

INITIATIVE 890

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. 890 to the People is a true and correct copy as it was received by this office.

1 AN ACT Relating to smoking in public places and places of
2 employment; amending RCW 70.160.020, 70.160.030, 70.160.050, and
3 70.160.070; adding new sections to chapter 70.160 RCW; repealing RCW
4 70.160.010, 70.160.040, and 70.160.900; and providing an effective
5 date.

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

7 NEW SECTION. **Sec. 1.** INTENT AND FINDINGS. The people of the
8 State of Washington recognize that exposure to secondhand smoke is
9 known to cause cancer in humans. Secondhand smoke is a known cause of
10 other diseases including pneumonia, asthma, bronchitis, and heart
11 disease. Citizens are often exposed to secondhand smoke in the
12 workplace, and are likely to develop chronic, potentially fatal
13 diseases as a result of the exposure. In order to protect the health
14 and welfare of all citizens, including workers in their places of
15 employment, it is necessary to prohibit smoking in public places and
16 workplaces.

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

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

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

6 (2) "Public place" means that portion of any building or vehicle
7 used by and open to the public, regardless of whether the building or
8 vehicle is owned in whole or in part by private persons or entities,
9 the state of Washington, or other public entity, and regardless of
10 whether a fee is charged for admission, including a presumptively
11 reasonable minimum distance, as set forth in section 6 of this act,
12 around such buildings and vehicles. A public place does not include a
13 private residence unless the private residence is used to provide
14 licensed child care, foster care, adult care, or other similar social
15 service care on premises.

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

29 (~~(3) ("Restaurant" means any building, structure, or area used,~~
30 ~~maintained, or advertised as, or held out to the public to be, an~~
31 ~~enclosure where meals are made available to be consumed on the~~
32 ~~premises, for consideration of payment))~~ "Place of employment" means
33 any area under the control of a public or private employer through
34 which employees are required to pass during the course of employment,
35 including entrances and exits to the areas, and a presumptively
36 reasonable minimum distance around such areas, as set forth in section
37 6 of this act.

38 Places of employment include, but are not limited to, work areas,
39 restrooms, conference and classrooms, break rooms and cafeterias, and

1 other common areas. A private residence or home-based business, unless
2 used to provide licensed child care, foster care, adult care, or other
3 similar social service care is not a place of employment under this
4 chapter.

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

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

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

11 Owners, or in the case of a leased or rented space the lessee or
12 other person in charge, of a place regulated under this chapter shall
13 (~~((make every reasonable effort to))~~) prohibit smoking in public places
14 and places of employment by posting signs prohibiting (~~((or permitting))~~)
15 smoking as appropriate under this chapter. Signs shall be posted
16 conspicuously at each building entrance. In the case of retail stores
17 and retail service establishments, signs shall be posted conspicuously
18 at each entrance and in prominent locations throughout the place.
19 (~~((The boundary between a nonsmoking area and a smoking permitted area~~
20 ~~shall be clearly designated so that persons may differentiate between~~
21 ~~the two areas.))~~)

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

24 (1) Any person intentionally violating this chapter by smoking in
25 a public place (~~((not designated as a smoking area))~~) or place of
26 employment or any person removing, defacing, or destroying a sign
27 required by this chapter is subject to a civil fine of up to one
28 hundred dollars. Any person passing by or through a public place while
29 on a public sidewalk or public rights of way has not intentionally
30 violated this chapter. Local law enforcement agencies shall enforce
31 this section in the same manner as traffic infractions are enforced by
32 issuing a notice of infraction (~~((to be assessed in the same manner as~~
33 ~~traffic infractions))~~). The provisions contained in chapter 46.63 RCW
34 for the disposition of traffic infractions apply to the disposition of
35 infractions for violation of this subsection except as follows:

1 (a) The provisions in chapter 46.63 RCW relating to the provision
2 of records to the department of licensing in accordance with RCW
3 46.20.270 are not applicable to this chapter; and

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

7 ~~((The form for the notice of infraction for a violation of this
8 subsection shall be prescribed by rule of the supreme court.))~~

9 (2) When violations of RCW ~~((70.160.040 or))~~ 70.160.050 occur, a
10 warning shall first be given to the owner or other person in charge.
11 Any subsequent violation is subject to a civil fine of up to one
12 hundred dollars. Each day upon which a violation occurs or is
13 permitted to continue constitutes a separate violation.

14 (3) Local ~~((fire departments or fire districts shall enforce RCW
15 70.160.040 or 70.160.050 regarding the duties of owners or persons in
16 control of public places, and local))~~ health departments shall enforce
17 RCW ~~((70.160.040 or))~~ 70.160.050 regarding the duties of owners ~~((of
18 restaurants))~~ or persons in control of public places and places of
19 employment by either of the following actions:

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

21 (b) Calling upon the city or town attorney or county prosecutor or
22 local health department attorney to maintain an action for an
23 injunction to enforce RCW ~~((70.160.040 and))~~ 70.160.050, to correct a
24 violation, and to assess and recover a civil penalty for the violation.

25 NEW SECTION. Sec. 6. PRESUMPTIVELY REASONABLE DISTANCE. As used
26 in this chapter, a presumptively reasonable minimum distance is
27 twenty-five feet from entrances, exits, opening windows, and
28 ventilation intakes that serve an enclosed area where smoking is
29 prohibited so as to ensure that tobacco smoke does not enter the area
30 through entrances, exits, opening windows, or other means. Owners,
31 operators, managers, employers, or other persons who own or control a
32 public place or place of employment may seek to rebut the presumption
33 that twenty-five feet is a reasonable minimum distance by applying to
34 the director of the local health department or district in which the
35 public place or place of employment is located. The presumption will
36 be rebutted if the applicant can show by clear and convincing evidence
37 that, given the unique circumstances presented by the location of
38 entrances, exits, opening windows, or ventilation intakes, or other

1 factors, smoke will not infiltrate or reach the entrances, exits,
2 opening windows, or ventilation intakes or enter into such public place
3 or place of employment and, therefore, the public health and safety
4 will be adequately protected by a lesser distance.

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

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

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

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

12 NEW SECTION. **Sec. 8.** TITLE. This act shall be known as the
13 "Washington Workplace Clean Indoor Air Act."

14 NEW SECTION. **Sec. 9.** Captions used in this act are not part of
15 the law.

16 NEW SECTION. **Sec. 10.** EFFECTIVE DATE. This act takes effect
17 January 1, 2005.

18 NEW SECTION. **Sec. 11.** Sections 1, 6, and 8 through 10 of this act
19 are each added to chapter 70.160 RCW.

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