

By: Representatives Baria, Holland

To: Public Health and Human
Services; Judiciary A

HOUSE BILL NO. 892

1 AN ACT TO CREATE THE MISSISSIPPI SMOKEFREE AIR ACT OF 2012;
2 TO EXPRESS CERTAIN LEGISLATIVE FINDINGS REGARDING THE EFFECTS OF
3 SECONDHAND SMOKE AND OTHER RISKS OF SMOKING; TO DEFINE CERTAIN
4 TERMS; TO PROHIBIT SMOKING IN ENCLOSED PUBLIC PLACES AND PLACES OF
5 EMPLOYMENT, IN PRIVATE CLUBS, IN ENCLOSED RESIDENTIAL FACILITIES
6 AND IN CERTAIN OUTDOOR PUBLIC PLACES AND PLACES OF EMPLOYMENT; TO
7 AUTHORIZE PERSONS TO VOLUNTARILY DESIGNATE AREAS WITHIN THEIR
8 CONTROL AS SMOKEFREE PLACES; TO PRESCRIBE THE MINIMUM REQUIREMENTS
9 FOR PERSONS IN CONTROL OF AREAS TO BE IN COMPLIANCE WITH THIS ACT;
10 TO REQUIRE PERSONS IN CONTROL OF AREAS TO POST "NO SMOKING" SIGNS
11 AT ALL ENTRANCES TO AREAS WHERE SMOKING IS PROHIBITED BY THIS ACT;
12 TO AUTHORIZE THE STATE BOARD OF HEALTH TO ADOPT RULES AND
13 REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS ACT; TO PROVIDE
14 FOR ENFORCEMENT OF THIS ACT; TO AUTHORIZE CERTAIN OFFICIALS AND
15 OTHER PERSONS TO APPLY FOR INJUNCTIVE RELIEF IN COURT TO ENFORCE
16 THE PROVISIONS OF THIS ACT; TO PROVIDE PENALTIES FOR VIOLATIONS OF
17 THIS ACT; TO ALLOW POLITICAL SUBDIVISIONS TO ADOPT LOCAL
18 ORDINANCES RELATING TO SMOKING THAT ARE MORE RESTRICTIVE THAN THIS
19 ACT; TO DIRECT THE STATE DEPARTMENT OF HEALTH TO ENGAGE IN A
20 CONTINUING PROGRAM TO EXPLAIN AND CLARIFY THE PURPOSES AND
21 REQUIREMENTS OF THIS ACT TO CITIZENS AFFECTED BY IT, AND TO GUIDE
22 OWNERS, OPERATORS, AND MANAGERS IN THEIR COMPLIANCE WITH IT; TO
23 REPEAL SECTIONS 29-5-160 THROUGH 29-5-163, MISSISSIPPI CODE OF
24 1972, WHICH ARE THE MISSISSIPPI CLEAN INDOOR AIR ACT; AND FOR
25 RELATED PURPOSES.

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

27 **SECTION 1.** This act shall be known as the Mississippi
28 Smokefree Air Act of 2012.

29 **SECTION 2.** The Legislature finds that:

30 (a) The 2006 U.S. Surgeon General's Report, *The Health*
31 *Consequences of Involuntary Exposure to Tobacco Smoke*, has
32 concluded that (i) secondhand smoke exposure causes disease and
33 premature death in children and adults who do not smoke; (ii)
34 children exposed to secondhand smoke are at an increased risk for
35 sudden infant death syndrome (SIDS), acute respiratory problems,
36 ear infections, and asthma attacks, and that smoking by parents
37 causes respiratory symptoms and slows lung growth in their



38 children; (iii) exposure of adults to secondhand smoke has
39 immediate adverse effects on the cardiovascular system and causes
40 coronary heart disease and lung cancer; (iv) there is no risk-free
41 level of exposure to secondhand smoke; (v) establishing smokefree
42 workplaces is the only effective way to ensure that secondhand
43 smoke exposure does not occur in the workplace, because
44 ventilation and other air cleaning technologies cannot completely
45 control for exposure of nonsmokers to secondhand smoke; and (vi)
46 evidence from peer-reviewed studies shows that smokefree policies
47 and laws do not have an adverse economic impact on the hospitality
48 industry. According to the 2010 U.S. Surgeon General's Report,
49 *How Tobacco Smoke Causes Disease*, even occasional exposure to
50 secondhand smoke is harmful and low levels of exposure to
51 secondhand tobacco smoke lead to a rapid and sharp increase in
52 dysfunction and inflammation of the lining of the blood vessels,
53 which are implicated in heart attacks and stroke.

