

HOUSE BILL No. 2450

By Committee on Judiciary

1-16

Proposed Amendments to HB 2450 - Samsel
House Judiciary
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February 6, 2020

1 AN ACT concerning cigarettes and tobacco products; relating to the
2 Kansas clean indoor air act; prohibiting the use of electronic cigarettes
3 in certain places; amending K.S.A. 2019 Supp. 21-6109 and repealing
4 the existing section.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2019 Supp. 21-6109 is hereby amended to read as
8 follows: 21-6109. As used in K.S.A. 2019 Supp. 21-6109 through 21-6116,
9 and amendments thereto:

10 (a) "Access point" means the area within a ten foot radius outside of
11 any doorway, open window or air intake leading into a building or facility
12 that is not exempted pursuant to K.S.A. 2019 Supp. 21-6110(d), and
13 amendments thereto.

14 (b) "Bar" means any indoor area that is operated and licensed for the
15 sale and service of alcoholic beverages, including alcoholic liquor as
16 defined in K.S.A. 41-102, and amendments thereto, or cereal malt
17 beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-
18 premises consumption.

19 ~~(c) "Electronic cigarette" means the same as such term is defined in~~
20 ~~K.S.A. 79-3301, and amendments thereto.~~

21 ~~(d)~~ (d) "Employee" means any person who is employed by an
22 employer in consideration for direct or indirect monetary wages or profit
23 and any person who volunteers their services for a nonprofit entity.

24 ~~(d)~~(e) "Employer" means any person, partnership, corporation,
25 association or organization, including municipal or nonprofit entities, that
26 employs one or more individual persons.

27 ~~(e)~~(f) "Enclosed area" means all space between a floor and ceiling
28 that is enclosed on all sides by solid walls, windows or doorways that
29 extend from the floor to the ceiling, including all space therein screened by
30 partitions that do not extend to the ceiling or are not solid or similar
31 structures. For purposes of this section, the following shall not be
32 considered an "enclosed area": (1) Rooms or areas, enclosed by walls,
33 windows or doorways, having neither a ceiling nor a roof and that are
34 completely open to the elements and weather at all times; and (2) rooms or
35 areas, enclosed by walls, fences, windows or doorways and a roof or
36 ceiling, having openings that are permanently open to the elements and

"Electronic smoking device" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. "Electronic smoking device" includes any such device, whether manufactured, distributed marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or vape pen, or under any other device name or descriptor.

1 weather and that comprise an area that is at least 30% of the total
2 perimeter wall area of such room or area.

3 ~~(f)~~(g) "Food service establishment" means any place in which food is
4 served or is prepared for sale or service on the premises. Such term shall
5 include, but not be limited to, fixed or mobile restaurants, coffee shops,
6 cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich
7 shops, soda fountains, taverns, private clubs, roadside kitchens,
8 commissaries and any other private, public or nonprofit organization or
9 institution routinely serving food and any other eating or drinking
10 establishment or operation where food is served or provided for the public
11 with or without charge.

12 ~~(g)~~(h) "Gaming floor" means the area of a lottery gaming facility or
13 racetrack gaming facility, as those terms are defined in K.S.A. 74-8702,
14 and amendments thereto, where patrons engage in Class III gaming. The
15 gaming floor shall not include any areas used for accounting, maintenance,
16 surveillance, security, administrative offices, storage, cash or cash
17 counting, records, food service, lodging or entertainment, except that the
18 gaming floor may include a bar where alcoholic beverages are served so
19 long as the bar is located entirely within the area where Class III gaming is
20 conducted.

21 ~~(h)~~(i) "Medical care facility" means a physician's office, general
22 hospital, special hospital, ambulatory surgery center or recuperation center,
23 as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric
24 hospital licensed under K.S.A. 2019 Supp. 39-2001 et seq., and
25 amendments thereto.

26 ~~(i)~~(j) "Outdoor recreational facility" means a hunting, fishing,
27 shooting or golf club, business or enterprise operated primarily for the
28 benefit of its owners, members and their guests and not normally open to
29 the general public.

30 ~~(j)~~(k) "Place of employment" means any enclosed area under the
31 control of a public or private employer, including, but not limited to, work
32 areas, auditoriums, elevators, private offices, employee lounges and
33 restrooms, conference and meeting rooms, classrooms, employee
34 cafeterias, stairwells and hallways, that is used by employees during the
35 course of employment. For purposes of this section, a private residence
36 shall not be considered a "place of employment" unless such residence is
37 used as a day care home, as defined in K.S.A. 65-530, and amendments
38 thereto.

39 ~~(k)~~(l) "Private club" means an outdoor recreational facility operated
40 primarily for the use of its owners, members and their guests that in its
41 ordinary course of business is not open to the general public for which use
42 of its facilities has substantial dues or membership fee requirements for its
43 members.

1 (+) (m) "Public building" means any building owned or operated by:
 2 (1) The state, including any branch, department, agency, bureau,
 3 commission, authority or other instrumentality thereof; (2) any county,
 4 city, township, other political subdivision, including any commission,
 5 authority, agency or instrumentality thereof; or (3) any other separate
 6 corporate instrumentality or unit of the state or any municipality.

7 (+) (n) "Public meeting" means any meeting open to the public
 8 pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other
 9 law of this state.

10 (+) (o) "Public place" means any enclosed areas open to the public or
 11 used by the general public including, but not limited to: Banks, bars, food
 12 service establishments, retail service establishments, retail stores, public
 13 means of mass transportation, passenger elevators, health care institutions
 14 or any other place where health care services are provided to the public,
 15 medical care facilities, educational facilities, libraries, courtrooms, public
 16 buildings, restrooms, grocery stores, school buses, museums, theaters,
 17 auditoriums, arenas and recreational facilities. For purposes of this section,
 18 a private residence shall not be considered a "public place" unless such
 19 residence is used as a day care home, as defined in K.S.A. 65-530, and
 20 amendments thereto.

21 (+) (p) "Smoking" means ~~possession of a lighted cigarette, cigar, pipe~~
 22 ~~or burning tobacco in any other form or device designed for the use of~~
 23 ~~tobacco, or use of an electronic cigarette.~~

24 (+) (q) "Tobacco shop" means any indoor area operated primarily for
 25 the retail sale of tobacco, tobacco products or smoking devices or
 26 accessories, and that derives not less than 65% of its gross receipts from
 27 the sale of tobacco.

28 (+) (r) "Substantial dues or membership fee requirements" means
 29 initiation costs, dues or fees proportional to the cost of membership in
 30 similarly-situated outdoor recreational facilities that are not considered
 31 nominal and implemented to otherwise avoid or evade restrictions of a
 32 statewide ban on smoking.

33
 34 Sec. 2. K.S.A. 2019 Supp. 21-6109 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its
 36 publication in the statute book.

inhaling, exhaling, burning or possessing
 any lighted or heated cigar, cigarette,
 pipe, hookah or any other lighted or
 heated tobacco or plant product intended
 for inhalation, including marijuana,
 whether natural or synthetic, in any
 manner or in any form. "Smoking"
 includes the use of an electronic smoking
 device that creates an aerosol or vapor in
 any manner or in any form