

By: Representative Mayo

To: Public Health and Human Services

HOUSE BILL NO. 451

1 AN ACT TO CREATE THE MISSISSIPPI SMOKE FREE FAMILIES ACT; TO
2 PROVIDE DEFINITIONS OF CERTAIN TERMS; TO PROHIBIT SMOKING IN
3 ENCLOSED PUBLIC PLACES IN THE STATE OF MISSISSIPPI; TO PROVIDE
4 THAT EMPLOYERS ARE RESPONSIBLE FOR PROVIDING A SMOKE-FREE
5 WORKPLACE FOR ALL EMPLOYEES; TO SPECIFY THE AREAS WHERE SMOKING IS
6 NOT REGULATED; TO PROVIDE FOR THE POSTING OF NO SMOKING SIGNS; TO
7 DIRECT THE STATE BOARD OF HEALTH TO ADOPT REGULATIONS AND
8 PENALTIES REGARDING VIOLATIONS OF THIS ACT; AND FOR RELATED
9 PURPOSES.

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

11 SECTION 1. This act shall be known and may be cited as the
12 "Mississippi Smoke Free Families Act."

13 SECTION 2. The following words and phrases shall have the
14 meanings ascribed in this section, unless the context clearly
15 indicates otherwise:

16 (a) "Bar" means an area that is devoted to the serving
17 of alcoholic beverages for consumption by guests on the premises,
18 in which the serving of food is only incidental to the consumption
19 of those beverages. For the purposes of this paragraph, the term
20 "bar" does not include any establishment where cigarette smoke can
21 filter into any area where smoking is prohibited through a
22 passageway, ventilation system or any other means.

23 (b) "Business" means any sole proprietorship,
24 partnership, joint venture, corporation or other legal entity
25 formed for profit-making purposes, including retail establishments
26 where goods or services are sold as well as professional
27 corporations and other entities where legal, medical, dental,
28 engineering, architectural or other professional services are
29 delivered.

30 (c) "Employee" means any person who is employed by any
31 employer in the consideration for direct or indirect monetary
32 wages or profit and any person who volunteers his or her services.

33 (d) "Employer" means any person, partnership,
34 corporation, including a municipal corporation, or nonprofit
35 entity, that employs the services of one or more individual
36 persons.

37 (e) "Enclosed area" means all space between a floor and
38 ceiling that is enclosed on all sides by solid walls or windows,
39 excluding doors or passageways, that extend from the floor to the
40 ceiling, including all space therein screened by partitions that
41 do not extend to the ceiling or are not solid, office landscaping
42 or similar structures.

43 (f) "Government building" means any building owned,
44 rented, leased, occupied or operated by the state, including the
45 legislative, executive and judicial branches of state government;
46 any county, municipality or any other political subdivision of the
47 state; any public authority, commission, agency or public benefit
48 corporation; or any other separate corporate instrumentality or
49 unit of state or local government.

50 (g) "Place of employment" means any enclosed area under
51 the control of a public or private employer that employees
52 normally frequent during the course of employment, including, but
53 not limited to, work areas, employee lounges and restrooms,
54 conference and classrooms, employee cafeterias and hallways. A
55 private residence is not a "place of employment" unless it is used
56 as a child care facility, as defined in Section 43-20-5, adult day
57 care or health care facility that is licensed or regulated by the
58 State Department of Health.

59 (h) "Public conveyance" means buses, taxis, trains,
60 trolleys, boats and other means of public transit when used for
61 public conveyance.

62 (i) "Public meeting" means all meetings open to the
63 public unless held in a private residence.

64 (j) "Public place" means any enclosed area to which the
65 public is invited or in which the public is permitted, including,
66 but not limited to, banks, educational facilities, health
67 facilities, laundromats, public transportation facilities,
68 reception areas, restaurants, retail food production and marketing
69 establishments, retail service establishments, retail stores,
70 theaters and waiting rooms. A private residence is not a "public
71 place."

72 (k) "Restaurant" means any coffee shop, cafeteria,
73 sandwich stand, or any other eating establishment that gives or
74 offers for sale food to the public, guests or employees, as well
75 as kitchens in which food is prepared on the premises for serving
76 elsewhere, including catering facilities, except that the term
77 "restaurant" does not include a cocktail lounge or tavern if the
78 cocktail lounge or tavern is a "bar" as defined in paragraph (a)
79 of this section.

80 (l) "Retail tobacco store" means a retail store
81 utilized primarily for the sale of tobacco products and
82 accessories and in which the sale of other products is merely
83 incidental.

84 (m) "Service line" means any indoor line at which one
85 or more persons are waiting for or receiving service of any kind,
86 whether or not the service involves the exchange of money.

87 (n) "Smoking" means inhaling, exhaling, burning,
88 carrying or otherwise possessing any lighted cigarette, cigar,
89 pipe or any other object or device of any form that contains
90 lighted tobacco or any other smoking product.

