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H.217

Introduced by Representatives Frank of Underhill, Batchelor of Derby,
Krowinski of Burlington, and Mrowicki of Putney

Referred to Committee on

Date:

Subject: Health; occupational health; smoking

Statement of purpose of bill as introduced: This bill proposes to extend
restrictions on smoking in workplaces and areas of public access to include
certain partially enclosed structures, lodging establishments, and state lands.

~~An act relating to smoking in partially enclosed structures, lodging
establishments, and state lands. An act relating to smoking in lodging
establishments, hospitals, and child care facilities, and on State lands~~

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 18 V.S.A. § 1421 is amended to read.~~

~~§ 1421. SMOKING IN THE WORKPLACE; PROHIBITION~~

~~(a) The use of lighted tobacco products is prohibited in any workplace.~~

~~(b)(1) For the purposes of this subchapter, “workplace” means an enclosed
or partially enclosed structure where employees perform services for an
employer or, in the case of an employer who assigns employees to
departments, divisions, or similar organizational units, the enclosed or partially
enclosed portion of a structure to which the employee is assigned.~~

1 * * *

2 (3) For schools, workplace includes any enclosed or partially enclosed
3 location where instruction or other school-sponsored functions are occurring
4 and students are present.

5 (4) For lodging establishments used for transient traveling or public
6 vacationing, such as resorts, hotels and motels, workplace includes the sleeping
7 quarters rented to guests.

8 * * *

9 Sec. 2. 18 V.S.A. § 1741 is amended to read:

10 § 1741. DEFINITIONS

11 As used in this chapter:

12 * * *

13 (2) "A place of public access" means any place of business, commerce,
14 banking, financial service, or other service-related activity, whether publicly or
15 privately owned and whether operated for profit or not, to which the general
16 public has access or which the general public uses, including buildings, offices,
17 means of transportation, common carrier waiting rooms, arcades, restaurants,
18 bars and cabarets, retail stores, grocery stores, libraries, theaters, concert halls,
19 auditoriums, arenas, barber shops, hair salons, laundromats, shopping malls,
20 museums, art galleries, sports and fitness facilities, planetariums, historical
21 sites, lodging establishments for transient traveling or public vacationing, such

1 ~~as resorts, hotels and motels, common areas of nursing homes, hospitals,~~
2 ~~resorts, hotels and motels, including the lobbies, hallways, elevators,~~
3 ~~restaurants, restrooms, cafeterias, and buildings or facilities owned or operated~~
4 ~~by a social, fraternal, or religious club.~~

5 (3) “Enclosed or partially enclosed” means closed in by a roof or
6 overhang and at least two walls of building materials, canvas, or other material
7 that impedes air flow. Enclosed or partially enclosed areas include areas
8 commonly described as public lobbies, interior courtyards, patios, porches, and
9 covered decks and walkways.

10 (3)(4) “Publicly owned buildings and offices” means enclosed and
11 partially enclosed indoor places or portions of such places owned, leased, or
12 rented by state, county, or municipal governments, or by agencies supported by
13 appropriation of, or by contracts or grants from, funds derived from the
14 collection of federal, state, county, or municipal taxes.

15 Sec. 3. 18 V.S.A. § 1742 is amended to read:

16 § 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

17 The possession of lighted tobacco products in any form is prohibited in the
18 common areas of all enclosed ~~indoor~~ and partially enclosed places of public
19 access ~~and, in designated smoke free areas of state parks and forests and in any~~
20 other area of publicly owned buildings and offices, including all outside
21 property or grounds leased by the State.

1 ~~Sec. 4. EFFECTIVE DATE~~

2 ~~This act shall take effect on July 1, 2013.~~

Sec. 1. 18 V.S.A. § 1421 is amended to read:

§ 1421. SMOKING IN THE WORKPLACE; PROHIBITION

(a) The use of lighted tobacco products is prohibited in any workplace.

(b)(1) ~~For the purposes of~~ As used in this subchapter, “workplace” means an enclosed structure where employees perform services for an employer ~~or,~~ ~~in,~~ including restaurants, bars, and other establishments in which food or drinks, or both, are served. In the case of an employer who assigns employees to departments, divisions, or similar organizational units, “workplace” means the enclosed portion of a structure to which the employee is assigned.

* * *

(3) For schools, workplace includes any enclosed location where instruction or other school-sponsored functions are occurring ~~and students are present.~~

(4) For lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, workplace includes the sleeping quarters and adjoining rooms rented to guests.

* * *

Sec. 2. 18 V.S.A. § 1741 is amended to read:

§ 1741. DEFINITIONS

As used in this chapter:

* * *

(2) "A place of public access" means any 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 the general public has access or which the general public uses, ~~including.~~ The term includes:

(A) buildings;

(B) offices;

(C) means of transportation;

(D) common carrier waiting rooms;

(E) arcades;

(F) restaurants, bars, and cabarets;

(G) retail stores;

(H) grocery stores;

(I) libraries;

(J) theaters, concert halls, auditoriums, and arenas;

(K) barber shops, and hair salons;

(L) laundromats;

(M) shopping malls;

(N) museums, and art galleries;

(O) sports and fitness facilities;

(P) planetariums;

(Q) historical sites;

~~(R) lodging establishments for transient traveling or public vacationing, such as resorts, hotels, and motels;~~

~~(S) (R) common areas of nursing homes, and hospitals, ~~resorts, hotels and motels,~~ including the lobbies, hallways, elevators, restaurants, restrooms, and cafeterias;~~ and

~~(T) (S) buildings or facilities owned or operated by a social, fraternal, or religious club.~~

(3) “Hospital” means a place devoted primarily to the maintenance and operation of diagnostic and therapeutic facilities for inpatient medical or surgical care of individuals suffering from illness, disease, injury, or deformity, or for obstetrics.

