

By: Senator(s) Nunnelee

To: Judiciary

SENATE BILL NO. 2085

1 AN ACT ENTITLED THE "MISSISSIPPI CLEAN INDOOR AIR ACT"; TO  
2 PROVIDE FOR THE PROHIBITION OF SMOKING IN CERTAIN PUBLIC PLACES;  
3 TO PROVIDE FOR THE OPTION OF PROHIBITION OF SMOKING IN PLACES OF  
4 EMPLOYMENT; TO PROVIDE FOR THE POSTING OF NON-SMOKING SIGNS; TO  
5 PROVIDE FOR ENFORCEMENT OF THIS ACT; TO PROHIBIT RETALIATORY  
6 DISCHARGE; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 SECTION 1. **Title.**

9 This act shall be known as the Mississippi Clean Indoor Air  
10 Act.

11 SECTION 2. **Definitions.**

12 The following words and phrases, whenever used in this act,  
13 shall be construed as defined in this section:

14 (a) "Employee" means any person who is employed by any  
15 employer in the consideration for direct or indirect monetary  
16 wages or profit, and any person who volunteers his or her  
17 services.

18 (b) "Employer" means any person, partnership,  
19 corporation, including a municipal corporation, or nonprofit  
20 entity, which employs the services of one or more individual  
21 persons.

22 (c) "Enclosed area" means all space between a floor and  
23 ceiling which is enclosed on all sides by solid walls or windows  
24 (exclusive of door or passage ways) which extend from the floor to  
25 the ceiling, including all space therein screened by partitions  
26 which do not extend to the ceiling or are not solid, "office  
27 landscaping" or similar structures.

28 (d) "Government building" means any building owned,

29 rented, leased, occupied or operated by the state, including the  
30 legislative, executive and judicial branches of state government;  
31 any county, city, town, or village or any other political  
32 subdivision of the state; any public authority, commission,  
33 agency, or public benefit corporation; or any other separate  
34 corporate instrumentality or unit of state or local government.

35 (e) "Public conveyance" means buses, taxicabs, trains,  
36 trolleys, boats and other means of public transit when used for  
37 public conveyance.

38 (f) "Public meeting" means all meetings open to the  
39 public unless held in private residence.

40 **SECTION 3. Application to State Facilities.**

41 All enclosed facilities owned by the State of Mississippi  
42 shall be subject to the provisions of this act.

43 **SECTION 4. Prohibition of Smoking in Certain Public Places.**

44 (1) Tobacco use shall be prohibited in the following places:

45 (a) Elevators.

46 (b) Restrooms, lobbies, reception areas, hallways and  
47 any other common-use areas.

48 (c) Buses, taxicabs and other means of public  
49 conveyance.

50 (d) Every room, chamber, public meeting or public  
51 assembly in all government buildings.

52 (e) Waiting rooms, hallways, wards and semiprivate  
53 rooms of health facilities, including, but not limited to,  
54 hospitals, clinics, physical therapy facilities, doctors' offices,  
55 dentists offices, personal care homes, hospices and birthing  
56 facilities.

57 (f) Indoor lobbies, hallways and other common areas in  
58 retirement facilities and nursing homes.

59 (g) Pursuant to the federal Pro Children Act of 1994,  
60 any school facility that receives federal funds.

61 (h) Any child care facility as defined in Section

62 43-20-5, Mississippi Code of 1972.

63 (i) Notwithstanding any other provision of this  
64 section, any owner, operator, manager or other person who controls  
65 any establishment or facility may declare that entire  
66 establishment or facility as a non-smoking establishment.

67 **SECTION 5. Prohibition of Smoking in Places of Employment.**

68 Employers electing to come under paragraph (i) of Section 4  
69 of this act are not required to incur any expense to make  
70 structural or other physical modifications.

71 **SECTION 6. Reasonable Distances.**

72 Smoking shall not occur within ten (10) feet of any entrance  
73 to a building or passageway outside any enclosed area that is  
74 subject to paragraph (i) of Section 4 of this act.

75 **SECTION 7. Posting of Signs.**

76 (1) Every public place where smoking is prohibited by this  
77 act shall have posted at every entrance a conspicuous sign clearly  
78 stating that smoking is prohibited.

79 (2) All ashtrays and other smoking paraphernalia shall be  
80 removed from any area where smoking is prohibited by this act by  
81 the owner, operator, manager or other person having control of  
82 such area.

83 **SECTION 8. Enforcement.**

84 (1) Enforcement of this act shall be implemented by any  
85 municipality, county and state licensing or regulatory agencies.

86 (2) Any municipality, county or state licensing or  
87 regulatory agency shall require, while an establishment is  
88 undergoing otherwise mandated inspections, licensing or  
89 certification, a "self-certification" from the owner, manager,  
90 operator or other person having control of such establishment that  
91 all requirements of this act have been complied with.

92 (3) Municipal, county and state licensing or regulatory  
93 agencies are authorized to adopt all regulations necessary to  
94 enforce the provisions of this act.

95           SECTION 9. Non-retaliation.

96           No person or employer shall discharge, refuse to hire or in  
97 any manner retaliate against any employee, applicant for  
98 employment or customer because such employee, applicant or  
99 customer exercises any right to a smoke-free environment afforded  
100 by this act.

101           SECTION 10. Other Applicable Laws.

102           This act shall not be interpreted or construed to permit  
103 smoking where it is otherwise restricted by other applicable laws.

104           SECTION 11. Severability.

105           If any provision, clause, sentence or paragraph of this act  
106 or the application thereof to any person or circumstances shall be  
107 held invalid, such invalidity shall not affect the other  
108 provisions of this act which can be given effect without the  
109 invalid provision or application, and to this end the provisions  
110 of this act are declared to be severable.

111           SECTION 12. This act shall take effect and be in force from  
112 and after its passage.