
By: Delegates Jacobs and Arnick

Introduced and read first time: January 25, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Smoking in the Workplace - Exemption - Automobile Repair or Body Facilities**

3 FOR the purpose of allowing the smoking of tobacco products in certain automobile
4 repair or body facilities under certain circumstances notwithstanding any
5 regulations adopted by the Secretary of Labor, Licensing, and Regulation or the
6 Commissioner of Labor and Industry; allowing smoking in certain automobile repair
7 or body facilities that comply with certain federal and State ventilation regulations
8 or that operate with open ports or doors and meet certain federal and State
9 occupational safety and health regulations; and generally relating to the smoking of
10 tobacco products in certain workplaces.

11 BY repealing and reenacting, with amendments,
12 Article - Business Regulation
13 Section 2-105
14 Annotated Code of Maryland
15 (1992 Volume and 1995 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Labor and Employment
18 Section 2-106 and 5-314
19 Annotated Code of Maryland
20 (1991 Volume and 1995 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Business Regulation**

24 2-105.

25 (a) The Secretary may adopt regulations for the Office of the Secretary.

26 (b) Before a unit in the Department publishes a proposed regulation under §
27 10-112 of the State Government Article, the unit shall submit the proposed regulation to
28 the Secretary.

29 (c) (1) Except as provided in subsection (d) of this section, the Secretary may
30 approve any proposed regulation.

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1 (2) Within 30 days after submission of a proposed regulation on a
2 regulatory, supervisory, quasi-judicial, disciplinary, or enforcement function of a unit, the
3 Secretary may disapprove the proposed regulation but only if the Secretary finds that it:

4 (i) would discourage competition within a regulated occupation or
5 profession;

6 (ii) would unfairly restrict entry of applicants into a regulated
7 occupation or profession; or

8 (iii) otherwise is contrary to the public interest.

9 (3) The Secretary may disapprove or revise any other proposed regulation.

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

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

15 2. any establishment that:

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

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

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

22 3. a bar in a hotel or motel;

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

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

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

31 B. if the restaurant possesses an alcoholic beverages license
32 issued under Article 2B of the Code, a bar or bar area, a separate enclosed room not
33 exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate
34 enclosed room not exceeding 40% of the total area of the restaurant including the bar or
35 bar area;

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

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

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

9 9. AN AUTOMOTIVE REPAIR FACILITY AS DEFINED IN §
10 14-1001 OF THE COMMERCIAL LAW ARTICLE, OR AN AUTOMOBILE BODY FACILITY
11 THAT:

12 A. COMPLIES WITH VENTILATION STANDARDS THAT ARE
13 REQUIRED OF THE FACILITY UNDER TITLE 29, SUBTITLE 19 OF THE CODE OF
14 FEDERAL REGULATIONS OR STATE REGULATIONS RELATING TO SPECIFIC
15 VENTILATION REQUIREMENTS FOR CONFINED SPACES OR FIRE OR EXPLOSION
16 PREVENTION; OR

17 B. OPERATES WITH OPEN PORTS OR OPEN DOORS THROUGH
18 WHICH MOTOR VEHICLES MAY ENTER AND EXIT THE FACILITY AND MEETS STATE
19 AND FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS OR
20 REGULATIONS THAT RELATE TO FIRE OR EXPLOSION PREVENTION.

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

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

29 (3) Notwithstanding the provisions of this subsection, a proprietor of an
30 establishment described in paragraph (1) of this subsection may restrict or prohibit
31 smoking on the premises of the establishment.

32 **Article - Labor and Employment**

33 2-106.

34 (a) The Commissioner shall adopt regulations that govern procedure for boards of
35 arbitration under Title 4, Subtitle 1 of this article.

36 (b) Except as provided in subsection (c) of this section, and in addition to
37 authority to adopt regulations that is set forth elsewhere, the Commissioner may adopt
38 regulations that are necessary to carry out:

39 (1) Title 3, Subtitle 3 of this article;

40 (2) Title 3, Subtitle 5 of this article;

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1 (3) Title 4, Subtitle 2, Parts I through III of this article;

2 (4) Title 5 of this article;

3 (5) Title 6 of this article; and

4 (6) Title 7 of this article.

