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HOUSE BILL 3130

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State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Serben, Dunn and Nixon

Read first time 01/23/2006. Referred to Committee on Health Care.

1            AN ACT Relating to allowing residents to smoke in long-term care  
2 facilities; amending RCW 70.160.030; adding a new section to chapter  
3 70.160 RCW; and creating a new section.

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

5            NEW SECTION.    **Sec. 1.** The legislature recognizes the will of the  
6 people strongly expressed by passage of Initiative Measure No. 901 to  
7 prohibit smoking in public places and places of employment. A clear  
8 message was sent that people do not want to be exposed unwillingly to  
9 second-hand smoke. The legislature also finds that the general  
10 understanding of Initiative Measure No. 901 is that it did not prohibit  
11 people from smoking in their own homes. The public places, covered by  
12 Initiative Measure No. 901, was understood to mean such places as  
13 restaurants, hotels, bars, clinics, and schools, which are used or  
14 visited for a relatively brief period. These public places are not the  
15 homes of the customers or workers. That is not true for one group of  
16 people impacted by Initiative Measure No. 901. The initiative defines  
17 public places to include adult care private residences and, therefore,  
18 it will apply to assisted living facilities, veterans' homes, nursing  
19 homes, and adult family homes, places that are the homes of the

1 residents, often for months or years. Some of these residents still  
2 smoke, and consider it one of their few remaining "pleasures" in life.  
3 Typically they smoke in a separate, ventilated safe room in the  
4 facility. Under Initiative Measure No. 901, these designated smoking  
5 rooms are prohibited.

6 The legislature has long recognized that residents who live in  
7 long-term care facilities should have the opportunity to exercise  
8 reasonable control over life decisions, that the right of choice  
9 enhances the quality of life for residents, and that residents should  
10 not lose their rights because they live in a care facility. Other  
11 adult smokers not living in care facilities can, if they wish, smoke at  
12 home. After Initiative Measure No. 901, this is no longer a choice for  
13 residents living in long-term care facilities.

14 The legislature also recognizes that the staff at care facilities,  
15 and the other residents who do not smoke, should not be exposed  
16 unwillingly to second-hand smoke. Some of the current designated  
17 smoking areas in long-term care facilities meet acceptable health and  
18 safety standards, whereas others may not. The legislature intends to  
19 protect the health and safety of residents, staff, and visitors from  
20 unwanted second-hand smoke. The legislature also intends to permit  
21 smoking by residents who live in long-term care facilities if the  
22 facility has an adequate physical barrier and ventilation system to  
23 separate the designated smoking area from adjacent nonsmoking areas.  
24 The barrier and ventilation system in a facility is adequate if it  
25 meets the standards set forth in this act.

26 **Sec. 2.** RCW 70.160.030 and 2006 c 2 s 3 (Initiative Measure No.  
27 901) are each amended to read as follows:

28 Except as provided in section 3 of this act, no person may smoke in  
29 a public place or in any place of employment.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.160 RCW  
31 to read as follows:

32 Smoking by residents living in assisted living facilities,  
33 veterans' homes, boarding homes, nursing homes, and adult family homes  
34 is permitted in a designated smoking area if the home or facility meets  
35 the following standards:

1 (1) No designated smoking area may be located in a common area  
2 including, but not limited to, entrances, lobbies, hallways, dining  
3 rooms, activity rooms, and meeting rooms, where employees, visitors, or  
4 nonsmoking residents are required to enter or pass through for work,  
5 visits, or services.

6 (2) An indoor designated smoking area must be separated by a floor  
7 to ceiling physical barrier from adjacent nonsmoking areas. The  
8 smoking area must be identified clearly with signs. The facility or  
9 home must maintain sufficient negative air pressure in the designated  
10 smoking area to prevent smoke from migrating into nonsmoking areas.  
11 The enclosed smoking area must have a ventilation or filter system or  
12 both that meets the permissible indoor air exposure limits for vapor  
13 phase nicotine and carbon monoxide, as measured by the stricter of the  
14 standards set by the United States department of labor, occupational  
15 safety and health administration, the Washington state department of  
16 labor and industries, or the Washington state department of health.  
17 Facilities and homes whose designated smoking areas met these standards  
18 as they existed before the enactment of Initiative Measure No. 901 may  
19 continue to use those designated smoking areas. The department of  
20 labor and industries and the department of health may review existing  
21 rules and adopt new rules if needed to better protect staff, visitors,  
22 and nonsmoking residents from second-hand smoke.

23 (3) An outdoor designated smoking area must be covered and  
24 protected from inclement weather, clearly identified with signs, and  
25 reachable by a nonhazardous pathway. The outdoor designated smoking  
26 area may be located no closer than fifteen feet from entrances, exits,  
27 open windows, and ventilation intakes that serve an enclosed nonsmoking  
28 area. The outdoor area must be enclosed on at least two sides to  
29 minimize smoke infiltration into the home or facility, and must have an  
30 outdoor filter system to absorb smoke when the smoking area is in use.

31 (4) Prospective employees and residents must be informed as to  
32 whether the home or facility has a designated smoking area. No  
33 employee may be required to enter a designated smoking area while  
34 someone is smoking there. Cleaning and maintenance of the designated  
35 smoking area must not occur when smokers are present. Persons under  
36 the age of eighteen are prohibited from entering or performing any

1 duties in a designated smoking area.

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