

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 2766

4  
5 By: Representative Bradford  
6 By: Senator Brown

## For An Act To Be Entitled

10 AN ACT TO PROTECT THE HEALTH OF THE CITIZENS OF  
11 ARKANSAS; TO BAN THE SMOKING OF TOBACCO PRODUCTS  
12 IN FOOD SERVICE ESTABLISHMENTS IN ARKANSAS; AND  
13 FOR OTHER PURPOSES.

## Subtitle

15 AN ACT TO BAN THE SMOKING OF TOBACCO  
16 PRODUCTS IN FOOD SERVICE ESTABLISHMENTS  
17 IN ARKANSAS.  
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20  
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22  
23 SECTION 1. Arkansas Code Title 20, Chapter 27, Subchapter 7 is amended  
24 to add additional sections to read as follows:

25 20-27-1701. Purpose.

26 The purpose of §§ 20-27-701 through 20-27-709 is to protect the health  
27 of the citizens of Arkansas by establishing a ban on the smoking of tobacco  
28 products in food service establishments in Arkansas to ensure that patrons  
29 and employees of food service establishments in Arkansas are not subjected to  
30 the harmful effects of tobacco smoke.

31  
32 20-27-1702. Definitions.

33 For the purposes of §§ 20-27-704 through 20-27-709:

34 (1)(A) "Bar" means an establishment that:

35 (i) Has more than seventy percent (70%) of its annual  
36 gross sales in alcoholic beverages;



1                   (ii) Is devoted to serving alcoholic beverages for  
2 consumption by guests on the premises;

3                   (iii) In which the serving of food is only incidental to  
4 the consumption of alcoholic beverages; and

5                   (iv) From which minors are refused admittance unless  
6 accompanied by a parent or legal guardian;

7                   (B) "Bar" does not include food service establishments that  
8 contain a bar merely because minors are admitted in these areas.

9                   (2) "Department" means the Department of Health;

10                   (3) "Employee" means a person who is employed by an employer for  
11 direct or indirect monetary wages or profit, and any person who volunteers  
12 his or her services for a profit or non-profit entity;

13                   (4) "Employer" means a person, partnership, corporation, municipal  
14 corporation, non profit entity, or entity that employs the services of one  
15 (1) or more individual persons;

16                   (5) "Enclosed area" means an area closed in by a roof and walls with  
17 appropriate openings for ingress and egress;

18                   (6) "Food" means any raw, cooked or processed edible substance, ice,  
19 beverage, or ingredient used or intended for use or for sale in whole or in  
20 part for human consumption;

21                   (7)(A) "Food service establishment" means any place where food is  
22 manufactured, packaged, produced, processed, transported, stored, sold,  
23 commercially prepared, vended, or otherwise handled.

24                   (B) "Food service establishment" includes, but it not limited  
25 to:

26                           (i) Coffee shops;

27                           (ii) Cafeterias;

28                           (iii) Sandwich shops;

29                           (iv) Catering facilities; and

30                           (v) Any other eating establishment that gives or offers  
31 food to the public, guests, or employees.

32                   (C) "Food service establishment" does not include:

33                           (i) Cocktail lounges or taverns if the cocktail lounge or  
34 tavern is a bar; or

35                           (ii) Private homes where food is prepared or served for  
36 guests and individual family consumption;

1 (8) "Minor" means any person under eighteen (18) years of age;

2 (9) "Person" means any individual, partnership, corporation,  
3 association or venture;

4 (10) "Smoking" means inhaling, exhaling, burning, or carrying any  
5 lighted, tobacco product, weed, plant, or other combustible substance; and

6 (11) "Tobacco Product" means any tobacco, cigarette, cigar, pipe  
7 tobacco, smokeless tobacco, snuff or any other form or tobacco, that may be  
8 used for smoking, chewing, inhaling, or other manner of ingesting or  
9 absorbing into the body.

10

11 20-27-1703. Food service establishments.

12 (a) Thirty (30) days after the effective date of this subchapter,  
13 smoking shall be prohibited in all food service establishments that earn more  
14 than thirty percent (30%) of their gross revenue from food sales.

15 (b) The prohibition against smoking applies to all enclosed areas to  
16 which patrons have general access, including, but not limited to:

17 (1) Dining areas;

18 (2) Food order areas;

19 (3) Food service areas;

20 (4) Restrooms; and

21 (5) Cashier areas.

22 (c) A food service establishment owner or operator violates this  
23 subchapter if a person is allowed to smoke or possess a burning tobacco  
24 product, weed, or other plant product in an area of a food service  
25 establishment designated as a non-smoking area.

26

27 20-27-1704. Posting of signs.

28 (a)(1) Each food service establishment shall post appropriate signs  
29 visible to patrons within the dining area indicating that the smoking of  
30 tobacco products, weed, or other plant product is prohibited in the area.

31 (2) The sign required in subdivision (a)(1) is not required if  
32 all patrons of the food establishment are seated by a host or hostess who  
33 advises them that smoking is prohibited.

34 (b) Signs bearing the words "No Smoking" or the international "No  
35 Smoking" symbol, consisting of the pictorial representation of a burning  
36 cigarette enclosed in circle with a bar across it, shall be clearly and

1 conspicuously displayed at every entrance of every food service establishment  
2 in which smoking is prohibited under this subchapter.

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4 20-27-1705. Public education.

5 The Department of Health shall develop an educational program to  
6 explain the purpose and requirements of this subchapter to businesses and  
7 citizens affected by it and to help persons, owners, operators, and managers  
8 comply with this subchapter.

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10 20-27-1706. Penalties.

11 (a) Each violation of this subchapter is a Class A misdemeanor.

12 (b) Each day a violation exists or continues shall constitute a  
13 separate offense.