

SENATE BILL 91

J1
SB 298/06 – FIN

71r0706

By: **Senators Garagiola, Britt, Currie, Forehand, Frosh, Gladden, Jones, Kelley, Kramer, Lenett, Madaleno, McFadden, Muse, Peters, Pinsky, Pugh, Raskin, Robey, Rosapepe, and Zirkin**

Introduced and read first time: January 22, 2007

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2007

CHAPTER _____

1 AN ACT concerning

2 **Clean Indoor Air Act of 2007**

3 FOR the purpose of prohibiting a person from smoking tobacco products except under
4 certain circumstances; authorizing certain counties to regulate smoking under
5 certain circumstances; repealing certain provisions of law concerning tobacco
6 smoking in retail stores; declaring the intent of the General Assembly; stating
7 the purpose of certain provisions of this Act; prohibiting a person from smoking
8 in indoor areas open to the public except under certain circumstances; requiring
9 the posting of certain signs; requiring the Department of Health and Mental
10 Hygiene to adopt certain regulations; requiring the Department of Health and
11 Mental Hygiene to report to the General Assembly regarding certain provisions
12 of this Act; establishing certain penalties for certain violations of this Act;
13 prohibiting smoking in certain places of employment; requiring the Department
14 of Labor, Licensing, and Regulation to adopt certain regulations; requiring the
15 Department of Labor, Licensing, and Regulation to report to the General
16 Assembly regarding the enforcement efforts and the effect of the efforts by the
17 Department of Labor, Licensing, and Regulation; establishing certain penalties
18 for certain violations in certain places of employment; authorizing the health
19 officer of a county to grant a certain waiver under certain circumstances;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 authorizing the health officer of a county to impose certain conditions on a
 2 certain waiver; requiring a health officer of a county to develop certain criteria;
 3 defining certain terms; declaring that nothing in this Act shall be construed to
 4 preempt a certain entity from enacting and enforcing certain measures; making
 5 a stylistic change; providing for a delayed effective date; and generally relating
 6 to the prohibition of smoking in indoor areas open to the public and indoor
 7 places of employment.

8 BY repealing and reenacting, without amendments,
 9 Article 2B – Alcoholic Beverages
 10 Section 1–102(a)(4)
 11 Annotated Code of Maryland
 12 (2005 Replacement Volume and 2006 Supplement)

13 BY repealing and reenacting, with amendments,
 14 Article 25 – County Commissioners
 15 Section 3(jj) and 236B
 16 Annotated Code of Maryland
 17 (2005 Replacement Volume and 2006 Supplement)

18 BY repealing
 19 Article – Business Regulation
 20 Section 2–105(d)
 21 Annotated Code of Maryland
 22 (2004 Replacement Volume and 2006 Supplement)

23 BY repealing and reenacting, with amendments,
 24 Article – Health – General
 25 Section 24–205
 26 Annotated Code of Maryland
 27 (2005 Replacement Volume and 2006 Supplement)

28 BY repealing
 29 Article – Health – General
 30 Section 24–501 through 24–505, inclusive, and the subtitle “Subtitle 5. Tobacco
 31 Smoking in Retail Stores”
 32 Annotated Code of Maryland
 33 (2005 Replacement Volume and 2006 Supplement)

34 BY adding to
 35 Article – Health – General
 36 Section 24–501 through ~~24–509~~ 24–510, inclusive, to be under the new subtitle
 37 “Subtitle 5. Clean Indoor Air Act”

1 **Article 25 – County Commissioners**

2 3.

3 (jj) The County Commissioners of Frederick County may **ADOPT**
 4 **REGULATIONS OR ENACT LAWS THAT ARE AT LEAST AS STRINGENT AS THE**
 5 **PROVISIONS OF TITLE 24, SUBTITLE 5 OF THE HEALTH – GENERAL ARTICLE TO**
 6 regulate the smoking of tobacco products [by designating smoking and no smoking
 7 areas] in public buildings owned, controlled, or financed by the State of Maryland in
 8 Frederick County.

9 236B.

