

By: Senator(s) Dawkins, Williamson, Farris

To: Public Health and Welfare

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2648

1 AN ACT TO CREATE THE MISSISSIPPI SMOKE FREE FAMILIES ACT; TO  
2 PROVIDE DEFINITIONS OF CERTAIN TERMS; TO PROHIBIT SMOKING IN  
3 ENCLOSED PUBLIC PLACES IN THE STATE OF MISSISSIPPI; TO PROVIDE  
4 THAT EMPLOYERS ARE RESPONSIBLE FOR PROVIDING A SMOKE-FREE  
5 WORKPLACE FOR ALL EMPLOYEES; TO SPECIFY THE AREAS WHERE SMOKING IS  
6 NOT REGULATED; TO PROVIDE FOR THE POSTING OF NO SMOKING SIGNS; TO  
7 DIRECT THE STATE BOARD OF HEALTH TO ADOPT REGULATIONS AND  
8 PENALTIES REGARDING VIOLATIONS OF THIS ACT; TO AMEND SECTION  
9 29-5-161, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THERE SHALL BE  
10 NO DESIGNATED SMOKING AREAS IN STATE OFFICE BUILDINGS AND TO  
11 PROVIDE THAT SMOKING PROHIBITIONS APPLY TO ANY GOVERNMENT  
12 BUILDING; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** This act shall be known and may be cited as the  
15 "Mississippi Smoke Free Families Act."

16 **SECTION 2.** The following words and phrases shall have the  
17 meanings ascribed in this section, unless the context clearly  
18 indicates otherwise:

19 (a) "Bar" means an area that is devoted to the serving  
20 of alcoholic beverages for consumption by guests on the premises,  
21 in which the serving of food is only incidental to the consumption  
22 of those beverages. For the purposes of this paragraph, the term  
23 "bar" does not include any establishment where cigarette smoke can  
24 filter into any area where smoking is prohibited through a  
25 passageway, ventilation system or any other means.

26 (b) "Business" means any sole proprietorship,  
27 partnership, joint venture, corporation or other legal entity  
28 formed for profit-making purposes, including retail establishments  
29 where goods or services are sold as well as professional  
30 corporations and other entities where legal, medical, dental,  
31 engineering, architectural or other professional services are  
32 delivered.



33           (c) "Employee" means any person who is employed by any  
34 employer in the consideration for direct or indirect monetary  
35 wages or profit and any person who volunteers his or her services.

36           (d) "Employer" means any person, partnership,  
37 corporation, including a municipal corporation, or nonprofit  
38 entity, that employs the services of one or more individual  
39 persons.

40           (e) "Enclosed area" means all space between a floor and  
41 ceiling that is enclosed on all sides by solid walls or windows,  
42 excluding doors or passageways, that extend from the floor to the  
43 ceiling, including all space therein screened by partitions that  
44 do not extend to the ceiling or are not solid, office landscaping  
45 or similar structures.

46           (f) "Place of employment" means any enclosed area under  
47 the control of a public or private employer that employees  
48 normally frequent during the course of employment, including, but  
49 not limited to, work areas, employee lounges and restrooms,  
50 conference and classrooms, employee cafeterias and hallways. A  
51 private residence is not a "place of employment" unless it is used  
52 as a child care facility, as defined in Section 43-20-5, adult day  
53 care or health care facility that is licensed or regulated by the  
54 State Department of Health.

55           (g) "Public conveyance" means buses, taxis, trains,  
56 trolleys, boats and other means of public transit when used for  
57 public conveyance.

58           (h) "Public meeting" means all meetings open to the  
59 public unless held in a private residence.

60           (i) "Public place" means any enclosed area to which the  
61 public is invited or in which the public is permitted, including,  
62 but not limited to, banks, educational facilities, health  
63 facilities, laundromats, public transportation facilities,  
64 reception areas, restaurants, retail food production and marketing  
65 establishments, retail service establishments, retail stores,



66 theaters and waiting rooms. A private residence is not a "public  
67 place."

68 (j) "Restaurant" means any coffee shop, cafeteria,  
69 sandwich stand, or any other eating establishment that gives or  
70 offers for sale food to the public, guests or employees, as well  
71 as kitchens in which food is prepared on the premises for serving  
72 elsewhere, including catering facilities, except that the term  
73 "restaurant" does not include a cocktail lounge or tavern if the  
74 cocktail lounge or tavern is a "bar" as defined in paragraph (a)  
75 of this section.

