

**R015-0304**

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**A RESOLUTION CONCERNING THE STATE OF MARYLAND'S  
PROPOSED STATE-WIDE SMOKING BAN**

30     **WHEREAS:**     The Maryland Gazette reports that during the 2004 legislative session, State  
40                     Senator Ida G. Ruben (D) intends to propose a state-wide smoking ban similar  
50                     to the one enacted by the Montgomery County Council; and,

60     **WHEREAS:**     Montgomery County's smoking ban has been modified twice by the Maryland  
70                     Circuit Court and once by the Maryland Supreme Court; and,

80     **WHEREAS:**     State Senator, representing Baltimore City, George W. Della (D) voted against  
90                     Senator Ruben's proposed legislation in the 2003 legislative session, stating that,  
100                    "Businesses should decide how to run their establishments and there has been no  
120                    one beating down my door saying, 'You've got to do this. It's a priority.'  
130                    That's not happening with the constituents I represent"; and,

140    **WHEREAS:**     On September 15, 2003 a coalition of restaurant owners doing business in  
150                     Montgomery County, filed a lawsuit claiming the County Council overstepped  
160                     its authority when passing the County's indoor smoking ban; and,

190    **WHEREAS:**     On November 27, 2002 that same ordinance was withdrawn by the Montgomery  
200                     County Council after receiving much criticism, including international criticism;  
210                     for example one European commentator likened the Montgomery County  
220                     smoking ban to the "authoritarian excesses of the Afghanistan Taliban"; and,

230    **WHEREAS:**     The American Civil Liberties Union, an organization known for its mostly  
240                     liberal stances on many issues publicly stated that a smoking ban goes too far;  
250                     and,

260    **WHEREAS:**     The direct quote from the ACLU spokesperson on this issue of a smoke ban is,  
270                     "If someone can just say, 'Yuck, I don't like the smell of cigarettes,' that's no  
280                     different than saying, 'Yuck, I don't like the smell of your cooking because you  
290                     used too much garlic.'"; and,

300    **WHEREAS:**     Senator Ruben has decided that she is going to use the "facts" of an EPA study  
310                     that "proves" second hand smoke is and should be a public health concern; and,

320    **WHEREAS:**     In 1998 Judge William Osteen vacated the study - declaring it null and void  
330                     after extensively commentating on the shoddy way it was conducted. His  
340                     decision was 92 pages long; and,

350    **WHEREAS:**     When confronted with this decision, many anti-tobacco activists organizations  
360                     harp on the fact that Judge Osteen lives in North Carolina. The obvious  
370                     implication is that he's influenced by the tobacco industry in his state; and,

380    **WHEREAS:**     Judge Osteen has a history of siding with the government on tobacco cases and  
390                     in 1997 Judge Osteen ruled the FDA had the authority to regulate tobacco; and,

400    **WHEREAS:**     Washington DC, the capital of the free world, and a direct neighbor to great  
410                     State of Maryland, is considering a smoking ban in private establishments; and,

420    **WHEREAS:**     If Washington DC were to impose a ban on smoking in private establishments  
430                     such as bars, restaurants and clubs, and Maryland did not pass Senator Ruben's

440 proposed ban, Maryland could greatly benefit economically from the new  
450 businesses that would surely open their doors in Maryland; and,

460 **WHEREAS:** According to the Restaurant Association of Maryland, since Montgomery  
470 County's ban on smoking in private establishments, business is off by about  
480 30% on weeknights, and 50% on weekends; and,

490 **WHEREAS:** There is nothing wrong with the public's health education; many endowments  
500 have been set up to enlighten the public of the dangers of smoking and even the  
510 tobacco companies themselves are forced by court order to pay for advertising  
520 and public information campaigns to warn people of the dangers of smoking;  
530 and,

540 **WHEREAS:** On every pack of cigarettes there is a warning that reads as follows,  
550 "SURGEON GENERAL'S WARNING: Smoking causes lung cancer, heart  
560 disease, emphysema, and may complicate pregnancy," and, the Surgeon General  
570 has had warnings concerning the smoking of cigarettes since 1964; and,

580 **WHEREAS:** If Senator Ruben's legislation were to pass, an argument could be made that we  
590 should return to prohibition on alcohol because if someone were to drink too  
600 much they may get behind the wheel of a car and kill another human being; and,

610 **WHEREAS:** Senator Ruben feels in some circumstances Marylanders should be allowed to  
620 break the law and smoke illegal substances and has voted to ease the penalties  
630 for such an offense; and,

640 **WHEREAS:** When this country was first founded, the Declaration of Independence was sent  
650 to the King and it reads in part, "We hold these truths to be self-evident, that all  
660 are created equal, that they are endowed by their Creator with certain  
670 unalienable Rights, that among these are Life, Liberty and the pursuit of  
680 Happiness.—That to secure these rights, Governments are instituted among Men,  
690 *deriving their just powers from the consent of the governed.*"

700 **THEREFORE BE IT RESOLVED:** The Maryland Student Legislature urges The  
710 Maryland General Assembly, specifically the Judiciary Committee, to vote no  
720 on Senator Ida Ruben's proposal to enact a state-wide workplace smoking ban;  
and,

730 **BE IT FURTHER RESOLVED:** If this legislation were to pass both houses of the Assembly,  
740 the Maryland Student Legislature urges Governor Robert Ehrlich to veto the  
750 measure.

810 **MANDATES:**  
820 Speaker of the Assembly Michael Busch  
830 President of the Senate Mike V. Miller  
840 Governor Robert Ehrlich  
850 Lt. Governor Michael Steele  
860 Chairperson of the Maryland Senate Judiciary Committee  
870 State Senator Ida. G. Ruben  
880 State Senator George W. Della

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