

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D. C. LAW 3-22

"District of Columbia Smoking Restriction Act of 1979"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 3-109, on first and second readings, May 22, 1979 and June 19, 1979 respectively. Following the signature of the Mayor on July 12, 1979, this legislation was assigned Act No. 3-66, published in the July 27, 1979, edition of the D.C. Register, (Vol. 26 page 390) and transmitted to Congress on July 18, 1979 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and, therefore, cites the following legislation as D.C. Law 3-22, effective September 28, 1979.



ARRINGTON DIXON  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

July	18, 19, 20, 23, 24, 25, 26, 27, 30, 31,
August	1, 2, 3
September	5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26, 27

D.C. LAW 3-22  
DATE SEP 26 1979

AN ACT

D.C. ACT 3-66

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUL 12 1979

To regulate and restrict smoking in certain facilities and vehicles used by the general public.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "District of Columbia Smoking Restriction Act of 1979".

Sec. 2. Findings and Purpose.

(a) The Council of the District of Columbia finds that the inhalation of concentrated smoke resulting from the smoking of tobacco in facilities in which the public congregates is a clear danger to health and a cause of inconvenience and discomfort to persons present in such facilities.

(b) The purpose of this act is to protect the public health, comfort and environment by prohibiting smoking in certain facilities and vehicles open to or used by the general public.

(c) Except to the extent that section 6 of this act modifies Title 7 (Fire Department Fire Prevention Code) of the D.C. Rules and Regulations, this act is intended to complement the provisions of Part 2 of those regulations and the provisions of the Act to Regulate Public Conduct on Public Passenger Vehicles, effective September 23, 1975 (D.C. Law 1-18), which regulates public conduct on public passenger vehicles. It is not the intent of this act to derogate in any manner from the provisions of Part 2 of Title 7 of the D.C. Rules and Regulations, as amended by this act, or from section 2(1) of the Act to Regulate Public Conduct on Public Passenger Vehicles, effective September 23, 1975 (D.C. Law 1-18).

**Sec. 3. Definitions.**

For the purpose of this act:

(a) "Educational facility" means any enclosed indoor area used primarily for instruction of enrolled students, including day care centers, nursery schools, elementary schools, and secondary schools, but excluding institutions of higher education. The term "educational facility" shall include all enclosed indoor areas supportive of instruction, including, but not limited to, classrooms, cafeterias, study areas and libraries, but excluding faculty lounges and specific areas approved by the principal of a given school

pursuant to guidelines established by the Superintendent of Schools or the head of such private institutions.

(b) "Health care facility" means any institution providing individual care or treatment of diseases or other medical, physiological, or psychological conditions, including, but not limited to, hospitals, clinics, laboratories, nursing homes or homes for the aged or chronically ill, but excluding private medical offices.

(c) "Mayor" means the Mayor of the District of Columbia or his designated agent.

(d) "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind.

(e) "Restaurant" means any building, structure or area used as, maintained as, advertised as or held out to the public to be an enclosure where meals for consideration or payment are made available to be consumed on the premises.

(f) "Retail store" means any establishment whose primary purpose is to sell or offer for sale to consumers, not for resale, any goods, wares, merchandise or food for consumption off the premises, and all activities, operations and services connected therewith or incidental thereto. The term "retail store" shall not include separate areas of a retail store which are used as a restaurant.

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(q) "Smoking" or "to smoke" means the act of puffing, holding or carrying a lighted or smoldering cigar, cigarette, pipe or smoking equipment of any kind or lighting a cigar, cigarette, pipe or smoking equipment of any kind.

**Sec. 4. Smoking Restrictions.**

Smoking shall be prohibited in the following:

- (a) any elevator, except in a single-family dwelling;
- (b) any public selling area of a retail store, except in a tobacco shop or store primarily concerned with selling tobacco and smoking equipment;
- (c) any public assembly or hearing room which is owned or leased by any branch, agency, or instrumentality of the District of Columbia government; this subsection shall not apply to the District of Columbia Armory or to the Robert F. Kennedy Stadium;
- (d) any educational facility owned or leased by any branch, agency, or instrumentality, of the District of Columbia government;
- (e) while transporting passengers within the corporate limits of the District of Columbia, any passenger vehicle owned or operated by the District of Columbia government, or any passenger vehicle for hire regulated under paragraph 31 of section 7 of the Act of July 1, 1902 (32 Stat. 626; D.C.

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Code, sec. 47-2331), without prior consent of all occupants of the vehicles.

(f) any area of a health care facility frequented by the general public, including hallways, waiting rooms and lobbies. The operator of a health care facility may designate separate areas as smoking areas.