10 The County Commissioners for Washington County may enact ordinances
 11 [regulating] **THAT ARE AT LEAST AS STRINGENT AS THE PROVISIONS OF TITLE**
 12 **24, SUBTITLE 5 OF THE HEALTH – GENERAL ARTICLE TO REGULATE** smoking in
 13 county offices and county office buildings. [Any ordinance enacted shall assure and
 14 provide for employees and the public to smoke in designated smoking places.]

15 **Article – Business Regulation**

16 2–105.

17 [(d) (1) (i) Notwithstanding any regulations adopted by the Secretary
 18 under this section, the smoking of tobacco products is permitted in any of the following
 19 locations unless restricted as authorized under paragraph (3) of this subsection:

20 1. any portion of a private residence which is not open to
 21 the public for business purposes;

22 2. any establishment that:

23 A. is not a restaurant or hotel as defined in Article 2B, §
 24 1–102 of the Code;

25 B. possesses an alcoholic beverages license issued under
 26 Article 2B of the Code that allows consumption of alcoholic beverages on the premises
 27 of the establishment; and

28 C. is generally recognized as a bar or tavern;

29 3. a bar in a hotel or motel;

1 4. a club as defined in Article 2B, § 1–102 of the Code
2 that possesses an alcoholic beverages license issued under Article 2B of the Code and
3 that allows consumption of alcoholic beverages on the premises of the club;

4 5. in the case of a restaurant as defined in Article 2B, §
5 1–102 of the Code:

6 A. if the restaurant does not possess an alcoholic
7 beverages license issued under Article 2B of the Code, a separate enclosed room not to
8 exceed 40% of the total area of the restaurant; or

9 B. if the restaurant possesses an alcoholic beverages
10 license issued under Article 2B of the Code, a bar or bar area, a separate enclosed
11 room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a
12 separate enclosed room not exceeding 40% of the total area of the restaurant including
13 the bar or bar area;

14 6. up to 40% of the sleeping rooms in a hotel or motel;

15 7. a separate enclosed room of an establishment other
16 than an establishment specified in items 1 through 6 of this subparagraph that
17 possesses an alcoholic beverages license issued under Article 2B of the Code that
18 allows consumption of alcoholic beverages on the premises of the establishment; or

19 8. up to 40% of the premises of a fraternal, religious,
20 patriotic, or charitable organization or corporation or fire company or rescue squad
21 that is subject to the authority of the Secretary during an event that the organization
22 or corporation holds on its own property and which is open to the public.

23 (ii) A separate enclosed room in which smoking is permitted
24 under subparagraph (i) of this paragraph is not required to have a specially modified
25 ventilation system for the room.

26 (2) For the purposes of paragraph (1)(i)5B of this subsection, “bar or
27 bar area” means an area within a restaurant that is devoted to the serving of alcoholic
28 beverages for consumption by guests on the premises and in which the serving of food
29 is incidental to the consumption of the alcoholic beverages, and the immediately
30 adjacent seating area.

1 (2) Smoking permitted under this section shall be in designated areas
2 that are considered safe and provide nonsmoking patients, family members, and
3 employees protection from tobacco smoke.

4 (3) Smoking may not be permitted where nonsmoking patients sleep.

5 [Subtitle 5. Tobacco Smoking in Retail Stores.]

6 [24-501.

7 (a) In this subtitle the following words have the meanings indicated.

8 (b) “Public area” means a room or a portion of a room or other area to which
9 the public has ready access.

10 (c) “Retail store” means any establishment employing 20 or more full-time
11 persons whose primary purpose is to sell to consumers any goods, wares, food for
12 consumption off the premises, or merchandise.

13 (d) “Smoking” means the act of smoking or carrying a burning:

14 (1) Cigar;

15 (2) Cigarette;

16 (3) Pipe; or

17 (4) Other tobacco product of any kind.

18 (e) “Supervisor” means the person who controls, governs, or directs the
19 activities in a retail store.]

20 [24-502.

21 (a) The provisions of this subtitle do not apply to:

22 (1) A restaurant;

23 (2) A restaurant area of a retail store;

24 (3) A tobacconist;

1 (4) A lavatory or restroom in a retail store; or

2 (5) A work area of a retail store:

3 (i) To which the public does not have access; and

4 (ii) That can be physically isolated by a room with doors closed.

