

Amendment No. (for drafter's use only)

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

.
.
.

Representative Kallinger and Prieguez offered the following:

Substitute Amendment for Amendment (984583) (with directory and title amendments)

Remove everything after the enacting clause, and insert:

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

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

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

386.202 Legislative intent.--The purpose of this part is to protect people from the public health hazards of second-hand ~~, comfort, and environment by creating areas in public places and at public meetings that are reasonably free from tobacco~~ smoke and to implement the Florida health initiative in s. 20,

Amendment No. (for drafter's use only)

28 Art. X of the State Constitution ~~by providing a uniform~~
29 ~~statewide maximum code. This part shall not be interpreted to~~
30 ~~require the designation of smoking areas. However, it is the~~
31 ~~intent of the Legislature to discourage the designation of any~~
32 ~~area within a government building as a smoking area. It is the~~
33 intent of the Legislature to not inhibit, or otherwise obstruct,
34 medical or scientific research or smoking-cessation programs
35 conducted by a medical research facility in this state.

36 Section 3. Section 386.203, Florida Statutes, is amended
37 to read:

38 386.203 Definitions.--As used in this part:

39 (1) "Commercial" use of a private residence means any time
40 during which the owner, lessee, or other person occupying or
41 controlling the use of the private residence is furnishing in
42 the private residence, or causing or allowing to be furnished in
43 the private residence, child care, adult care, or health care,
44 or any combination thereof, and receiving or expecting to
45 receive compensation therefor.

46 (2) "Common area" means a hallway, corridor, lobby, aisle,
47 water fountain area, restroom, stairwell, entryway, or
48 conference room in a customs area of an airport terminal under
49 the authority and control of the Bureau of Customs and Border
50 Protection of the United States Department of Homeland Security.

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

52 (4) "Designated smoking guest rooms at public lodging
53 establishments" means the sleeping rooms and directly associated
54 private areas, such as bathrooms, living rooms, and kitchen
55 areas, if any, rented to guests for their exclusive transient
56 occupancy in public lodging establishments, including hotels,

022143

Amendment No. (for drafter's use only)

57 motels, resort condominiums, transient apartments, transient
58 lodging establishments, rooming houses, boarding houses, resort
59 dwelling, bed and breakfast inns, and the like; and designated
60 by the person or persons having management authority over such
61 public lodging establishment as rooms in which smoking may be
62 permitted.

63 (5) "Enclosed indoor workplace" means any place where one
64 or more persons engages in work, and which place is
65 predominantly or totally bounded on all sides and above by
66 physical barriers, regardless of whether such barriers consist
67 of or include uncovered openings, screened or otherwise
68 partially covered openings; or open or closed windows,
69 jalousies, doors, or the like. This section applies to all such
70 enclosed indoor workplaces without regard to whether work is
71 occurring at any given time. The term does not include a
72 workplace that does not have physical barriers of any kind from
73 above; a workplace that is totally or partially bounded from
74 above but of which at least 25 percent of contiguous surface
75 area of the sides is without a physical barrier; or a workplace
76 that is bounded on all sides and above by physical barriers
77 consisting of no more than 50 percent of the total bounded
78 surface area of the workplace.

79 (6) "Essential services" means those services that are
80 essential to the maintenance of any enclosed indoor room,
81 including, but not limited to, janitorial services, repairs, or
82 renovations.

83 (7) "Physical barrier" includes an uncovered opening, a
84 screened or otherwise partially covered opening, or an open or
85 closed window, jalousie, or door.

Amendment No. (for drafter's use only)

86 (8) "Retail tobacco shop" means any enclosed indoor
87 workplace dedicated to or predominantly for the retail sale of
88 tobacco, tobacco products, and accessories for such products, in
89 which the sale of other products or services is merely
90 incidental. Any enclosed indoor workplace of a business that
91 manufactures, imports, or distributes tobacco products or of a
92 tobacco leaf dealer is a business dedicated to or predominantly
93 for the retail sale of tobacco and tobacco products when, as a
94 necessary and integral part of the process of making,
95 manufacturing, importing, or distributing a tobacco product for
96 the eventual retail sale of such tobacco or tobacco product,
97 tobacco is heated, burned, or smoked or a lighted tobacco
98 product is tested.

