

# HOUSE BILL 359

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CF SB 91

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By: **Delegates Frush, Ali, Anderson, Aumann, Barkley, Barnes, Barve, Beidle, Benson, Bobo, Braveboy, Bronrott, Cane, Cardin, Carter, V. Clagett, Doory, Dumais, Elmore, Gaines, Gilchrist, Glenn, Goldwater, Griffith, Gutierrez, Guzzone, Haynes, Healey, Hecht, Heller, Holmes, Howard, Hubbard, Hucker, Ivey, Jones, Kach, N. King, Krebs, Kullen, Lafferty, Lawton, Lee, Manno, McIntosh, Mizeur, Montgomery, Morhaim, Murphy, Nathan-Pulliam, Niemann, Pena-Melnyk, Pendergrass, Proctor, Ramirez, Rice, Rosenberg, Ross, Schuh, Simmons, Stein, Stukes, Taylor, F. Turner, V. Turner, Valderrama, Vaughn, and Waldstreicher**

Introduced and read first time: February 2, 2007

Assigned to: Economic Matters

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## A BILL ENTITLED

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

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.



1 for certain violations in certain places of employment; defining certain terms;  
2 declaring that nothing in this Act shall be construed to preempt a certain entity  
3 from enacting and enforcing certain measures; making a stylistic change and  
4 generally relating to the prohibition of smoking in indoor areas open to the  
5 public and indoor places of employment.

6 BY repealing and reenacting, with amendments,  
7 Article 25 – County Commissioners  
8 Section 3(jj) and 236B  
9 Annotated Code of Maryland  
10 (2005 Replacement Volume and 2006 Supplement)

11 BY repealing  
12 Article – Business Regulation  
13 Section 2–105(d)  
14 Annotated Code of Maryland  
15 (2004 Replacement Volume and 2006 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Health – General  
18 Section 24–205  
19 Annotated Code of Maryland  
20 (2005 Replacement Volume and 2006 Supplement)

21 BY repealing  
22 Article – Health – General  
23 Section 24–501 through 24–505, inclusive, and the subtitle “Subtitle 5. Tobacco  
24 Smoking in Retail Stores”  
25 Annotated Code of Maryland  
26 (2005 Replacement Volume and 2006 Supplement)

27 BY adding to  
28 Article – Health – General  
29 Section 24–501 through 24–509, inclusive, to be under the new subtitle  
30 “Subtitle 5. Clean Indoor Air Act”  
31 Annotated Code of Maryland  
32 (2005 Replacement Volume and 2006 Supplement)

33 BY repealing  
34 Article – Labor and Employment  
35 Section 2–106(c) and 5–314(c)  
36 Annotated Code of Maryland  
37 (1999 Replacement Volume and 2006 Supplement)

1 BY repealing and reenacting, without amendments,  
 2 Article – Labor and Employment  
 3 Section 5–101(a), (c), (d), and (g)  
 4 Annotated Code of Maryland  
 5 (1999 Replacement Volume and 2006 Supplement)

6 BY adding to  
 7 Article – Labor and Employment  
 8 Section 5–608  
 9 Annotated Code of Maryland  
 10 (1999 Replacement Volume and 2006 Supplement)

11 BY renumbering  
 12 Article – Labor and Employment  
 13 Section 2–106(d) and (e), respectively  
 14 to be Section 2–106(c) and (d), respectively  
 15 Annotated Code of Maryland  
 16 (1999 Replacement Volume and 2006 Supplement)

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

19 **Article 25 – County Commissioners**

20 3.

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

27 236B.

28 The County Commissioners for Washington County may enact ordinances  
 29 [regulating] **THAT ARE AT LEAST AS STRINGENT AS THE PROVISIONS OF TITLE**  
 30 **24, SUBTITLE 5 OF THE HEALTH – GENERAL ARTICLE TO REGULATE** smoking in  
 31 county offices and county office buildings. [Any ordinance enacted shall assure and  
 32 provide for employees and the public to smoke in designated smoking places.]

**Article – Business Regulation**

2–105.

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

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

2. any establishment that:

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

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

C. is generally recognized as a bar or tavern;

3. a bar in a hotel or motel;

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

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

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

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

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

1                   7.       a separate enclosed room of an establishment other  
 2 than an establishment specified in items 1 through 6 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.       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  
 10 under 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 of this subsection, “bar or  
 13 bar area” means an area within a restaurant that is devoted to the serving of alcoholic  
 14 beverages for consumption by guests on the premises and in which the serving of food  
 15 is incidental to the consumption of the alcoholic beverages, and the immediately  
 16 adjacent seating area.

