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HOUSE BILL NO. 952

Offered January 25, 1994

A BILL to amend and reenact §§ 15.1-291.1 and 15.1-291.2 of the Code of Virginia, relating to Indoor Clean Air Act.

Patrons—Hull, Almand, Barlow, Cohen, Connally, Crittenden, Darner, Grayson, Morgan, Van Landingham and Van Yahres; Senators: Calhoun, Colgan, Howell and Schewel

Referred to Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.1-291.1 and 15.1-291.2 of the Code of Virginia are amended and reenacted as follows:

§ 15.1-291.1. Definitions.

As used in this chapter unless the context requires a different meaning:

"Bar or lounge area" means any establishment or portion of an establishment where one can consume alcoholic beverages and hors d'oeuvres, but excluding any such establishment or portion of the establishment having tables or seating facilities where, in consideration of payment, meals are served.

"Educational facility" means any building used for instruction of enrolled students, including, but not limited to, any day-care center, nursery school, public or private school, college, university, medical school, law school, or vocational school.

"Health care facility" means any institution, place, building, or agency required to be licensed under Virginia law, including, but not limited to, any hospital, nursing facility or nursing home, boarding home, adult care residence, supervised living facility, or ambulatory medical and surgical center.

"Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.

"Private work place" means any office or work area which is not open to the public in the normal course of business except by individual invitation.

"Proprietor" means the owner or lessee of the public place, who ultimately controls the activities within the public place. The term "proprietor" includes corporations, associations, or partnerships as well as individuals.

"Public conveyance" or "public vehicle" means any air, land, or water vehicle used for the mass transportation of persons in intrastate travel for compensation, including, but not limited to, any airplane, train, bus, or boat that is not subject to federal smoking regulations.

"Public place" means any enclosed, indoor area used by the general public, including, but not limited to, any building owned or leased by the Commonwealth or any agency thereof or any county, city, or town, public conveyance or public vehicle, restaurant, educational facility, hospital, nursing facility or nursing home, other health care facility, library, retail store of 15,000 square feet or more, auditorium, arena, theater, museum, concert hall, or other area used for a performance or an exhibit of the arts or sciences, or any meeting room.

"Recreational facility" means any enclosed area open to the public and used as a stadium, arena, bingo hall, bowling alley, skating rink, video game facility, pool hall, or senior citizen recreational facility.

"Restaurant" means any building, structure, or area, excluding a bar or lounge area as defined in this chapter, having a seating capacity of fifty or more patrons, where food is available for eating on the premises, in consideration of payment.

"Smoke" or "smoking" means the carrying or holding of any lighted pipe, cigar, or cigarette of any kind, or any other lighted smoking equipment, or the lighting, inhaling, or exhaling of smoke from a pipe, cigar, or cigarette of any kind.

"Theater" means any indoor facility or auditorium, open to the public, which is primarily used or designed for the purpose of exhibiting any motion picture, stage production, musical recital, dance, lecture, or other similar performance.

§ 15.1-291.2. Statewide regulation of smoking.

A. The Commonwealth or any agency thereof and every county, city, or town 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 county, city, or town. The provisions of this chapter shall not apply to office, work or other areas of the Department of Corrections which 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

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60 hoist elevator, not intended for use by the public; (ii) public school buses; (iii) common areas in any
61 public elementary, intermediate, and secondary school, including, but not limited to classrooms, libraries,
62 hallways, auditoriums, and other facilities; (iv) hospital emergency rooms; (v) local or district health
63 departments; (vi) polling rooms; and (vii) indoor service lines and cashier lines.

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

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

73 E. *The proprietor or other person in charge of a recreational facility shall designate at least*
74 *one-half of the public areas as no-smoking areas in addition to those areas mentioned elsewhere in this*
75 *chapter.*

76 EF. The proprietor or other person in charge of a space subject to the provisions of this chapter shall
77 post signs conspicuous to public view stating "Smoking Permitted" or "No Smoking," and in restaurants,
78 signs conspicuous to ordinary public view at or near each public entrance stating "No-Smoking Section
79 Available." Any person failing to post such signs may be subject to a civil penalty of not more than
80 twenty-five dollars.

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

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

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