

By: Senator(s) Dawkins

To: Public Health and Welfare

SENATE BILL NO. 2573

1 AN ACT TO CREATE THE MISSISSIPPI GULF COAST SMOKE-FREE  
 2 FAMILIES ACT; TO PROVIDE DEFINITIONS OF CERTAIN TERMS; TO PROHIBIT  
 3 SMOKING IN ENCLOSED PUBLIC PLACES IN THE SIX GULF COAST COUNTIES  
 4 IN THE STATE OF MISSISSIPPI; TO PROVIDE THAT EMPLOYERS ARE  
 5 RESPONSIBLE FOR PROVIDING A SMOKE-FREE WORKPLACE FOR ALL EMPLOYEES  
 6 AND TO PRESCRIBE CERTAIN STANDARDS FOR SMOKING BREAK ROOMS IN SUCH  
 7 COUNTIES; TO SPECIFY THE AREAS WHERE SMOKING IS NOT REGULATED IN  
 8 SUCH COUNTIES; TO PROVIDE FOR THE POSTING OF "NO SMOKING" SIGNS IN  
 9 SUCH COUNTIES; TO DIRECT THE STATE BOARD OF HEALTH TO ADOPT  
 10 REGULATIONS AND PENALTIES REGARDING VIOLATIONS OF THIS ACT IN SUCH  
 11 COUNTIES; TO AMEND SECTION 97-32-27, MISSISSIPPI CODE OF 1972, TO  
 12 PROHIBIT SMOKING IN ALL PRIVATE SCHOOL BUILDINGS AND FACILITIES IN  
 13 THE SIX GULF COAST COUNTIES IN MISSISSIPPI; AND FOR RELATED  
 14 PURPOSES.

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

16 **SECTION 1.** This act shall be known and may be cited as the  
 17 "Mississippi Gulf Coast Smoke-Free Families Act."

18 **SECTION 2.** The following words and phrases shall have the  
 19 meanings ascribed in this section and shall only be applicable in  
 20 the following counties in Mississippi: Harrison, Jackson,  
 21 Hancock, Pearl River, Stone and George, unless the context clearly  
 22 indicates otherwise:

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

30 (b) "Business" means any sole proprietorship,  
 31 partnership, joint venture, corporation or other legal entity  
 32 formed for profit-making purposes, including retail establishments  
 33 where goods or services are sold as well as professional

34 corporations and other entities where legal, medical, dental,  
35 engineering, architectural or other professional services are  
36 delivered.

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

40 (d) "Employer" means any person, partnership,  
41 corporation, including a municipal corporation, or nonprofit  
42 entity, that employs the services of one or more individual  
43 persons.

44 (e) "Enclosed area" means all space between a floor and  
45 ceiling that is enclosed on all sides by solid walls or windows,  
46 excluding doors or passageways, that extend from the floor to the  
47 ceiling, including all space therein screened by partitions that  
48 do not extend to the ceiling or are not solid, office landscaping  
49 or similar structures.

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

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

64 (i) "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 (j) "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 (k) "Retail tobacco store" means a retail store  
81 utilized primarily for the on-site sale of tobacco products and  
82 accessories, including the rental of on-site humidors and in which  
83 the sale of other products is merely incidental.

84 (l) "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 (m) "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 (n) "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. (The following provision shall be applicable in**  
98 **the following six (6) Mississippi counties: Harrison, Hancock,**  
99 **Jackson, Pearl River, Stone and George:)**

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

103           (a) Elevators;

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

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

108           (d) Service lines;

109           (e) Retail stores;

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

114           (g) Restaurants;

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

117           (i) Any facility that is primarily used for exhibiting  
118 any motion picture, stage, drama, lecture, musical recital or  
119 other similar performance;

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;

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 4.** (The following provision shall be applicable in  
137 the following six (6) Mississippi counties: Harrison, Hancock,  
138 Jackson, Pearl River, Stone and George:)

139 (1) Each employer with five (5) or more employees shall  
140 prohibit smoking in any place of employment under said employer's  
141 control, except that an employer may designate one or more smoking  
142 break rooms pursuant to this section. It is the responsibility of  
143 employers with five (5) or more full-time employees to provide a  
144 smoke-free place of employment for all employees.

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

155 (3) Each smoking room designated by an employer pursuant to  
156 this section shall meet the following requirements: (a) air from  
157 the smoking room shall be exhausted directly to the outside by an  
158 exhaust fan, and no air from such room shall be recirculated to  
159 other parts of the building; (b) the employer shall comply with  
160 any ventilation standard adopted by (i) the United States  
161 Secretary of Labor under the authority of the Occupational Safety  
162 and Health Act of 1970, as from time to time amended, or (ii) the  
163 federal Environmental Protection Agency; (c) such room shall be  
164 located in a nonwork area where no employee, as part of his or her

165 work responsibilities, is required to enter; such work  
166 responsibilities shall not include any custodial or maintenance  
167 work carried out in the smoking room when it is unoccupied; and  
168 (d) such room shall be for the use of employees only.

