

2016 -- H 7664 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO HEALTH AND SAFETY -- PUBLIC HEALTH AND WORKPLACE SAFETY
ACT

Introduced By: Representatives Tanzi, Maldonado, Barros, Morin, and Fogarty

Date Introduced: February 24, 2016

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-20.10-2 of the General Laws in Chapter 23-20.10 entitled
2 "Public Health and Workplace Safety Act" is hereby amended to read as follows:

3 **23-20.10-2. Definitions. --** The following words and phrases, whenever used in this
4 chapter, shall be construed as defined in this section:

5 (1) "Assisted living residence" means a residence that provides personal assistance and
6 meals to adults in accordance with chapter 17.4 of this title.

7 (2) "Bar" means an establishment that is devoted to the serving of alcoholic beverages
8 for consumption by guests on the premises and in which the serving of food is only incidental to
9 the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail
10 lounges and cabarets.

11 (3) "Business" means a sole proprietorship, partnership, joint venture, corporation, or
12 other business entity formed for profit-making purposes, including retail establishments where
13 goods or services are sold as well as professional corporations and other entities where legal,
14 medial, dental, engineering, architectural or other professional services are delivered.

15 (4) "Employee" means a person who is employed by an employer in consideration for
16 direct or indirect monetary wages or profit and a person who volunteers his or her services for a
17 nonprofit entity.

18 (5) "Employer" means a person, business, partnership, association, corporation,

1 including a municipal corporation, trust or nonprofit entity that employs the services of one or
2 more individual persons.

3 (6) "Enclosed area" means all space between a floor and ceiling that is enclosed on all
4 sides by solid walls or windows (exclusive of doorways) that extend from the floor to the ceiling.

5 (7) "Health care facility" means an office or institution providing care or treatment of
6 diseases, whether physical, mental, emotional, or other medical, physiological or psychological
7 conditions, including, but not limited to, hospitals, rehabilitation hospitals or other clinics,
8 including weight control clinics, nursing homes, homes for the aging or chronically ill,
9 laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, dentists, and
10 all specialists within these professions. This definition shall include all waiting rooms, hallways,
11 private rooms, semi-private rooms, and wards within health care facilities.

12 (8) "Place of employment" means an area under the control of a public or private
13 employer that employees normally frequent during the course of employment, including, but not
14 limited to, work areas, employees lounges, restrooms, conference rooms, meeting rooms,
15 classrooms, employee cafeterias, and hallways. Vehicles owned by a public or private employer
16 are covered under this definition provided that the vehicle is used by more than one person. A
17 private residence is not a "place of employment" unless it is used as a child care, adult day care,
18 or health care facility.

19 (9) "Public place" means an enclosed area to which the public is invited or in which the
20 public is permitted, including, but not limited to, banks, bars, educational facilities, health care
21 facilities, laundromats, public transportation facilities, reception areas, restaurants, retail food
22 production and marketing establishments, retail service establishments, retail stores, shopping
23 malls, sports arenas, the state house, theaters and waiting rooms. A private residence is not a
24 "public place" unless it is used as a child care, adult day care, or health care facility.

25 (10) "Restaurant" means an eating establishment, including, but not limited to, coffee
26 shops, cafeterias, and private and public school cafeterias, that gives or offers for sale food to the
27 public, guests, or employees, as well as kitchens and catering facilities in which food is prepared
28 on the premises for serving elsewhere. The term "restaurant" shall include a bar area within the
29 restaurant.

30 (11) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco
31 products and accessories in which the total annual revenues generated by the sale of other
32 products are no greater than twenty-five percent (25%) of the total revenue for the establishment.
33 The division of taxation shall be responsible for the determination under this section and shall
34 promulgate any rules or forms necessary for the implementation of this section.

1 (12) "Service line" means an indoor line in which one or more persons are waiting for or
2 receiving service of any kind, whether or not the service involves the exchange of money.

3 (13) "Shopping mall" means an enclosed public walkway or hall area that serves to
4 connect retail or professional establishments.

5 (14) "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar,
6 cigarette, pipe, weed, plant, or other combustible substance in any manner or in any form;
7 provided, however, that smoking shall not include burning during a religious ceremony.

