

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Justice offered the following:

**Amendment**

Remove lines 40 through 172, and insert:

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

386.202 Legislative intent.--The purpose of this part is to protect individuals 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 s. 20, Art. X of the State Constitution. It is the intent of the Legislature to not inhibit, or otherwise obstruct, smoking cessation programs, medical research, or scientific research in this state. The Legislature finds that tobacco smoking that is integral to a smoking cessation program, medical research, or scientific research does

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28 not present a credible public health hazard from second-hand  
29 smoke by providing a uniform statewide maximum code. This part  
30 shall not be interpreted to require the designation of smoking  
31 areas. However, it is the intent of the Legislature to  
32 discourage the designation of any area within a government  
33 building as a smoking area.

34 Section 3. Section 386.203, Florida Statutes, is amended  
35 to read:

36 386.203 Definitions.--As used in this part:

37 (1)(4) "Smoking" means inhaling, exhaling, burning,  
38 carrying, or possessing any possession of a lighted tobacco  
39 product, including cigarettes, cigars, pipe tobacco, and  
40 cigarette, lighted cigar, lighted pipe, or any other lighted  
41 tobacco product.

42 (2) "Second-hand smoke," also known as environmental  
43 tobacco smoke [ETS], means smoke emitted from lighted,  
44 smoldering, or burning tobacco when the smoker is not inhaling;  
45 smoke emitted at the mouthpiece during puff drawing; and smoke  
46 exhaled by the smoker.

47 (3) "Work" means any person's providing any employment or  
48 employment-type service for or at the request of another  
49 individual or individuals or any public or private entity,  
50 whether for compensation or not, whether full or part time,  
51 whether legally or not. "Work" includes, without limitation, any  
52 such service performed by an employee, independent contractor,  
53 agent, partner, proprietor, manager, officer, director,  
54 apprentice, trainee, associate, servant, volunteer, and the  
55 like.

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56       (4) "Enclosed indoor workplace" means any place where one  
57 or more persons engages in work, and which place is  
58 predominantly or totally bounded on all sides and above by  
59 physical barriers, regardless of whether such barriers consist  
60 of or include uncovered openings, screened or otherwise  
61 partially covered openings; or open or closed windows,  
62 jalousies, doors, or the like. This section applies to all such  
63 enclosed indoor workplaces without regard to whether work is  
64 occurring at any given time.

65       (5) "Commercial" use of a private residence means any time  
66 during which the owner, lessee, or other person occupying or  
67 controlling the use of the private residence is furnishing in  
68 the private residence, or causing or allowing to be furnished in  
69 the private residence, child care, adult care, or health care,  
70 or any combination thereof, and receiving or expecting to  
71 receive compensation therefor.

72       (6) "Retail tobacco shop" means any enclosed indoor  
73 workplace dedicated to or predominantly for the retail sale of  
74 tobacco, tobacco products, and accessories for such products, in  
75 which the sale of other products or services is merely  
76 incidental. Any enclosed indoor workplace of a business that  
77 manufactures, imports, or distributes tobacco products or of a  
78 tobacco leaf dealer is a business dedicated to or predominantly  
79 for the retail sale of tobacco and tobacco products when, as a  
80 necessary and integral part of the process of making,  
81 manufacturing, importing, or distributing a tobacco product for  
82 the eventual retail sale of such tobacco or tobacco product,  
83 tobacco is heated, burned or smoked or a lighted tobacco product  
84 is tested.

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85        (7) "Designated smoking guest rooms at public lodging  
86 establishments" means the sleeping rooms and directly associated  
87 private areas, such as bathrooms, living rooms, and kitchen  
88 areas, if any, rented to guests for their exclusive transient  
89 occupancy in public lodging establishments, including hotels,  
90 motels, resort condominiums, transient apartments, transient  
91 lodging establishments, rooming houses, boarding houses, resort  
92 dwelling, bed and breakfast inns, and the like; and designated  
93 by the person or persons having management authority over such  
94 public lodging establishment as rooms in which smoking may be  
95 permitted.

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

98        ~~(a) Government buildings;~~

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

101        ~~(c) Elevators;~~

102        ~~(d) Hospitals;~~

103        ~~(e) Nursing homes;~~

104        ~~(f) Educational facilities;~~

105        ~~(g) Public school buses;~~

106        ~~(h) Libraries;~~

107        ~~(i) Courtrooms;~~

108        ~~(j) Jury waiting and deliberation rooms;~~

109        ~~(k) Museums;~~

110        ~~(l) Theaters;~~

111        ~~(m) Auditoriums;~~

112        ~~(n) Arenas;~~

113        ~~(o) Recreational facilities;~~

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- 114           ~~(p) Restaurants;~~
- 115           ~~(q) Retail stores, except a retail store the primary~~  
116 ~~business of which is the sale of tobacco or tobacco related~~  
117 ~~products;~~
- 118           ~~(r) Grocery stores;~~
- 119           ~~(s) Places of employment;~~
- 120           ~~(t) Health care facilities;~~
- 121           ~~(u) Day care centers; and~~
- 122           ~~(v) Common areas of retirement homes and condominiums.~~
- 123           ~~(2) "Government building" means any building or any~~  
124 ~~portion of any building owned by or leased to the state or any~~  
125 ~~political subdivision thereof and used for governmental~~  
126 ~~purposes.~~
- 127           ~~(3) "Public meeting" means all meetings open to the~~  
128 ~~public, including meetings of homeowner, condominium, or renter~~  
129 ~~or tenant associations unless such meetings are held in a~~  
130 ~~private residence.~~
- 131           ~~(5) "Smoking area" means any designated area meeting the~~  
132 ~~requirements of ss. 386.205 and 386.206.~~
- 133           ~~(6) "Common area" means any hallway, corridor, lobby,~~  
134 ~~aisle, water fountain area, restroom, stairwell, entryway, or~~  
135 ~~conference room in any public place.~~
- 136           (8)~~(7)~~ "Department" means the Department of Health.
- 137           (9)~~(8)~~ "Division" means the Division of Hotels and  
138 Restaurants of the Department of Business and Professional  
139 Regulation.
- 140           Section 4. Section 386.204, Florida Statutes, is amended  
141 to read:

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142           386.204 Prohibition; exceptions.--A person may not smoke  
143 in an enclosed indoor workplace, except that smoking may be  
144 permitted in: a public place or at a public meeting except in  
145 designated smoking areas. These prohibitions do not apply in  
146 eases in which an entire room or hall is used for a private  
147 function and seating arrangements are under the control of the  
148 sponsor of the function and not of the proprietor or person in  
149 charge of the room or hall.

150           (1) Private residences when not being used for commercial  
151 purposes as defined in s. 386.203(5).

152           (2) Retail tobacco shops as defined in s. 386.203(6).

153           (3) Designated smoking guest rooms at public lodging  
154 establishments as defined in s. 386.203(7).

155           (4) Any enclosed indoor workplace or public place, to the  
156 extent that tobacco smoking is an integral part of a smoking-  
157 cessation program, medical research, or scientific research.  
158 Each room in which tobacco smoking is permitted for such  
159 purposes must comply with the signage requirements in s.  
160 386.206.