

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representatives Kallinger and Prieguez offered the following:

**Amendment (with title amendment)**

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, Art. X of the State Constitution by providing a uniform~~

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

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

37 386.203 Definitions.--As used in this part:

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

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

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

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

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

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

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

82 (7) "Membership association" means a charitable,  
83 nonprofit, or veterans' association that holds a current  
84 exemption under s. 501(c)(3), s. 501(c)(4), s. 501(c)(7), s.

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85 501(c)(8), s. 501(c)(10), s. 501(c)(19), or s. 501(d) of the  
86 Internal Revenue Code.

87 (8) "Physical barrier" includes an uncovered opening, a  
88 screened or otherwise partially covered opening, or an open or  
89 closed window, jalousie, or door.

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

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

108 (11)(4) "Smoking" means inhaling, exhaling, burning,  
109 carrying, or possessing any possession of a lighted tobacco  
110 product, including cigarettes, cigars, pipe tobacco, and  
111 eigarette, lighted cigar, lighted pipe, or any other lighted  
112 tobacco product.

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113 (12) "Stand-alone bar" means any place of business devoted  
114 during any time of operation predominantly or totally to serving  
115 alcoholic beverages, intoxicating beverages, or intoxicating  
116 liquors, or any combination thereof, for consumption on the  
117 licensed premises; in which the serving of food, if any, is  
118 merely incidental to the consumption of any such beverage; and  
119 the licensed premises of which is not located within, and does  
120 not share any common entryway or common indoor area with, any  
121 other enclosed indoor workplace, including any business for  
122 which the sale of food or any other product or service is more  
123 than an incidental source of gross annual revenue. A place of  
124 business constitutes a stand-alone bar in which the service of  
125 food is merely incidental in accordance with this subsection if:

126 (a) The business derives no more than 10 percent of its  
127 annual gross revenue from the sale of food.

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

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

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

141 ~~(a) Government buildings;~~

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- 142           ~~(b) Public means of mass transportation and their~~  
143 ~~associated terminals not subject to federal smoking regulation;~~
- 144           ~~(c) Elevators;~~
- 145           ~~(d) Hospitals;~~
- 146           ~~(e) Nursing homes;~~
- 147           ~~(f) Educational facilities;~~
- 148           ~~(g) Public school buses;~~
- 149           ~~(h) Libraries;~~
- 150           ~~(i) Courtrooms;~~
- 151           ~~(j) Jury waiting and deliberation rooms;~~
- 152           ~~(k) Museums;~~
- 153           ~~(l) Theaters;~~
- 154           ~~(m) Auditoriums;~~
- 155           ~~(n) Arenas;~~
- 156           ~~(o) Recreational facilities;~~
- 157           ~~(p) Restaurants;~~
- 158           ~~(q) Retail stores, except a retail store the primary~~  
159 ~~business of which is the sale of tobacco or tobacco related~~  
160 ~~products;~~
- 161           ~~(r) Grocery stores;~~
- 162           ~~(s) Places of employment;~~
- 163           ~~(t) Health care facilities;~~
- 164           ~~(u) Day care centers; and~~
- 165           ~~(v) Common areas of retirement homes and condominiums.~~
- 166           ~~(2) "Government building" means any building or any~~  
167 ~~portion of any building owned by or leased to the state or any~~  
168 ~~political subdivision thereof and used for governmental~~  
169 ~~purposes.~~

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170 ~~(3) "Public meeting" means all meetings open to the~~  
171 ~~public, including meetings of homeowner, condominium, or renter~~  
172 ~~or tenant associations unless such meetings are held in a~~  
173 ~~private residence.~~

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

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

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

180 Section 4. Section 386.204, Florida Statutes, is amended  
181 to read:

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

190 Section 5. Section 386.2045, Florida Statutes, is created  
191 to read:

192 386.2045 Enclosed indoor workplaces; specific  
193 exceptions.--Notwithstanding s. 386.204, tobacco smoking may be  
194 permitted in each of the following places:

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

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199       (2) RETAIL TOBACCO SHOP.--An enclosed indoor workplace  
200 dedicated to or predominantly for the retail sale of tobacco,  
201 tobacco products, and accessories for such products, as defined  
202 in s. 386.203(9).