(1) When a health care facility permits patients to smoke in bed space areas, such facility shall make a reasonable effort to determine a patient's individual non-smoking or smoking preference and assign patients who are to be placed in bed space areas utilized by two (2) or more patients to a bed space area with patients who have a similar smoking preference.

(2) Hospital staff, visitors and the general public shall not smoke in bed space areas utilized by non-smoking patients. "NO SMOKING" signs shall be conspicuously posted in such bed space areas.

Sec. 5. Posting of Signs.

(a) Every facility where smoking is prohibited by subsections (b), (c), (d), and (f) of section 4 of this act shall have a no smoking sign prominently displayed at each entrance to the facility. Every elevator or vehicle where smoking is prohibited by subsection (a) and (e) of section 4

of this act shall have a no smoking sign prominently displayed within the elevator or vehicle.

(b) All signs posted pursuant to subsection (a) of this section shall either (1) be printed with capital letters no less than 1 5/8 inches high and 1 1/8 inches wide reading "NO SMOKING", displayed on a contrasting background, or (2) be the internationally recognized "NO SMOKING" sign.

(c) It shall be unlawful for any person to obscure, remove, deface, mutilate or destroy any sign posted in accordance with the provisions of this act.

#### Sec. 6. Enforcement.

(a) The owner, lessee, manager, operator or other person in charge of a facility or vehicle where smoking is prohibited pursuant to this act shall:

- (1) post the appropriate "No-Smoking" signs; and
- (2) ask persons smoking in violation of this act to refrain from smoking.

(b) whenever the owner, lessee, manager or operator of a facility covered by this act requires a license issued by the District of Columbia government in order to operate the facility, the owner, lessee, manager or operator shall comply with this act as a requirement for receiving or renewing the license. Where an on-site inspection is required prior to issuance or renewal of a license, the

inspector should certify that the appropriate signs have been posted. In those cases where an on-site inspection is not needed, a signed statement by the applicant that he has complied with this act shall constitute sufficient evidence of compliance as required in this subsection. Violation of this act shall be grounds for license suspension or revocation.

(c) The Mayor is authorized to promulgate any regulations needed to carry out the provisions of this act.

(d) An aggrieved person or class of persons may bring an action in the Superior Court of the District of Columbia for injunctive relief to prevent any owner, lessee, manager, operator or person otherwise in charge of a facility or vehicle where smoking is prohibited pursuant to this act from violating or continuing to violate any provision of this act. For the purposes of this subsection, an "aggrieved person" shall be defined as any person subjected to tobacco smoke due to failure to comply with this act.

Sec. 7. Penalties.

(a) Any person who violates any provision of this act, other than section 8, by:

(1) smoking in a posted "No Smoking" area shall, upon conviction, be punishable by a fine of not less than ten dollars (\$10) nor more than fifty dollars (\$50) for a



first offense; and not less than fifty (\$50) nor more than one hundred dollars (\$100) for each second or subsequent offense; or

(2) obscuring, removing, defacing, mutilating or destroying any sign posted in accordance with the provisions of this act shall, upon conviction, be punishable by a fine of not more than three hundred dollars (\$300); or

(3) failing to post or cause to be posted "no smoking" signs, as required by this act shall, upon conviction, be punishable by a fine of not more than three hundred dollars (\$300). Each and every day that the violation continues shall constitute a separate offense, and the penalties provided for in this paragraph shall be applicable to each separate offense: PROVIDED, That such penalties shall not be levied against any employee or officer of any branch, agency or instrumentality of the District of Columbia government.

(b) The Mayor is authorized to establish procedures for the issuance of a citation to any person who violates this act requiring the person to post collateral in accordance with District of Columbia Code, sec. 15-704 to assure the person's appearance in the Superior Court of the District of Columbia to answer the citation, and such collateral may be forfeited in lieu of an appearance as the Court may direct.

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(c) Issuances of citations pursuant to subsection (b) of this section shall not constitute arrests nor shall forfeitures of collateral pursuant to said subsection constitute convictions. Records which may be maintained in connection with the implementation of this section shall not constitute records of arrest under section 302 of Title III of the "District of Columbia Law Enforcement Act of 1953", approved June 29, 1953 (67 Stat. 100; D.C. Code, sec. 4-134a), relating to arrest records, or paragraph (4) of section 385 of the Revised Statutes, relating to the District of Columbia, as amended (D.C. Code, sec. 4-134).

Sec. 8. Amendment to Title 7 of the District of Columbia Rules and Regulations.

Part 2 of Title 7 of the District of Columbia Rules and Regulations is amended as follows:

(a) In the Table of Contents, section 2.3 is amended to read as follows: "Sec. 2.3 Smoking and Removal of 'NO SMOKING-FIRE AREA' Signs Prohibited".

