

1 HB406  
2 198659-1  
3 By Representatives Stringer, Drummond, Simpson, Marques,  
4 Sullivan and Brown (C)  
5 RFD: Commerce and Small Business  
6 First Read: 11-APR-19

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8 SYNOPSIS: Existing law provides that a person may not  
9 smoke in certain places, that an employer may  
10 designate specified areas for smokers to use at the  
11 workplace, and that a restaurant owner may choose  
12 whether to allow smoking in his or her restaurant.

13 This bill would provide that a person may  
14 not use e-cigarettes or other electronic nicotine  
15 delivery devices in any place where smoking is also  
16 prohibited.

17 This bill would also provide that an  
18 employer may designate specified areas for the use  
19 of e-cigarettes and other electronic nicotine  
20 delivery devices at the workplace.

21 This bill would also provide that a  
22 restaurant owner may choose whether to allow the  
23 use of e-cigarettes and other electronic nicotine  
24 delivery devices in his or her restaurant.

25  
26 A BILL  
27 TO BE ENTITLED

1 AN ACT

2  
3 Relating to nicotine products; to amend Sections  
4 22-15A-3, 22-15A-4, 22-15A-5, and 22-15A-6, Code of Alabama  
5 1975; to provide that a person may not use e-cigarettes or  
6 other electronic nicotine delivery devices in any place where  
7 smoking is also prohibited; to provide that an employer may  
8 designate specified areas for the use of e-cigarettes and  
9 other electronic nicotine delivery devices at the workplace;  
10 and to provide that a restaurant owner may choose whether to  
11 allow the use of e-cigarettes and other electronic nicotine  
12 delivery devices in his or her restaurant.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17 "§22-15A-3.

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

20 "(1) BAR AND LOUNGE. Any establishment which is  
21 primarily devoted to the serving of alcoholic beverages for  
22 consumption by patrons on the premises and in which the  
23 serving of food is only incidental to the consumption of  
24 beverages. Although a restaurant may contain a bar, the term  
25 "bar" ~~shall~~ does not include the restaurant dining area.

26 "(2) CHILD CARE FACILITY. Any facility caring for  
27 children.

1                   "(3) DEPARTMENT. The Alabama Department of Public  
2 Health.

3                   "(4) ELECTRONIC NICOTINE DELIVERY SYSTEM. Includes  
4 any vaporizing device that produces a vapor that delivers  
5 nicotine or other substance to the person inhaling from the  
6 device to simulate smoking, and includes, but is not limited  
7 to, products that may be offered to, purchased by, or marketed  
8 to consumers as an electronic cigarette, electronic cigar,  
9 electronic cigarillo, electronic pipe, electronic hookah, vape  
10 pen, vape tool, vaping device, or any variation of these  
11 terms. The term also includes any liquid intended to be  
12 vaporized in any device included in this subdivision,  
13 regardless of whether or not the liquid contains nicotine.

14                   "~~(4)~~ (5) EMPLOYER. Any person, partnership,  
15 association, corporation, or nonprofit entity that employs  
16 five or more persons, including the legislative, executive,  
17 and judicial branches of state government, ~~and,~~ any county,  
18 city, town, or village or any other political subdivision of  
19 the state, ~~and,~~ any public authority, commission, agency, or  
20 public benefit corporation, ~~and,~~ or any other separate corporate  
21 instrumentality or unit of state or local government.

22                   "~~(5)~~ (6) GOVERNMENT BUILDING. Any building owned or  
23 operated by the state, including the legislative, executive,  
24 and judicial branches of state government, ~~and,~~ or any county,  
25 city, town, or village or any other political subdivision of  
26 the state, ~~and,~~ or any public authority, commission, agency, or

1 public benefit corporation~~7~~, or any other separate corporate  
2 instrumentality or unit of state or local government.

3 "~~(6)~~(7) PUBLIC CONVEYANCE. A bus, taxi, train,  
4 trolley, boat, ~~and~~ or any other means of public transit.

5 "~~(7)~~(8) PUBLIC MEETING. Any meeting open to the  
6 public unless held in a private residence.

7 "~~(8)~~(9) PUBLIC PLACE. Any enclosed area to which the  
8 public is permitted, including, but not limited to,  
9 auditoriums, elevators, hospitals, nursing homes, libraries,  
10 courtrooms, jury waiting rooms and deliberation rooms,  
11 theatres, museums, common areas of retirement homes,  
12 restaurants, laundromats, health facilities, educational  
13 facilities, shopping malls, government buildings, sports and  
14 recreational facilities, places of employment, airports,  
15 banks, retail stores, and service establishments. A private  
16 residence is not a "public place."

