

January 28, 2009

H 2. PROHIBIT SMOKING IN PUBLIC & WORK PLACES. Filed 1/28/09. *TO PROHIBIT SMOKING IN PUBLIC PLACES AND PLACES OF EMPLOYMENT.*

Creates GS 130A-496 to prohibit smoking in public places and in places of employment. Exempts private residences (provided no child care or adult care services are provided there), tobacco shops and tobacco manufacturing facilities, and designated smoking guest rooms in a lodging establishment (provided no more than 20% of the facilities' guest rooms may be designated as smoking rooms). Creates GS 130A-497 to require public places and places of employment to post no-smoking signs, remove ash trays, and direct persons who smoke in these areas to extinguish smoking products. Makes violation an infraction punishable by a fine of not more than \$50. Provides for enforcement by local health departments. Provides that convictions have no legal consequence for the violator other than payment of a penalty, that violators may not be assessed court costs, and that violation is not punishable as a misdemeanor. Amends GS 130A-498 to authorize cities, counties, and local public authorities to adopt smoking regulations that are more restrictive than state law and that apply in public places or in public buildings, grounds, or vehicles.

Creates GS 130A-22(h1) to allow local health directors to impose administrative penalties on persons who own, manage, or operate public places and places of employment and violate these provisions. Provides that first and second violations are subject to a written warning and notice of penalties for subsequent violations and third and subsequent violations are subject to an administrative penalty of not more than \$200. Provides that these violations shall not be punishable as criminal violations.

Adds definitions to GS 130A-492. Makes conforming and technical changes to GS 130A-491 and GS 130A-493. Statutory changes are effective January 2, 2010.

Intro. by Holliman.

GS 130A

March 3, 2009

H 2. PROHIBIT SMOKING IN PUBLIC & WORKPLACES. Filed 1/28/09. House committee substitute makes the following changes to 1st edition.

Amends proposed GS 130A-496 regarding exceptions to the prohibition of smoking in public places and places of employment to permit smoking in all of the premises, facilities, and vehicles owned, operated, or leased by any manufacturer or processor of tobacco products (was, permit smoking in a tobacco manufacturing or processing facility).

Enacts subsection (c1) under GS 130A-498 providing that a county ordinance or other rules, laws, or policies adopted under this section may not restrict or prohibit smoking in: (1) a private residence, unless the residence has a commercial use as a child care or adult care service; (2) a privately owned vehicle that is not used for commercial or employment purposes; and (3) all of the premises, facilities, and vehicles owned, operated, or leased by any manufacturer or processor of tobacco products.

Makes technical and conforming changes.

March 25, 2009

H 2. PROHIBIT SMOKING IN PUBLIC WORKPLACES. Filed 01/28/09. House committee substitute makes the following changes to 2nd edition. (1) In the list of places where smoking may be permitted under the bill's GS 130A-496(b), the committee substitute adds private vehicles and lists private residences (was, private residences except when being used commercially to provide child care or adult care services). (2) In the list of individuals responsible for preventing smoking in prohibited places, the committee substitute lists individuals who manage, operate, or control the place (was, who own, manage, operate, or otherwise control). The same change occurs in proposed GS 130A-22(h1), listing the individuals against whom the local health director may take actions. (3) Adds new GS 130A-497(e) to provide that administrative penalties imposed under proposed GS 130A-22(h1) may be enforced only by the local health director. (4) With respect to the authority under the bill's amendments to GS 130A-498 for local governments to adopt ordinances more restrictive than the state law, the committee substitute (a) limits the authority to be more restrictive regarding smoking in buildings to local government buildings and specifically

prohibits more restrictive regulations for guest rooms in lodging establishments, (b) provides that smoking in violation of a more restrictive local ordinance is an infraction punishable only by a \$50 fine with no other consequence, including no imposition of court costs and limits enforcement to the health director. Makes conforming and stylistic changes.

April 1, 2009

H 2. PROHIBIT SMOKING IN PUBLIC & WORKPLACES. Filed 1/28/09. House amendment makes the following changes to 3rd edition.

Amendment #1 adds a definition for *cigar bar* in proposed amended GS 130A-492 to mean an establishment with a permit to sell alcoholic beverages that satisfies all of the following: (1) generates 60% or more of its quarterly gross revenue from the sale of alcoholic beverages and 25% or more of its quarterly gross revenue from the sale of cigars, (2) has a humidor on its premises, and (3) does not allow minors to enter the premises. Prohibits revenues generated from tobacco sales, including cigarette vending machines, from being used to determine whether an establishment satisfies the definition of cigar bar. Amends proposed new GS 130A-496 and proposed amended GS 130A-498 to add a cigar bar in operation on or before January 1, 2009, if smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited pursuant to this Article, to the list of public places and places of employment where (1) smoking is permitted and (2) a local government may not restrict or prohibit smoking, respectively. Requires quarterly reporting to the Department of Health and Human Services (DHHS) on the revenue generated from the sale of alcoholic beverages and cigars as a percentage of quarterly gross revenue to qualify as a cigar bar. Requires DHHS to determine whether additional documentation is necessary to authenticate or verify the revenue data submitted. Prohibits application of these provisions to any business established for the purpose of avoiding compliance with the prohibition on smoking as required under this Article.

