Any facility
22 owned or leased by and used exclusively for noncommercial
23 activities performed by the members and guests of a membership
24 organization, including social gatherings, meetings, dining,
25 and dances, if no person or persons are engaged in work as
26 defined in s. 386.203(17). Each facility in which tobacco
27 smoking is permitted during the activities of a membership
28 organization must comply with the signage requirements for a
29 designated smoking room in s. 386.206.

30 (8) EXPRESSIVE ACTIVITY.--Any enclosed indoor
31 workplace or public place, to the extent that:

1 (a) Tobacco smoking is an integral part of scientific,
2 political, religious, ideological, or other expressive speech
3 or activity, including, but not limited to, a production by
4 the entertainment industry as defined in s. 288.125,
5 scientific and medical research, and an exhibition of the arts
6 as defined in s. 265.283; and

7 (b) The prohibition of tobacco smoking would encroach
8 upon rights protected by the United States Constitution or the
9 State Constitution.

10
11 Each room in which tobacco smoking is permitted as part of
12 scientific, political, religious, ideological, or other
13 expressive speech or activity must comply with the signage
14 requirements for a designated smoking room in s. 386.206.

15 (9) STATE CORRECTIONAL FACILITIES.--Any state
16 correctional facility to the extent that tobacco smoking is
17 not prohibited under s. 944.115.

18 Section 6. Section 386.205, Florida Statutes, is
19 amended to read:

20 386.205 Designation of smoking rooms ~~areas~~.--

21 (1) Smoking rooms ~~areas~~ may be designated by the
22 person in charge of a public place. Each designated smoking
23 room must conform to the following requirements:

24 (a) Work, other than essential services defined in s.
25 386.203, must not be performed in the room at any given time.

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

29 (c) Each smoking room must be enclosed by physical
30 barriers that are impenetrable by second-hand tobacco smoke

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1 and prevent the escape of second-hand tobacco smoke into a
2 common area or an enclosed indoor workplace.

3 (d) Each smoking room must comply with the signage
4 requirements in s. 386.206.~~If a smoking area is designated,~~
5 ~~existing physical barriers and ventilation systems shall be~~
6 ~~used to minimize smoke in adjacent nonsmoking areas. This~~
7 ~~provision shall not be construed to require fixed structural~~
8 ~~or other physical modifications in providing these areas or to~~
9 ~~require operation of any existing heating, ventilating, and~~
10 ~~air-conditioning system (HVAC system) in any manner which~~
11 ~~decreases its energy efficiency or increases its electrical~~
12 ~~demand, or both, nor shall this provision be construed to~~
13 ~~require installation of new or additional HVAC systems.~~

14 ~~(2)(a)~~ A smoking room area may not be designated in an
15 elevator, school bus, public means of mass transportation
16 subject only to state smoking regulation, restroom, hospital,
17 nursing home, doctor's or dentist's waiting room, health care
18 facility, library, courtroom, jury waiting and deliberation
19 room, museum, theater, auditorium, arena, recreational
20 facility, restaurant, retail store except as provided in s.
21 385.2045, grocery store, county health department, day care
22 center, school or other educational facility, or any common
23 area as defined in s. 386.203. ~~However, a patient's room in a~~
24 ~~hospital, nursing home, or other health care facility may be~~
25 ~~designated as a smoking area if such designation is ordered by~~
26 ~~the attending physician and agreed to by all patients assigned~~
27 ~~to that room.~~

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

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1 ~~(3) In a workplace where there are smokers and~~
2 ~~nonsmokers, employers shall develop, implement, and post a~~
3 ~~policy regarding designation of smoking and nonsmoking areas.~~
4 ~~Such a policy shall take into consideration the proportion of~~
5 ~~smokers and nonsmokers. Employers who make reasonable efforts~~
6 ~~to develop, implement, and post such a policy shall be deemed~~
7 ~~in compliance. An entire area may be designated as a smoking~~
8 ~~area if all workers routinely assigned to work in that area at~~
9 ~~the same time agree. With respect to the square footage in any~~
10 ~~public place as described in subsection (4), this square~~
11 ~~footage shall not include private office work space which is~~
12 ~~not a common area as defined in s. 386.203(6) and which is~~
13 ~~ordinarily inaccessible to the public.~~

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

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

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

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

27 ~~(3)(5)~~ A smoking room area may not contain common
28 areas that ~~which~~ are expected to be used by the public.

29 ~~(4)(6)~~ Each state agency may adopt rules for
30 administering this section which take into consideration the
31 provisions of this part.

1 Section 7. Section 386.206, Florida Statutes, is
2 amended to read:

3 386.206 Posting of signs.--The person in charge of a
4 public place shall conspicuously post, or cause to be posted,
5 outside the entryway of and in any room area designated as a
6 smoking room area signs stating that smoking is permitted in
7 that room such area. Each sign posted under ~~pursuant to~~ this
8 section must ~~shall~~ have letters of reasonable size which can
9 be easily read. The color, design, and precise place of
10 posting of these such signs shall be left to the discretion of
11 the person in charge of the premises. In order to increase
12 public awareness, the person in charge of a public place may,
13 at his or her discretion, also post "NO SMOKING EXCEPT IN
14 DESIGNATED SMOKING ROOMS AREAS" signs as appropriate.

