

By: Senator(s) Simmons (13th)

To: Public Health and  
Welfare; Accountability,  
Efficiency, Transparency

SENATE BILL NO. 2713

1 AN ACT ENTITLED THE "MISSISSIPPI SMOKE-FREE AIR ACT OF 2012";  
2 TO PROHIBIT SMOKING IN PUBLIC PLACES AND IN PLACES OF EMPLOYMENT;  
3 TO PROVIDE DEFINITIONS; TO PROHIBIT SMOKING IN PRIVATE CLUBS AND  
4 CERTAIN RESIDENTIAL FACILITIES; TO PROVIDE MINIMUM REQUIREMENTS  
5 AND RIGHTS OF PERSONS IN CONTROL; TO AUTHORIZE THE MISSISSIPPI  
6 STATE BOARD OF HEALTH TO PROMULGATE RULES AND REGULATIONS TO  
7 ENFORCE SMOKING PROHIBITIONS; TO PRESCRIBE EXEMPTIONS; TO PROVIDE  
8 FOR ENFORCEMENT OF THIS ACT; TO PRESCRIBE FINES AND PENALTIES FOR  
9 VIOLATIONS OF THIS ACT; TO PRESCRIBE THE DUTIES OF THE STATE  
10 DEPARTMENT OF HEALTH RELATIVE TO THIS ACT; TO REPEAL SECTIONS  
11 29-5-160, 29-5-161 AND 29-5-163, MISSISSIPPI CODE OF 1972, WHICH  
12 ARE THE MISSISSIPPI CLEAN INDOOR AIR ACT; AND FOR RELATED  
13 PURPOSES.

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

15 **SECTION 1. Title.** This act shall be known as the  
16 "Mississippi Smoke-Free Air Act of 2012."

17 **SECTION 2. Findings and intent.** (1) The Legislature does  
18 hereby find that:

19 (a) The 2006 U.S. Surgeon General's Report, "The Health  
20 Consequences of Involuntary Exposure to Tobacco Smoke," has  
21 concluded that:

22 (i) Secondhand smoke exposure causes disease and  
23 premature death in children and adults who do not smoke;

24 (ii) Children exposed to secondhand smoke are at  
25 an increased risk for sudden infant death syndrome (SIDS), acute  
26 respiratory problems, ear infections, asthma attacks, and that  
27 smoking by parents causes respiratory symptoms and slows lung  
28 growth in their children;

29 (iii) Exposure of adults to secondhand smoke has  
30 immediate adverse effects on the cardiovascular system and causes  
31 coronary heart disease and lung cancer;



32 (iv) There is no risk-free level of exposure to  
33 secondhand smoke;

34 (v) Establishing smoke-free workplaces is the only  
35 effective way to ensure that secondhand smoke exposure does not  
36 occur in the workplace, because ventilation and other air-cleaning  
37 technologies cannot completely control for exposure of nonsmokers  
38 to secondhand smoke; and

39 (vi) Evidence from peer-reviewed studies shows  
40 that smoke-free policies and laws do not have an adverse economic  
41 impact on the hospitality industry.

42 (b) According to the 2010 U.S. Surgeon General's  
43 Report, "How Tobacco Smoke Causes Disease," even occasional  
44 exposure to secondhand smoke is harmful and low levels of exposure  
45 to secondhand tobacco smoke lead to a rapid and sharp increase in  
46 dysfunction and inflammation of the lining of the blood vessels,  
47 which are implicated in heart attacks and strokes.

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

56 (d) The Public Health Service's National Toxicology  
57 Program (NTP) has listed secondhand smoke as a known carcinogen.

58 (e) Based on a finding by the California Environmental  
59 Protection Agency in 2005, the California Air Resources Board has  
60 determined that secondhand smoke is a toxic air contaminant,  
61 finding that exposure to secondhand smoke has serious health  
62 effects, including low birth weight babies; sudden infant death  
63 syndrome (SIDS); increased respiratory infections in children;  
64 asthma in children and adults; lung cancer, sinus cancer, and



65 breast cancer in younger, premenopausal women; heart disease; and  
66 death.

