

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 259

Short Title: Prohibit Smoking in Public Places. (Public)

Sponsors: Representatives Holliman, Hall (Primary Sponsors); Bryant, England, Fisher, Glazier, Insko, Luebke, Underhill, and Weiss.

Referred to: Judiciary I.

February 20, 2007

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Effective January 1, 2008, Chapter 130A of the General Statutes is amended by adding a new Article to read:

"Article 23.

"Smoke-Free Indoor Air.

"§ 130A-491. Legislative intent.

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

"§ 130A-492. Definitions.

The following definitions shall apply to this Article:

- (1) "Age-restricted alcohol sales establishment" means an establishment that is authorized by the North Carolina Alcoholic Beverage Control Commission to sell alcoholic beverages and that allows entry to only persons who are 21 years of age or older and receives no greater than twenty percent (20%) of its total annual revenues from the sale of food.
- (2) "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of doorways), which extend from the floor to the ceiling.
- (3) "Lodging establishment" means an establishment that provides lodging for pay to the public.
- (4) "Place of employment" means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment.

1 (5) "Private club" means an organization that maintains selective
2 members, is operated by the membership, does not provide food or
3 lodging for pay to anyone who is not a member or a member's guest,
4 and is either incorporated as a nonprofit corporation in accordance
5 with Chapter 55A of the General Statutes or is exempt from federal
6 income tax under the Internal Revenue Code as defined in
7 G.S. 105-130.2(1).

8 (6) "Public place" means an enclosed area that is accessible to or shared
9 by all persons.

10 (7) "Retail tobacco shop" means any place dedicated to or predominantly
11 for the retail sale of tobacco, tobacco products, and accessories for
12 such products.

13 (8) "Smoking" mean use or possession of any lighted cigar, cigarette, pipe,
14 or other lighted tobacco product.

15 **"§ 130A-493. Smoking in public places and places of employment prohibited.**

16 (a) Notwithstanding Article 64 of Chapter 143 of the General Statutes, smoking
17 is prohibited in public places and places of employment, except as provided in
18 subsection (b) below.

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

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

22 (2) A retail tobacco shop.

23 (3) A tobacco manufacturing or processing facility.

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

27 (5) A private club.

28 (6) An age-restricted alcohol sales establishment.

29 (7) A place of employment used for medical or scientific research to the
30 extent that smoking is an integral part of the research.

31 **"§ 130A-494. Implementation.**

32 (a) A person who owns, manages, operates, or otherwise controls a public place
33 or place of employment in which smoking is prohibited shall conspicuously post signs
34 clearly stating that smoking is prohibited. The signs may include the international "No
35 Smoking" symbol, which consists of a pictorial representation of a burning cigarette
36 enclosed in a red circle with a red bar across it.

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. Severability.**

41 If any section, term, or provision of this Article shall be adjudged invalid for any
42 reason, such judgments shall not affect, impair, or invalidate any other section, term, or
43 provision of this Article, but the remaining sections, terms, and provisions shall be and
44 remain in full force and effect.

1 "§§ 130A-496 through 130A-500: Reserved for future codification purposes."

2 **SECTION 2.** Effective January 1, 2008, G.S. 130A-22 is amended by
3 adding a new subsection to read:

4 "(h1) A local health director may take the following actions and may impose the
5 following administrative penalty on any person who owns, manages, operates, or
6 otherwise controls a public place or place of employment and fails to comply with the
7 provisions of Article 23 of this Chapter or with any rules adopted thereunder:

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

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

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

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

21 **SECTION 3.** This act is effective when it becomes law.