

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 1294  
Committee Substitute Favorable 4/26/07

Short Title: No Smoking/LTC Facilities.

(Public)

Sponsors:

Referred to:

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

1           (3) Provide written notice to individuals upon admittance that smoking is  
2           prohibited inside the facility and obtain the signature of the individual  
3           or the individual's representative acknowledging receipt of the notice.

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

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

10          "**§ 131E-114.3. Smoking prohibited inside long-term care facilities; penalty.**

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

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

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

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

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

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

27               (3) Provide written notice to individuals upon admittance that smoking is  
28               prohibited inside the facility and obtain the signature of the individual  
29               or the individual's representative acknowledging receipt of the notice.

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

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

36          "**§ 122C-6. Smoking prohibited; penalty.**

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

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

42               (1) Conspicuously post signs clearly stating that smoking is prohibited  
43               inside the facility. The signs may include the international 'No

1 Smoking' symbol, which consists of a pictorial representation of a  
2 burning cigarette enclosed in a red circle with a red bar across it.

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

5 (3) Provide written notice to individuals upon admittance that smoking is  
6 prohibited inside the facility and obtain the signature of the individual  
7 or the individual's representative acknowledging receipt of the notice.

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

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

14 **"§ 131E-143. Smoking prohibited; penalty.**

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

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

21 (2) 'Smoking' means the use or possession of any lighted cigar, cigarette,  
22 pipe, or other lighted smoking product.

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

27 **SECTION 5.** This act is effective when it becomes law and applies to  
28 violations committed on and after that date. G.S. 131D-4.4(c)(3), 131E-114.3(b)(3),  
29 and 122C-6(b)(3), as enacted by this act, apply to individuals admitted to the facility on  
30 and after the effective date of this act.