76 (k) "Retail tobacco store" means a retail store  
77 utilized primarily for the sale of tobacco products and  
78 accessories and in which the sale of other products is merely  
79 incidental.

80 (l) "Service line" means any indoor line at which one  
81 or more persons are waiting for or receiving service of any kind,  
82 whether or not the service involves the exchange of money.

83 (m) "Smoking" means inhaling, exhaling, burning,  
84 carrying or otherwise possessing any lighted cigarette, cigar,  
85 pipe or any other object or device of any form that contains  
86 lighted tobacco or any other smoking product.

87 (n) "Sports arena" means sports pavilions, gymnasiums,  
88 health spas, boxing arenas, swimming pools, roller and ice rinks,  
89 bowling alleys and other similar places where members of the  
90 general public assemble either to engage in or witness physical  
91 exercise, athletic competition or other sports entertainment  
92 events.

93 **SECTION 3.** (1) Smoking is prohibited in all enclosed public  
94 places in the State of Mississippi, including, but not limited to,  
95 the following places:

96 (a) Elevators;

97 (b) Restrooms, lobbies, reception areas, hallways and  
98 any other common-use areas;



99                   (c) Buses, taxicabs and other means of public  
100 conveyance;  
101                   (d) Service lines;  
102                   (e) Retail stores;  
103                   (f) All areas available to and customarily used by the  
104 general public in all businesses and nonprofit entities patronized  
105 by the public, including, but not limited to, banks, laundromats,  
106 hotels and motels;  
107                   (g) Restaurants;  
108                   (h) Public areas of aquariums, galleries, libraries and  
109 museums when open to the public;  
110                   (i) Any facility that is primarily used for exhibiting  
111 any motion picture, stage, drama, lecture, musical recital or  
112 other similar performance;  
113                   (j) Sports arenas and convention centers;  
114                   (k) Waiting rooms, hallways, wards and semiprivate  
115 rooms of health facilities, including, but not limited to,  
116 hospitals, clinics, physical therapy facilities, doctors' offices,  
117 dentists' offices, personal care homes, hospices and birthing  
118 facilities;  
119                   (l) Indoor lobbies, hallways, and other common areas in  
120 apartment buildings, condominiums, trailer parks, retirement  
121 facilities, nursing homes and other multiple-unit residential  
122 facilities; and  
123                   (m) Polling places during the days and hours of  
124 operation.

125           (2) Notwithstanding any other provision of this section to  
126 the contrary, any owner, operator, manager or other person who  
127 controls any establishment or facility may declare that entire  
128 establishment or facility is a nonsmoking establishment.

129           **SECTION 4.** (1) It is the responsibility of employers with  
130 three (3) or more full-time employees to provide a smoke-free  
131 workplace for all employees, but employers are not required to



132 incur any expense to make structural or other physical  
133 modifications.

134 (2) Not later than six (6) months after the effective date  
135 of this act, each employer having an enclosed place of employment  
136 shall adopt, implement, make known and maintain a written smoking  
137 policy that contains the following requirements: Smoking is  
138 prohibited in all enclosed facilities within a place of employment  
139 without exception. This includes common work areas, auditoriums,  
140 classrooms, conference and meeting rooms, private offices,  
141 elevators, hallways, medical facilities, cafeterias, employee  
142 lounges, stairs, restrooms, vehicles and all other enclosed  
143 facilities.

144 **SECTION 5.** Smoking shall not occur within ten (10) feet of  
145 any entrance to a building or passageway outside any enclosed  
146 area.

147 **SECTION 6.** (1) Notwithstanding any other provision of this  
148 act to the contrary, the following areas shall not be subject to  
149 the smoking restrictions of this act:

150 (a) Bars;

151 (b) Private residences, except when used as a licensed  
152 child care facility;

153 (c) Hotel and motel rooms;

154 (d) Retail tobacco and convenience stores;

155 (e) Restaurants, hotel and motel conference or meeting  
156 rooms and public and private assembly rooms while these places are  
157 being used for private functions;

158 (f) Any facility operated by an entity licensed by the  
159 Mississippi Gaming Commission, except for restaurants located in  
160 such facilities which shall be subject to the smoking restrictions  
161 of this act;

162 (g) All public schools and campuses within the State of  
163 Mississippi regulated under Section 97-32-25 et al.



