

By: Representative Clark

To: Public Health and Human Services; Judiciary B

HOUSE BILL NO. 107

1 AN ACT TO CREATE THE MISSISSIPPI SMOKE-FREE AIR ACT OF 2022;
 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 2022."

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 smoke-free
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 smoke-free 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%) smoke-free 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 smoke-free 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 smoke-free 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 smoke-free 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 smoke-free law went into effect. After the
96 implementation of Canada's Smoke-Free Ontario Act, levels of NNAL
97 were reduced by fifty-two percent (52%) in nonsmoking casino
98 employees and cotinine levels fell by ninety-eight percent (98%).

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



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

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

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

125 (l) Given the fact that there is no safe level of
126 exposure to secondhand smoke, the American Society of Heating,
127 Refrigerating and Air Conditioning Engineers (ASHRAE) bases its



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

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

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



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

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

176 (p) The Society of Actuaries has determined that
177 secondhand smoke costs the United States economy roughly Ten



178 Billion Dollars (\$10,000,000,000.00) a year: Five Billion Dollars
179 (\$5,000,000,000.00) in estimated medical costs associated with
180 secondhand smoke exposure and Four Billion Six Hundred Million
181 Dollars (\$4,600,000,000.00) in lost productivity.

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

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

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

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

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

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



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

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

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

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

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

223 (c) "E-cigarette" means any electronic oral device,
224 such as one composed of a heating element, battery, and/or
225 electronic circuit, which provides a vapor of nicotine or any
226 other substances, and the use or inhalation of which simulates
227 smoking. The term includes any such device, whether manufactured,



228 distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe,
229 or under any other product name or descriptor.

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

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

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

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



253 professions. This definition includes all waiting rooms,
254 hallways, private rooms, semiprivate rooms, and wards within
255 health care facilities.

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

264 (i) "Playground" means any park or recreational area
265 designed in part to be used by children which has play or sports
266 equipment installed or which has been designated or landscaped for
267 play or sports activities, or any similar facility located on
268 public or private school grounds or on municipal, county, or state
269 park grounds.

270 (j) "Private club" means an organization, whether
271 incorporated or not, which is the owner, lessee, or occupant of a
272 building or portion thereof used exclusively for club purposes at
273 all times, which is operated solely for a recreational, fraternal,
274 social, patriotic, political, benevolent, or athletic purpose, but
275 not for pecuniary gain, and which only sells alcoholic beverages
276 incidental to its operation. The affairs and management of such
277 an organization must be conducted by a board of directors,



278 executive committee, or similar body chosen by the members at an
279 annual meeting. The organization must have established bylaws
280 and/or a constitution to govern its activities, and it must have
281 been granted an exemption from the payment of federal income tax
282 as a club under 26 USCS Section 501.

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

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

300 (m) "Service line" means an indoor or outdoor line in
301 which one or more persons are waiting for or receiving service of
302 any kind, whether or not the service involves the exchange of



303 money, including, but not limited to, ATM lines, concert lines,
304 food vendor lines, movie ticket lines, and sporting event lines.

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

308 (o) "Smoking" means inhaling, exhaling, burning, or
309 carrying any lighted or heated cigar, cigarette, or pipe, or any
310 other lighted or heated tobacco or plant product intended for
311 inhalation, in any manner or in any form. "Smoking" also
312 includes, but is not limited to, the use of an e-cigarette that
313 creates a vapor, in any manner or in any form, or the use of any
314 oral smoking device for the purpose of circumventing the
315 prohibition of smoking in this act.

316 (p) "Sports arena" means a place where people assemble
317 to engage in physical exercise, participate in athletic
318 competition, or witness sports or other events, including, but not
319 limited to, sports pavilions, stadiums, gymnasiums, health spas,
320 boxing arenas, swimming pools, roller and ice rinks, and bowling
321 alleys.

322 **SECTION 4.** All enclosed areas, including, but not limited
323 to, buildings and vehicles owned, leased, or operated by the state
324 or any of its subdivisions, as well as all outdoor property
325 adjacent to those buildings and under the control of the state,
326 are subject to this act.