Amendment #2 amends proposed new GS 130A-496 and proposed amended GS 130A-498 to add a public place or place of employment that does not provide service to or allow entry to any person younger than 18 years old, if smoke does not migrate into an enclosed area where smoking is prohibited pursuant to this Article, to the list of public places and places of employment where (1) smoking is permitted and (2) a local government may not restrict or prohibit smoking, respectively. Requires signs stating that smoking is permitted to be conspicuously posted at all entrances and provided in all advertising and employment materials.

Amendment #3 adds to the definition of *place of employment* that a privately owned workplace is not a place of employment if it satisfies all of the following: (1) the employer is an individual person and consents to allow smoking in the workplace or, in the case of a private employer other than an individual person, all owners of the employer consent to allow smoking in the workplace, (2) the workplace is not open to employees other than owners of the employer and is not open to the public, (3) the workplace does not allow entry to minors, and (4) smoke does not migrate into an enclosed area in which smoking is prohibited under this Article.

Amendment #4 amends proposed new GS 130A-496 and proposed amended GS 130A-498 to clarify that (1) smoking is permitted and (2) a local government may not restrict or prohibit smoking, respectively, on all premises, facilities, and vehicles owned, operated, or leased by any tobacco products processor or manufacturer *or any tobacco leaf grower, processor, or dealer.*

April 2, 2009

H 2. PROHIBIT SMOKING IN PUBLIC & WORKPLACES. Filed 1/28/09. House amendment makes the following changes to 3rd edition, as amended. Amendment #5 amends GS 130A-496 to allow smoking in a private club and GS 130A-498 to prohibit a local ordinance or other rules, law, or policies from restricting or prohibiting smoking in a private club. Amend GS 130A-492 to define a private club as an establishment (1) organized and operated solely for a social, recreational, patriotic, or fraternal purpose; (2) that is not open to the general public, but only to the members of the organization and their guests; and (3) is either incorporated as a nonprofit corporation in accordance with GS Chapter 55A or is exempt from federal income tax under the Internal Revenue Code as defined in GS 105-130.2(1).

April 29, 2009

H 2. PROHIBIT SMOKING IN PUBLIC & WORKPLACES. Filed 1/28/09. Senate committee substitute makes the following changes to 5th edition.

Modifies the definition for *cigar bar* to provide that in order to be recognized as a cigar bar, the establishment cannot allow individuals under the age of 21 (was, minors) to enter the premises. Deletes from the definition of *place of employment* the provision identifying criteria that exempted a privately owned workplace from being included as a place of employment under this Act.

Makes the following changes to proposed GS 130A-496, *Smoking prohibited in public places and places of employment*, and GS 130A-498, *Local governments may restrict smoking in public places*. Amends provision permitting smoking in a cigar bar to provide that a cigar bar that begins operation after July 1, 2009, may only allow smoking if: (1) it is located in a freestanding structure occupied solely by the cigar bar and (2) the smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited pursuant to this Act. Also provides that smoking may be permitted in a cigar bar (was, a cigar bar in operation on or before January 1, 2009) if the smoke from the cigar bar does not migrate into an enclosed area where smoking is prohibited under this Article. Deletes provision that smoking may be permitted in a public place or place of employment that does not provide service to or allow entry to any person younger than 18 years old. Adds provision that smoking may be permitted on a motion picture, television, theater or other live production set, but limits this exemption to only the actor or performer portraying the use of tobacco products during the production.

May 6, 2009

H 2. PROHIBIT SMOKING IN PUBLIC AND WORKPLACES. Filed 1/28/09. Senate committee substitute makes the following changes to 6th edition. Rewrites new GS 130A-496 to prohibit smoking in restaurants and bars only. Allows smoking in a designated smoking guest room in a lodging establishment and in a cigar bar if smoke does not migrate into an enclosed area where smoking is prohibited. Provides that smoking is allowed in a cigar bar that begins operation after July 1, 2009, only if the cigar bar is located in a freestanding structure occupied solely by the cigar bar and smoke does not migrate into an enclosed area where smoking is prohibited. Imposes reporting requirements on cigar bars that allow smoking. Defines *bar* as an establishment with a permit to sell alcoholic beverages pursuant to GS 18B-1001(1), (3), (5), or (10). Defines *restaurant* as a food and lodging establishment that prepares and serves drink or food as regulated by the Commission for Public Health under Part 6 of Article 8 of GS Chapter 130A. Deletes provisions prohibiting smoking in public places and places of employment. Makes additional technical and conforming amendments.

May 7, 2009

H 2. PROHIBIT SMOKING IN CERTAIN PUBLIC PLACES. Filed 1/28/09. Senate amendment makes the following changes to 7th edition. Amends proposed amended GS 130A-498 to provide that a rule or policy adopted on or after July 1, 2009, pursuant to GS 130A-498(a), by a local board of health or an entity exercising the powers of a local board of health must be approved by an ordinance adopted by the Board of County Commissioners of the county to which the rule applies. Also makes a clarifying change.

May 19, 2009

SL 2009-27 (H 2). PROHIBIT SMOKING IN CERTAIN PUBLIC PLACES. AN ACT TO PROHIBIT SMOKING IN CERTAIN PUBLIC PLACES AND CERTAIN PLACES OF EMPLOYMENT. Summarized in *Daily Bulletin* 1/28/09, 3/3/09, 3/25/09, 4/1/09, 4/2/09, 4/29/09, 5/6/09, and 5/7/09. Enacted May 19, 2009. Effective May 19, 2009.