

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2007-193
HOUSE BILL 24**

AN ACT TO PROTECT THE PUBLIC FROM THE HEALTH RISKS OF SECONDHAND SMOKE BY PROHIBITING SMOKING IN BUILDINGS OWNED, LEASED, OR OCCUPIED BY STATE GOVERNMENT; AND TO AUTHORIZE LOCAL GOVERNMENTS TO REGULATE SMOKING IN BUILDINGS AND TRANSPORTATION VEHICLES OWNED, LEASED, OR OCCUPIED BY LOCAL GOVERNMENT AS RECOMMENDED BY THE JUSTUS-WARREN HEART DISEASE AND STROKE PREVENTION TASK FORCE.

Whereas, secondhand smoke has been proven to cause cancer, heart disease, and asthma in both smokers and nonsmokers; and

Whereas, the 2006 Surgeon General's Report on the health consequences of involuntary exposure to tobacco smoke states that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke; and

Whereas, the 2006 Surgeon General's Report documents that separating smokers from nonsmokers, cleaning the air, and ventilating smoke cannot eliminate exposure to secondhand smoke; and

Whereas, the Centers for Disease Control and Prevention (CDC) advises that all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and

Whereas, exposure to secondhand smoke is costly, costing the nation \$10 billion per year, \$5 billion in direct medical care costs, and \$5 billion in indirect costs according to the 2005 Society of Actuaries; and

Whereas, the vast majority of North Carolinians (77.4% of adults) do not smoke; and

Whereas, the 2006 Surgeon General's Report documents that eliminating indoor smoking fully protects nonsmokers from exposure to secondhand smoke; and

Whereas, North Carolina's General Assembly buildings are smoke-free; Now, therefore,

The General Assembly of North Carolina enacts:

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

"Article 23.

"Smoking in Public Places.

"Part 1. Smoking in State Government Buildings.

"§ 130A-491. Legislative intent.

It is the intent of the General Assembly to protect the health of individuals working in or visiting State government buildings from the risks related to secondhand smoke.

"§ 130A-492. Definitions.

The following definitions apply in this Article:

- (1) "Smoking". – The use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

- (2) "State government". – The political unit for the State of North Carolina, including all agencies of the executive, judicial, and legislative branches of government.
- (3) "State government building". – A building owned, leased as lessor, or the area leased as lessee and occupied by State government.

"§ 130A-493. Smoking in State government buildings prohibited.

(a) Notwithstanding Article 64 of Chapter 143 of the General Statutes pertaining to State-controlled buildings, smoking is prohibited inside State government buildings as provided in this section. As to smoking rooms in residence halls that were permitted by G.S. 143-597(a)(6), this Article becomes effective beginning with the 2008-2009 academic year.

(b) Smoking is permitted inside State government buildings that are used for medical or scientific research to the extent that smoking is an integral part of the research. Smoking permitted under this subsection shall be confined to the area where the research is being conducted.

(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.

(d) Notwithstanding G.S. 130A-25, a violation of Article 23 of this Chapter shall not be punishable as a criminal violation.

"§ 130A-493.1. Other prohibitions.

Nothing in this Article repeals any other law prohibiting smoking, nor does it limit any law allowing regulation or prohibition of smoking on the grounds of buildings.

"§ 130A-494. Rules.

The Commission shall adopt rules to implement this Part."

SECTION 2. Effective January 1, 2008, Article 23 of Chapter 130A of the General Statutes, as enacted in Section 1 of this act, is amended by adding the following new Part to read:

"Part 2. Local Government Regulation of Smoking.

"§ 130A-498. Local governments may restrict smoking in public places.

(a) Notwithstanding any other provision of Article 64 of Chapter 143 of the General Statutes to the contrary, a local government may adopt an ordinance, law, or rule restricting smoking in accordance with subsection (b) of this section.

(b) Any local ordinance, law, or rule authorized under this section may restrict smoking only in:

- (1) Buildings owned, leased as lessor, or the area leased as lessee and occupied by local government;
- (2) Building and grounds wherein local health departments and departments of social services are housed;
- (3) Public schools, school facilities, on school campuses, at school-related or school-sponsored events, in or on other school property, public school buses, or at day care centers. Such restrictions may be imposed by local school boards having ownership or jurisdiction over the building, campus, event, property, or vehicle; and
- (4) Any place on a public transportation vehicle owned or leased by local government and used by the public.

(c) As used in this Part, 'local government' means any local political subdivision of this State, any airport authority, or any authority or body created by any ordinance or rules of any such entity.

(d) As used in this Part, 'grounds' means the area located within 50 linear feet of a building wherein a local health department or a local department of social services is housed.

(e) A county ordinance adopted under this section is subject to the provisions of G.S. 153A-122."

SECTION 3. Effective January 1, 2008, G.S. 143-601 reads as rewritten:

"§ 143-601. Applicability of Article; local government may enact.

(a) This Article shall not supersede nor prohibit the enactment or enforcement of any otherwise valid local law, rule, or ordinance enacted prior to October 15, 1993, regulating the use of tobacco products. However, no local law, rule, or ordinance enacted and placed in operation prior to October 15, 1993, shall be amended to impose a more stringent standard than in effect on the date of ratification of this Article.

(b) Any local ordinance, law, or rule that regulates smoking adopted on or after October 15, 1993, shall not contain restrictions regulating smoking which exceed those established in this Article. Any such local ordinance, law, or rule may restrict smoking in accordance with this subsection and pursuant to G.S. 143-597 only in the following facilities that are not owned, leased, or occupied by local government: pursuant to G.S. 143-597:

- ~~(1) Buildings owned, leased or occupied by local government.~~
- (2) A public meeting.
- (3) The indoor space in an auditorium, arena, or coliseum, or an appurtenant building thereof.
- (4) A library or museum open to the public.
- ~~(5) Any place on a public transportation vehicle owned or leased by local government and used by the public.~~

If any of the facilities listed in this subsection are owned, leased as lessor, or the area leased as lessee and occupied by local government, then the local ordinance, law, or rule restricting smoking shall be governed by Article 23 of Chapter 130A of the General Statutes."

SECTION 3.1. If Senate Bill 1086, 2007 Regular Session, becomes law, G.S. 130A-498(b)(3), as enacted by Section 2 of this act, is repealed effective August 1, 2008.

SECTION 3.2. If Senate Bill 862, 2007 Regular Session, becomes law, G.S. 130A-493.1 as enacted by this act reads as rewritten:

"§ 130A-493.1. Other prohibitions.

Nothing in this Article repeals any other law prohibiting smoking, nor does it limit any law allowing regulation or prohibition of smoking on walkways or on the grounds of buildings."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29th day of June, 2007.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:13 p.m. this 8th day of July, 2007