

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 957

Short Title: Regulate Smoking in Public.

(Public)

Sponsors: Representatives Michaux, Fitch; Hill, McLawhorn, Mitchell, and Oldham.

Referred to: Judiciary I.

April 15, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE SMOKING IN PUBLIC PLACES AND TO ESTABLISH
3 STANDARDS FOR LOCAL GOVERNMENTS ELECTING TO REGULATE
4 SMOKING.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 14 of the General Statutes is amended by adding the
7 following new Article to read:

8 **"ARTICLE 61.**

9 **"SMOKING IN PUBLIC PLACES.**

10 **"§ 14-460. Legislative intent.**

11 It is the intent of the General Assembly to address the needs and concerns of both
12 smokers and nonsmokers in public places by providing for designated smoking and
13 nonsmoking areas.

14 **"§ 14-461. Definitions.**

15 As used in this Article, unless the context clearly provides otherwise:

- 16 (1) 'Local government' means any local political subdivision of the State
17 or any authority or body created by any ordinance or rules of any such
18 entity.
19 (2) 'Nonsmoking area' means any designated area where smoking is not
20 permitted.
21 (3) 'Public building' means an enclosed indoor area which is generally
22 open to public in the following facilities:
23 a. Local government buildings;
24 b. Places of employment in local government buildings;

- 1 c. Public mass transportation terminals; or
2 d. Restaurants.
3 (4) 'Public meeting' means any assemblage authorized by State or local
4 government or any subdivision of State or local government.
5 (5) 'Restaurant' means any building, structure, or area having a seating
6 capacity of 50 or more patrons where food is available for eating on
7 the premises in consideration of payment.
8 a. Seats in any bar or lounge area of a restaurant;
9 b. Seats in any separate room or section of a restaurant which is
10 used exclusively for private functions; and
11 c. Seats in any open outside area
12 are not included in determining seating capacity.
13 (6) 'Smoke' or 'smokes' or 'smoking' means the use or possession of a
14 lighted cigarette, lighted cigar, lighted pipe, or any other lighted
15 tobacco product.
16 (7) 'State government' means the political unit for the State of North
17 Carolina; including all agencies of the executive, judicial, and
18 legislative branches of government.

19 **"§ 14-462. Nonsmoking areas in State-controlled buildings.**

20 (a) The following areas may be designated as nonsmoking in buildings owned,
21 leased, or occupied by State government:

- 22 (1) Any library open to the public;
23 (2) Any museum open to the public;
24 (3) Any area established as a nonsmoking area, so long as at least twenty-
25 five percent (25%) of the interior space of equal quality to that of the
26 nonsmoking area shall be designated as a smoking area; or
27 (4) Any indoor space in a State-controlled building such as an auditorium,
28 arena, or coliseum, or an appurtenant building thereof; except that a
29 designated area for smoking shall be established in lobby areas.

30 (b) Any area designated as nonsmoking or smoking shall be established by the
31 appropriate department, institution, agency, or person in charge of the State-controlled
32 building or area. The person in charge of the building shall conspicuously post or cause
33 to be posted, in any area designated as a smoking or nonsmoking area, one or more
34 signs stating that smoking is or is not permitted in the area.

35 (c) Where a nonsmoking area is designated, existing physical barriers and
36 ventilation systems shall be used where appropriate to minimize smoke from adjacent
37 areas. This subsection shall not be construed to require fixed structural or other
38 physical modification in providing these areas or to require installation or operation of
39 any heating, ventilating, or air-conditioning system in any manner which adds expense.

40 **"§ 14-463. Prohibited acts related to nonsmoking areas.**

41 (a) No person shall smoke in a nonsmoking area in a State-controlled building or
42 area pursuant to G.S. 14-461 or at a public meeting held in a State-controlled building.

43 (b) Any person who continues to smoke in a nonsmoking area described in this
44 section following notice by the person in charge of the State-controlled building or area

1 or their designee that smoking is not permitted shall be guilty of an infraction and
2 punished by a fine of not more than twenty-five dollars (\$25.00).

3 **"§ 14-464. Exemptions.**

4 The following shall be exempt from the provisions of this Article:

- 5 (1) Any primary or secondary school or day care center, except for a
6 teacher's lounge;
- 7 (2) An enclosed elevator;
- 8 (3) Public school bus;
- 9 (4) Hospital, nursing home, and rest home other than a State-controlled
10 mental health facility;
- 11 (5) Local health department;
- 12 (6) Any nonprofit organization or corporation whose primary purpose is to
13 discourage the use of tobacco products by the general public; or
- 14 (7) Tobacco manufacturing, processing, and administrative facilities.

15 **"§ 14-465. Construction of Article.**

16 Nothing in this Article shall be construed to permit smoking in any area where
17 smoking is prohibited by any other law or rule for fire safety purposes, including the
18 State minimum fire safety standards pursuant to Chapter 58, Chapter 153A, or Chapter
19 160A of the General Statutes.

20 **"§ 14-466. Applicability of Article; local government may enact.**

21 (a) This Article shall not supersede nor prohibit the enactment of any local law,
22 rule, or ordinance enacted prior to July 1, 1993, regulating the use of tobacco products.
23 However, no local law, rule, or ordinance enacted prior to July 1, 1993, shall be
24 amended to impose a more stringent standard than in effect on the date of ratification of
25 this Article.

26 (b) Any local ordinance, law, or rule that regulates smoking adopted on or after
27 July 1, 1993, shall not contain restrictions regulating smoking which exceed those
28 established in this Article. Any local ordinance, law, or rule enacted pursuant to this
29 subsection may restrict smoking in the following:

- 30 (1) A public building;
- 31 (2) A public meeting;
- 32 (3) The indoor space in an auditorium, arena, or coliseum, or an
33 appurtenant building thereof other than a State-controlled building or
34 area;
- 35 (4) A library or museum open to the public, but not within a State-
36 controlled building or area; or
- 37 (5) Any place on a public transportation vehicle owned or leased by local
38 government and used by the public."

39 Sec. 2. The provisions of this act are severable, and if any provision of this
40 act is held invalid by a court of competent jurisdiction, the invalidity shall not affect
41 other provisions of the act which can be given effect without the invalid provision.

42 Sec. 3. This act is effective upon ratification.