

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

H

2

HOUSE BILL 76  
Committee Substitute Favorable 5/31/05

Short Title: Reduce Smoking in Restaurants.

(Public)

Sponsors:

Referred to:

February 7, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LAW CONCERNING SMOKING IN PUBLIC PLACES  
3 AND TO REDUCE SMOKING IN RESTAURANTS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 143-596(4) is repealed.

6 **SECTION 2.** Chapter 14 of the General Statutes is amended by adding a  
7 new Article to read:

8 "Article 62.

9 "Smoking in Public Restaurants.

10 "**§ 14-462. Definitions.**

11 The following definitions shall apply to this Article:

12 (1) Restaurant. – An eating establishment substantially engaged in the  
13 business of preparing and serving meals and regularly and customarily  
14 selling food to be eaten on the premises, including but not limited to,  
15 coffee shops, cafeterias, sandwich stands, and any building, structure,  
16 or area where food is available for eating on the premises in  
17 consideration of payment. The term 'restaurant' shall not include a  
18 designated bar or lounge area attached to a restaurant where alcoholic  
19 beverages are sold and shall not include an outdoor or partially  
20 enclosed outdoor seating area with or without a ceiling.

21 (2) Smoke or smoking. – The use or possession of a lighted cigarette,  
22 lighted cigar, lighted pipe, or any other lighted tobacco product.

23 "**§ 14-463. Smoking in public restaurants; notice.**

24 (a) Every restaurant shall have a designated 'No Smoking' area. Notwithstanding  
25 any other provision of law, a 'No Smoking' area of a restaurant shall not be less than  
26 fifty percent (50%) of the seating capacity inside the restaurant. 'No Smoking' signs or  
27 the international 'No Smoking' symbol, which consists of a pictorial representation of a  
28 burning cigarette enclosed in a circle with a bar across it, shall be conspicuously posted  
29 and properly maintained in each 'No Smoking' area of the restaurant.

1       (b) No person shall smoke in any 'No Smoking' area of the restaurant accessible  
2 to the public.

3       (c) Any person in charge of a restaurant open and accessible to the public or a  
4 designated agent or employee of the restaurant, who observes a person smoking in  
5 apparent violation of this section, shall ask the person to extinguish all lighted tobacco  
6 products. If the person persists in apparent violation of this section, the person in charge  
7 of the restaurant or the designated agent or employee of the restaurant shall ask the  
8 person to leave the premises.

9       (d) Nothing in this Article shall prohibit a county health department from  
10 establishing an Internet listing of local restaurants that are considered to be 'smoke free'.  
11 No such listing shall contain negative information about any restaurant or other  
12 establishment that allows smoking.

13 **"§ 14-464. Violations; penalties.**

14       Any person who refuses to either extinguish all lighted tobacco products or leave the  
15 premises of a restaurant when asked to do so pursuant to G.S. 14-463(b) is responsible  
16 for an infraction. For violations occurring prior to January 1, 2007, the person shall be  
17 issued a warning. A person committing a violation on or after January 1, 2007, is  
18 subject to a fine not to exceed fifty dollars (\$50.00). Any violation of this Article may  
19 be reported to a law enforcement officer.

20 **"§ 14-465. Exceptions.**

21       This Article shall not apply to the following:

22           (1) Any building owned, rented, leased, or otherwise operated by a social,  
23 fraternal, or religious organization when used solely by the  
24 organization members or their guests or families.

25           (2) Any facility or private room rented or leased for private functions from  
26 which the general public is excluded.

27           (3) Private clubs.

28 **"§ 14-466. Limit on civil liability.**

29       No person may bring an action against a restaurant for requesting that person to  
30 extinguish all lighted tobacco products in compliance with this Article."

31       **SECTION 3.(a)** G.S. 14-464 is amended by adding a new subsection to  
32 read:

33       "(e) The 'Smoking Area' of a restaurant shall be in a room or rooms separate and  
34 apart from the main dining area."

35       **SECTION 3.(b)** This section becomes effective January 1, 2007.

36       **SECTION 4.(a)** G.S. 14-462(1) reads as rewritten:

37       "(1) Restaurant. – An eating establishment substantially engaged in the  
38 business of preparing and serving meals and regularly and customarily  
39 selling food to be eaten on the premises, including but not limited to,  
40 coffee shops, cafeterias, sandwich stands, and any building, structure,  
41 or area where food is available for eating on the premises in  
42 consideration of payment. The term 'restaurant' shall ~~not~~ include a  
43 designated bar or lounge area attached to a restaurant where alcoholic

1 beverages are sold and shall not include an outdoor or partially  
2 enclosed outdoor seating area with or without a ceiling."

3 **SECTION 4.(b)** This section becomes effective January 1, 2007.

4 **SECTION 5.(a)** G.S. 14-464 is amended by adding a new subsection to  
5 read:

6 "(f) Any restaurant employee who is an unemancipated minor shall provide the  
7 employer with a signed written statement from the unemancipated minor's parent or  
8 guardian authorizing the unemancipated minor to work in a restaurant where smoking is  
9 permitted unless the unemancipated minor will be working only in 'No Smoking' or  
10 outside areas of the restaurant. This subsection shall not apply to an unemancipated  
11 minor employed by a parent or guardian."

12 **SECTION 5.(b)** This section becomes effective January 1, 2008.

13 **SECTION 6.(a)** G.S. 14-464 is amended by adding a new subsection to  
14 read:

15 "(g) Any restaurant that allows smoking shall post and maintain at least one notice  
16 in the immediate vicinity of the sanitation grade or on the front door of the restaurant  
17 that smoking is allowed in the restaurant."

18 **SECTION 6.(b)** This section becomes effective January 1, 2010.

19 **SECTION 7.** Except as otherwise provided in this act, this act becomes  
20 effective January 1, 2006, and applies to acts committed on or after that date.