

**SB 5909 - S AMD 379**

By Senator McAuliffe

1       Strike everything after the enacting clause and insert the  
2 following:

3       "**Sec. 1.** RCW 70.160.010 and 1985 c 236 s 1 are each amended to  
4 read as follows:

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

11       "**Sec. 2.** RCW 70.160.020 and 1985 c 236 s 2 are each amended to read  
12 as follows:

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

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

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

23       Public places include, but are not limited to: Elevators, public  
24 conveyances or transportation facilities, museums, concert halls,  
25 theaters, auditoriums, exhibition halls, indoor sports arenas,  
26 hospitals, nursing homes, health care facilities or clinics, enclosed  
27 shopping centers, retail stores, retail service establishments,  
28 financial institutions, educational facilities, ticket areas, public  
29 hearing facilities, state legislative chambers and immediately adjacent

1 hallways, public restrooms, libraries, restaurants, waiting areas,  
2 lobbies, bars, taverns, bowling alleys, skating rinks, and reception  
3 areas. A public place does not include a private residence. This  
4 chapter is not intended to restrict smoking in private facilities which  
5 are occasionally open to the public except upon the occasions when the  
6 facility is open to the public.

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

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

13 No person may smoke in a public place except in (~~designated~~  
14 ~~smoking areas~~) a card room or enhanced card room.

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

17 Owners, or in the case of a leased or rented space the lessee or  
18 other person in charge, of a place regulated under this chapter shall  
19 make every reasonable effort to prohibit smoking in public places by  
20 posting signs prohibiting (~~or permitting~~) smoking as appropriate  
21 under this chapter. Signs shall be posted conspicuously at each  
22 building entrance. In the case of retail stores and retail service  
23 establishments, signs shall be posted conspicuously at each entrance  
24 and in prominent locations throughout the place. (~~The boundary~~  
25 ~~between a nonsmoking area and a smoking permitted area shall be clearly~~  
26 ~~designated so that persons may differentiate between the two areas.~~)

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

29 (1) Any person intentionally violating this chapter by smoking in  
30 a public place (~~not designated as a smoking area~~) or any person  
31 removing, defacing, or destroying a sign required by this chapter is  
32 subject to a civil fine of up to one hundred dollars. Local law  
33 enforcement agencies shall enforce this section by issuing a notice of  
34 infraction to be assessed in the same manner as traffic infractions.

1 The provisions contained in chapter 46.63 RCW for the disposition of  
2 traffic infractions apply to the disposition of infractions for  
3 violation of this subsection except as follows:

4 (a) The provisions in chapter 46.63 RCW relating to the provision  
5 of records to the department of licensing in accordance with RCW  
6 46.20.270 are not applicable to this chapter; and

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

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

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

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

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

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

24 (3) Local fire departments or fire districts shall enforce RCW  
25 ~~((70.160.040 or))~~ 70.160.050 regarding the duties of owners or persons  
26 in control of public places, and local health departments shall enforce  
27 RCW ~~((70.160.040 or))~~ 70.160.050 regarding the duties of owners of  
28 restaurants by either of the following actions:

29 (a) Serving notice requiring the correction of any violation; or

30 (b) Calling upon the city or town attorney or county prosecutor to  
31 maintain an action for an injunction to enforce RCW ~~((70.160.040 and))~~  
32 70.160.050, to correct a violation, and to assess and recover a civil  
33 penalty for the violation.

34 NEW SECTION. Sec. 6. The following acts or parts of acts are each  
35 repealed:

36 (1) RCW 70.160.040 (Designation of smoking areas in public places--

1 Exceptions--Restaurant smoking areas--Entire facility or area may be  
2 designated as nonsmoking) and 1985 c 236 s 4; and

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

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5 On page 1, line 2 of the title, after "health;" strike the  
6 remainder of the title and insert "amending RCW 70.160.010, 70.160.020,  
7 70.160.030, 70.160.050, and 70.160.070; repealing RCW 70.160.040 and  
8 70.160.060; and prescribing penalties."

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