**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3091**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. King and Gunn

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Introduced in the House on January 13, 2009

Currently residing in the House Committee on **Judiciary**

Summary: Smoking

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/9/2008 House Prefiled

12/9/2008 House Referred to Committee on **Judiciary**

1/13/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑46

1/13/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\01-13-09.docx)‑47

**VERSIONS OF THIS BILL**

[12/9/2008](file:///p:\pprever\2009-10\3091_20081209.docx)

**A** **BILL**

TO AMEND SECTION 44‑95‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PLACES WHERE SMOKING IS PROHIBITED, SO AS TO PROVIDE SMOKING IS PROHIBITED IN RESTAURANTS AND PLACES LICENSED TO SELL ALCOHOLIC BEVERAGES FOR ON‑PREMISES CONSUMPTION; AND TO AMEND SECTION 44‑95‑50, RELATING TO PENALTY FOR VIOLATION OF SMOKING RESTRICTIONS, SO AS TO PROVIDE A CIVIL PENALTY FOR A VIOLATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑95‑20 of the 1976 Code is amended to read:

“Section 44‑95‑20. It is unlawful for a person to smoke or possess lighted smoking material ~~in any form~~ in the following public indoor areas except where a smoking area is designated as provided for in this chapter:

(1) public schools and preschools where routine or regular kindergarten, elementary, or secondary educational classes are held including libraries. Private offices and teacher lounges ~~which~~ that are not adjacent to classrooms or libraries are excluded. However, this exclusion does not apply if the offices and lounges are included specifically in a directive by the local school board. This section does not prohibit school district boards of trustees from providing for a smoke‑free campus;

(2) all other indoor facilities providing children’s services to the extent that smoking is prohibited in the facility by federal law and all other child ~~day care~~ daycare facilities, as defined in Section 20‑7‑2700, ~~which~~ that are licensed pursuant to Subarticle 11, Article 13, Chapter 7, of Title 20;

(3) health care facilities as defined in Section 44‑7‑130, except where smoking areas are designated in employee break areas. However, nothing in this chapter prohibits or precludes a health care facility from being smoke free;

(4) government buildings, except health care facilities as provided for in this section, except that smoking may be allowed in enclosed private offices and designated areas of employee break areas. However, smoking policies in the state capitol and legislative office buildings must be determined by the office of government having control over its respective area of the buildings. ‘Government buildings’ means buildings or portions of buildings which are leased or operated under the control of the State or any of its political subdivisions, except those buildings or portions of buildings ~~which~~ that are leased to other organizations or corporations;

(5) elevators;

(6) public transportation vehicles, except for taxicabs; ~~and~~

(7) arenas and auditoriums of public theaters or public performing art centers. However, smoking areas may be designated in foyers, lobbies, or other common areas, and smoking is permitted as part of a legitimate theatrical performance; and

(8) restaurants and places licensed to sell alcoholic beverages for on‑premises consumption.”

SECTION 2. Section 44‑95‑50 of the 1976 Code is amended to read:

“Section 44‑95‑50. (A) A person who violates Section 44‑95‑20 (1) through (7), 44‑95‑30, or 44‑95‑40 of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than ten dollars nor more than twenty‑five dollars.

(B) A person who violates Section 44‑95‑20(8) only may be subject to a civil fine of twenty‑five dollars.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this bill, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect upon approval by the Governor.

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