

INITIATIVE 901

To the People

Chapter 2, Laws of 2006

CLEAN INDOOR AIR ACT

EFFECTIVE DATE: 12/08/05

Approved by the
People of the State of Washington
in the General Election on
November 8, 2005

ORIGINALLY FILED

January 10, 2005

Secretary of State

1 AN ACT Relating to the prohibition of smoking in public places and
2 places of employment; amending RCW 70.160.020, 70.160.030, 70.160.050,
3 and 70.160.070; adding new sections to chapter 70.160 RCW; creating a
4 new section; and repealing RCW 70.160.010, 70.160.040, and 70.160.900.

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

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

8 INTENT AND FINDINGS. The people of the state of Washington
9 recognize that exposure to second-hand smoke is known to cause cancer
10 in humans. Second-hand smoke is a known cause of other diseases
11 including pneumonia, asthma, bronchitis, and heart disease. Citizens
12 are often exposed to second-hand smoke in the workplace, and are likely
13 to develop chronic, potentially fatal diseases as a result of such
14 exposure. In order to protect the health and welfare of all citizens,
15 including workers in their places of employment, it is necessary to
16 prohibit smoking in public places and workplaces.

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

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

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

6 (2) "Public place" means that portion of any building or vehicle
7 used by and open to the public, regardless of whether the building or
8 vehicle is owned in whole or in part by private persons or entities,
9 the state of Washington, or other public entity, and regardless of
10 whether a fee is charged for admission, and includes a presumptively
11 reasonable minimum distance, as set forth in section 6 of this act, of
12 twenty-five feet from entrances, exits, windows that open, and
13 ventilation intakes that serve an enclosed area where smoking is
14 prohibited. A public place does not include a private residence unless
15 the private residence is used to provide licensed child care, foster
16 care, adult care, or other similar social service care on the premises.

17 Public places include, but are not limited to: Schools, elevators,
18 public conveyances or transportation facilities, museums, concert
19 halls, theaters, auditoriums, exhibition halls, indoor sports arenas,
20 hospitals, nursing homes, health care facilities or clinics, enclosed
21 shopping centers, retail stores, retail service establishments,
22 financial institutions, educational facilities, ticket areas, public
23 hearing facilities, state legislative chambers and immediately adjacent
24 hallways, public restrooms, libraries, restaurants, waiting areas,
25 lobbies, ((and reception areas)) bars, taverns, bowling alleys, skating
26 rinks, casinos, reception areas, and no less than seventy-five percent
27 of the sleeping quarters within a hotel or motel that are rented to
28 guests. A public place does not include a private residence. This
29 chapter is not intended to restrict smoking in private facilities which
30 are occasionally open to the public except upon the occasions when the
31 facility is open to the public.

32 (3) (~~"Restaurant" means any building, structure, or area used,~~
33 ~~maintained, or advertised as, or held out to the public to be, an~~
34 ~~enclosure where meals are made available to be consumed on the~~
35 ~~premises, for consideration of payment.)) "Place of employment" means
36 any area under the control of a public or private employer which
37 employees are required to pass through during the course of employment,
38 including, but not limited to: Entrances and exits to the places of
39 employment, and including a presumptively reasonable minimum distance,~~

1 as set forth in section 6 of this act, of twenty-five feet from
2 entrances, exits, windows that open, and ventilation intakes that serve
3 an enclosed area where smoking is prohibited; work areas; restrooms;
4 conference and classrooms; break rooms and cafeterias; and other common
5 areas. A private residence or home-based business, unless used to
6 provide licensed child care, foster care, adult care, or other similar
7 social service care on the premises, is not a place of employment.

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

10 No person may smoke in a public place (~~except in designated~~
11 ~~smoking areas~~) or in any place of employment.

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

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

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

27 (1) Any person intentionally violating this chapter by smoking in
28 a public place (~~not designated as a smoking area~~) or place of
29 employment, or any person removing, defacing, or destroying a sign
30 required by this chapter, is subject to a civil fine of up to one
31 hundred dollars. Any person passing by or through a public place while
32 on a public sidewalk or public right of way has not intentionally
33 violated this chapter. Local law enforcement agencies shall enforce
34 this section by issuing a notice of infraction to be assessed in the
35 same manner as traffic infractions. The provisions contained in
36 chapter 46.63 RCW for the disposition of traffic infractions apply to

1 the disposition of infractions for violation of this subsection except
2 as follows:

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

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

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

11 (2) When violations of RCW (~~(70.160.040 or)~~) 70.160.050 occur, a
12 warning shall first be given to the owner or other person in charge.
13 Any subsequent violation is subject to a civil fine of up to one
14 hundred dollars. Each day upon which a violation occurs or is
15 permitted to continue constitutes a separate violation.

16 (3) Local (~~(fire)~~) health departments (~~(or fire districts)~~) shall
17 enforce RCW (~~(70.160.040 or)~~) 70.160.050 regarding the duties of owners
18 or persons in control of public places (~~(, and local health departments~~
19 ~~shall enforce RCW 70.160.040 or 70.160.050 regarding the duties of~~
20 ~~owners of restaurants)~~) and places of employment by either of the
21 following actions:

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

23 (b) Calling upon the city or town attorney or county prosecutor or
24 local health department attorney to maintain an action for an
25 injunction to enforce RCW (~~(70.160.040 and)~~) 70.160.050, to correct a
26 violation, and to assess and recover a civil penalty for the violation.

27 NEW SECTION. Sec. 6. A new section is added to chapter 70.160 RCW
28 to read as follows:

29 PRESUMPTIVELY REASONABLE DISTANCE. Smoking is prohibited within a
30 presumptively reasonable minimum distance of twenty-five feet from
31 entrances, exits, windows that open, and ventilation intakes that serve
32 an enclosed area where smoking is prohibited so as to ensure that
33 tobacco smoke does not enter the area through entrances, exits, open
34 windows, or other means. Owners, operators, managers, employers, or
35 other persons who own or control a public place or place of employment
36 may seek to rebut the presumption that twenty-five feet is a reasonable
37 minimum distance by making application to the director of the local
38 health department or district in which the public place or place of

1 employment is located. The presumption will be rebutted if the
2 applicant can show by clear and convincing evidence that, given the
3 unique circumstances presented by the location of entrances, exits,
4 windows that open, ventilation intakes, or other factors, smoke will
5 not infiltrate or reach the entrances, exits, open windows, or
6 ventilation intakes or enter into such public place or place of
7 employment and, therefore, the public health and safety will be
8 adequately protected by a lesser distance.

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

11 (1) RCW 70.160.010 (Legislative intent) and 1985 c 236 s 1;

12 (2) RCW 70.160.040 (Designation of smoking areas in public places--
13 Exceptions--Restaurant smoking areas--Entire facility or area may be
14 designated as nonsmoking) and 1985 c 236 s 4; and

15 (3) RCW 70.160.900 (Short title--1985 c 236) and 1985 c 236 s 10.

16 NEW SECTION. **Sec. 8.** CAPTIONS NOT LAW. Captions used in this act
17 are not any part of the law.

Originally filed in Office of Secretary of State January 10, 2005.
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1 Election on November 8, 2005.