

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE DRS85106-LN-139 (2/27)

Short Title: Prohibit Smoking/Public Places. (Public)

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Sponsors: Senator Cowell.

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Referred to:

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1 A BILL TO BE ENTITLED  
2 AN ACT TO PROHIBIT SMOKING IN PUBLIC PLACES AND PLACES OF  
3 EMPLOYMENT.

4 The General Assembly of North Carolina enacts:

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

7 "Article 23.

8 "Smoke-Free Indoor Air.

9 **"§ 130A-491. Legislative intent.**

10 It is the intent of the General Assembly to protect the health of individuals in public  
11 places and places of employment from the risks related to secondhand smoke.

12 **"§ 130A-492. Definitions.**

13 The following definitions shall apply to this Article:

- 14 (1) "Enclosed area" means all space between a floor and ceiling that is  
15 enclosed on all sides by solid walls or windows (exclusive of  
16 doorways), which extend from the floor to the ceiling.
- 17 (2) "Lodging establishment" means an establishment that provides lodging  
18 for pay to the public.
- 19 (3) "Place of employment" means an enclosed area under the control of a  
20 public or private employer that employees normally frequent during  
21 the course of employment.
- 22 (4) "Public place" means an enclosed area that is accessible to or shared  
23 by all persons.
- 24 (5) "Retail tobacco shop" means any place dedicated to or predominantly  
25 for the retail sale of tobacco, tobacco products, and accessories for  
26 such products.

1           (6) "Smoking" means use or possession of any lighted cigar, cigarette,  
2           pipe, or other lighted tobacco product.

3 **"§ 130A-493. Smoking in public places and places of employment prohibited.**

4           (a) Notwithstanding Article 64 of Chapter 143 of the General Statutes, smoking  
5 is prohibited in public places and places of employment, except as provided in  
6 subsection (b) below.

7           (b) Smoking may be permitted in the following places:

8           (1) A private residence, except when being used commercially to provide  
9           child care or adult care services.

10          (2) A retail tobacco shop.

11          (3) A tobacco manufacturing or processing facility.

12          (4) A designated smoking guest room in a lodging establishment. No  
13 greater than twenty percent (20%) of a lodging establishment's guest  
14 rooms may be designated smoking guest rooms.

15          (5) A place of employment used for medical or scientific research to the  
16 extent that smoking is an integral part of the research.

17 **"§ 130A-494. Implementation.**

18          (a) A person who owns, manages, operates, or otherwise controls a public place  
19 or place of employment in which smoking is prohibited shall conspicuously post signs  
20 clearly stating that smoking is prohibited. The signs may include the international "No  
21 Smoking" symbol, which consists of a pictorial representation of a burning cigarette  
22 enclosed in a red circle with a red bar across it.

23          (b) The Commission shall adopt rules to implement the provisions of this Article.

24          (c) The provisions of this Article and the rules adopted by the Commission to  
25 implement the provisions of this Article shall be enforced by a local health department.

26 **"§ 130A-495. Severability.**

27          If any section, term, or provision of this Article shall be adjudged invalid for any  
28 reason, such judgments shall not affect, impair, or invalidate any other section, term, or  
29 provision of this Article, but the remaining sections, terms, and provisions shall be and  
30 remain in full force and effect.

31 **"§§ 130A-496 through 130A-500: Reserved for future codification purposes."**

32           **SECTION 2.** Effective January 1, 2008, G.S. 130A-22 is amended by  
33 adding a new subsection to read:

34           "(h1) A local health director may take the following actions and may impose the  
35 following administrative penalty on any person who owns, manages, operates, or  
36 otherwise controls a public place or place of employment and fails to comply with the  
37 provisions of Article 23 of this Chapter or with any rules adopted thereunder:

38           (1) First violation. – Provide the person in violation with written notice of  
39 the person's first violation and notification of action to be taken in the  
40 event of subsequent violations.

41           (2) Second violation. – Provide the person in violation with written notice  
42 of the person's second violation and notification of administrative  
43 penalties to be imposed for subsequent violations.

1           (3) Subsequent violations. – Impose on the person in violation an  
2           administrative penalty of not more than two hundred dollars (\$200.00)  
3           for the third and subsequent violations.

4           Each day on which a violation of this Article or any rules adopted pursuant to this  
5           Article occurs shall be considered a separate and distinct violation. Notwithstanding  
6           G.S. 130A-25, a violation of Article 23 of this Chapter shall not be punishable as a  
7           criminal violation."

8           **SECTION 3.** This act is effective when it becomes law.