
ENGROSSED SUBSTITUTE SENATE BILL 5993

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Oke, Spanel, Winsley and Thibaudeau)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to removing the discretion of owners or managers of
2 restaurants, card rooms, and bowling alleys to choose to allow smoking
3 areas other than in a lounge, bar, or other area where persons under
4 eighteen years of age are not permitted to enter or remain; amending
5 RCW 70.160.020, 70.160.030, and 70.160.040; creating a new section; and
6 providing an effective date.

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

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

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

12 (1) "Lounge or lounge area" means an area: (a) Used for the
13 preparation, sale, and service of beer, wine, or spirits that is
14 licensed for such use by the Washington state liquor control board; and
15 (b) that is conspicuously posted at all entrances that persons under
16 twenty-one years of age are not permitted to enter or remain.

17 (2) "Smoke" or "smoking" means the carrying or smoking of any kind
18 of lighted pipe, cigar, cigarette, or any other lighted smoking
19 equipment.

1 ~~((+2))~~ (3) "Public place" means that portion of any building or
2 vehicle used by and open to the public, regardless of whether the
3 building or vehicle is owned in whole or in part by private persons or
4 entities, the state of Washington, or other public entity, and
5 regardless of whether a fee is charged for admission.

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

18 ~~((+3))~~ (4) "Restaurant" means any building, structure, or area
19 used, maintained, or advertised as, or held out to the public to be, an
20 enclosure where meals are made available to be consumed on the
21 premises, for consideration of payment.

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

24 No person may smoke in a public place except as provided in
25 ~~((designated smoking areas))~~ RCW 70.160.040.

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

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

31 ~~(a) Elevators; buses, except for private hire; streetcars; taxis,
32 except those clearly and visibly designated by the owner to permit
33 smoking; public areas of retail stores and lobbies of financial
34 institutions; office reception areas and waiting rooms of any building
35 owned or leased by the state of Washington or by any city, county, or
36 other municipality in the state of Washington; museums; public meetings
37 or hearings; classrooms and lecture halls of schools, colleges, and~~

1 ~~universities; and the seating areas and aisle ways which are contiguous~~
2 ~~to seating areas of concert halls, theaters, auditoriums, exhibition~~
3 ~~halls, and indoor sports arenas; and~~

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

10 ~~Except as provided in other provisions of this chapter,))~~ No public
11 place, other than a bar, tavern, ((bowling alley)) card room or
12 enhanced card room, tobacco shop, lounge or lounge area, or
13 ((restaurant)) any other area where persons under eighteen years of age
14 are not permitted to enter or remain and such designation is
15 conspicuously posted at all entrances, private hire buses, and taxis
16 that are clearly and visibly designated by the owner to permit smoking,
17 may be designated as a smoking area ((in its entirety)). If a bar,
18 tavern, card room or enhanced card room, tobacco shop, lounge or lounge
19 area, or ((restaurant)) other area where persons under eighteen years
20 of age are not permitted to enter or remain is designated as a smoking
21 area ((in its entirety)), this designation shall be posted
22 conspicuously ((on)) at all entrances normally used by the public.

23 (2) Where smoking areas are designated, existing physical barriers
24 and ventilation systems shall be used to minimize the toxic effect of
25 smoke in adjacent nonsmoking areas.

26 (3) ~~((Managers of restaurants who choose to provide smoking areas~~
27 ~~shall designate an adequate amount of seating to meet the demands of~~
28 ~~restaurant patrons who wish to smoke.))~~ Owners of restaurants are not
29 required to incur any expense to make structural or other physical
30 modifications in providing these areas, except as determined in the
31 regulations developed under subsection (4) of this section.
32 ~~((Restaurant patrons shall be informed that separate smoking and~~
33 ~~nonsmoking sections are available.))~~

34 (4)(a) By December 31, 2002, the department of health, in
35 consultation with the liquor control board and the department of labor
36 and industries, shall adopt rules for the purpose of protecting the
37 health of nonsmokers from the hazards of exposure to environmental
38 tobacco smoke. These rules shall address at least the following
39 issues:

1 (i) Ensuring that smoking occurs at a reasonable distance away from
2 any area where smoking is prohibited, to ensure that tobacco smoke does
3 not enter the area; and

4 (ii) Mechanical and/or physical barriers between nonsmoking and
5 smoking areas in restaurants, restaurant lounges, and other applicable
6 locations.

7 (b) Before making rules under this subsection, the secretary of
8 health shall consider proposed rules to be developed and approved by a
9 task force of nine members, four of which shall be appointed by the
10 secretary of the department of health from a list submitted by the
11 Washington restaurant association, and four of which shall be appointed
12 by the secretary of the department of health from a list submitted by
13 the Washington alliance for tobacco control and children's health. The
14 ninth member and chair of the task force shall be the attorney general
15 or his or her designee. The task force shall report its results to the
16 appropriate legislative committees and the secretary of the department
17 of health by December 31, 2001. These rules shall take effect July 1,
18 2003.

19 (c) The rules adopted under this subsection shall be enforced by
20 local health departments under this chapter unless the legislature
21 determines that another enforcement entity is more suitable.

22 (d) In the event of a question or dispute regarding the
23 applicability of the rules adopted under this subsection,
24 interpretations of the state department of health shall be controlling.

25 (5) Except as otherwise provided in this chapter, a facility or
26 area may be designated in its entirety as a nonsmoking area by the
27 owner or other person in charge.

28 NEW SECTION. Sec. 4. This act shall not be interpreted or
29 construed to permit smoking where it is otherwise restricted by other
30 applicable state laws.

31 NEW SECTION. Sec. 5. This act takes effect December 31, 2001.

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