

By: Senator(s) Dawkins, Williamson, Farris

To: Public Health and Welfare

SENATE BILL NO. 2648  
(As Passed the Senate)

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; TO AMEND SECTION 97-32-27, MISSISSIPPI CODE OF 1972, TO  
13 PROHIBIT SMOKING IN ALL PUBLIC AND PRIVATE SCHOOL BUILDINGS AND  
14 FACILITIES, AND TO PROHIBIT SMOKING IN ALL PUBLIC AND PRIVATE  
15 UNIVERSITY AND COLLEGE BUILDINGS AND FACILITIES IN MISSISSIPPI;  
16 AND FOR RELATED PURPOSES.

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

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

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

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

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



35 engineering, architectural or other professional services are  
36 delivered.

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

40 (d) "Employer" means any person, partnership,  
41 corporation, including a municipal corporation, or nonprofit  
42 entity, that employs the services of one or more individual  
43 persons.

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

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

59 (g) "Public conveyance" means buses, taxis, trains,  
60 trolleys, boats and other means of public transit when used for  
61 public conveyance.

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

64 (i) "Public place" means any enclosed area to which the  
65 public is invited or in which the public is permitted, including,  
66 but not limited to, banks, educational facilities, health  
67 facilities, laundromats, public transportation facilities,



68 reception areas, restaurants, retail food production and marketing  
69 establishments, retail service establishments, retail stores,  
70 theaters and waiting rooms. A private residence is not a "public  
71 place."

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

80 (k) "Retail tobacco store" means a retail store  
81 utilized primarily for the sale of tobacco products and  
82 accessories and in which the sale of other products is merely  
83 incidental.

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

87 (m) "Smoking" means inhaling, exhaling, burning,  
88 carrying or otherwise possessing any lighted cigarette, cigar,  
89 pipe or any other object or device of any form that contains  
90 lighted tobacco or any other smoking product.

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

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

100 (a) Elevators;



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

103 (c) Buses, taxicabs and other means of public  
104 conveyance;

105 (d) Service lines;

106 (e) Retail stores;

107 (f) All areas available to and customarily used by the  
108 general public in all businesses and nonprofit entities patronized  
109 by the public, including, but not limited to, banks, laundromats,  
110 hotels and motels;

111 (g) Restaurants;

112 (h) Public areas of aquariums, galleries, libraries and  
113 museums when open to the public;

114 (i) Any facility that is primarily used for exhibiting  
115 any motion picture, stage, drama, lecture, musical recital or  
116 other similar performance;

117 (j) Sports arenas and convention centers;

118 (k) Waiting rooms, hallways, wards and semiprivate  
119 rooms of health facilities, including, but not limited to,  
120 hospitals, clinics, physical therapy facilities, doctors' offices,  
121 dentists' offices, personal care homes, hospices and birthing  
122 facilities;

123 (l) Indoor lobbies, hallways, and other common areas in  
124 apartment buildings, condominiums, trailer parks, retirement  
125 facilities, nursing homes and other multiple-unit residential  
126 facilities; and

127 (m) Polling places during the days and hours of  
128 operation.

129 (2) Notwithstanding any other provision of this section to  
130 the contrary, any owner, operator, manager or other person who  
131 controls any establishment or facility may declare that entire  
132 establishment or facility is a nonsmoking establishment.



133           **SECTION 4.** (1) It is the responsibility of employers with  
134 three (3) or more full-time employees to provide a smoke-free  
135 workplace for all employees, but employers are not required to  
136 incur any expense to make structural or other physical  
137 modifications.

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

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

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

154                   (a) Bars;

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

157                   (c) Hotel and motel rooms;

158                   (d) Retail tobacco stores;

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

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



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

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

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

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

179 **SECTION 8.** The State Board of Health shall adopt and  
180 promulgate regulations and penalties regarding the violations of  
181 this act not later than ninety (90) days after the effective date  
182 of this act.

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

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

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

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

197 29-5-161. (1) As used in this section:



198 (a) "Smoke" or "smoking" means inhaling, exhaling,  
199 burning, carrying or otherwise possessing any lighted cigarette,  
200 cigar, pipe or any other object or device of any form that  
201 contains lighted tobacco or any other smoking product.

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

228 \* \* \*

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

230 \* \* \*



231       (3) The person, agency or entity having jurisdiction or  
232 supervision over a government building shall not allow smoking in  
233 the government building, \* \* \* and shall use reasonable efforts to  
234 prevent smoking in the government building, \* \* \* including, but  
235 not limited to, the following:

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

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

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

244       **SECTION 13.** Section 97-32-27, Mississippi Code of 1972, is  
245 amended as follows:

246           97-32-27. (1) "Adult" means any natural person at least  
247 eighteen (18) years old.

248           (2) "Minor" means any natural person under the age of  
249 eighteen (18) years.

250           (3) "Person" means any natural person.

251           (4) "Tobacco product" means any substance that contains  
252 tobacco including, but not limited to, cigarettes, cigars, pipes,  
253 snuff, smoking tobacco or smokeless tobacco.

254           (5) "Educational property" means any public or private  
255 school building or bus, public school campus, grounds,  
256 recreational area, athletic field or other property owned, used or  
257 operated by any local school board, school or directors for the  
258 administration of any public or private educational institution or  
259 during a school-related activity; provided, however, that the term  
260 "educational property" shall not include any sixteenth section  
261 school land or lieu land on which is not located a public school  
262 building, public school campus, public school recreational area or  
263 public school athletic field. Educational property shall \* \* \*





264 include property owned or operated by the state institutions of  
265 higher learning, the public community and junior colleges, or  
266 vocational-technical complexes and privately owned colleges and  
267 universities.

268           **SECTION 14.** This act shall take effect and be in force from  
269 and after its passage.

