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HOUSE BILL 1868

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State of Washington

58th Legislature

2003 Regular Session

By Representatives McDermott, Schual-Berke, Cody, Darneille, Quall, Kagi, Hunt, Chase, Veloria, McIntire and Tom

Read first time 02/12/2003. Referred to Committee on Health Care.

1 AN ACT Relating to prohibiting smoking in public places; amending  
2 RCW 70.160.010, 70.160.020, 70.160.030, 70.160.050, 70.160.070, and  
3 70.160.080; repealing RCW 70.160.040 and 70.160.060; and prescribing  
4 penalties.

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

6 **Sec. 1.** RCW 70.160.010 and 1985 c 236 s 1 are each amended to read  
7 as follows:

8 The legislature recognizes the increasing evidence that tobacco  
9 secondhand smoke (~~((in closely confined places may))~~) creates a danger to  
10 the health of (~~((some))~~) the citizens of this state. In order to protect  
11 the health and welfare of those citizens, it is necessary to prohibit  
12 smoking in public places (~~((except in areas designated as smoking~~  
13 ~~areas))~~).

14 **Sec. 2.** RCW 70.160.020 and 1985 c 236 s 2 are each amended to read  
15 as follows:

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

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

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

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

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

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

28 No person may smoke in a public place (~~except in designated~~  
29 ~~smoking areas~~)).

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

32 Owners, or in the case of a leased or rented space the lessee or  
33 other person in charge, of a place regulated under this chapter shall  
34 make every reasonable effort to prohibit smoking in public places by  
35 posting signs prohibiting (~~or permitting~~) smoking as appropriate  
36 under this chapter. Signs shall be posted conspicuously at each

1 building entrance. In the case of retail stores and retail service  
2 establishments, signs shall be posted conspicuously at each entrance  
3 and in prominent locations throughout the place. (~~The boundary~~  
4 ~~between a nonsmoking area and a smoking permitted area shall be clearly~~  
5 ~~designated so that persons may differentiate between the two areas.))~~

6 **Sec. 5.** RCW 70.160.070 and 1985 c 236 s 7 are each amended to read  
7 as follows:

8 (1) Any person intentionally violating this chapter by smoking in  
9 a public place (~~not designated as a smoking area~~) or any person  
10 removing, defacing, or destroying a sign required by this chapter is  
11 subject to a civil fine of up to one hundred dollars. Local law  
12 enforcement agencies shall enforce this section by issuing a notice of  
13 infraction to be assessed in the same manner as traffic infractions.  
14 The provisions contained in chapter 46.63 RCW for the disposition of  
15 traffic infractions apply to the disposition of infractions for  
16 violation of this subsection except as follows:

17 (a) The provisions in chapter 46.63 RCW relating to the provision  
18 of records to the department of licensing in accordance with RCW  
19 46.20.270 are not applicable to this chapter; and

20 (b) The provisions in chapter 46.63 RCW relating to the imposition  
21 of sanctions against a person's driver's license or vehicle license are  
22 not applicable to this chapter.

23 The form for the notice of infraction for a violation of this  
24 subsection shall be prescribed by rule of the supreme court.

25 (2) (~~When violations of RCW 70.160.040 or 70.160.050 occur, a~~  
26 ~~warning shall first be given to the owner or other person in charge.~~  
27 ~~Any subsequent violation is subject to a civil fine of up to one~~  
28 ~~hundred dollars. Each day upon which a violation occurs or is~~  
29 ~~permitted to continue constitutes a separate violation.)) A person who  
30 violates RCW 70.160.050 is guilty of an infraction punishable by:~~

31 (a) A warning to the owner or person in charge for the first  
32 violation that occurs within a calendar year;

33 (b) A fine not exceeding one hundred dollars for a second violation  
34 that occurs within a calendar year; and

35 (c) A fine not exceeding five hundred dollars for each additional  
36 violation that occurs within a calendar year.

1 (3) Local fire departments or fire districts shall enforce RCW  
2 ((~~70.160.040 or~~)) 70.160.050 regarding the duties of owners or persons  
3 in control of public places, and local health departments shall enforce  
4 RCW ((~~70.160.040 or~~)) 70.160.050 regarding the duties of owners of  
5 restaurants by either of the following actions:

- 6 (a) Serving notice requiring the correction of any violation; or  
7 (b) Calling upon the city or town attorney or county prosecutor to  
8 maintain an action for an injunction to enforce RCW ((~~70.160.040 and~~))  
9 70.160.050, to correct a violation, and to assess and recover a civil  
10 penalty for the violation.

11 **Sec. 6.** RCW 70.160.080 and 1985 c 236 s 9 are each amended to read  
12 as follows:

13 (1) Local fire departments or fire districts and local health  
14 departments may adopt regulations as required to implement this  
15 chapter.

16 (2) Nothing in this chapter prevents a city, town, or county from  
17 adopting ordinances more restrictive than this chapter or regulations  
18 adopted under this chapter that restrict or prohibit smoking in public  
19 places situated within its jurisdiction.

20 NEW SECTION. **Sec. 7.** The following acts or parts of acts are each  
21 repealed:

22 (1) RCW 70.160.040 (Designation of smoking areas in public places--  
23 Exceptions--Restaurant smoking areas--Entire facility or area may be  
24 designated as nonsmoking) and 1985 c 236 s 4; and

25 (2) RCW 70.160.060 (Intent of chapter as applied to certain private  
26 workplaces) and 1995 c 369 s 60, 1986 c 266 s 121, & 1985 c 236 s 6.

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