

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1294

Short Title: No Smoking/LTC Facilities. (Public)

Sponsors: Representatives Howard, Justice (Primary Sponsors); Coleman, Cotham, Dollar, Faison, Fisher, Glazier, Goodwin, Luebke, Samuelson, and Thomas.

Referred to: Aging, if favorable, Judiciary I.

April 4, 2007

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT SMOKING INSIDE LONG-TERM CARE FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 131D-4.4 reads as rewritten:

"§ 131D-4.4. **Adult care home minimum safety ~~requirements~~requirements;
smoking prohibited inside long-term care facilities; penalty.**

(a) In addition to other requirements established by this Article or by rules adopted pursuant to this Article or other provisions of law, every adult care home shall provide to each resident the care, safety, and services necessary to enable the resident to attain and maintain the highest practicable level of physical, emotional, and social well-being in accordance with:

- (1) The resident's individual assessment and plan of care; and
- (2) Rules and standards relating to quality of care and safety adopted under this Chapter.

(b) Smoking is prohibited inside long-term care facilities. As used in this section:

- (1) 'Long-term care facilities' include adult care homes, nursing homes, skilled nursing facilities, facilities licensed under Chapter 122C of the General Statutes, State psychiatric hospitals, and other licensed facilities that provide long-term care services.
- (2) 'Smoking' means the use or possession of any lighted cigar, cigarette, pipe, or other lighted tobacco product.

(c) The person who owns, manages, operates, or otherwise controls a long-term care facility where smoking is prohibited under this section shall:

- (1) Conspicuously post signs clearly stating that smoking is prohibited inside the facility. The signs may include the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

1 (2) Direct any person who is smoking inside the facility to extinguish the
2 lighted tobacco product.

3 (d) The Department may impose an administrative penalty not to exceed two
4 hundred dollars (\$200.00) for each violation on any person who owns, manages,
5 operates, or otherwise controls the long-term care facility and fails to comply with
6 subsection (c) of this section."

7 **SECTION 2.** Part 1 of Article 6 of Chapter 131E of the General Statutes is
8 amended by adding the following new section to read:

9 **"§ 131E-114.3. Smoking prohibited inside long-term care facilities; penalty.**

10 (a) Except to the extent otherwise provided by federal law, smoking is prohibited
11 inside long-term care facilities. As used in this section:

12 (1) 'Long-term care facilities' include adult care homes, nursing homes,
13 skilled nursing facilities, facilities licensed under Chapter 122C of the
14 General Statutes, State psychiatric hospitals, and other licensed
15 facilities that provide long-term care services.

16 (2) 'Smoking' means the use or possession of any lighted cigar, cigarette,
17 pipe, or other lighted tobacco product.

18 (b) The person who owns, manages, operates, or otherwise controls a long-term
19 care facility where smoking is prohibited under this section shall:

20 (1) Conspicuously post signs clearly stating that smoking is prohibited
21 inside the facility. The signs may include the international "No
22 Smoking" symbol, which consists of a pictorial representation of a
23 burning cigarette enclosed in a red circle with a red bar across it.

24 (2) Direct any person who is smoking inside the facility to extinguish the
25 lighted tobacco product.

26 (c) The Department may impose an administrative penalty not to exceed two
27 hundred dollars (\$200.00) for each violation on any person who owns, manages,
28 operates, or otherwise controls the long-term care facility and fails to comply with
29 subsection (b) of this section."

30 **SECTION 3.** Article 1 of Chapter 122C of the General Statutes is amended
31 by adding the following new section to read:

32 **"§ 122C-6. Smoking prohibited; penalty.**

33 (a) Smoking is prohibited inside facilities licensed under this Chapter and inside
34 State psychiatric hospitals. As used in this section, 'smoking' means the use or
35 possession of any lighted cigar, cigarette, pipe, or other lighted tobacco product.

36 (b) The person who owns, manages, operates, or otherwise controls a facility
37 subject to this section shall:

38 (1) Conspicuously post signs clearly stating that smoking is prohibited
39 inside the facility. The signs may include the international "No
40 Smoking" symbol, which consists of a pictorial representation of a
41 burning cigarette enclosed in a red circle with a red bar across it.

42 (2) Direct any person who is smoking inside the facility to extinguish the
43 lighted tobacco product.

1 (c) The Department may impose an administrative penalty not to exceed two
2 hundred dollars (\$200.00) for each violation on any person who owns, manages,
3 operates, or otherwise controls a facility licensed under this Chapter and fails to comply
4 with subsection (b) of this section."

5 **SECTION 4.** Part 3 of Article 6 of Chapter 131E of the General Statutes is
6 amended by adding the following new section to read:

7 **"§ 131E-143. Smoking prohibited; penalty.**

8 (a) A home care agency shall prohibit its employees from smoking while
9 providing services to an individual in the individual's home. The home care agency shall
10 inform its clients that employees of the agency are prohibited from smoking in a client's
11 home. As used in this section:

12 (1) 'Employee' includes an individual under contract with the home care
13 agency to provide home care services.

14 (2) 'Smoking' means the use or possession of any lighted cigar, cigarette,
15 pipe, or other lighted tobacco product.

16 (b) The Department may impose an administrative penalty not to exceed two
17 hundred dollars (\$200.00) for each violation on any person who owns, manages,
18 operates, or otherwise controls the home care agency and fails to comply with this
19 section."

20 **SECTION 5.** This act is effective when it becomes law and applies to
21 violations committed on and after that date.