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

## 20                                   Article – Health – General

21                   24–205.

22                  (a)     In this section, “smoking” means the act of smoking or carrying a  
 23 burning:

24                   (1)     Cigar;

25                   (2)     Cigarette;

26                   (3)     Pipe; or

27                   (4)     Other tobacco product of any kind.

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

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

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

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

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

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

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

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

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

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

17 [24-501.

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

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

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

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

25 (1) Cigar;

26 (2) Cigarette;

1 (3) Pipe; or

2 (4) Other tobacco product of any kind.

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

5 [24-502.

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

7 (1) A restaurant;

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

9 (3) A tobacconist;

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

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

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

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

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

16 [24-503.

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

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

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

23 (1) The supervisor complies with the provision of subsection (a) of this  
24 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  
5 of 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**  
19 **AND EMPLOYMENT ARTICLE.**

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

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

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



1           **(F) “PLACE OF EMPLOYMENT” HAS THE MEANING STATED IN § 5-101**  
2 **OF THE LABOR AND EMPLOYMENT ARTICLE.**

3           **(G) “SMOKING” MEANS THE BURNING OF A LIGHTED CIGARETTE,**  
4 **CIGAR, PIPE, OR ANY OTHER MATTER OR SUBSTANCE THAT CONTAINS TOBACCO.**

5 **24-502.**

6           **IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE STATE**  
7 **PROTECT THE PUBLIC AND EMPLOYEES FROM INVOLUNTARY EXPOSURE TO**  
8 **ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE PUBLIC,**  
9 **INDOOR PLACES OF EMPLOYMENT, AND CERTAIN DESIGNATED PRIVATE AREAS.**

10 **24-503.**

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

14 **24-504.**

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

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

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

21           **(3) A GOVERNMENT-OWNED OR GOVERNMENT-OPERATED**  
22 **MEANS OF MASS TRANSPORTATION INCLUDING BUSES, VANS, TRAINS,**  
23 **TAXICABS, AND LIMOUSINES; OR**

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

25 **24-505.**

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

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

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

8           (3) A RETAIL TOBACCO SHOP THAT:

9                   (I) DERIVES AT LEAST 75% OF ITS REVENUES, MEASURED  
10 BY AVERAGE DAILY RECEIPTS, FROM THE SALE OF NONCIGARETTE TOBACCO  
11 PRODUCTS;

12                   (II) HAS A VENTILATION SYSTEM THAT PREVENTS SMOKE  
13 FROM INFILTRATING INTO ANY AREA WHERE SMOKING IS PROHIBITED UNDER  
14 THIS SUBTITLE; AND

15                   (III) PROHIBITS THE ENTRY OF MINORS AT ALL TIMES.

16 **24-506.**

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

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

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

23 **24-507.**

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

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

3                   **(1) THE ENFORCEMENT EFFORTS OF THE DEPARTMENT TO**  
4 **ELIMINATE ENVIRONMENTAL TOBACCO SMOKE IN INDOOR AREAS OPEN TO THE**  
5 **PUBLIC DURING THE PRIOR YEAR; AND**

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

7 **24-508.**

8           **(A) A PERSON OR EMPLOYER WHO VIOLATES A PROVISION OF THIS**  
9 **SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE SHALL BE**  
10 **CONSIDERED IN VIOLATION OF THIS SUBTITLE AND SHALL BE SUBJECT TO A**  
11 **CIVIL PENALTY OF \$100 FOR THE FIRST VIOLATION AND AT LEAST \$250 FOR**  
12 **EACH SUBSEQUENT VIOLATION.**

13           **(B) AN EMPLOYER WHO DISCHARGES OR DISCRIMINATES AGAINST AN**  
14 **EMPLOYEE BECAUSE THAT EMPLOYEE HAS MADE A COMPLAINT, HAS GIVEN**  
15 **INFORMATION TO THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE,**  
16 **HAS CAUSED TO BE INSTITUTED OR IS ABOUT TO CAUSE TO BE INSTITUTED A**  
17 **PROCEEDING UNDER THIS SUBTITLE, OR HAS TESTIFIED OR IS ABOUT TO**  
18 **TESTIFY IN A PROCEEDING UNDER THIS SUBTITLE, SHALL BE DEEMED IN**  
19 **VIOLATION OF THIS SUBTITLE AND SHALL BE SUBJECT TO A CIVIL PENALTY OF**  
20 **AT LEAST \$2,000 BUT NOT MORE THAN \$10,000 FOR EACH VIOLATION.**

