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HOUSE BILL 2755

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State of Washington                      53rd Legislature                      1994 Regular Session

By Representatives Heavey, Lisk, Hansen, Grant and Springer

Read first time 01/21/94. Referred to Committee on Health Care.

1            AN ACT Relating to smoking in public places; amending RCW  
2 70.160.020 and 70.160.040; and adding new sections to chapter 70.160  
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 70.160.020 and 1985 c 236 s 2 are each amended to read  
6 as follows:

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

9            (1) "Smoke" or "smoking" means the carrying or smoking of any kind  
10 of lighted pipe, cigar, cigarette, or any other lighted smoking  
11 equipment.

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

17            Public places include, but are not limited to: Elevators, public  
18 conveyances or transportation facilities, museums, concert halls,  
19 theaters, auditoriums, exhibition halls, indoor sports arenas,

1 hospitals, nursing homes, health care facilities or clinics, enclosed  
2 shopping centers, retail stores, retail service establishments,  
3 financial institutions, educational facilities, ticket areas, public  
4 hearing facilities, state legislative chambers and immediately adjacent  
5 hallways, public restrooms, libraries, restaurants, waiting areas,  
6 lobbies, and reception areas. A public place does not include a  
7 private residence. This chapter is not intended to restrict smoking in  
8 private facilities which are occasionally open to the public except  
9 upon the occasions when the facility is open to the public.

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

14 **Sec. 2.** RCW 70.160.040 and 1985 c 236 s 4 are each amended to read  
15 as follows:

16 (1) A smoking area may be designated in a public place by the owner  
17 or, in the case of a leased or rented space, by the lessee or other  
18 person in charge except in:

19 (a) Elevators; buses, except for private hire; streetcars; taxis,  
20 except those clearly and visibly designated by the owner to permit  
21 smoking; public areas of retail stores and lobbies of financial  
22 institutions; office reception areas and waiting rooms of any building  
23 owned or leased by the state of Washington or by any city, county, or  
24 other municipality in the state of Washington; museums; public meetings  
25 or hearings; classrooms and lecture halls of schools, colleges, and  
26 universities; and the seating areas and aisle ways which are contiguous  
27 to seating areas of concert halls, theaters, auditoriums, exhibition  
28 halls, and indoor sports arenas; and

29 (b) Hallways of health care facilities, with the exception of  
30 nursing homes, and lobbies of concert halls, theaters, auditoriums,  
31 exhibition halls, and indoor sports arenas, if the area is not  
32 physically separated. Owners or other persons in charge are not  
33 required to incur any expense to make structural or other physical  
34 modifications in providing these areas.

35 (2) Except as provided in other provisions of this chapter, no  
36 public place, other than a bar, tavern, bowling alley, tobacco shop, or  
37 (~~restaurant~~) a public place where activities licensed under or  
38 authorized by chapter 9.46 RCW are conducted, may be designated as a

1 smoking area in its entirety. If a bar, tavern, or tobacco shop(~~(, or~~  
2 ~~restaurant)~~) is designated as a smoking area in its entirety, this  
3 designation shall be posted conspicuously on all entrances normally  
4 used by the public. This subsection does not apply to a bar or tavern  
5 that is a restaurant as defined in this chapter.

6 ~~((+2))~~ (3) Where smoking areas are designated, existing physical  
7 barriers and ventilation systems shall be used to minimize the toxic  
8 effect of smoke in adjacent nonsmoking areas.

9 ~~((+3))~~ (4) Managers of restaurants who choose to provide smoking  
10 areas shall designate an adequate amount of seating to meet the demands  
11 of restaurant patrons who wish to smoke. Owners of restaurants are not  
12 required to incur any expense to make structural or other physical  
13 modifications in providing these areas. Restaurant patrons shall be  
14 informed that separate smoking and nonsmoking sections are available.

15 ~~((+4))~~ (5) Except as otherwise provided in this chapter, a  
16 facility or area may be designated in its entirety as a nonsmoking area  
17 by the owner or other person in charge.

18 NEW SECTION. Sec. 3. A new section is added to chapter 70.160 RCW  
19 to read as follows:

20 (1) Except as provided by subsection (2) of this section, smoking  
21 is prohibited in any restaurant on the effective date of this section.

22 (2) Notwithstanding subsection (1) of this section or any local law  
23 or regulation, smoking may be permitted in (a) any restaurant having a  
24 seating capacity of fifty or fewer and (b) any other restaurant in  
25 which (i) smoking is confined to a single contiguous area that is  
26 adequate to accommodate patrons who wish to smoke and (ii) ventilation  
27 is provided in accordance with (A) the recommended ventilation rates  
28 specified for dining rooms and cafeterias in table 2 of ASHRAE Standard  
29 62-1989 (Ventilation for Acceptable Indoor Air Quality) or (B) the  
30 requirements of the indoor air quality procedure described in ASHRAE  
31 Standard 62-1989.

32 (3) The ventilation and air quality requirements specified in  
33 subsection (2) of this section shall take effect six months following  
34 the effective date of this section. If a restaurant elects to provide  
35 ventilation in accordance with the recommended ventilation rate for  
36 purposes of subsection (2) of this section, the restaurant shall keep  
37 on the premises a current written certification, provided by the  
38 contractor who maintains the ventilation system that the system is

1 operated at the specified rate. No action may lie and no claim may be  
2 asserted against any person for permitting smoking in a restaurant in  
3 accordance with this section.

4 (4) Any restaurant permitting smoking shall post a sign on the  
5 exterior of the building at each point of public entrance stating that  
6 smoking is allowed in the restaurant.

7 (5) This section shall not be construed to prevent the owner of any  
8 restaurant from prohibiting smoking entirely on any premises under his  
9 or her control.

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

12 Section 3 of this act supersedes and renders void any county or  
13 city law, ordinance, or regulation that is in effect on the effective  
14 date of this section that purports to impose a prohibition or  
15 limitation with respect to smoking in restaurants that is more  
16 stringent than the requirements set forth in section 3 of this act.  
17 This act shall not be construed as an expression of legislative intent  
18 with respect to the validity or invalidity of any county or city law,  
19 ordinance, or regulation respecting smoking in any other public place  
20 that is in effect on the effective date of this section.

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