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HOUSE BILL NO. 1848

Offered January 12, 2005

Prefiled January 6, 2005

A BILL to amend and reenact §§ 15.2-2801 and 15.2-2808 of the Code of Virginia, relating to the Virginia Clean Indoor Air Act; signs relating to seating of children in smoking areas of restaurants, bars, or lounges; civil penalty.

Patrons—Eisenberg, Ebbin and Plum

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-2801 and 15.2-2808 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-2801. Statewide regulation of smoking; civil penalty.

A. The Commonwealth or any agency thereof and every locality shall provide reasonable no-smoking areas, considering the nature of the use and the size of the building, in any building owned or leased by the Commonwealth or any agency thereof or a locality. The provisions of this chapter shall not apply to office, work or other areas of the Department of Corrections ~~which~~ that are not entered by the general public in the normal course of business or use of the premises.

B. Smoking shall be prohibited in (i) elevators, regardless of capacity, except in any open material hoist elevator, not intended for use by the public; (ii) public school buses; (iii) the interior of any public elementary, intermediate, and secondary school; (iv) hospital emergency rooms; (v) local or district health departments; (vi) polling rooms; (vii) indoor service lines and cashier lines; (viii) public restrooms in any building owned or leased by the Commonwealth or any agency thereof; (ix) the interior of a child day center licensed pursuant to § 63.2-1701 that is not also used for residential purposes; however, this prohibition shall not apply to any area of a building not utilized by a child day center, unless otherwise prohibited by this chapter; and (x) public restrooms of health care facilities.

C. Any restaurant having a seating capacity of ~~fifty~~ 50 or more persons shall have a designated no-smoking area sufficient to meet customer demand. In determining the extent of the no-smoking area, the following shall not be included as seating capacity: (i) seats in any bar or lounge area of a restaurant and (ii) seats in any separate room or section of a restaurant which is used exclusively for private functions.

D. The proprietor or other person in charge of an educational facility, except any public elementary, intermediate, or secondary school, health care facility, or a retail establishment of 15,000 square feet or more serving the general public, including, but not limited to, department stores, grocery stores, drug stores, clothing stores, shoe stores, and recreational facilities shall designate reasonable no-smoking areas, considering the nature of the use and the size of the building.

E. The proprietor or other person in charge of a space subject to the provisions of this chapter shall post signs conspicuous to public view stating "Smoking Permitted" or "No Smoking," and in restaurants, signs conspicuous to ordinary public view at or near each public entrance stating "No-Smoking Section Available." *In addition, the proprietor or other person in charge of any restaurant having seating in one or more smoking areas shall post signs conspicuous to public view at or near the entrance to any such area stating "Warning: Second-hand smoke is dangerous to the health of nonsmokers. Children who are 12 years old or younger should not be seated in any area of any bar, lounge, or restaurant in which smoking is permitted."* Any person failing to post such signs may be subject to a civil penalty of not more than ~~twenty-five dollars~~ \$25.

F. No person shall smoke in a designated no-smoking area and any person who continues to smoke in such area after having been asked to refrain from smoking may be subject to a civil penalty of not more than ~~twenty-five dollars~~ \$25.

G. Any law-enforcement officer may issue a summons regarding a violation of this chapter.

H. The provisions of this chapter shall not be construed to regulate smoking in retail tobacco stores, tobacco warehouses or tobacco manufacturing facilities.

§ 15.2-2808. Posting of signs.

Any person who owns, manages, or otherwise controls any building or area in which smoking is regulated by an ordinance shall post in an appropriate place, in a clear, conspicuous, and sufficient manner, "Smoking Permitted" signs, "No Smoking" signs, or "No-Smoking Section Available" signs. *In addition, any person who owns, manages, or otherwise controls any bar, lounge, or other area of a restaurant that is subject to regulation by an ordinance and has seating in one or more designated smoking areas shall post signs in an appropriate place, in a clear, conspicuous, and sufficient manner*

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61 *any bar, lounge, or restaurant in which smoking is permitted."*