

By: Representative Clark

To: Public Health and Human Services

HOUSE BILL NO. 83

1 AN ACT TO CREATE THE MISSISSIPPI SMOKE-FREE AIR ACT OF 2019;
 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; TO AUTHORIZE THE STATE BOARD OF HEALTH TO ADOPT RULES
 13 AND REGULATIONS TO IMPLEMENT THIS ACT; TO PROVIDE FOR ENFORCEMENT
 14 OF THIS ACT; TO AUTHORIZE CERTAIN OFFICIALS AND OTHER PERSONS TO
 15 APPLY FOR INJUNCTIVE RELIEF IN COURT TO ENFORCE THE ACT; TO
 16 PROVIDE PENALTIES FOR VIOLATIONS; TO ALLOW POLITICAL SUBDIVISIONS
 17 TO ADOPT LOCAL ORDINANCES RELATING TO SMOKING THAT ARE MORE
 18 RESTRICTIVE THAN THIS ACT; TO DIRECT THE STATE DEPARTMENT OF
 19 HEALTH TO ENGAGE IN A CONTINUING PROGRAM TO EXPLAIN AND CLARIFY
 20 THE PURPOSES AND REQUIREMENTS OF THIS ACT TO CITIZENS AFFECTED BY
 21 IT, AND TO GUIDE OWNERS, OPERATORS, AND MANAGERS IN THEIR
 22 COMPLIANCE WITH IT; TO REPEAL SECTIONS 29-5-160 THROUGH 29-5-163,
 23 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI CLEAN INDOOR
 24 AIR ACT; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** This act shall be known and may be cited as the
 27 "Mississippi Smoke-free Air Act of 2019."

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



29 (a) The 2006 U.S. Surgeon General's Report, *The Health*
30 *Consequences of Involuntary Exposure to Tobacco Smoke*, has
31 concluded that: (i) secondhand smoke exposure causes disease and
32 premature death in children and adults who do not smoke; (ii)
33 children exposed to secondhand smoke are at an increased risk for
34 sudden infant death syndrome (SIDS), acute respiratory problems,
35 ear infections, and asthma attacks, and that smoking by parents
36 causes respiratory symptoms and slows lung growth in their
37 children; (iii) exposure of adults to secondhand smoke has
38 immediate adverse effects on the cardiovascular system and causes
39 coronary heart disease and lung cancer; (iv) there is no risk-free
40 level of exposure to secondhand smoke; (v) establishing smokefree
41 workplaces is the only effective way to ensure that secondhand
42 smoke exposure does not occur in the workplace, because
43 ventilation and other air cleaning technologies cannot completely
44 control for exposure of nonsmokers to secondhand smoke; and (vi)
45 evidence from peer-reviewed studies shows that smokefree policies
46 and laws do not have an adverse economic impact on the hospitality
47 industry. According to the 2010 U.S. Surgeon General's Report,
48 *How Tobacco Smoke Causes Disease*, even occasional exposure to
49 secondhand smoke is harmful and low levels of exposure to
50 secondhand tobacco smoke lead to a rapid and sharp increase in
51 dysfunction and inflammation of the lining of the blood vessels,
52 which are implicated in heart attacks and stroke.



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

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

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

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

76 (f) In reviewing eleven (11) studies concluding that
77 communities see an immediate reduction in heart attack admissions



78 after the implementation of comprehensive smokefree laws, the
79 Institute of Medicine of the National Academies concluded that
80 data consistently demonstrate that secondhand smoke exposure
81 increases the risk of coronary heart disease and heart attacks and
82 that smokefree laws reduce heart attacks.

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

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

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



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

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

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

126 (l) Given the fact that there is no safe level of
127 exposure to secondhand smoke, the American Society of Heating,



128 Refrigerating and Air Conditioning Engineers (ASHRAE) bases its
129 ventilation standards on totally smokefree environments. ASHRAE
130 has determined that there is currently no air filtration or other
131 ventilation technology that can completely eliminate all the
132 carcinogenic components in secondhand smoke and the health risks
133 caused by secondhand smoke exposure, and the society recommends
134 that indoor environments be smoke-free in their entirety.

