

Bill No. CS for SB 44-A

Amendment No. \_\_\_\_ Barcode 394004

CHAMBER ACTION

Senate

House

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11 Senator Diaz de la Portilla moved the following amendment:

13 **Senate Amendment**

14 On page 2, line 9, through page 7, line 4, delete those  
15 lines

17 and insert:

18 Section 1. Section 386.201, Florida Statutes, is  
19 amended to read:

20 386.201 Popular name ~~Short title~~.--This part may be  
21 cited by the popular name as the "Florida Clean Indoor Air  
22 Act."

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

25 386.202 Legislative intent.--The purpose of this part  
26 is to protect people from the public health hazards of  
27 second-hand, ~~comfort, and environment by creating areas in~~  
28 ~~public places and at public meetings that are reasonably free~~  
29 from tobacco smoke and to implement the Florida health  
30 initiative in s. 20, Art. X of the State Constitution by  
31 providing a uniform statewide maximum code. It is the intent

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1 of the Legislature to not inhibit, or otherwise obstruct,  
2 medical or scientific research or smoking-cessation programs  
3 approved by the Department of Health. This part shall not be  
4 interpreted to require the designation of smoking areas.  
5 ~~However, it is the intent of the Legislature to discourage the~~  
6 ~~designation of any area within a government building as a~~  
7 ~~smoking area.~~

8 Section 3. Section 386.203, Florida Statutes, is  
9 amended to read:

10 386.203 Definitions.--As used in this part:

11 (1) "Commercial" use of a private residence means any  
12 time during which the owner, lessee, or other person occupying  
13 or controlling the use of the private residence is furnishing  
14 in the private residence, or causing or allowing to be  
15 furnished in the private residence, child care, adult care, or  
16 health care, or any combination thereof, and receiving or  
17 expecting to receive compensation therefor.

18 (2) "Common area" means a hallway, corridor, lobby,  
19 aisle, water fountain area, restroom, stairwell, entryway, or  
20 conference room in a customs area of an airport terminal under  
21 the authority and control of the Bureau of Customs and Border  
22 Protection of the United States Department of Homeland  
23 Security.

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

25 (4) "Designated smoking guest rooms at public lodging  
26 establishments" means the sleeping rooms and directly  
27 associated private areas, such as bathrooms, living rooms, and  
28 kitchen areas, if any, rented to guests for their exclusive  
29 transient occupancy in public lodging establishments,  
30 including hotels, motels, resort condominiums, transient  
31 apartments, transient lodging establishments, rooming houses,

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1 boarding houses, resort dwellings, bed and breakfast inns, and  
2 the like; and designated by the person or persons having  
3 management authority over such public lodging establishment as  
4 rooms in which smoking may be permitted.

5       (5) "Enclosed indoor workplace" means any place where  
6 one or more persons engages in work, and which place is  
7 predominantly or totally bounded on all sides and above by  
8 physical barriers, regardless of whether such barriers consist  
9 of or include, without limitation, uncovered openings,  
10 screened or otherwise partially covered openings; or open or  
11 closed windows, jalousies, doors, or the like. A place is  
12 "predominantly" bounded by physical barriers during any time  
13 when both of the following conditions exist:

14       (a) it is more than 50% covered from above by a  
15 physical barrier that excludes rain, and

16       (b) more than 50% of the combined surface area of its  
17 sides is covered by closed physical barriers. In calculating  
18 the percentage of side surface area covered by closed physical  
19 barriers, all solid surfaces that block air flow, except  
20 railings, must be considered as closed physical barriers.

21 This section applies to all such enclosed indoor workplaces  
22 and enclosed parts thereof without regard to whether work is  
23 occurring at any given time.

24       (c) The term does not include any facility owned or  
25 leased by and used exclusively for noncommercial activities  
26 performed by the members and guests of a membership  
27 association, including social gatherings, meetings, dining,  
28 and dances, if no person or persons are engaged in work as  
29 defined in subsection (12).

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

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1 room, including, but not limited to, janitorial services,  
2 repairs, or renovations.

3 (7) "Physical barrier" includes an uncovered opening,  
4 a screened or otherwise partially covered opening, or an open  
5 or closed window, jalousie, or door.

