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HOUSE OF REPRESENTATIVES

148th GENERAL ASSEMBLY

HOUSE BILL NO. 5  
AS AMENDED BY  
HOUSE AMENDMENT NO. 4

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE ADDITION OF ELECTRONIC  
SMOKING DEVICES TO THE CLEAN INDOOR AIR ACT.

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

Section 1. Amend Section 2901, Title 16 of the Delaware Code by making deletions as shown by strike through  
and insertions as shown by underline as follows:

§ 2901 Legislative intent.

The General Assembly finds that it is in the best interest of the people of this State to protect nonsmokers from  
involuntary exposure to environmental tobacco smoke and emissions produced by electronic smoking devices in most  
indoor areas open to the public, public meetings, foods service establishments and places of employment.

The General Assembly recognizes that a balance should be struck between the health concerns of nonconsumers of  
tobacco products and the need to minimize unwarranted governmental intrusion into and regulation of private spheres of  
conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private  
places. Therefore, the General Assembly declares that the purpose of this act is to preserve and improve the health, comfort  
and environment of the people of this State by limiting exposure to tobacco smoke and emissions produced by electronic  
smoking devices.

Section 2. Amend Section 2902, Title 16 of the Delaware Code by making deletions as shown by strike through  
and insertions as shown by underline as follows and redesignating accordingly:

§ 2902 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(3) "Electronic smoking device" means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

(11) "Smoking" means:

- a. The the burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco-; or
- b. The use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form.

(13) "Vapor establishment" means a business that: 1) generates at least 80% of its revenue from the sale of electronic smoking devices and substances for use within electronic smoking devices; and 2) does not share indoor common space with other businesses unless there are doors from the vapor establishment to the indoor common space that remain closed other than for ingress and egress.

Section 3. Amend Section 2903, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2903 Smoking restrictions.

Except as is provided in § 2904 of this title, and in order to reduce the levels of exposure to environmental tobacco smoke and emissions produced by electronic smoking devices, smoking shall not be permitted and no person shall smoke in any indoor enclosed area to which the general public is invited or in which the general public is permitted, including, but not limited to:

- (1) Public meetings;
- (2) Elevators;
- (3) Government owned and/or operated means of mass transportation including buses, vans, trains, taxicabs and limousines;
- (4) Grocery stores;
- (5) Gymnasiums;
- (6) Jury waiting and deliberation rooms;
- (7) Courtrooms;
- (8) Child day care facilities;

- (9) Health care facilities including hospitals, health care clinics, doctor's offices or other health-care-related facilities;
- (10) Any workplace not exempted;
- (11) Restrooms, lobbies, reception areas, hallways and other common-use areas;
- (12) Restaurants as licensed by the Division of Public Health or defined by Title 4;
- (13) Gaming facilities that are open to the public;
- (14) Any indoor sports arena;
- (15) Lobbies, hallways and other common areas in apartment buildings, condominiums and other multiple-unit residential facilities;
- (16) Lobbies, hallways and other common areas in hotels and motels, and in no less than 75% of the sleeping quarters within a hotel or motel that are rented to guests;
- (17) Bowling alleys;
- (18) Billiard or pool halls;
- (19) Retirement facilities and nursing homes not including any private residence;
- (20) Public buildings;
- (21) Auditoria;
- (22) Theaters;
- (23) Museums;
- (24) Libraries;
- (25) Public and nonpublic schools;
- (26) Other educational and vocational institutions.
- (27) Establishments defined as a motorsports speedway, tavern or taproom by Title 4.

Section 4. This Act shall take effect 90 days after its enactment into law.

Section 5. Amend Chapter 29, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§2908 Vapor establishments

(a) Vapor establishments are permitted to have emissions produced by electronic smoking devices within their places of business.

(b) Any vapor establishment permitted to have emissions produced by electronic smoking devices in such vapor establishment pursuant to this section, and which permits such emissions, shall prohibit anyone under the age of 18 from entering and shall display a sign at all entrances stating that no one under the age of 18 is allowed in such vapor establishment.