

**First Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 19-0489.01 Duane Gall x4335

**HOUSE BILL 19-1076**

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**HOUSE SPONSORSHIP**

**Michaelson Jenet and Larson**, Caraveo, Cutter, Jackson, Mullica

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**House Committees**  
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**A BILL FOR AN ACT**

101      **CONCERNING UPDATES TO THE "COLORADO CLEAN INDOOR AIR**  
102            **ACT", AND, IN CONNECTION THEREWITH, REMOVING CERTAIN**  
103            **EXCEPTIONS AND ADDING PROVISIONS RELEVANT TO THE USE OF**  
104            **ELECTRONIC SMOKING DEVICES.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill amends the "Colorado Clean Indoor Air Act" by:  
!      Adding a definition of "electronic smoking device" (ESD)  
         to include e-cigarettes and similar devices within the scope

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

- of the act;
- ! Citing the results of recent research on ESD emissions and their effects on human health as part of the legislative declaration;
- ! Eliminating the existing exceptions for certain places of business in which smoking may be permitted, such as airport smoking concessions, businesses with 3 or fewer employees, designated smoking rooms in hotels, and designated smoking areas in assisted living facilities; and
- ! Repealing the ability of property owners and managers to designate smoking and nonsmoking areas through the posting of signs.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** In Colorado Revised Statutes, **amend** 25-14-202 as  
 3 follows:

4           **25-14-202. Legislative declaration.** (1) The general assembly  
 5 hereby finds and determines that:

6           (a) It is in the best interest of the people of this state to protect  
 7 ~~nonsmokers~~ THE PUBLIC from involuntary exposure to ~~environmental~~  
 8 ~~tobacco and marijuana~~ EMISSIONS FROM SECONDHAND smoke AND  
 9 ELECTRONIC SMOKING DEVICES (ESD) in most indoor areas open to the  
 10 public, IN public meetings, IN food service establishments, and IN places  
 11 of employment; ~~The general assembly further finds and determines that~~  
 12 AND

13           (b) ~~A balance should be struck between the health concerns of~~  
 14 ~~nonconsumers of tobacco products and combustible marijuana and the~~  
 15 ~~need to minimize unwarranted governmental intrusion into, and~~  
 16 ~~regulation of, private spheres of conduct and choice with respect to the~~  
 17 ~~use or nonuse of tobacco products, and combustible marijuana in certain~~  
 18 ~~designated public areas and in private places~~ ESD EMISSIONS CONSIST OF  
 19 ULTRAFINE PARTICLES THAT ARE SIGNIFICANTLY MORE HIGHLY

1 CONCENTRATED THAN PARTICLES WITHIN CONVENTIONAL TOBACCO  
2 SMOKE. THERE IS CONCLUSIVE EVIDENCE THAT MOST ESDS CONTAIN AND  
3 EMIT NOT ONLY NICOTINE BUT ALSO MANY OTHER POTENTIALLY TOXIC  
4 SUBSTANCES AND THAT ESDS INCREASE AIRBORNE CONCENTRATIONS OF  
5 PARTICULATE MATTER AND NICOTINE IN INDOOR ENVIRONMENTS. IN  
6 ADDITION, STUDIES SHOW THAT PEOPLE EXPOSED TO ESD EMISSIONS  
7 ABSORB NICOTINE AT LEVELS COMPARABLE TO THE LEVELS EXPERIENCED  
8 BY PASSIVE SMOKERS. MANY OF THE ELEMENTS IDENTIFIED IN ESD  
9 EMISSIONS ARE KNOWN TO CAUSE RESPIRATORY DISTRESS AND DISEASE,  
10 AND ESD EXPOSURE DAMAGES LUNG TISSUES. FOR EXAMPLE, HUMAN  
11 LUNG CELLS THAT ARE EXPOSED TO ESD AEROSOL AND FLAVORINGS  
12 SHOW INCREASED OXIDATIVE STRESS AND INFLAMMATORY RESPONSES.

13 (2) Therefore, the general assembly hereby declares that the  
14 purpose of this part 2 is to preserve and improve the health, comfort, and  
15 environment of the people of this state by ~~limiting exposure to tobacco~~  
16 ~~and marijuana smoke~~ PROTECTING THE RIGHT OF PEOPLE TO BREATHE  
17 CLEAN, SMOKE-FREE AIR.

