

By: Representative Mayo

To: Public Health and Human
Services

HOUSE BILL NO. 316

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

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

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

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

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

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

95 SECTION 3. All government buildings that are subject to
96 Section 29-5-161 are exempt from this act.

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

100 (a) Elevators;

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

103 (c) Buses, taxicabs and other means of public
104 conveyance;

105 (d) Service lines;

106 (e) Retail stores;

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

111 (g) Restaurants;

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

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

118 (j) Sports arenas and convention centers;

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

124 (l) Indoor lobbies, hallways, and other common areas in
125 apartment buildings, condominiums, trailer parks, retirement
126 facilities, nursing homes and other multiple-unit residential
127 facilities; and

128 (m) Polling places during the days and hours of
129 operation.

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

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

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

149 **SECTION 6.** Smoking shall not be allowed within ten (10) feet
150 of any entrance to a building or passageway outside any enclosed
151 area.

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

155 (a) Bars;

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

158 (c) Hotel and motel rooms;

159 (d) Retail tobacco and convenience stores;

160 (e) Restaurants, hotel and motel conference or meeting
161 rooms and public and private assembly rooms while these places are
162 being used for private functions;

163 (f) Any facility licensed by the Mississippi Gaming
164 Commission;

165 (g) All public schools and campuses within the State of
166 Mississippi regulated under Section 97-32-25 et al.

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

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

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

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

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

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

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

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