5 (b) Except as provided in this subtitle, an individual or employee may not
6 smoke in the public area of a retail store in this State.]

7 [24-503.

8 (a) A supervisor shall provide for the posting and placement of conspicuous
9 signs that clearly indicate that smoking is not permitted in the public area of a retail
10 store.

11 (b) A supervisor violates this subtitle if the supervisor fails to comply with
12 the provision of subsection (a) of this section.

13 (c) A supervisor does not violate this section if:

14 (1) The supervisor complies with the provision of subsection (a) of this
15 section; and

16 (2) The public or employees persist in or continue their smoking in a
17 public area.]

18 [24-504.

19 (a) The Secretary shall adopt rules and regulations to enforce the provisions
20 of this subtitle.

21 (b) A person who violates § 24-503(a) of this subtitle is subject to a civil
22 penalty of \$25.]

23 [24-505.

24 (a) Except as provided in subsection (b) of this section, this subtitle does not
25 prohibit any county or municipal corporation of the State from enacting an ordinance,
26 resolution, law, or rule that is more stringent than the provisions of this subtitle.

1 (b) Charles County and St. Mary's County may not enact an ordinance,
2 resolution, law, or rule that is more stringent than the provisions of this subtitle.]

3 **SUBTITLE 5. CLEAN INDOOR AIR ACT.**

4 **24-501.**

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (B) "EMPLOYEE" HAS THE MEANING STATED IN § 5-101 OF THE LABOR
8 AND EMPLOYMENT ARTICLE.

9 (C) "EMPLOYER" HAS THE MEANING STATED IN § 5-101 OF THE LABOR
10 AND EMPLOYMENT ARTICLE.

11 (D) "ENVIRONMENTAL TOBACCO SMOKE" MEANS THE COMPLEX
12 MIXTURE FORMED FROM THE ESCAPING SMOKE OF A BURNING TOBACCO
13 PRODUCT OR SMOKE EXHALED BY THE SMOKER.

14 (E) "INDOOR AREA OPEN TO THE PUBLIC" MEANS AN INDOOR AREA OR
15 A PORTION OF AN INDOOR AREA ACCESSIBLE TO THE PUBLIC BY EITHER
16 INVITATION OR PERMISSION.

17 (F) "PLACE OF EMPLOYMENT" HAS THE MEANING STATED IN § 5-101
18 OF THE LABOR AND EMPLOYMENT ARTICLE.

19 (G) "SMOKING" MEANS THE BURNING OF A LIGHTED CIGARETTE,
20 CIGAR, PIPE, OR ANY OTHER MATTER OR SUBSTANCE THAT CONTAINS TOBACCO.

21 **24-502.**

22 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE
23 PROTECT THE PUBLIC AND EMPLOYEES FROM INVOLUNTARY EXPOSURE TO
24 ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC,
25 INDOOR PLACES OF EMPLOYMENT, AND CERTAIN DESIGNATED PRIVATE AREAS.

26 **24-503.**

1 **THE PURPOSE OF THIS SUBTITLE IS TO PRESERVE AND IMPROVE THE**
 2 **HEALTH, COMFORT, AND ENVIRONMENT OF THE PEOPLE OF THE STATE BY**
 3 **LIMITING EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE.**

4 **24-504.**

5 **EXCEPT AS PROVIDED IN § 24-505 OF THIS SUBTITLE, A PERSON MAY NOT**
 6 **SMOKE IN:**

7 (1) **AN INDOOR AREA OPEN TO THE PUBLIC;**

8 (2) **AN INDOOR PLACE IN WHICH MEETINGS ARE OPEN TO THE**
 9 **PUBLIC IN ACCORDANCE WITH TITLE 10, SUBTITLE 5 OF THE STATE**
 10 **GOVERNMENT ARTICLE;**

11 (3) **A GOVERNMENT-OWNED OR GOVERNMENT-OPERATED**
 12 **MEANS OF MASS TRANSPORTATION INCLUDING BUSES, VANS, TRAINS,**
 13 **TAXICABS, AND LIMOUSINES; OR**

