

1 HB104
2 203829-1
3 By Representative Weaver
4 RFD: Commerce and Small Business
5 First Read: 04-FEB-20

SYNOPSIS: The Alabama Clean Indoor Air Act prohibits smoking in certain places, authorizes employers to designate "no smoking" and "smoking" areas, and establishes penalties.

 This bill would amend the Alabama Clean Indoor Air Act to prohibit the use of electronic nicotine delivery systems in any place where smoking is prohibited.

 This bill would authorize employers to designate "no smoking or vaping" or "smoking and vaping" areas.

 This bill would also extend the existing penalties for smoking in violation of the Alabama Clean Indoor Air Act to vaping in violation of the act.

A BILL
TO BE ENTITLED
AN ACT

1 Relating to nicotine; to amend the Alabama Clean
2 Indoor Air Act to prohibit the use of electronic nicotine
3 delivery systems in any place where smoking is prohibited; to
4 authorize employers to designate "no smoking or vaping" or
5 "smoking and vaping" areas; and to extend the existing
6 penalties for smoking in violation of the Alabama Clean Indoor
7 Air Act to vaping in violation of the act.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 22-15A-3, 22-15A-4, 22-15A-5,
10 22-15A-6, and 22-15A-7, Code of Alabama 1975, are amended to
11 read as follows:

12 "§22-15A-3.

13 "As used in this chapter, the following words and
14 phrases shall have the following meanings:

15 "(1) BAR AND LOUNGE. Any establishment which is
16 primarily devoted to the serving of alcoholic beverages for
17 consumption by patrons on the premises and in which the
18 serving of food is only incidental to the consumption of
19 beverages. Although a restaurant may contain a bar, the term
20 "bar" shall not include the restaurant dining area.

21 "(2) CHILD CARE FACILITY. Any facility caring for
22 children.

23 "(3) DEPARTMENT. The Alabama Department of Public
24 Health.

25 "(4) ELECTRONIC NICOTINE DELIVERY SYSTEM. The same
26 meaning as in Section 28-11-2.

1 "~~(4)~~(5) EMPLOYER. Any person, partnership,
2 association, corporation, or nonprofit entity that employs
3 five or more persons, including the legislative, executive,
4 and judicial branches of state government; and any county,
5 city, town, or village or any other political subdivision of
6 the state; any public authority, commission, agency, or public
7 benefit corporation; or any other separate corporate
8 instrumentality or unit of state or local government.

9 "~~(5)~~(6) GOVERNMENT BUILDING. Any building owned or
10 operated by the state, including the legislative, executive,
11 and judicial branches of state government; any county, city,
12 town, or village or any other political subdivision of the
13 state; any public authority, commission, agency, or public
14 benefit corporation; or any other separate corporate
15 instrumentality or unit of state or local government.

16 "~~(6)~~(7) PUBLIC CONVEYANCE. A bus, taxi, train,
17 trolley, boat, and any other means of public transit.

18 "~~(7)~~(8) PUBLIC MEETING. Any meeting open to the
19 public unless held in a private residence.

20 "~~(8)~~(9) PUBLIC PLACE. Any enclosed area to which the
21 public is permitted, including, but not limited to,
22 auditoriums, elevators, hospitals, nursing homes, libraries,
23 courtrooms, jury waiting rooms and deliberation rooms,
24 theatres, museums, common areas of retirement homes,
25 restaurants, laundromats, health facilities, educational
26 facilities, shopping malls, government buildings, sports and
27 recreational facilities, places of employment, airports,

1 banks, retail stores, and service establishments. A private
2 residence is not a "public place."

3 "~~(9)~~(10) SERVICE LINE. Any indoor line at which one
4 or more persons are waiting for or receiving service of any
5 kind, whether or not the service involves the exchange of
6 money.

7 "~~(10)~~(11) SMOKING. The burning of a lighted
8 cigarette, cigar, pipe, or any other matter or substance that
9 contains tobacco.

10 "~~(11)~~(12) SMOKING AND VAPING AREA. Any designated
11 area meeting the requirements of Section ~~22-15A-7~~ 22-15A-6.

12 "(13) VAPING. Engaging in the use of an electronic
13 nicotine delivery system.

14 "§22-15A-4.

15 "(a) No person shall smoke or use an electronic
16 nicotine delivery system in a public place or at a public
17 meeting except as otherwise provided in this subsection and in
18 Section ~~22-15A-7~~ 22-15A-6. This prohibition does not apply in
19 any of the following places:

20 "(1) Bars and lounges.

21 "(2) Retail tobacco stores and tobacco businesses.

22 "(3) Limousines used under private hire by an
23 individual or corporation.