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

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

10 2. any establishment that:

11 A. is not a restaurant or hotel as defined in Article2B, § 1-102
12 of the Code;

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

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

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

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

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

32 7. a separate enclosed room of an establishment otherthan an
33 establishment specified in items 1 through 6 of this subparagraph that possesses an
34 alcoholic beverages license issued under Article 2B of the Code that allows consumption
35 of alcoholic beverages on the premises of the establishment;[or]

36 8. up to 40% of the premises of a fraternal, religious, patriotic,
37 or charitable organization or corporation or fire company or rescue squad that is subject

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1 to the authority of the Secretary during an event that the organization or corporation
2 holds on its own property and which is open to the public; OR

3 9. AN AUTOMOTIVE REPAIR FACILITY AS DEFINED IN §
4 14-1001 OF THE COMMERCIAL LAW ARTICLE, OR AN AUTOMOBILE BODY FACILITY
5 THAT:

6 A. COMPLIES WITH VENTILATION STANDARDS THAT ARE
7 REQUIRED OF THE FACILITY UNDER TITLE 29, SUBTITLE 19 OF THE CODE OF
8 FEDERAL REGULATIONS OR STATE REGULATIONS RELATING TO SPECIFIC
9 VENTILATION REQUIREMENTS FOR CONFINED SPACES OR FIRE OR EXPLOSION
10 PREVENTION; OR

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14 REGULATIONS THAT RELATE TO FIRE OR EXPLOSION PREVENTION.

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

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

23 (3) Notwithstanding the provisions of this subsection, a proprietor of an
24 establishment described in paragraph (1) of this subsection may restrict or prohibit
25 smoking on the premises of the establishment.

26 (d) (1) After a public hearing and with the approval of the Advisory Committee
27 on Wage and Hour Law, the Commissioner may adopt regulations that are necessary to
28 carry out Title 3, Subtitle 4 of this article.

29 (2) Unless the Commissioner provides otherwise, a regulation that the
30 Commissioner adopts under this subsection takes effect on publication.

31 (e) The Commissioner may adopt regulations that set forth the conditions under
32 which an employer may require an employee to construct, erect, install, maintain, or
33 repair a line that conducts electricity and that has a nominal voltage exceeding:

34 (1) 24,940 volts between a pair of conductors; or

35 (2) 14,400 volts between a conductor and a ground.

36 5-314.

37 (a) Except as provided in subsection (c) of this section, and notwithstanding any
38 other provision of this subtitle but subject to the limitations on emergency adoption in
39 Title 10, Subtitle 1 of the State Government Article, the Commissioner may adopt

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1 immediately an emergency occupational safety and health standard that the
2 Commissioner determines is needed to protect employees from the grave danger of:

3 (1) a new hazard; or

4 (2) exposure to an agent or circumstance determined to be toxic or
5 physically harmful.

6 (b) An emergency occupational safety and health standard adopted under this
7 section remains in effect until the earlier of:

8 (1) expiration of a period that the Joint Committee on Administrative,
9 Executive, and Legislative Review sets;

10 (2) expiration of a period, not exceeding 6 months, that the Commissioner
11 sets; or

12 (3) replacement of the emergency occupational safety and health standard
13 by another regulation.

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

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

19 2. any establishment that:

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

22 B. possesses an alcoholic beverages license issued under Article
23 2B of the Code that allows consumption of alcoholic beverages on the premises of the
24 establishment; and

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

26 3. a bar in a hotel or motel;

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

30 5. in the case of a restaurant as defined in Article 2B, § 1-102
31 of the Code[;];

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

35 B. if the restaurant possesses an alcoholic beverages license
36 issued under Article 2B of the Code, a bar or bar area, a separate enclosed room not
37 exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate

HOUSE BILL 327

7

1 enclosed room not exceeding 40% of the total area of the restaurant including the bar or
2 bar area;

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

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

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

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24 (ii) A separate enclosed room in which smoking is permitted under
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26 system for the room.

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

32 (3) Notwithstanding the provisions of this subsection, a proprietor of an
33 establishment described in paragraph (1) of this subsection may restrict or prohibit
34 smoking on the premises of the establishment.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 1996.