

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 469

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

Sponsors: Senators East; Brown and Jackson.

Referred to: Rules and Operations of the Senate.

March 31, 2011

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.

34 (5) "Enclosed area". – An area with a roof or other overhead covering of any
35 kind and walls or side coverings of any kind, regardless of the presence of
36 openings for ingress and egress, on all sides or on all sides but one.



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

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

- 1 "(4) An age-restricted venue that is structurally separated and ventilated in a
2 manner that prevents smoke from migrating into an enclosed area where
3 smoking is prohibited pursuant to this Article."
4 **SECTION 3.** G.S. 130A-498(b1) is amended by adding a new subdivision to read:
5 "(9) An age-restricted venue that is structurally separated and ventilated in a
6 manner that prevents smoke from migrating into an enclosed area where
7 smoking is prohibited pursuant to this Article."
8 **SECTION 4.** This act becomes effective October 1, 2011.