

2018 -- H 8357

=====
LC005997
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

—————
A N A C T

RELATING TO HEALTH AND SAFETY - PUBLIC HEALTH AND WORKPLACE SAFETY
ACT

Introduced By: Representatives Vella-Wilkinson, Williams, Almeida, Diaz, and Fellela

Date Introduced: June 23, 2018

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-20.10-2 and 23-20.10-6 of the General Laws in Chapter 23-
2 20.10 entitled "Public Health and Workplace Safety Act" are hereby amended to read as follows:

3 **23-20.10-2. Definitions.**

4 The following words and phrases, whenever used in this chapter, shall be construed as
5 defined in this section:

6 (1) "Assisted living residence" means a residence that provides personal assistance and
7 meals to adults in accordance with chapter 17.4 of this title.

8 (2) "Bar" means an establishment that is devoted to the serving of alcoholic beverages for
9 consumption by guests on the premises and in which the serving of food is only incidental to the
10 consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail
11 lounges and cabarets.

12 (3) "Business" means a sole proprietorship, partnership, joint venture, corporation, or
13 other business entity formed for profit-making purposes, including retail establishments where
14 goods or services are sold as well as professional corporations and other entities where legal,
15 ~~medial~~ [medical](#), dental, engineering, architectural or other professional services are delivered.

16 (4) ["Principal or core business" means a business whose majority of customers are](#)
17 [utilizing electronic nicotine delivery systems during normal business hours.](#)

18 (5) ["Electronic nicotine delivery system" means an electronic device that may be used to](#)

1 simulate smoking in the delivery of nicotine or other substance to a person inhaling from the
2 device, and includes, but is not limited to, an electronic cigarette, electronic cigar, electronic
3 cigarillo, electronic pipe, or electronic hookah and any related device and any cartridge or other
4 component of such device.

5 (6) "Electronic nicotine delivery system store" means a retail store, excluding mall
6 kiosks, utilized primarily for the sale of electronic nicotine delivery system products and
7 accessories.

8 (7) "Electronic smoking device establishment" means any business which sells food or
9 alcohol and for which the principal or core business is selling electronic nicotine delivery system
10 devices and where combustible substances are prohibited.

11 (i) Effective July 1, 2018, all establishments that open thereafter must demonstrate
12 quarterly, for a period of one year and annually thereafter, that the annual revenue generated from
13 the serving of electronic nicotine delivery system devices is thirty-three percent (33%) or more of
14 the total revenue for the establishment. Every such owner of an electronic smoking device
15 establishment shall register no later than January 1 of each year with the division of taxation and
16 shall provide, at a minimum, the owner's name and address and the name and address of the
17 electronic smoking device establishment. The division of taxation in the department of
18 administration shall be responsible for the determination under this section and shall promulgate
19 any rules or forms necessary for the implementation of this section. The division of taxation in
20 the department of administration shall be responsible for the determination under this section and
21 shall promulgate any rules or forms necessary for the implementation of this section.

22 ~~(4)~~(8) "Employee" means a person who is employed by an employer in consideration for
23 direct or indirect monetary wages or profit and a person who volunteers his or her services for a
24 nonprofit entity.

25 ~~(5)~~(9) "Employer" means a person, business, partnership, association, corporation,
26 including a municipal corporation, trust or nonprofit entity that employs the services of one or
27 more individual persons.

28 ~~(6)~~(10) "Enclosed area" means all space between a floor and ceiling that is enclosed on
29 all sides by solid walls or windows (exclusive of doorways) that extend from the floor to the
30 ceiling.

31 ~~(7)~~(11) "Health care facility" means an office or institution providing care or treatment of
32 diseases, whether physical, mental, emotional, or other medical, physiological or psychological
33 conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics,
34 including weight control clinics, nursing homes, homes for the aging or chronically ill,

1 laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and
2 all specialists within these professions. This definition shall include all waiting rooms, hallways,
3 private rooms, semi-private rooms, and wards within health care facilities.

4 ~~(8)~~[\(12\)](#) "Place of employment" means an area under the control of a public or private
5 employer that employees normally frequent during the course of employment, including, but not
6 limited to, work areas, employees lounges, restrooms, conference rooms, meeting rooms,
7 classrooms, employee cafeterias, and hallways. Vehicles owned by a public or private employer
8 are covered under this definition provided that the vehicle is used by more than one person. A
9 private residence is not a "place of employment" unless it is used as a child care, adult day care,
10 or health care facility.

11 ~~(9)~~[\(13\)](#) "Public place" means an enclosed area to which the public is invited or in which
12 the public is permitted, including, but not limited to, banks, bars, educational facilities, health
13 care facilities, laundromats, public transportation facilities, reception areas, restaurants, retail
14 food production and marketing establishments, retail service establishments, retail stores,
15 shopping malls, sports arenas, the state house, theaters and waiting rooms. A private residence is
16 not a "public place" unless it is used as a child care, adult day care, or health care facility.

17 ~~(10)~~[\(14\)](#) "Restaurant" means an eating establishment, including, but not limited to, coffee
18 shops, cafeterias, and private and public school cafeterias, that gives or offers for sale food to the
19 public, guests, or employees, as well as kitchens and catering facilities in which food is prepared
20 on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the
21 restaurant.