6 (8) "Retail tobacco shop" means any enclosed indoor  
7 workplace dedicated to or predominantly for the retail sale of  
8 tobacco, tobacco products, and accessories for such products,  
9 in which the sale of other products or services is merely  
10 incidental. Any enclosed indoor workplace of a business that  
11 manufactures, imports, or distributes tobacco products or of a  
12 tobacco leaf dealer is a business dedicated to or  
13 predominantly for the retail sale of tobacco and tobacco  
14 products when, as a necessary and integral part of the process  
15 of making, manufacturing, importing, or distributing a tobacco  
16 product for the eventual retail sale of such tobacco or  
17 tobacco product, tobacco is heated, burned, or smoked or a  
18 lighted tobacco product is tested.

19 (9) "Second-hand smoke," also known as environmental  
20 tobacco smoke (ETS), means smoke emitted from lighted,  
21 smoldering, or burning tobacco when the smoker is not  
22 inhaling; smoke emitted at the mouthpiece during puff drawing;  
23 and smoke exhaled by the smoker.

24 (10)(4) "Smoking" means inhaling, exhaling, burning,  
25 carrying, or possessing any possession of a lighted tobacco  
26 product, including cigarettes, cigars, pipe tobacco, and  
27 cigarette, lighted cigar, lighted pipe, or any other lighted  
28 tobacco product.

29 (11) "Stand-alone bar" means any licensed premises  
30 devoted during any time of operation predominantly or totally  
31 to serving alcoholic beverages, intoxicating beverages, or

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1 intoxicating liquors, or any combination thereof, for  
2 consumption on the licensed premises; in which the serving of  
3 food, if any, is merely incidental to the consumption of any  
4 such beverage; and the licensed premises is not located  
5 within, and does not share any common entryway or common  
6 indoor area with, any other enclosed indoor workplace,  
7 including any business for which the sale of food or any other  
8 product or service is more than an incidental source of gross  
9 annual revenue. A place of business constitutes a stand-alone  
10 bar in which the service of food is merely incidental in  
11 accordance with this subsection if the licensed premises  
12 derives no more than 10 percent of its annual gross revenue  
13 from the sale of food consumed on the licensed premises.

14 (12) "Work" means any person's providing any  
15 employment or employment-type service for or at the request of  
16 another individual or individuals or any public or private  
17 entity, whether for compensation or not, whether full or part  
18 time, whether legally or not. "Work" includes, without  
19 limitation, any such service performed by an employee,  
20 independent contractor, agent, partner, proprietor, manager,  
21 officer, director, apprentice, trainee, associate, servant,  
22 volunteer, and the like. The term does not include  
23 noncommercial activities performed by members of a membership  
24 association.

25 (13) "Membership association" means a charitable,  
26 nonprofit, or veterans' organization that holds a current  
27 exemption under s. 501(c)(3), s. 501(c)(4), s. 501(c)(7), s.  
28 501(c)(8), s. 501(c)(10), s. 501(c)(19), or s. 501(d) of the  
29 Internal Revenue Code.

30 (1) "Public place" means the following enclosed,  
31 indoor areas used by the general public:

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- 1           ~~(a) Government buildings;~~
- 2           ~~(b) Public means of mass transportation and their~~
- 3 ~~associated terminals not subject to federal smoking~~
- 4 ~~regulation;~~
- 5           ~~(c) Elevators;~~
- 6           ~~(d) Hospitals;~~
- 7           ~~(e) Nursing homes;~~
- 8           ~~(f) Educational facilities;~~
- 9           ~~(g) Public school buses;~~
- 10          ~~(h) Libraries;~~
- 11          ~~(i) Courtrooms;~~
- 12          ~~(j) Jury waiting and deliberation rooms;~~
- 13          ~~(k) Museums;~~
- 14          ~~(l) Theaters;~~
- 15          ~~(m) Auditoriums;~~
- 16          ~~(n) Arenas;~~
- 17          ~~(o) Recreational facilities;~~
- 18          ~~(p) Restaurants;~~
- 19          ~~(q) Retail stores, except a retail store the primary~~
- 20 ~~business of which is the sale of tobacco or tobacco related~~
- 21 ~~products;~~
- 22          ~~(r) Grocery stores;~~
- 23          ~~(s) 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.~~
- 31          ~~(3) "Public meeting" means all meetings open to the~~

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1 ~~public, including meetings of homeowner, condominium, or~~  
2 ~~renter or tenant associations unless such meetings are held in~~  
3 ~~a private residence.~~

4       ~~(5) "Smoking area" means any designated area meeting~~  
5 ~~the requirements of ss. 386.205 and 386.206.~~

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

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

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

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