54 (b) Numerous studies have found that tobacco smoke is a
55 major contributor to indoor air pollution, and that breathing
56 secondhand smoke (also known as environmental tobacco smoke) is a
57 cause of disease in healthy nonsmokers, including heart disease,
58 stroke, respiratory disease, and lung cancer. The National Cancer
59 Institute determined in 1999 that secondhand smoke is responsible
60 for the early deaths of approximately fifty-three thousand
61 (53,000) Americans annually.

62 (c) The Public Health Service's National Toxicology
63 Program (NTP) has listed secondhand smoke as a known carcinogen.

64 (d) Based on a finding by the California Environmental
65 Protection Agency in 2005, the California Air Resources Board has
66 determined that secondhand smoke is a toxic air contaminant,
67 finding that exposure to secondhand smoke has serious health
68 effects, including low birth-weight babies; sudden infant death
69 syndrome (SIDS); increased respiratory infections in children;
70 asthma in children and adults; lung cancer, sinus cancer, and



71 breast cancer in younger, premenopausal women; heart disease; and
72 death.

73 (e) There is indisputable evidence that implementing
74 one hundred percent (100%) smokefree environments is the only
75 effective way to protect the population from the harmful effects
76 of exposure to secondhand smoke.

77 (f) In reviewing eleven (11) studies concluding that
78 communities see an immediate reduction in heart attack admissions
79 after the implementation of comprehensive smokefree laws, the
80 Institute of Medicine of the National Academies concluded that
81 data consistently demonstrate that secondhand smoke exposure
82 increases the risk of coronary heart disease and heart attacks and
83 that smokefree laws reduce heart attacks.

84 (g) A significant amount of secondhand smoke exposure
85 occurs in the workplace. Employees who work in smoke-filled
86 businesses suffer a twenty-five to fifty percent (25-50%) higher
87 risk of heart attack and higher rates of death from cardiovascular
88 disease and cancer, as well as increased acute respiratory disease
89 and measurable decrease in lung function.

90 (h) Studies measuring cotinine (metabolized nicotine)
91 and NNAL (metabolized nitrosamine NNK, a tobacco-specific
92 carcinogen linked to lung cancer) in hospitality workers find
93 dramatic reductions in the levels of these biomarkers after a
94 smokefree law takes effect. Average cotinine levels of New York
95 City restaurant and bar workers decreased by eighty-five percent
96 (85%) after the city's smokefree law went into effect. After the
97 implementation of Ontario, Canada's Smokefree Indoor Air Law,
98 levels of NNAL were reduced by fifty-two percent (52%) in
99 nonsmoking casino employees and cotinine levels fell by
100 ninety-eight (98%).

101 (i) Following a Health Hazard Evaluation of Las Vegas
102 casino employees' secondhand smoke exposure in the workplace,
103 which included indoor air quality tests and biomarker assessments,



104 the National Institute of Occupational Safety and Health (NIOSH)
105 concluded that the casino employees are exposed to dangerous
106 levels of secondhand smoke at work and that their bodies absorb
107 high levels of tobacco-specific chemicals NNK and cotinine during
108 work shifts. NIOSH also concluded that the "best means of
109 eliminating workplace exposure to [secondhand smoke] is to ban all
110 smoking in the casinos."

111 (j) Secondhand smoke is particularly hazardous to
112 elderly people, individuals with cardiovascular disease, and
113 individuals with impaired respiratory function, including
114 asthmatics and those with obstructive airway disease. The
115 Americans With Disabilities Act, which requires that disabled
116 persons have access to public places and workplaces, deems
117 impaired respiratory function to be a disability.

118 (k) The U.S. Centers for Disease Control and Prevention
119 has determined that the risk of acute myocardial infarction and
120 coronary heart disease associated with exposure to tobacco smoke
121 is nonlinear at low doses, increasing rapidly with relatively
122 small doses such as those received from secondhand smoke or
123 actively smoking one (1) or two (2) cigarettes a day, and has
124 warned that all patients at increased risk of coronary heart
125 disease or with known coronary artery disease should avoid all
126 indoor environments that permit smoking.