99 (9) "Second-hand smoke," also known as environmental
100 tobacco smoke [ETS], means smoke emitted from lighted,
101 smoldering, or burning tobacco when the smoker is not inhaling;
102 smoke emitted at the mouthpiece during puff drawing; and smoke
103 exhaled by the smoker.

104 (10)(4) "Smoking" means inhaling, exhaling, burning,
105 carrying, or possessing any possession of a lighted tobacco
106 product, including cigarettes, cigars, pipe tobacco, and
107 cigarette, lighted cigar, lighted pipe, or any other lighted
108 tobacco product.

109 (11) "Stand-alone bar" means any licensed premises devoted
110 during any time of operation predominantly or totally to serving
111 alcoholic beverages, intoxicating beverages, or intoxicating
112 liquors, or any combination thereof, for consumption on the
113 licensed premises; in which the serving of food, if any, is
114 merely incidental to the consumption of any such beverage; and

022143

Amendment No. (for drafter's use only)

115 the licensed premises is not located within, and does not share
116 any common entryway or common indoor area with, any other
117 enclosed indoor workplace, including any business for which the
118 sale of food or any other product or service is more than an
119 incidental source of gross annual revenue. A place of business
120 constitutes a stand-alone bar in which the service of food is
121 merely incidental in accordance with this subsection if:

122 (a) The licensed premises derives no more than 10 percent
123 of its annual gross revenue from the sale of food consumed on
124 the licensed premises.

125 (b) The vendor meets the qualifications for and possesses
126 a stand-alone bar smoking permit issued pursuant to s. 561.695.

127 (12) "Work" means any person's providing any employment or
128 employment-type service for or at the request of another
129 individual or individuals or any public or private entity,
130 whether for compensation or not, whether full or part time,
131 whether legally or not. "Work" includes, without limitation, any
132 such service performed by an employee, independent contractor,
133 agent, partner, proprietor, manager, officer, director,
134 apprentice, trainee, associate, servant, volunteer, and the
135 like.

136 ~~(1) "Public place" means the following enclosed, indoor~~
137 ~~areas used by the general public:~~

138 ~~(a) Government buildings;~~

139 ~~(b) Public means of mass transportation and their~~
140 ~~associated terminals not subject to federal smoking regulation;~~

141 ~~(c) Elevators;~~

142 ~~(d) Hospitals;~~

143 ~~(e) Nursing homes;~~

022143

Amendment No. (for drafter's use only)

- 144 ~~(f) Educational facilities;~~
145 ~~(g) Public school buses;~~
146 ~~(h) Libraries;~~
147 ~~(i) Courtrooms;~~
148 ~~(j) Jury waiting and deliberation rooms;~~
149 ~~(k) Museums;~~
150 ~~(l) Theaters;~~
151 ~~(m) Auditoriums;~~
152 ~~(n) Arenas;~~
153 ~~(o) Recreational facilities;~~
154 ~~(p) Restaurants;~~
155 ~~(q) Retail stores, except a retail store the primary~~
156 ~~business of which is the sale of tobacco or tobacco related~~
157 ~~products;~~
158 ~~(r) Grocery stores;~~
159 ~~(s) Places of employment;~~
160 ~~(t) Health care facilities;~~
161 ~~(u) Day care centers; and~~
162 ~~(v) Common areas of retirement homes and condominiums.~~
163 ~~(2) "Government building" means any building or any~~
164 ~~portion of any building owned by or leased to the state or any~~
165 ~~political subdivision thereof and used for governmental~~
166 ~~purposes.~~
167 ~~(3) "Public meeting" means all meetings open to the~~
168 ~~public, including meetings of homeowner, condominium, or renter~~
169 ~~or tenant associations unless such meetings are held in a~~
170 ~~private residence.~~
171 ~~(5) "Smoking area" means any designated area meeting the~~
172 ~~requirements of ss. 386.205 and 386.206.~~

022143

Amendment No. (for drafter's use only)

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

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

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

179 386.204 Prohibition.--A person may not smoke in an
180 enclosed indoor workplace, except as otherwise provided in s.
181 386.2045 a public place or at a public meeting except in
182 designated smoking areas. These prohibitions do not apply in
183 eases in which an entire room or hall is used for a private
184 function and seating arrangements are under the control of the
185 sponsor of the function and not of the proprietor or person in
186 charge of the room or hall.