24 "(4) Hotel and motel rooms rented to guests, except
25 for those rooms designated by the hotels and motels as "no
26 smoking or vaping" rooms.

1 "(b) Smoking or vaping by patients in a chemical
2 dependency treatment program or mental health program may be
3 allowed in a separated well-ventilated area pursuant to a
4 policy established by the administrator of the program that
5 identifies circumstances in which prohibiting smoking or
6 vaping would interfere with the treatment of persons
7 recovering from chemical dependency or mental illness.

8 "§22-15A-5.

9 "(a) By December 1, 2003, each employer having an
10 enclosed place of employment may adopt, implement, make known,
11 and maintain a written smoking and vaping policy which shall
12 contain at a minimum all of the following requirements:

13 "(1) Any employee in a place of employment shall
14 have the right to designate his or her work area as a
15 nonsmoking and nonvaping area and to post the same with an
16 appropriate sign or signs, to be provided by the employer.

17 "(2) Smoking and vaping shall be prohibited in all
18 common work areas in a place of employment, unless a majority
19 of the workers who work in that area agree that a smoking and
20 vaping area will be designated.

21 "(b) The smoking and vaping policy shall be
22 communicated to all employees within three weeks of its
23 adoption. All employers shall supply a written copy of the
24 smoking and vaping policy upon request to any existing or
25 prospective employee.

26 "(c) Notwithstanding any other provisions of this
27 section, every employer shall have the right to designate any

1 place of employment, or any portion thereof, as a nonsmoking
2 and nonvaping area.

3 "§22-15A-6.

4 "(a) Pursuant to this section, the person in charge
5 of a public place may designate an area for the use of smokers
6 and users of electronic nicotine delivery systems.

7 Notwithstanding the foregoing, a smoking and vaping area may
8 not be designated and no person may smoke or use an electronic
9 nicotine delivery system in any of the following unless the
10 area is enclosed and well ventilated:

11 "(1) Child care facilities.

12 "(2) Hospitals, health care clinics, doctors'
13 offices, physical therapy facilities, and dentists' offices.

14 "(3) Elevators.

15 "(4) Buses, taxicabs, and other means of public
16 conveyance.

17 "(5) Government buildings, except private offices.

18 "(6) Restrooms.

19 "(7) Service lines.

20 "(8) Public areas of aquariums, galleries,
21 libraries, and museums.

22 "(9) Lobbies, hallways, and other common areas in
23 apartment buildings, senior citizen residences, nursing homes,
24 and other multiple-unit residential facilities.

25 "(10) Polling places.

26 "(11) Schools or other school facilities or enclosed
27 school sponsored events for grades K-12.

1 "(12) Retail establishments, excluding restaurants,
2 except areas in retail establishments not open to the public.

3 "(13) Lobbies, hallways, and other common areas in
4 multiple-unit commercial facilities.

5 "(b) If a smoking and vaping area is designated,
6 existing physical barriers and ventilation systems shall be
7 used to minimize the toxic effect of smoke and vapor from
8 electronic nicotine delivery systems, and no more than
9 one-fourth of the total square footage in any public place
10 within a single enclosed area shall be reserved and designated
11 for smokers and users of electronic nicotine delivery systems
12 unless clientele dictates otherwise. No area designated as a
13 smoking and vaping area shall contain common facilities which
14 are expected to be used by the public.

15 "(c) Nothing in this section shall be construed to
16 prevent any owner, operator, manager, or other person who
17 controls any establishment or facility from declaring and
18 enforcing a nonsmoking and nonvaping policy in the entire
19 establishment or facility.

20 "(d) Notwithstanding any other provision of this
21 section or this chapter, if any restaurant is deemed by its
22 owner as being too small to have a designated smoking and
23 vaping area, it shall be left up to the discretion of the
24 owner if the facility will be a "smoking and vaping" facility
25 or a "nonsmoking and nonvaping" facility.

26 "§22-15A-7.

1 "(a) A "No Smoking Or Vaping" sign or signs, ~~or the~~
2 ~~international "No Smoking" symbol, which consists of a~~
3 ~~pictorial representation of a burning cigarette enclosed in a~~
4 ~~circle with a bar across,~~ shall be prominently posted and
5 properly maintained where smoking and vaping is prohibited by
6 this chapter, by the owner, operator, manager, or other person
7 in charge of the facility. "Smoking and Vaping Area" signs
8 shall also be posted as appropriate in public places.

9 "(b) The ~~person(s)~~ person or persons in charge of a
10 public place who observes a person in ~~possession~~ use of a
11 lighted tobacco product or an electronic nicotine delivery
12 system in apparent violation of this chapter shall inform that
13 person that smoking and vaping is not permitted in that area
14 by law."

15 Section 2. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.