

Senate Bill 47

By: Senators Hufstetler of the 52nd, Kirkpatrick of the 32nd, Echols of the 49th, Orrock of the 36th, Beach of the 21st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
2 offenses against public health and morals, so as to provide that vaping in restricted areas is
3 a misdemeanor punishable by fine; to amend Chapter 1A of Title 20 of the Official Code of
4 Georgia Annotated, relating to early care and learning, so as to provide that operators of early
5 care and education programs shall post signs prohibiting vaping; to amend Chapter 12A of
6 Title 31 of the Official Code of Georgia Annotated, relating to smoke-free air, so as to revise
7 the short title; to revise definitions; to prohibit vaping in designated smoke-free areas; to
8 provide for exemptions; to provide that "No Smoking" signs may include the words "or
9 Vaping"; to allow enactment of more restrictive laws, rules, and regulations by state or local
10 governing authorities; to provide for related matters; to repeal conflicting laws; and for other
11 purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
15 public health and morals, is amended by revising Code Section 16-12-2, relating to smoking
16 in public places, as follows:

17 "16-12-2.

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18 (a) A person smoking tobacco or vaping in violation of Chapter 12A of Title 31 shall be
19 guilty of a misdemeanor and, if convicted, shall be punished by a fine of not less than
20 \$100.00 nor more than \$500.00.

21 (b) This Code section shall be cumulative to and shall not prohibit the enactment of any
22 other general and local laws, rules and regulations of state or local agencies, and local
23 ordinances prohibiting smoking or vaping which are more restrictive than this Code
24 section."

25 **SECTION 2.**

26 Chapter 1A of Title 20 of the Official Code of Georgia Annotated, relating to early care and
27 learning, is amended by revising subsection (h) of Code Section 20-1A-10, relating to
28 regulation of early care and education programs, as follows:

29 "(h) Persons who operate licensed, commissioned, or permitted early care and education
30 programs shall post signs prohibiting smoking and vaping to carry out the purposes of
31 Chapter 12A of Title 31."

32 **SECTION 3.**

33 Chapter 12A of Title 31 of the Official Code of Georgia Annotated, relating to smoke-free
34 air, is amended by revising Code Section 31-12A-1, relating to the short title for the chapter,
35 as follows:

36 "31-12A-1.

37 This chapter shall be known and may be cited as the 'Georgia Smoke-free Air Act of
38 2005.'"

39

SECTION 4.

40 Said chapter is further amended by revising paragraphs (12) and (17) of and adding new
41 paragraphs to Code Section 31-12A-2, relating to definitions regarding smoke-free air, as
42 follows:

43 "(12) 'Retail tobacco store' means a retail store utilized primarily for the sale of tobacco
44 products or vapor products and accessories and in which the sale of other products is
45 merely incidental."

46 "(17) 'Smoking or vaping area' means a separately designated enclosed room which need
47 not be entered by an employee in order to conduct business that is designated as a
48 smoking or vaping area and, when so designated as a smoking or vaping area, shall not
49 be construed as to deprive employees of a nonsmoking or nonvaping lounge, waiting
50 area, or break room."

51 "(19) 'Vaping' means the action or practice of inhaling and exhaling vapor or aerosol
52 from nicotine or other substances from a vapor product.

53 (20) 'Vapor product' has the same meaning as in Code Section 16-12-170.'

54

SECTION 5.

55 Said chapter is further amended by revising Code Section 31-12A-3, relating to smoking
56 prohibited in state and local government buildings, as follows:

57 "31-12A-3.

58 Smoking and vaping shall be prohibited in all enclosed facilities of, including buildings
59 owned, leased, or operated by, the State of Georgia, its agencies and authorities, and any
60 political subdivision of the state, municipal corporation, or local board or authority created
61 by general, local, or special Act of the General Assembly or by ordinance or resolution of
62 the governing body of a county or municipal corporation individually or jointly with other
63 political subdivisions or municipalities of the state."

64

SECTION 6.

65 Said chapter is further amended by revising Code Section 31-12A-4, relating to smoking
66 prohibited in enclosed public places, as follows:

67 "31-12A-4.

68 Except as otherwise specifically authorized in Code Section 31-12A-6, smoking and vaping
69 shall be prohibited in all enclosed public places in this state."

70

SECTION 7.

71 Said chapter is further amended by revising Code Section 31-12A-5, relating to smoking
72 prohibited in enclosed areas within places of employment and required communications, as
73 follows:

74 "31-12A-5.

75 (a) Except as otherwise specifically provided in Code Section 31-12A-6, smoking and
76 vaping shall be prohibited in all enclosed areas within places of employment, including,
77 but not limited to, common work areas, auditoriums, classrooms, conference and meeting
78 rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges,
79 stairs, restrooms, and all other enclosed facilities.

