



**ORANGE COUNTY
HEALTH DEPARTMENT**

Rosemary L. Summers,
MPH, DrPH
Health Director

Richard E. Whitted Human
Services Center
300 West Tryon Street
Post Office Box 8181
Hillsborough, NC 27278
Phone: (919) 245-2411
Fax: (919) 644-3007
www.co.orange.nc.us/health

Central Administrative
Services

Dental Health Services

Environmental Health Services

Health Promotion and
Education Services

Personal Health Services

300 West Tryon Street
Hillsborough, NC 27278

PH: (919) 245-2411
FAX: (919) 644-3007

THIS IS NOTICE OF AN ADMINISTRATIVE PENALTY

**Notice of Third Violation: Citation for Non-Compliance
NC Smoke-free Restaurants and Bar Law**

March 22, 2010

**Mr. Adam Bliss
Hookah Bliss
418 West Franklin St.
Chapel Hill, NC 27516**

**Re: Third notice of violation of the Act to Prohibit Smoking in Certain Public Places
and Places of Employment and Assessment of Administrative Penalty**

Dear Mr. Bliss:

On January 2, 2010, a new law went into effect prohibiting smoking in restaurants and bars in North Carolina entitled an ACT TO PROHIBIT SMOKING IN CERTAIN PUBLIC PLACES AND CERTAIN PLACES OF EMPLOYMENT (S.L 2009-27) referred to as the NC Smoke-free Restaurants and Bars Law. The Orange County Health Department has received a complaint of an alleged violation of the law at Hookah Bliss. Your establishment is required to comply with the new law.

Under the new law, smoking is prohibited in enclosed areas of bars and restaurants. Smoking is also not allowed in enclosed areas of many lodging establishments that operate a permitted restaurant. A person in charge of a restaurant, bar or lodging establishment that is subject to the new law must: 1) post the required no-smoking signs, 2) remove indoor ashtrays and other smoking receptacles, and 3) direct any person who is smoking to extinguish the lighted tobacco product.

As a follow-up to a complaint received by our office, a representative of the Orange County Health Department conducted an on-site inspection on March 17th, 2010 and observed that you were smoking and allowing patrons to smoke inside your establishment.

The specific violation(s) are as follows:

☒ ***Smoking in enclosed areas of the restaurant, bar or lodging facility in which smoking is prohibited***

☒ ***Failure to direct individuals to stop smoking. A person who manages, operates, or controls a restaurant, bar or lodging facility in which smoking is prohibited is required to inform any individual by written or oral notice that smoking in a place where smoking is prohibited is violating the NC Smoke-free Air and direct a person who is smoking to extinguish the lighted tobacco product***

☐ ***Failure to post "No smoking" signs. A person who manages, operates, or controls a restaurant, bar or lodging facility in which smoking is prohibited is required to post "no smoking" signs at each public entrance at a height and location easily seen; be at least 24 square inches in size (example 4x6 inches; be legible font type and display the Division's toll-free information and complaint telephone number 1-800-662-7030, G.S. 130A-497 and www.smokefree.nc.gov.***

☐ *Failure to remove all indoor ashtrays. A person who manages, operates, or controls a restaurant, bar or lodging facility in which smoking is prohibited shall remove all indoor ashtrays and other smoking receptacles from the enclosed areas of the establishment.*

By letter of January 26th, 2010 you were notified of the first violation of the law and by letter dated February 10th, 2010 you were notified of a second violation of the law and the consequences of subsequent violations.

This letter is the third notice of violation of the Act to Prohibit Smoking in Certain Public Places and Certain Places of Employment in accordance with G.S. 130A-22 (h1). In accordance with 130A-22 (h1), I am imposing an administrative penalty of \$200 on you, Adam Bliss, as the person who manages, operates, or controls Hookah Bliss.

