

HB 63-A — Clean Indoor Air Act

by Rep. Prieguez and others (CS/SB 44-A by Regulated Industries Committee and Senator Diaz de la Portilla)

This bill implements section 20, of Article X, of the State Constitution, which prohibits tobacco smoking in enclosed indoor workplaces. The bill amends the “Florida Clean Indoor Air Act” (the act) to implement the constitutional amendment.

The bill prohibits tobacco smoking in enclosed indoor workplaces. It also adopts and implements the definitions of the constitutional amendment. The bill implements the exceptions in the constitutional amendment for private residences whenever not being used for certain commercial purposes, stand-alone bars, and designated smoking rooms in hotels and other public lodging establishments.

The bill implements the exception for retail tobacco shops. It defines a retail tobacco shop as including a business that manufactures, imports, or distributes tobacco products and tobacco loose leaf dealers. It permits manufacturers, importers, or distributors of tobacco products and tobacco loose leaf dealers to heat, burn, smoke, or light for testing tobacco products when it is a necessary and integral part of the processes of making, manufacturing, importing, or distributing tobacco.

The bill provides an exception for tobacco smoking to the extent that tobacco smoking is an integral part of a smoking cessation program approved by the Department of Health, medical research, and scientific research. The bill permits the designation of a smoking room in an in-transit lounge in a customs area of an airport. The bill provides requirements for these designated smoking rooms intended to protect persons from the hazards of second-hand smoke. The bill clarifies the definition of the term “workplace” to provide that the term does not include facilities owned or leased by a membership association, including veterans’ groups, that are used exclusively for non-commercial activities performed by the members and guests of the association, including social gatherings, meetings, dining, and dances, if no person or persons are engaged in work as the term is defined in the act.

A stand-alone bar may not derive more than 10 percent of its gross revenue from the sale of food. Every three years a stand-alone bar that serves food other than pre-packaged items must file a report with the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation attesting to the percentage of food sales. The report must be attested to by a Certified Public Accountant.

The bill provides for enforcement of the act by the Department of Health and the Department of Business and Professional Regulation. It provides specific penalties for violations by stand-alone

bars ranging from a warning for a first violation to revocation of the right to smoke on the premises for a fourth or subsequent violation. It changes the penalties for violations of the act by other proprietors to provide a first violation penalty of not less than \$250 and not more than \$750. It changes the penalty provisions for subsequent violations to not less than \$500 and not more than \$2,000. The bill maintains the penalty provisions under the current act for violations by individuals.

If approved by the Governor, these provisions take effect July 1, 2003.

Vote: Senate 38-2; House 106-10