

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Hasner offered the following:

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3 **Amendment (with directory and title amendment)**

4 Remove lines 87 through 271, and insert:

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6 Section 2. Section 386.204, Florida Statutes, is amended
7 to read:

8 386.204 Prohibition.--

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

11 (2) A proprietor or other person in charge of an enclosed
12 indoor workplace may not permit smoking in that enclosed indoor
13 workplace. If the proprietor or other person in charge of an
14 enclosed indoor workplace observes smoking in that workplace or
15 has been notified of observed smoking in that workplace in

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16 violation of this part, the proprietor or other person in charge
17 of the enclosed indoor workplace shall request the violator to
18 stop smoking and, if the violator does not comply, the
19 proprietor or other person in charge of the enclosed indoor
20 workplace shall require the violator to leave the premises. A
21 proprietor or other person in charge of an enclosed indoor
22 workplace who fails to comply with this subsection is subject to
23 the procedures and penalties prescribed in ss. 386.207 and
24 561.695, as applicable.

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

27 386.2045 Enclosed indoor workplaces; specific
28 exceptions.--Notwithstanding s. 386.204, tobacco smoking may be
29 permitted in each of the following places:

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

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

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

40 386.205 Customs smoking rooms.--A customs smoking room may
41 be designated by the person in charge of an airport in-transit
42 lounge under the authority and control of the Bureau of Customs

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HOUSE AMENDMENT

Bill No. HB 1297 CS

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43 and Border Protection of the United States Department of
44 Homeland Security. A customs smoking room may only be designated
45 in an airport in-transit lounge under the authority and control
46 of the Bureau of Customs and Border Protection of the United
47 States Department of Homeland Security. A customs smoking room
48 may not be designated in an elevator, restroom, or any common
49 area as defined by s. 386.203. Each customs smoking room must
50 conform to the following requirements:

51 (1) Work, other than essential services defined in s.
52 386.203(7) ~~s. 386.203(6)~~, must not be performed in the room at
53 any given time.

54 Section 5. Section 386.206, Florida Statutes, is amended
55 to read:

56 386.206 Posting of signs; requiring policies.--

57 ~~(1) The person in charge of an enclosed indoor workplace~~
58 ~~that prior to adoption of s. 20, Art. X of the State~~
59 ~~Constitution was required to post signs under the requirements~~
60 ~~of this section must continue to conspicuously post, or cause to~~
61 ~~be posted, signs stating that smoking is not permitted in the~~
62 ~~enclosed indoor workplace. Each sign posted pursuant to this~~
63 ~~section must have letters of reasonable size which can be easily~~
64 ~~read. The color, design, and precise place of posting of such~~
65 ~~signs shall be left to the discretion of the person in charge of~~
66 ~~the premises.~~

67 (1)(2) The proprietor or other person in charge of an
68 enclosed indoor workplace must develop and implement a policy
69 regarding the smoking prohibitions established in this part. The

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70 policy may include, but is not limited to, procedures to be
71 taken when the proprietor or other person in charge witnesses or
72 is made aware of a violation of s. 386.204 in the enclosed
73 indoor workplace and must include a policy which prohibits an
74 employee from smoking in the enclosed indoor workplace. In order
75 to increase public awareness, the person in charge of an
76 enclosed indoor workplace may, at his or her discretion, post
77 "NO SMOKING" signs as deemed appropriate.

78 ~~(2)~~⁽³⁾ The person in charge of an airport terminal that
79 includes a designated customs smoking room must conspicuously
80 post, or cause to be posted, signs stating that no smoking is
81 permitted except in the designated customs smoking room located
82 in the customs area of the airport. Each sign posted pursuant to
83 this section must have letters of reasonable size that can be
84 easily read. The color, design, and precise locations at which
85 such signs are posted shall be left to the discretion of the
86 person in charge of the premises.

87 ~~(3)~~⁽⁴⁾ The proprietor or other person in charge of an
88 enclosed indoor workplace where a smoking cessation program,
89 medical research, or scientific research is conducted or
90 performed must conspicuously post, or cause to be posted, signs
91 stating that smoking is permitted for such purposes in
92 designated areas in the enclosed indoor workplace. Each sign
93 posted pursuant to this section must have letters of reasonable
94 size which can be easily read. The color, design, and precise
95 locations at which such signs are posted shall be left to the
96 discretion of the person in charge of the premises.

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97 ~~(5) The provisions of subsection (1) shall expire on July~~
98 ~~1, 2005.~~

99 Section 6. Section 386.208, Florida Statutes, is amended
100 to read:

101 386.208 Penalties.--

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

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

111 (a) The date and time of issuance.

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

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

114 (d) The statute violated.

115 (e) The facts constituting the violation.

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

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

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

122 (3) Any person who fails to comply with the directions of
123 the citation shall be deemed to have waived his or her right to

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124 contest the citation and the court may issue an order to show
125 cause.

126 (4) If a person who violates s. 386.204, or any provision
127 of this part, refuses to comply with the request of the
128 proprietor or other person in charge of an enclosed indoor
129 workplace to stop smoking or otherwise comply with the
130 provisions of this part, a law enforcement officer may remove
131 the violator from the premises.

132 (5) This section does not limit any other action or remedy
133 that is available to a proprietor or other person in charge of
134 an enclosed indoor workplace and does not limit the authority of
135 a law enforcement officer, the department, or the Division of
136 Hotels and Restaurants and the Division of Alcoholic Beverages
137 and Tobacco of the Department of Business and Professional
138 Regulation to enforce the provisions of this part or any other
139 rule, law, or ordinance.

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

142 561.695 Stand-alone bar enforcement; qualification;
143 penalties.--

144 (1) The division shall designate as a stand-alone bar the
145 licensed premises of a vendor that operates a business that
146 meets the definition of a stand-alone bar in s. 386.203(12) ~~s.~~
147 ~~386.203(11)~~ upon receipt of the vendor's election to permit
148 tobacco smoking in the licensed premises.

149 (5) After the initial designation, to continue to qualify
150 as a stand-alone bar the licensee must provide to the division

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151 annually, on or before the licensee's annual renewal date, an
152 affidavit that certifies, with respect to the preceding 12-month
153 period, the following:

154 (a) No more than 10 percent of the gross revenue of the
155 business is from the sale of food consumed on the licensed
156 premises as defined in s. 386.203(12)(11).

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159 ===== D I R E C T O R Y A M E N D M E N T =====

160 Remove lines 55 through 59, and insert:

161

162 Section 1. Subsection (5) of section 386.203, Florida
163 Statutes, is amended, present subsections (6) through (13) of
164 said section are redesignated as subsections (7) through (14),
165 respectively, and a new subsection (6) is added to that section,
166 to read:

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

170 Remove lines 9 through 16, and insert:

171

172 the act; amending s. 386.204, F.S.; eliminating certain