

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 703
PROPOSED COMMITTEE SUBSTITUTE S703-PCS85231-TQ-35

Short Title: Limit Local Regulation Of Outdoor Smoking.

(Public)

Sponsors:

Referred to:

April 4, 2013

1 A BILL TO BE ENTITLED
2 AN ACT PROHIBITING LOCAL GOVERNMENTS AND LOCAL COMMUNITY
3 COLLEGES FROM REGULATING OUTDOOR SMOKING IN A MANNER THAT IS
4 MORE RESTRICTIVE THAN STATE LAW.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 130A-498 reads as rewritten:

7 "§ 130A-498. Local governments may restrict smoking in public places.

8 (a) Except as otherwise provided in ~~subsection~~subsections (b1) and (b2) of this section,
9 and notwithstanding any other provision of Article 64 of Chapter 143 of the General Statutes to
10 the contrary, a local government may adopt and enforce ordinances, board of health rules, and
11 policies restricting or prohibiting smoking that are more restrictive than State law and that
12 apply in local government buildings, ~~on local government grounds,~~ in local vehicles, or in
13 public places. A rule or policy adopted on and after July 1, 2009 pursuant to this subsection by
14 a local board of health or an entity exercising the powers of a local board of health must be
15 approved by an ordinance adopted by the Board of County Commissioners of the county to
16 which the rule applies. The definitions set forth in G.S. 130A-492 in Part 1A of this Article
17 apply to this section and shall apply to any local ordinance, rule, or law adopted by a local
18 government under this section.

19 (b) Repealed by Session Laws 2009-27, s. 1, effective January 2, 2010.

20 (b1) A local ordinance or other rules, laws, or policies adopted under this section may
21 not restrict or prohibit smoking in the following places:

22 (1) A private residence.

23 (2) A private vehicle.

24 (3) A tobacco shop if smoke from the business does not migrate into an
25 enclosed area where smoking is prohibited pursuant to this Article. A
26 tobacco shop that begins operation after July 1, 2009, may only allow
27 smoking if it is located in a freestanding structure occupied solely by the
28 tobacco shop and smoke from the shop does not migrate into an enclosed
29 area where smoking is prohibited pursuant to this Article.

30 (4) All of the premises, facilities, and vehicles owned, operated, or leased by
31 any tobacco products processor or manufacturer, or any tobacco leaf grower,
32 processor, or dealer.

33 (5) A designated smoking guest room in a lodging establishment. No greater
34 than twenty percent (20%) of a lodging establishment's guest rooms may be
35 designated smoking guest rooms.



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1 (6) A cigar bar if smoke from the cigar bar does not migrate into an enclosed
2 area where smoking is prohibited pursuant to this Article. A cigar bar that
3 begins operation after July 1, 2009, may only allow smoking if it is located
4 in a freestanding structure occupied solely by the cigar bar and smoke from
5 the cigar bar does not migrate into an enclosed area where smoking is
6 prohibited pursuant to this Article. To qualify under this subsection, the
7 cigar bar must satisfactorily report on a quarterly basis to the Department, on
8 a form prescribed by the Department, the revenue generated from the sale of
9 alcoholic beverages and cigars as a percentage of quarterly gross revenue.
10 The Department shall determine whether any additional documentation is
11 required of the cigar bar to authenticate or verify revenue data submitted by
12 the cigar bar. This subdivision shall not apply to any business that is
13 established for the purpose of avoiding compliance with this Article.

14 (7) A private club.

15 (8) A motion picture, television, theater, or other live production set. This
16 exemption applies only to the actor or performer portraying the use of
17 tobacco products during the production.

18 (b2) A local government may adopt and enforce ordinances, board of health rules, and
19 policies restricting or prohibiting smoking on local government grounds as long as the
20 ordinances, rules, or policies are not more restrictive than State law.

21 (c) Repealed by Session Laws 2009-27, s. 1, effective January 2, 2010.

22 (c1) Continuing to smoke in violation of a local ordinance or other rules, laws, or
23 policies adopted under this section constitutes an infraction, and the person committing the
24 infraction may be punished by a fine of not more than fifty dollars (\$50.00). Conviction of an
25 infraction under this section has no consequence other than payment of a penalty. A person
26 smoking in violation of a local ordinance or other rules, laws, or policies adopted under this
27 section may not be assessed court costs.

28 (d) Repealed by Session Laws 2009-27, s. 1, effective January 2, 2010.

29 (d1) Notwithstanding G.S. 130A-25 or any other provision of law, a violation of a local
30 ordinance, rule, law, or policy adopted under this section shall not be punishable as a
31 misdemeanor.

32 (d2) A local government may enforce an ordinance, rule, law, or policy under this
33 section against a person who manages, operates, or controls a public place only as provided in
34 G.S. 130A-22(h1).

35 (e) A county ordinance adopted under this section is subject to the provisions of
36 G.S. 153A-122."

37 **SECTION 2.** G.S. 115D-20.1 reads as rewritten:

38 **"§ 115D-20.1. Policy prohibiting tobacco use in community college buildings, grounds,**
39 **and at community college-sponsored events.**

40 (a) As used in this section:

41 (1) "Tobacco product" includes cigarettes, cigars, blunts, bidis, pipes, chewing
42 tobacco, snus, snuff, and any other items containing or reasonably
43 resembling tobacco or tobacco products.

44 (2) "Tobacco use" includes smoking, chewing, dipping, or any other use of
45 tobacco products.

46 (b) Local community college boards of trustees may adopt, implement, and enforce a
47 written policy prohibiting at all times the use of any tobacco product by any person in
48 community college buildings, in community college facilities, on community college
49 campuses, in vehicles owned, leased, or operated by the local community college, and in or on
50 any other community college property owned, leased, or operated by the local community

1 college. The policy may also prohibit the use of all tobacco products by persons attending a
2 community college-sponsored event.

3 (c) The policy adopted by a local community college board of trustees may include the
4 following elements:

5 (1) Adequate notice of the policy to students, parents, the public, and school
6 personnel.

7 (2) Posting of signs prohibiting at all times the use of tobacco products by any
8 person in and on community college property.

9 (3) Requirements that community college personnel develop plans for
10 successful implementation of and compliance with the policy.

11 (4) Permission for tobacco products to be included in instructional or research
12 activities in community college buildings if the activity is conducted or
13 supervised by the faculty member overseeing the instruction or research and
14 the activity does not include smoking, chewing, or otherwise ingesting the
15 tobacco product.

16 (d) Nothing in ~~G.S. 130A-498~~, G.S. 143-595 through G.S. 143-601, or any other section
17 prohibits a local community college board of trustees from adopting and enforcing a more
18 restrictive policy on the use of tobacco in community college buildings, in community college
19 facilities, on community college campuses, or at community college-related or community
20 college-sponsored events, and in or on other community college ~~property~~property, except as
21 provided in subsection (d1) of this section.

22 (d1) A local community college board of trustees is prohibited from adopting and
23 enforcing a policy on smoking on local community college grounds or at outdoor community
24 college-related or community college-sponsored events that is more restrictive than State law.
25 For the purpose of this subsection, the terms "grounds" and "smoking" are as defined in
26 G.S. 130A-492.

27 (e) The North Carolina Tobacco Prevention and Control Branch and the Health and
28 Wellness Trust Fund Commission shall work with local community college boards of trustees
29 to provide assistance with the development and implementation of the policy including
30 providing information regarding smoking cessation and prevention resources."

31 **SECTION 3.** This act becomes effective October 1, 2013.