

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS95031-MG-60 (03/09)

Short Title: Smoking Ban/Exempt Age-Restricted Venues. (Public)

Sponsors: Senator East.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXEMPT AGE-RESTRICTED VENUES FROM THE SMOKING BAN.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 130A-492 reads as rewritten:

5 "§ 130A-492. Definitions.

6 The following definitions apply in this Article:

7 (1) "Age-restricted venue". – A public place, including a bar or restaurant, that
8 affirmatively restricts entry to persons who are 18 years of age or older,
9 including employees, by requiring each person attempting to gain entry to
10 submit for inspection a form of identification specified in
11 G.S. 18B-302(d)(1) for the express purpose of determining if the person is
12 18 years of age or older.

13 (1a) "Bar". – An establishment with a permit to sell alcoholic beverages pursuant
14 to subdivision (1), (3), (5), or (10) of G.S. 18B-1001.

15 (2) "Cigar bar". – An establishment with a permit to sell alcoholic beverages
16 pursuant to subdivision (1), (3), (5), or (10) of G.S. 18B-1001 that satisfies
17 all of the following:

18 a. Generates sixty percent (60%) or more of its quarterly gross revenue
19 from the sale of alcoholic beverages and twenty-five percent (25%)
20 or more of its quarterly gross revenue from the sale of cigars;

21 b. Has a humidor on the premises; and

22 c. Does not allow individuals under the age of 21 to enter the premises.
23 Revenue generated from other tobacco sales, including cigarette vending
24 machines, shall not be used to determine whether an establishment satisfies
25 the definition of cigar bar.

26 (3) "Employee". – A person who is employed by an employer, or who contracts
27 with an employer or third person to perform services for an employer, or
28 who otherwise performs services for an employer with or without
29 compensation.

30 (4) "Employer". – An individual person, business, association, political
31 subdivision, or other public or private entity, including a nonprofit entity,
32 that employs or contracts for or accepts the provision of services from one or
33 more employees.



- 1 (5) "Enclosed area". – An area with a roof or other overhead covering of any
2 kind and walls or side coverings of any kind, regardless of the presence of
3 openings for ingress and egress, on all sides or on all sides but one.
- 4 (6) "Grounds". – An unenclosed area owned, leased, or occupied by State or
5 local government.
- 6 (7) "Local government". – A local political subdivision of this State, an airport
7 authority, or an authority or body created by an ordinance, joint resolution,
8 or rules of any such entity.
- 9 (8) "Local government building". – A building owned, leased as lessor, or the
10 area leased as lessee and occupied by a local government.
- 11 (9) "Local vehicle". – A passenger-carrying vehicle owned, leased, or otherwise
12 controlled by local government and assigned permanently or temporarily by
13 local government to local government employees, agencies, institutions, or
14 facilities for official local government business.
- 15 (10) "Lodging establishment". – An establishment that provides lodging for pay
16 to the public.
- 17 (11) "Private club". – A country club or an organization that maintains selective
18 members, is operated by the membership, does not provide food or lodging
19 for pay to anyone who is not a member or a member's guest, and is either
20 incorporated as a nonprofit corporation in accordance with Chapter 55A of
21 the General Statutes or is exempt from federal income tax under the Internal
22 Revenue Code as defined in G.S. 105-130.2(1). For the purposes of this
23 Article, private club includes country club.
- 24 (12) "Private residence". – A private dwelling that is not a child care facility, as
25 defined in G.S. 110-86(3), and not a long-term care facility, as defined in
26 G.S. 131E-14.3(a)(1).
- 27 (13) "Private vehicle". – A privately owned vehicle that is not used for
28 commercial or employment purposes.
- 29 (14) "Public place". – An enclosed area to which the public is invited or in which
30 the public is permitted.
- 31 (15) "Restaurant". – A food or lodging establishment that prepares and serves
32 drink or food as regulated by the Commission pursuant to Part 6 of Article 8
33 of this Chapter.
- 34 (16) "Smoking". – The use or possession of a lighted cigarette, lighted cigar,
35 lighted pipe, or any other lighted tobacco product.
- 36 (17) "State government". – The political unit for the State of North Carolina,
37 including all agencies of the executive, judicial, and legislative branches of
38 government.
- 39 (18) "State government building". – A building owned, leased as lessor, or the
40 area leased as lessee and occupied by State government.
- 41 (19) "State vehicle". – A passenger-carrying vehicle owned, leased, or otherwise
42 controlled by the State and assigned permanently or temporarily to a State
43 employee or State agency or institution for official State business.
- 44 (19a) "Structurally separated". – A manner of construction that includes a stud
45 wall covered with drywall or other building material, or other like barrier
46 which, when completed, extends from the floor to the ceiling, resulting in a
47 physically separated room. The wall or barrier may include portions that are
48 made of glass or other gas-impervious building material.
- 49 (20) "Tobacco shop". – A business establishment, the main purpose of which is
50 the sale of tobacco, tobacco products, and accessories for such products, that
51 receives no less than seventy-five percent (75%) of its total annual revenues

1 from the sale of tobacco, tobacco products, and accessories for such
2 products, and does not serve food or alcohol on its premises."

3 **SECTION 2.** G.S. 130A-496 is amended by adding a new subdivision to read:

4 "(4) An age-restricted venue that is structurally separated and ventilated in a
5 manner that prevents smoke from migrating into an enclosed area where
6 smoking is prohibited pursuant to this Article."

7 **SECTION 3.** G.S. 130A-498(b1) is amended by adding a new subdivision to read:

8 "(9) An age-restricted venue that is structurally separated and ventilated in a
9 manner that prevents smoke from migrating into an enclosed area where
10 smoking is prohibited pursuant to this Article."

11 **SECTION 4.** This act becomes effective October 1, 2011.