

CHAPTER 2

[Initiative 901]

CLEAN INDOOR AIR ACT

AN ACT Relating to the prohibition of smoking in public places and places of employment; amending RCW 70.160.020, 70.160.030, 70.160.050, and 70.160.070; adding new sections to chapter 70.160 RCW; creating a new section; and repealing RCW 70.160.010, 70.160.040, and 70.160.900.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.160 RCW to read as follows:

INTENT AND FINDINGS. The people of the state of Washington recognize that exposure to second-hand smoke is known to cause cancer in humans. Second-hand smoke is a known cause of other diseases including pneumonia, asthma, bronchitis, and heart disease. Citizens are often exposed to second-hand smoke in the workplace, and are likely to develop chronic, potentially fatal diseases as a result of such exposure. In order to protect the health and welfare of all citizens, including workers in their places of employment, it is necessary to prohibit smoking in public places and workplaces.

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

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, and includes a presumptively reasonable minimum distance, as set forth in section 6 of this act, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises.

Public places include, but are not limited to: Schools, 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)) bars, taverns, bowling alleys, skating rinks, casinos, reception areas, and no less than seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests. 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.~~) "Place of employment" means any area under the control of a public or private employer which employees are required to pass through during the course of employment, including, but not limited to: Entrances and exits to the places of employment, and including a presumptively reasonable minimum distance, as set forth in section 6 of this act, of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited; work areas; restrooms; conference and classrooms; break rooms and cafeterias; and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a place of employment.

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

No person may smoke in a public place (~~(except in designated smoking areas))~~ or in any place of employment.

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

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)) and places of employment and shall post 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.))

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

(1) Any person intentionally violating this chapter by smoking in a public place (~~(not designated as a smoking area))~~ or place of employment, 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. Any person passing by or through a public place while on a public sidewalk or public right of way has not intentionally violated this chapter. 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 RCW (~~(70.160.040 or)~~) 70.160.050 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)~~) health departments (~~(or fire districts)~~) shall enforce RCW (~~(70.160.040 or)~~) 70.160.050 regarding the duties of owners or persons in control of public places(~~(, and local health departments shall enforce RCW 70.160.040 or 70.160.050 regarding the duties of owners of restaurants)~~) and places of employment 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 or local health department attorney to maintain an action for an injunction to enforce RCW (~~(70.160.040 and)~~) 70.160.050, to correct a violation, and to assess and recover a civil penalty for the violation.

NEW SECTION. Sec. 6. A new section is added to chapter 70.160 RCW to read as follows:

PRESUMPTIVELY REASONABLE DISTANCE. Smoking is prohibited within a presumptively reasonable minimum distance of twenty-five feet from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty-five feet is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or place of employment is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.

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

(1) RCW 70.160.010 (Legislative intent) and 1985 c 236 s 1;

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

(3) RCW 70.160.900 (Short title—1985 c 236) and 1985 c 236 s 10.

NEW SECTION. Sec. 8. CAPTIONS NOT LAW. Captions used in this act are not any part of the law.

Originally filed in Office of Secretary of State January 10, 2005.

Approved by the People of the State of Washington in the General Election on November 8, 2005.

CHAPTER 3

[Substitute House Bill 2370]

ENERGY ASSISTANCE

AN ACT Relating to low-income home energy assistance; amending RCW 80.01.080; adding a new section to 2005 c 518 (uncodified); making an appropriation; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** A new section is added to 2005 c 518 (uncodified) to read as follows:

FOR THE UTILITIES AND TRANSPORTATION COMMISSION

Public Service Revolving Account—State

Appropriation. \$7,600,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for transfer to the department of community, trade, and economic development for the low-income home energy assistance program. The department shall not use any of this appropriation for administrative costs.

Sec. 2. RCW 80.01.080 and 2003 1st sp.s. c 25 s 940 are each amended to read as follows:

There is created in the state treasury a public service revolving fund. Regulatory fees payable by all types of public service companies shall be deposited to the credit of the public service revolving fund. Except for expenses payable out of the pipeline safety account, all expense of operation of the Washington utilities and transportation commission shall be payable out of the public service revolving fund.

During the 2003-2005 fiscal biennium, the legislature may transfer from the public service revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund.

Due to the extraordinarily high winter energy costs, during the 2005-2007 fiscal biennium, no more than seven million six hundred thousand dollars, as appropriated in section 1 of this act, shall be payable out of the public service revolving fund to provide energy assistance to customers in accordance with the low-income energy assistance program.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House January 11, 2006.
Passed by the Senate January 11, 2006.
Approved by the Governor January 12, 2006.
Filed in Office of Secretary of State January 12, 2006.

CHAPTER 4

[Engrossed Substitute House Bill 2661]

HUMAN RIGHTS COMMISSION—SEXUAL ORIENTATION

AN ACT Relating to the jurisdiction of the Washington human rights commission; amending RCW 49.60.010, 49.60.020, 49.60.030, 49.60.040, 49.60.120, 49.60.130, 49.60.175, 49.60.176, 49.60.178, 49.60.180, 49.60.190, 49.60.200, 49.60.215, 49.60.223, 49.60.224, 49.60.225, and 48.30.300; and reenacting and amending RCW 49.60.222.