

1 SB541
2 119681-1
3 By Senators Figures, Mitchell, Little (Z), Mitchem, Singleton,
4 Barron, Denton, Dunn, Coleman, Keahey, Smith, Preuitt, Butler,
5 Marsh, Dixon, Waggoner, Erwin, Penn, Means, Ross, Benefield,
6 Bishop, Sanders, Pittman, and Smitherman
7 RFD: Education
8 First Read: 11-MAR-10

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8 SYNOPSIS: This bill would prohibit smoking in
9 restaurants in Alabama.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT
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15 To amend Sections 22-15A-3, 22-15A-5, and 22-15A-6,
16 Code of Alabama 1975, relating to the Alabama Clean Indoor Air
17 Act, to prohibit smoking in restaurants in Alabama.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 22-15A-3, 22-15A-5, and
20 22-15A-6, Code of Alabama 1975, are amended to read as
21 follows:

22 "§22-15A-3.

23 "As used in this chapter, the following words and
24 phrases shall have the following meanings:

25 "(1) BAR AND LOUNGE. Any establishment which is
26 primarily devoted to the serving of alcoholic beverages for
27 consumption by patrons on the premises and in which the

1 serving of food is only incidental to the consumption of
2 beverages. Although a restaurant may contain a bar, the term
3 "bar" shall not include the restaurant dining area.

4 "(2) CHILD CARE FACILITY. Any facility caring for
5 children.

6 "(3) DEPARTMENT. The Alabama Department of Public
7 Health.

8 "(4) EMPLOYER. Any person, partnership, association,
9 corporation, or nonprofit entity that employs five or more
10 persons, including the legislative, executive, and judicial
11 branches of state government; and any county, city, town, or
12 village or any other political subdivision of the state; any
13 public authority, commission, agency, or public benefit
14 corporation; or any other separate corporate instrumentality
15 or unit of state or local government.

16 "(5) GOVERNMENT BUILDING. Any building owned or
17 operated by the state, including the legislative, executive,
18 and judicial branches of state government; any county, city,
19 town, or village or any other political subdivision of the
20 state; any public authority, commission, agency, or public
21 benefit corporation; or any other separate corporate
22 instrumentality or unit of state or local government.

23 "(6) PUBLIC CONVEYANCE. A bus, taxi, train, trolley,
24 boat, and any other means of public transit.

25 "(7) PUBLIC MEETING. Any meeting open to the public
26 unless held in a private residence.

1 "(8) PUBLIC PLACE. Any enclosed area to which the
2 public is permitted, including, but not limited to,
3 auditoriums, elevators, hospitals, nursing homes, libraries,
4 courtrooms, jury waiting rooms and deliberation rooms,
5 theatres, museums, common areas of retirement homes,
6 ~~restaurants~~, laundromats, health facilities, educational
7 facilities, shopping malls, government buildings, sports and
8 recreational facilities, places of employment, airports,
9 banks, retail stores, and service establishments. A private
10 residence is not a "public place."

11 "(9) RESTAURANT. An enclosed indoor establishment
12 that is open to the public and is devoted primarily to the
13 sale and service of food for immediate consumption.

14 "~~(9)~~ (10) SERVICE LINE. Any indoor line at which one
15 or more persons are waiting for or receiving service of any
16 kind, whether or not the service involves the exchange of
17 money.

18 "~~(10)~~ (11) SMOKING. The burning of a lighted
19 cigarette, cigar, pipe, or any other matter or substance that
20 contains tobacco.

21 "~~(11)~~ (12) SMOKING AREA. Any designated area meeting
22 the requirements of Section 22-15A-7.

23 "§22-15A-5.

24 "(a) By December 1, 2003, each employer having an
25 enclosed place of employment may adopt, implement, make known,
26 and maintain a written smoking policy which shall contain at a
27 minimum all of the following requirements:

1 "(1) Any employee in a place of employment shall
2 have the right to designate his or her work area as a
3 nonsmoking area and to post the same with an appropriate sign
4 or signs, to be provided by the employer.

5 "(2) Smoking shall be prohibited in all common work
6 areas in a place of employment, unless a majority of the
7 workers who work in that area agree that a smoking area will
8 be designated.

9 "(b) The smoking policy shall be communicated to all
10 employees within three weeks of its adoption. All employers
11 shall supply a written copy of the smoking policy upon request
12 to any existing or prospective employee.

13 "(c) Notwithstanding any other provisions of this
14 section, every employer shall have the right to designate any
15 place of employment, or any portion thereof, as a nonsmoking
16 area.

17 "(d) The provisions of this section shall not apply
18 to restaurants.

19 "§22-15A-6.

20 "(a) Pursuant to this section, the person in charge
21 of a public place may designate an area for the use of
22 smokers. Notwithstanding the foregoing, a smoking area may not
23 be designated and no person may smoke in any of the following
24 unless the area is enclosed and well ventilated:

25 "(1) Child care facilities.

26 "(2) Hospitals, health care clinics, doctors'
27 offices, physical therapy facilities, and dentists' offices.

1 "(3) Elevators.

2 "(4) Buses, taxicabs, and other means of public
3 conveyance.

4 "(5) Government buildings, except private offices.

5 "(6) Restrooms.

6 "(7) Service lines.

7 "(8) Public areas of aquariums, galleries,
8 libraries, and museums.

9 "(9) Lobbies, hallways, and other common areas in
10 apartment buildings, senior citizen residences, nursing homes,
11 and other multiple-unit residential facilities.

12 "(10) Polling places.

13 "(11) Schools or other school facilities or enclosed
14 school sponsored events for grades K-12.

15 "(12) Retail establishments, excluding restaurants,
16 except areas in retail establishments not open to the public.

17 "(13) Lobbies, hallways, and other common areas in
18 multiple-unit commercial facilities.

19 "(14) Restaurants.

20 "(b) If a smoking area is designated, existing
21 physical barriers and ventilation systems shall be used to
22 minimize the toxic effect of smoke, and no more than
23 one-fourth of the total square footage in any public place
24 within a single enclosed area shall be reserved and designated
25 for smokers unless clientele dictates otherwise. No area
26 designated as a smoking area shall contain common facilities
27 which are expected to be used by the public. The provisions of

1 this section relating to the designation of a smoking area
2 shall not apply to a restaurant. There shall be no smoking in
3 a restaurant.

4 "(c) Nothing in this section shall be construed to
5 prevent any owner, operator, manager, or other person who
6 controls any establishment or facility from declaring and
7 enforcing a nonsmoking policy in the entire establishment or
8 facility.

9 ~~"(d) Notwithstanding any other provision of this~~
10 ~~section or this chapter, if any restaurant is deemed by its~~
11 ~~owner as being too small to have a designated smoking area, it~~
12 ~~shall be left up to the discretion of the owner if the~~
13 ~~facility will be a "smoking" or a "nonsmoking" facility."~~

14 Section 2. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.