14 (4) **AN INDOOR PLACE OF EMPLOYMENT.**

15 **24-505.**

16 **THIS SUBTITLE DOES NOT APPLY TO:**

17 (1) **PRIVATE HOMES, RESIDENCES, AND AUTOMOBILES, UNLESS**
 18 **BEING USED FOR CHILD CARE, DAY CARE, THE PUBLIC TRANSPORTATION OF**
 19 **CHILDREN, OR AS PART OF HEALTH CARE OR DAY CARE TRANSPORTATION;**

20 (2) **A HOTEL OR MOTEL ROOM RENTED TO ONE OR MORE GUESTS**
 21 **AS LONG AS THE TOTAL PERCENT OF HOTEL OR MOTEL ROOMS BEING SO USED**
 22 **DOES NOT EXCEED 25%; ~~OR~~**

23 (3) **A RETAIL TOBACCO ~~SHOP THAT:~~**

24 ~~(i) **DERIVES AT LEAST 70% OF ITS REVENUES, MEASURED**~~
 25 ~~**BY AVERAGE DAILY RECEIPTS, FROM THE SALE OF NONCIGARETTE TOBACCO**~~
 26 ~~**PRODUCTS; AND**~~

1 ~~(H) HAS A VENTILATION SYSTEM THAT PREVENTS SMOKE~~
2 ~~FROM INFILTRATING INTO ANY AREA WHERE SMOKING IS PROHIBITED UNDER~~
3 ~~THIS SUBTITLE. BUSINESS THAT IS A SOLE PROPRIETORSHIP, LIMITED~~
4 ~~LIABILITY COMPANY, CORPORATION, PARTNERSHIP, OR OTHER ENTERPRISE, IN~~
5 ~~WHICH:~~

6 (I) THE PRIMARY ACTIVITY IS THE RETAIL SALE OF
7 TOBACCO PRODUCTS AND ACCESSORIES; AND

8 (II) THE SALE OF OTHER PRODUCTS IS INCIDENTAL; OR

9 (4) A CLUB AS DEFINED IN ARTICLE 2B, § 1-102(A)(4) OF THE
10 CODE.

11 **24-506.**

12 (A) SIGNS THAT STATE "SMOKING PERMITTED IN THIS ROOM" SHALL
13 BE PROMINENTLY POSTED AND PROPERLY MAINTAINED WHERE SMOKING IS
14 ALLOWED UNDER § 24-505(2) OF THIS SUBTITLE.

15 (B) THE SIGNS SHALL BE POSTED AND MAINTAINED BY THE OWNER,
16 OPERATOR, MANAGER, OR OTHER PERSON HAVING CONTROL OF THE AREA.

17 (C) THE LETTERS ON THE SIGNS SHALL BE AT LEAST 1 INCH IN HEIGHT.

18 **24-507.**

19 (A) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROHIBIT
20 ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC.

21 (B) ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT
22 SHALL REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT
23 ARTICLE, TO THE GENERAL ASSEMBLY ON:

24 (1) THE ENFORCEMENT EFFORTS OF THE DEPARTMENT TO
25 ELIMINATE ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE
26 PUBLIC DURING THE PRIOR YEAR; AND

27 (2) THE RESULTS OF THESE ENFORCEMENT EFFORTS.

1 **24-508.**

2 **(A) UPON THE REQUEST OF A RESTAURANT, COFFEE SHOP, TEA ROOM,**
3 **OR SIMILAR ESTABLISHMENT, OR AN ESTABLISHMENT THAT IS GENERALLY**
4 **RECOGNIZED AS A BAR OR TAVERN, THE HEALTH OFFICER OF A COUNTY MAY**
5 **GRANT A WAIVER FROM THE PROVISIONS OF THIS SUBTITLE IF:**

6 **(1) COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE**
7 **CAUSES UNDUE FINANCIAL HARDSHIP; OR**

