

HOUSE BILL 1278

By Whitson

AN ACT to amend Tennessee Code Annotated, Title 5;  
Title 6; Title 7 and Title 39, relative to smoking.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-1802, is amended by adding the following new subdivisions:

( ) "Hotel" means a building or establishment kept, used, or maintained as, or advertised as, or offered to the public to be, a place where sleeping accommodations are furnished for pay to transients or travelers, whether or not meals are served to transients or travelers;

( ) "Park" means:

(A) A recreational area to which the public is invited or has access, including, but not limited to, areas designed in whole or in part to be used by children or that have:

(i) Play or sports equipment installed; or

(ii) Been designated or landscaped for play or sports activities; or

(B) A similar facility located on public or private school grounds or on municipal or county grounds;

( ) "Public property" means a place to which the public or a group of persons is invited or has access and is owned or leased by a local government;

( ) "Vapor product":

(A) Means a noncombustible product containing nicotine or a substance that employs a mechanical heating element, battery, electronic circuit, or other

mechanism, regardless of shape or size, that can be used to produce or emit a visible or non-visible vapor;

(B) Includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product, and a vapor cartridge, a substance used to refill a vapor cartridge, or other container of a solution containing nicotine or a substance that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product; and

(C) Does not include a product regulated under Chapter V of the Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.);

SECTION 2. Tennessee Code Annotated, Section 39-17-1803, is amended by deleting the following language:

Smoking is prohibited in all enclosed public places within this state, including, but not limited to, the following places:

and substituting instead the language:

Smoking and the use of vapor products are prohibited in all enclosed public places within this state, including, but not limited to, the following places:

SECTION 3. Tennessee Code Annotated, Section 39-17-1803, is amended by adding the following as a new subsection (b) and redesignating the existing subsection accordingly:

(b)

(1) A municipality, county, or county having a metropolitan form of government may by resolution or ordinance regulate smoking and the use of vapor products in age-restricted venues, hotels, private clubs that do not meet the definition of a "club" as that term is defined in § 57-4-102, public property, and parks.

(2) Subdivision (b)(1) does not authorize a municipality, county, or county having a metropolitan form of government to regulate smoking or the use of vapor products in a manner that is less restrictive than that required under subsection (a) or part 15 or 16 of this chapter.

(3) This subsection (b) does not affect or repeal any regulation of smoking or vapor products in public places, places of employment, age-restricted venues, hotels, private clubs that do not meet the definition of a "club," as that term is defined in § 57-4-102, public property, and parks located in a municipality, county, or county having a metropolitan form of government, if the regulatory scheme was enacted:

(A) Based upon the authority conferred by this part; and

(B) Prior to July 1, 2021.

(4) This subsection (b) applies to counties having a population greater than one hundred eighty thousand (180,000), according to the 2010 federal census or any subsequent federal census, and to municipalities fully or partially within such counties.

SECTION 4. Tennessee Code Annotated, Section 39-17-1804(1), is amended by deleting the subdivision and substituting instead:

(1) Age-restricted venues, unless prohibited by resolution or ordinance of a local governmental entity authorized to prohibit the activity under § 39-17-1803(b);

SECTION 5. Tennessee Code Annotated, Section 39-17-1804(2), is amended by deleting the subdivision and substituting instead:

(2) Unless prohibited by resolution or ordinance of a local governmental entity authorized to prohibit the activity under § 39-17-1803(b), hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, that no more than

twenty-five percent (25%) of rooms rented to guests in a hotel or motel may be so designated. All smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into areas where smoking is prohibited pursuant to this part;

SECTION 6. Tennessee Code Annotated, Section 39-17-1804(7), is amended by deleting the subdivision and substituting instead:

(7) Private clubs that meet the definition of a "club," as that term is defined in § 57-4-102, and that are permitted to sell liquor by the drink; provided, that this exemption does not apply to any entity that is established solely for the purpose of avoiding compliance with this part;

SECTION 7. Tennessee Code Annotated, Section 39-17-1551(a), is amended by deleting the subsection and substituting instead:

(a)

(1)

(A) Cities, counties, and counties having a metropolitan form of government may regulate smoking, as defined in § 39-17-1802, and the use of vapor products by passing a resolution or ordinance, as applicable, in buildings owned or leased by the political subdivisions, age-restricted venues, hotels, private clubs that do not meet the definition of "club," as that term is defined in § 57-4-102, public property, and parks, as those terms are defined in § 39-17-1802.

(B) This subdivision (a)(1) applies to counties having a population greater than one hundred eighty thousand (180,000), according to the 2010 federal census or any subsequent federal census, and to municipalities fully or partially within such counties.

(2) Airport authorities created pursuant to title 42, utility districts created pursuant to title 7, and special school districts may regulate the use of tobacco products in buildings owned or leased by the entities.

SECTION 8. Tennessee Code Annotated, Section 39-17-1604, is amended by deleting subdivisions (1) and (3)-(9) and substituting instead the following:

- (1) Child care centers;
- (3) Group care homes;
- (4) Healthcare facilities, excluding nursing home facilities;
- (5) Museums;
- (6) All public and private kindergartens and elementary and secondary schools;
- (7) Residential treatment facilities for children and youth;
- (8) Youth development centers and facilities;
- (9) Zoos; and

SECTION 9. This act takes effect July 1, 2021, the public welfare requiring it.