127 (l) Given the fact that there is no safe level of
128 exposure to secondhand smoke, the American Society of Heating,
129 Refrigerating and Air Conditioning Engineers (ASHRAE) bases its
130 ventilation standards on totally smokefree environments. ASHRAE
131 has determined that there is currently no air filtration or other
132 ventilation technology that can completely eliminate all the
133 carcinogenic components in secondhand smoke and the health risks
134 caused by secondhand smoke exposure, and recommends that indoor
135 environments be smokefree in their entirety.



136 (m) During periods of active smoking, peak and average
137 outdoor tobacco smoke (OTS) levels measured in outdoor cafes and
138 restaurant and bar patios near smokers rival indoor tobacco smoke
139 concentrations. Nonsmokers who spend six-hour periods in outdoor
140 smoking sections of bars and restaurants experience a significant
141 increase in levels of cotinine when compared to the cotinine
142 levels in a smokefree outdoor area.

143 (n) Residual tobacco contamination, or "thirdhand
144 smoke," from cigarettes, cigars, and other tobacco products is
145 left behind after smoking occurs and builds up on surfaces and
146 furnishings. This residue can linger in spaces long after smoking
147 has ceased and continue to expose people to tobacco toxins.
148 Sticky, highly toxic particulate matter, including nicotine, can
149 cling to walls and ceilings. Gases can be absorbed into carpets,
150 draperies, and other upholsteries, and then be reemitted
151 (off-gassed) back into the air and recombine to form harmful
152 compounds. Tobacco residue is noticeably present in dust
153 throughout places where smoking has occurred. Given the rapid
154 sorption and persistence of high levels of residual nicotine from
155 tobacco smoke on indoor surfaces, including clothing and human
156 skin, this recently identified process represents an unappreciated
157 health hazard through dermal exposure, dust inhalation, and
158 ingestion.

159 (o) Unregulated high-tech smoking devices, commonly
160 referred to as electronic cigarettes, or "e-cigarettes," closely
161 resemble and purposefully mimic the act of smoking by having users
162 inhale vaporized liquid nicotine created by heat through an
163 electronic ignition system. After testing a number of
164 e-cigarettes from two leading manufacturers, the Food and Drug
165 Administration (FDA) determined that various samples tested
166 contained not only nicotine but also detectable levels of known
167 carcinogens and toxic chemicals, including tobacco-specific
168 nitrosamines and diethylene glycol, a toxic chemical used in



169 antifreeze. The FDA's testing also suggested that "quality
170 control processes used to manufacture these products are
171 inconsistent or nonexistent." E-cigarettes produce a vapor of
172 undetermined and potentially harmful substances, which may appear
173 similar to the smoke emitted by traditional tobacco products.
174 Their use in workplaces and public places where smoking of
175 traditional tobacco products is prohibited creates concern and
176 confusion and leads to difficulties in enforcing the smoking
177 prohibitions.

178 (p) The Society of Actuaries has determined that
179 secondhand smoke costs the U.S. economy roughly Ten Billion
180 Dollars (\$10,000,000,000.00) a year: Five Billion Dollars
181 (\$5,000,000,000.00) in estimated medical costs associated with
182 secondhand smoke exposure and Four Billion Six Hundred Million
183 Dollars (\$4,600,000,000.00) in lost productivity.

184 (q) Numerous economic analyses examining restaurant and
185 hotel receipts and controlling for economic variables have shown
186 either no difference or a positive economic impact after enactment
187 of laws requiring workplaces to be smokefree. Creation of
188 smokefree workplaces is sound economic policy and provides the
189 maximum level of employee health and safety.

190 (r) There is no legal or constitutional "right to
191 smoke." Business owners have no legal or constitutional right to
192 expose their employees and customers to the toxic chemicals in
193 secondhand smoke. On the contrary, employers have a common law
194 duty to provide their workers with a workplace that is not
195 unreasonably dangerous.

196 (s) Smoking is a potential cause of fires, and
197 cigarette and cigar burns and ash stains on merchandise and
198 fixtures causes economic damage to businesses.

199 (t) The smoking of tobacco is a form of air pollution,
200 a positive danger to health, and a material public nuisance.



201 (2) Accordingly, the Legislature finds and declares that the
202 purposes of this act are to:

203 (a) Protect the public health and welfare by
204 prohibiting smoking in public places and places of employment; and

205 (b) Guarantee the right of nonsmokers to breathe
206 smokefree air, and to recognize that the need to breathe smokefree
207 air shall have priority over the desire to smoke.

