

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

1901

By: Representative Tullis

For An Act To Be Entitled

"AN ACT TO PROHIBIT EMPLOYMENT DISCRIMINATION AGAINST  
NON-SMOKERS OR SMOKERS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. For the purposes of this Act:

- (1) "Employer" means any person carrying on any employment regardless of the number of persons employed; and
- (2) "Smoker" means any person who smokes tobacco or tobacco products.

SECTION 2. (a) It shall be unlawful for any employer:

- (1) To fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment because the individual is a non-smoker or smoker;
- (2) To limit, segregate, or classify employees in any manner which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because the individual is a non-smoker or smoker; or
- (3) To reduce the wage rate of any employee in order to comply with this section.

(b) Any employer who violates this section shall be guilty of a Class B misdemeanor in addition to civil liability.

SECTION 3. (a) An employer who violates this Act shall be liable to the employee or prospective employee affected by such violation. Such employer shall be liable for such legal or equitable relief as may be appropriate, including, but limited to, employment, reinstatement, promotion, and the payment of lost wages and benefits.

(b) An action to recover the liability prescribed in subsection (a) may be maintained against the employer in any court of competent jurisdiction where either the act occurred, the employer has a place of business, or the employee resides.

SECTION 4. Effect on Other Laws and Agreements. This Act shall not be construed to make lawful any activity that is otherwise unlawful under state or local law, nor shall it preempt any provision of any state or local law or of any negotiated collective bargaining agreement.

SECTION 5. Severability. If any section, subsection, or paragraph of this Act shall be held invalid by any court, the invalidity of the section, subsection, or paragraph, or the application thereof, shall not affect the other sections, subsections and paragraphs of this Act, and the applications thereof.

SECTION 6. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 7. All laws and parts of laws in conflict with this act are hereby repealed.