

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 259  
Committee Substitute Favorable 3/21/07  
Committee Substitute #2 Favorable 4/18/07

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 FOOD AND LODGING  
3 ESTABLISHMENTS AND STATE GOVERNMENT BUILDINGS AND ALLOW  
4 LOCAL GOVERNMENTS TO PROHIBIT SMOKING IN PUBLIC PLACES AND  
5 PLACES OF EMPLOYMENT.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 143-595 through G.S. 143-601 are repealed.

8 **SECTION 2.** Chapter 130A of the General Statutes is amended by adding a  
9 new Article to read:

10 "Article 23.

11 "Smoking in Public Places.

12 **"§ 130A-491. Legislative intent.**

13 It is the intent of the General Assembly to protect the health of individuals in public  
14 from the risks of secondhand smoke by prohibiting smoking in food and lodging  
15 establishments regulated under this Chapter, prohibiting smoking in State government  
16 buildings, and allowing local governments to protect the public's health by prohibiting  
17 smoking in public places and places of employment.

18 **"§ 130A-492. Definitions.**

19 The following definitions shall apply to this Article:

20 (1) "Enclosed area" means all space between a floor and ceiling that is  
21 enclosed on all sides by solid walls or windows, exclusive of  
22 doorways, which extend from the floor to the ceiling.

23 (2) "Local government" means any local political subdivision of this State,  
24 any airport authority, or any authority or body created by ordinance,  
25 resolution, or rules of any such entity.

26 (3) "Place of employment" means an enclosed area under the control of a  
27 public or private employer that employees normally frequent during  
28 the course of employment.

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

3           (5) "Smoking" means the use or possession of any lighted cigar, cigarette,  
4           pipe, or other lighted tobacco product.

5           (6) "State government building" means a building owned, leased as lessor,  
6           or the area leased as lessee and occupied by State government.

7                           "Part 1. Food and Lodging Establishments.

8 **"§ 130A-493. Smoking in food and lodging establishments prohibited.**

9           (a) Smoking is prohibited in all enclosed areas of food and lodging  
10 establishments regulated by the Commission pursuant to Part 6 of Article 8 of this  
11 Chapter.

12           (b) Unless an ordinance, law, or rule adopted by a local government provides  
13 otherwise, smoking may be permitted as follows:

14                   (1) In any food or lodging establishment that is a business that (i) holds a  
15 mixed beverages permit pursuant to G.S. 18B-1001(10) and (ii) at all  
16 times allows entry only to persons 21 years of age or older.

17                   (2) A designated smoking guest room in a lodging establishment. No  
18 greater than twenty percent (20%) of a lodging establishment's guest  
19 rooms may be designated smoking guest rooms.

20           (c) Nothing in this section prohibits a local government from adopting and  
21 enforcing a more restrictive policy on smoking in workplaces and public places as  
22 authorized by G.S. 130A-497.

23 **"§ 130A-494. Implementation; food and lodging establishments.**

24           (a) A person who owns, manages, operates, or otherwise controls a food and  
25 lodging establishment in which smoking is prohibited shall:

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

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

32           (b) A business that permits smoking pursuant to G.S. 130A-493(b)(1) must  
33 conspicuously post a sign stating that no person under the age of 21 may enter at any  
34 time.

35           (c) The Commission shall adopt rules to implement the provisions of this Part.

36           (d) The provisions of this Part and the rules adopted by the Commission to  
37 implement the provisions of this Part shall be enforced by a local health department.

38                           "Part 2. Smoking in State Government Buildings.

39 **"§ 130A-495. Smoking in State government buildings prohibited.**

40           (a) Smoking is prohibited in all enclosed areas of State government buildings.

41           (b) Smoking is permitted inside State government buildings that are used for  
42 medical or scientific research to the extent that smoking is an integral part of the  
43 research. Smoking permitted under this subsection shall be confined to the area where  
44 the research is being conducted.

1 **"§ 130A-496. Implementation; State government buildings.**

2 (a) A person who manages, operates, or otherwise controls or is in charge of a  
3 State government building in which smoking is prohibited shall:

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

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

10 (b) The Commission shall adopt rules to implement the provisions of this Part.

11 "Part 3. Local Government Authority.

12 **"§ 130A-497. Local government authority.**

13 (a) A local government may adopt an ordinance, law, or rule restricting smoking  
14 in the following places:

15 (1) Public places.

16 (2) Places of employment.

17 (3) Buildings owned or leased as lessor by the local government.

18 (4) Buildings and grounds wherein local health departments and  
19 departments of social services are housed.

20 (5) Any area of a building leased as lessee and occupied by the local  
21 government.

22 (6) Any place on a public transportation vehicle owned or leased by the  
23 local government and used by the public.

24 (7) Public schools, school facilities, on school campuses, at school-related  
25 or school-sponsored events, in or on school property, public school  
26 buses, or at day care centers.

27 (b) Restrictions authorized by subdivision (a)(7) of this section may be imposed  
28 by local school boards having ownership, control, or jurisdiction over the building,  
29 campus, event, property, or vehicle.

30 (c) As used in this Part, 'grounds' means the area located within 50 linear feet of  
31 a building wherein a local health department or a local department of social services is  
32 housed.

33 **"§§ 130A-498 through 130A-500: Reserved for future codification purposes."**

34 **SECTION 3.** G.S. 130A-22 is amended by adding a new subsection to read:

35 "(h1) A local health director may take the following actions and may impose the  
36 following administrative penalty on any person who owns, manages, operates, or  
37 otherwise controls a food or lodging establishment and fails to comply with the  
38 provisions of Article 23 of this Chapter or with any rules adopted thereunder:

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

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

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

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

8           **SECTION 4.** If any provision of this act or its application is held invalid, the  
9           invalidity does not affect other provisions or applications of this act that can be given  
10          effect without the invalid provision or application, and to this end the provisions of this  
11          act are severable.

12          **SECTION 5.** This act becomes effective January 1, 2008, except for the  
13          provisions of G.S. 130A-497 authorizing local governments to restrict smoking and  
14          G.S. 130A-494(c) and G.S. 130A-496(b) authorizing the Commission to adopt rules  
15          implementing Part 1 and Part 2 of this Article which are effective when this act  
16          becomes law.