

Chapter 70.160 RCW
SMOKING IN PUBLIC PLACES

(Formerly: Washington clean indoor air act)

Sections

- 70.160.011 Findings—Intent—2006 c 2 (Initiative Measure No. 901).
70.160.020 Definitions.
70.160.030 Smoking prohibited in public places or places of employment.
70.160.050 Owners, lessees to post signs prohibiting smoking.
70.160.060 Intent of chapter as applied to certain private workplaces.
70.160.070 Intentional violation of chapter—Removing, defacing, or destroying required sign—Fine—Notice of infraction—Exceptions—Violations of RCW 70.160.050—Fine—Enforcement.
70.160.075 Smoking prohibited within twenty-five feet of public places or places of employment—Application to modify presumptively reasonable minimum distance.
70.160.080 Local regulations authorized.
70.160.100 Penalty assessed under this chapter paid to jurisdiction bringing action.

Smoking in municipal transit vehicle, unlawful conduct: RCW 9.91.025.

RCW 70.160.011 Findings—Intent—2006 c 2 (Initiative Measure No. 901). The people of the state of Washington recognize that exposure to secondhand smoke is known to cause cancer in humans. Secondhand smoke is a known cause of other diseases including pneumonia, asthma, bronchitis, and heart disease. Citizens are often exposed to secondhand 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. [2006 c 2 s 1 (Initiative Measure No. 901, approved November 8, 2005).]

Captions not law—2006 c 2 (Initiative Measure No. 901):
"Captions used in this act are not any part of the law." [2006 c 2 s 8 (Initiative Measure No. 901, approved November 8, 2005).]

RCW 70.160.020 Definitions. 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 RCW 70.160.075, 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, 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) "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 RCW 70.160.075, 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. [2006 c 2 s 2 (Initiative Measure No. 901, approved November 8, 2005); 1985 c 236 s 2.]

Captions not law—2006 c 2 (Initiative Measure No. 901): See note following RCW 70.160.011.

RCW 70.160.030 Smoking prohibited in public places or places of employment. No person may smoke in a public place or in any place of employment. [2006 c 2 s 3 (Initiative Measure No. 901, approved November 8, 2005); 1985 c 236 s 3.]

Captions not law—2006 c 2 (Initiative Measure No. 901): See note following RCW 70.160.011.

RCW 70.160.050 Owners, lessees to post signs prohibiting smoking. 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 prohibit smoking in public places and places of employment and shall post signs prohibiting 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. [2006 c 2 s 4 (Initiative Measure No. 901, approved November 8, 2005); 1985 c 236 s 5.]

Captions not law—2006 c 2 (Initiative Measure No. 901): See note following RCW 70.160.011.

RCW 70.160.060 Intent of chapter as applied to certain private workplaces. 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 by the chief of the Washington state patrol, through the director of fire protection, or by other law, ordinance, or regulation. [1995 c 369 s 60; 1986 c 266 s 121; 1985 c 236 s 6.]

Effective date—1995 c 369: See note following RCW 43.43.930.

Severability—1986 c 266: See note following RCW 38.52.005.

RCW 70.160.070 Intentional violation of chapter—Removing, defacing, or destroying required sign—Fine—Notice of infraction—Exceptions—Violations of RCW 70.160.050—Fine—Enforcement. (1) Any person intentionally violating this chapter by smoking in a public place 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 70.160.050 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 health departments shall enforce RCW 70.160.050 regarding the duties of owners or persons in control of public places 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 70.160.050, to correct a violation, and to

assess and recover a civil penalty for the violation. [2006 c 2 s 5 (Initiative Measure No. 901, approved November 8, 2005); 1985 c 236 s 7.]

Captions not law—2006 c 2 (Initiative Measure No. 901): See note following RCW 70.160.011.

RCW 70.160.075 Smoking prohibited within twenty-five feet of public places or places of employment—Application to modify presumptively reasonable minimum 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. [2006 c 2 s 6 (Initiative Measure No. 901, approved November 8, 2005).]

Captions not law—2006 c 2 (Initiative Measure No. 901): See note following RCW 70.160.011.

RCW 70.160.080 Local regulations authorized. Local fire departments or fire districts and local health departments may adopt regulations as required to implement this chapter. [1985 c 236 s 9.]

RCW 70.160.100 Penalty assessed under this chapter paid to jurisdiction bringing action. Any penalty assessed and recovered in an action brought under this chapter shall be paid to the city or county bringing the action. [1985 c 236 s 8.]