
HOUSE BILL 2038

State of Washington 59th Legislature 2005 Regular Session

By Representatives McDermott, Tom, Cody, Roberts, Miloscia, Murray, Green, Haler, Kagi and Darneille

Read first time 02/15/2005. Referred to Committee on Health Care.

1 AN ACT Relating to enacting a complete statewide smoking ban in
2 public places including restaurants, bars, taverns, bowling alleys, and
3 skating rinks; amending RCW 70.160.010, 70.160.020, 70.160.030,
4 70.160.050, 70.160.070, and 70.160.080; repealing RCW 70.160.040 and
5 70.160.060; and prescribing penalties.

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

7 **Sec. 1.** RCW 70.160.010 and 1985 c 236 s 1 are each amended to read
8 as follows:

9 The legislature recognizes the increasing evidence that tobacco
10 secondhand smoke (~~((in closely confined places may))~~) creates a danger to
11 the health of (~~((some))~~) the citizens of this state. In order to protect
12 the health and welfare of those citizens, it is necessary to prohibit
13 smoking in public places (~~((except in areas designated as smoking~~
14 ~~areas))~~).

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

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

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

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

9 Public places include, but are not limited to: Elevators, public
10 conveyances or transportation facilities, museums, concert halls,
11 theaters, auditoriums, exhibition halls, indoor sports arenas,
12 hospitals, nursing homes, health care facilities or clinics, enclosed
13 shopping centers, retail stores, retail service establishments,
14 financial institutions, educational facilities, ticket areas, public
15 hearing facilities, state legislative chambers and immediately adjacent
16 hallways, public restrooms, libraries, (~~restaurants,~~) waiting areas,
17 lobbies, restaurants, bars, taverns, bowling alleys, skating rinks, and
18 reception areas. A public place does not include a private residence.
19 This chapter is not intended to restrict smoking in private facilities
20 which are occasionally open to the public except upon the occasions
21 when the facility is open to the public.

22 (3) "Restaurant" means any building, structure, or area used,
23 maintained, or advertised as, or held out to the public to be, an
24 enclosure where meals are made available to be consumed on the
25 premises, for consideration of payment.

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

28 No person may smoke in a public place (~~except in designated~~
29 ~~smoking areas~~)).

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

32 Owners, or in the case of a leased or rented space the lessee or
33 other person in charge, of a place regulated under this chapter shall
34 make every reasonable effort to prohibit smoking in public places by
35 posting signs prohibiting (~~or permitting~~) smoking as appropriate
36 under this chapter. Signs shall be posted conspicuously at each

1 building entrance. In the case of retail stores and retail service
2 establishments, signs shall be posted conspicuously at each entrance
3 and in prominent locations throughout the place. (~~The boundary~~
4 ~~between a nonsmoking area and a smoking permitted area shall be clearly~~
5 ~~designated so that persons may differentiate between the two areas.~~)

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

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

17 (a) The provisions in chapter 46.63 RCW relating to the provision
18 of records to the department of licensing in accordance with RCW
19 46.20.270 are not applicable to this chapter; and

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

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

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

31 (a) A warning to the owner or person in charge for the first
32 violation that occurs within a calendar year;

33 (b) A fine not exceeding one hundred dollars for a second violation
34 that occurs within a calendar year; and

35 (c) A fine not exceeding five hundred dollars for each additional
36 violation that occurs within a calendar year.

1 (3) Local fire departments or fire districts shall enforce RCW
2 (~~(70.160.040 or)~~) 70.160.050 regarding the duties of owners or persons
3 in control of public places, and local health departments shall enforce
4 RCW (~~(70.160.040 or)~~) 70.160.050 regarding the duties of owners of
5 restaurants by either of the following actions:

- 6 (a) Serving notice requiring the correction of any violation; or
7 (b) Calling upon the city or town attorney or county prosecutor to
8 maintain an action for an injunction to enforce RCW (~~(70.160.040 and)~~)
9 70.160.050, to correct a violation, and to assess and recover a civil
10 penalty for the violation.

11 **Sec. 6.** RCW 70.160.080 and 1985 c 236 s 9 are each amended to read
12 as follows:

13 (1) Local fire departments or fire districts and local health
14 departments may adopt regulations as required to implement this
15 chapter.

16 (2) Nothing in this chapter prevents a city, town, or county from
17 adopting ordinances more restrictive than this chapter or regulations
18 adopted under this chapter that restrict or prohibit smoking in public
19 places situated within its jurisdiction.

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

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

25 (2) RCW 70.160.060 (Intent of chapter as applied to certain private
26 workplaces) and 1995 c 369 s 60, 1986 c 266 s 121, & 1985 c 236 s 6.

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