



Summary of State Regulations of Smoking in Government Workplaces, Private Worksites and Public Places in North Carolina

Venue	State Law
Local Government Buildings and Grounds	<p>State law <u>allows</u> local governments to prohibit smoking and all tobacco product use only in:</p> <ul style="list-style-type: none"> ▪ buildings owned by local government; buildings leased by local government as lessor (i.e., landlord); and areas of buildings leased by local government as lessee (i.e., tenant);¹ ▪ Any place on a public transportation vehicle owned or leased by local government and used by the public;² ▪ All passenger-carrying vehicles owned, leased or otherwise controlled by local government and assigned permanently or temporarily to local government employees, agencies, institutions or facilities for official local government business to be smoke-free;³ ▪ An unenclosed area owned, leased, or occupied by local government (i.e., grounds);⁴ ▪ By 8/1/08, school boards <i>must</i> adopt, implement and enforce a written policy prohibiting the use of <i>all tobacco products</i> (not limited to smoking) indoors and outdoors⁵
Public Meetings	<p>State law <u>allows</u> local governments to prohibit smoking and all tobacco product use.⁶</p>

Venue	State Law
Libraries and Museums Open to the Public	State law <u>allows</u> local governments to prohibit smoking and all tobacco product use. ⁷
Indoor Arenas with a Seating Capacity greater than 23,000	State law <u>allows</u> local governments to prohibit smoking and all tobacco product use. ⁸
State Government Buildings	<p>State law prohibits smoking in state government buildings.⁹ The law became effective on January 1, 2008 and applies to all:</p> <ul style="list-style-type: none"> ▪ buildings owned by the state, ▪ buildings leased by the state as lessor (i.e., landlord), and ▪ the area of any building leased and occupied by the state as lessee (i.e., tenant). ▪ The prohibition applies to the use of any lighted tobacco product, but it does not apply to the use of smokeless tobacco, such as chewing tobacco and snuff. ▪ The law also requires the person in charge of the building to post signs stating that smoking is prohibited. ▪ The state law also requires all passenger-carrying vehicles owned, leased or otherwise controlled by the state and assigned permanently or temporarily to a State employee or state agency or institution for official state business to be smoke-free.¹⁰
UNC University System	<p>State law allows the sixteen campuses of the UNC system to prohibit smoking on their grounds.¹¹ Grounds is defined to include the area located and controlled by state government within 100 linear feet of a building:</p> <ul style="list-style-type: none"> ▪ owned and occupied by the state, ▪ owned by the state but leased to a third party, or ▪ owned by a third party and leased to state government. <p>All residential dorm rooms must prohibit smoking by the beginning of the 2008-2009 academic school year and all other buildings must prohibit smoking as of January 1, 2008. Medical facilities at UNC Chapel Hill and East Carolina University may prohibit smoking on their grounds and walkways.</p>

Venue	State Law
Community Colleges	State law allows local community college governing Boards of Trustees to prohibit all tobacco use on their campuses and college-sponsored events. ¹²
Public Schools K-12	<p>Effective August 1, 2008 state law requires local boards of education to adopt policies prohibiting the use of tobacco at all times:</p> <ul style="list-style-type: none"> ▪ In school buildings, ▪ In school facilities, ▪ On school campuses, ▪ In or on any other property owned by the local school administrative unit, and ▪ At school-sponsored events at other locations when in the presence of students or school personnel.¹³ <p>Note that these policies must apply not only to smoking, but also to the use of smokeless tobacco products.</p>
Long-term Care Facilities	<p>State law prohibits smoking in all long-term care facilities, including nursing homes, adult care homes and rest homes.¹⁴</p> <ul style="list-style-type: none"> ▪ The law authorizes DHHS to impose fines upon facilities that fail to implement and enforce the prohibition. ▪ The law also requires home care agencies to prohibit their employees from smoking in a patient's home.
Child Care Facilities	<p>N.C. Child Care Commission prohibits family child care home operator(s) from using tobacco products at any time children are in care. Smoking or use of tobacco products is not allowed by anyone indoors when children are in care or in a vehicle when children are transported.¹⁵</p> <p>Note: The federal <i>Pro-Children's Act</i> and the <i>No Child Left Behind Act</i> prohibit smoking within any indoor facility (or portion of such a facility) owned or leased or contracted for, and utilized for, day care or early childhood development (Head Start) services.¹⁶</p>
Prisons	<p>Effective March 10, 2010, state law prohibits any person from using any tobacco products on the premises of a state correctional facility.¹⁷ There may be an exception for authorized religious purposes.</p>

