

Commerce & Labor Committee

ESSB 5993

Brief Description: *Revising limitations on smoking in public places.*

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

Brief Summary of Engrossed Substitute Bill

- *Restricts smoking in public places to designated smoking areas in bars, taverns, card rooms, tobacco shops, lounges that are licensed and posted as off-limits to persons under age 21, places that are posted as off-limits to persons under age 18, certain taxis, and private hire buses.*

Hearing Date: *3/27/01*

Staff: *Chris Cordes (786-7103).*

Background:

What does the Washington Clean Indoor Air Act require?

Under the Washington Clean Indoor Air Act, smoking is prohibited in public places except in designated smoking areas. A public place is the portion of a building or vehicle used by and open to the public, whether the building or vehicle is owned by a private or public entity or whether an admission fee is charged.

What public areas may be designated as smoking areas?

Owners may designate smoking areas in public places, except in:

- *elevators;*
- *buses (unless hired privately), streetcars, or taxis (unless clearly marked as smoking);*
- *retail store public areas;*
- *bank lobbies;*
- *office reception areas in publicly owned or leased buildings;*

- *museums;*
- *public meetings or hearings;*
- *classrooms of schools (all levels);*
- *seating areas and aisles of concert halls, theaters, sports arenas, etc., and their lobbies if the lobby is not physically separated; and*
- *hallways of health care facilities other than nursing homes.*

Owners may designate the entire area of these public places as smoking areas:

- *bars and taverns;*
- *bowling alleys;*
- *tobacco shops; and*
- *restaurants.*

What requirements apply to designated smoking areas?

If smoking areas are designated, existing physical barriers and ventilation systems must be used to minimize smoke in adjacent nonsmoking areas. Owners are not, however, required to incur expense to make modifications that provide physically separated areas. If an entire facility is designated as a smoking area, the facility must be conspicuously posted at all entrances used by the public.

Owners or lessees must make reasonable efforts to prohibit smoking in public places by posting signs prohibiting smoking or permitting smoking in designated areas as appropriate. Signs must be posted at entrances and throughout retail stores, and the boundary between smoking and nonsmoking areas must be clearly designated.

Managers of restaurants who choose to provide smoking areas must provide adequate seating to meet the demands of smoking patrons. Patrons must be informed that separate smoking and nonsmoking sections are available.

How is the Washington Clean Indoor Air Act enforced?

A person intentionally violating the act's requirements or defacing a sign is subject to a \$100 fine for each day of violation, which is handled in the same manner as a traffic infraction. A first violation is subject to a warning only.

Local fire departments and local health departments may adopt rules to implement the act. Local health departments enforce the requirements relating to restaurant owners' duties, and local fire departments enforce the requirements relating to the duties of persons in control of public places. These local departments may serve notice requiring a correction or may refer to local prosecutors for an injunction or to assess a penalty. Recovered penalties are paid to the city or county bringing the action.

Summary of Bill:

What public places may be designated as smoking areas?

No public place may be designated as a smoking area, except those places specifically listed

under the Washington Clean Indoor Air Act. The following places continue to be eligible for designation as smoking areas:

- bars and taverns;*
- private hire buses;*
- taxis that are clearly marked as smoking; and*
- tobacco shops.*

The following are added as places that may be designated as smoking areas:

- card rooms;*
- lounges (an area licensed to prepare and sell beer, wine, or spirits, and conspicuously posted as off-limits to persons under age 21); and*
- other areas that are off-limits to persons under age 18 if the area is conspicuously posted.*

Owners may no longer designate bowling alleys or restaurants as smoking areas in the entirety.

What new requirements apply to places designated as smoking areas?

Owners of restaurants may be required to make structural or physical modifications as determined under rules adopted by the Department of Health.

What is the Department of Health's rule-making authority?

The Department of Health must adopt rules by December 31, 2002, to take effect July 1, 2003, to protect the health of nonsmokers from exposure to environmental tobacco smoke. The rules must be developed in consultation with the Liquor Control Board and the Department of Labor and Industries and after proposed rules are developed and approved by a task force. The rules must address at a minimum ensuring that smoking occurs a reasonable distance away from an area where smoking is prohibited and mechanical or physical barriers between nonsmoking and smoking locations in restaurants, restaurant lounges, and other applicable locations.

The task force consists of nine members, eight appointed by the secretary of the Department of Health, with four from a list submitted by the Washington Restaurant Association and four from a list submitted by the Washington Alliance for Tobacco Control and Children's Health. The ninth member, and task force chair, is the Attorney General or designee. The task force must report its results to the Legislature and the Department of Health by December 31, 2001.

The rules adopted by the Department of Health must be enforced by local health departments, unless the Legislature determines that another entity is more suitable. In a dispute over the applicability of the rules, the Department of Health's interpretation controls.

Rules Authority: *The bill requires rule-making by the Department of Health.*

Appropriation: *None.*

Fiscal Note: Available.

Effective Date: The bill takes effect on December 31, 2001.