

The text of this document is an accurate copy of what was filed by the initiative proponent with the Secretary of State for assignment of a serial number. The accuracy of code in amendatory sections has not been verified.

### INITIATIVE 888

I, Sam Reed, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 888 to the People is a true and correct copy as it was received by this office.

AN ACT Relating to prohibiting smoking in public places where minors are allowed; amending RCW 70.160.030, 70.160.040, 70.160.050, 70.160.060, 70.160.070, and 70.160.080; and creating new sections.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

#### LEGISLATIVE INTENT

NEW SECTION. **Sec. 1.** The people recognize that minors who are exposed to smoking are much more likely to smoke. In order to protect the health and welfare of our children, it is necessary to limit their exposure to smoking in public places. This measure would prohibit smoking in public places where minors are allowed. Minors are persons under the age of 18. The measure would also require local governments to abide by state law concerning smoking.

#### PROHIBITING SMOKING IN PUBLIC PLACES WHERE MINORS ARE ALLOWED

**Sec. 2.** 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 where except in designated smoking areas where minors are not allowed. For the purposes of this act, "minors" include persons under the age of 18.

**Sec. 3.** RCW 70.160.040 and 1985 c 236 s 4 are each amended to read as follows:

(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 licensed bar, tavern, card room, tobacco shop, tobacconist, bingo hall, private club, or restaurant, may designate a smoking area, located where minors are not allowed. If a bar, tavern, card room, tobacco shop, tobacconist, bingo hall, private club, 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, and minors are not allowed to enter.

(2) Where smoking areas are designated, existing physical barriers and ventilation systems shall be used to eliminate 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 provided minors are not allowed to enter.

**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, especially where minors are allowed, 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.

**Sec. 5.** RCW 70.160.060 and 1995 c 369 s 60 are each amended to read as follows:

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 because minors are allowed or is prohibited by the chief of the Washington state patrol, through the director of fire protection, or by other law, ordinance, or regulation.

**Sec. 6.** 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 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 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 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 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 RCW 70.160.040 and 70.160.050, to correct a violation, and to assess and recover a civil penalty for the violation.

**Sec. 7.** RCW 70.160.080 and 1985 c 236 s 9 are each amended to read as follows:

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

(2) Nothing in this chapter allows a city, town, county, or other local governmental entity to adopt ordinances that conflict with state law regarding smoking indoors in public places situated within its jurisdiction. Local governments must abide by state law concerning smoking.

NEW SECTION. **Sec. 8.** The provisions of this act are to be liberally construed to effectuate the policies, purposes, and intent of this act.

NEW SECTION. **Sec. 9.** 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.

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