

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

3

HOUSE BILL 1294
Committee Substitute Favorable 4/26/07
Committee Substitute #2 Favorable 5/10/07

Short Title: No Smoking/LTC Facilities.

(Public)

Sponsors:

Referred to:

April 4, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT SMOKING INSIDE LONG-TERM CARE FACILITIES.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 131D-4.4 reads as rewritten:

5 "§ 131D-4.4. Adult care home minimum safety ~~requirements~~requirements;
6 smoking prohibited inside long-term care facilities; penalty.

7 (a) In addition to other requirements established by this Article or by rules
8 adopted pursuant to this Article or other provisions of law, every adult care home shall
9 provide to each resident the care, safety, and services necessary to enable the resident to
10 attain and maintain the highest practicable level of physical, emotional, and social
11 well-being in accordance with:

12 (1) The resident's individual assessment and plan of care; and

13 (2) Rules and standards relating to quality of care and safety adopted
14 under this Chapter.

15 (b) Smoking is prohibited inside long-term care facilities. As used in this section:

16 (1) 'Long-term care facilities' include adult care homes, nursing homes,
17 skilled nursing facilities, facilities licensed under Chapter 122C of the
18 General Statutes, State psychiatric hospitals, and other licensed
19 facilities that provide long-term care services.

20 (2) 'Smoking' means the use or possession of any lighted cigar, cigarette,
21 pipe, or other lighted smoking product.

22 (3) 'Inside' means a fully enclosed area.

23 (c) The person who owns, manages, operates, or otherwise controls a long-term
24 care facility where smoking is prohibited under this section shall:

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

- 1 (2) Direct any person who is smoking inside the facility to extinguish the
2 lighted smoking product.
- 3 (3) Provide written notice to individuals upon admittance that smoking is
4 prohibited inside the facility and obtain the signature of the individual
5 or the individual's representative acknowledging receipt of the notice.
- 6 (d) The Department may impose an administrative penalty not to exceed two
7 hundred dollars (\$200.00) for each violation on any person who owns, manages,
8 operates, or otherwise controls the long-term care facility and fails to comply with
9 subsection (c) of this section."

10 **SECTION 2.** Part 1 of Article 6 of Chapter 131E of the General Statutes is
11 amended by adding the following new section to read:

12 **"§ 131E-114.3. Smoking prohibited inside long-term care facilities; penalty.**

13 (a) Except to the extent otherwise provided by federal law, smoking is prohibited
14 inside long-term care facilities. As used in this section:

- 15 (1) 'Long-term care facilities' include adult care homes, nursing homes,
16 skilled nursing facilities, facilities licensed under Chapter 122C of the
17 General Statutes, State psychiatric hospitals, and other licensed
18 facilities that provide long-term care services.
- 19 (2) 'Smoking' means the use or possession of any lighted cigar, cigarette,
20 pipe, or other lighted smoking product.
- 21 (3) 'Inside' means a fully enclosed area.

22 (b) The person who owns, manages, operates, or otherwise controls a long-term
23 care facility where smoking is prohibited under this section shall:

- 24 (1) Conspicuously post signs clearly stating that smoking is prohibited
25 inside the facility. The signs may include the international 'No
26 Smoking' symbol, which consists of a pictorial representation of a
27 burning cigarette enclosed in a red circle with a red bar across it.
- 28 (2) Direct any person who is smoking inside the facility to extinguish the
29 lighted smoking product.
- 30 (3) Provide written notice to individuals upon admittance that smoking is
31 prohibited inside the facility and obtain the signature of the individual
32 or the individual's representative acknowledging receipt of the notice.

33 (c) The Department may impose an administrative penalty not to exceed two
34 hundred dollars (\$200.00) for each violation on any person who owns, manages,
35 operates, or otherwise controls the long-term care facility and fails to comply with
36 subsection (b) of this section."

37 **SECTION 3.** Article 1 of Chapter 122C of the General Statutes is amended
38 by adding the following new section to read:

39 **"§ 122C-6. Smoking prohibited; penalty.**

40 (a) Smoking is prohibited inside facilities licensed under this Chapter and inside
41 State psychiatric hospitals. As used in this section, 'smoking' means the use or
42 possession of any lighted cigar, cigarette, pipe, or other lighted smoking product. As
43 used in this section, 'inside' means a fully enclosed area.

1 **(b)** The person who owns, manages, operates, or otherwise controls a facility
2 subject to this section shall:

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

7 **(2)** Direct any person who is smoking inside the facility to extinguish the
8 lighted smoking product.

9 **(3)** Provide written notice to individuals upon admittance that smoking is
10 prohibited inside the facility and obtain the signature of the individual
11 or the individual's representative acknowledging receipt of the notice.

12 **(c)** The Department may impose an administrative penalty not to exceed two
13 hundred dollars (\$200.00) for each violation on any person who owns, manages,
14 operates, or otherwise controls a facility licensed under this Chapter and fails to comply
15 with subsection (b) of this section."

16 **SECTION 4.** Part 3 of Article 6 of Chapter 131E of the General Statutes is
17 amended by adding the following new section to read:

18 **"§ 131E-143. Smoking prohibited; penalty.**

19 **(a)** A home care agency shall prohibit its employees from smoking while
20 providing services to an individual in the individual's home. The home care agency shall
21 inform its clients that employees of the agency are prohibited from smoking in a client's
22 home. As used in this section:

23 **(1)** 'Employee' includes an individual under contract with the home care
24 agency to provide home care services.

25 **(2)** 'Smoking' means the use or possession of any lighted cigar, cigarette,
26 pipe, or other lighted smoking product.

27 **(b)** The Department may impose an administrative penalty not to exceed two
28 hundred dollars (\$200.00) for each violation on any person who owns, manages,
29 operates, or otherwise controls the home care agency and fails to comply with this
30 section."

31 **SECTION 5.** This act is effective when it becomes law and applies to
32 violations committed on and after that date. G.S. 131D-4.4(c)(3), 131E-114.3(b)(3),
33 and 122C-6(b)(3), as enacted by this act, apply to individuals admitted to the facility on
34 and after the effective date of this act.