



**North Carolina Department of Health and Human Services  
Division of Public Health**

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Beverly Eaves Perdue, Governor  
Lanier Cansler, Secretary

Jeffrey P. Engel, M.D.  
State Health Director

**Proposed Education and Enforcement for HB 2  
March 3, 2009**

- **This law would be enforced through a complaint driven system**, meaning that individual citizens must take the step to make a complaint for enforcement processes to be engaged.
- **The law would also be self-enforcing by the general public.**  
Other states that have passed similar laws have found that once the public knows about the law and businesses understand their simple and practical responsibilities, the law becomes self enforcing. North Carolinians want this law, and are law abiding; a polite request will be all that is needed in the vast majority of cases.
- **Requirements are simple and practical.**  
A business owner must:
  - 1) Conspicuously post signs clearly stating that smoking is prohibited.
  - 2) Remove all indoor ashtrays and other smoking receptacles.
  - 3) Direct a person who is smoking to extinguish the lighted tobacco product.
  - 4) On the rare occasion when a person refuses to put out a lighted tobacco product when asked, the law allows the owner to call in local law enforcement, as they are skilled in public safety and handling people who are unruly. (This is no different than when law enforcement is called to address other situations of unruly behavior, such as patrons who drink too much.)
  - 5) In these circumstances, law enforcement *may* determine there is an infraction and *may* issue a fine to the individual of not more than fifty dollars (\$50.00).
- **Local Health Departments, with assistance from the NC DPH, will be responsible for helping businesses take the steps outlined above to come into compliance.** However, if a business fails to comply with the indoor smoking restrictions *and* a complaint is registered with the local health department, then the following process may be followed:
  - The administrative rules will propose that local health departments send educational letters to business owners based on the first two documented complaints. These letters provide specific information about the law, the reported violations, and educational materials to assist the business owner with coming into compliance with the law.
  - The complaint is substantiated by the local health department and a first written warning is issued;
  - Upon a second complaint, the complaint is substantiated by the local health department and a second written notice is issued;
  - Upon a third complaint, a fine of not more than \$200 *may* be pursued by the local health department based upon inspection and validation of all subsequent complaints.
- **Education is Key.** The Health and Wellness Trust Fund and the Tobacco Prevention and Control Branch, NC Division of Public Health will be asked to work to educate the public and the business community about the benefits of the new law through existing resources and to work with local health directors and local boards of health to provide assistance with the implementation of this law including providing smoking cessation and prevention resources.



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