187 Section 5. Section 386.2045, Florida Statutes, is created
188 to read:

189 386.2045 Enclosed indoor workplaces; specific
190 exceptions.--Notwithstanding s. 386.204, tobacco smoking may be
191 permitted in each of the following places:

192 (1) PRIVATE RESIDENCE.--A private residence whenever
193 it is not being used commercially to provide child care, adult
194 care, or health care, or any combination thereof as defined in
195 s. 386.203(1).

196 (2) RETAIL TOBACCO SHOP.--An enclosed indoor workplace
197 dedicated to or predominantly for the retail sale of tobacco,
198 tobacco products, and accessories for such products, as defined
199 in s. 386.203(8).

Amendment No. (for drafter's use only)

200 (3) DESIGNATED SMOKING GUEST ROOM.--A designated smoking
201 guest room at a public lodging establishment as defined in s.
202 386.203(4).

203 (4) STAND-ALONE BAR.--A business that meets the definition
204 of a stand-alone bar as defined in s. 386.203(11) and that
205 otherwise complies with all applicable provisions of the
206 Beverage Law and part II of chapter 386.

207 (5) SMOKING-CESSATION PROGRAM, MEDICAL OR SCIENTIFIC
208 RESEARCH.--An enclosed indoor workplace, to the extent that
209 tobacco smoking is an integral part of a smoking-cessation
210 program conducted by a medical research facility, or medical or
211 scientific research conducted therein. Each room in which
212 tobacco smoking is permitted must comply with the signage
213 requirements in s. 386.206.

214 (6) CUSTOMS SMOKING ROOM.--A customs smoking room in an
215 airport in-transit lounge under the authority and control of the
216 Bureau of Customs and Border Protection of the United States
217 Department of Homeland Security subject to the restrictions
218 contained in s. 386.205.

219 Section 6. Section 386.205, Florida Statutes, is amended
220 to read:

221 386.205 Customs Designation of smoking rooms areas.--

222 (1) A customs smoking room areas may be designated by the
223 person in charge of an airport in-transit lounge under the
224 authority and control of the Bureau of Customs and Border
225 Protection of the United States Department of Homeland Security
226 a public place. A customs smoking room may only be designated in
227 an airport in-transit lounge under the authority and control of
228 the Bureau of Customs and Border Protection of the United States

022143

Amendment No. (for drafter's use only)

229 Department of Homeland Security. A customs smoking room may not
230 be designated in an elevator, restroom, or any common area as
231 defined by s. 386.203. Each customs smoking room must conform to
232 the following requirements:

233 (a) Work, other than essential services defined in s.
234 386.203(6), must not be performed in the room at any given time.

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

237 (c) Each customs smoking room must be enclosed by physical
238 barriers that are impenetrable by second-hand tobacco smoke and
239 prevent the escape of second-hand tobacco smoke into the
240 enclosed indoor workplace.

241 (d) Each customs smoking room must exhaust tobacco smoke
242 directly to the outside and away from air intake ducts, and be
243 maintained under negative pressure, with respect to surrounding
244 spaces, sufficient to contain tobacco smoke within the room.

245 (e) Each customs smoking room must comply with the signage
246 requirements in s. 386.206. ~~If a smoking area is designated,~~
247 ~~existing physical barriers and ventilation systems shall be used~~
248 ~~to minimize smoke in adjacent nonsmoking areas. This provision~~
249 ~~shall not be construed to require fixed structural or other~~
250 ~~physical modifications in providing these areas or to require~~
251 ~~operation of any existing heating, ventilating, and air-~~
252 ~~conditioning system (HVAC system) in any manner which decreases~~
253 ~~its energy efficiency or increases its electrical demand, or~~
254 ~~both, nor shall this provision be construed to require~~
255 ~~installation of new or additional HVAC systems.~~