21 **24-509.**

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

23                                   **Article – Labor and Employment**

24 **2-106.**

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

- 1                           1.     any portion of a private residence which is not open to  
2 the public for business purposes;
- 3                           2.     any establishment that:
  - 4                           A.     is not a restaurant or hotel as defined in Article 2B, §  
5 1–102 of the Code;
  - 6                           B.     possesses an alcoholic beverages license issued under  
7 Article 2B of the Code that allows consumption of alcoholic beverages on the premises  
8 of the establishment; and
  - 9                           C.     is generally recognized as a bar or tavern;
- 10                          3.     a bar in a hotel or motel;
- 11                          4.     a club as defined in Article 2B, § 1–102 of the Code  
12 that possesses an alcoholic beverages license issued under Article 2B of the Code and  
13 that allows consumption of alcoholic beverages on the premises of the club;
- 14                          5.     in the case of a restaurant as defined in Article 2B, §  
15 1–102 of the Code:
  - 16                           A.     if the restaurant does not possess an alcoholic  
17 beverages license issued under Article 2B of the Code, a separate enclosed room not to  
18 exceed 40% of the total area of the restaurant; or
  - 19                           B.     if the restaurant possesses an alcoholic beverages  
20 license issued under Article 2B of the Code, a bar or bar area, a separate enclosed  
21 room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a  
22 separate enclosed room not exceeding 40% of the total area of the restaurant including  
23 the bar or bar area;
- 24                          6.     up to 40% of the sleeping rooms in a hotel or motel;
- 25                          7.     a separate enclosed room of an establishment other  
26 than an establishment specified in items 1 through 6 of this subparagraph that  
27 possesses an alcoholic beverages license issued under Article 2B of the Code that  
28 allows consumption of alcoholic beverages on the premises of the establishment; or
- 29                          8.     up to 40% of the premises of a fraternal, religious,  
30 patriotic, or charitable organization or corporation or fire company or rescue squad

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

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

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

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

14 5–101.

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

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

19 (2) “Employee” includes:

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

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

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

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

1 (d) (1) “Employer” means:

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

5 (ii) a public body.

6 (2) “Employer” includes:

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

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

13 (iii) a governmental unit or person who contracts directly with  
14 another governmental unit or person who engages in a business that directly employs  
15 individuals to provide part–time or temporary help to another governmental unit or  
16 person.

17 (g) “Place of employment” means a place in or about which an employee is  
18 allowed to work.

19 5–314.

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

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

26 2. any establishment that:

27 A. is not a restaurant or hotel as defined in Article 2B, §  
28 1–102 of the Code;

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

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

5                   3.     a bar in a hotel or motel;

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

9                   5.     in the case of a restaurant as defined in Article 2B, §  
10 1–102 of the Code:

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

14                   B.     if the restaurant possesses an alcoholic beverages  
15 license issued under Article 2B of the Code, a bar or bar area, a separate enclosed  
16 room not exceeding 40% of the restaurant, or a combination of a bar or bar area and a  
17 separate enclosed room not exceeding 40% of the total area of the restaurant including  
18 the bar or bar area;

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

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

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

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

31                   (2)    For the purposes of paragraph (1)(i)5B of this subsection, “bar or  
32 bar area” means an area within a restaurant that is devoted to the serving of alcoholic

1 beverages for consumption by guests on the premises and in which the serving of food  
2 is incidental to the consumption of the alcoholic beverages, and the immediately  
3 adjacent seating area.

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

7 **5-608.**

8 (A) EXCEPT AS PROVIDED IN § 24-505 OF THE HEALTH - GENERAL  
9 ARTICLE, AN INDIVIDUAL MAY NOT SMOKE IN AN INDOOR PLACE OF  
10 EMPLOYMENT.

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

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

17 (1) THE ENFORCEMENT EFFORTS OF THE DEPARTMENT TO  
18 ELIMINATE ENVIRONMENTAL TOBACCO SMOKE, AS DEFINED IN § 24-501 OF THE  
19 HEALTH - GENERAL ARTICLE, IN INDOOR PLACES OF EMPLOYMENT DURING  
20 THE PRIOR YEAR; AND

21 (2) THE RESULTS OF THESE ENFORCEMENT EFFORTS.

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



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

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

8           SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2007.