

(PRE-FILED)

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By: **Delegate Frush**  
Requested: October 16, 2000  
Introduced and read first time: January 10, 2001  
Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Occupational Safety and Health Standards - Emergency Regulations -**  
3 **Smoking in Bars**

4 FOR the purpose of repealing certain exemptions to emergency occupational health  
5 and safety standards that allow the smoking of tobacco products in bars,  
6 taverns, or clubs, including bars in hotels, motels, and restaurants.

7 BY repealing and reenacting, with amendments,  
8 Article - Labor and Employment  
9 Section 5-314  
10 Annotated Code of Maryland  
11 (1999 Replacement Volume and 2000 Supplement)

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

14 **Article - Labor and Employment**

15 5-314.

16 (a) Except as provided in subsection (c) of this section, and notwithstanding  
17 any other provision of this subtitle but subject to the limitations on emergency  
18 adoption in Title 10, Subtitle 1 of the State Government Article, the Commissioner  
19 may adopt immediately an emergency occupational safety and health standard that  
20 the Commissioner determines is needed to protect employees from the grave danger  
21 of:

22 (1) a new hazard; or

23 (2) exposure to an agent or circumstance determined to be toxic or  
24 physically harmful.

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

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

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

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

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

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

13 [2. any establishment that:

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

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

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

20 3. a bar in a hotel or motel;

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

24 5.] 2. in the case of a restaurant as defined in Article 2B, §  
25 1-102 of the Code[:

26 A. if the restaurant does not possess an alcoholic beverages  
27 license issued under Article 2B of the Code], a separate enclosed room THAT IS NOT A  
28 BAR OR BAR AREA AND DOES not [to] exceed 40% of the total area of the restaurant;  
29 [or

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

35 6.] 3. up to 40% of the sleeping rooms in a hotel or motel;

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

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

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

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

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

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2001.