
By: **Delegates Frush, Anderson, Barkley, Benson, Bobo, Bronrott, Burns, Cane, Cardin, Carter, V. Clagett, Conroy, Cryor, D. Davis, Doory, Dumais, Feldman, Franchot, Gaines, Goldwater, Goodwin, Gordon, Gutierrez, Harrison, Heller, Hixson, Holmes, Hubbard, Jones, Kelley, King, Lawton, Lee, Madaleno, Mandel, Marriott, McIntosh, Menes, Moe, Montgomery, Nathan-Pulliam, Niemann, Parker, Patterson, Pendergrass, Petzold, Proctor, Pugh, Ramirez, Rosenberg, Ross, Stern, Taylor, F. Turner, V. Turner, Vaughn, and Zirkin**

Introduced and read first time: January 26, 2006
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2

Clean Indoor Air Act of 2006

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; defining certain terms;
19 declaring that nothing in this Act shall be construed to preempt a certain entity
20 from enacting and enforcing certain measures; and generally relating to the
21 prohibition of smoking in indoor areas open to the public and indoor places of
22 employment.

23 BY repealing and reenacting, with amendments,
24 Article 25 - County Commissioners
25 Section 3(jj) and 236B
26 Annotated Code of Maryland
27 (2005 Replacement Volume)

- 1 BY repealing
- 2 Article - Business Regulation
- 3 Section 2-105(d)
- 4 Annotated Code of Maryland
- 5 (2004 Replacement Volume and 2005 Supplement)

- 6 BY repealing and reenacting, with amendments,
- 7 Article - Health - General
- 8 Section 24-205
- 9 Annotated Code of Maryland
- 10 (2005 Replacement Volume and 2005 Supplement)

- 11 BY repealing
- 12 Article - Health - General
- 13 Section 24-501 through 24-505, inclusive, and the subtitle "Subtitle 5. Tobacco
- 14 Smoking in Retail Stores"
- 15 Annotated Code of Maryland
- 16 (2005 Replacement Volume and 2005 Supplement)

- 17 BY adding to
- 18 Article - Health - General
- 19 Section 24-501 through 24-509, inclusive, to be under the new subtitle "Subtitle
- 20 5. Clean Indoor Air Act"
- 21 Annotated Code of Maryland
- 22 (2005 Replacement Volume and 2005 Supplement)

- 23 BY repealing
- 24 Article - Labor and Employment
- 25 Section 2-106(c) and 5-314(c)
- 26 Annotated Code of Maryland
- 27 (1999 Replacement Volume and 2005 Supplement)

- 28 BY repealing and reenacting, without amendments,
- 29 Article - Labor and Employment
- 30 Section 5-101(a), (c), (d), and (g)
- 31 Annotated Code of Maryland
- 32 (1999 Replacement Volume and 2005 Supplement)

- 33 BY adding to
- 34 Article - Labor and Employment
- 35 Section 5-608
- 36 Annotated Code of Maryland
- 37 (1999 Replacement Volume and 2005 Supplement)

1 BY renumbering
 2 Article - Labor and Employment
 3 Section 2-106(d) and (e), respectively
 4 to be Section 2-106(c) and (d), respectively
 5 Annotated Code of Maryland
 6 (1999 Replacement Volume and 2005 Supplement)

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

9 **Article 25 - County Commissioners**

10 3.

11 (jj) The County Commissioners of Frederick County may ADOPT
 12 REGULATIONS OR ENACT LAWS THAT ARE AT LEAST AS STRINGENT AS THE
 13 PROVISIONS OF TITLE 24, SUBTITLE 5 OF THE HEALTH - GENERAL ARTICLE TO
 14 regulate the smoking of tobacco products [by designating smoking and no smoking
 15 areas] in public buildings owned, controlled, or financed by the State of Maryland in
 16 Frederick County.

17 236B.

18 The County Commissioners for Washington County may enact ordinances
 19 [regulating] THAT ARE AT LEAST AS STRINGENT AS THE PROVISIONS OF TITLE 24,
 20 SUBTITLE 5 OF THE HEALTH - GENERAL ARTICLE TO REGULATE smoking in county
 21 offices and county office buildings. [Any ordinance enacted shall assure and provide
 22 for employees and the public to smoke in designated smoking places.]

23 **Article - Business Regulation**

24 2-105.