169 (4) Each employer that provides a smoking room pursuant to  
170 this section shall provide sufficient smoking break rooms for  
171 nonsmoking employees.

172 (5) Nothing in this section may be construed to prohibit an  
173 employer from designating an entire business facility as a  
174 nonsmoking area.

175 (6) The State Department of Health may exempt any employer  
176 from the provisions of this section if he finds that (a) the  
177 employer made a good faith effort to comply with the provisions of  
178 this section, and (b) any further requirement to so comply would  
179 constitute an unreasonable financial burden on the employer.

180 **SECTION 5.** (The following provision shall be applicable in  
181 the following six (6) Mississippi counties: Harrison, Hancock,  
182 Jackson, Pearl River, Stone and George:)

183 Smoking shall not occur within ten (10) feet of any entrance  
184 to a building or passageway outside any enclosed area.

185 **SECTION 6.** (The following provision shall be applicable in  
186 the following six (6) Mississippi counties: Harrison, Hancock,  
187 Jackson, Pearl River, Stone and George:)

188 (1) Notwithstanding any other provision of this act to the  
189 contrary, the following areas shall not be subject to the smoking  
190 restrictions of this act:

191 (a) Bars;

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

194 (c) Hotel and motel rooms;

195 (d) Retail tobacco stores;

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

199 (f) Any facility operated by an entity licensed by the  
200 Mississippi Gaming Commission, except for restaurants located in  
201 such facilities which shall be subject to the smoking restrictions  
202 of this act; and

203 (g) All public schools and campuses within the State of  
204 Mississippi regulated under Section 97-32-25 et seq.

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

209 **SECTION 7.** (The following provision shall be applicable in  
210 the following six (6) Mississippi counties: Harrison, Hancock,  
211 Jackson, Pearl River, Stone and George:)

212 (1) Every public place where smoking is prohibited by this  
213 act shall have posted at every entrance a conspicuous sign clearly  
214 stating that smoking is prohibited.

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

219 **SECTION 8.** (The following provision shall be applicable in  
220 the following six (6) Mississippi counties: Harrison, Hancock,  
221 Jackson, Pearl River, Stone and George:)

222 The State Board of Health shall adopt and promulgate  
223 regulations and penalties regarding the violations of this act not  
224 later than ninety (90) days after the effective date of this act.

225 **SECTION 9.** (The following provision shall be applicable in  
226 the following six (6) Mississippi counties: Harrison, Hancock,  
227 Jackson, Pearl River, Stone and George:)

228 A person or employer shall not discharge, refuse to hire or  
229 in any manner retaliate against any employee, applicant for  
230 employment or customer because the employee, applicant or customer  
231 exercises any right to a smoke-free environment afforded by this  
232 act.

233 **SECTION 10.** (The following provision shall be applicable in  
234 the following six (6) Mississippi counties: Harrison, Hancock,  
235 Jackson, Pearl River, Stone and George:)

236 This act shall not be interpreted or construed to permit  
237 smoking where it is otherwise restricted by other applicable laws  
238 or to prohibit any municipality or county from adopting additional  
239 ordinances with regard to the use of smoking in public places.

240 **SECTION 11.** This act shall not be construed as amending or  
241 repealing Section 97-35-1(4).

242 **SECTION 12.** Section 97-32-27, Mississippi Code of 1972, is  
243 amended as follows:

244 97-32-27. (1) "Adult" means any natural person at least  
245 eighteen (18) years old.

246 (2) "Minor" means any natural person under the age of  
247 eighteen (18) years.

248 (3) "Person" means any natural person.

249 (4) "Tobacco product" means any substance that contains  
250 tobacco, including, but not limited to, cigarettes, cigars, pipes,  
251 snuff, smoking tobacco or smokeless tobacco.

252 (5) "Educational property" means any public or private  
253 school building or bus, public school campus, grounds,  
254 recreational area, athletic field or other property owned, used or  
255 operated by any local school board, school or directors for the  
256 administration of any public or private educational institution or  
257 during a school-related activity; provided, however, that the term  
258 "educational property" shall not include any sixteenth section  
259 school land or lieu land on which is not located a public school  
260 building, public school campus, public school recreational area or



261 public school athletic field. Educational property shall not  
262 include property owned or operated by the state institutions of  
263 higher learning, the public community and junior colleges, or  
264 vocational-technical complexes.

265         **SECTION 13.** This act shall take effect and be in force from  
266 and after July 1, 2007.