

Bill No. CS for SB 44-A

Amendment No. ____ Barcode 624554

CHAMBER ACTION

Senate

House

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Senator Diaz de la Portilla moved the following amendment:

Senate Amendment (with title amendment)

On page 12, line 1, thorough page 16, line 7, delete those lines

and insert:

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

386.206 Posting of signs; requiring policies.--

(1) The person in charge of an enclosed indoor workplace that prior to adoption of s. 20, Art. X of the State Constitution was required to post signs under the requirements of this section must continue to a public place shall conspicuously post, or cause to be posted, in any area designated as a smoking area signs stating that smoking is not permitted in the enclosed indoor workplace ~~such area~~. Each sign posted pursuant to this section must ~~shall~~ have letters of reasonable size which can be easily read. The color, design, and precise place of posting of such signs shall be left to the discretion of the person in charge of the

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1 ~~premises. In order to increase public awareness, the person in~~
2 ~~charge of a public place may, at his or her discretion, also~~
3 ~~post "NO SMOKING EXCEPT IN DESIGNATED AREAS" signs as~~
4 ~~appropriate.~~

5 (2) The proprietor or other person in charge of an
6 enclosed indoor workplace must develop and implement a policy
7 regarding the smoking prohibitions established in this
8 part. The policy may include, but is not limited to,
9 procedures to be taken when the proprietor or other person in
10 charge witnesses or is made aware of a violation of s. 386.204
11 in the enclosed indoor workplace and must include a policy
12 which prohibits an employee from smoking in the enclosed
13 indoor workplace. In order to increase public awareness, the
14 person in charge of a enclosed indoor workplace may, at his or
15 her discretion, post "NO SMOKING" signs as deemed appropriate.

16 (3) The person in charge of an airport terminal that
17 includes a designated customs smoking room must conspicuously
18 post, or cause to be posted, signs stating that no smoking is
19 permitted except in the designated customs smoking room
20 located in the customs area of the airport. Each sign posted
21 pursuant to this section must have letters of reasonable size
22 that can be easily read. The color, design, and precise
23 locations at which such signs are posted shall be left to the
24 discretion of the person in charge of the premises.

25 (4) The proprietor or other person in charge of an
26 enclosed indoor workplace where a smoking cessation program,
27 medical research, or scientific research is conducted or
28 performed must conspicuously post, or cause to be posted,
29 signs stating that smoking is permitted for such purposes in
30 designated areas in the enclosed indoor workplace. Each sign
31 posted pursuant to this section must have letters of

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1 reasonable size which can be easily read. The color, design,
 2 and precise locations at which such signs are posted shall be
 3 left to the discretion of the person in charge of the
 4 premises.

5 (5) The provisions of subsection (1) shall expire on
 6 July 1, 2005.

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

9 386.207 Administration; enforcement; civil penalties;
 10 ~~exemptions.--~~

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

20 (2) Public agencies responsible for the management and
 21 maintenance of government buildings shall report observed
 22 violations to the department and the Department of Business
 23 and Professional Regulation ~~or division~~. The State Fire
 24 Marshal shall report to the department and the Department of
 25 Business and Professional Regulation ~~or division~~ observed
 26 violations of this part ss. 386.205 and 386.206 found during
 27 its periodic inspections conducted under ~~pursuant to~~ its
 28 regulatory authority. The department and the Department of
 29 Business and Professional Regulation ~~or the division~~, upon
 30 notification of observed violations of this part ss. 386.205
 31 ~~and 386.206~~, shall issue to the proprietor or other person in

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1 charge of such enclosed indoor workplace ~~public place~~ a notice
 2 to comply with this part ~~ss. 386.205 and 386.206~~. If the such
 3 person fails to comply within 30 days after receipt of the
 4 ~~such~~ notice, the department or the Department of Business and
 5 Professional Regulation division shall assess a civil penalty
 6 against the person of not less than \$250 and ~~him or her~~ not to
 7 exceed ~~\$750~~ \$100 for the first violation and not less than
 8 \$500 and not to exceed ~~\$2,000~~ \$500 for each subsequent
 9 violation. The imposition of the such fine must ~~shall~~ be in
 10 accordance with ~~the provisions of~~ chapter 120. If a person
 11 refuses to comply with this part ~~ss. 386.205 and 386.206~~,
 12 after having been assessed such penalty, the department or the
 13 Department of Business and Professional Regulation division
 14 may file a complaint in the circuit court of the county in
 15 which the enclosed indoor workplace ~~such public place~~ is
 16 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. The~~
 19 ~~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 for children's medical
 25 services programs pursuant to the provisions of part I of
 26 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

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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 not allowed except as provided in
 22 this part ~~only in designated areas~~.

23 Section 12. Section 386.212, Florida Statutes, is
 24 reenacted and 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.

31 This section does ~~shall~~ not apply to any person occupying a

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1 moving vehicle or within a private residence.

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

6 (a) The date and time of issuance.

7 (b) The name and address of the person cited.

8 (c) The date and time the civil infraction was
9 committed.

10 (d) The statute violated.

11 (e) The facts constituting the violation.

12 (f) The name and authority of the law enforcement
13 officer.

14 (g) The procedure for the person to follow to pay the
15 civil penalty, to contest the citation, or to appear in court.

16 (h) The applicable civil penalty if the person elects
17 not to contest the citation.

18 (i) The applicable civil penalty if the person elects
19 to contest the citation.

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

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

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

2 And the title is amended as follows:

3 On page 1, lines 16 and 17, delete those lines

4

5 and insert:

6 requirements for the posting of signs by
7 certain persons and in certain areas; amending
8 s.

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