Pursuant to the law, each day the violation continues is considered a separate and distinct violation. This administrative penalty shall continue at a rate of \$200 per day until:

- 1) you provide notice to the Orange County Health Department that the violation(s) has been corrected either in writing to the Health Director or by calling 919-245-2411 and notifying me directly, and
- 2) you provide the Orange County Health Department staff access to the establishment during operating hours, and
- 3) the health department staff verifies that you are in compliance with the law.

An invoice for the total amount of penalty will be sent to you. Payment must be received within 30 days of the date of the invoice.

You have the right to appeal this decision to the Orange County Board of Health. To pursue a formal appeal, you must give written notice of an appeal to the Orange County Health Director **WITHIN 30 DAYS OF THE DATE OF THIS LETTER**. The notice of appeal to the health director must include:

- 1) the name and address of the person filing the appeal
- 2) a description of the challenged action and
- 3) a statement explaining why the appellant believes the health director's decision to impose a penalty is incorrect. (Reference North Carolina General Statute 130A-24(b))

Attachment 1 is a copy of G.S. 130A-24 governing the appeal procedures. Administrative penalties shall continue to accrue each day that the violation continues during the appeal.

We are available to assist you in bringing your establishment into compliance with the law. If you have any questions concerning the law or would like to receive additional information, please visit www.smokefree.nc.gov, or call me at 245-2411.

Sincerely,



Rosemary L. Summers, MPH, DrPH
Health Director
Orange County Health Department

Encl.: Attachment 1: NCGS 130A-24 – Appeal Procedure

Cc: Tom Konsler, Environmental Health Director

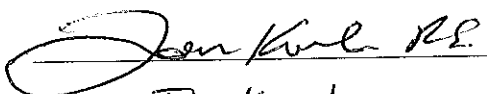
Acknowledgment of Receipt: *Mr. Bliss refused to sign acknowledgment of receipt*



Adam Bliss

Date

Delivered by:



Tom Konsler

3-22-2010

Date

in the field: Conrad & Ruby

**Attachment 1 for Notice of Administrative Penalty for
NC Smoke-free Restaurants and Bar Law**

§ 130A-24. Appeals procedure

(a) Appeals concerning the enforcement of rules adopted by the Commission, concerning the suspension and revocation of permits and program participation by the Secretary and concerning the imposition of administrative penalties by the Secretary shall be governed by Chapter 150B of the General Statutes, the Administrative Procedure Act.

(a1) Any person appealing an action taken by the Department pursuant to this Chapter or rules of the Commission shall file a petition for a contested case with the Office of Administrative Hearings as provided in G.S. 150B-23(a). The petition shall be filed not later than 30 days after notice of the action which confers the right of appeal unless a federal statute or regulation provides for a different time limitation. The time limitation imposed under this subsection shall commence when notice of the agency decision is given to all persons aggrieved. Such notice shall be provided to all persons known to the agency by personal delivery or by the placing of notice in an official depository of the United States Postal Service addressed to the person at the latest address provided to the agency by the person.

(b) Appeals concerning the enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with this subsection and subsections (c) and (d) of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken.

(c) The local board of health shall hold a hearing within 15 days of the receipt of the notice of appeal. The board shall give the person not less than 10 days' notice of the date, time and place of the hearing. On appeal, the board shall have authority to affirm, modify or reverse the challenged action. The local board of health shall issue a written decision based on the evidence presented at the hearing. The decision shall contain a concise statement of the reasons for the decision.

(d) A person who wishes to contest a decision of the local board of health under subsection (b) of this section shall have a right of appeal to the district court having jurisdiction within 30 days after the date of the decision by the board. The scope of review in district court shall be the same as in G.S. 150B-51.

(e) The appeals procedures enumerated in this section shall apply to appeals concerning the enforcement of rules, the imposition of administrative penalties, or any other action taken by the Department of Environment and Natural Resources pursuant to Articles 8, 9, 10, 11, and 12 of this Chapter. (1983, c. 891, s. 2; 1987, c. 482; c. 827, s. 248; 1993, c. 211, s. 1; 1997-443, s. 11A.66; 1998-217, s. 33.)