

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 9, 1998 Revised: _____

Subject: Clean Indoor Air

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Cooper	Yeatman	CA	Favorable
2.	_____	_____	CM	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 148 amends the "Florida Clean Indoor Air Act" (part I, chapter 386, F.S.) to provide that it is the intent of the Legislature to protect the public health and environment by providing a uniform statewide minimum code, rather than a maximum code. The bill also eliminates a preemption of the regulation of smoking to the state.

This bill amends s. 386.202 and repeals s. 386.209 of the Florida Statutes.

II. Present Situation:

Part II of chapter 386, F.S., establishes the provisions for the "Florida Clean Indoor Air Act." Section 386.202, F.S., provides that the purpose of the act is to protect the public health, comfort, and environment by creating areas in public places and at public meetings that are reasonably free from tobacco smoke by providing a uniform statewide maximum code. The act forbids a person from smoking in public places or public meetings except in designated smoking areas.

Section 386.203, F.S., defines the term "public place" as the following enclosed indoor areas used by the general public:

- (a) Government buildings;
- (b) Public means of mass transportation and their associated terminals not subject to federal smoking regulation;
- (c) Elevators;
- (d) Hospitals;
- (e) Nursing homes;

- (f) Educational facilities;
- (g) Public school buses;
- (h) Libraries;
- (I) Courtrooms;
- (j) Jury waiting and deliberation rooms;
- (k) Museums;
- (l) Theaters;
- (m) Auditoriums;
- (n) Arenas;
- (o) Recreational facilities;
- (p) Restaurants which seat more than 50 persons;
- (q) Retail stores, except a retail store the primary business of which is the sale of tobacco or tobacco related products;
- (r) Grocery stores;
- (s) Places of employment;
- (t) Health care facilities;
- (u) Day care centers; and
- (v) Common areas of retirement homes and condominiums.

The term “public meeting” means all meetings open to the public, including meetings of homeowner, condominium, or renter or tenant associations, unless such meetings are held at a private residence.

Section 386.205, F.S., governs the designation of smoking areas. Section 386.206, F.S., governs the posting of “NO SMOKING” and “SMOKING PERMITTED” signs.

Section 386.209, F.S., provides that part I of chapter 386, F.S., expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject. Cities and counties are not authorized to adopt local ordinances which enforce the provisions of the Clean Indoor Air Act or regulate in areas not addressed in the act. In 1997, 14 states, including Florida, had preemption clauses relating to their respective versions of the Clean Indoor Air Act.

Section 386.207, F.S., provides that exclusive enforcement of the Clean Indoor Air Act is the responsibility of the Division of Hotels and Restaurants within the Department of Business and Professional Regulation and the Department of Health. Upon notification of observed violations, the division or department must issue a compliance notice to the proprietor or other person in charge of the public place. If the person fails to comply within 30 days, the division or department may assess a civil penalty not to exceed \$100 for the first violation or \$500 for subsequent violations. The division includes adherence to the Clean Indoor Air Act as part of their regular restaurant inspection as well as performing complaint investigations.

III. Effect of Proposed Changes:

Senate Bill 306 amends the legislative intent of the Florida Clean Indoor Air Act to provide that the purpose of the act is to protect the public health and environment by creating areas in public places and at public meetings that are reasonably free of tobacco smoke by providing a uniform statewide minimum code.

The bill also repeals s. 386.209, F.S., which preempts the regulation of smoking to the state and provides that the act supersedes any county or municipal ordinance on the subject.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

If the bill results in a reduction in the use of tobacco, there will be a corresponding reduction in state and local government tobacco tax revenues.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments will have the authority to enact ordinances that are more restrictive than the provisions specified in the Florida Clean Indoor Air Act. Counties and municipalities choosing to enact local ordinances regulating smoking may incur additional costs relating to the promulgation and enforcement of such ordinances.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