256 ~~(2)(a) A smoking area may not be designated in an~~
257 ~~elevator, school bus, public means of mass transportation~~

022143

Amendment No. (for drafter's use only)

258 ~~subject only to state smoking regulation, restroom, hospital,~~
259 ~~doctor's or dentist's waiting room, jury deliberation room,~~
260 ~~county health department, day care center, school or other~~
261 ~~educational facility, or any common area as defined in s.~~
262 ~~386.203. However, a patient's room in a hospital, nursing home,~~
263 ~~or other health care facility may be designated as a smoking~~
264 ~~area if such designation is ordered by the attending physician~~
265 ~~and agreed to by all patients assigned to that room.~~

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

269 ~~(3) In a workplace where there are smokers and nonsmokers,~~
270 ~~employers shall develop, implement, and post a policy regarding~~
271 ~~designation of smoking and nonsmoking areas. Such a policy shall~~
272 ~~take into consideration the proportion of smokers and~~
273 ~~nonsmokers. Employers who make reasonable efforts to develop,~~
274 ~~implement, and post such a policy shall be deemed in compliance.~~
275 ~~An entire area may be designated as a smoking area if all~~
276 ~~workers routinely assigned to work in that area at the same time~~
277 ~~agree. With respect to the square footage in any public place as~~
278 ~~described in subsection (4), this square footage shall not~~
279 ~~include private office work space which is not a common area as~~
280 ~~defined in s. 386.203(6) and which is ordinarily inaccessible to~~
281 ~~the public.~~

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

022143

Amendment No. (for drafter's use only)

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

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

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

295 ~~(5) A smoking area may not contain common areas which are~~
296 ~~expected to be used by the public.~~

297 ~~(6) Each state agency may adopt rules for administering~~
298 ~~this section which take into consideration the provisions of~~
299 ~~this part.~~

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

302 386.206 Posting of signs; requiring policies.--

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

022143

Amendment No. (for drafter's use only)

315 ~~place may, at his or her discretion, also post "NO SMOKING~~
316 ~~EXCEPT IN DESIGNATED AREAS" signs as appropriate.~~

317 (2) The proprietor or other person in charge of an
318 enclosed indoor workplace must develop and implement a policy
319 regarding the smoking prohibitions established in this part.
320 The policy may include, but is not limited to, procedures to be
321 taken when the proprietor or other person in charge witnesses or
322 is made aware of a violation of s. 386.204 in the enclosed
323 indoor workplace and must include a policy which prohibits an
324 employee from smoking in the enclosed indoor workplace. In order
325 to increase public awareness, the person in charge of a enclosed
326 indoor workplace may, at his or her discretion, post "NO
327 SMOKING" signs as deemed appropriate.

328 (3) The person in charge of an airport terminal that
329 includes a designated customs smoking room must conspicuously
330 post, or cause to be posted, signs stating that no smoking is
331 permitted except in the designated customs smoking room located
332 in the customs area of the airport. Each sign posted pursuant to
333 this section must have letters of reasonable size that can be
334 easily read. The color, design, and precise locations at which
335 such signs are posted shall be left to the discretion of the
336 person in charge of the premises.

337 (4) The proprietor or other person in charge of an
338 enclosed indoor workplace where a smoking cessation program,
339 medical research, or scientific research is conducted or
340 performed must conspicuously post, or cause to be posted, signs
341 stating that smoking is permitted for such purposes in
342 designated areas in the enclosed indoor workplace. Each sign
343 posted pursuant to this section must have letters of reasonable

022143

Amendment No. (for drafter's use only)

344 size which can be easily read. The color, design, and precise
345 locations at which such signs are posted shall be left to the
346 discretion of the person in charge of the premises.

347 (5) The provisions of subsection (1) shall expire on July
348 1, 2005.

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

351 386.207 Administration; enforcement; civil penalties;
352 ~~exemptions.--~~

353 (1) The department and the Department of Business and
354 Professional Regulation ~~or the division~~ shall enforce this part
355 ~~ss. 386.205 and 386.206~~ and to implement such enforcement shall
356 adopt, in consultation with the State Fire Marshal, rules
357 specifying procedures to be followed by enforcement personnel in
358 investigating complaints and notifying alleged violators, ~~rules~~
359 ~~defining types of cases for which exemptions may be granted,~~ and
360 rules specifying procedures by which appeals may be taken by
361 aggrieved parties.