80 (b) Such prohibition on smoking and vaping shall be communicated to all current
81 employees by ~~July 1, 2005~~ January 1, 2023, and to each prospective employee upon their
82 application for employment."

83

SECTION 8.

84 Said chapter is further amended by revising paragraphs (2), (3), (6), (7), (8), (11), and (12)
85 of subsection (a) and subsection (b) of Code Section 31-12A-6, relating to exemptions, as
86 follows:

87 "(2) Hotel and motel rooms that are rented to guests and are designated as smoking or
88 vaping rooms; provided, however, that not more than 20 percent of rooms rented to
89 guests in a hotel or motel may be so designated;

90 (3) Retail tobacco stores, provided that secondhand smoke or vapor from such stores
91 does not infiltrate into areas where smoking and vaping is prohibited under the provisions
92 of this chapter;"

93 "(6) Smoking or vaping areas in international airports, as designated by the airport
94 operator;

95 (7) All workplaces of any manufacturer, importer, distributor, or wholesaler of tobacco
96 products or vapor products, of any tobacco leaf dealer or processor, all tobacco storage
97 facilities, and any other entity set forth in Code Section 10-13A-2;

98 (8) Private and semiprivate rooms in health care facilities licensed under this title that
99 are occupied by one or more persons, all of whom have written authorization by their
100 treating physician to smoke or vape;"

101 "(11) Smoking or vaping areas designated by an employer which shall meet the
102 following requirements:

103 (A) The smoking or vaping area shall be located in a nonwork area where no
104 employee, as part of his or her work responsibilities, shall be required to enter, except
105 such work responsibilities shall not include custodial or maintenance work carried out
106 in the smoking or vaping area when it is unoccupied;

107 (B) Air handling systems from the smoking or vaping area shall be independent from
108 the main air handling system that serves all other areas of the building and all air within
109 the smoking or vaping area shall be exhausted directly to the outside by an exhaust fan
110 of sufficient size and capacity for the smoking or vaping area and no air from the
111 smoking or vaping area shall be recirculated through or infiltrate other parts of the
112 building; and

113 (C) The smoking or vaping area shall be for the use of employees only.

114 The exemption provided for in this paragraph shall not apply to restaurants and bars;
115 (12) Common work areas, conference and meeting rooms, and private offices in private
116 places of employment, other than medical facilities, that are open to the general public
117 by appointment only; except that smoking and vaping shall be prohibited in any public
118 reception area of such place of employment; and"
119 "(b) In order to qualify for exempt status under subsection (a) of this Code section, any
120 area described in subsection (a) of this Code section, except for areas described in
121 paragraph (1) of subsection (a) of this Code section, shall post conspicuously at every
122 entrance a sign indicating that smoking or vaping is permitted."

123 **SECTION 9.**

124 Said chapter is further amended by revising Code Section 31-12A-7, relating to smoking
125 prohibited in designated nonsmoking places, as follows:

126 "31-12A-7.

127 Notwithstanding any other provision of this chapter, an owner, operator, manager, or other
128 person in control of an establishment, facility, or outdoor area may declare that entire
129 establishment, facility, or outdoor area as a nonsmoking or nonvaping place. Smoking and
130 vaping shall be prohibited in any place in which a sign conforming to the requirements of
131 subsection (a) of Code Section 31-12A-8 is posted."

132 **SECTION 10.**

133 Said chapter is further amended by revising subsection (a) of Code Section 31-12A-8,
134 relating to "No Smoking" signs and ashtrays prohibited in nonsmoking areas, as follows:

135 "(a) 'No Smoking or Vaping' signs or the international 'No Smoking' symbol consisting of
136 a pictorial representation of a burning cigarette enclosed in a red circle with a red bar
137 across it may be clearly and conspicuously posted by the owner, operator, manager, or

138 other person in control in every public place and place of employment where smoking or
139 vaping is prohibited by this chapter."

140 **SECTION 11.**

141 Said chapter is further amended by revising Code Section 31-12A-12, relating to other laws,
142 rules, regulations, and ordinances not prohibited, as follows:

143 "31-12A-12.

144 This chapter shall be cumulative to and shall not prohibit the enactment of any other
145 general or local laws, rules, and regulations of state or local governing authorities or local
146 ordinances prohibiting smoking or vaping which are more restrictive than this chapter or
147 are not in direct conflict with this chapter."

148 **SECTION 12.**

149 Said chapter is further amended by revising subsection (a) of Code Section 31-12A-13,
150 relating to construction, as follows:

151 "(a) This chapter shall not be construed to permit smoking or vaping where it is otherwise
152 restricted by other applicable laws."

153 **SECTION 13.**

154 All laws and parts of laws in conflict with this Act are repealed.