208 **SECTION 3.** The following words and phrases, whenever used in
209 this act, shall be construed as defined in this section:

210 (a) "Bar" means an establishment that is devoted to the
211 serving of alcoholic beverages for consumption by guests on the
212 premises and in which the serving of food is only incidental to
213 the consumption of those beverages, including but not limited to,
214 taverns, nightclubs, cocktail lounges, and cabarets.

215 (b) "Business" means a sole proprietorship,
216 partnership, joint venture, corporation, or other business entity,
217 either for-profit or not-for-profit, including retail
218 establishments where goods or services are sold; professional
219 corporations and other entities where legal, medical, dental,
220 engineering, architectural, or other professional services are
221 delivered; and private clubs.

222 (c) "E-cigarette" means any electronic oral device,
223 such as one composed of a heating element, battery, and/or
224 electronic circuit, which provides a vapor of nicotine or any
225 other substances, and the use or inhalation of which simulates
226 smoking. The term includes any such device, whether manufactured,
227 distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe,
228 or under any other product name or descriptor.

229 (d) "Employee" means a person who is employed by an
230 employer in consideration for direct or indirect monetary wages or
231 profit, and a person who volunteers his or her services for a
232 nonprofit entity.



233 (e) "Employer" means a person, business, partnership,
234 association, corporation, including a municipal corporation,
235 trust, or nonprofit entity that employs the services of one or
236 more individual persons.

237 (f) "Enclosed area" means all space between a floor and
238 a ceiling that is bounded on at least two (2) sides by walls,
239 doorways, or windows, whether open or closed. A wall includes any
240 retractable divider, garage door, or other physical barrier,
241 whether temporary or permanent and whether or not containing
242 openings of any kind.

243 (g) "Health care facility" means an office or
244 institution providing care or treatment of diseases, whether
245 physical, mental, or emotional, or other medical, physiological,
246 or psychological conditions, including but not limited to,
247 hospitals, rehabilitation hospitals or other clinics, including
248 weight control clinics, nursing homes, long-term care facilities,
249 homes for the aging or chronically ill, laboratories, and offices
250 of surgeons, chiropractors, physical therapists, physicians,
251 psychiatrists, dentists, and all specialists within these
252 professions. This definition includes all waiting rooms,
253 hallways, private rooms, semiprivate rooms, and wards within
254 health care facilities.

255 (h) "Place of employment" means an area under the
256 control of a public or private employer, including, but not
257 limited to, work areas, private offices, employee lounges,
258 restrooms, conference rooms, meeting rooms, classrooms, employee
259 cafeterias, hallways, construction sites, temporary offices, and
260 vehicles. A private residence is not a "place of employment"
261 unless it is used as a child care, adult day care, or health care
262 facility.

263 (i) "Playground" means any park or recreational area
264 designed in part to be used by children that has play or sports
265 equipment installed or that has been designated or landscaped for



266 play or sports activities, or any similar facility located on
267 public or private school grounds or on municipal, county, or state
268 park grounds.

269 (j) "Private club" means an organization, whether
270 incorporated or not, which is the owner, lessee, or occupant of a
271 building or portion thereof used exclusively for club purposes at
272 all times, which is operated solely for a recreational, fraternal,
273 social, patriotic, political, benevolent, or athletic purpose, but
274 not for pecuniary gain, and which only sells alcoholic beverages
275 incidental to its operation. The affairs and management of the
276 organization are conducted by a board of directors, executive
277 committee, or similar body chosen by the members at an annual
278 meeting. The organization has established bylaws and/or a
279 constitution to govern its activities, and has been granted an
280 exemption from the payment of federal income tax as a club under
281 26 USCS Section 501.

282 (k) "Public place" means an area to which the public is
283 invited or in which the public is permitted, including but not
284 limited to, banks, bars, educational facilities, gaming
285 facilities, health care facilities, hotels and motels,
286 laundromats, public transportation vehicles and facilities,
287 reception areas, restaurants, retail food production and marketing
288 establishments, retail service establishments, retail stores,
289 shopping malls, sports arenas, theaters, and waiting rooms. A
290 private residence is not a "public place" unless it is used as a
291 child care, adult day care, or health care facility.

