

ACT No. 2003- 314

1 SB126  
2 59521-2  
3 By Senators Figures, Barron, Enfinger, Mitchell, Dixon, Ross,  
4 Mitchem, Roberts, Penn, Means, Tanner, Butler, Steele,  
5 Preuitt, McClain, Denton, Smitherman, Dial, Waggoner, Marsh,  
6 Myers, Byrne, Lee, Escott, Biddle, Erwin, Holley, Bedford,  
7 Little (Z), Little (T), Sanders, and Poole  
8 RFD: Health  
9 First Read: 04-MAR-03

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JUN 16 2003  
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ENROLLED, An Act,

To establish the Alabama Clean Indoor Air Act; to prohibit smoking in certain public places; to request that employers adopt a smoking policy and provide smoke-free areas in places of employment; to prescribe penalties for violations; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the "Alabama Clean Indoor Air Act."

Section 2. The Legislature finds as follows:

(1) Numerous studies have found that tobacco smoke may be a major contributor to indoor air pollution and that breathing secondhand smoke may be a cause of disease, including lung cancer, in nonsmokers. At special risk are children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.

(2) Health hazards induced by breathing secondhand smoke may include lung cancer, heart disease, respiratory

1 infection, and decreased respiratory function, including  
2 bronchospasm.

3 Section 3. As used in this act, the following words  
4 and phrases shall have the following meanings:

5 (1) BAR AND LOUNGE. Any establishment which is  
6 primarily devoted to the serving of alcoholic beverages for  
7 consumption by patrons on the premises and in which the  
8 serving of food is only incidental to the consumption of  
9 beverages. Although a restaurant may contain a bar, the term  
10 "bar" shall not include the restaurant dining area.

11 (2) CHILD CARE FACILITY. Any facility caring for  
12 children.

13 (3) DEPARTMENT. The Alabama Department of Public  
14 Health.

15 (4) EMPLOYER. Any person, partnership, association,  
16 corporation, or nonprofit entity that employs five or more  
17 persons, including the legislative, executive, and judicial  
18 branches of state government; and any county, city, town, or  
19 village or any other political subdivision of the state; any  
20 public authority, commission, agency, or public benefit  
21 corporation; or any other separate corporate instrumentality  
22 or unit of state or local government.

23 (5) GOVERNMENT BUILDING. Any building owned or  
24 operated by the state, including the legislative, executive,  
25 and judicial branches of state government; any county, city,

1 town, or village or any other political subdivision of the  
2 state; any public authority, commission, agency, or public  
3 benefit corporation; or any other separate corporate  
4 instrumentality or unit of state or local government.

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

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

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

19 (9) SERVICE LINE. Any indoor line at which one or  
20 more persons are waiting for or receiving service of any kind,  
21 whether or not the service involves the exchange of money.

22 (10) SMOKING. The burning of a lighted cigarette,  
23 cigar, pipe, or any other matter or substance that contains  
24 tobacco.

1           (11) SMOKING AREA. Any designated area meeting the  
2 requirements of Section 7.

3           Section 4. (a) No person shall smoke in a public  
4 place or at a public meeting except as otherwise provided in  
5 this subsection and in Section 7. This prohibition does not  
6 apply in any of the following places:

7                   (1) Bars and lounges.

8                   (2) Retail tobacco stores and tobacco businesses.

9                   (3) Limousines used under private hire by an  
10 individual or corporation.

11                  (4) Hotel and motel rooms rented to guests, except  
12 for those rooms designated by the hotels and motels as "no  
13 smoking" rooms.

14                  (b) Smoking by patients in a chemical dependency  
15 treatment program or mental health program may be allowed in a  
16 separated well-ventilated area pursuant to a policy  
17 established by the administrator of the program that  
18 identifies circumstances in which prohibiting smoking would  
19 interfere with the treatment of persons recovering from  
20 chemical dependency or mental illness.

21           Section 5. (a) By December 1, 2003, each employer  
22 having an enclosed place of employment may adopt, implement,  
23 make known, and maintain a written smoking policy which shall  
24 contain at a minimum all of the following requirements:

1           (1) Any employee in a place of employment shall have  
2 the right to designate his or her work area as a nonsmoking  
3 area and to post the same with an appropriate sign or signs,  
4 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           Section 6. (a) Pursuant to this section, the person  
18 in charge of a public place may designate an area for the use  
19 of smokers. Notwithstanding the foregoing, a smoking area may  
20 not be designated and no person may smoke in any of the  
21 following unless the area is enclosed and well ventilated:

22           (1) Child care facilities.