203       (3) DESIGNATED SMOKING GUEST ROOM.--A designated smoking  
204 guest room at a public lodging establishment as defined in s.  
205 386.203(4).

206       (4) STAND-ALONE BAR.--A place of business devoted during  
207 any time of operation predominantly or totally to serving  
208 alcoholic beverages, intoxicating beverages, or intoxicating  
209 liquors, or any combination thereof, for consumption on the  
210 licensed premises; in which the serving of food, if any, is  
211 merely incidental to the consumption of any such beverage, as  
212 defined in s. 386.203(12); and the licensed premises of which is  
213 not located within, and does not share any common entryway or  
214 common indoor area with, any other enclosed indoor workplace,  
215 including any business for which the sale of food or any other  
216 product or service is more than an incidental source of gross  
217 annual revenue.

218       (5) SMOKING-CESSATION PROGRAM, MEDICAL OR SCIENTIFIC  
219 RESEARCH.--An enclosed indoor workplace, to the extent that  
220 tobacco smoking is an integral part of a smoking-cessation  
221 program conducted by a medical research facility, or medical or  
222 scientific research conducted therein. Each room in which  
223 tobacco smoking is permitted must comply with the signage  
224 requirements in s. 386.206.

225       (6) CUSTOMS SMOKING ROOM.--A customs smoking room in an  
226 airport in-transit lounge under the authority and control of the  
227 Bureau of Customs and Border Protection of the United States

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228 Department of Homeland Security subject to the restrictions  
229 contained in s. 386.205.

230 (7) MEMBERSHIP ASSOCIATION.—A facility owned or leased by  
231 and used exclusively for noncommercial activities performed by  
232 the members and guests of a membership association as defined in  
233 s. 386.203(7), including social gatherings, meetings, dining,  
234 and dances. Each room in which tobacco smoking is permitted must  
235 comply with the signage requirements in s. 386.206.

236 Section 6. Section 386.205, Florida Statutes, is amended  
237 to read:

238 386.205 Customs Designation of smoking rooms areas.--

239 (1) A customs smoking room areas may be designated by the  
240 person in charge of an airport in-transit lounge under the  
241 authority and control of the Bureau of Customs and Border  
242 Protection of the United States Department of Homeland Security  
243 a public place. A customs smoking room may only be designated in  
244 an airport in-transit lounge under the authority and control of  
245 the Bureau of Customs and Border Protection of the United States  
246 Department of Homeland Security. A customs smoking room may not  
247 be designated in an elevator, restroom, or any common area as  
248 defined by s. 386.203. Each customs smoking room must conform to  
249 the following requirements:

250 (a) Work, other than essential services defined in s.  
251 386.203(6), must not be performed in the room at any given time.

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

254 (c) Each customs smoking room must be enclosed by physical  
255 barriers that are impenetrable by second-hand tobacco smoke and

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256 prevent the escape of second-hand tobacco smoke into the  
257 enclosed indoor workplace.

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

262 (e) Each customs smoking room must comply with the signage  
263 requirements in s. 386.206. ~~If a smoking area is designated,~~  
264 ~~existing physical barriers and ventilation systems shall be used~~  
265 ~~to minimize smoke in adjacent nonsmoking areas. This provision~~  
266 ~~shall not be construed to require fixed structural or other~~  
267 ~~physical modifications in providing these areas or to require~~  
268 ~~operation of any existing heating, ventilating, and air-~~  
269 ~~conditioning system (HVAC system) in any manner which decreases~~  
270 ~~its energy efficiency or increases its electrical demand, or~~  
271 ~~both, nor shall this provision be construed to require~~  
272 ~~installation of new or additional HVAC systems.~~

