

SB 5909 - S AMD 385
By Senator Keiser

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 smoke in closely confined places may create a danger to the health of
7 some citizens of this state. In order to protect the health and
8 welfare of those citizens, it is necessary to prohibit smoking in
9 public places except in areas designated as smoking areas. It is the
10 policy of the legislature that no child under the age of eighteen shall
11 be exposed to second-hand smoke in any public place.

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

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

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

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

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

1 hearing facilities, state legislative chambers and immediately adjacent
2 hallways, public restrooms, libraries, restaurants, waiting areas,
3 lobbies, and reception areas. A public place does not include a
4 private residence. (~~This chapter is not intended to restrict smoking
5 in private facilities which are occasionally open to the public except
6 upon the occasions when the 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~~) as provided in this chapter.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.160 RCW
16 to read as follows:

17 (1) Smoking may not be allowed in any public place other than: A
18 private facility except upon the occasion when the facility is open to
19 the public, a bar, a tavern, or a casino. However, if smoking is
20 allowed in a bar that is in the same building as a restaurant or other
21 public place, the bar must be physically separated from all parts of
22 the restaurant or other public place by solid floor-to-ceiling barriers
23 including glass. Tobacco smoke may not impact the restaurant or public
24 place at any time, and no second-hand smoke from the bar may impact the
25 restaurant or other public place.

26 (2) If the owner or person in charge allows smoking in any private
27 facility, bar, tavern, or casino:

28 (a) A sign stating that smoking is allowed in the facility must be
29 posted conspicuously at all entrances normally used by the public;

30 (b) Any prospective employee must be given notice that he or she
31 will be working in a facility where smoking is allowed; and

32 (c) No one under the age of eighteen may enter the facility.

33 (3) The owner or person in charge may prohibit smoking in a private
34 facility, bar, tavern, or casino.

35 (4) The state of Washington hereby fully occupies and preempts the

1 entire field of indoor smoking regulation within the boundaries of the
2 state. Local laws and ordinances that regulate indoor smoking are
3 preempted and repealed.

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

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

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

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

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

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

29 ~~(3) Local fire departments or fire districts shall enforce RCW~~
30 ~~70.160.040 or 70.160.050 regarding the duties of owners or persons in~~
31 ~~control of public places, and local health departments shall enforce~~
32 ~~RCW 70.160.040 or 70.160.050 regarding the duties of owners of~~
33 ~~restaurants by either of the following actions:))~~

34 (a) ~~((Serving notice requiring the correction of any violation))~~
35 Local health departments shall enforce this chapter regarding the
36 duties of any owner or person in control of a public place; ((or))

1 (b) (~~Calling upon the city or town attorney or county prosecutor~~
2 ~~to maintain an action for an injunction to enforce RCW 70.160.040 and~~
3 ~~70.160.050, to correct a violation, and to assess and recover a civil~~
4 ~~penalty for the violation)) Any owner or person in control of a public
5 place who intentionally violates this chapter by: Allowing a person to
6 smoke in a public place not designated as a smoking area; failing to
7 post a sign required by this chapter; or failing to provide notice to
8 a prospective employee required by this chapter, is guilty of an
9 infraction and is subject to a fine of up to one hundred dollars per
10 violation;~~

11 (c) Any owner or person in control of a public place who
12 intentionally violates this chapter by allowing a person under age
13 eighteen to enter a designated smoking area is guilty of an infraction
14 and is subject to:

15 (i) A fine up to one hundred dollars for a first violation that
16 occurs within a calendar year;

17 (ii) A fine up to two hundred fifty dollars for a second violation
18 that occurs within a calendar year;

19 (iii) A fine not exceeding five hundred dollars for each additional
20 violation that occurs within a calendar year; and

21 (d) Each day upon which a violation occurs constitutes a separate
22 violation.

23 (3) Local building code enforcement officials shall have the sole
24 enforcement authority to determine if a bar is physically separated
25 from a restaurant or other public place.

26 NEW SECTION. Sec. 6. The following acts or parts of acts are each
27 repealed:

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

31 (2) RCW 70.160.050 (Owners, lessees to post signs prohibiting or
32 permitting smoking--Boundaries to be clearly designated) and 1985 c 236
33 s 5; and

34 (3) RCW 70.160.080 (Local regulations authorized) and 1985 c 236 s
35 9."

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1 On page 1, line 2 of the title, after "health;" strike the
2 remainder of the title and insert "amending RCW 70.160.010, 70.160.020,
3 70.160.030, and 70.160.070; adding a new section to chapter 70.160 RCW;
4 repealing RCW 70.160.040, 70.160.050, and 70.160.080; and prescribing
5 penalties."

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