18 **SECTION 2.** In Colorado Revised Statutes, 25-14-203, **amend**  
19 (7) and (16); **repeal** (1) and (18); and **add** (4.5) as follows:

20 **25-14-203. Definitions.** As used in this part 2, unless the context  
21 otherwise requires:

22 (1) ~~"Airport smoking concession" means a bar or restaurant, or~~  
23 ~~both, in a public airport with regularly scheduled domestic and~~  
24 ~~international commercial passenger flights, in which bar or restaurant~~  
25 ~~smoking is allowed in a fully enclosed and independently ventilated area~~  
26 ~~by the terms of the concession.~~

27 (4.5) "ELECTRONIC SMOKING DEVICE" OR "ESD":

1 (a) MEANS ANY PRODUCT THAT CONTAINS OR DELIVERS NICOTINE  
2 OR ANY OTHER SUBSTANCE INTENDED FOR HUMAN CONSUMPTION AND  
3 THAT CAN BE USED BY A PERSON TO ENABLE THE INHALATION OF VAPOR  
4 OR AEROSOL FROM THE PRODUCT; AND

5 (b) INCLUDES ANY PRODUCT DESCRIBED IN SUBSECTION (4.5)(a) OF  
6 THIS SECTION AND ANY SIMILAR PRODUCT OR DEVICE, WHETHER  
7 MANUFACTURED, DISTRIBUTED, MARKETED, OR SOLD AS AN E-CIGARETTE,  
8 E-CIGAR, E-PIPE, E-HOOKAH, OR VAPE PEN OR UNDER ANY OTHER PRODUCT  
9 NAME OR DESCRIPTOR.

10 (7) "Entryway" means the outside of the front or main doorway  
11 leading into a building or facility that is not exempted from this part 2  
12 under section 25-14-205. "Entryway" also includes the area of public or  
13 private property within a specified radius outside of the doorway. The  
14 specified radius ~~shall~~ MAY be determined by the local authority ~~or~~  
15 PURSUANT TO SECTION 25-14-207 (2)(a), BUT MUST BE AT LEAST  
16 TWENTY-FIVE FEET. If the local authority has not acted, the specified  
17 radius ~~shall be fifteen~~ IS TWENTY-FIVE feet.

18 (16) "Smoking" means ~~the burning of a lighted cigarette, cigar,~~  
19 ~~pipe, or any other matter or substance that contains tobacco or marijuana~~  
20 INHALING, EXHALING, BURNING, OR CARRYING ANY LIGHTED OR HEATED  
21 CIGAR, CIGARETTE, OR PIPE OR ANY OTHER LIGHTED OR HEATED TOBACCO  
22 OR PLANT PRODUCT INTENDED FOR INHALATION, INCLUDING MARIJUANA,  
23 WHETHER NATURAL OR SYNTHETIC, IN ANY MANNER OR IN ANY FORM.  
24 "SMOKING" ALSO INCLUDES THE USE OF AN ESD.

25 (18) ~~"Tobacco business" means a sole proprietorship, corporation,~~  
26 ~~partnership, or other enterprise engaged primarily in the sale,~~  
27 ~~manufacture, or promotion of tobacco, tobacco products, or smoking~~

1 ~~devices or accessories, either at wholesale or retail, and in which the sale,~~  
2 ~~manufacture, or promotion of other products is merely incidental.~~

3 **SECTION 3.** In Colorado Revised Statutes, 25-14-204, **amend**  
4 (1) introductory portion, (1)(k)(II), (1)(u)(I), (1)(bb), and (1)(cc); and **add**  
5 (1)(dd) as follows:

6 **25-14-204. General smoking restrictions.** (1) Except as  
7 provided in section 25-14-205, ~~and in order to reduce the levels of~~  
8 ~~exposure to environmental tobacco and marijuana smoke,~~ smoking shall  
9 ~~IS not be permitted and no~~ A person shall NOT smoke in any indoor area,  
10 including: ~~but not limited to:~~

11 (k) (II) In the case of employers who own facilities otherwise  
12 exempted from this part 2, each such employer shall provide a smoke-free  
13 work area for each employee requesting not to have to breathe  
14 ~~environmental tobacco~~ SECONDHAND smoke ~~Every employee shall have~~  
15 ~~a right to work in an area free of environmental tobacco smoke~~ AND  
16 EMISSIONS FROM ELECTRONIC SMOKING DEVICES.

17 (u) (I) The common areas of retirement facilities, publicly owned  
18 housing facilities, ~~and, except as specified in section 25-14-205 (1)(k),~~  
19 nursing homes, AND ASSISTED LIVING FACILITIES, but not including any  
20 resident's private residential quarters. ~~or areas of assisted living facilities~~  
21 ~~specified in section 25-14-205 (1)(k).~~

22 (bb) Other educational and vocational institutions; ~~and~~

23 (cc) ~~The entryways of all buildings and facilities listed in~~  
24 ~~paragraphs (a) to (bb) of this subsection (1).~~ AIRPORTS; AND

25 (dd) THE ENTRYWAYS OF ALL BUILDINGS AND FACILITIES LISTED  
26 IN SUBSECTIONS (1)(a) TO (1)(cc) OF THIS SECTION.