273 ~~(2)(a) A smoking area may not be designated in an~~  
274 ~~elevator, school bus, public means of mass transportation~~  
275 ~~subject only to state smoking regulation, restroom, hospital,~~  
276 ~~doctor's or dentist's waiting room, jury deliberation room,~~  
277 ~~county health department, day care center, school or other~~  
278 ~~educational facility, or any common area as defined in s.~~  
279 ~~386.203. However, a patient's room in a hospital, nursing home,~~  
280 ~~or other health care facility may be designated as a smoking~~  
281 ~~area if such designation is ordered by the attending physician~~  
282 ~~and agreed to by all patients assigned to that room.~~

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

286 ~~(3) In a workplace where there are smokers and nonsmokers,~~  
287 ~~employers shall develop, implement, and post a policy regarding~~  
288 ~~designation of smoking and nonsmoking areas. Such a policy shall~~  
289 ~~take into consideration the proportion of smokers and~~  
290 ~~nonsmokers. Employers who make reasonable efforts to develop,~~  
291 ~~implement, and post such a policy shall be deemed in compliance.~~  
292 ~~An entire area may be designated as a smoking area if all~~  
293 ~~workers routinely assigned to work in that area at the same time~~  
294 ~~agree. With respect to the square footage in any public place as~~  
295 ~~described in subsection (4), this square footage shall not~~  
296 ~~include private office work space which is not a common area as~~  
297 ~~defined in s. 386.203(6) and which is ordinarily inaccessible to~~  
298 ~~the public.~~

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

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

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

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

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

314 ~~(6) Each state agency may adopt rules for administering~~  
315 ~~this section which take into consideration the provisions of~~  
316 ~~this part.~~

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

319 386.206 Posting of signs; requiring policies.--

320 (1) The person in charge of an enclosed indoor workplace  
321 that prior to adoption of s. 20, Art. X of the State  
322 Constitution was required to post signs under the requirements  
323 of this section must continue to a public place shall  
324 conspicuously post, or cause to be posted, in any area  
325 designated as a smoking area signs stating that smoking is not  
326 permitted in the enclosed indoor workplace such area. Each sign  
327 posted pursuant to this section must shall have letters of  
328 reasonable size which can be easily read. The color, design, and  
329 precise place of posting of such signs shall be left to the  
330 discretion of the person in charge of the premises. In order to  
331 increase public awareness, the person in charge of a public  
332 place may, at his or her discretion, also post "NO SMOKING  
333 EXCEPT IN DESIGNATED AREAS" signs as appropriate.

334 (2) The proprietor or other person in charge of an  
335 enclosed indoor workplace must develop and implement a policy  
336 regarding the smoking prohibitions established in this part.  
337 The policy may include, but is not limited to, procedures to be  
338 taken when the proprietor or other person in charge witnesses or  
339 is made aware of a violation of s. 386.204 in the enclosed  
340 indoor workplace and must include a policy which prohibits an

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341 employee from smoking in the enclosed indoor workplace. In order  
342 to increase public awareness, the person in charge of a enclosed  
343 indoor workplace may, at his or her discretion, post "NO  
344 SMOKING" signs as deemed appropriate.

345 (3) The person in charge of an airport terminal that  
346 includes a designated customs smoking room must conspicuously  
347 post, or cause to be posted, signs stating that no smoking is  
348 permitted except in the designated customs smoking room located  
349 in the customs area of the airport. Each sign posted pursuant to  
350 this section must have letters of reasonable size that can be  
351 easily read. The color, design, and precise locations at which  
352 such signs are posted shall be left to the discretion of the  
353 person in charge of the premises.

354 (4) The proprietor or other person in charge of an  
355 enclosed indoor workplace where a smoking cessation program,  
356 medical, or scientific research medical or scientific research  
357 is conducted or performed must conspicuously post, or cause to  
358 be posted, signs stating that smoking is permitted for such  
359 purposes in designated areas in the enclosed indoor workplace.  
360 Each sign posted pursuant to this section must have letters of  
361 reasonable size which can be easily read. The color, design, and  
362 precise locations at which such signs are posted shall be left  
363 to the discretion of the person in charge of the premises.