8 (15) (a) "Smoking bar" means an establishment whose business is primarily devoted to
9 the serving of tobacco products for consumption on the premises, in which the annual revenues
10 generated by tobacco sales are greater than fifty percent (50%) of the total revenue for the
11 establishment and the serving of food or alcohol is only incidental to the consumption of such
12 tobacco products. Effective July 1, 2015, all existing establishments and establishments that open
13 thereafter must demonstrate quarterly, for a period of one year and annually thereafter, that the
14 annual revenue generated from the serving of tobacco products is greater than fifty percent (50%)
15 of the total revenue for the establishment, and the serving of food, alcohol, or beverages is only
16 incidental to the consumption of such tobacco products. Every owner of a smoking bar shall
17 register no later than January 1 of each year with the division of taxation and shall provide, at a
18 minimum, the owner's name and address and the name and address of the smoking bar. The
19 division of taxation in the department of administration shall be responsible for the determination
20 under this section and shall promulgate any rules or forms necessary for the implementation of
21 this section. The division of taxation in the department of administration shall be responsible for
22 the determination under this section and shall promulgate any rules or forms necessary for the
23 implementation of this section.

24 (b) Smoking bars shall only allow consumption of food and beverages sold by the
25 establishment on the premises and the establishment shall have public access only from the street.

26 (c) Any smoking bar, as defined herein, is required to provide a proper ventilation
27 system that will prevent the migration of smoke into the street.

28 (16) "Sports arena" means sports pavilions, stadiums, (indoor or outdoor) organized
29 sports fields, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks,
30 bowling alleys, and other similar places where members of the general public assemble to engage
31 in physical exercise, participate in athletic competition, or witness sports or other events.

32 (17) "Legislature" means the general assembly of the state of Rhode Island.

33 [\(18\) "Electronic nicotine-delivery system store" means a retail store utilized primarily for](#)
34 [the sale of electronic nicotine-delivery system products and accessories in which the total annual](#)

1 revenues generated by the sale of other products are no greater than twenty-five percent (25%) of
2 the total revenue for the establishment. The division of taxation shall be responsible for the
3 determination under this section and shall promulgate any rules or forms necessary for the
4 implementation of this section.

5 (19)(i) "Electronic nicotine-delivery system bar" means an establishment whose business
6 is primarily devoted to the serving of electronic nicotine-delivery system products for
7 consumption on the premises, in which the annual revenues generated by electronic nicotine-
8 delivery system sales are greater than fifty percent (50%) of the total revenue for the
9 establishment and the serving of food or alcohol is only incidental to the consumption of such
10 electronic nicotine-delivery system products. Effective July 1, 2016, all existing establishments
11 and establishments that open thereafter must demonstrate quarterly, for a period of one year and
12 annually thereafter, that the annual revenue generated from the serving of electronic nicotine-
13 delivery system products is greater than fifty percent (50%) of the total revenue for the
14 establishment, and the serving of food, alcohol, or beverages is only incidental to the
15 consumption of such electronic nicotine-delivery system products. Every owner of a electronic
16 nicotine-delivery system bar shall register no later than January 1 of each year with the division
17 of taxation and shall provide, at a minimum, the owner's name and address and the name and
18 address of the electronic nicotine-delivery system bar. The division of taxation in the department
19 of administration shall be responsible for the determination under this section and shall
20 promulgate any rules or forms necessary for the implementation of this section. The division of
21 taxation in the department of administration shall be responsible for the determination under this
22 section and shall promulgate any rules or forms necessary for the implementation of this section.

23 (ii) Electronic nicotine-delivery system bars shall only allow consumption of food and
24 beverages sold by the establishment on the premises and the establishment shall have public
25 access only from the street.

26 (iii) Any electronic nicotine-delivery system bar, as defined herein, is required to provide
27 a proper ventilation system that will prevent the migration of vapors into the street.

28 SECTION 2. Chapter 23-20.10 of the General Laws entitled "Public Health and
29 Workplace Safety Act" is hereby amended by adding thereto the following section:

30 **23-20.10-3.1. Prohibition of the use of electronic nicotine-delivery system products**
31 **in public places.** -- The use of electronic nicotine-delivery system products shall be prohibited in
32 all enclosed public places within the state of Rhode Island as set forth in §23-20.10-3.

33 **23-20.10-4.1. Prohibition of the use of electronic nicotine-delivery system products**
34 **in places of employment.** -- The use of electronic nicotine-delivery system products shall be

1 prohibited in all enclosed facilities within places of employment without exception as set forth in
2 §23-20.10-4. This prohibition on the use of electronic nicotine-delivery system products shall be
3 communicated to all existing employees within thirty (30) days of the effective date of §§23-
4 20.10-3.1 and 23-20.10-4.1 and to all prospective employees upon their application for
5 employment.

6 Nothing herein shall ban the use of electronic nicotine-delivery system products in retail
7 electronic nicotine-delivery system stores or any electronic nicotine-delivery system bar.

8 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY -- PUBLIC HEALTH AND WORKPLACE SAFETY
ACT

- 1 This act would prohibit the use of electronic nicotine-delivery system products in
- 2 enclosed public places and enclosed facilities within places of employment.
- 3 This act would take effect upon passage.

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