8 **(2) OTHER FACTORS EXIST THAT RENDER COMPLIANCE WITH**
9 **THIS SUBTITLE UNREASONABLE.**

10 **(B) THE HEALTH OFFICER OF A COUNTY MAY IMPOSE CONDITIONS OR**
11 **RESTRICTIONS ON A WAIVER GRANTED UNDER SUBSECTION (A) OF THIS**
12 **SECTION TO:**

13 **(1) MINIMIZE THE ADVERSE EFFECTS OF THE WAIVER ON**
14 **INDIVIDUALS INVOLUNTARILY EXPOSED TO SECONDHAND SMOKE; AND**

15 **(2) ENSURE THAT THE WAIVER IS CONSISTENT WITH THE**
16 **PURPOSES OF THIS SUBTITLE.**

17 **(C) THE HEALTH OFFICER OF A COUNTY SHALL DEVELOP CRITERIA FOR**
18 **GRANTING A WAIVER UNDER SUBSECTION (A) OF THIS SECTION.**

19 **24-509.**

20 **(A) A PERSON OR EMPLOYER WHO VIOLATES A PROVISION OF THIS**
21 **SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE SHALL BE**
22 **CONSIDERED IN VIOLATION OF THIS SUBTITLE AND SHALL BE SUBJECT TO A**
23 **CIVIL PENALTY OF \$100 FOR THE FIRST VIOLATION AND AT LEAST \$250 FOR**
24 **EACH SUBSEQUENT VIOLATION.**

25 **(B) AN EMPLOYER WHO DISCHARGES OR DISCRIMINATES AGAINST AN**
26 **EMPLOYEE BECAUSE THAT EMPLOYEE HAS MADE A COMPLAINT, HAS GIVEN**
27 **INFORMATION TO THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE,**
28 **HAS CAUSED TO BE INSTITUTED OR IS ABOUT TO CAUSE TO BE INSTITUTED A**
29 **PROCEEDING UNDER THIS SUBTITLE, OR HAS TESTIFIED OR IS ABOUT TO**

1 TESTIFY IN A PROCEEDING UNDER THIS SUBTITLE, SHALL BE DEEMED IN
2 VIOLATION OF THIS SUBTITLE AND SHALL BE SUBJECT TO A CIVIL PENALTY OF
3 AT LEAST \$2,000 BUT NOT MORE THAN \$10,000 FOR EACH VIOLATION.

4 ~~24-509.~~ 24-510.

5 THIS SUBTITLE MAY BE CITED AS THE CLEAN INDOOR AIR ACT.

6 Article - Labor and Employment

7 2-106.

8 [(c) (1) (i) Notwithstanding any regulations adopted by the
9 Commissioner under this section, the smoking of tobacco products is permitted in any
10 of the following locations unless restricted as authorized under paragraph (3) of this
11 subsection:

12 1. any portion of a private residence which is not open to
13 the public for business purposes;

14 2. any establishment that:

15 A. is not a restaurant or hotel as defined in Article 2B, §
16 1-102 of the Code;

17 B. possesses an alcoholic beverages license issued under
18 Article 2B of the Code that allows consumption of alcoholic beverages on the premises
19 of the establishment; and

20 C. is generally recognized as a bar or tavern;

21 3. a bar in a hotel or motel;

22 4. a club as defined in Article 2B, § 1-102 of the Code
23 that possesses an alcoholic beverages license issued under Article 2B of the Code and
24 that allows consumption of alcoholic beverages on the premises of the club;

25 5. in the case of a restaurant as defined in Article 2B, §
26 1-102 of the Code:

1 A. if the restaurant does not possess an alcoholic
2 beverages license issued under Article 2B of the Code, a separate enclosed room not to
3 exceed 40% of the total area of the restaurant; or

4 B. if the restaurant possesses an alcoholic beverages
5 license issued under Article 2B of the Code, a bar or bar area, a separate enclosed
6 room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a
7 separate enclosed room not exceeding 40% of the total area of the restaurant including
8 the bar or bar area;

9 6. up to 40% of the sleeping rooms in a hotel or motel;

10 7. a separate enclosed room of an establishment other
11 than an establishment specified in items 1 through 6 of this subparagraph that
12 possesses an alcoholic beverages license issued under Article 2B of the Code that
13 allows consumption of alcoholic beverages on the premises of the establishment; or

14 8. up to 40% of the premises of a fraternal, religious,
15 patriotic, or charitable organization or corporation or fire company or rescue squad
16 that is subject to the authority of the Secretary during an event that the organization
17 or corporation holds on its own property and which is open to the public.

