

wilfulness of the defendant's conduct and the profits made by the defendant attributable to the ~~((moral-nuisance))~~ lewd matter, lewdness, or prostitution, whichever is applicable. In no event shall the civil fine exceed the greater of twenty-five thousand dollars or these profits.

Sec. 2. Section 5, chapter 184, Laws of 1982 and RCW 7.48A.050 are each amended to read as follows:

All civil ~~((penalties))~~ fines assessed under RCW 7.48A.040 shall be paid into the general treasury of the governmental unit commencing the civil action.

Sec. 3. Section 8, chapter 184, Laws of 1982 and RCW 9.68.140 are each amended to read as follows:

A person who, for profit-making purposes and with knowledge, sells, exhibits, displays, or produces any lewd matter as defined in RCW 7.48A-.010 is guilty of promoting pornography. Promoting pornography is a class C felony and shall bear the punishment and fines prescribed for that class of felony~~((; except that upon conviction of promoting pornography the court shall impose a fine of not less than five thousand dollars per count nor more than fifty thousand dollars per count))~~. In imposing the criminal penalty, the court shall consider the wilfulness of the defendant's conduct and the profits made by the defendant attributable to the felony. All fines assessed under this chapter shall be paid into the general treasury of the state.

NEW SECTION. Sec. 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 25, 1985.

Passed the House April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.

CHAPTER 236

[Engrossed Substitute House Bill No. 62]

SMOKING—WASHINGTON CLEAN INDOOR AIR ACT

AN ACT Relating to smoking; adding a new chapter to Title 70 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

PART I
WASHINGTON CLEAN INDOOR AIR ACT

NEW SECTION. Sec. 1. The legislature recognizes the increasing evidence that tobacco smoke in closely confined places may create a danger to the health of some citizens of this state. In order to protect the health and welfare of those citizens, it is necessary to prohibit smoking in public places except in areas designated as smoking areas.

NEW SECTION. Sec. 2. As used in this chapter, the following terms have the meanings indicated unless the context clearly indicates otherwise.

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

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

Public places include, but are not limited to: Elevators, public conveyances or transportation facilities, museums, concert halls, theaters, auditoriums, exhibition halls, indoor sports arenas, hospitals, nursing homes, health care facilities or clinics, enclosed shopping centers, retail stores, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, state legislative chambers and immediately adjacent hallways, public restrooms, libraries, restaurants, waiting areas, lobbies, and reception areas. A public place does not include a private residence. This chapter is not intended to restrict smoking in private facilities which are occasionally open to the public except upon the occasions when the facility is open to the public.

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

NEW SECTION. Sec. 3. No person may smoke in a public place except in designated smoking areas.

NEW SECTION. Sec. 4. (1) A smoking area may be designated in a public place by the owner or, in the case of a leased or rented space, by the lessee or other person in charge except in:

(a) Elevators; buses, except for private hire; streetcars; taxis, except those clearly and visibly designated by the owner to permit smoking; public areas of retail stores and lobbies of financial institutions; office reception areas and waiting rooms of any building owned or leased by the state of Washington or by any city, county, or other municipality in the state of Washington; museums; public meetings or hearings; classrooms and lecture halls of schools, colleges, and universities; and the seating areas and aisle

ways which are contiguous to seating areas of concert halls, theaters, auditoriums, exhibition halls, and indoor sports arenas; and

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

Except as provided in other provisions of this chapter, no public place, other than a bar, tavern, bowling alley, tobacco shop, or restaurant, may be designated as a smoking area in its entirety. If a bar, tobacco shop, or restaurant is designated as a smoking area in its entirety, this designation shall be posted conspicuously on all entrances normally used by the public.

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

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

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

NEW SECTION. Sec. 5. Owners, or in the case of a leased or rented space the lessee or other person in charge, of a place regulated under this chapter shall make every reasonable effort to prohibit smoking in public places by posting signs prohibiting or permitting smoking as appropriate under this chapter. Signs shall be posted conspicuously at each building entrance. In the case of retail stores and retail service establishments, signs shall be posted conspicuously at each entrance and in prominent locations throughout the place. The boundary between a nonsmoking area and a smoking permitted area shall be clearly designated so that persons may differentiate between the two areas.

NEW SECTION. Sec. 6. This chapter is not intended to regulate smoking in a private enclosed workplace, within a public place, even though such workplace may be visited by nonsmokers, excepting places in which smoking is prohibited by the state fire marshal or by other law, ordinance, or regulation.

NEW SECTION. Sec. 7. (1) Any person intentionally violating this chapter by smoking in a public place not designated as a smoking area or any person removing, defacing, or destroying a sign required by this chapter is subject to a civil fine of up to one hundred dollars. Local law enforcement

agencies shall enforce this section by issuing a notice of infraction to be assessed in the same manner as traffic infractions. The provisions contained in chapter 46.63 RCW for the disposition of traffic infractions apply to the disposition of infractions for violation of this subsection except as follows:

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

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

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

(2) When violations of section 4 or 5 of this act occur, a warning shall first be given to the owner or other person in charge. Any subsequent violation is subject to a civil fine of up to one hundred dollars. Each day upon which a violation occurs or is permitted to continue constitutes a separate violation.

(3) Local fire departments or fire districts shall enforce section 4 or 5 of this act regarding the duties of owners or persons in control of public places, and local health departments shall enforce section 4 or 5 of this act regarding the duties of owners of restaurants by either of the following actions:

(a) Serving notice requiring the correction of any violation; or

(b) Calling upon the city or town attorney or county prosecutor to maintain an action for an injunction to enforce sections 4 and 5 of this act, to correct a violation, and to assess and recover a civil penalty for the violation.

NEW SECTION. Sec. 8. Any penalty assessed and recovered in an action brought under this chapter shall be paid to the city or county bringing the action.

NEW SECTION. Sec. 9. Local fire departments or fire districts and local health departments may adopt regulations as required to implement this chapter.

NEW SECTION. Sec. 10. This chapter shall be known as the Washington clean indoor air act.

NEW SECTION. Sec. 11. Sections 1 through 10 of this act shall constitute a new chapter in Title 70 RCW.

Passed the House April 22, 1985.

Passed the Senate April 15, 1985.

Approved by the Governor May 10, 1985.

Filed in Office of Secretary of State May 10, 1985.