



SPONSOR: Sen. McBride & Sen. Blevins  
Reps. Hudson & Valihura; Sens. Bunting,  
Henry, Sokola, Cloutier, Sorenson &  
Winslow; Reps. Smith, & Maier

DELAWARE STATE SENATE

141st GENERAL ASSEMBLY

SENATE BILL NO. 99

AS AMENDED BY

HOUSE AMENDMENT NO. 12 AND 19

AND

SENATE AMENDMENT NO. 1 AND 4

AN ACT TO AMEND TITLE 16, DELAWARE CODE RELATING TO THE CLEAN INDOOR AIR ACT.

WHEREAS, Secondhand smoke includes both smoke exhaled and smoke from the end of a burning cigarette cigar or pipe; and includes a complex mixture of nearly 5,000 chemical compounds, including 43 chemicals that are known human carcinogens; and

WHEREAS, Secondhand smoke has been classified by the Environmental Protection Agency (EPA) as a known cause of cancer in humans (group a carcinogen); and

WHEREAS, numerous studies show substantial levels of exposure to secondhand smoke among the US population, and over the past two decades, the health hazards resulting from exposure to secondhand smoke have been increasingly recognized; and

WHEREAS, Secondhand smoke inhaled by a pregnant woman can increase the risk for low weight babies; and

WHEREAS, exposure to secondhand smoke by children leads to decreased lung function, asthma, pneumonia, ear infections, bronchitis and even sudden infant death syndrome; and

WHEREAS, exposure to secondhand smoke nearly doubles the risk of heart attack; and

WHEREAS, Delaware has the second highest lung cancer mortality rate in the country; and

WHEREAS, Prohibiting smoking in public places and the workplace increases public awareness of the negative health effects of smoking and reduces the social acceptability of smoking and protects children and other nonsmokers;

NOW THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 2902(1), Chapter 29, Title 16, Delaware Code by striking the words "but does not include" after the word "sits" and before the word "any" and substituting in lieu thereof the word "and".

Section 2. Amend § 2902(2), Chapter 29, Title 16, Delaware Code by adding after the word "taproom" the words "or tavern."

Section 3. Amend § 2902(4), Chapter 29, Title 16, Delaware Code by striking the words "and that has an indoor seating capacity of greater than 50 persons".

Section 4. Amend § 2902(9), Chapter 29, Title 16, Delaware Code by striking in its entirety the second sentence thereof.

Section 5. Amend § 2902(11), Chapter 29, Title 16, Delaware Code by striking said definition in its entirety.

Section 6. Amend § 2902, Chapter 29, Title 16, Delaware Code by adding a new definition to be designated paragraph "(4)" and renumbering the current definitions "(4)" through "(12)" as appropriate. The new definition shall read as follows:

"(4) 'Environmental tobacco smoke' (ETS), or 'secondhand smoke' is the complex mixture formed from the escaping smoke of a burning tobacco product (termed as sidestream smoke) and smoke exhaled by the smoker. Exposure to ETS is also frequently referred to as 'passive smoking' or 'involuntary smoking'."

Section 7. Amend § 2903, Chapter 29, Title 16, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§ 2903. Smoking restrictions.

(a) Except as is provided in Section 2904 of this chapter, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor enclosed area to which the general public is invited or in which the general public is permitted, including, but not limited to:

- (1) Public meetings;
- (2) Elevators;
- (3) Government owned and/or operated means of mass transportation including buses, vans, trains, taxicabs and limousines;