Venue**State Law**

	<p>Note: State correctional facility: All buildings and grounds of a state correctional institution operated by the Department of Correction.</p>
Restaurants/Bars	<p>Effective January 2, 2010, state law prohibits smoking in:</p> <ul style="list-style-type: none"> ▪ restaurants, ▪ bars, and ▪ lodging establishments that prepare and serve food and drink.¹⁸ <p>Note: There are three exceptions to the prohibition on smoking in restaurants, lodging establishments and bars:</p> <ul style="list-style-type: none"> ▪ smoking guest rooms in lodging establishments (up to 20% of guest rooms may be designated as smoking guest rooms) ▪ cigar bars (provided that smoke does not migrate into an enclosed area where smoking is otherwise prohibited under state law. A cigar bar is a bar that (1) generates at least 60% of its quarterly gross revenue from the sale of alcoholic beverages, (2) generates at least 25% of its quarterly gross revenue from the sale of cigars, (3) has a humidor on the premises, and (4) does not allow individuals under the age of 21 to enter the premises. Cigar bars seeking to fall within the exception must report revenue to the Department of Health and Human Services on a quarterly basis. If a cigar bar begins operation after July 1, 2009, it must be in a freestanding structure occupied only by the bar. ▪ private clubs (defined as a country club or an organization that (1) maintains selective members, (2) is operated by the membership, (3) does not provide food or lodging for pay to anyone who is not a member or a member's guest, and (4) is a nonprofit corporation.)
Public Places	<p>State law <u>allows</u> local governments to prohibit smoking and all tobacco product use.¹⁹</p> <p>Public places are defined as an enclosed area to which the public is invited or in which the public is permitted.</p>

	<p>NOTE: N.C. law preempts (prohibits) local governments from regulating smoking in the public places listed below:</p> <ul style="list-style-type: none"> • A private residence, which is a private dwelling that is not a child care facility or a long-term care facility. • A private vehicle, which is a privately owned vehicle that is not used for commercial or employment purposes. • A tobacco shop, but only if smoke from the business does not migrate into an enclosed area where smoking is otherwise prohibited under state law. A business will be considered a tobacco shop if (1) its main purpose is to sell tobacco, tobacco products, and accessories for such products, (2) it receives at least 75% of its revenue from such sales, and (3) it does not serve food or alcohol. • All of the premises, facilities, and vehicles owned, operated or leased by any tobacco products processor or manufacturer, or any tobacco leaf grower, processor or dealer. • A designated smoking guest room in a lodging establishment. • A cigar bar, but only if smoke from the bar does not migrate into an enclosed area where smoking is otherwise prohibited under state law. • A private club. • A motion picture, television, theater, or other live production set. This exemption applies only to the actor or performer portraying the use of tobacco products during the production.
--	--

Sources:

Health Law Bulletin, No. 87 September 2007, REGULATION OF SMOKING: UPDATE ON RECENT STATE LEGISLATION, Aimee N. Wall., UNC Institute of Government.

Health Law Bulletin, No. 90 May 2009, SMOKING IN PUBLIC PLACES: RECENT CHANGES IN STATE LAW, Aimee N. Wall., UNC Institute of Government.

NC General Assembly website at www.ncga.state.nc.us

For more information:

See www.tobaccopreventionandcontrol.ncdhhs.gov
or contact:

Jim D. Martin, M.S.
Director of Policy and Programs
N.C. Tobacco Prevention and Control Branch
(919) 707-5404
jim.martin@dhhs.nc.gov

¹ S.L. 2007-193

² S.L. 2007-193

³ S.L. 2008-149

⁴ S.L. 2009-27

⁵ S.L. 2007-236, S.L. 2007-193, Sec. 3.1 (repealing G.S. 130A-498 (b) (3) effective August 1, 2008

⁶ Chapter 143, Article 64 of NC General Statutes

⁷ Chapter 143, Article 64 of NC General Statutes

⁸ Chapter 143, Article 64 of NC General Statutes

⁹ S.L. 2007-193

¹⁰ S.L. 2008-149

¹¹ S.L. 2007-114

¹² S.L. 2008-95

¹³ S.L. 2007-236, S.L. 2007-193, Sec 3.1 (repealing G.S. 130A-498(b)(3) effective August 1, 2008

¹⁴ S.L. 2007-459

¹⁵ NC Child Care Commission Rule 1720

¹⁶ Pro-Children's Act of 2001, Part C – Environmental Tobacco Smoke, Sec. 4303

¹⁷ S.L. 2009-560

¹⁸ S.L. 2009-27

¹⁹ S.L. 2009-27