

H. B. 2208

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(By Delegates McGeehan, Hartman, Faircloth, Cowles, Folk,
Zatezalo, J. Nelson and Householder)

[Introduced January 22, 2015; referred to the
Committee on Political Subdivisions then Government Organization.]

10 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
11 designated §16-2-16, relating to local smoking restrictions; ensuring that only government
12 officials elected by voters to serve on county commissions will have the power to regulate
13 smoking and creating a process by which local boards of health may make formal
14 recommendations for smoking ordinances to county commissions.

15 *Be it enacted by the Legislature of West Virginia:*

16 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
17 section, designated §16-2-16, to read as follows:

18 **ARTICLE 2. LOCAL BOARDS OF HEALTH.**

19 **§16-2-16. Procedure for local regulation of smoking.**

20 (a) Short title. – This section shall be known and may be cited as the "Elected Official
21 Accountability Act."

22 (b) For the purposes of this section, “smoking” means inhaling, exhaling, burning, or carrying
23 any lighted cigar, cigarette, pipe, or other lighted smoking device for burning tobacco or any other
24 plant. “Smoking” does not include the burning of incense in a religious ceremony.

1 (c) Notwithstanding any provision of this code, a local board of health may not promulgate
2 a rule or regulation that restricts smoking.

3 (d) If a local board of health determines that a restriction of smoking is required to protect
4 the public health within the local board's service area, the local board shall make a written
5 recommendation to the county commission of the county in which the local board is located. After
6 receiving a written recommendation regarding a proposed smoking restriction from a local board of
7 health, a county commission may review such recommendation in a regular or special session and
8 vote on whether to implement the proposed restriction as an ordinance, in accordance with the
9 requirements of article one, chapter seven of this code.

10 (e) The county commission of a county in which a local board of health currently enforces
11 a smoking restriction shall hold a vote on whether to adopt such restriction as an ordinance, in
12 accordance with the requirements of article one, chapter seven of this code, within sixty days of this
13 law taking effect.

NOTE: The purpose of this bill is to ensure that only government officials elected by voters to serve on a county commission will have the power to regulate smoking and to create a process by which local boards of health may make formal recommendations for smoking ordinances to county commissions.

This section is new; therefore, it has been completely underscored.