364 (5) The proprietor or other person in charge of a  
365 membership association, must conspicuously post, or cause to be  
366 posted, signs stating that smoking is permitted in the facility.  
367 Each sign posted pursuant to this section must have letters of  
368 reasonable size which can be easily read. The color, design, and

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369 precise locations at which such signs are posted shall be left  
370 to the discretion of the person in charge of the facility.

371 (6) The provisions of subsection (1) shall expire on July  
372 1, 2005.

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

375 386.207 Administration; enforcement; civil penalties;  
376 ~~exemptions.--~~

377 (1) The department and the Department of Business and  
378 Professional Regulation ~~or the division~~ shall enforce this part  
379 ~~ss. 386.205 and 386.206~~ and to implement such enforcement shall  
380 adopt, in consultation with the State Fire Marshal, rules  
381 specifying procedures to be followed by enforcement personnel in  
382 investigating complaints and notifying alleged violators, ~~rules~~  
383 ~~defining types of cases for which exemptions may be granted,~~ and  
384 rules specifying procedures by which appeals may be taken by  
385 aggrieved parties.

386 (2) Public agencies responsible for the management and  
387 maintenance of government buildings shall report observed  
388 violations to the department and the Department of Business and  
389 Professional Regulation ~~or division~~. The State Fire Marshal  
390 shall report to the department and the Department of Business  
391 and Professional Regulation ~~or division~~ observed violations of  
392 this part ~~ss. 386.205 and 386.206~~ found during its periodic  
393 inspections conducted under ~~pursuant to~~ its regulatory  
394 authority. The department and the Department of Business and  
395 Professional Regulation ~~or the division~~, upon notification of  
396 observed violations of this part ~~ss. 386.205 and 386.206~~, shall  
397 issue to the proprietor or other person in charge of such

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398 enclosed indoor workplace ~~public place~~ a notice to comply with  
399 this part ss. 386.205 and 386.206. If the ~~such~~ person fails to  
400 comply within 30 days after receipt of the ~~such~~ notice, the  
401 department or the Department of Business and Professional  
402 Regulation ~~division~~ shall assess a civil penalty against the  
403 person of not less than \$250 and ~~him or her~~ not to exceed \$750  
404 \$100 for the first violation and not less than \$500 and not to  
405 exceed \$2,000 ~~\$500~~ for each subsequent violation. The imposition  
406 of the ~~such~~ fine must ~~shall~~ be in accordance with ~~the provisions~~  
407 ~~of~~ chapter 120. If a person refuses to comply with this part ss.  
408 ~~386.205 and 386.206~~, after having been assessed such penalty,  
409 the department or the Department of Business and Professional  
410 Regulation ~~division~~ may file a complaint in the circuit court of  
411 the county in which the enclosed indoor workplace ~~such public~~  
412 ~~place~~ is located to require compliance.

413 ~~(3) A person may request an exemption from ss. 386.205 and~~  
414 ~~386.206 by applying to the department or the division. The~~  
415 ~~department or the division may grant exemptions on a case-by-~~  
416 ~~case basis where it determines that substantial good faith~~  
417 ~~efforts have been made to comply or that emergency or~~  
418 ~~extraordinary circumstances exist.~~

419 (3)(4) All fine moneys collected pursuant to this section  
420 shall be used by the department for children's medical services  
421 programs pursuant to the provisions of part I of chapter 391.

422 Section 9. Section 386.208, Florida Statutes, is amended  
423 to read:

424 386.208 Penalties.--Any person who violates s. 386.204  
425 commits a noncriminal violation as defined ~~provided for~~ in s.  
426 775.08(3), punishable by a fine of not more than \$100 for the

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427 first violation and not more than \$500 for each subsequent  
428 violation. Jurisdiction shall be with the appropriate county  
429 court.

430 Section 10. Section 386.209, Florida Statutes, is  
431 reenacted to read:

432 386.209 Regulation of smoking preempted to state.--This  
433 part expressly preempts regulation of smoking to the state and  
434 supersedes any municipal or county ordinance on the subject.