17 "~~(9)~~(10) SERVICE LINE. Any indoor line at which one  
18 or more persons are waiting for or receiving service of any  
19 kind, whether or not the service involves the exchange of  
20 money.

21 "~~(10)~~(11) SMOKING. The burning of a lighted  
22 cigarette, cigar, pipe, or any other matter or substance that  
23 contains tobacco.

24 "~~(11)~~(12) SMOKING AREA. Any designated area meeting  
25 the requirements of Section 22-15A-7.

26 "(13) VAPE or VAPING. The use of an electronic  
27 nicotine delivery system.

1           "§22-15A-4.

2           "(a) No person shall smoke or vape in a public place  
3 or at a public meeting except as otherwise provided in this  
4 subsection and in Section 22-15A-7. This prohibition does not  
5 apply in any of the following places:

6           "(1) Bars and lounges.

7           "(2) Retail tobacco stores ~~and,~~ tobacco businesses,  
8 and retail electronic nicotine delivery system stores.

9           "(3) Limousines used under private hire by an  
10 individual or corporation.

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

14           "(b) Smoking or vaping by patients in a chemical  
15 dependency treatment program or mental health program may be  
16 allowed in a separated well-ventilated area pursuant to a  
17 policy established by the administrator of the program that  
18 identifies circumstances in which prohibiting smoking or  
19 vaping would interfere with the treatment of persons  
20 recovering from chemical dependency or mental illness.

21           "§22-15A-5.

22           "(a) ~~By December 1, 2003, each~~ Each employer having  
23 an enclosed place of employment may adopt, implement, make  
24 known, and maintain a written smoking or vaping policy which  
25 shall contain at a minimum all of the following requirements:

26           "(1) Any employee in a place of employment shall  
27 have the right to designate his or her work area as a

1 nonsmoking or nonvaping area and to post the same with an  
2 appropriate sign or signs, to be provided by the employer.

3 "(2) ~~Smoking~~ Both smoking and vaping shall be  
4 prohibited in all common work areas in a place of employment,  
5 unless a majority of the workers who work in that area agree  
6 that a smoking or vaping area will be designated.

7 "(b) The smoking or vaping policy shall be  
8 communicated to all employees within three weeks of its  
9 adoption. All employers shall supply a written copy of the  
10 ~~smoking~~ policy upon request to any existing or prospective  
11 employee.

12 "(c) Notwithstanding any other provisions of this  
13 section, every employer shall have the right to designate any  
14 place of employment, or any portion thereof, as a nonsmoking  
15 or nonvaping area.

16 "§22-15A-6.

17 "(a) Pursuant to this section, the person in charge  
18 of a public place may designate an area for ~~the use of smokers~~  
19 smoking or vaping. Notwithstanding the foregoing, a smoking or  
20 vaping area may not be designated and no person may smoke or  
21 vape in any of the following unless the area is enclosed and  
22 well ventilated:

23 "(1) Child care facilities.

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

26 "(3) Elevators.

1           "(4) Buses, taxicabs, and other means of public  
2 conveyance.

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

4           "(6) Restrooms.

5           "(7) Service lines.

6           "(8) Public areas of aquariums, galleries,  
7 libraries, and museums.

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

11          "(10) Polling places.

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

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

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

18          "(b) If a smoking or vaping area is designated,  
19 existing physical barriers and ventilation systems shall be  
20 used to minimize the toxic effect of smoke or of vapor from  
21 electronic nicotine delivery systems, and no more than  
22 one-fourth of the total square footage in any public place  
23 within a single enclosed area shall be reserved and designated  
24 for ~~smokers~~ smoking or vaping unless clientele dictates  
25 otherwise. No area designated as a smoking or vaping area  
26 shall contain common facilities which are expected to be used  
27 by the public.



1           "(c) Nothing in this section shall be construed to  
2 prevent any owner, operator, manager, or other person who  
3 controls any establishment or facility from declaring and  
4 enforcing a nonsmoking or nonvaping policy in the entire  
5 establishment or facility.

6           "(d) Notwithstanding any other provision of this  
7 section or this chapter, if any restaurant is deemed by its  
8 owner as being too small to have a designated smoking or  
9 vaping area, it shall be left up to the discretion of the  
10 owner if ~~the facility will be a "smoking" or a "nonsmoking"~~  
11 smoking or vaping will be allowed at the facility."

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