- (4) Grocery stores;
- (5) Gymnasiums;
- (6) Jury waiting and deliberation rooms;
- (7) Courtrooms;
- (8) Child day care facilities;
- (9) Health care facilities including hospitals, health care clinics, doctor's offices or other health-care-related facilities;
- (10) Any workplace not exempted;
- (11) Restrooms, lobbies, reception areas, hallways, and other common-use areas;
- (12) Restaurants as licensed by the Division of Public Health or defined by Title 4 of the Delaware Code;
- (13) Gaming facilities that are open to the public;
- (14) Any indoor sports arena;
- (15) Lobbies, hallways, and other common areas in apartment buildings, condominiums and other multiple-unit residential facilities;
- (16) Lobbies, hallways and other common areas in hotels and motels, and in no less than seventy-five percent (75%) of the sleeping quarters within a hotel or motel that are rented to guests;
- (17) Bowling alleys;
- (18) Billiard or pool halls;
- (19) Retirement facilities and nursing homes not including any private residence;
- (20) Public buildings;
- (21) Auditoria;
- (22) Theaters;
- (23) Museums;
- (24) Libraries;
- (25) Public and non-public schools;
- (26) Other educational and vocational institutions.

(27) Establishments defined as a motorsports speedway, tavern or taproom by Title 4 of the Delaware Code."

Section 8. Amend § 2904, Chapter 29, Title 16, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§ 2904. Smoking restrictions inapplicable.

(a) Except as provided in subsection (b) of this section, this chapter shall not apply to:

(1) Private homes, private residences and private automobiles, provided however it shall only apply when such homes, residences or vehicles are being used for child care or day care or when the private vehicle is being used for the public transportation of children or as part of health care or day care transportation;

(2) Any indoor area where private social functions are being held when seating arrangements are under the control of the sponsor of the function and not the owner, operator, manager or person in charge of such indoor area;

(3) Limousines under private hire; and

(4) A hotel or motel room rented to 1 or more guests provided that the total percentage of such hotel or motel rooms does not exceed twenty-five percent (25%).

(5) Any fund raising activity or function sponsored by a volunteer fire company, auxiliary of a fire company, or a volunteer ambulance or volunteer rescue company; provided, however, that the fund raising activity or function takes place upon property owned or leased by the volunteer fire, rescue or ambulance company.

(6) Any fund raising activity or function sponsored by a fraternal benefit society as defined by 18 Del C. §6201; provided, however, that the fund raising activity or function takes place upon property owned or leased by said organization."

Section 9. Amend § 2905, Chapter 29, Title 16, Delaware Code by striking said section in its entirety and substituting in lieu thereof the following:

"§ 2905. Posting of signs.

'Warning: Smoking Permitted' signs shall be prominently posted and properly maintained where smoking is permitted pursuant to section 2904(a)(2) and (4) of this chapter. Such signs shall be posted and maintained by the owner, operator, manager, or other person having control of such area. The letters on such signs shall be at least one (1) inch in height."

Section 10. Amend § 2906(b) and (c), Chapter 29, Title 16, Delaware Code by striking said subsections in their entirety and substituting in lieu thereof the following:

"(b) The Department of Health and Social Services shall adopt rules and regulations as are necessary and reasonable to implement remaining provisions of this chapter not affecting employers, employees and the work place.

(b) The Department of Health and Social Services and the Department of Labor may upon request waive the provisions of this Chapter if they determine there are compelling reasons to do so, and such waiver will not significantly affect the health and comfort of non consumers of tobacco products.

(c) The Department of Health and Social Services and the Department of Labor shall file annual reports by the 15<sup>th</sup> of January to the General Assembly outlining their enforcement efforts for the prior year and the results of those efforts. The first report shall be due one year after the effective date of the legislation."

Section 11. Amend § 2907(a), Chapter 29, Title 16, Delaware Code by striking the dollar amounts "\$25" and "\$100" as they appear therein and substituting in lieu thereof the amounts of "\$100" and "\$250" respectively.

Section 12. Amend § 2907(b), Chapter 29, Title 16, Delaware Code by striking the dollar amounts "\$1,000" and "\$5,000" as they appear therein and substituting in lieu thereof the amounts of "\$2,000" and "\$10,000" respectively.

Section 13. Amend § 2908, Chapter 29, Title 16, Delaware Code by striking said section in its entirety.

Section 14. This Act shall become effective 180 days after its enactment into law.