(4) “Publicly owned buildings and offices” means enclosed indoor places or portions of such places owned, leased, or rented by ~~state~~ State, county, or municipal governments, or by agencies supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, ~~state~~ State, county, or municipal taxes.

Sec. 3. 18 V.S.A. § 1742 is amended to read:

§ 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

~~(a) The possession of lighted tobacco products in any form is prohibited in:~~
~~(1) the common areas of all enclosed indoor places of public access and~~
~~publicly owned buildings and offices;~~
~~(2) designated smoke-free areas of property or grounds owned by or~~
~~leased to the State; and~~
~~(3) any other area within 25 feet of State-owned buildings and offices,~~
~~except that to the extent that any portion of the 25-foot zone is not on State~~
~~property, smoking is prohibited only in that portion of the zone that is on State~~
~~property unless the owner of the adjoining property chooses to designate his or~~
~~her property smoke-free.~~

(a) The possession of lighted tobacco products in any form is prohibited in:
 (1) the common areas of all enclosed indoor places of public access and
publicly owned buildings and offices;
 (2) all enclosed indoor places in lodging establishments used for
transient traveling or public vacationing, such as resorts, hotels, and motels,
including sleeping quarters and adjoining rooms rented to guests;
 (3) designated smoke-free areas of property or grounds owned by or
leased to the State; and
 (4) any other area within 25 feet of State-owned buildings and offices,
except that to the extent that any portion of the 25-foot zone is not on State
property, smoking is prohibited only in that portion of the zone that is on State

property unless the owner of the adjoining property chooses to designate his or her property smoke-free.

(b) The possession of lighted tobacco products in any form is prohibited on the grounds of any hospital or secure residential recovery facility owned or operated by the State, including all enclosed places in the hospital or facility and the surrounding outdoor property.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont Veterans' Home to use lighted tobacco products in the indoor area of the facility in which smoking is permitted.

~~Sec. 4. 16 V.S.A. § 140 is amended to read:~~

~~§ 140. TOBACCO USE PROHIBITED ON PUBLIC SCHOOL GROUNDS~~

~~No person shall be permitted to use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on public school grounds ~~and no student shall be permitted to use tobacco~~ or at public school sponsored functions. Each public school board shall adopt policies prohibiting the possession and use of tobacco products and tobacco substitutes by students at all times while under the supervision of school staff. These policies shall include confiscation and appropriate referrals to law enforcement authorities.~~

Sec. 4. 16 V.S.A. § 140 is amended to read:

§ 140. TOBACCO USE PROHIBITED ON PUBLIC SCHOOL GROUNDS

~~No person shall be permitted to use tobacco or tobacco substitutes as defined in 7 V.S.A. § 1001 on public school grounds ~~and no student shall be permitted to use tobacco~~ or at public school sponsored functions. ~~Each public school board shall adopt policies prohibiting the possession and use of tobacco products by students at all times while under the supervision of school staff. These policies shall~~ Public school boards may adopt policies that include confiscation and appropriate referrals to law enforcement authorities.~~

Sec. 5. 33 V.S.A. § 3504 is added to read:

§ 3504. TOBACCO USE PROHIBITED AT CHILD CARE FACILITIES

(a) No person shall be permitted to use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and outdoor, of any licensed child care center or afterschool program at any time.

(b) No person shall be permitted to use tobacco products or tobacco substitutes as defined in 7 V.S.A. § 1001 on the premises, both indoor and in any outdoor area designated for child care, of a licensed or registered family child care home while children are present and in care. If smoking occurs on the premises during other times, the family child care home shall notify prospective families prior to enrolling a child in the family child care home that their child will be exposed to an environment in which tobacco products or tobacco substitutes, or both, are used.

Sec. 6. 7 V.S.A. § 1001 is amended to read:

§ 1001. DEFINITIONS

As used in this chapter:

* * *

(8) "Tobacco substitute" means products including electronic cigarettes or other electronic or battery-powered devices that contain and are designed to deliver nicotine or other substances into the body through inhaling vapor and that have not been approved by the ~~United States~~ U.S. Food and Drug Administration for tobacco cessation or other medical purposes. Products that have been approved by the U.S. Food and Drug Administration for tobacco cessation or other medical purposes shall not be considered to be tobacco substitutes.

Sec. 7. 23 V.S.A. § 1134b is added to read:

§ 1134b. SMOKING IN MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person who violates subsection (a) of this section shall be subject to a fine of not more than \$100.00. No points shall be assessed for a violation of this section.

~~Sec. 8. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2014.~~

Sec. 8. 7 V.S.A. § 1012 is added to read:

§ 1012. LIQUID NICOTINE; PACKAGING

(a) Unless specifically preempted by federal law, no person shall manufacture, regardless of location, for sale in; offer for sale in; sell in or into the stream of commerce in; or otherwise introduce into the stream of commerce in Vermont:

(1) any liquid or gel substance containing nicotine unless that product is contained in child-resistant packaging; or

(2) any nicotine liquid container unless that container constitutes child-resistant packaging.

(b) As used in this section:

(1) "Child-resistant packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

(2) "Nicotine liquid container" means a bottle or other container of a nicotine liquid or other substance containing nicotine which is sold, marketed,

or intended for use in a tobacco substitute. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco substitute if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

Sec. 9. EFFECTIVE DATES

(a) Secs. 1–7 and this section shall take effect on July 1, 2014.

(b) Sec. 8 (liquid nicotine; packaging) shall take effect on January 1, 2015.