292 (l) "Restaurant" means an eating establishment,
293 including, but not limited to, coffee shops, cafeterias, sandwich
294 stands, and private and public school cafeterias, which gives or
295 offers for sale food to the public, guests, or employees, as well
296 as kitchens and catering facilities in which food is prepared on
297 the premises for serving elsewhere. The term "restaurant"
298 includes a bar area within the restaurant.



299 (m) "Service line" means an indoor or outdoor line in
300 which one or more persons are waiting for or receiving service of
301 any kind, whether or not the service involves the exchange of
302 money, including but not limited to, ATM lines, concert lines,
303 food vendor lines, movie ticket lines, and sporting event lines.

304 (n) "Shopping mall" means an enclosed public walkway or
305 hall area that serves to connect retail or professional
306 establishments.

307 (n) "Smoking" means inhaling, exhaling, burning, or
308 carrying any lighted or heated cigar, cigarette, or pipe, or any
309 other lighted or heated tobacco or plant product intended for
310 inhalation, in any manner or in any form. "Smoking" also includes
311 the use of an e-cigarette which creates a vapor, in any manner or
312 in any form, or the use of any oral smoking device for the purpose
313 of circumventing the prohibition of smoking in this act.

314 (o) "Sports arena" means a place where people assemble
315 to engage in physical exercise, participate in athletic
316 competition, or witness sports or other events, including sports
317 pavilions, stadiums, gymnasiums, health spas, boxing arenas,
318 swimming pools, roller and ice rinks, and bowling alleys.

319 **SECTION 4.** All enclosed areas, including buildings and
320 vehicles owned, leased, or operated by the state or any of its
321 subdivisions, as well as all outdoor property adjacent to those
322 buildings and under the control of the state, shall be subject to
323 the provisions of this act.

324 **SECTION 5.** (1) Except as otherwise provided in subsection
325 (2) of this section, smoking shall be prohibited in all enclosed
326 public places within the State of Mississippi, including, but not
327 limited to, the following places:

328 (a) Aquariums, galleries, libraries, and museums.

329 (b) Areas available to the general public in businesses
330 and nonprofit entities patronized by the public, including, but



331 not limited to, banks, laundromats, professional offices, and
332 retail service establishments.

333 (c) Areas where licensed gaming activities are not
334 conducted in facilities owned, leased or controlled by a person
335 possessing a gaming license.

336 (d) Bars.

337 (e) Bingo facilities.

338 (f) Child care and adult day care facilities.

339 (g) Convention facilities.

340 (h) Educational facilities, both public and private.

341 (i) Elevators.

342 (j) Health care facilities.

343 (k) Hotels and motels.

344 (l) Lobbies, hallways, and other common areas in
345 apartment buildings, condominiums, trailer parks, retirement
346 facilities, nursing homes, and other multiple-unit residential
347 facilities.

348 (m) Polling places.

349 (n) Public transportation vehicles, including buses and
350 taxicabs, under the authority of the state or any of its
351 subdivisions, and ticket, boarding, and waiting areas of public
352 transportation facilities, including bus, train, and airport
353 facilities.

354 (o) Restaurants.

355 (p) Restrooms, lobbies, reception areas, hallways, and
356 other common-use areas.

357 (q) Retail stores.

358 (r) Rooms, chambers, places of meeting or public
359 assembly, including school buildings, under the control of an
360 agency, board, commission, committee or council of the state or
361 any of its subdivisions.

362 (s) Service lines.

363 (t) Shopping malls.



364 (u) Sports arenas, including enclosed places in outdoor
365 arenas.

366 (v) Theaters and other facilities primarily used for
367 exhibiting motion pictures, stage dramas, lectures, musical
368 recitals, or other similar performances.

369 (2) Smoking shall not be prohibited in the areas where
370 licensed gaming activities are conducted in facilities owned,
371 leased or controlled by a person possessing a gaming license.

372 **SECTION 6.** (1) Smoking shall be prohibited in all enclosed
373 areas of places of employment without exception. This includes,
374 without limitation, common work areas, auditoriums, classrooms,
375 conference and meeting rooms, private offices, elevators,
376 hallways, medical facilities, cafeterias, employee lounges,
377 stairs, restrooms, vehicles, and all other enclosed facilities.

378 (2) This prohibition on smoking shall be communicated to all
379 current employees on July 1, 2012, and to all prospective
380 employees upon their application for employment.

