

As Amended by House Committee

Session of 2020

HOUSE BILL No. 2450

By Committee on Judiciary

1-16

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) **"E-liquid" means a substance that may or may not contain
20 nicotine and is intended to be aerosolized or vaporized and inhaled
21 using an electronic cigarette.**

22 (d) *"Electronic cigarette" means the same as such term is defined in
23 K.S.A. 79-3301, and amendments thereto.*

24 ~~(e)~~(e) "Employee" means any person who is employed by an
25 employer in consideration for direct or indirect monetary wages or profit
26 and any person who volunteers their services for a nonprofit entity.

27 ~~(d)~~(f) "Employer" means any person, partnership, corporation,
28 association or organization, including municipal or nonprofit entities, that
29 employs one or more individual persons.

30 ~~(e)~~(g) "Enclosed area" means all space between a floor and ceiling
31 that is enclosed on all sides by solid walls, windows or doorways that
32 extend from the floor to the ceiling, including all space therein screened by
33 partitions that do not extend to the ceiling or are not solid or similar
34 structures. For purposes of this section, the following shall not be
35 considered an "enclosed area": (1) Rooms or areas, enclosed by walls,
36 windows or doorways, having neither a ceiling nor a roof and that are

1 completely open to the elements and weather at all times; and (2) rooms or
2 areas, enclosed by walls, fences, windows or doorways and a roof or
3 ceiling, having openings that are permanently open to the elements and
4 weather and that comprise an area that is at least 30% of the total
5 perimeter wall area of such room or area.

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

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

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

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

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

42 ~~(k)~~~~(l)~~**(m)** "Private club" means an outdoor recreational facility
43 operated primarily for the use of its owners, members and their guests that

1 in its ordinary course of business is not open to the general public for
2 which use of its facilities has substantial dues or membership fee
3 requirements for its members.

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

10 ~~(m)~~~~(n)~~**(o)** "Public meeting" means any meeting open to the public
11 pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other
12 law of this state.

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

24 ~~(o)~~~~(p)~~**(q)** "Smoking" means possession of a lighted cigarette, cigar,
25 pipe or burning tobacco in any other form or device designed for the use of
26 tobacco, *or use of an electronic cigarette.*

27 ~~(p)~~~~(q)~~**(r)** "Tobacco shop" means any indoor area operated primarily
28 for the retail sale of tobacco, tobacco products~~—or~~, smoking devices or
29 accessories, **electronic cigarettes or e-liquids**, and that derives not less
30 than 65% of its gross receipts from the sale of tobacco, **tobacco products,**
31 **smoking devices or accessories, electronic cigarettes or e-liquids.**

32 ~~(q)~~~~(r)~~**(s)** "Substantial dues or membership fee requirements" means
33 initiation costs, dues or fees proportional to the cost of membership in
34 similarly-situated outdoor recreational facilities that are not considered
35 nominal and implemented to otherwise avoid or evade restrictions of a
36 statewide ban on smoking.

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

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