327 **SECTION 5.** Smoking is prohibited in all enclosed public
328 places within the State of Mississippi, including, but not limited
329 to, the following places:

330 (a) Aquariums, galleries, libraries and museums;

331 (b) Areas available to the general public in businesses
332 and nonprofit entities patronized by the public, including, but
333 not limited to, banks, laundromats, professional offices and
334 retail service establishments;

335 (c) Bars;

336 (d) Bingo facilities;

337 (e) Child care and adult day care facilities;

338 (f) Convention facilities;

339 (g) Educational facilities, both public and private;

340 (h) Elevators;

341 (i) Gaming facilities;

342 (j) Health care facilities;

343 (k) Hotels and motels;

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

348 (m) Polling places;

349 (n) Public transportation vehicles, including, but not
350 limited to, buses and taxicabs, under the authority of the state
351 or any of its subdivisions, and ticket, boarding and waiting areas



352 of public transportation facilities, including bus, train and
353 airport facilities;

354 (o) Restaurants;

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

357 (q) Retail stores;

358 (r) Rooms, chambers, places of meeting or public
359 assembly, including, but not limited to, school buildings, under
360 the control of an agency, board, commission, committee or council
361 of the state or any of its subdivisions;

362 (s) Service lines;

363 (t) Shopping malls;

364 (u) Sports arenas, including, but not limited to,
365 enclosed places in outdoor arenas; and

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

369 **SECTION 6.** (1) Smoking is prohibited in all enclosed areas
370 of places of employment without exception. This includes, but is
371 not limited to, common work areas, auditoriums, classrooms,
372 conference and meeting rooms, private offices, elevators,
373 hallways, medical facilities, cafeterias, employee lounges,
374 stairs, restrooms, vehicles and all other enclosed facilities.



375 (2) This prohibition on smoking must be communicated to all
376 current employees on July 1, 2021, and to all prospective
377 employees upon their application for employment.

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

379 **SECTION 8.** Smoking is prohibited in the following enclosed
380 residential facilities:

381 (a) All private and semi-private rooms in nursing
382 homes; and

383 (b) All hotel and motel rooms that are rented to
384 guests.

385 **SECTION 9.** Smoking is prohibited in the following outdoor
386 places:

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

391 (b) On all outdoor property that is adjacent to
392 buildings owned, leased or operated by the state and that is under
393 the control of the state;

394 (c) In, and within twenty (20) feet of, outdoor seating
395 or serving areas of restaurants and bars;

396 (d) In all outdoor arenas, stadiums, and amphitheaters.
397 Smoking also is prohibited within twenty (20) feet of bleachers
398 and grandstands for use by spectators at sporting and other public
399 events;



400 (e) In, and within twenty (20) feet of, all outdoor
401 playgrounds;

402 (f) In, and within twenty (20) feet of, all outdoor
403 public transportation stations, platforms and shelters under the
404 authority of the state or any of its subdivisions;

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

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

419 **SECTION 10.** (1) Smoking is prohibited in all outdoor places
420 of employment where two (2) or more employees are required to be
421 in the course of their employment. This includes, but is not
422 limited to, work areas, construction sites, temporary offices such
423 as trailers, restroom facilities and vehicles.



424 (2) This prohibition on smoking must be communicated to all
425 current employees on July 1, 2021, and to all prospective
426 employees upon their application for employment.

427 **SECTION 11.** Notwithstanding any other provision of this act
428 to the contrary, smoking is not prohibited in private residences
429 unless a residence is used as a child care, adult day care, or
430 health care facility.

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

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

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

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

446 (c) Clearly and conspicuously post on every vehicle
447 that constitutes a place of employment under this act at least one



448 (1) sign, visible from the exterior of the vehicle, stating that
449 smoking is prohibited; and

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

453 **SECTION 14.** (1) A person or employer may not discharge,
454 refuse to hire, or in any manner retaliate against an employee,
455 applicant for employment, customer, or resident of a multiple-unit
456 residential facility because that employee, applicant, customer,
457 or resident exercises any rights afforded by this act or reports
458 or attempts to prosecute a violation of this act. Notwithstanding
459 Section 17 of this act, violation of this subsection is a
460 misdemeanor, punishable by a fine not to exceed One Thousand
461 Dollars (\$1,000.00) for each violation.

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

538 **SECTION 21.** This act may not be construed as amending or
539 repealing Section 41-114-1, 97-32-29 or 97-35-1(4).

540 **SECTION 22.** 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 23.** This act shall take effect and be in force from
544 and after July 1, 2022.