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

17 386.207 Administration; enforcement; civil penalties;
18 exceptions ~~exemptions~~.--

19 (1) The department, the Department of Health, and ~~or~~
20 the division shall enforce this part and the rules of the
21 department adopted under s. 386.2135 ~~ss. 386.205 and 386.206~~
22 ~~and to implement such enforcement shall adopt, in consultation~~
23 ~~with the State Fire Marshal, rules specifying procedures to be~~
24 ~~followed by enforcement personnel in investigating complaints~~
25 ~~and notifying alleged violators, rules defining types of cases~~
26 ~~for which exemptions may be granted, and rules specifying~~
27 ~~procedures by which appeals may be taken by aggrieved parties.~~

28 (2) Public agencies responsible for the management and
29 maintenance of government buildings shall report observed
30 violations to the department ~~or division~~. The State Fire
31 Marshal shall report to the department ~~or division~~ observed

1 violations of ss. 386.205 and 386.206 found during its
2 periodic inspections conducted pursuant to its regulatory
3 authority. The department ~~or the division~~, upon notification
4 of observed violations of ss. 386.205 and 386.206, shall issue
5 to the proprietor or other person in charge of such public
6 place a notice to comply with ss. 386.205 and 386.206. If the
7 ~~such~~ person fails to comply within 30 days after receipt of
8 the ~~such~~ notice, the department ~~or the division~~ shall assess a
9 civil penalty against him or her not to exceed \$100 for the
10 first violation and not to exceed \$500 for each subsequent
11 violation. The imposition of such fine shall be in accordance
12 with the provisions of chapter 120. If a person refuses to
13 comply with ss. 386.205 and 386.206, after having been
14 assessed such penalty, the department ~~or the division~~ may file
15 a complaint in the circuit court of the county in which such
16 public place is located to require compliance.

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

23 (3)~~(4)~~ All fine moneys collected pursuant to this
24 section shall be used by the Department of Health ~~department~~
25 for children's medical services programs pursuant to the
26 provisions of part I of chapter 391.

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

29 386.208 Penalties.--Any person who violates s. 386.204
30 commits a noncriminal violation as defined ~~provided for~~ in s.
31 775.08(3), punishable by a fine of not more than \$100 for the

1 first violation and not more than \$500 for each subsequent
2 violation. Jurisdiction shall be with the appropriate county
3 court.

4 Section 10. Section 386.209, Florida Statutes, is
5 reenacted to read:

6 386.209 Regulation of smoking preempted to
7 state.--This part expressly preempts regulation of smoking to
8 the state and supersedes any municipal or county ordinance on
9 the subject.

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

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

23 Section 12. Section 386.212, Florida Statutes, is
24 amended to read:

25 386.212 Smoking prohibited near school property;
26 penalty.--

27 (1) It is unlawful for any person under 18 years of
28 age to smoke tobacco in, on, or within 1,000 feet of the real
29 property comprising a public or private elementary, middle, or
30 secondary school between the hours of 6 a.m. and midnight.

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1 This section does ~~shall~~ not apply to any person occupying a
2 moving vehicle or within a private residence.

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

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

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

27 (4) Any person who fails to comply with the directions
28 on the citation shall be deemed to waive his or her right to
29 contest the citation and an order to show cause may be issued
30 by the court.
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1 Section 13. Section 386.2125, Florida Statutes, is
2 created to read:

3 386.2125 Rulemaking.--The department shall, in
4 consultation with the division, the State Fire Marshal, and
5 the Department of Health, have the authority to adopt rules
6 pursuant to ss. 120.536 and 120.54 to implement the provisions
7 of this part.

8 Section 14. Section 386.213, Florida Statutes, is
9 created to read:

10 386.213 Effect of invalidity.--The provisions of this
11 act are carefully constructed in a manner that each provision
12 is inextricably intertwined with every other provision of the
13 act and is inseparable from the remainder of the act. If any
14 provision of this act or the application thereof to any person
15 or circumstance is held invalid, the invalidity affects every
16 other provision or application of the act, other provisions or
17 applications of the act may not be given effect without the
18 invalid provision or application, and the entire act must be
19 held invalid.

20 Section 15. This act shall take effect July 1, 2003.
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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 742

4 The Committee Substitute implements the provisions of Article
5 X, Section 20, of the Florida Constitution, which prohibits
6 tobacco smoking in enclosed indoor workplaces. It amends the
7 Florida Clean Indoor Air Act, Part II of Chapter 386, F.S.
8 The bill provides definitions. It prohibits smoking in
9 enclosed indoor workplaces except in certain places. It
10 prohibits smoking in public places except in designated
11 smoking rooms. It prohibits smoking in restaurants, their
12 outdoor areas, and requires that notices to be posted and
13 included in advertising. It prohibits smoking within 10 feet
14 of entryways and ventilation intakes. It authorizes smoking
15 in certain places including designated smoking rooms, private
16 residences, retail tobacco shops, designated guest rooms,
17 stand-alone bars, tobacco manufacturing facilities, membership
18 organization facilities, in certain instances protected by the
19 United States and State Constitution, and in certain areas of
20 the state prisons. It maintains the current penalties of the
21 Florida Clean Indoor Air Act, and the smoking prohibition near
22 school property. The bill provides for enforcement,
23 authorizes rulemaking, and provides for the effect of holding
24 the act invalid.