23           (2) Hospitals, health care clinics, doctors'  
24 offices, physical therapy facilities, and dentists' offices.

25           (3) Elevators.

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

3                   (5) Government buildings, except private offices.

4                   (6) Restrooms.

5                   (7) Service lines.

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

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

11                   (10) Polling places.

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

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

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

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

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

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

11           Section 7. (a) A "No Smoking" sign or signs, or the  
12 international "No Smoking" symbol, which consists of a  
13 pictorial representation of a burning cigarette enclosed in a  
14 circle with a bar across, shall be prominently posted and  
15 properly maintained where smoking is prohibited by this act,  
16 by the owner, operator, manager, or other person in charge of  
17 the facility. "Smoking Area" signs shall also be posted as  
18 appropriate in public places.

19           (b) The person(s) in charge of a public place who  
20 observes a person in possession of a lighted tobacco product  
21 in apparent violation of this act shall inform that person  
22 that smoking is not permitted in that area by law.

23           Section 8. (1) The department, in cooperation with  
24 other agencies, shall enforce this act and to implement  
25 enforcement shall adopt, in consultation with the State Fire



1 Marshal, rules specifying procedures to be followed by  
2 enforcement personnel in investigating complaints and  
3 notifying alleged violators and rules specifying procedures by  
4 which appeals may be taken by aggrieved parties.

5 (2) Public agencies responsible for the management  
6 and maintenance of government buildings shall report observed  
7 violations to the department. The State Fire Marshal shall  
8 report to the department observed violations of Section 5 or 6  
9 found during its periodic inspections conducted pursuant to  
10 its regulatory authority. The department or division, upon  
11 notification of observed violations of Section 5 or 6, shall  
12 issue to the proprietor or other person in charge of the  
13 public place a notice to comply with Section 5 or 6, or both.  
14 If such person fails to comply within 30 days after receipt of  
15 such notice, the department or the division shall assess a  
16 civil penalty against him or her not to exceed fifty dollars  
17 (\$50) for the first violation, not to exceed one hundred  
18 dollars (\$100) for the second violation, and not to exceed two  
19 hundred dollars (\$200) for each subsequent violation. The  
20 imposition of a civil penalty shall be in accordance with the  
21 Alabama Administrative Procedure Act. If a person refuses to  
22 comply with the provisions of this act, after having been  
23 assessed a penalty pursuant to this section, the department or  
24 the division may file a complaint in the circuit court of the

1 county in which such public place is located to require  
2 compliance.

3 (3) All fine moneys collected pursuant to this  
4 section shall be deposited into the State General Fund.

5 Section 9. Any person who violates Section 4 of this  
6 act commits a violation, punishable by a fine of twenty-five  
7 dollars (\$25) for each violation. Jurisdiction shall be with  
8 the appropriate district or municipal court. A charge of a  
9 violation shall be treated in the same manner as a traffic  
10 citation. Any law enforcement officer may issue a citation  
11 pursuant to this section.

12 Section 10. The provisions of this act are declared  
13 to be severable, and if any provision, word, phrase, or clause  
14 of this act or the application thereof to any person shall be  
15 held invalid, such invalidity shall not affect the validity of  
16 the remaining portions of this act.

17 Section 11. Nothing herein shall be construed to  
18 restrict the power of any county, city, town, or village to  
19 adopt and enforce local laws, ordinances, or regulations that  
20 comply with at least the minimum applicable standards set  
21 forth in this act.

22 Section 12. Although this bill would have as its  
23 purpose or effect the requirement of a new or increased  
24 expenditure of local funds, the bill is excluded from further  
25 requirements and application under Amendment 621 because the

1 bill defines a new crime or amends the definition of an  
2 existing crime.

3 Section 13. This act shall become effective on the  
4 first day of the third month following its passage and  
5 approval by the Governor, or its otherwise becoming law.

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*Lucy Baxley*

President and Presiding Officer of the Senate

*Monty H. Smith*

Speaker of the House of Representatives

Senate 11-MAR-03

I hereby certify that the within Act originated in and passed the Senate.

Senate 16-JUN-03

I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

McDowell Lee  
Secretary

House of Representatives  
Passed: 17-APR-03, as amended

House of Representatives  
Passed: 16-JUN-2003, as amended by Conference Committee Report.

By: Senator Figures

APPROVED 6-18 1903

TIME 10:30 Am

*[Signature]*  
Alabama Secretary Of State

GOVERNOR..... 2003-314  
BILL NUM.... S-126