

26-38-2 Definitions.

As used in this chapter:

- (1) "E-cigarette":
 - (a) means any electronic oral device:
 - (i) that provides a vapor of nicotine or other substance; and
 - (ii) which simulates smoking through its use or through inhalation of the device; and
 - (b) includes an oral device that is:
 - (i) composed of a heating element, battery, or electronic circuit; and
 - (ii) marketed, manufactured, distributed, or sold as:
 - (A) an e-cigarette;
 - (B) e-cigar;
 - (C) e-pipe; or
 - (D) any other product name or descriptor, if the function of the product meets the definition of Subsection (1)(a).
- (2) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:
 - (a) buildings, offices, shops, elevators, or restrooms;
 - (b) means of transportation or common carrier waiting rooms;
 - (c) restaurants, cafes, or cafeterias;
 - (d) taverns as defined in Section 32B-1-102, or cabarets;
 - (e) shopping malls, retail stores, grocery stores, or arcades;
 - (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical sites, auditoriums, or arenas;
 - (g) barber shops, hair salons, or laundromats;
 - (h) sports or fitness facilities;
 - (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and breakfast" lodging facilities, and other similar lodging facilities, including the lobbies, hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any of these;
 - (j)
 - (i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present; and
 - (ii) any child care, other than child care as defined in Section 26-39-102, that is not subject to licensure or certification under this title, when any child cared for by the provider, other than the child of the provider, is present;
 - (k) public or private elementary or secondary school buildings and educational facilities or the property on which those facilities are located;
 - (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or religious organization when used solely by the organization members or their guests or families;
 - (m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;
 - (n) any workplace that is not a place of public access or a publicly owned building or office but has one or more employees who are not owner-operators of the business;
 - (o) any area where the proprietor or manager of the area has posted a conspicuous sign stating "no smoking", "thank you for not smoking", or similar statement; and
 - (p) a holder of a club license, as defined in Section 32B-1-102.

- (3) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.
- (4) "Smoking" means:
 - (a) the possession of any lighted or heated tobacco product in any form;
 - (b) inhaling, exhaling, burning, or heating a substance containing tobacco or nicotine intended for inhalation through a cigar, cigarette, pipe, or hookah;
 - (c) except as provided in Section 26-38-2.6, using an e-cigarette; or
 - (d) using an oral smoking device intended to circumvent the prohibition of smoking in this chapter.

Amended by Chapter 171, 2012 General Session