362 (2) Public agencies responsible for the management and
363 maintenance of government buildings shall report observed
364 violations to the department and the Department of Business and
365 Professional Regulation ~~or division~~. The State Fire Marshal
366 shall report to the department and the Department of Business
367 and Professional Regulation ~~or division~~ observed violations of
368 this part ~~ss. 386.205 and 386.206~~ found during its periodic
369 inspections conducted under ~~pursuant to~~ its regulatory
370 authority. The department and the Department of Business and
371 Professional Regulation ~~or the division~~, upon notification of
372 observed violations of this part ~~ss. 386.205 and 386.206~~, shall

022143

Amendment No. (for drafter's use only)

373 issue to the proprietor or other person in charge of such
374 enclosed indoor workplace ~~public place~~ a notice to comply with
375 this part ss. 386.205 and 386.206. If the ~~such~~ person fails to
376 comply within 30 days after receipt of the ~~such~~ notice, the
377 department or the Department of Business and Professional
378 Regulation ~~division~~ shall assess a civil penalty against the
379 person of not less than \$250 and ~~him or her~~ not to exceed \$750
380 \$100 for the first violation and not less than \$500 and not to
381 exceed \$2,000 ~~\$500~~ for each subsequent violation. The imposition
382 of the ~~such~~ fine must ~~shall~~ be in accordance with ~~the provisions~~
383 ~~of~~ chapter 120. If a person refuses to comply with this part ss.
384 386.205 and 386.206, after having been assessed such penalty,
385 the department or the Department of Business and Professional
386 Regulation ~~division~~ may file a complaint in the circuit court of
387 the county in which the enclosed indoor workplace ~~such public~~
388 ~~place~~ is located to require compliance.

389 ~~(3) A person may request an exemption from ss. 386.205 and~~
390 ~~386.206 by applying to the department or the division. The~~
391 ~~department or the division may grant exemptions on a case-by-~~
392 ~~case basis where it determines that substantial good faith~~
393 ~~efforts have been made to comply or that emergency or~~
394 ~~extraordinary circumstances exist.~~

395 (3)(4) All fine moneys collected pursuant to this section
396 shall be used by the department for children's medical services
397 programs pursuant to the provisions of part I of chapter 391.

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

400 386.208 Penalties.--Any person who violates s. 386.204
401 commits a noncriminal violation as defined ~~provided for~~ in s.

022143

Amendment No. (for drafter's use only)

402 775.08(3), punishable by a fine of not more than \$100 for the
403 first violation and not more than \$500 for each subsequent
404 violation. Jurisdiction shall be with the appropriate county
405 court.

406 Section 10. Section 386.209, Florida Statutes, is
407 reenacted to read:

408 386.209 Regulation of smoking preempted to state.--This
409 part expressly preempts regulation of smoking to the state and
410 supersedes any municipal or county ordinance on the subject.

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

413 386.211 Public announcements in mass transportation
414 terminals.--Announcements about the Florida Clean Indoor Air Act
415 shall be made regularly over public address systems in terminals
416 of public transportation carriers located in metropolitan
417 statistical areas with populations over 230,000 according to the
418 latest census. These announcements shall be made at least every
419 30 minutes and shall be made in appropriate languages. Each
420 announcement must ~~shall~~ include a statement to the effect that
421 Florida is a clean indoor air state and that smoking is not
422 allowed except as provided in this part ~~only in designated~~
423 areas.

424 Section 12. Section 386.212, Florida Statutes, is
425 reenacted and amended to read:

426 386.212 Smoking prohibited near school property;
427 penalty.--

428 (1) It is unlawful for any person under 18 years of age to
429 smoke tobacco in, on, or within 1,000 feet of the real property
430 comprising a public or private elementary, middle, or secondary

022143

Amendment No. (for drafter's use only)

431 school between the hours of 6 a.m. and midnight. This section
432 does ~~shall~~ not apply to any person occupying a moving vehicle or
433 within a private residence.

