

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Hasner offered the following:

2

3 **Amendment (with title amendment)**

4 Remove line(s) 87 through 279, and insert:

5

6 (12)~~(11)~~ "Stand-alone bar" means any licensed premises  
7 devoted during any time of operation predominantly or totally to  
8 serving alcoholic beverages, intoxicating beverages, or  
9 intoxicating liquors, or any combination thereof, for  
10 consumption on the licensed premises; in which the serving of  
11 food, if any, is merely incidental to the consumption of any  
12 such beverage; and the licensed premises is not located within,  
13 and does not share any common entryway or common indoor area  
14 with, any other enclosed indoor workplace, including any  
15 business for which the sale of food or any other product or

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16 service is more than an incidental source of gross revenue. A  
17 place of business constitutes a stand-alone bar in which the  
18 service of food is merely incidental in accordance with this  
19 subsection if the only food provided by the business, or in any  
20 other way present or brought onto the premises for consumption  
21 by patrons, is limited to nonperishable snack food items  
22 commercially prepackaged off the premises of the stand-alone bar  
23 and served without additions or preparation the licensed  
24 ~~premises derives no more than 10 percent of its gross revenue~~  
25 ~~from the sale of food consumed on the licensed premises.~~

26 Section 2. Section 386.204, Florida Statutes, is amended  
27 to read:

28 386.204 Prohibition.--

29 (1) A person may not smoke in an enclosed indoor  
30 workplace, ~~except as otherwise provided in s. 386.2045.~~

31 (2) A proprietor or other person in charge of an enclosed  
32 indoor workplace may not permit smoking in that enclosed indoor  
33 workplace. If the proprietor or other person in charge of an  
34 enclosed indoor workplace observes smoking in that workplace or  
35 has been notified of observed smoking in that workplace in  
36 violation of this part, the proprietor or other person in charge  
37 of the enclosed indoor workplace shall request the violator to  
38 stop smoking and, if the violator does not comply, the  
39 proprietor or other person in charge of the enclosed indoor  
40 workplace shall require the violator to leave the premises. A  
41 proprietor or other person in charge of an enclosed indoor  
42 workplace who fails to comply with this subsection is subject to

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43 the procedures and penalties prescribed in ss. 386.207 and  
44 561.695, as applicable.

45 Section 3. Subsections (2) and (4) of section 386.2045,  
46 Florida Statutes, are amended to read:

47 386.2045 Enclosed indoor workplaces; specific  
48 exceptions.--Notwithstanding s. 386.204, tobacco smoking may be  
49 permitted in each of the following places:

50 (2) RETAIL TOBACCO SHOP.--An enclosed indoor workplace  
51 dedicated to or predominantly for the retail sale of tobacco,  
52 tobacco products, and accessories for such products, as defined  
53 in s. 386.203(9) ~~s. 386.203(8)~~.

54 (4) STAND-ALONE BAR.--A business that meets the definition  
55 of a stand-alone bar as defined in s. 386.203(12) ~~s. 386.203(11)~~  
56 and that otherwise complies with all applicable provisions of  
57 the Beverage Law and this part.

58 Section 4. Subsection (1) of section 386.205, Florida  
59 Statutes, is amended to read:

60 386.205 Customs smoking rooms.--A customs smoking room may  
61 be designated by the person in charge of an airport in-transit  
62 lounge under the authority and control of the Bureau of Customs  
63 and Border Protection of the United States Department of  
64 Homeland Security. A customs smoking room may only be designated  
65 in an airport in-transit lounge under the authority and control  
66 of the Bureau of Customs and Border Protection of the United  
67 States Department of Homeland Security. A customs smoking room  
68 may not be designated in an elevator, restroom, or any common

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69 area as defined by s. 386.203. Each customs smoking room must  
70 conform to the following requirements:

71 (1) Work, other than essential services defined in s.  
72 386.203(7) ~~s. 386.203(6)~~, must not be performed in the room at  
73 any given time.

74 Section 5. Section 386.206, Florida Statutes, is amended  
75 to read:

76 386.206 Posting of signs; requiring policies.--

77 ~~(1) The person in charge of an enclosed indoor workplace~~  
78 ~~that prior to adoption of s. 20, Art. X of the State~~  
79 ~~Constitution was required to post signs under the requirements~~  
80 ~~of this section must continue to conspicuously post, or cause to~~  
81 ~~be posted, signs stating that smoking is not permitted in the~~  
82 ~~enclosed indoor workplace. Each sign posted pursuant to this~~  
83 ~~section must have letters of reasonable size which can be easily~~  
84 ~~read. The color, design, and precise place of posting of such~~  
85 ~~signs shall be left to the discretion of the person in charge of~~  
86 ~~the premises.~~

87 (1)(2) The proprietor or other person in charge of an  
88 enclosed indoor workplace must develop and implement a policy  
89 regarding the smoking prohibitions established in this part. The  
90 policy may include, but is not limited to, procedures to be  
91 taken when the proprietor or other person in charge witnesses or  
92 is made aware of a violation of s. 386.204 in the enclosed  
93 indoor workplace and must include a policy which prohibits an  
94 employee from smoking in the enclosed indoor workplace. In order  
95 to increase public awareness, the person in charge of an

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96 enclosed indoor workplace may, at his or her discretion, post  
97 "NO SMOKING" signs as deemed appropriate.