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

437 386.211 Public announcements in mass transportation  
438 terminals.--Announcements about the Florida Clean Indoor Air Act  
439 shall be made regularly over public address systems in terminals  
440 of public transportation carriers located in metropolitan  
441 statistical areas with populations over 230,000 according to the  
442 latest census. These announcements shall be made at least every  
443 30 minutes and shall be made in appropriate languages. Each  
444 announcement must ~~shall~~ include a statement to the effect that  
445 Florida is a clean indoor air state and that smoking is not  
446 allowed except as provided in this part only ~~in designated~~  
447 areas.

448 Section 12. Section 386.212, Florida Statutes, is  
449 reenacted and amended to read:

450 386.212 Smoking prohibited near school property;  
451 penalty.--

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



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456 does ~~shall~~ not apply to any person occupying a moving vehicle or  
457 within a private residence.

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

462 (a) The date and time of issuance.

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

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

465 (d) The statute violated.

466 (e) The facts constituting the violation.

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

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

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

472 (i) The applicable civil penalty if the person elects to  
473 contest the citation.

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

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

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484 Section 13. Section 386.2125, Florida Statutes, is created  
485 to read:

486 386.2125 Rulemaking.--The department shall, in  
487 consultation with the State Fire Marshal and the Department of  
488 Business and Professional Regulation, have the authority to  
489 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement  
490 the provisions of this part.

491 Section 14. Section 561.695, Florida Statutes, is created  
492 to read:

493 561.695 Stand-alone bar smoking permit.--

494 (1) A vendor operating a business that meets the  
495 definition of a stand-alone bar as provided in s. 386.203(12)  
496 and that possesses all required state and local licenses  
497 pertaining to the sale or service of alcoholic beverages or  
498 food, and provides proof to the division of such licensure may  
499 obtain a stand-alone bar smoking permit upon the filing of a  
500 properly completed application and payment of a permit fee of  
501 \$150.

502 (2) Only the licensed vendor may provide or serve food on  
503 the licensed premises of a stand-alone bar. Other than customary  
504 bar snacks as defined by rule of the Department of Business and  
505 Professional Regulation, the licensed vendor may not provide or  
506 serve food to a person on the licensed premises without  
507 requiring the person to pay a separately stated charge for the  
508 food that reasonably approximates the retail value of the food.

509 (3) Notwithstanding the permit fee assessed in subsection  
510 (1), a licensed vendor operating a business that meets the  
511 definition of a stand-alone bar as defined in s. 386.203(12) may

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

514 (a) In order to obtain a nonfood service stand-alone bar  
515 smoking permit, the only food provided by the business, or in  
516 any other way present or brought onto the premises for  
517 consumption by patrons, is limited to nonperishable snack food  
518 items commercially prepackaged off the premises of the stand-  
519 alone bar and served without additions or preparation; except  
520 that a stand-alone bar may pop popcorn for consumption on its  
521 premises, provided that the equipment used to pop the popcorn is  
522 not used to prepare any other food for patrons; and

523 (b) The stand-alone bar does not at any time use any  
524 common area, food storage area, food preparation area, or air-  
525 conditioning, heating, ventilation, or air filtration system  
526 that is at any time used as or by a restaurant or any other  
527 enclosed indoor workplace.

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

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

537 (6) A stand-alone bar smoking permit is subject to  
538 administrative penalties, including the imposition of fines and  
539 suspension or revocation of permit for violations of the  
540 conditions or qualifications necessary to maintain the

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541 designation as a stand-alone bar, provided, however, that a  
542 fourth violation of the conditions or qualifications necessary  
543 to maintain designation as a stand-alone bar shall result in the  
544 revocation of the permit.

545 (7) The Division of Alcoholic Beverages and Tobacco of the  
546 Department of Business and Professional Regulation shall adopt  
547 rules pursuant to ss. 120.536(1) and 120.54 governing the  
548 application process, criteria for qualification, permit fees,  
549 required recordkeeping, auditing, enforcement, and all other  
550 rules necessary or appropriate for the effective administration  
551 and enforcement of this section and s. 386.203(11) consistent  
552 with the division's enforcement authority established in s.  
553 561.29.

