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HOUSE BILL 2862

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Ruderman, Cody, Schual-Berke, Fromhold, Rockefeller and McDermott

Read first time 01/30/2002. Referred to Committee on Health Care.

1 AN ACT Relating to restricting smoking in public places; amending  
2 RCW 70.160.020, 70.160.030, 70.160.040, and 70.160.050; adding a new  
3 section to chapter 70.160 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.160.020 and 1985 c 236 s 2 are each amended to read  
6 as follows:

7 As used in this chapter, the following terms have the meanings  
8 indicated unless the context clearly indicates otherwise.

9 (1) "Lounge or lounge area" means an area used primarily for the  
10 preparation, sale, and service of liquor, and is licensed for that use  
11 at all times by the liquor control board. Persons under twenty-one  
12 years of age are not permitted to enter or remain in a lounge or lounge  
13 area, except as otherwise provided under law.

14 (2) "Smoke" or "smoking" means the carrying or smoking of any kind  
15 of lighted pipe, cigar, cigarette, or any other lighted smoking  
16 equipment.

17 ((+2+)) (3) "Public place" means that portion of any building or  
18 vehicle used by and open to the public, regardless of whether the  
19 building or vehicle is owned in whole or in part by private persons or

1 entities, the state of Washington, or other public entity, and  
2 regardless of whether a fee is charged for admission.

3 Public places include, but are not limited to: Elevators, public  
4 conveyances or transportation facilities, museums, concert halls,  
5 theaters, auditoriums, exhibition halls, indoor sports arenas,  
6 hospitals, nursing homes, health care facilities or clinics, enclosed  
7 shopping centers, retail stores, retail service establishments,  
8 financial institutions, educational facilities, ticket areas, public  
9 hearing facilities, state legislative chambers and immediately adjacent  
10 hallways, public restrooms, libraries, restaurants, waiting areas,  
11 lobbies, and reception areas. A public place does not include a  
12 private residence. This chapter is not intended to restrict smoking in  
13 private facilities (~~(which)~~) that are occasionally open to the public  
14 except upon the occasions when the facility is open to the public.

15 ~~((+3))~~ (4) "Public card room" means the area of the premises of a  
16 for-profit retail business that has been specifically set aside or  
17 designated by the licensee and approved by the gambling commission for  
18 the playing of cards by members of the public as a commercial stimulant  
19 to the business in accordance with chapter 9.46 RCW and the rules of  
20 the gambling commission.

21 (5) "Restaurant" means any building, structure, or area used,  
22 maintained, or advertised as, or held out to the public to be, an  
23 enclosure where meals are made available to be consumed on the  
24 premises, for consideration of payment.

25 **Sec. 2.** RCW 70.160.030 and 1985 c 236 s 3 are each amended to read  
26 as follows:

27 No person may smoke in a public place except in an area designated  
28 as a smoking area(~~(s)~~) under RCW 70.160.040.

29 **Sec. 3.** RCW 70.160.040 and 1985 c 236 s 4 are each amended to read  
30 as follows:

31 ~~(1) ((A smoking area may be designated in a public place by the~~  
32 ~~owner or, in the case of a leased or rented space, by the lessee or~~  
33 ~~other person in charge except in:~~

34 ~~(a) Elevators; buses, except for private hire; streetcars; taxis,~~  
35 ~~except those clearly and visibly designated by the owner to permit~~  
36 ~~smoking; public areas of retail stores and lobbies of financial~~  
37 ~~institutions; office reception areas and waiting rooms of any building~~

1 owned or leased by the state of Washington or by any city, county, or  
2 other municipality in the state of Washington; museums; public meetings  
3 or hearings; classrooms and lecture halls of schools, colleges, and  
4 universities; and the seating areas and aisle ways which are contiguous  
5 to seating areas of concert halls, theaters, auditoriums, exhibition  
6 halls, and indoor sports arenas; and

7 (b) ~~Hallways of health care facilities, with the exception of~~  
8 ~~nursing homes, and lobbies of concert halls, theaters, auditoriums,~~  
9 ~~exhibition halls, and indoor sports arenas, if the area is not~~  
10 ~~physically separated. Owners or other persons in charge are not~~  
11 ~~required to incur any expense to make structural or other physical~~  
12 ~~modifications in providing these areas.~~

13 ~~Except as provided in other provisions of this chapter,~~) No public  
14 place, other than a bar, tavern, ((bowling alley)) public card room,  
15 tobacco shop, lounge or lounge area, or ((restaurant)) private hire bus  
16 or taxi, may be designated as a smoking area ((in its entirety)). If  
17 a bar, tavern, public card room, tobacco shop, lounge or lounge area,  
18 or ((restaurant)) private hire bus or taxi is designated as a smoking  
19 area ~~((in its entirety))~~, this designation shall be posted  
20 conspicuously ~~((on))~~ at all entrances normally used by the public.