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

438 (a) The date and time of issuance.

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

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

441 (d) The statute violated.

442 (e) The facts constituting the violation.

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

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

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

448 (i) The applicable civil penalty if the person elects to
449 contest the citation.

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

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

022143

Amendment No. (for drafter's use only)

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

462 386.2125 Rulemaking.--The department shall, in
463 consultation with the State Fire Marshal and the Department of
464 Business and Professional Regulation, have the authority to
465 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
466 the provisions of this part.

467 Section 14. Section 561.695, Florida Statutes, is created
468 to read:

469 561.695 Stand-alone bar smoking permit.--

470 (1) A vendor operating a business that meets the
471 definition of a stand-alone bar as provided in s. 386.203(11)
472 and that possesses all required state and local licenses
473 pertaining to the sale or service of alcoholic beverages or
474 food, and provides proof to the division of such licensure may
475 obtain a stand-alone bar smoking permit upon the filing of a
476 properly completed application and payment of a permit fee of
477 \$150.

478 (2) Only the licensed vendor may provide or serve food on
479 the licensed premises of a stand-alone bar. Other than customary
480 bar snacks as defined by rule of the Department of Business and
481 Professional Regulation, the licensed vendor may not provide or
482 serve food to a person on the licensed premises without
483 requiring the person to pay a separately stated charge for the
484 food that reasonably approximates the retail value of the food.

485 (3) Notwithstanding the permit fee assessed in subsection
486 (1), a licensed vendor operating a business that meets the
487 definition of a stand-alone bar as defined in s. 386.203(11) may

Amendment No. (for drafter's use only)

488 obtain a nonfood service stand-alone bar smoking permit upon the
489 filing of a properly completed application.

490 (a) In order to obtain a nonfood service stand-alone bar
491 smoking permit, the only food provided by the business, or in
492 any other way present or brought onto the premises for
493 consumption by patrons, is limited to nonperishable snack food
494 items commercially prepackaged off the premises of the stand-
495 alone bar and served without additions or preparation; except
496 that a stand-alone bar may pop popcorn for consumption on its
497 premises, provided that the equipment used to pop the popcorn is
498 not used to prepare any other food for patrons; and

499 (b) The stand-alone bar does not at any time use any
500 common area, food storage area, food preparation area, or air-
501 conditioning, heating, ventilation, or air filtration system
502 that is at any time used as or by a restaurant.

503 (4) A vendor operating a stand-alone bar must
504 conspicuously post signs at each entrance to the establishment
505 stating that smoking is permitted in the establishment. The
506 color and design of such signs shall be left to the discretion
507 of the person in charge of the premises.

508 (5) After July 1, 2004, the division shall review the
509 annual permit fees imposed in this section and may reduce the
510 fees to amounts the division determines are sufficient to cover
511 the cost of audits and administration.

512 (6) A stand-alone bar smoking permit is subject to
513 administrative penalties, including the imposition of fines and
514 suspension or revocation of permit for violations of the
515 conditions or qualifications necessary to maintain the
516 designation as a stand-alone bar, provided, however, that a

022143

Amendment No. (for drafter's use only)

517 fourth violation of the conditions or qualifications necessary
518 to maintain designation as a stand-alone bar shall result in the
519 revocation of the permit.

520 (7) The Division of Alcoholic Beverages and Tobacco of the
521 Department of Business and Professional Regulation shall adopt
522 rules pursuant to ss. 120.536(1) and 120.54 governing the
523 application process, criteria for qualification, permit fees,
524 required recordkeeping, auditing, enforcement, and all other
525 rules necessary or appropriate for the effective administration
526 and enforcement of this section and s. 386.203(10) consistent
527 with the division's enforcement authority established in s.
528 561.29.

529 Section 15. On or after July 1, 2003, a vendor operating a
530 business intending to obtain a permit as a stand-alone bar as
531 provided in s. 561.695, Florida Statutes, shall post a notice of
532 such intention at the same location where the vendor's current
533 alcoholic beverage license is posted. The notice shall affirm
534 the vendor's intent to comply with the conditions and
535 qualifications of a stand-alone bar imposed pursuant to part II
536 of chapter 386, Florida Statutes, and the Beverage Law. On or
537 before October 1, 2003, the vendor must have applied for the
538 stand-alone bar permit pursuant to s. 561.695, Florida Statutes,
539 in order to continue to allow smoking in the enclosed indoor
540 workplace.