67 (f) There is indisputable evidence that implementing  
68 one hundred percent (100%) smoke-free environments is the only  
69 effective way to protect the population from the harmful effects  
70 of exposure to secondhand smoke.

71 (g) In reviewing eleven (11) studies concluding that  
72 communities see an immediate reduction in heart attack admissions  
73 after the implementation of comprehensive smoke-free laws, the  
74 Institute of Medicine of the National Academies concluded that  
75 data consistently demonstrate that secondhand smoke exposure  
76 increases the risk of coronary heart disease and heart attacks and  
77 that smoke-free laws reduce heart attacks.

78 (h) A significant amount of secondhand smoke exposure  
79 occurs in the workplace. Employees who work in smoke-filled  
80 businesses suffer a twenty-five to fifty percent (25-50%) higher  
81 risk of heart attack and higher rates of death from cardiovascular  
82 disease and cancer, as well as increased acute respiratory disease  
83 and measurable decrease in lung function.

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

95 (j) Following a Health Hazard Evaluation of Las Vegas  
96 casino employees' secondhand smoke exposure in the workplace,  
97 which included indoor air quality tests and biomarker assessments,



98 the National Institute of Occupational Safety & Health (NIOSH)  
99 concluded that the casino employees are exposed to dangerous  
100 levels of secondhand smoke at work and that their bodies absorb  
101 high levels of tobacco-specific chemicals NNK and cotinine during  
102 work shifts. NIOSH also concluded that the "best means of  
103 eliminating workplace exposure to secondhand smoke is to ban all  
104 smoking in the casinos."

105 (k) Secondhand smoke is particularly hazardous to  
106 elderly people, individuals with cardiovascular disease, and  
107 individuals with impaired respiratory function, including  
108 asthmatics and those with obstructive airway disease. The  
109 Americans with Disabilities Act, which requires that disabled  
110 persons have access to public places and workplaces, deems  
111 impaired respiratory function to be a disability.

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

121 (m) Given the fact that there is no safe level of  
122 exposure to secondhand smoke, the American Society of Heating,  
123 Refrigerating and Air Conditioning Engineers (ASHRAE) bases its  
124 ventilation standards on totally smoke-free environments. ASHRAE  
125 has determined that there is currently no air filtration or other  
126 ventilation technology that can completely eliminate all the  
127 carcinogenic components in secondhand smoke and the health risks  
128 caused by secondhand smoke exposure, and recommends that indoor  
129 environments be smoke free in their entirety.



130           (n) During periods of active smoking, peak and average  
131 outdoor tobacco smoke (OTS) levels measured in outdoor cafes and  
132 restaurant and bar patios near smokers rival indoor tobacco smoke  
133 concentrations. Nonsmokers who spend six-hour periods in outdoor  
134 smoking sections of bars and restaurants experience a significant  
135 increase in levels of cotinine when compared to the cotinine  
136 levels in a smoke-free outdoor area.

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

153           (p) Unregulated high-tech smoking devices, commonly  
154 referred to as electronic cigarettes, or "e-cigarettes," closely  
155 resemble and purposefully mimic the act of smoking by having users  
156 inhale vaporized liquid nicotine created by heat through an  
157 electronic ignition system. After testing a number of  
158 e-cigarettes from two (2) leading manufacturers, the Food and Drug  
159 Administration (FDA) determined that various samples tested  
160 contained not only nicotine but also detectable levels of known  
161 carcinogens and toxic chemicals, including tobacco-specific  
162 nitrosamines and diethylene glycol, a toxic chemical used in



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

172 (q) The Society of Actuaries has determined that  
173 secondhand smoke costs the U.S. economy roughly Ten Billion  
174 Dollars (\$10,000,000,000.00) a year: Five Billion Dollars  
175 (\$5,000,000,000.00) in estimated medical costs associated with  
176 secondhand smoke exposure and \$4.6 Billion in lost productivity.

