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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 349

- 01/24/2019 Authored by Halverson, Pierson, Schultz, Moran, Haley and others  
The bill was read for the first time and referred to the Committee on Health and Human Services Policy
- 02/14/2019 Adoption of Report: Amended and re-referred to the Committee on Commerce
- 02/28/2019 Adoption of Report: Placed on the General Register  
Read for the Second Time
- 03/14/2019 Calendar for the Day  
Read for the Third Time  
Passed by the House and transmitted to the Senate

1.1 A bill for an act

1.2 relating to health; including electronic cigarettes in the definition of smoking for

1.3 purposes of the Minnesota Clean Indoor Air Act; making technical and clarifying

1.4 changes; amending Minnesota Statutes 2018, sections 144.412; 144.413,

1.5 subdivisions 1, 4; 144.414, subdivisions 2, 3; 144.416; 144.4165; 144.417,

1.6 subdivision 4; repealing Minnesota Statutes 2018, section 144.414, subdivision 5.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2018, section 144.412, is amended to read:

1.9 **144.412 PUBLIC POLICY.**

1.10 The purpose of sections 144.411 to 144.417 is to protect employees and the general

1.11 public from the hazards of secondhand smoke and involuntary exposure to aerosol or vapor

1.12 from electronic delivery devices by eliminating smoking in public places, places of

1.13 employment, public transportation, and at public meetings.

1.14 Sec. 2. Minnesota Statutes 2018, section 144.413, subdivision 1, is amended to read:

1.15 Subdivision 1. **Scope.** As used in sections 144.411 to ~~144.416~~ 144.417, the terms defined

1.16 in this section have the meanings given them.

1.17 Sec. 3. Minnesota Statutes 2018, section 144.413, subdivision 4, is amended to read:

1.18 Subd. 4. **Smoking.** "Smoking" means inhaling or<sub>2</sub> exhaling ~~smoke from,~~ burning, or

1.19 carrying any lighted or heated cigar, cigarette, pipe, or any other lighted tobacco or plant

1.20 or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other

1.21 plant, whether natural or synthetic, that is intended for inhalation. Smoking ~~also~~ includes

1.22 ~~carrying a lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product intended~~

2.1 ~~for inhalation~~ carrying or using an activated electronic delivery device, as defined in section  
2.2 609.685.

2.3 Sec. 4. Minnesota Statutes 2018, section 144.414, subdivision 2, is amended to read:

2.4 Subd. 2. **Day care premises.** (a) Smoking is prohibited in a day care center licensed  
2.5 under Minnesota Rules, parts 9503.0005 to 9503.0170, or in a family home or in a group  
2.6 family day care provider home licensed under Minnesota Rules, parts 9502.0300 to  
2.7 9502.0445, during its hours of operation. The proprietor of a family home or group family  
2.8 day care provider must disclose to parents or guardians of children cared for on the premises  
2.9 if the proprietor permits smoking outside of its hours of operation. Disclosure must include  
2.10 posting on the premises a conspicuous written notice and orally informing parents or  
2.11 guardians.

2.12 ~~(b) For purposes of this subdivision, the definition of smoking includes the use of~~  
2.13 ~~electronic cigarettes, including the inhaling and exhaling of vapor from any electronic~~  
2.14 ~~delivery device as defined in section 609.685, subdivision 1.~~

2.15 Sec. 5. Minnesota Statutes 2018, section 144.414, subdivision 3, is amended to read:

2.16 Subd. 3. **Health care facilities and clinics.** (a) Smoking is prohibited in any area of a  
2.17 hospital, health care clinic, doctor's office, licensed residential facility for children, or other  
2.18 health care-related facility, except that a patient or resident in a nursing home, boarding  
2.19 care facility, or licensed residential facility for adults may smoke in a designated separate,  
2.20 enclosed room maintained in accordance with applicable state and federal laws.

2.21 (b) Except as provided in section 246.0141, smoking by patients in a locked psychiatric  
2.22 unit may be allowed in a separated well-ventilated area in the unit under a policy established  
2.23 by the administrator of the program that allows the treating physician to approve smoking  
2.24 if, in the opinion of the treating physician, the benefits to be gained in obtaining patient  
2.25 cooperation with treatment outweigh the negative impacts of smoking.

