

By: Senator(s) Bryan

To: Public Health and Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2726

1 AN ACT TO AMEND SECTION 29-5-161 AND 29-5-163, MISSISSIPPI
2 CODE OF 1972, TO PROHIBIT SMOKING IN ALL STATE AND LOCAL
3 GOVERNMENT AND UNIVERSITY BUILDINGS AND GOVERNMENT VEHICLES; AND
4 FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 29-5-161, Mississippi Code of 1972, is
7 amended as follows:

8 29-5-161. (1) As used in this section:

9 (a) "Smoke" or "smoking" means inhaling, exhaling,
10 burning, carrying or otherwise possessing any lighted cigarette,
11 cigar, pipe or any other object or device of any form that
12 contains lighted tobacco.

13 (b) "Government building" means the New State Capitol
14 Building, the Woolfolk State Office Building, the Carroll Gartin
15 Justice Building, the Walter Sillers Office Building, the Heber
16 Ladner Building, the Department of Transportation Building, the
17 Robert E. Lee Office Building, the Robert G. Clark, Jr. Building,
18 the State Board of Health Building, the Public Employees'
19 Retirement System Building, the Central High Building, the Court
20 of Appeals Building, the War Veterans' Memorial Building, the
21 State Archives Building, the Ike Sanford Veterans Affairs
22 Building, the Old State Capitol Building, the Burroughs Building,
23 the Mayfair Building, 101 Capitol Centre and any other facility in
24 the state that is owned or leased by the State of Mississippi or
25 any agency, department or institution of the state and that is
26 used for housing state employees during the time of performance of
27 their regular duties for the state; any building owned, rented,
28 leased, occupied or operated by the state, including the



29 legislative, executive and judicial branches of state government;
30 any county, municipality or any other political subdivision of the
31 state; any public authority, commission, agency or public benefit
32 corporation; or any other separate corporate instrumentality or
33 unit of state or local government. If only part of a facility is
34 leased by the state or an agency, department or institution of the
35 state, or any county, municipality or other political subdivision
36 of the state, only the leased part of the facility will be
37 considered to be a government building for the purposes of this
38 definition. * * *

39 * * *

40 (c) "Person in control" means any person in charge of
41 the daily operations of a government or university or college
42 building.

43 (2) No person shall smoke:

44 (a) In any government building * * *;

45 (b) In any vehicle owned, leased or operated by the
46 State of Mississippi;

47 (c) In any building or vehicle owned or leased by the
48 State Institutions of Higher Learning or the public community and
49 junior colleges;

50 (d) Within twenty (20) feet outside entrances, operable
51 windows and ventilation systems of any government or
52 university/college building; or

53 (e) In any public transportation station, platform or
54 shelter operating under the authority of the state or any agency,
55 department institution or political subdivision of the state.

56 (3) Notwithstanding any other provision of this section, a
57 person in control may designate any area under his or her control
58 that does not fall under the requirements of this section as a
59 smoke-free place. Smoking shall be prohibited in any area
60 designated by a person in control as a smoke-free place when a "No
61 Smoking" sign or the international "No Smoking" symbol (consisting



62 of a pictorial representation of a burning cigarette enclosed in a
63 red circle with a red bar across it) sign is posted under the
64 provisions of this subsection (3). A person in control of any
65 area where smoking is prohibited as described in subsection (2) of
66 this section shall communicate such restrictions to all employees
67 and to those affected within such areas on and after the effective
68 date of this act. With respect to any area designated as
69 smoke-free pursuant to this subsection, the remedies for violators
70 as set forth in this act shall be applied as if such designated
71 area were subject to the mandatory requirements of this section.

72 * * *

73 (4) (a) This section, when applicable, shall be enforceable
74 by local law enforcement.

75 (b) Any person who desires to register a complaint
76 under this act may initiate action with local law enforcement or
77 through the toll-free hotline established in subsection (6) (a) of
78 this section.

79 (c) In addition to the remedies provided by the
80 provisions of this section, the following may apply for injunctive
81 relief to enforce the provisions of this act in any court of
82 competent jurisdiction: local health authorities; city mayors,
83 councils/board of aldermen, or attorneys; county attorneys, board
84 of supervisors or sheriffs; and any persons aggrieved by the
85 failure of the owner, operator, manager or other person in control
86 of a government or university/college building to comply with this
87 section.

88 (5) (a) A person who smokes in an area where smoking is
89 prohibited by the provisions of this section shall be guilty of a
90 misdemeanor, punishable by a fine not exceeding Fifty Dollars
91 (\$50.00).

92 (b) Violation of this section is declared to be a
93 public nuisance, which may be abated by restraining order,
94 preliminary and permanent injunction, or other means provided for



95 by law. An offense constituting a willful violation of this act
96 may be prosecuted pursuant to Section 97-35-5, Mississippi Code of
97 1972.

98 (c) Each day on which a violation of this section
99 occurs shall be considered a separate and distinct violation.

100 (6) The Mississippi State Department of Health shall have
101 the following duties:

102 (a) The Office of Tobacco Control shall maintain a
103 toll-free line for any person wishing to report a violation of
104 this section and shall notify the proper regulatory or governing
105 agency having possible jurisdiction with respect to the violation.

106 (b) The Office of Tobacco Control shall provide free of
107 charge to a person in control, upon the request of the person in
108 control, a sign of the department's choice that conforms to the
109 requirements of this section.

110 (c) The Mississippi State Department of Health shall be
111 solely responsible for the issuance of any declaratory opinion
112 described in Section 25-43-2.103, Mississippi Code of 1972, and
113 shall be authorized to request the assistance of the Attorney
114 General and other state agencies in connection with the
115 preparation of a declaratory opinion.

116 **SECTION 2.** Section 29-5-163, Mississippi Code of 1972, is
117 amended as follows:

118 29-5-163. (1) Nothing in this act shall be construed to
119 prevent a political subdivision of the state from adopting local
120 ordinances or regulations relating to smoking or other use of
121 tobacco products in public places and places of employment that
122 are more restrictive than this act, nor does this act repeal any
123 existing local ordinances or regulations that provide restrictions
124 on smoking that are equivalent to or greater than those provided
125 by this act.

126 (2) This act shall not be interpreted or construed to permit
127 smoking where it is otherwise restricted by other applicable



128 federal, tribal, state or local laws, or regulations or other
129 applicable rules.

130 (3) This act shall be liberally construed so as to further
131 its purposes.

132 (4) This act shall not be construed as amending or repealing
133 Section 97-35-1(4) or Section 97-32-29.

134 **SECTION 3.** This act shall take effect and be in force from
135 and after July 1, 2011.

