

1 **AMENDMENT TO DEFINITION OF SMOKING IN UTAH**

2 **INDOOR CLEAN AIR ACT**

3 2012 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Bradley G. Last**

6 Senate Sponsor: Margaret Dayton

7

LONG TITLE

8 **General Description:**

9
10 This bill amends the definition of smoking in the Utah Indoor Clean Air Act to prohibit
11 the use of e-cigarettes and hookah pipes in a place of public access.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends the definition of smoking to include e-cigarettes and heated tobacco
- 15 products; and
- 16 ▶ defines e-cigarette.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **26-38-2**, as last amended by Laws of Utah 2010, Chapter 276

24

Be it enacted by the Legislature of the state of Utah:

25 Section 1. Section **26-38-2** is amended to read:

26 **26-38-2. Definitions.**



28 As used in this chapter:

29 (1) "E-cigarette":

30 (a) means any electronic oral device:

31 (i) that provides a vapor of nicotine or other substance; and

32 (ii) which simulates smoking through its use or through inhalation of the device; and

33 (b) includes an oral device that is:

34 (i) composed of a heating element, battery, or electronic circuit; and

35 (ii) marketed, manufactured, distributed, or sold as:

36 (A) an e-cigarette;

37 (B) e-cigar;

38 (C) e-pipe; or

39 (D) any other product name or descriptor, if the function of the product meets the

40 definition of Subsection (1)(a).

41 ~~[(1)]~~ (2) "Place of public access" means any enclosed indoor place of business,
42 commerce, banking, financial service, or other service-related activity, whether publicly or
43 privately owned and whether operated for profit or not, to which persons not employed at the
44 place of public access have general and regular access or which the public uses, including:

45 (a) buildings, offices, shops, elevators, or restrooms;

46 (b) means of transportation or common carrier waiting rooms;

47 (c) restaurants, cafes, or cafeterias;

48 (d) taverns as defined in Section 32B-1-102, or cabarets;

49 (e) shopping malls, retail stores, grocery stores, or arcades;

50 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
51 sites, auditoriums, or arenas;

52 (g) barber shops, hair salons, or laundromats;

53 (h) sports or fitness facilities;

54 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
55 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,

56 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
57 of these;

58 (j) (i) any child care facility or program subject to licensure or certification under this

59 title, including those operated in private homes, when any child cared for under that license is
60 present; and

61 (ii) any child care, other than child care as defined in Section 26-39-102, that is not
62 subject to licensure or certification under this title, when any child cared for by the provider,
63 other than the child of the provider, is present;

64 (k) public or private elementary or secondary school buildings and educational
65 facilities or the property on which those facilities are located;

66 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
67 religious organization when used solely by the organization members or their guests or
68 families;

69 (m) any facility rented or leased for private functions from which the general public is
70 excluded and arrangements for the function are under the control of the function sponsor;

71 (n) any workplace that is not a place of public access or a publicly owned building or
72 office but has one or more employees who are not owner-operators of the business;

73 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
74 stating "no smoking", "thank you for not smoking", or similar statement; and

75 (p) a holder of a club license, as defined in Section 32B-1-102.

76 ~~[(2)]~~ (3) "Publicly owned building or office" means any enclosed indoor place or
77 portion of a place owned, leased, or rented by any state, county, or municipal government, or
78 by any agency supported by appropriation of, or by contracts or grants from, funds derived
79 from the collection of federal, state, county, or municipal taxes.

80 ~~[(3)]~~ (4) "Smoking" means:

81 (a) the possession of any lighted or heated tobacco product in any form[-];

82 (b) inhaling, exhaling, burning, or heating a substance intended for inhalation through a
83 cigar, cigarette, pipe, or hookah;

84 (c) using an e-cigarette; and

85 (d) using an oral smoking device intended to circumvent the prohibition of smoking in
86 this chapter.

Legislative Review Note
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Office of Legislative Research and General Counsel