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

142 (n) Residual tobacco contamination, or "thirdhand
143 smoke," from cigarettes, cigars, and other tobacco products is
144 left behind after smoking occurs and builds up on surfaces and
145 furnishings. This residue can linger in spaces long after smoking
146 has ceased and continue to expose people to tobacco toxins.
147 Sticky, highly toxic particulate matter, including nicotine, can
148 cling to walls and ceilings. Gases can be absorbed into carpets,
149 draperies, and other upholsteries, and then be reemitted
150 (off-gassed) back into the air and recombine to form harmful
151 compounds. Tobacco residue is noticeably present in dust
152 throughout places where smoking has occurred. Given the rapid



153 absorption and persistence of high levels of residual nicotine
154 from tobacco smoke on indoor surfaces, including clothing and
155 human skin, this recently identified process represents an
156 unappreciated health hazard through dermal exposure, dust
157 inhalation, and ingestion.

158 (o) Unregulated high-tech smoking devices, commonly
159 referred to as electronic cigarettes, or "e-cigarettes," closely
160 resemble and purposefully mimic the act of smoking by having users
161 inhale vaporized liquid nicotine created by heat through an
162 electronic ignition system. After testing a number of
163 e-cigarettes from two leading manufacturers, the Food and Drug
164 Administration (FDA) determined that various samples tested
165 contained not only nicotine but also detectable levels of known
166 carcinogens and toxic chemicals, including tobacco-specific
167 nitrosamines and diethylene glycol, a toxic chemical used in
168 antifreeze. The FDA's testing also suggested that "quality
169 control processes used to manufacture these products are
170 inconsistent or nonexistent." E-cigarettes produce a vapor of
171 undetermined and potentially harmful substances, which may appear
172 similar to the smoke emitted by traditional tobacco products.
173 Their use in workplaces and public places where smoking of
174 traditional tobacco products is prohibited creates concern and
175 confusion and leads to difficulties in enforcing the smoking
176 prohibitions.



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

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

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

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

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

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



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

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

207 **SECTION 3.** As used in this act, the following words and
208 phrases have the meanings ascribed in this section unless the
209 context clearly indicates otherwise:

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 which has play or sports
265 equipment installed or which 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 such
276 an organization must be conducted by a board of directors,



277 executive committee, or similar body chosen by the members at an
278 annual meeting. The organization must have established bylaws
279 and/or a constitution to govern its activities, and it must have
280 been granted an exemption from the payment of federal income tax
281 as a club under 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, are subject to this
323 act.

324 **SECTION 5.** Smoking is prohibited in all enclosed public
325 places within the State of Mississippi, including, but not limited
326 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 is prohibited in all enclosed areas
367 of places of employment without exception. This includes, without
368 limitation, common work areas, auditoriums, classrooms, conference
369 and meeting rooms, private offices, elevators, hallways, medical
370 facilities, cafeterias, employee lounges, stairs, restrooms,
371 vehicles, and all other enclosed facilities.

372 (2) This prohibition on smoking must be communicated to all
373 current employees on July 1, 2019, and to all prospective
374 employees upon their application for employment.

375 **SECTION 7.** Smoking is prohibited in all private clubs.



376 **SECTION 8.** Smoking is 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.** Smoking is prohibited in the following outdoor
383 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 also is prohibited within twenty (20) feet of bleachers
395 and grandstands for use by spectators at sporting and other public
396 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 is prohibited in all outdoor places
417 of employment where two (2) or more employees are required to be
418 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 must be communicated to all
422 current employees on July 1, 2019, and to all prospective
423 employees upon their application for employment.



424 **SECTION 11.** Notwithstanding any other provision of this act
425 to the contrary, smoking is not prohibited in private residences
426 unless a residence is used as a child care, adult day care, or
427 health 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 is prohibited in any place in which a sign conforming to
433 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) A person or employer may not 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 is 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 this act.
465 Notice of the provisions of this act must be given to all
466 applicants for a business license in the state.

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



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

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

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

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

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



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

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

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

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

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

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

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

516 (5) Each day on which a violation of this act occurs is
517 considered a separate and distinct violation.



518 **SECTION 18.** This act may not be construed to prevent a
519 political subdivision of the state from adopting local ordinances
520 or regulations relating to smoking in workplaces and public places
521 which are more restrictive than this act, nor does this act repeal
522 any existing local ordinances or regulations that provide
523 restrictions on smoking which are equivalent to, or greater than,
524 those provided by this act.

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

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

534 **SECTION 21.** This act must be liberally construed so as to
535 further its purposes.

536 **SECTION 22.** This act may not be construed as amending or
537 repealing Section 41-114-1, 97-32-29 or 97-35-1(4).

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

541 **SECTION 24.** This act shall take effect and be in force from
542 and after July 1, 2019.