22 ~~(11)~~[\(15\)](#) "Retail tobacco store" means a retail store utilized primarily for the sale of
23 tobacco, [electronic cigarette](#) products and accessories, [or electronic nicotine delivery system](#)
24 [products](#) in which the total annual revenues generated by the sale of other products are no greater
25 than twenty-five percent (25%) of the total revenue for the establishment. The division of taxation
26 shall be responsible for the determination under this section and shall promulgate any rules or
27 forms necessary for the implementation of this section.

28 ~~(12)~~[\(16\)](#) "Service line" means an indoor line in which one or more persons are waiting for
29 or receiving service of any kind, whether or not the service involves the exchange of money.

30 ~~(13)~~[\(17\)](#) "Shopping mall" means an enclosed public walkway or hall area that serves to
31 connect retail or professional establishments.

32 ~~(14)~~[\(18\)](#) "Smoking" [or "smoke"](#) means inhaling, exhaling, burning, or carrying any
33 lighted [or heated](#) cigar, cigarette, pipe, weed, plant, [other tobacco product or plant product](#) or
34 other combustible substance in any manner or in any form [intended for inhalation in any manner](#)

1 or form. "Smoking" or "smoke" also includes the use of electronic cigarettes, electronic cigars,
2 electronic pipes, electronic nicotine delivery system products or other similar products that rely
3 on vaporization or aerosolization; provided, however, that smoking shall not include burning
4 during a religious ceremony.

5 ~~(15)~~(19) (a) "Smoking bar" means an establishment whose business is primarily devoted
6 to the serving of tobacco products for consumption on the premises, in which the annual revenues
7 generated by tobacco sales are greater than fifty percent (50%) of the total revenue for the
8 establishment and the serving of food or alcohol is only incidental to the consumption of such
9 tobacco products. Effective July 1, 2015, all existing establishments and establishments that open
10 thereafter must demonstrate quarterly, for a period of one year and annually thereafter, that the
11 annual revenue generated from the serving of tobacco products is greater than fifty percent (50%)
12 of the total revenue for the establishment, and the serving of food, alcohol, or beverages is only
13 incidental to the consumption of such tobacco products. Every owner of a smoking bar shall
14 register no later than January 1 of each year with the division of taxation and shall provide, at a
15 minimum, the owner's name and address and the name and address of the smoking bar. The
16 division of taxation in the department of administration shall be responsible for the determination
17 under this section and shall promulgate any rules or forms necessary for the implementation of
18 this section. The division of taxation in the department of administration shall be responsible for
19 the determination under this section and shall promulgate any rules or forms necessary for the
20 implementation of this section.

21 (b) Smoking bars shall only allow consumption of food and beverages sold by the
22 establishment on the premises and the establishment shall have public access only from the street.

23 (c) Any smoking bar, as defined herein, is required to provide a proper ventilation system
24 that will prevent the migration of smoke into the street.

25 ~~(16)~~(20) "Sports arena" means sports pavilions, stadiums, (indoor or outdoor) organized
26 sports fields, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks,
27 bowling alleys, and other similar places where members of the general public assemble to engage
28 in physical exercise, participate in athletic competition, or witness sports or other events.

29 ~~(17)~~(21) "Legislature" means the general assembly of the state of Rhode Island.

30 **23-20.10-6. Where smoking not regulated.**

31 (a) Notwithstanding any other provision of this chapter to the contrary, the following
32 areas shall be exempt from the provisions of this chapter:

33 (1) Private residences, except when used as a licensed child care, adult day care or health
34 care facility;

1 (2) Hotel and motel rooms that are rented to guests and are designated as smoking rooms;
2 provided, however, that not more than fifty percent (50%) of rooms rented to guests in a hotel or
3 motel may be so designated;

4 (3) Retail tobacco stores; provided that smoke from these places does not infiltrate into
5 areas where smoking is prohibited under the provisions of this chapter;

6 (4) Private and semi-private rooms or designated areas in assisted living residences and
7 nursing facilities as allowed by regulation of the department of health under chapters 17.4 and 17
8 of this title;

9 (5) Outdoor areas of places of employment, except those covered by the provisions of
10 §23-20.10-5;

11 (6) Any smoking bar as defined in ~~§23-20.10-2(15)~~ [§ 23-20.10-2\(19\)](#);

12 (7) [Deleted by P.L. 2005, ch. 22, §1 and P.L. 2005, ch. 23, §1].

13 (8) [Deleted by P.L. 2005, ch. 22, §1 and P.L. 2005, ch. 23, §1].

14 [\(9\) Any electronic nicotine delivery system store as defined in § 23-20.10-2\(6\) and any](#)
15 [electronic smoking device establishment as defined in § 23-20.10-2 \(7\).](#)

16 (b) The provisions of this chapter shall not apply to any stage performance provided that
17 smoking is part of a theatrical production.

18 SECTION 2. This act shall take effect on July 1, 2018.

=====
LC005997
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY - PUBLIC HEALTH AND WORKPLACE SAFETY
ACT

1 This act would amend the definitions of "smoking" and "retail tobacco store" to include
2 electronic smoking devices, electronic nicotine delivery system products and other products that
3 rely on vaporization or aerosolization.

4 This act would take effect on July 1, 2018.

=====
LC005997
=====