(b) Section 2.1 is amended by striking subsections (b) and (c) in their entirety, and by striking the designation "(a)" immediately before subsection (a).

(c) Section 2.2 is amended to read as follows:

"(a) Smoking. Where conditions exist which make smoking a fire hazard in any premises, or in any open area

where combustible, explosive, or otherwise hazardous materials are stored or handled, the Fire Chief is authorized to designate such premises or open area, or part thereof, as a no smoking-fire area and to order the owner or occupant to post 'NO SMOKING-FIRE AREA' signs.

"(b) Signs. 'NO SMOKING-FIRE AREA' signs shall be printed with capital letters 1 5/8 inches high and 1 1/8 inches wide, reading 'NO SMOKING-FIRE AREA', and with capital letters 3/4 inches wide reading 'BY ORDER OF THE FIRE CHIEF'. Lettering shall be in black on a white background. 'NO SMOKING-FIRE AREA' signs shall be posted in those locations as may be directed by the Fire Chief.

"(c) Specific Locations. The Fire Chief may designate specific locations, in any premises or open area which has been designated as a no smoking-fire area, as a safe smoking area, and may order the owner or occupant to post appropriate signs in such specific locations. The owner or occupant shall provide these specific locations with an adequate number of suitable noncombustible containers in which ashes may be placed."

(d) Section 2.3 is amended to read as follows:

"Sec. 2.3. SMOKING AND REMOVAL OF 'NO SMOKING-FIRE AREA' SIGNS PROHIBITED.

"(a) It shall be unlawful for any person to smoke in any premises or open area, or part thereof, which has been designated and posted as a no smoking-fire area.

"(b) It shall be unlawful for any person to obscure, remove, deface, mutilate, or destroy a posted 'NO SMOKING-FIRE AREA' sign or for any owner or occupant to fail to post 'NO SMOKING-FIRE AREA' signs as required by sections 2.2(a) and 2.2(b) or to fail to comply with section 2.2(c)."

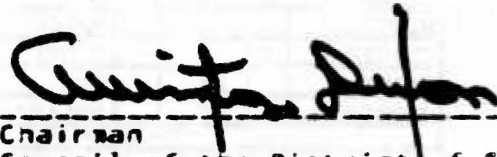
**Sec. 9. Severability.**

If any provision of this act, or its application to a particular person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act.

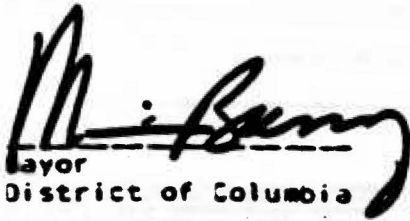
**Sec. 10. Effective Date.**

This act shall take effect sixty days (60) after the expiration of the thirty (30) day review period provided for acts of the Council of the District of Columbia in section

502(c)(1) of the District of Columbia Self-Government and  
Governmental Reorganization Act.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED: July 12, 1979

# COUNCIL OF THE DISTRICT OF COLUMBIA

## RECORD OF OFFICIAL COUNCIL ACTION

DOCKET NO: Bill 3-109

ACTION: To Adopt (5-22-79)

VOICE VOTE: \_\_\_\_\_

Absent: \_\_\_\_\_

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NOY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NOY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NOY	N.Y.	A.B.
DIXON	X				KANE	X				SHACKLETON	X			
WINTER	X				MASON	X				SPAULDING	X			
CLARKE	X				MOORE	X				WILSON	X			
HARDY		X			RAY	X								
TARVIS	X				ROLARK		X							

CERTIFICATION OF RECORD

*Ruth P. Johnson*  
Secretary to the Council

ACTION: To Adopt (6-19-79)

VOICE VOTE: \_\_\_\_\_

Absent: \_\_\_\_\_

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NOY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NOY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NOY	N.Y.	A.B.
DIXON	X				KANE	X				SHACKLETON	X			
WINTER	X				MASON	X				SPAULDING			X	
CLARKE	X				MOORE	X				WILSON	X			
HARDY		X			RAY	X								
TARVIS	X				ROLARK		X							

CERTIFICATION OF RECORD

*Ruth P. Johnson*  
Secretary to the Council

ACTION: \_\_\_\_\_

VOICE VOTE: \_\_\_\_\_

Absent: \_\_\_\_\_

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NOY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NOY	N.Y.	A.B.	COUNCIL MEMBER	AYE	NOY	N.Y.	A.B.
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
TARVIS					ROLARK									

CERTIFICATION OF RECORD

Secretary to the Council