

By: Representative Clark

To: Public Health and Human Services

HOUSE BILL NO. 1204

1 AN ACT TO CREATE THE MISSISSIPPI SMOKE-FREE AIR ACT OF 2017;  
 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 SMOKE-FREE PLACES; TO PRESCRIBE THE MINIMUM  
 9 REQUIREMENTS FOR PERSONS IN CONTROL OF AREAS TO BE IN COMPLIANCE  
 10 WITH THIS ACT; TO REQUIRE PERSONS IN CONTROL OF AREAS TO POST "NO  
 11 SMOKING" SIGNS AT ALL ENTRANCES TO AREAS WHERE SMOKING IS  
 12 PROHIBITED BY THIS ACT; TO AUTHORIZE THE STATE BOARD OF HEALTH TO  
 13 ADOPT RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS  
 14 ACT; TO PROVIDE FOR ENFORCEMENT OF THIS ACT; TO AUTHORIZE CERTAIN  
 15 OFFICIALS AND OTHER PERSONS TO APPLY FOR INJUNCTIVE RELIEF IN  
 16 COURT TO ENFORCE THE PROVISIONS OF THIS ACT; TO PROVIDE PENALTIES  
 17 FOR VIOLATIONS OF THIS ACT; TO ALLOW POLITICAL SUBDIVISIONS TO  
 18 ADOPT LOCAL ORDINANCES RELATING TO SMOKING THAT ARE MORE  
 19 RESTRICTIVE THAN THIS ACT; TO DIRECT THE STATE DEPARTMENT OF  
 20 HEALTH TO ENGAGE IN A CONTINUING PROGRAM TO EXPLAIN AND CLARIFY  
 21 THE PURPOSES AND REQUIREMENTS OF THIS ACT TO CITIZENS AFFECTED BY  
 22 IT, AND TO GUIDE OWNERS, OPERATORS, AND MANAGERS IN THEIR  
 23 COMPLIANCE WITH IT; TO REPEAL SECTIONS 29-5-160 THROUGH 29-5-163,  
 24 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI CLEAN INDOOR  
 25 AIR ACT; AND FOR 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 Smoke-free Air Act of 2017.

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 percent (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 smoke-free 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 smoke-free 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 absorption and persistence of high levels of residual nicotine  
155 from tobacco smoke on indoor surfaces, including clothing and  
156 human skin, this recently identified process represents an  
157 unappreciated health hazard through dermal exposure, dust  
158 inhalation, and 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 United States economy roughly Ten  
180 Billion 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 (o) "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 that 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 (p) "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.** Smoking shall be prohibited in all enclosed  
325 public places within the State of Mississippi, including, but not  
326 limited to, the following places:



- 327           (a)   Aquariums, galleries, libraries, and museums.
- 328           (b)   Areas available to the general public in businesses  
329 and nonprofit entities patronized by the public, including, but  
330 not limited to, banks, laundromats, professional offices, and  
331 retail service establishments.
- 332           (c)   Bars.
- 333           (d)   Bingo facilities.
- 334           (e)   Child care and adult day care facilities.
- 335           (f)   Convention facilities.
- 336           (g)   Educational facilities, both public and private.
- 337           (h)   Elevators.
- 338           (i)   Gaming facilities.
- 339           (j)   Health care facilities.
- 340           (k)   Hotels and motels.
- 341           (l)   Lobbies, hallways, and other common areas in  
342 apartment buildings, condominiums, trailer parks, retirement  
343 facilities, nursing homes, and other multiple-unit residential  
344 facilities.
- 345           (m)   Polling places.
- 346           (n)   Public transportation vehicles, including buses and  
347 taxicabs, under the authority of the state or any of its  
348 subdivisions, and ticket, boarding, and waiting areas of public  
349 transportation facilities, including bus, train, and airport  
350 facilities.
- 351           (o)   Restaurants.



352 (p) Restrooms, lobbies, reception areas, hallways, and  
353 other common-use areas.

354 (q) Retail stores.

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

359 (s) Service lines.

360 (t) Shopping malls.

361 (u) Sports arenas, including enclosed places in outdoor  
362 arenas.

363 (v) Theaters and other facilities primarily used for  
364 exhibiting motion pictures, stage dramas, lectures, musical  
365 recitals, or other similar performances.

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

372 (2) This prohibition on smoking shall be communicated to all  
373 current employees on July 1, 2017, and to all prospective  
374 employees upon their application for employment.

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



376           **SECTION 8.** Smoking shall be prohibited in the following  
377 enclosed 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.** Smoking shall be prohibited in the following  
383 outdoor places:

384                   (a) Within twenty (20) feet outside entrances, operable  
385 windows, and ventilation systems of enclosed areas where smoking  
386 is prohibited, so as to prevent tobacco smoke from entering those  
387 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 within twenty (20) feet of  
395 bleachers and grandstands for use by spectators at sporting and  
396 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 takers. 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.** (1) Smoking shall be prohibited in all outdoor  
417 places of employment where two (2) or more employees are required  
418 to be in the course of their employment. This includes, without  
419 limitation, work areas, construction sites, temporary offices such  
420 as trailers, restroom facilities, and vehicles.

421 (2) This prohibition on smoking shall be communicated to all  
422 current employees July 1, 2017, and to all prospective employees  
423 upon their application for employment.



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

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

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

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

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

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



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

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

459 (2) An employee who works in a setting where an employer  
460 allows smoking does not waive or otherwise surrender any legal  
461 rights the employee may have against the employer or any other  
462 party.

463 **SECTION 15.** The State Board of Health shall adopt rules and  
464 regulations as are necessary and reasonable to implement the  
465 provisions of this act. Notice of the provisions of this act  
466 shall be given to all applicants for a business license in the  
467 state.

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



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

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

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

485 (5) Notwithstanding any other provision of this act, an  
486 employee or private citizen may bring legal action to enforce this  
487 act.

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



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

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

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

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

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

509           (3) In addition to the fines established by this section,  
510 violation of this act by a person who owns, manages, operates, or  
511 otherwise controls a public place or place of employment may  
512 result in the suspension or revocation of any permit or license  
513 issued to the person for the premises on which the violation  
514 occurred.

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

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



520           **SECTION 18.** Nothing in this act shall be construed to  
521 prevent a political subdivision of the state from adopting local  
522 ordinances or regulations relating to smoking in workplaces and  
523 public places that are more restrictive than this act, nor does  
524 this act repeal any existing local ordinances or regulations that  
525 provide restrictions on smoking that are equivalent to, or greater  
526 than, those provided by this act.

527           **SECTION 19.** The State Department of Health shall engage in a  
528 continuing program to explain and clarify the purposes and  
529 requirements of this act to citizens affected by it, and to guide  
530 owners, operators, and managers in their compliance with it. The  
531 program may include publication of a brochure for affected  
532 businesses and individuals explaining the provisions of this act.

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

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

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

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

543           **SECTION 24.** This act shall take effect and be in force from  
544 and after July 1, 2017.

