

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 367
HOUSE BILL 957

AN ACT TO REGULATE SMOKING IN PUBLIC PLACES AND TO ESTABLISH
STANDARDS FOR LOCAL GOVERNMENTS ELECTING TO REGULATE
SMOKING.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the General Statutes is amended by adding the following new Article to read:

"ARTICLE 64.

"Smoking in Public Places.

"§ 143-595. Legislative intent.

It is the intent of the General Assembly to address the needs and concerns of both smokers and nonsmokers in public places by providing for designated smoking and nonsmoking areas.

"§ 143-596. Definitions.

As used in this Article, unless the context clearly provides otherwise:

- (1) 'Local government' means any local political subdivision of the State or any authority or body created by any ordinance or rules of any such entity.
- (2) 'Nonsmoking area' means any designated area where smoking is not permitted.
- (3) 'Public meeting' means any assemblage authorized by State or local government or any subdivision of State or local government.
- (4) 'Restaurant' means any building, structure, or area having a seating capacity of 50 or more patrons where food is available for eating on the premises in consideration of payment. The following are not included in determining seating capacity:
 - a. Seats in any bar or lounge area of a restaurant.
 - b. Seats in any separate room or section of a restaurant which is used exclusively for private functions.
 - c. Seats in any open outside area.
- (5) 'Smoke' or 'smokes' or 'smoking' means the use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.
- (6) 'State government' means the political unit for the State of North Carolina; including all agencies of the executive, judicial, and legislative branches of government.

"§ 143-597. Nonsmoking areas in State-controlled buildings.

(a) All of the following areas may be designated as nonsmoking in buildings owned, leased, or occupied by State government:

- (1) Any library open to the public.
- (2) Any museum open to the public.
- (3) Any area established as a nonsmoking area, so long as at least twenty percent (20%) of the interior space of equal quality to that of the nonsmoking area shall be designated as a smoking area, unless physically impracticable. If physically impracticable, the person in charge of the facility shall provide an adequate smoking area within the facility as near as feasible to twenty percent (20%) of the interior space.
- (4) Any indoor space in a State-controlled building such as an auditorium, arena, or coliseum, or an appurtenant building thereof; except that a designated area for smoking shall be established in lobby areas.
- (5) Any educational buildings primarily involved in health care instruction.

(b) Any area designated as nonsmoking or smoking shall be established by the appropriate department, institution, agency, or person in charge of the State-controlled building or area. The person in charge of the building shall conspicuously post or cause to be posted, in any area designated as a smoking or nonsmoking area, one or more signs stating that smoking is or is not permitted in the area.

(c) Where a nonsmoking area is designated, existing physical barriers and ventilation systems shall be used where appropriate to minimize smoke from adjacent areas. This subsection shall not be construed to require fixed structural or other physical modification in providing these areas or to require installation or operation of any heating, ventilating, or air-conditioning system in any manner which adds expense.

"§ 143-598. Prohibited acts related to nonsmoking areas.

(a) No person shall smoke in a nonsmoking area in a State-controlled building or area pursuant to G.S. 143-597.

(b) Any person who continues to smoke in a nonsmoking area described in this section following notice by the person in charge of the State-controlled building or area or their designee that smoking is not permitted shall be guilty of an infraction and punished by a fine of not more than twenty-five dollars (\$25.00).

"§ 143-599. Exemptions.

All of the following facilities shall be exempt from the provisions of this Article:

- (1) Any primary or secondary school or day care center, except for a teacher's lounge.
- (2) An enclosed elevator.
- (3) Public school bus.
- (4) Hospital, nursing home, rest home, and State facility operated under the authority of G.S. 122C-181.
- (5) Local health department.

- (6) Any nonprofit organization or corporation whose primary purpose is to discourage the use of tobacco products by the general public.
- (7) Tobacco manufacturing, processing, and administrative facilities.

"§ 143-600. Construction of Article.

Nothing in this Article shall be construed to permit smoking in any area where smoking is prohibited by any other law or rule for fire safety purposes, including the State minimum fire safety standards pursuant to Chapter 58, Chapter 153A, or Chapter 160A of the General Statutes; provided, however, this Article shall not be construed to recognize any authority of a local government to restrict smoking other than as provided in this Article, for fire safety purposes as specified herein, and for the facilities exempt pursuant to G.S. 143-599.

"§ 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 only in the following facilities 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."

Sec. 2. The provisions of this act are severable, and if any provision of this act is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of the act which can be given effect without the invalid provision.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 17th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives