



# *State of Tennessee*

## **PUBLIC CHAPTER NO. 551**

### **SENATE BILL NO. 1047**

**By Southerland**

Substituted for: House Bill No. 705

By Russell, Gant, White, Sherrell, Kumar

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, relative to vapor products.

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

SECTION 1. Tennessee Code Annotated, Section 39-17-1802(16), is amended by redesignating the existing language as subdivision (16)(A) and adding the following new subdivision:

(B) "Smoking" also means using a vapor product that delivers aerosolized or vaporized nicotine, or any other substance, to the person inhaling from the device;

SECTION 2. Tennessee Code Annotated, Section 39-17-1802, is amended by adding the following as new, appropriately designated subdivisions:

( ) "Retail vapor product store" means a retail store that derives the store's largest category of sales from vapor products and accessories;

( ) "Vapor product" has the same meaning as defined in § 39-17-1503;

SECTION 3. Tennessee Code Annotated, Section 39-17-1804(3), is amended by deleting the subdivision and substituting the following:

(3) All premises of any manufacturer, importer, or wholesaler of tobacco or vapor products, all premises of any tobacco leaf dealer or processor, and all tobacco storage facilities;

SECTION 4. Tennessee Code Annotated, Section 39-17-1804(9), is amended by deleting the subdivision and substituting:

(9) Retail tobacco stores and retail vapor product stores that prohibit persons under twenty-one (21) years of age on their premises; and

SECTION 5. Tennessee Code Annotated, Section 39-17-1551, is amended by deleting the section and substituting:

(a) The general assembly intends by this part and other provisions of Tennessee Code Annotated to occupy and preempt the entire field of legislation concerning the regulation of tobacco products and vapor products. Any law or regulation of tobacco products enacted or promulgated after March 15, 1994, or vapor products enacted or promulgated after July 1, 2021, by any agency or political subdivision of the state or any agency thereof is void; provided, that cities, counties, and counties having a metropolitan form of government may regulate the use of tobacco products or vapor products in buildings owned or leased by the political subdivisions; and provided further, that 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 or vapor products in buildings owned or leased by the entities. Notwithstanding any other law to the contrary, individual owners or operators of retail establishments located within an enclosed shopping mall retain the right to determine the policy on the use of tobacco products or vapor products within the person's establishment.

(b)(1) Notwithstanding subsection (a) or any other provision of this title, a municipality, a county, or a county having a metropolitan form of government is authorized by local ordinance or resolution to prohibit smoking or use of a vapor product on the grounds of a hospital or in the public areas immediately outside of a hospital building and its entrances, including public sidewalks.

(2) Any regulation or ordinance that is passed or adopted by a local government pursuant to the authority granted by this subsection (b) may prohibit smoking or use of a vapor product by a distance of up to fifty feet (50') from a hospital's entrance unless the application of a fifty-foot limit would place hospital patients in a potentially unsafe condition. In which case, the fifty-foot limit shall be extended to such distance as is necessary to ensure patient safety as determined by the local government's legislative body in consultation with representatives of any hospitals that are subject to the regulation or ordinance.

(c)(1) Notwithstanding subsection (a) or any other provision of this title, a local government is authorized by ordinance to prohibit smoking or use of a vapor product on the grounds of a swimming pool owned or operated by such local government or an outdoor amphitheater with a seating capacity of at least six thousand (6,000) owned or operated by such local government.

(2) Subdivision (c)(1) only applies to:

(A) Municipalities located in a county having a population of not less than one hundred fifty-six thousand eight hundred (156,800) nor more than one hundred fifty-six thousand nine hundred (156,900), according to the 2010 federal census or any subsequent federal census; or

(B) Any county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census.

(d)(1) Notwithstanding subsection (a) or any other provision of this title, a local government is authorized by ordinance to prohibit smoking or use of a vapor product on the grounds of an urban park center, as described in § 57-4-102.

(2) Subdivision (d)(1) only applies to municipalities located in a county having a population of not less than seventy-two thousand three hundred (72,300) nor more than seventy-two thousand four hundred (72,400), according to the 2010 federal census or any subsequent federal census.

(e)(1) Notwithstanding subsection (a) or any other provision of this title, a local government is authorized by ordinance to prohibit smoking or use of a vapor product on the grounds of a playground by adopting a resolution or ordinance approved by a two-thirds (2/3) vote of the legislative body of the local government.


(2) As used in this subsection (e) "playground" means an indoor or outdoor facility that is intended for recreation of children and owned by the local government.

SECTION 6. This act takes effect July 1, 2021, the public welfare requiring it.

SENATE BILL NO. 1047

PASSED: May 4, 2021

  
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RANDY McNALLY  
SPEAKER OF THE SENATE

  
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CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 20<sup>th</sup> day of May 2021

  
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BILL LEE, GOVERNOR