177 (r) Numerous economic analyses examining restaurant and  
178 hotel receipts and controlling for economic variables have shown  
179 either no difference or a positive economic impact after enactment  
180 of laws requiring workplaces to be smoke free. Creation of  
181 smoke-free workplaces is sound economic policy and provides the  
182 maximum level of employee health and safety.

183 (s) There is no legal or constitutional "right to  
184 smoke." Business owners have no legal or constitutional right to  
185 expose their employees and customers to the toxic chemicals in  
186 secondhand smoke. On the contrary, employers have a common law  
187 duty to provide their workers with a workplace that is not  
188 unreasonably dangerous.

189 (t) Smoking is a potential cause of fires; cigarette  
190 and cigar burns and ash stains on merchandise and fixtures causes  
191 economic damage to businesses.

192 (u) The smoking of tobacco is a form of air pollution,  
193 a positive danger to health, and a material public nuisance.

194 (v) Accordingly, the Legislature finds and declares  
195 that the purposes of this ordinance are:



196 (i) To protect the public health and welfare by  
197 prohibiting smoking in public places and places of employment; and

198 (ii) To guarantee the right of nonsmokers to  
199 breathe smoke-free air, and to recognize that the need to breathe  
200 smoke-free air shall have priority over the desire to smoke.

201 **SECTION 3. Definitions.** The following words and phrases,  
202 whenever used in this act, shall be construed as defined in this  
203 section:

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

209 (b) "Business" means a sole proprietorship,  
210 partnership, joint venture, corporation, or other business entity,  
211 either for-profit or not-for-profit, including retail  
212 establishments where goods or services are sold; professional  
213 corporations and other entities where legal, medical, dental,  
214 engineering, architectural, or other professional services are  
215 delivered; and private clubs.

216 (c) "E-cigarette" means any electronic oral device,  
217 such as one composed of a heating element, battery, and/or  
218 electronic circuit, which provides a vapor of nicotine or any  
219 other substances, and the use or inhalation of which simulates  
220 smoking. The term shall include any such device, whether  
221 manufactured, distributed, marketed, or sold as an e-cigarette,  
222 e-cigar, e-pipe, or under any other product name or descriptor.

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

227 (e) "Employer" means a person, business, partnership,  
228 association, corporation, including a municipal corporation,



229 trust, or nonprofit entity that employs the services of one or  
230 more individual persons.

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

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

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

257 (i) "Playground" means any park or recreational area  
258 designed in part to be used by children that has play or sports  
259 equipment installed or that has been designated or landscaped for  
260 play or sports activities, or any similar facility located on





261 public or private school grounds or on city, county or state park  
262 grounds.

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

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

286 (l) "Restaurant" means an eating establishment,  
287 including, but not limited to, coffee shops, cafeterias, sandwich  
288 stands, and private and public school cafeterias, which gives or  
289 offers for sale food to the public, guests, or employees, as well  
290 as kitchens and catering facilities in which food is prepared on  
291 the premises for serving elsewhere. The term "restaurant" shall  
292 include a bar area within the restaurant.



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

298 (n) "Shopping mall" means an enclosed public walkway or  
299 hall area that serves to connect retail or professional  
300 establishments.

301 (o) "Smoking" means inhaling, exhaling, burning, or  
302 carrying any lighted or heated cigar, cigarette, or pipe, or any  
303 other lighted or heated tobacco or plant product intended for  
304 inhalation, in any manner or in any form. "Smoking" also includes  
305 the use of an e-cigarette which creates a vapor, in any manner or  
306 in any form, or the use of any oral smoking device for the purpose  
307 of circumventing the prohibition of smoking in this act.