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

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

31 2. any establishment that:

32 A. is not a restaurant or hotel as defined in Article 2B, §
 33 1-102 of the Code;

34 B. possesses an alcoholic beverages license issued under
 35 Article 2B of the Code that allows consumption of alcoholic beverages on the premises
 36 of the establishment; and

- 1 C. is generally recognized as a bar or tavern;
- 2 3. a bar in a hotel or motel;
- 3 4. a club as defined in Article 2B, § 1-102 of the Code that
4 possesses an alcoholic beverages license issued under Article 2B of the Code and that
5 allows consumption of alcoholic beverages on the premises of the club;
- 6 5. in the case of a restaurant as defined in Article 2B, §
7 1-102 of the Code:
- 8 A. if the restaurant does not possess an alcoholic beverages
9 license issued under Article 2B of the Code, a separate enclosed room not to exceed
10 40% of the total area of the restaurant; or
- 11 B. if the restaurant possesses an alcoholic beverages license
12 issued under Article 2B of the Code, a bar or bar area, a separate enclosed room not
13 exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate
14 enclosed room not exceeding 40% of the total area of the restaurant including the bar
15 or bar area;
- 16 6. up to 40% of the sleeping rooms in a hotel or motel;
- 17 7. a separate enclosed room of an establishment other than
18 an establishment specified in items 1 through 6 of this subparagraph that possesses
19 an alcoholic beverages license issued under Article 2B of the Code that allows
20 consumption of alcoholic beverages on the premises of the establishment; or
- 21 8. up to 40% of the premises of a fraternal, religious,
22 patriotic, or charitable organization or corporation or fire company or rescue squad
23 that is subject to the authority of the Secretary during an event that the organization
24 or corporation holds on its own property and which is open to the public.
- 25 (ii) A separate enclosed room in which smoking is permitted under
26 subparagraph (i) of this paragraph is not required to have a specially modified
27 ventilation system for the room.
- 28 (2) For the purposes of paragraph (1)(i)5B of this subsection, "bar or bar
29 area" means an area within a restaurant that is devoted to the serving of alcoholic
30 beverages for consumption by guests on the premises and in which the serving of food
31 is incidental to the consumption of the alcoholic beverages, and the immediately
32 adjacent seating area.
- 33 (3) Notwithstanding the provisions of this subsection, a proprietor of an
34 establishment described in paragraph (1) of this subsection may restrict or prohibit
35 smoking on the premises of the establishment.]

Article - Health - General

1
2 24-205.

3 (a) In this section "smoking" means the act of smoking or carrying a burning:

4 (1) Cigar;

5 (2) Cigarette;

6 (3) Pipe; or

7 (4) Other tobacco product of any kind.

8 (b) Every director of a nursing home, health clinic, or physician's office shall
9 make and carry out a plan that adequately protects the health of nonsmoking
10 patients by regulating the smoking of tobacco products on the premises.

11 (c) (1) An individual may not smoke in any area of a hospital.

12 (2) The hospital director shall provide for the posting and placement of
13 conspicuous signs that clearly indicate that smoking is not permitted in the hospital.

14 (d) (1) [This] NOTWITHSTANDING THE PROVISIONS OF § 24-504 OF THIS
15 TITLE, THIS section does not apply to patients who are:

16 (i) In a facility for the treatment of mental disorders as defined in
17 § 10-101(e) of this article;

18 (ii) In a facility where the average patient stay is more than 30
19 days; or

20 (iii) In an acute care hospital and the attending physician
21 authorizes smoking, in writing, as part of the care for the patient.

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

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

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

27 [24-501.

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

29 (b) "Public area" means a room or a portion of a room or other area to which
30 the public has ready access.

1 (c) "Retail store" means any establishment employing 20 or more full-time
2 persons whose primary purpose is to sell to consumers any goods, wares, food for
3 consumption off the premises, or merchandise.

4 (d) "Smoking" means the act of smoking or carrying a burning:

5 (1) Cigar;

6 (2) Cigarette;

7 (3) Pipe; or

8 (4) Other tobacco product of any kind.

9 (e) "Supervisor" means the person who controls, governs, or directs the
10 activities in a retail store.]

11 [24-502.

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

13 (1) A restaurant;

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

15 (3) A tobacconist;

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

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

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

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

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

22 [24-503.

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

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

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

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

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

3 [24-504.

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

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

8 [24-505.

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

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

14 SUBTITLE 5. CLEAN INDOOR AIR ACT.

15 24-501.

