

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1294
Committee Substitute Favorable 4/26/07
Committee Substitute #2 Favorable 5/10/07
Senate Health Care Committee Substitute Adopted 7/11/07

Short Title: No Smoking/LTC Facilities.

(Public)

Sponsors:

Referred to:

April 4, 2007

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT SMOKING INSIDE LONG-TERM CARE FACILITIES.

The General Assembly of North Carolina enacts:

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

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

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

- (1) The resident's individual assessment and plan of care; and
- (2) Rules and standards relating to quality of care and safety adopted under this Chapter.

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

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

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

- (1) Conspicuously post signs clearly stating that smoking is prohibited inside the facility. The signs may include the international 'No

1 Smoking' symbol, which consists of a pictorial representation of a
2 burning cigarette enclosed in a red circle with a red bar across it.

3 (2) Direct any person who is smoking inside the facility to extinguish the
4 lighted smoking product.

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

8 (d) The Department may impose an administrative penalty not to exceed two
9 hundred dollars (\$200.00) for each violation on any person who owns, manages,
10 operates, or otherwise controls the long-term care facility and fails to comply with
11 subsection (c) of this section. A violation of subsection (c) of this section constitutes a
12 civil offense only and is not a crime."

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

15 **"§ 131E-114.3. Smoking prohibited inside long-term care facilities; penalty.**

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

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

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

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

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

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

31 (2) Direct any person who is smoking inside the facility to extinguish the
32 lighted smoking product.

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

36 (c) The Department may impose an administrative penalty not to exceed two
37 hundred dollars (\$200.00) for each violation on any person who owns, manages,
38 operates, or otherwise controls the long-term care facility and fails to comply with
39 subsection (b) of this section. A violation of subsection (b) of this section constitutes a
40 civil offense only and is not a crime."

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

43 **"§ 122C-6. Smoking prohibited; penalty.**

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

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

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

11 (2) Direct any person who is smoking inside the facility to extinguish the
12 lighted smoking product.

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

16 (c) The Department may impose an administrative penalty not to exceed two
17 hundred dollars (\$200.00) for each violation on any person who owns, manages,
18 operates, or otherwise controls a facility licensed under this Chapter and fails to comply
19 with subsection (b) of this section. A violation of subsection (b) of this section
20 constitutes a civil offense only and is not a crime."

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

23 **"§ 131E-143. Smoking prohibited; penalty.**

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

28 (1) 'Employee' includes an individual under contract with the home care
29 agency to provide home care services.

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

32 (b) The Department may impose an administrative penalty not to exceed two
33 hundred dollars (\$200.00) for each violation on any person who owns, manages,
34 operates, or otherwise controls the home care agency and fails to comply with this
35 section. A violation of subsection (a) of this section constitutes a civil offense only and
36 is not a crime."

37 **SECTION 5.** This act becomes effective October 1, 2007, and applies to
38 violations committed on or after that date. G.S. 131D-4.4(c)(3), 131E-114.3(b)(3), and
39 122C-6(b)(3), as enacted by this act, apply to individuals admitted to the facility on or
40 after October 1, 2007.