

# HOUSE BILL REPORT

## ESSB 5666

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### As Passed House-Amended:

April 10, 1997

**Title:** An act relating to permitting employers to accommodate indoor smoking in the workplace.

**Brief Description:** Regulating smoking in the workplace.

**Sponsors:** Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Prentice, Roach, Patterson, Goings, Swecker, Newhouse, Benton, Bauer, Horn, Loveland, Finkbeiner, Wood, Wojahn, Sellar, Rasmussen and Anderson).

### Brief History:

#### Committee Activity:

Commerce & Labor: 4/2/97, 4/3/97 [DPA].

#### Floor Activity:

Passed House-Amended: 4/10/97, 66-30.

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## HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass as amended. Signed by 6 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Boldt; Clements; Hatfield and Lisk.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; and Cole.

**Staff:** Selwyn Walters (786-7117).

### Background:

#### Washington Industrial Safety and Health Act

The Washington Industrial Safety and Health Act (WISHA) authorizes the Department of Labor and Industries to adopt safety and health rules, of general or specific applicability, for all covered industries and employments in the state. Pursuant to this authority, the department adopted rules regarding smoking in indoor office work environments. The rules require employers subject to the rules to prohibit smoking in offices or to restrict smoking indoors to designated enclosed smoking rooms. These

designated smoking rooms must be ventilated according to standards specified in the rules, including a separate mechanical exhaust system and direct exhaustion outside.

### **Washington Clean Indoor Air Act**

Under the Washington Clean Indoor Air Act, smoking is prohibited in public places, except in designated smoking areas. Bars, taverns, bowling alleys, tobacco shops, or restaurants may be designated smoking areas in their entirety. Owners and lessees of public places must make every reasonable effort to prohibit smoking by posting appropriate signs. Boundaries between nonsmoking and smoking areas must be clearly designated

**Summary of Bill:** Any rule adopted by the Department of Labor and Industries restricting smoking in the workplace must include provisions permitting employer smoking policies.

An employer's policy restricting smoking in the workplace must include a provision for a designated enclosed smoking room if a smoking room is included in a collective bargaining agreement. A designated smoking room meets the ventilation requirements if it is ventilated in accordance with standard 62-1989 of the American Society of Heating, Refrigeration, and Air Conditioning Engineers, Inc. If no collective bargaining agreement applies, the employees of the employer may agree to a written smoking room policy.

The written smoking room policy must be kept on file and made available to employees on request.

These provisions are not applicable to a workplace if a statute expressly prohibits indoor smoking to that workplace, and may not be construed to require any employer to provide a smoking room.

Advertising, sales, and sampling of cigarettes or tobacco products are not permitted in the designated smoking rooms.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill makes it possible for the workplace to adjust to its own circumstances, and encourages employees and employers to solve their own problems on a voluntary basis. The indoor ventilation rules of the Department of Labor and Industries issued under the Washington Industrial Safety and Health Act make it too

costly for some employers to provide ventilated smoking rooms. Employees who choose to smoke must do so outside the workplace. As such, employees may be exposed to dangerous conditions because they must smoke outside regardless of time of day, weather conditions, or risk of exposure to crime. The bill is a common sense approach to accommodating the needs of all employees.

**Testimony Against:** This bill would allow circumvention of existing occupational safety and health regulations regarding ventilation of designated smoking rooms. Under this bill employers and employees would be allowed to define what constitutes adequate ventilation without objective requirements. This approach goes against all regulations which define workplace safety. This bill would result in damage to the safety and health of workers. Its effect would increase exposure to second-hand smoke which is a significant health hazard. This bill would result in decreased worker protection from exposure to well known and serious health hazards.

**Testified:** (Pro) Senator Schow, prime sponsor; Norm Kjono, System IV, Inc.; Jennie Pulver; Jim St. John, AAA Aircare; and Diane Michalek, Aviation West. (Con) Robert Jaffe, MD, Washington State Medical Association; David Harrelson, American Cancer Society; and Robert Stern, Washington State Labor Council/AFL-CIO.