308 (p) "Sports arena" means a place where people assemble  
309 to engage in physical exercise, participate in athletic  
310 competition, or witness sports or other events, including sports  
311 pavilions, stadiums, gymnasiums, health spas, boxing arenas,  
312 swimming pools, roller and ice rinks, and bowling alleys.

313 **SECTION 4. Application of chapter to government facilities**

314 **and property.** All enclosed areas, including buildings and  
315 vehicles owned, leased, or operated by the state or any of its  
316 subdivisions, as well as all outdoor property adjacent to such  
317 buildings and under the control of the state, shall be subject to  
318 the provisions of this act.

319 **SECTION 5. Prohibition of smoking in enclosed public places.**

320 Smoking shall be prohibited in all enclosed public places within  
321 the State of Mississippi, including, but not limited to, the  
322 following places:

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

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



326 not limited to, banks, laundromats, professional offices, and  
327 retail service establishments.

328 (c) Bars.

329 (d) Bingo facilities.

330 (e) Child care and adult day care facilities.

331 (f) Convention facilities.

332 (g) Educational facilities, both public and private.

333 (h) Elevators.

334 (i) Gaming facilities.

335 (j) Health care facilities.

336 (k) Hotels and motels.

337 (l) Lobbies, hallways, and other common areas in  
338 apartment buildings, condominiums, trailer parks, retirement  
339 facilities, nursing homes, and other multiple-unit residential  
340 facilities.

341 (m) Polling places.

342 (n) Public transportation vehicles, including buses and  
343 taxicabs, under the authority of the state or any of its  
344 subdivisions, and ticket, boarding, and waiting areas of public  
345 transportation facilities, including bus, train, and airport  
346 facilities.

347 (o) Restaurants.

348 (p) Restrooms, lobbies, reception areas, hallways, and  
349 other common-use areas.

350 (q) Retail stores.

351 (r) Rooms, chambers, places of meeting or public  
352 assembly, including school buildings, under the control of an  
353 agency, board, commission, committee or council of the state or a  
354 political subdivision of the state, to the extent the place is  
355 subject to the jurisdiction of the state.

356 (s) Service lines.

357 (t) Shopping malls.



358 (u) Sports arenas, including enclosed places in outdoor  
359 arenas.

360 (v) Theaters and other facilities primarily used for  
361 exhibiting motion pictures, stage dramas, lectures, musical  
362 recitals, or other similar performances.

363 **SECTION 6. Prohibition of smoking in enclosed places of**  
364 **employment.** (1) Smoking shall be prohibited in all enclosed  
365 areas of places of employment without exception. This includes,  
366 without limitation, common work areas, auditoriums, classrooms,  
367 conference and meeting rooms, private offices, elevators,  
368 hallways, medical facilities, cafeterias, employee lounges,  
369 stairs, restrooms, vehicles, and all other enclosed facilities.

370 (2) This prohibition on smoking shall be communicated to all  
371 existing employees by the effective date of this act and to all  
372 prospective employees upon their application for employment.

373 **SECTION 7. Prohibition of smoking in private clubs.** Smoking  
374 shall be prohibited in all private clubs.

375 **SECTION 8. Prohibition of smoking in enclosed residential**  
376 **facilities.** Smoking shall be prohibited in the following enclosed  
377 residential facilities:

378 (a) All private and semi-private rooms in nursing  
379 homes.

380 (b) All hotel and motel rooms that are rented to  
381 guests.

382 **SECTION 9. Prohibition of smoking in outdoor public places.**

383 Smoking shall be prohibited in the following outdoor places:

384 (a) Within a reasonable distance of twenty (20) feet  
385 outside entrances, operable windows, and ventilation systems of  
386 enclosed areas where smoking is prohibited, so as to prevent  
387 tobacco smoke from entering those areas.

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



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

393 (d) In all outdoor arenas, stadiums, and amphitheaters.  
394 Smoking shall also be prohibited in, and within twenty (20) feet  
395 of, bleachers and grandstands for use by spectators at sporting  
396 and other public events.