554 Section 15. On or after July 1, 2003, a vendor operating a  
555 business intending to obtain a permit as a stand-alone bar as  
556 provided in s. 561.695, Florida Statutes, shall post a notice of  
557 such intention at the same location where the vendor's current  
558 alcoholic beverage license is posted. The notice shall affirm  
559 the vendor's intent to comply with the conditions and  
560 qualifications of a stand-alone bar imposed pursuant to part II  
561 of chapter 386, Florida Statutes, and the Beverage Law. On or  
562 before October 1, 2003, the vendor must have applied for the  
563 stand-alone bar permit pursuant to s. 561.695, Florida Statutes,  
564 in order to continue to allow smoking in the enclosed indoor  
565 workplace.

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

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

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

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

578

579

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

581 Remove the entire title, and insert:

582

583 A bill to be entitled

584 An act relating to the Florida Clean Indoor Air Act;  
585 revising various provisions of pt. II of ch. 386, F.S.,  
586 the Florida Clean Indoor Air Act, for the purpose of  
587 implementing s. 20, Art. X of the State Constitution;  
588 amending s. 386.201, F.S.; providing a popular name;  
589 amending s. 386.202, F.S.; revising legislative intent;  
590 amending s. 386.203, F.S.; providing definitions; amending  
591 s. 386.204, F.S.; prohibiting smoking in an enclosed  
592 indoor workplace; creating s. 386.2045, F.S.; establishing  
593 specific exceptions to the prohibition against smoking in  
594 an enclosed indoor workplace; amending s. 386.205, F.S.,  
595 relating to designation of smoking areas; limiting  
596 designation to a customs smoking room in an airport in-  
597 transit lounge; providing requirements for operation;  
598 amending s. 386.206, F.S.; providing for continuation of

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599 requirements with respect to the posting of signs stating  
600 that smoking is not permitted in an indoor workplace;  
601 requiring the proprietor or person in charge of an  
602 enclosed indoor workplace to develop and implement a  
603 policy regarding smoking prohibitions; providing  
604 requirements with respect to posting of signs at an  
605 airport terminal that includes a designated customs  
606 smoking room, an enclosed indoor workplace where a smoking  
607 cessation program or medical or scientific research is  
608 conducted or performed, and the facility of a membership  
609 association; providing for expiration of such provisions;  
610 amending s. 386.207, F.S., relating to administration,  
611 enforcement, and civil penalties; removing cross  
612 references, to conform; authorizing enforcement of the act  
613 by the Department of Health and the Department of Business  
614 and Professional Regulation; increasing penalties;  
615 eliminating exemptions; amending s. 386.208, F.S.;  
616 clarifying language; reenacting s. 386.209, F.S., which  
617 preempts regulation of smoking to the state; amending s.  
618 386.211, F.S., relating to public announcements in mass  
619 transportation terminals, to conform; reenacting and  
620 amending s. 386.212, F.S., which prohibits any person  
621 under 18 years of age from smoking tobacco in, on, or  
622 within 1,000 feet of the real property comprising a public  
623 or private elementary, middle, or secondary school and  
624 provides penalties therefor; creating s. 386.2125, F.S.;  
625 providing rulemaking authority; creating s. 561.695, F.S.;  
626 providing for the issuance of a stand-alone bar smoking  
627 permit by the Division of Alcoholic Beverages and Tobacco

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628 of the Department of Business and Professional Regulation;  
629 providing a permit fee; providing permit requirements;  
630 providing for the issuance of a nonfood service stand-  
631 alone bar smoking permit; providing permit requirements;  
632 requiring a vendor operating a stand-alone bar to post  
633 specified signs; providing for division review of permit  
634 fees; providing for administrative penalties and  
635 revocation of permit; requiring the division to adopt  
636 rules; requiring a vendor operating a stand-alone bar and  
637 who intends to obtain a permit as a stand-alone bar to  
638 post a notice of intent by a specified date; requiring  
639 such vendors to apply for a stand-alone bar permit by a  
640 specified date; providing severability; providing for  
641 construction of the act in pari materia with laws enacted  
642 during the 2003 Regular Session of the Legislature;  
643 providing an effective date.