18 (ii) A separate enclosed room in which smoking is permitted
19 under subparagraph (i) of this paragraph is not required to have a specially modified
20 ventilation system for the room.

21 (2) For the purposes of paragraph (1)(i)5B of this subsection, “bar or
22 bar area” means an area within a restaurant that is devoted to the serving of alcoholic
23 beverages for consumption by guests on the premises and in which the serving of food
24 is incidental to the consumption of the alcoholic beverages, and the immediately
25 adjacent seating area.

26 (3) Notwithstanding the provisions of this subsection, a proprietor of
27 an establishment described in paragraph (1) of this subsection may restrict or prohibit
28 smoking on the premises of the establishment.]

29 5–101.

30 (a) In this title the following words have the meanings indicated.

31 (c) (1) “Employee” means, except as provided in § 5–401 of this title, an
32 individual whom an employer employs, for a wage or other compensation, in the
33 business of the employer.

1 (2) “Employee” includes:

2 (i) an individual whom a governmental unit employs;

3 (ii) an individual who is licensed as a taxicab driver and leases
4 or rents a taxicab from a person who operates or owns a taxicab business in Baltimore
5 City;

6 (iii) an individual who is employed for part–time or temporary
7 help by a governmental unit or person who engages in a business that directly employs
8 individuals to provide part–time or temporary help to another governmental unit or
9 person; and

10 (iv) an individual who performs work for a governmental unit or
11 person to whom the individual is provided by another governmental unit or person
12 who engages in a business that directly employs individuals to provide part–time or
13 temporary help.

14 (d) (1) “Employer” means:

15 (i) except as provided in § 5–401 of this title, a person who is
16 engaged in commerce, industry, trade, or other business in the State and employs at
17 least 1 employee in that business; or

18 (ii) a public body.

19 (2) “Employer” includes:

20 (i) a person who operates or owns a taxicab business in
21 Baltimore City and leases or rents a taxicab to a licensed taxicab driver, to provide
22 services to the public;

23 (ii) a governmental unit or person who engages in a business
24 that directly employs individuals to provide part–time or temporary help to another
25 governmental unit or person; and

26 (iii) a governmental unit or person who contracts directly with
27 another governmental unit or person who engages in a business that directly employs
28 individuals to provide part–time or temporary help to another governmental unit or
29 person.

1 (g) "Place of employment" means a place in or about which an employee is
2 allowed to work.

3 5-314.

4 [(c) (1) (i) Notwithstanding any regulations adopted by the
5 Commissioner under this section, the smoking of tobacco products is permitted in any
6 of the following locations unless restricted as authorized under paragraph (3) of this
7 subsection:

8 1. any portion of a private residence which is not open to
9 the public for business purposes;

10 2. any establishment that:

11 A. is not a restaurant or hotel as defined in Article 2B, §
12 1-102 of the Code;

13 B. possesses an alcoholic beverages license issued under
14 Article 2B of the Code that allows consumption of alcoholic beverages on the premises
15 of the establishment; and

16 C. is generally recognized as a bar or tavern;

17 3. a bar in a hotel or motel;

18 4. a club as defined in Article 2B, § 1-102 of the Code
19 that possesses an alcoholic beverages license issued under Article 2B of the Code and
20 that allows consumption of alcoholic beverages on the premises of the club;

21 5. in the case of a restaurant as defined in Article 2B, §
22 1-102 of the Code:

23 A. if the restaurant does not possess an alcoholic
24 beverages license issued under Article 2B of the Code, a separate enclosed room not to
25 exceed 40% of the total area of the restaurant; or