381 **SECTION 7.** Smoking shall be prohibited in all private clubs.

382 **SECTION 8.** Smoking shall be prohibited in the following
383 enclosed residential facilities:

384 (a) All private and semi-private rooms in nursing
385 homes.

386 (b) All hotel and motel rooms that are rented to
387 guests.

388 **SECTION 9.** Smoking shall be prohibited in the following
389 outdoor places:

390 (a) Within twenty (20) feet outside entrances, operable
391 windows, and ventilation systems of enclosed areas where smoking
392 is prohibited, so as to prevent tobacco smoke from entering those
393 areas.

394 (b) On all outdoor property that is adjacent to
395 buildings owned, leased, or operated by the state and that is
396 under the control of the state.



397 (c) In, and within twenty (20) feet of, outdoor seating
398 or serving areas of restaurants and bars.

399 (d) In all outdoor arenas, stadiums, and amphitheaters.
400 Smoking shall also be prohibited within twenty (20) feet of
401 bleachers and grandstands for use by spectators at sporting and
402 other public events.

403 (e) In, and within twenty (20) feet of, all outdoor
404 playgrounds.

405 (f) In, and within twenty (20) feet of, all outdoor
406 public transportation stations, platforms, and shelters under the
407 authority of the state or any of its subdivisions.

408 (g) In all outdoor service lines, including lines in
409 which service is obtained by persons in vehicles, such as service
410 that is provided by bank tellers, parking lot attendants, and toll
411 takers. In lines in which service is obtained by persons in
412 vehicles, smoking is prohibited by both pedestrians and persons in
413 vehicles, but only within twenty (20) feet of the point of
414 service.

415 (h) In outdoor common areas of apartment buildings,
416 condominiums, trailer parks, retirement facilities, nursing homes,
417 and other multiple-unit residential facilities, except in
418 designated smoking areas, not to exceed twenty-five percent (25%)
419 of the total outdoor common area, which must be located at least
420 twenty (20) feet outside entrances, operable windows, and
421 ventilation systems of enclosed areas where smoking is prohibited.

422 **SECTION 10.** (1) Smoking shall be prohibited in all outdoor
423 places of employment where two (2) or more employees are required
424 to be in the course of their employment. This includes, without
425 limitation, work areas, construction sites, temporary offices such
426 as trailers, restroom facilities, and vehicles.

427 (2) This prohibition on smoking shall be communicated to all
428 current employees July 1, 2012, and to all prospective employees
429 upon their application for employment.



430 **SECTION 11.** Notwithstanding any other provision of this act
431 to the contrary, smoking shall not be prohibited in private
432 residences, unless used as a childcare, adult day care, or health
433 care facility.

434 **SECTION 12.** Notwithstanding any other provision of this act,
435 an owner, operator, manager, or other person in control of an
436 establishment, facility, or outdoor area may declare that entire
437 establishment, facility, or outdoor area as a nonsmoking place.
438 Smoking shall be prohibited in any place in which a sign
439 conforming to the requirements of Section 13(a) is posted.

440 **SECTION 13.** The owner, operator, manager, or other person in
441 control of a public place or place of employment where smoking is
442 prohibited by this act shall:

443 (a) Clearly and conspicuously post "No Smoking" signs
444 or the international "No Smoking" symbol (consisting of a
445 pictorial representation of a burning cigarette enclosed in a red
446 circle with a red bar across it) in that place.

447 (b) Clearly and conspicuously post at every entrance to
448 that place a sign stating that smoking is prohibited.

449 (c) Clearly and conspicuously post on every vehicle
450 that constitutes a place of employment under this act at least one
451 (1) sign, visible from the exterior of the vehicle, stating that
452 smoking is prohibited.

453 (d) Remove all ashtrays from any area where smoking is
454 prohibited by this act, except for ashtrays displayed for sale and
455 not for use on the premises.

456 **SECTION 14.** (1) No person or employer shall discharge,
457 refuse to hire, or in any manner retaliate against an employee,
458 applicant for employment, customer, or resident of a multiple-unit
459 residential facility because that employee, applicant, customer,
460 or resident exercises any rights afforded by this act or reports
461 or attempts to prosecute a violation of this act. Notwithstanding
462 Section 17 of this act, violation of this subsection shall be a



463 misdemeanor, punishable by a fine not to exceed One Thousand
464 Dollars (\$1,000.00) for each violation.