21 (2) Where a smoking area((s are)) is designated under this section  
22 in a public place adjacent to a nonsmoking area, ((existing)) physical  
23 barriers and ventilation systems shall be used to minimize the toxic  
24 effect of smoke in adjacent nonsmoking areas as follows:

25 (a) Designated smoking areas must be separate and fully enclosed on  
26 all sides by solid walls or windows that extend from floor to ceiling,  
27 and have a full door between the designated smoking area and an  
28 adjacent nonsmoking public place. The door must remain closed when not  
29 actively in use by patrons or staff for entrance or exit.

30 (b) Designated smoking areas must be ventilated at a rate of at  
31 least sixty cubic feet per minute per smoker (calculated on the basis  
32 of the maximum number of smokers expected during the course of normal  
33 operations), which ventilation may be supplied by transfer air from  
34 adjacent areas.

35 (c) Sufficient negative pressure must be maintained at all times in  
36 designated smoking areas to prevent smoke migration to adjacent  
37 nonsmoking areas.

1 (d) Designated smoking areas must operate with a separate  
2 mechanical exhaust system and be exhausted directly outside, without  
3 recirculation of air to nonsmoking areas.

4 (e) If the mechanical exhaust system, negative pressure, or other  
5 barriers or ventilation mechanisms for a designated smoking area are  
6 not operating properly, smoking must be prohibited in the area until  
7 repairs are completed.

8 ~~(3) ((Managers of restaurants who choose to provide smoking areas~~  
9 ~~shall designate an adequate amount of seating to meet the demands of~~  
10 ~~restaurant patrons who wish to smoke. Owners of restaurants are not~~  
11 ~~required to incur any expense to make structural or other physical~~  
12 ~~modifications in providing these areas. Restaurant patrons shall be~~  
13 ~~informed that separate smoking and nonsmoking sections are available.~~

14 ~~(4) Except as otherwise provided in this chapter, a facility or~~  
15 ~~area may be designated in its entirety as a nonsmoking area by the~~  
16 ~~owner or other person in charge)) In all public places, the means of~~  
17 access between the main entrance to the building and all areas within  
18 the building not designated as smoking areas must remain a smoke-free  
19 area. A separate entrance may be maintained for direct entry from  
20 outside the building into a designated smoking area.

21 (4) Public places must be either designated as smoking areas under  
22 this chapter at all times or must remain smoke-free at all times.

23 **Sec. 4.** RCW 70.160.050 and 1985 c 236 s 5 are each amended to read  
24 as follows:

25 Owners, or in the case of a leased or rented space the lessee or  
26 other person in charge, of a place regulated under this chapter shall  
27 make every reasonable effort to prohibit smoking in public places by  
28 posting signs prohibiting or permitting smoking as appropriate under  
29 this chapter. Signs shall be posted conspicuously at each building  
30 entrance. In the case of restaurants, bowling centers, skating rinks,  
31 retail stores, and retail service establishments, signs shall be posted  
32 conspicuously at each entrance and in prominent locations throughout  
33 the place. The boundary between a nonsmoking area and a designated  
34 smoking ((permitted)) area shall be clearly designated so that persons  
35 may differentiate between the two areas, and must also be posted with  
36 a notice that persons under twenty-one years of age are not permitted  
37 to enter or remain in a designated smoking area.

1        NEW SECTION.   **Sec. 5.**   A new section is added to chapter 70.160 RCW  
2 to read as follows:

3        This chapter may not be interpreted or construed to permit smoking  
4 where it is otherwise restricted by other applicable laws.

5        NEW SECTION.   **Sec. 6.**   For locations that possess an occupancy  
6 permit as of January 1, 2002, this act applies beginning January 1,  
7 2005.   For locations that do not possess an occupancy permit as of  
8 January 1, 2002, this act applies beginning July 1, 2002.

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