

# SENATE BILL 91

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SB 298/06 – FIN

71r0706

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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

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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  
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; making a stylistic change and  
21 generally relating to the prohibition of smoking in indoor areas open to the  
22 public and indoor places of employment.

23 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article 25 – County Commissioners  
Section 3(jj) and 236B  
Annotated Code of Maryland  
(2005 Replacement Volume and 2006 Supplement)

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

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

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

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

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

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

1 BY adding to  
2 Article – Labor and Employment  
3 Section 5–608  
4 Annotated Code of Maryland  
5 (1999 Replacement Volume and 2006 Supplement)

6 BY renumbering  
7 Article – Labor and Employment  
8 Section 2–106(d) and (e), respectively  
9 to be Section 2–106(c) and (d), respectively  
10 Annotated Code of Maryland  
11 (1999 Replacement Volume and 2006 Supplement)

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

14 **Article 25 – County Commissioners**

15 3.

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

22 236B.

23 The County Commissioners for Washington County may enact ordinances  
24 [regulating] **THAT ARE AT LEAST AS STRINGENT AS THE PROVISIONS OF TITLE**  
25 **24, SUBTITLE 5 OF THE HEALTH – GENERAL ARTICLE TO REGULATE** smoking in  
26 county offices and county office buildings. [Any ordinance enacted shall assure and  
27 provide for employees and the public to smoke in designated smoking places.]

28 **Article – Business Regulation**

29 2–105.

30 [(d) (1) (i) Notwithstanding any regulations adopted by the Secretary  
31 under this section, the smoking of tobacco products is permitted in any of the following  
32 locations unless restricted as authorized under paragraph (3) of this 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 **Article – Health – General**

15 24–205.

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

18 (1) Cigar;

19 (2) Cigarette;

20 (3) Pipe; or

21 (4) Other tobacco product of any kind.

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

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

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

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

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

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

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

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

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

[Subtitle 5. Tobacco Smoking in Retail Stores.]

[24–501.

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

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

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

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

(1) Cigar;

(2) Cigarette;

(3) Pipe; or

(4) Other tobacco product of any kind.

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

3 [24-502.

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

5 (1) A restaurant;

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

7 (3) A tobacconist;

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

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

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

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

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

14 [24-503.

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

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

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

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

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

25 [24-504.

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

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

5 [24-505.

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

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

#### 11 **SUBTITLE 5. CLEAN INDOOR AIR ACT.**

#### 12 **24-501.**

13 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

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

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

19 (D) "ENVIRONMENTAL TOBACCO SMOKE" MEANS THE COMPLEX  
20 MIXTURE FORMED FROM THE ESCAPING SMOKE OF A BURNING TOBACCO  
21 PRODUCT OR SMOKE EXHALED BY THE SMOKER.

22 (E) "INDOOR AREA OPEN TO THE PUBLIC" MEANS AN INDOOR AREA OR  
23 A PORTION OF AN INDOOR AREA ACCESSIBLE TO THE PUBLIC BY EITHER  
24 INVITATION OR PERMISSION.

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



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

**24-502.**

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

**24-503.**

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

**24-504.**

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

(1) AN INDOOR AREA OPEN TO THE PUBLIC;

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

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

(4) AN INDOOR PLACE OF EMPLOYMENT.

**24-505.**

THIS SUBTITLE DOES NOT APPLY TO:

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

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

4                   (3)    A RETAIL TOBACCO SHOP THAT:

5                           (I)    DERIVES AT LEAST 70% OF ITS REVENUES, MEASURED  
6 BY AVERAGE DAILY RECEIPTS, FROM THE SALE OF NONCIGARETTE TOBACCO  
7 PRODUCTS; AND

8                           (II)   HAS A VENTILATION SYSTEM THAT PREVENTS SMOKE  
9 FROM INFILTRATING INTO ANY AREA WHERE SMOKING IS PROHIBITED UNDER  
10 THIS SUBTITLE.

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 TO THE GENERAL ASSEMBLY ON:

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

26                   (2)    THE RESULTS OF THESE ENFORCEMENT EFFORTS.

**24-508.**

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

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

**24-509.**

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

**Article – Labor and Employment**

**2-106.**

[(c) (1) (i) Notwithstanding any regulations adopted by the Commissioner 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;

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 5–101.

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

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

12 (2) “Employee” includes:

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

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

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

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

25 (d) (1) “Employer” means:

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

29 (ii) a public body.

(2) “Employer” includes:

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

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

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

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

5–314.

[(c) (1) (i) Notwithstanding any regulations adopted by the Commissioner 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;

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.

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

1 **5-608.**

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

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

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

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

15 (2) THE RESULTS OF THESE ENFORCEMENT EFFORTS.

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

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

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



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