16 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
17 INDICATED.

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

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

22 (D) "ENVIRONMENTAL TOBACCO SMOKE" MEANS THE COMPLEX MIXTURE
23 FORMED FROM THE ESCAPING SMOKE OF A BURNING TOBACCO PRODUCT OR SMOKE
24 EXHALED BY THE SMOKER.

25 (E) "INDOOR AREA OPEN TO THE PUBLIC" MEANS AN INDOOR AREA, OR A
26 PORTION OF AN INDOOR AREA, ACCESSIBLE TO THE PUBLIC BY EITHER INVITATION
27 OR PERMISSION.

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

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

32 24-502.

33 IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE PROTECT THE
34 PUBLIC AND EMPLOYEES FROM INVOLUNTARY EXPOSURE TO ENVIRONMENTAL

1 TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC, INDOOR PLACES OF
2 EMPLOYMENT, AND CERTAIN DESIGNATED PRIVATE AREAS.

3 24-503.

4 THE PURPOSE OF THIS SUBTITLE IS TO PRESERVE AND IMPROVE THE HEALTH,
5 COMFORT, AND ENVIRONMENT OF THE PEOPLE OF THE STATE BY LIMITING
6 EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE.

7 24-504.

8 EXCEPT AS PROVIDED IN § 24-505 OF THIS SUBTITLE, A PERSON MAY NOT
9 SMOKE IN:

10 (1) AN INDOOR AREA OPEN TO THE PUBLIC;

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

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

16 (4) AN INDOOR PLACE OF EMPLOYMENT.

17 24-505.

18 THIS SUBTITLE DOES NOT APPLY TO:

19 (1) PRIVATE HOMES, RESIDENCES, INCLUDING RESIDENCES USED AS A
20 BUSINESS OR PLACE OF EMPLOYMENT, AND AUTOMOBILES, UNLESS BEING USED
21 FOR CHILD CARE, DAY CARE, THE PUBLIC TRANSPORTATION OF CHILDREN, OR AS
22 PART OF HEALTH CARE OR DAY CARE TRANSPORTATION;

23 (2) A HOTEL OR MOTEL ROOM RENTED TO ONE OR MORE GUESTS AS
24 LONG AS THE TOTAL PERCENTAGE OF HOTEL OR MOTEL ROOMS BEING SO USED
25 DOES NOT EXCEED 25%; OR

26 (3) AN INDOOR AREA BEING USED FOR THE PURPOSE OF A THEATRICAL
27 PERFORMANCE, A MUSICAL CONCERT, OR THE PRODUCTION OF A FILM IF
28 ENVIRONMENTAL TOBACCO SMOKE IS A PART OF THE PERFORMANCE, CONCERT, OR
29 FILM.

30 24-506.

31 (A) (1) SIGNS THAT STATE "SMOKING PERMITTED IN THIS ROOM" SHALL BE
32 PROMINENTLY POSTED AND PROPERLY MAINTAINED WHERE SMOKING IS ALLOWED
33 UNDER § 24-505(2) OF THIS SUBTITLE.

1 (2) SIGNS THAT STATE "WARNING: SMOKING OCCURS AS PART OF THIS
2 PRODUCTION" SHALL BE PROMINENTLY POSTED AND PROPERLY MAINTAINED
3 WHERE SMOKING IS ALLOWED UNDER § 24-505(3) OF THIS SUBTITLE.

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

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

7 24-507.

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

10 (B) ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, THE DEPARTMENT SHALL
11 REPORT TO THE GENERAL ASSEMBLY ON:

12 (1) THE ENFORCEMENT EFFORTS OF THE DEPARTMENT TO ELIMINATE
13 ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC FOR
14 THE PRIOR YEAR; AND

15 (2) THE RESULTS OF THESE ENFORCEMENT EFFORTS.

16 24-508.

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

21 (B) AN EMPLOYER WHO DISCHARGES OR DISCRIMINATES AGAINST AN
22 EMPLOYEE BECAUSE THAT EMPLOYEE HAS MADE A COMPLAINT, HAS GIVEN
23 INFORMATION TO THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE, HAS
24 CAUSED TO BE INSTITUTED OR IS ABOUT TO CAUSE TO BE INSTITUTED A
25 PROCEEDING UNDER THIS SUBTITLE, OR HAS TESTIFIED OR IS ABOUT TO TESTIFY IN
26 A PROCEEDING UNDER THIS SUBTITLE, SHALL BE DEEMED IN VIOLATION OF THIS
27 SUBTITLE AND SHALL BE SUBJECT TO A CIVIL PENALTY OF AT LEAST \$2,000 BUT NOT
28 MORE THAN \$10,000 FOR EACH VIOLATION.