2.26 ~~(c) For purposes of this subdivision, the definition of smoking includes the use of~~  
2.27 ~~electronic cigarettes, including the inhaling and exhaling of vapor from any electronic~~  
2.28 ~~delivery device as defined in section 609.685, subdivision 1.~~

3.1 Sec. 6. Minnesota Statutes 2018, section 144.416, is amended to read:

3.2 **144.416 RESPONSIBILITIES OF PROPRIETORS.**

3.3 (a) The proprietor or other person, firm, limited liability company, corporation, or other  
3.4 entity that owns, leases, manages, operates, or otherwise controls the use of a public place,  
3.5 public transportation, place of employment, or public meeting shall make reasonable efforts  
3.6 to prevent smoking in the public place, public transportation, place of employment, or public  
3.7 meeting by:

3.8 (1) posting appropriate signs or by any other means which may be appropriate; and

3.9 (2) asking any person who smokes in an area where smoking is prohibited to refrain  
3.10 from smoking and, if the person does not refrain from smoking after being asked to do so,  
3.11 asking the person to leave. If the person refuses to leave, the proprietor, person, or entity  
3.12 in charge shall handle the situation consistent with lawful methods for handling other persons  
3.13 acting in a disorderly manner or as a trespasser.

3.14 (b) The proprietor or other person or entity in charge of a public place, public meeting,  
3.15 public transportation, or place of employment must not provide smoking equipment, including  
3.16 ashtrays or matches, in areas where smoking is prohibited. Nothing in this section prohibits  
3.17 the proprietor or other person or entity in charge from taking more stringent measures than  
3.18 those under sections 144.414 to 144.417 to protect individuals from secondhand smoke or  
3.19 from involuntary exposure to aerosol or vapor from electronic delivery devices. The  
3.20 proprietor or other person or entity in charge of a restaurant or bar may not serve an individual  
3.21 who is in violation of sections 144.411 to 144.417.

3.22 Sec. 7. Minnesota Statutes 2018, section 144.4165, is amended to read:

3.23 **144.4165 TOBACCO PRODUCTS PROHIBITED IN PUBLIC SCHOOLS.**

3.24 No person shall at any time smoke, chew, or otherwise ingest tobacco or a tobacco  
3.25 product, or ~~inhale or exhale vapor from~~ carry or use an activated electronic delivery device  
3.26 as defined in section 609.685, subdivision 1, in a public school, as defined in section 120A.05,  
3.27 subdivisions 9, 11, and 13, and no person under the age of 18 shall possess any of these  
3.28 items. This prohibition extends to all facilities, whether owned, rented, or leased, and all  
3.29 vehicles that a school district owns, leases, rents, contracts for, or controls. Nothing in this  
3.30 section shall prohibit the lighting of tobacco by an adult as a part of a traditional Indian  
3.31 spiritual or cultural ceremony. For purposes of this section, an Indian is a person who is a  
3.32 member of an Indian tribe as defined in section 260.755 subdivision 12.

4.1 Sec. 8. Minnesota Statutes 2018, section 144.417, subdivision 4, is amended to read:

4.2 Subd. 4. **Local government ordinances.** (a) Nothing in sections 144.414 to 144.417  
4.3 prohibits a statutory or home rule charter city or county from enacting and enforcing more  
4.4 stringent measures to protect individuals from secondhand smoke or from involuntary  
4.5 exposure to aerosol or vapor from electronic delivery devices.

4.6 (b) Except as provided in sections 144.411 to 144.417, smoking is permitted outside of  
4.7 restaurants, bars, and bingo halls unless limited or prohibited by restrictions adopted in  
4.8 accordance with paragraph (a).

4.9 Sec. 9. **REPEALER.**

4.10 Minnesota Statutes 2018, section 144.414, subdivision 5, is repealed.

**144.414 PROHIBITIONS.**

Subd. 5. **Electronic cigarettes.** (a) The use of electronic cigarettes, including the inhaling or exhaling of vapor from any electronic delivery device, as defined in section 609.685, subdivision 1, is prohibited in the following locations:

(1) any building owned or operated by the state, home rule charter or statutory city, county, township, school district, or other political subdivision;

(2) any facility owned by Minnesota State Colleges and Universities and the University of Minnesota;

(3) any facility licensed by the commissioner of human services; or

(4) any facility licensed by the commissioner of health, but only if the facility is also subject to federal licensing requirements.

(b) Nothing in this subdivision shall prohibit political subdivisions or businesses from adopting more stringent prohibitions on the use of electronic cigarettes or electronic delivery devices.