

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 76

Short Title: Ban Smoking in Restaurants. (Public)

Sponsors: Representatives Holliman; Alexander, B. Allen, Luebke, and Weiss.

Referred to: Judiciary IV.

February 7, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW CONCERNING SMOKING IN PUBLIC PLACES
3 AND TO PROHIBIT SMOKING IN RESTAURANTS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 143-596(4) is repealed.

6 SECTION 2. Chapter 14 of the General Statutes is amended by adding a
7 new Article to read:

8 "Article 62.

9 "Smoking in Public Restaurants.

10 "**§ 14-462. Definitions.**

11 The following definitions shall apply to this Article:

12 (1) Restaurant. – An eating establishment substantially engaged in the
13 business of preparing and serving meals and regularly and customarily
14 selling food to be eaten on the premises, including but not limited to,
15 coffee shops, cafeterias, sandwich stands, and any building, structure,
16 or area where food is available for eating on the premises in
17 consideration of payment. The term 'restaurant' shall also include a bar
18 or lounge area attached to a restaurant, but shall not include an outdoor
19 or partially enclosed seating area without a ceiling.

20 (2) Smoke or smoking. – The use or possession of a lighted cigarette,
21 lighted cigar, lighted pipe, or any other lighted tobacco product.

22 "**§ 14-463. Smoking in public restaurants prohibited; notice.**

23 (a) Notwithstanding any other provision of law, no person shall smoke in any
24 restaurant generally open and accessible to the public. 'No Smoking' signs or the
25 international 'No Smoking' symbol, which consists of a pictorial representation of a
26 burning cigarette enclosed in a circle with a bar across it, shall be conspicuously posted
27 and properly maintained in each restaurant and at each entrance to a restaurant.

28 (b) Any person in charge of a restaurant open and accessible to the public or a
29 designated agent or employee of the restaurant, who observes a person smoking in

1 apparent violation of this section, shall ask the person to extinguish all lighted tobacco
2 products. If the person persists in apparent violation of this section, the person in charge
3 of the restaurant or the designated agent or employee of the restaurant shall ask the
4 person to leave the premises.

5 **"§ 14-464. Violations; penalties.**

6 Any person who refuses to either extinguish all lighted tobacco products or leave the
7 premises of a restaurant when asked to do so pursuant to G.S. 14-463(b) is responsible
8 for an infraction. For violations occurring prior to January 1, 2007 the person shall be
9 issued a warning. A person committing a violation on or after January 1, 2007 is subject
10 to a fine not to exceed fifty dollars (\$50.00). Any violation of this Article may be
11 reported to a law enforcement officer.

12 **"§ 14-465. Exceptions.**

13 This Article shall not apply to the following:

- 14 (1) Any building owned, rented, leased, or otherwise operated by a social,
15 fraternal, or religious organization when used solely by the
16 organization members or their guests or families.
17 (2) Any facility rented or leased for private functions from which the
18 general public is excluded.
19 (3) Private clubs."

20 **SECTION 3.** This act becomes effective January 1, 2006, and applies to acts
21 committed on or after that date.