

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2007-459
HOUSE BILL 1294

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, 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 Smoking' symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.
- (2) Direct any person who is smoking inside the facility to extinguish the lighted smoking product.
- (3) Provide written notice to individuals upon admittance that smoking is prohibited inside the facility and obtain the signature of the individual or the individual's representative acknowledging receipt of the notice.

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

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

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

(a) Except to the extent otherwise provided by federal law, 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, 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.

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

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

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

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

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

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

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

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

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

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

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

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

(d) This section does not apply to State psychiatric hospitals."

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

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

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

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

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

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

SECTION 4.1 Effective January 1, 2008, G.S. 130A-493(c), as enacted by S.L. 2007-193, reads as rewritten:

"(c) The individual in charge of the State government building or the individual's designee shall post signs in conspicuous areas of the building. The signs shall state that "smoking is prohibited" and may include the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. In addition, in any State psychiatric hospital, the person who owns, manages, operates, or otherwise controls the hospital shall:

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

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

SECTION 5. This act becomes effective October 1, 2007, and applies to violations committed on or after that date. G.S. 131D-4.4(c)(3), 131E-114.3(b)(3), and 122C-6(b)(3), as enacted by this act, apply to individuals admitted to the facility on or after October 1, 2007. G.S. 130A-493(c)(2), as enacted by this act, applies to individuals admitted to the hospital on or after January 1, 2008.

In the General Assembly read three times and ratified this the 1st day of August, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 8:40 p.m. this 28th day of August, 2007