397 (e) In, and within twenty (20) feet of, all outdoor  
398 playgrounds.

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

402 (g) In all outdoor service lines, including lines in  
403 which service is obtained by persons in vehicles, such as service  
404 that is provided by bank tellers, parking lot attendants, and toll  
405 collectors. In lines in which service is obtained by persons in  
406 vehicles, smoking is prohibited by both pedestrians and persons in  
407 vehicles, but only within twenty (20) feet of the point of  
408 service.

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

416 **SECTION 10. Prohibition of smoking in outdoor places of**  
417 **employment.** (1) Smoking shall be prohibited in all outdoor  
418 places of employment where two (2) or more employees are required  
419 to be in the course of their employment. This includes, without  
420 limitation, work areas, construction sites, temporary offices such  
421 as trailers, restroom facilities, and vehicles.



422 (2) This prohibition on smoking shall be communicated to all  
423 existing employees by the effective date of this act and to all  
424 prospective employees upon their application for employment.

425 **SECTION 11. Where smoking is not regulated.** Notwithstanding  
426 any other provision of this act to the contrary, smoking shall not  
427 be prohibited in private residences, unless used as a childcare,  
428 adult day care, or health care facility.

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

437 **SECTION 13. Posting of signs and removal of ashtrays.** The  
438 owner, operator, manager, or other person in control of a public  
439 place or place of employment where smoking is prohibited by this  
440 act shall:

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

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

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

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



454           **SECTION 14. Nonretaliation; nonwaiver of rights.** (1) No  
455 person or employer shall discharge, refuse to hire, or in any  
456 manner retaliate against an employee, applicant for employment,  
457 customer, or resident of a multiple-unit residential facility  
458 because that employee, applicant, customer, or resident exercises  
459 any rights afforded by this act or reports or attempts to  
460 prosecute a violation of this act. Notwithstanding Section 17 of  
461 this act, violation of this subsection shall be a misdemeanor,  
462 punishable by a fine not to exceed One Thousand Dollars  
463 (\$1,000.00) for each violation.

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

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

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

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

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

482           (4) An owner, manager, operator, or employee of an area  
483 regulated by this act shall direct a person who is smoking in  
484 violation of this act to extinguish the product being smoked. If  
485 the person does not stop smoking, the owner, manager, operator, or  
486 employee shall refuse service and shall immediately ask the person



487 to leave the premises. If the person in violation refuses to  
488 leave the premises, the owner, manager, operator, or employee  
489 shall contact a law enforcement agency.

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

493 (6) In addition to the remedies provided by the provisions  
494 of this section, local health departments, city managers, county  
495 administrators, and any person aggrieved by the failure of the  
496 owner, operator, manager, or other person in control of a public  
497 place or a place of employment to comply with the provisions of  
498 this act may apply for injunctive relief to enforce those  
499 provisions in any court of competent jurisdiction.

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

504 (2) Except as otherwise provided in Section 14(1) of this  
505 act, a person who owns, manages, operates, or otherwise controls a  
506 public place or place of employment and who fails to comply with  
507 the provisions of this act shall be guilty of an infraction,  
508 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 hereby 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. No preemption.** Nothing in this act shall be  
527 construed to prevent a political subdivision of the state from  
528 adopting local ordinances or regulations relating to smoking in  
529 workplaces and public places that are more restrictive than this  
530 act, nor does this act repeal any existing local ordinances or  
531 regulations that provide restrictions on smoking that are  
532 equivalent to, or greater than, those provided by this act.

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

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

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

545 **SECTION 22. Severability.** If any provision, clause,  
546 sentence, or paragraph of this act or the application thereof to  
547 any person or circumstances shall be held invalid, that invalidity  
548 shall not affect the other provisions of this act which can be  
549 given effect without the invalid provision or application, and to  
550 this end the provisions of this act are declared to be severable.



551           **SECTION 23.** This act shall take effect and be in force from  
552 and after July 1, 2012.

