

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1680

To amend the Toxic Substances Control Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 18 (legislative day, NOVEMBER 2), 1993

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To amend the Toxic Substances Control Act to protect the public from health hazards caused by exposure to environmental tobacco smoke, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Smoke-Free Environ-  
5 ment Act of 1993”.

6 **SEC. 2. UNIFORM INDOOR AIR POLICY.**

7 (a) IN GENERAL.—The Toxic Substances Control Act  
8 (15 U.S.C. 2601 et seq.) is amended by adding at the end  
9 the following new title:

1 **“TITLE V—UNIFORM INDOOR AIR**  
2 **POLICY WITH RESPECT TO**  
3 **ENVIRONMENTAL TOBACCO**  
4 **SMOKE**

5 **“SEC. 501. PURPOSE.**

6 “The purpose of this title is to establish a uniform  
7 indoor air standard for public facilities with respect to en-  
8 vironmental tobacco smoke.

9 **“SEC. 502. DEFINITIONS.**

10 “As used in this title:

11 “(1) ENVIRONMENTAL TOBACCO SMOKE.—The  
12 term ‘environmental tobacco smoke’ means smoke  
13 emitted from a cigarette, cigar, or pipe, or any other  
14 combustion of tobacco.

15 “(2) PUBLIC FACILITY.—The term ‘public facil-  
16 ity’—

17 “(A) means a building regularly entered by  
18 10 or more individuals at least 1 day per week,  
19 including a building owned by or leased to a  
20 Federal, State, or local government entity; and

21 “(B) does not include a building or portion  
22 of a building regularly used for residential pur-  
23 poses.

24 “(3) RESPONSIBLE ENTITY.—The term ‘respon-  
25 sible entity’ means, with respect to a public facility,

1 the owner of the facility, except that in the case of  
2 a facility or portion of a facility that is leased, the  
3 term means the lessee of the facility.

4 **“SEC. 503. UNIFORM INDOOR AIR POLICY.**

5 “(a) REQUIREMENT OF POLICY.—

6 “(1) IN GENERAL.—Except as provided in sub-  
7 section (b), the responsible entity for each public fa-  
8 cility shall adopt and carry out at the facility a uni-  
9 form indoor air policy that meets the requirements  
10 of paragraph (2).

11 “(2) ELEMENTS OF POLICY.—

12 “(A) IN GENERAL.—Except as provided in  
13 subparagraph (B), each uniform indoor air pol-  
14 icy for a public facility shall—

15 “(i) prohibit the emission of environ-  
16 mental tobacco smoke within the facility  
17 and on facility property within the imme-  
18 diate vicinity of the entrance to the facility;  
19 and

20 “(ii) post a clear and prominent no-  
21 tice of the prohibition specified in clause  
22 (i) in appropriate and visible locations at  
23 the public facility.

24 “(B) EXCEPTION FOR SPECIALLY DES-  
25 IGNATED SMOKING AREAS.—

1           “(i) IN GENERAL.—A uniform indoor  
2           air policy may provide an exception to the  
3           prohibition specified in subparagraph  
4           (A)(i) for 1 or more specially designated  
5           smoking areas within a public facility if  
6           each area meets the requirements of clause  
7           (ii).

8           “(ii) REQUIREMENTS.—An area meets  
9           the requirements for a specially designated  
10          smoking area referred to in clause (i) if—

11                   “(I) the area is ventilated in ac-  
12                   cordance with specifications issued by  
13                   the Administrator that ensure that air  
14                   from the area is directly exhausted to  
15                   the outside and does not recirculate or  
16                   drift to other areas within the public  
17                   facility; and

18                   “(II) nonsmoking individuals do  
19                   not have to enter the area for any  
20                   purpose.

21          “(b) WAIVERS.—

22                   “(1) IN GENERAL.—A responsible entity for a  
23                   public facility may petition the Administrator for a  
24                   waiver from compliance with subsection (a). If the  
25                   Administrator determines that the public facility is

1 subject to unusual and extenuating circumstances  
2 that prevent the compliance, the Administrator may  
3 grant the waiver and instead require that the facility  
4 protect nonsmokers to the maximum extent prac-  
5 ticable.

6 “(2) TERM OF WAIVER.—Each waiver granted  
7 under this subsection shall be for a period of not to  
8 exceed 1 year.

9 “(3) PUBLICATION.—Each petition for a waiver  
10 and a summary of subsequent actions taken by the  
11 Administrator shall be published in the Federal Reg-  
12 ister.

13 “(4) REPORT TO CONGRESS.—The Adminis-  
14 trator shall annually report to Congress on all waiv-  
15 ers granted during the preceding year.

16 **“SEC. 504. ENFORCEMENT.**

17 “(a) PENALTIES.—

18 “(1) IN GENERAL.—A person subject to section  
19 503 who fails to comply with such section shall be  
20 liable to the United States for a civil penalty in an  
21 amount not to exceed \$5,000 for each day during  
22 which the violation continues.

23 “(2) USE OF PENALTIES.—A court may order  
24 that a civil penalty imposed under this section be  
25 used for projects that further the purpose of this

1 title. The court shall obtain the view of the Adminis-  
2 trator in determining whether to issue an order de-  
3 scribed in the preceding sentence and in selecting  
4 the projects.

5 “(b) BRINGING OF ACTIONS.—

6 “(1) IN GENERAL.—Subject to paragraph (2),  
7 an action to enforce section 503 may be brought by  
8 a person aggrieved by a violation of such section, a  
9 State or local government agency, or the Adminis-  
10 trator.

11 “(2) NOTICE.—An aggrieved person referred to  
12 in paragraph (1) shall give an alleged violator notice  
13 of the alleged violation not less than 60 days before  
14 bringing an action under this section. An aggrieved  
15 person may not bring an action under this section  
16 if the alleged violator complies with section 503  
17 within the 60-day period and thereafter.

18 “(c) VENUE.—An action to enjoin a violation of sec-  
19 tion 503 or to impose a civil penalty for a violation of  
20 such section may be brought in a district court of the  
21 United States for the district in which the defendant re-  
22 sides or is doing business. The district court shall have  
23 jurisdiction, without regard to the amount in controversy  
24 or the citizenship of the parties, to enforce section 503  
25 and to impose civil penalties under this section.

1       “(d) COSTS.—In issuing a final order in an action  
2 brought under this section, a court may award costs of  
3 litigation (including reasonable attorney and expert wit-  
4 ness fees) to a prevailing plaintiff, if the court determines  
5 that the award is appropriate.

6       **“SEC. 505. PREEMPTION.**

7       “Nothing in this title shall preempt or otherwise af-  
8 fect any other Federal, State, or local law that provides  
9 protection from health hazards from environmental to-  
10 bacco smoke.

11       **“SEC. 506. REGULATIONS.**

12       “‘The Administrator may issue such regulations as  
13 the Administrator considers necessary to carry out this  
14 title.’”.

15       (b) EFFECTIVE DATE.—This section and the amend-  
16 ment made by this section shall become effective on the  
17 date that is 1 year after the date of enactment of this  
18 Act.

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