91 (o) "Sports arena" means sports pavilions, gymnasiums,
92 health spas, boxing arenas, swimming pools, roller and ice rinks,
93 bowling alleys and other similar places where members of the
94 general public assemble either to engage in or witness physical

95 exercise, athletic competition or other sports entertainment
96 events.

97 **SECTION 3.** All state office buildings that are subject to
98 Section 29-5-161 are exempt from this act.

99 **SECTION 4.** (1) Smoking is prohibited in all enclosed public
100 places in the State of Mississippi, including, but not limited to,
101 the following places:

102 (a) Elevators;

103 (b) Restrooms, lobbies, reception areas, hallways and
104 any other common-use areas;

105 (c) Buses, taxicabs and other means of public
106 conveyance;

107 (d) Service lines;

108 (e) Retail stores;

109 (f) All areas available to and customarily used by the
110 general public in all businesses and nonprofit entities patronized
111 by the public, including, but not limited to, banks, laundromats,
112 hotels and motels;

113 (g) Restaurants;

114 (h) Public areas of aquariums, galleries, libraries and
115 museums when open to the public;

116 (i) Any facility that is primarily used for exhibiting
117 any motion picture, stage, drama, lecture, musical recital or
118 other similar performance, except performers when smoking is part
119 of a stage production;

120 (j) Sports arenas and convention centers;

121 (k) Waiting rooms, hallways, wards and semiprivate
122 rooms of health facilities, including, but not limited to,
123 hospitals, clinics, physical therapy facilities, doctors' offices,
124 dentists' offices, personal care homes, hospices and birthing
125 facilities;

126 (l) Indoor lobbies, hallways, and other common areas in
127 apartment buildings, condominiums, trailer parks, retirement

128 facilities, nursing homes and other multiple-unit residential
129 facilities; and

130 (m) Polling places during the days and hours of
131 operation.

132 (2) Notwithstanding any other provision of this section to
133 the contrary, any owner, operator, manager or other person who
134 controls any establishment or facility may declare that entire
135 establishment or facility is a nonsmoking establishment.

136 **SECTION 5.** (1) It is the responsibility of employers with
137 three (3) or more full-time employees to provide a smoke-free
138 workplace for all employees, but employers are not required to
139 incur any expense to make structural or other physical
140 modifications.

141 (2) Not later than six (6) months after the effective date
142 of this act, each employer having an enclosed place of employment
143 shall adopt, implement, make known and maintain a written smoking
144 policy that contains the following requirements: Smoking is
145 prohibited in all enclosed facilities within a place of employment
146 without exception. This includes common work areas, auditoriums,
147 classrooms, conference and meeting rooms, private offices,
148 elevators, hallways, medical facilities, cafeterias, employee
149 lounges, stairs, restrooms, vehicles and all other enclosed
150 facilities.

151 **SECTION 6.** Smoking shall not occur within ten (10) feet of
152 any entrance to a building or passageway outside any enclosed
153 area.

154 **SECTION 7.** (1) Notwithstanding any other provision of this
155 act to the contrary, the following areas shall not be subject to
156 the smoking restrictions of this act:

157 (a) Bars;

158 (b) Private residences, except when used as a licensed
159 child care facility;

160 (c) Hotel and motel rooms;

- 161 (d) Retail tobacco and convenience stores;
- 162 (e) Restaurants, hotel and motel conference or meeting
163 rooms and public and private assembly rooms while these places are
164 being used for private functions;
- 165 (f) Any facility licensed by the Mississippi Gaming
166 Commission;
- 167 (g) All public schools and campuses within the State of
168 Mississippi regulated under Section 97-32-25 et al.

169 (2) Notwithstanding any other provision of this section to
170 the contrary, any owner, operator, manager or other person who
171 controls any establishment described in this section may declare
172 that entire establishment is a nonsmoking establishment.

173 **SECTION 8.** (1) Every public place where smoking is
174 prohibited by this act shall have posted at every entrance a
175 conspicuous sign clearly stating that smoking is prohibited.

176 (2) All ashtrays and other smoking paraphernalia shall be
177 removed from any area where smoking is prohibited by this act by
178 the owner, operator, manager or other person having control of
179 that area.

180 **SECTION 9.** The State Board of Health shall adopt and
181 promulgate regulations and penalties regarding the violations of
182 this act not later than ninety (90) days after the effective date
183 of this act.

184 **SECTION 10.** A person or employer shall not discharge, refuse
185 to hire or in any manner retaliate against any employee, applicant
186 for employment or customer because the employee, applicant or
187 customer exercises any right to smoke-free environment afforded by
188 this act.

189 **SECTION 11.** This act shall not be interpreted or construed
190 to permit smoking where it is otherwise restricted by other
191 applicable laws or to prohibit any municipality or county from
192 adopting additional ordinances with regard to the use of smoking
193 in public places.

194 **SECTION 12.** This act shall not be construed as amending or
195 repealing Section 97-35-1(4).

196 **SECTION 13.** This act shall take effect and be in force from
197 and after its passage.