29 24-509.

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

31 **Article - Labor and Employment**

32 2-106.

33 [(c) (1) (i) Notwithstanding any regulations adopted by the Commissioner
34 under this section, the smoking of tobacco products is permitted in any of the

1 following locations unless restricted as authorized under paragraph (3) of this
2 subsection:

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

5 2. any establishment that:

6 A. is not a restaurant or hotel as defined in Article 2B, §
7 1-102 of the Code;

8 B. possesses an alcoholic beverages license issued under
9 Article 2B of the Code that allows consumption of alcoholic beverages on the premises
10 of the establishment; and

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

12 3. a bar in a hotel or motel;

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

16 5. in the case of a restaurant as defined in Article 2B, §
17 1-102 of the Code:

18 A. if the restaurant does not possess an alcoholic beverages
19 license issued under Article 2B of the Code, a separate enclosed room not to exceed
20 40% of the total area of the restaurant; or

21 B. if the restaurant possesses an alcoholic beverages license
22 issued under Article 2B of the Code, a bar or bar area, a separate enclosed room not
23 exceeding 40% of the restaurant, or a combination of a bar or bar area and a separate
24 enclosed room not exceeding 40% of the total area of the restaurant including the bar
25 or bar area;

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

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

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

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

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

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

12 5-101.

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

14 (c) (1) "Employee" means, except as provided in § 5-401 of this title, an
15 individual whom an employer employs, for a wage or other compensation, in the
16 business of the employer.

17 (2) "Employee" includes:

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

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

22 (iii) an individual who is employed for part-time or temporary help
23 by a governmental unit or person who engages in a business that directly employs
24 individuals to provide part-time or temporary help to another governmental unit or
25 person; and

26 (iv) an individual who performs work for a governmental unit or
27 person to whom the individual is provided by another governmental unit or person
28 who engages in a business that directly employs individuals to provide part-time or
29 temporary help.

30 (d) (1) "Employer" means:

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

34 (ii) a public body.

35 (2) "Employer" includes:

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

4 (ii) a governmental unit or person who engages in a business that
5 directly employs individuals to provide part-time or temporary help to another
6 governmental unit or person; and

7 (iii) a governmental unit or person who contracts directly with
8 another governmental unit or person who engages in a business that directly employs
9 individuals to provide part-time or temporary help to another governmental unit or
10 person.

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

13 5-314.

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
16 following locations unless restricted as authorized under paragraph (3) of this
17 subsection:

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

20 2. any establishment that:

21 A. is not a restaurant or hotel as defined in Article 2B, §
22 1-102 of the Code;

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

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

27 3. a bar in a hotel or motel;

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

31 5. in the case of a restaurant as defined in Article 2B, §
32 1-102 of the Code:

33 A. if the restaurant does not possess an alcoholic beverages
34 license issued under Article 2B of the Code, a separate enclosed room not to exceed
35 40% of the total area of the restaurant; or

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

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

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

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

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
17 ventilation 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
21 is incidental to the consumption of the alcoholic beverages, and the immediately
22 adjacent 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 5-608.

27 (A) EXCEPT AS PROVIDED IN § 24-505 OF THE HEALTH - GENERAL ARTICLE, A
28 PERSON MAY NOT SMOKE IN AN INDOOR PLACE OF EMPLOYMENT.

29 (B) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT PROHIBIT
30 ENVIRONMENTAL TOBACCO SMOKE, AS DEFINED IN § 24-501 OF THE HEALTH -
31 GENERAL ARTICLE, IN INDOOR PLACES OF EMPLOYMENT NOT NORMALLY OPEN TO
32 THE GENERAL PUBLIC.

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

35 (1) THE ENFORCEMENT EFFORTS OF THE DEPARTMENT TO ELIMINATE
36 ENVIRONMENTAL TOBACCO SMOKE, AS DEFINED IN § 24-501 OF THE HEALTH -
37 GENERAL ARTICLE, IN INDOOR PLACES OF EMPLOYMENT FOR THE PRIOR YEAR; AND

38 (2) THE RESULTS OF THESE ENFORCEMENT EFFORTS.

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

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

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

16 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2006.