541 Section 16. If any provision of this act or the
542 application thereof to any person or circumstance is held
543 invalid, the invalidity shall not affect other provisions or
544 applications of the act which can be given effect without the

Amendment No. (for drafter's use only)

545 invalid provision or application, and to this end the provisions
546 of this act are declared severable.

547 Section 17. If any law amended by this act was also
548 amended by a law enacted at the 2003 Regular Session of the
549 Legislature, such laws shall be construed as if they had been
550 enacted at the same session of the Legislature, and full effect
551 shall be given to each if possible.

552 Section 18. This act shall take effect July 1, 2003.

553
554
555

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

557 Remove the entire title, and insert:

558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573

A bill to be entitled
An act relating to the Florida Clean Indoor Air Act;
revising various provisions of pt. II of ch. 386, F.S.,
the Florida Clean Indoor Air Act, for the purpose of
implementing s. 20, Art. X of the State Constitution;
amending s. 386.201, F.S.; providing a popular name;
amending s. 386.202, F.S.; revising legislative intent;
amending s. 386.203, F.S.; providing definitions; amending
s. 386.204, F.S.; prohibiting smoking in an enclosed
indoor workplace; creating s. 386.2045, F.S.; establishing
specific exceptions to the prohibition against smoking in
an enclosed indoor workplace; amending s. 386.205, F.S.,
relating to designation of smoking areas; limiting
designation to a customs smoking room in an airport in-
transit lounge; providing requirements for operation;

Amendment No. (for drafter's use only)

574 amending s. 386.206, F.S.; providing for continuation of
575 requirements with respect to the posting of signs stating
576 that smoking is not permitted in an indoor workplace;
577 requiring the proprietor or person in charge of an
578 enclosed indoor workplace to develop and implement a
579 policy regarding smoking prohibitions; providing
580 requirements with respect to posting of signs at an
581 airport terminal that includes a designated customs
582 smoking room and an enclosed indoor workplace where a
583 smoking cessation program or medical or scientific
584 research is conducted or performed; providing for
585 expiration of such provisions; amending s. 386.207, F.S.,
586 relating to administration, enforcement, and civil
587 penalties; removing cross references, to conform;
588 authorizing enforcement of the act by the Department of
589 Health and the Department of Business and Professional
590 Regulation; increasing penalties; eliminating exemptions;
591 amending s. 386.208, F.S.; clarifying language; reenacting
592 s. 386.209, F.S., which preempts regulation of smoking to
593 the state; amending s. 386.211, F.S., relating to public
594 announcements in mass transportation terminals, to
595 conform; reenacting and amending s. 386.212, F.S., which
596 prohibits any person under 18 years of age from smoking
597 tobacco in, on, or within 1,000 feet of the real property
598 comprising a public or private elementary, middle, or
599 secondary school and provides penalties therefor; creating
600 s. 386.2125, F.S.; providing rulemaking authority;
601 creating s. 561.695, F.S.; providing for the issuance of a
602 stand-alone bar smoking permit by the Division of

022143

Amendment No. (for drafter's use only)

603 Alcoholic Beverages and Tobacco of the Department of
604 Business and Professional Regulation; providing a permit
605 fee; providing permit requirements; providing for the
606 issuance of a nonfood service stand-alone bar smoking
607 permit; providing permit requirements; requiring a vendor
608 operating a stand-alone bar to post specified signs;
609 providing for division review of permit fees; providing
610 for administrative penalties and revocation of permit;
611 requiring the division to adopt rules; requiring a vendor
612 operating a stand-alone bar and who intends to obtain a
613 permit as a stand-alone bar to post a notice of intent by
614 a specified date; requiring such vendors to apply for a
615 stand-alone bar permit by a specified date; providing
616 severability; providing for construction of the act in
617 pari materia with laws enacted during the 2003 Regular
618 Session of the Legislature; providing an effective date.