164 (2) Notwithstanding any other provision of this section to  
165 the contrary, any owner, operator, manager or other person who  
166 controls any establishment described in this section may declare  
167 that entire establishment is a nonsmoking establishment.

168 **SECTION 7.** (1) Every public place where smoking is  
169 prohibited by this act shall have posted at every entrance a  
170 conspicuous sign clearly stating that smoking is prohibited.

171 (2) All ashtrays and other smoking paraphernalia shall be  
172 removed from any area where smoking is prohibited by this act by  
173 the owner, operator, manager or other person having control of  
174 that area.

175 **SECTION 8.** The State Board of Health shall adopt and  
176 promulgate regulations and penalties regarding the violations of  
177 this act not later than ninety (90) days after the effective date  
178 of this act.

179 **SECTION 9.** A person or employer shall not discharge, refuse  
180 to hire or in any manner retaliate against any employee, applicant  
181 for employment or customer because the employee, applicant or  
182 customer exercises any right to smoke-free environment afforded by  
183 this act.

184 **SECTION 10.** This act shall not be interpreted or construed  
185 to permit smoking where it is otherwise restricted by other  
186 applicable laws or to prohibit any municipality or county from  
187 adopting additional ordinances with regard to the use of smoking  
188 in public places.

189 **SECTION 11.** This act shall not be construed as amending or  
190 repealing Section 97-35-1(4).

191 **SECTION 12.** Section 29-5-161, Mississippi Code of 1972, is  
192 amended as follows:

193 29-5-161. (1) As used in this section:

194 (a) "Smoke" or "smoking" means inhaling, exhaling,  
195 burning, carrying or otherwise possessing any lighted cigarette,



196 cigar, pipe or any other object or device of any form that  
197 contains lighted tobacco or any other smoking product.

198 (b) "Government building" means the New State Capitol  
199 Building, the Woolfolk State Office Building, the Carroll Gartin  
200 Justice Building, the Walter Sillers Office Building, the Heber  
201 Ladner Building, the Department of Transportation Building, the  
202 Robert E. Lee Office Building, the 301 Lamar Street Building, the  
203 State Board of Health Building, the Public Employees' Retirement  
204 System Building, the Central High Building, the Court of Appeals  
205 Building, the War Veterans' Memorial Building, the State Archives  
206 Building, the Ike Sanford Veterans Affairs Building, the Old State  
207 Capitol Building, the Burroughs Building, the Mayfair Building,  
208 101 Capitol Centre and any other facility in the state that is  
209 owned or leased by the State of Mississippi or any agency,  
210 department or institution of the state and that is used for  
211 housing state employees during the time of performance of their  
212 regular duties for the state; any building owned, rented, leased,  
213 occupied or operated by the state, including the legislative,  
214 executive and judicial branches of state government; any county,  
215 municipality or any other political subdivision of the state; any  
216 public authority, commission, agency or public benefit  
217 corporation; or any other separate corporate instrumentality or  
218 unit of state or local government. If only part of a facility is  
219 leased by the state or an agency, department or institution of the  
220 state, or any county, municipality or other political subdivision  
221 of the state, only the leased part of the facility will be  
222 considered to be a government building for the purposes of this  
223 definition.

224 \* \* \*

225 (2) No person shall smoke in any government building \* \* \*.

226 \* \* \*

227 (3) The person, agency or entity having jurisdiction or  
228 supervision over a government building shall not allow smoking in



229 the government building, \* \* \* and shall use reasonable efforts to  
230 prevent smoking in the government building, \* \* \* including, but  
231 not limited to, the following:

232 (a) Posting appropriate signs informing public  
233 employees, invitees, guests and other persons that smoking is  
234 prohibited in the government building \* \* \*.

235 (b) Securing the removal of persons who smoke in the  
236 government building \* \* \*.

237 (4) This section expressly preempts to the state the  
238 regulation of smoking in government buildings and supersedes any  
239 municipal or county ordinance on the subject.

240 **SECTION 13.** This act shall take effect and be in force from  
241 and after its passage.

