

House Bill 1670

By: Representative Lucas of the 105th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-12-2 of the Official Code of Georgia Annotated, relating to
2 smoking in public places, so as to provide for certain establishments to determine their own
3 policies on smoking; to provide for related matters; to repeal conflicting laws; and for other
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 16-12-2 of the Official Code of Georgia Annotated, relating to smoking in
8 public places, is amended by striking the Code section and inserting in lieu thereof the
9 following:

10 "16-12-2.

11 (a) A person who smokes tobacco in any form in any of the following public places shall
12 be guilty of a misdemeanor:

13 (1) An enclosed elevator which is used by or open to the public and which is clearly
14 designated by a no-smoking sign;

15 (2) Any place on a public transportation vehicle which is used by the public and which
16 is clearly designated by a no-smoking sign;

17 (3) Any area which is used by or open to the public and which is clearly designated by
18 a no-smoking sign; or

19 (4) Any area which is the real property upon which is operated a day-care center, group
20 day-care home, or family day-care home, as defined in Code Section 49-5-3, during the
21 hours of operation of such facility.

22 (b) A person convicted of violating subsection (a) of this Code section shall be punished
23 by a fine of not less than \$10.00 nor more than \$100.00.

24 (c) ~~This Code section shall be cumulative to and shall not prohibit the enactment of any~~
25 ~~other general and local laws, rules and regulations of state or local agencies, and local~~
26 ~~ordinances prohibiting smoking which are more restrictive than this Code section.~~ Except

1 as provided in subsection (a) of this Code section, individual owners or operators of retail
2 establishments, food service establishments as that term is defined in Code Section
3 26-2-370, or bars shall have the right to determine their own policies on the use of tobacco
4 products within such establishments. As used in this subsection, the term 'bar' means an
5 establishment that is devoted to the serving of alcoholic beverages for consumption by
6 guests on the premises and in which the serving of food is only incidental to the
7 consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail
8 lounges, and cabarets. This Code section shall preempt the entire field of legislation
9 concerning the regulation of the use of tobacco products, and any law or regulation on the
10 use of tobacco products enacted or promulgated by any agency or political subdivision of
11 this state after July 1, 2004, shall be void; provided, however, that counties, municipalities,
12 local boards of education, and other political subdivisions of this state may regulate the use
13 of tobacco products in buildings owned or leased by such political subdivisions."

14 **SECTION 2.**

15 All laws and parts of laws in conflict with this Act are repealed.