

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 259
Committee Substitute Favorable 3/21/07

Short Title: Prohibit Smoking in Public & Work Places.

(Public)

Sponsors:

Referred to:

February 20, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT SMOKING IN PUBLIC PLACES AND PLACES OF
3 EMPLOYMENT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Chapter 130A of the General Statutes is amended by adding a
6 new Article to read:

7 "Article 23.

8 "Smoke-Free Indoor Air.

9 "**§ 130A-491. Legislative intent.**

10 It is the intent of the General Assembly to protect the health of individuals in public
11 places and places of employment from the risks related to secondhand smoke.

12 "**§ 130A-492. Definitions.**

13 The following definitions shall apply to this Article:

- 14 (1) "Enclosed area" means all space between a floor and ceiling that is
15 enclosed on all sides by solid walls or windows, exclusive of
16 doorways, which extend from the floor to the ceiling.
- 17 (2) "Lodging establishment" means an establishment that provides lodging
18 for pay to the public.
- 19 (3) "Place of employment" means an enclosed area under the control of a
20 public or private employer that employees normally frequent during
21 the course of employment.
- 22 (4) "Private club" means an establishment that is organized and operated
23 solely for a social, recreational, patriotic, or fraternal purpose and that
24 is not open to the general public, but is open only to the members of
25 the organization and their bona fide guests, and is either incorporated
26 as a nonprofit corporation in accordance with Chapter 55A of the
27 General Statutes or is exempt from federal income tax under the
28 Internal Revenue Code as defined in G.S. 105-130.2(1).

1 (5) "Public place" means an enclosed area that is accessible to or shared
2 by all persons.

3 (6) "Retail or wholesale tobacco shop" means any business establishment
4 the main purpose of which is the sale of tobacco, tobacco products,
5 and accessories for such products, that receives no less than
6 seventy-five percent (75%) of its total annual revenues from the sale of
7 tobacco, tobacco products, and accessories for such products, and
8 does not serve food or alcohol on its premises.

9 (7) "Smoking" means the use or possession of any lighted cigar, cigarette,
10 pipe, or other lighted tobacco product.

11 **"§ 130A-493. Smoking in public places and places of employment prohibited.**

12 (a) Notwithstanding Article 64 of Chapter 143 of the General Statutes, smoking
13 is prohibited in public places and places of employment, except as provided in
14 subsection (b) of this section.

15 (b) Smoking may be permitted in the following places:

16 (1) A private residence, except when being used commercially to provide
17 child care or adult care services.

18 (2) A retail or wholesale tobacco shop.

19 (3) The premises of a manufacturer of tobacco products, including a
20 manufacturer's offices.

21 (4) A designated smoking guest room in a lodging establishment. No
22 greater than twenty percent (20%) of a lodging establishment's guest
23 rooms may be designated smoking guest rooms.

24 (5) A private club.

25 (6) A place of employment used for medical, scientific, or product
26 development research to the extent that smoking is an integral part of
27 the research.

28 **"§ 130A-494. Implementation.**

29 (a) A person who owns, manages, operates, or otherwise controls a public place
30 or place of employment in which smoking is prohibited shall:

31 (1) Conspicuously post signs clearly stating that smoking is prohibited.
32 The signs may include the international "No Smoking" symbol, which
33 consists of a pictorial representation of a burning cigarette enclosed in
34 a red circle with a red bar across it.

35 (2) Direct any person who is smoking to extinguish the lighted tobacco
36 product.

37 (b) The Commission shall adopt rules to implement the provisions of this Article.

38 (c) The provisions of this Article and the rules adopted by the Commission to
39 implement the provisions of this Article shall be enforced by a local health department.

40 **"§§ 130A-495 through 130A-500: Reserved for future codification purposes."**

41 **SECTION 2.** G.S. 130A-22 is amended by adding a new subsection to read:

42 "(h1) A local health director may take the following actions and may impose the
43 following administrative penalty on any person who owns, manages, operates, or

1 otherwise controls a public place or place of employment and fails to comply with the
2 provisions of Article 23 of this Chapter or with any rules adopted thereunder:

3 (1) First violation. – Provide the person in violation with written notice of
4 the person's first violation and notification of action to be taken in the
5 event of subsequent violations.

6 (2) Second violation. – Provide the person in violation with written notice
7 of the person's second violation and notification of administrative
8 penalties to be imposed for subsequent violations.

9 (3) Subsequent violations. – Impose on the person in violation an
10 administrative penalty of not more than two hundred dollars (\$200.00)
11 for the third and subsequent violations.

12 Each day on which a violation of this Article or any rules adopted pursuant to this
13 Article occurs shall be considered a separate and distinct violation. Notwithstanding
14 G.S. 130A-25, a violation of Article 23 of this Chapter shall not be punishable as a
15 criminal violation."

16 **SECTION 3.** If any provision of this act or its application is held invalid, the
17 invalidity does not affect other provisions or applications of this act that can be given
18 effect without the invalid provision or application, and to this end the provisions of this
19 act are severable.

20 **SECTION 4.** This act becomes effective January 1, 2008, except for the
21 provisions of G.S. 130A-494(b) authorizing the Commission to adopt rules
22 implementing the Article which is effective when the act becomes law.