465 (2) An employee who works in a setting where an employer
466 allows smoking does not waive or otherwise surrender any legal
467 rights the employee may have against the employer or any other
468 party.

469 **SECTION 15.** The State Board of Health shall adopt rules and
470 regulations as are necessary and reasonable to implement the
471 provisions of this act. Notice of the provisions of this act
472 shall be given to all applicants for a business license in the
473 state.

474 **SECTION 16.** (1) This act shall be enforced by local health
475 departments, city managers, county administrators, and their
476 authorized designees.

477 (2) Any citizen who desires to register a complaint under
478 this act may initiate enforcement with the local health
479 department, city manager, or county administrator.

480 (3) Local health departments, fire departments, and their
481 designees shall, while an establishment is undergoing otherwise
482 mandated inspections, inspect for compliance with this act.

483 (4) An owner, manager, operator, or employee of an area
484 regulated by this act shall direct a person who is smoking in
485 violation of this act to extinguish the product being smoked. If
486 the person does not stop smoking, the owner, manager, operator, or
487 employee shall refuse service and shall immediately ask the person
488 to leave the premises. If the person in violation refuses to
489 leave the premises, the owner, manager, operator, or employee
490 shall contact a law enforcement agency.

491 (5) Notwithstanding any other provision of this act, an
492 employee or private citizen may bring legal action to enforce this
493 act.

494 (6) In addition to the remedies provided by the provisions
495 of this section, local health departments, city managers, county



496 administrators, and any persons aggrieved by the failure of the
497 owner, operator, manager, or other person in control of a public
498 place or a place of employment to comply with the provisions of
499 this act may apply for injunctive relief to enforce those
500 provisions in any court of competent jurisdiction.

501 **SECTION 17.** (1) A person who smokes in an area where
502 smoking is prohibited by the provisions of this act shall be
503 guilty of a misdemeanor, punishable by a fine not exceeding Fifty
504 Dollars (\$50.00).

505 (2) Except as otherwise provided in Section 14(1), a person
506 who owns, manages, operates, or otherwise controls a public place
507 or place of employment and who fails to comply with the provisions
508 of this act shall be guilty of a misdemeanor, punishable by:

509 (a) A fine not exceeding One Hundred Dollars (\$100.00)
510 for a first violation.

511 (b) A fine not exceeding Two Hundred Dollars (\$200.00)
512 for a second violation within one (1) year.

513 (c) A fine not exceeding Five Hundred Dollars (\$500.00)
514 for each additional violation within one (1) year.

515 (3) In addition to the fines established by this section,
516 violation of this act by a person who owns, manages, operates, or
517 otherwise controls a public place or place of employment may
518 result in the suspension or revocation of any permit or license
519 issued to the person for the premises on which the violation
520 occurred.

521 (4) Violation of this act is declared to be a public
522 nuisance, which may be abated by restraining order, preliminary
523 and permanent injunction, or other means provided for by law.

524 (5) Each day on which a violation of this act occurs shall
525 be considered a separate and distinct violation.

526 **SECTION 18.** Nothing in this act shall be construed to
527 prevent a political subdivision of the state from adopting local
528 ordinances or regulations relating to smoking in workplaces and



529 public places that are more restrictive than this act, not does
530 this act repeal any existing local ordinances or regulations that
531 provide restrictions on smoking that are equivalent to, or greater
532 than, those provided by this act.

533 **SECTION 19.** The State Department of Health shall engage in a
534 continuing program to explain and clarify the purposes and
535 requirements of this act to citizens affected by it, and to guide
536 owners, operators, and managers in their compliance with it. The
537 program may include publication of a brochure for affected
538 businesses and individuals explaining the provisions of this act.

539 **SECTION 20.** This act shall not be interpreted or construed
540 to permit smoking where it is otherwise restricted by other
541 applicable state or local laws.

542 **SECTION 21.** This act shall be liberally construed so as to
543 further its purposes.

544 **SECTION 22.** This act shall not be construed as amending or
545 repealing Sections 41-114-1, 97-32-29 or 97-35-1(4).

546 **SECTION 23.** Sections 29-5-160, 29-5-161 and 29-5-163,
547 Mississippi Code of 1972, which are the Mississippi Clean Indoor
548 Air Act, are repealed.

549 **SECTION 24.** This act shall take effect and be in force from
550 and after July 1, 2012.