27 **SECTION 4.** In Colorado Revised Statutes, 25-14-205, **amend**

1 (1) introductory portion; and **repeal** (1)(c), (1)(d), (1)(f), (1)(h), and  
2 (1)(k) as follows:

3 **25-14-205. Exceptions to smoking restrictions.** (1) This part 2  
4 shall DOES not apply to:

5 (c) ~~A hotel or motel room rented to one or more guests if the total~~  
6 ~~percentage of such hotel or motel rooms in such hotel or motel does not~~  
7 ~~exceed twenty-five percent;~~

8 (d) ~~Any retail tobacco business;~~

9 (f) ~~An airport smoking concession;~~

10 (h) ~~A place of employment that is not open to the public and that~~  
11 ~~is under the control of an employer that employs three or fewer~~  
12 ~~employees;~~

13 (k) ~~(I) The areas of assisted living facilities:~~

14 ~~(A) That are designated for smoking for residents;~~

15 ~~(B) That are fully enclosed and ventilated; and~~

16 ~~(C) To which access is restricted to the residents or their guests.~~

17 ~~(H) As used in this paragraph (k), "assisted living facility" means~~  
18 ~~a nursing facility, as that term is defined in section 25.5-4-103, C.R.S.,~~  
19 ~~and an assisted living residence, as that term is defined in section~~  
20 ~~25-27-102.~~

21 **SECTION 5.** In Colorado Revised Statutes, **repeal** 25-14-206 as  
22 follows:

23 **25-14-206. Optional prohibitions.** ~~(1) The owner or manager of~~  
24 ~~any place not specifically listed in section 25-14-204, including a place~~  
25 ~~otherwise exempted under section 25-14-205, may post signs prohibiting~~  
26 ~~smoking or providing smoking and nonsmoking areas. Such posting shall~~  
27 ~~have the effect of including such place, or the designated nonsmoking~~

1 ~~portion thereof, in the places where smoking is prohibited or restricted~~  
2 ~~pursuant to this part 2.~~

3 ~~(2) If the owner or manager of a place not specifically listed in~~  
4 ~~section 25-14-204, including a place otherwise exempted under section~~  
5 ~~25-14-205, is an employer and receives a request from an employee to~~  
6 ~~create a smoke-free work area as contemplated by section 25-14-204~~  
7 ~~(1)(k)(II), the owner or manager shall post a sign or signs in the~~  
8 ~~smoke-free work area as provided in subsection (1) of this section.~~

9 **SECTION 6.** In Colorado Revised Statutes, 25-14-207, **amend**  
10 (2)(a) as follows:

11 **25-14-207. Other applicable regulations of smoking - local**  
12 **counterpart regulations authorized.** (2) (a) A local authority may,  
13 pursuant to article 16 of title 31, ~~C.R.S.~~, a municipal home rule charter,  
14 or article 15 of title 30, ~~C.R.S.~~, enact, adopt, and enforce smoking  
15 regulations that cover the same subject matter as the various provisions  
16 of this part 2; ~~no~~ EXCEPT THAT A local authority may NOT adopt ~~any~~ A  
17 local regulation of smoking that is less stringent than the provisions of  
18 this part 2. ~~except that~~ A local authority ~~may~~ IS SPECIFICALLY  
19 AUTHORIZED TO specify a radius of ~~less~~ MORE than ~~fifteen~~ TWENTY-FIVE  
20 feet for the area included within an entryway.

21 **SECTION 7.** In Colorado Revised Statutes, 30-15-401, **amend**  
22 (1.5) as follows

23 **30-15-401. General regulations - definitions.** (1.5) In addition  
24 to any other powers, the board of county commissioners has the power to  
25 adopt a resolution or an ordinance:

26 (a) Prohibiting minors from possessing cigarettes or tobacco  
27 products, as defined by section 39-28.5-101 (5); ~~C.R.S.~~ AND

1           (b) LIMITING SMOKING, AS DEFINED IN SECTION 25-14-203 (16), IN  
2 ANY MANNER THAT IS NO LESS RESTRICTIVE THAN THE LIMITATIONS SET  
3 FORTH IN THE "COLORADO CLEAN INDOOR AIR ACT", PART 2 OF ARTICLE  
4 14 OF TITLE 25.

5           **SECTION 8. Effective date.** This act takes effect July 1, 2019.

6           **SECTION 9. Safety clause.** The general assembly hereby finds,  
7 determines, and declares that this act is necessary for the immediate  
8 preservation of the public peace, health, and safety.