26 B. if the restaurant possesses an alcoholic beverages
27 license issued under Article 2B of the Code, a bar or bar area, a separate enclosed
28 room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a
29 separate enclosed room not exceeding 40% of the total area of the restaurant including
30 the bar or bar area;

1 6. up to 40% of the sleeping rooms in a hotel or motel;

2 7. a separate enclosed room of an establishment other
3 than an establishment specified in items 1 through 6 of this subparagraph that
4 possesses an alcoholic beverages license issued under Article 2B of the Code that
5 allows consumption of alcoholic beverages on the premises of the establishment; or

6 8. up to 40% of the premises of a fraternal, religious,
7 patriotic, or charitable organization or corporation or fire company or rescue squad
8 that is subject to the authority of the Secretary during an event that the organization
9 or corporation holds on its own property and which is open to the public.

10 (ii) A separate enclosed room in which smoking is permitted
11 under subparagraph (i) of this paragraph is not required to have a specially modified
12 ventilation system for the room.

13 (2) For the purposes of paragraph (1)(i)5B of this subsection, “bar or
14 bar area” means an area within a restaurant that is devoted to the serving of alcoholic
15 beverages for consumption by guests on the premises and in which the serving of food
16 is incidental to the consumption of the alcoholic beverages, and the immediately
17 adjacent seating area.

18 (3) Notwithstanding the provisions of this subsection, a proprietor of
19 an establishment described in paragraph (1) of this subsection may restrict or prohibit
20 smoking on the premises of the establishment.]

21 **5-608.**

22 **(A) EXCEPT AS PROVIDED IN § 24-505 OF THE HEALTH – GENERAL**
23 **ARTICLE, AN INDIVIDUAL MAY NOT SMOKE IN AN INDOOR PLACE OF**
24 **EMPLOYMENT.**

25 **(B) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROHIBIT**
26 **ENVIRONMENTAL TOBACCO SMOKE, AS DEFINED IN § 24-501 OF THE**
27 **HEALTH – GENERAL ARTICLE, IN INDOOR PLACES OF EMPLOYMENT NOT**
28 **NORMALLY OPEN TO THE GENERAL PUBLIC.**

29 **(C) ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT**
30 **SHALL REPORT TO THE GENERAL ASSEMBLY ON:**

1 **(1) THE ENFORCEMENT EFFORTS OF THE DEPARTMENT TO**
 2 **ELIMINATE ENVIRONMENTAL TOBACCO SMOKE, AS DEFINED IN § 24-501 OF THE**
 3 **HEALTH – GENERAL ARTICLE, IN INDOOR PLACES OF EMPLOYMENT DURING**
 4 **THE PRIOR YEAR; AND**

5 **(2) THE RESULTS OF THESE ENFORCEMENT EFFORTS.**

6 **(D) AN EMPLOYER WHO DISCHARGES OR DISCRIMINATES AGAINST AN**
 7 **EMPLOYEE BECAUSE THAT EMPLOYEE HAS MADE A COMPLAINT UNDER THIS**
 8 **SECTION, HAS GIVEN INFORMATION TO THE DEPARTMENT IN ACCORDANCE**
 9 **WITH THIS SECTION, HAS CAUSED TO BE INSTITUTED OR IS ABOUT TO CAUSE TO**
 10 **BE INSTITUTED A PROCEEDING UNDER THIS SECTION, OR HAS TESTIFIED OR IS**
 11 **ABOUT TO TESTIFY IN A PROCEEDING, SHALL BE DEEMED IN VIOLATION OF THIS**
 12 **SECTION AND SHALL BE SUBJECT TO A CIVIL PENALTY OF AT LEAST \$2,000 BUT**
 13 **NOT MORE THAN \$10,000 FOR EACH VIOLATION.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2-106(d) and
 15 (e), respectively, of Article – Labor and Employment of the Annotated Code of
 16 Maryland be renumbered to be Section(s) 2-106(c) and (d), respectively.

17 SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act shall
 18 be construed to preempt a county or municipal government from enacting and
 19 enforcing more stringent measures to reduce involuntary exposure to environmental
 20 tobacco smoke.

21 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
 22 ~~October 1, 2007~~ January 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.