98 ~~(2)~~<sup>(3)</sup> The person in charge of an airport terminal that  
99 includes a designated customs smoking room must conspicuously  
100 post, or cause to be posted, signs stating that no smoking is  
101 permitted except in the designated customs smoking room located  
102 in the customs area of the airport. Each sign posted pursuant to  
103 this section must have letters of reasonable size that can be  
104 easily read. The color, design, and precise locations at which  
105 such signs are posted shall be left to the discretion of the  
106 person in charge of the premises.

107 ~~(3)~~<sup>(4)</sup> The proprietor or other person in charge of an  
108 enclosed indoor workplace where a smoking cessation program,  
109 medical research, or scientific research is conducted or  
110 performed must conspicuously post, or cause to be posted, signs  
111 stating that smoking is permitted for such purposes in  
112 designated areas in the enclosed indoor workplace. Each sign  
113 posted pursuant to this section must have letters of reasonable  
114 size which can be easily read. The color, design, and precise  
115 locations at which such signs are posted shall be left to the  
116 discretion of the person in charge of the premises.

117 ~~(5) The provisions of subsection (1) shall expire on July~~  
118 ~~1, 2005.~~

119 Section 6. Section 386.208, Florida Statutes, is amended  
120 to read:

121 386.208 Penalties.--

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122       (1) Any person who violates s. 386.204 commits a  
123 noncriminal violation as defined in s. 775.08(3), punishable by  
124 a fine of not more than \$100 for the first violation and not  
125 more than \$500 for each subsequent violation. Jurisdiction shall  
126 be with the appropriate county court.

127       (2) A law enforcement officer may issue a citation in such  
128 form as prescribed by a county or municipality to any person who  
129 violates the provisions of this part. Any such citation must  
130 contain:

131       (a) The date and time of issuance.

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

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

134       (d) The statute violated.

135       (e) The facts constituting the violation.

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

137       (g) The procedure for the person to follow in order to pay  
138 the fine, contest the citation, or appear in court.

139       (h) The applicable range of the fine for the violation,  
140 which may not be more than \$100 for a first violation and not  
141 more than \$500 for each subsequent violation.

142       (3) Any person who fails to comply with the directions of  
143 the citation shall be deemed to have waived his or her right to  
144 contest the citation and the court may issue an order to show  
145 cause.

146       (4) If a person who violates s. 386.204, or any provision  
147 of this part, refuses to comply with the request of the  
148 proprietor or other person in charge of an enclosed indoor

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149 workplace to stop smoking or otherwise comply with the  
150 provisions of this part, a law enforcement officer may remove  
151 the violator from the premises.

152 (5) This section does not limit any other action or remedy  
153 that is available to a proprietor or other person in charge of  
154 an enclosed indoor workplace and does not limit the authority of  
155 a law enforcement officer, the department, or the Division of  
156 Hotels and Restaurants and the Division of Alcoholic Beverages  
157 and Tobacco of the Department of Business and Professional  
158 Regulation to enforce the provisions of this part or any other  
159 rule, law, or ordinance.

160 Section 7. Subsections (1), (5), (6), (7), and (8) of  
161 section 561.695, Florida Statutes, are amended to read:

162 561.695 Stand-alone bar enforcement; qualification;  
163 penalties.--

164 (1) The division shall designate as a stand-alone bar the  
165 licensed premises of a vendor that operates a business that  
166 meets the definition of a stand-alone bar in s. 386.203(12) ~~s.~~  
167 ~~386.203(11)~~ upon receipt of the vendor's election to permit  
168 tobacco smoking in the licensed premises.

169 (5) After the initial designation, to continue to qualify  
170 as a stand-alone bar the licensee must provide to the division  
171 annually, on or before the licensee's annual renewal date, an  
172 affidavit that certifies, with respect to the preceding 12-month  
173 period, the following:

174 (a) The business was operated as a stand-alone bar ~~No more~~  
175 ~~than 10 percent of the gross revenue of the business is from the~~

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176 ~~sale of food consumed on the licensed premises as defined in s.~~  
177 ~~386.203(12)(11).~~

178 (b) The only food provided by the business, or in any  
179 other way present or brought onto the premises for consumption  
180 by patrons, was limited to nonperishable snack food items  
181 commercially prepackaged off the premises of the stand-alone bar  
182 and served without additions or preparation ~~Other than customary~~  
183 ~~bar snacks as defined by rule of the division, the licensed~~  
184 ~~vendor does not provide or serve food to a person on the~~  
185 ~~licensed premises without requiring the person to pay a~~  
186 ~~separately stated charge for food that reasonably approximates~~  
187 ~~the retail value of the food.~~

188 (c) The licensed vendor conspicuously posted ~~posts~~ signs  
189 at each entrance to the establishment stating that smoking is  
190 permitted in the establishment.

191  
192 ===== T I T L E A M E N D M E N T =====

193 Remove lines 9 through 16, and insert:

194  
195 the act; redefining the term "stand-alone bar"; amending  
196 s. 386.204, F.S.; eliminating certain