

By Commissioner Carlton

carlton1-00059A-17

201765__

1 A proposal to amend
2 Section 20 of Article X of the State Constitution to
3 establish a general prohibition on the use of vapor-
4 generating electronic devices in enclosed indoor
5 workplaces.

6
7 Be It Proposed by the Constitution Revision Commission of
8 Florida:

9
10 Section 20 of Article X of the State Constitution is
11 amended to read:

12 ARTICLE X
13 MISCELLANEOUS

14 SECTION 20. Workplaces without tobacco smoke or vapor.—

15 (a) PROHIBITION. As a Florida health initiative to protect
16 people from the health hazards of second-hand tobacco smoke and
17 vapor, tobacco smoking and the use of vapor-generating
18 electronic devices are ~~is~~ prohibited in enclosed indoor
19 workplaces. This section does not preclude the adoption of
20 ordinances that impose more restrictive regulation on the use of
21 vapor-generating electronic devices than is provided in this
22 section.

23 (b) EXCEPTIONS. As further explained in the definitions
24 below, tobacco smoking and the use of vapor-generating
25 electronic devices may be permitted in private residences
26 whenever they are not being used commercially to provide child
27 care, adult care, or health care, or any combination thereof;
28 and further may be permitted in retail tobacco shops, vapor-
29 generating electronic device retailers, designated smoking guest
30 rooms at hotels and other public lodging establishments; and
31 stand-alone bars. However, nothing in this section or in its
32 implementing legislation or regulations shall prohibit the

carlton1-00059A-17

201765__

33 owner, lessee, or other person in control of the use of an
34 enclosed indoor workplace from further prohibiting or limiting
35 smoking or the use of vapor-generating electronic devices
36 therein.

37 (c) DEFINITIONS. For purposes of this section, the
38 following words and terms shall have the stated meanings:

39 (1) "Smoking" means inhaling, exhaling, burning, carrying,
40 or possessing any lighted tobacco product, including cigarettes,
41 cigars, pipe tobacco, and any other lighted tobacco product.

42 (2) "Second-hand smoke," also known as environmental
43 tobacco smoke (ETS), means smoke emitted from lighted,
44 smoldering, or burning tobacco when the smoker is not inhaling;
45 smoke emitted at the mouthpiece during puff drawing; and smoke
46 exhaled by the smoker.

47 (3) "Work" means any person's providing any employment or
48 employment-type service for or at the request of another
49 individual or individuals or any public or private entity,
50 whether for compensation or not, whether full or part-time,
51 whether legally or not. "Work" includes, without limitation, any
52 such service performed by an employee, independent contractor,
53 agent, partner, proprietor, manager, officer, director,
54 apprentice, trainee, associate, servant, volunteer, and the
55 like.

56 (4) "Enclosed indoor workplace" means any place where one
57 or more persons engages in work, and which place is
58 predominantly or totally bounded on all sides and above by
59 physical barriers, regardless of whether such barriers consist
60 of or include uncovered openings, screened or otherwise
61 partially covered openings; or open or closed windows,

carlton1-00059A-17

201765__

62 jalousies, doors, or the like. This section applies to all such
63 enclosed indoor workplaces without regard to whether work is
64 occurring at any given time.

65 (5) "Commercial" use of a private residence means any time
66 during which the owner, lessee, or other person occupying or
67 controlling the use of the private residence is furnishing in
68 the private residence, or causing or allowing to be furnished in
69 the private residence, child care, adult care, or health care,
70 or any combination thereof, and receiving or expecting to
71 receive compensation therefor.

72 (6) "Retail tobacco shop" means any enclosed indoor
73 workplace dedicated to or predominantly for the retail sale of
74 tobacco, tobacco products, and accessories for such products, in
75 which the sale of other products or services is merely
76 incidental.

77 (7) "Designated smoking guest rooms at public lodging
78 establishments" means the sleeping rooms and directly associated
79 private areas, such as bathrooms, living rooms, and kitchen
80 areas, if any, rented to guests for their exclusive transient
81 occupancy in public lodging establishments including hotels,
82 motels, resort condominiums, transient apartments, transient
83 lodging establishments, rooming houses, boarding houses, resort
84 dwellings, bed and breakfast inns, and the like; and designated
85 by the person or persons having management authority over such
86 public lodging establishment as rooms in which smoking may be
87 permitted.

88 (8) "Stand-alone bar" means any place of business devoted
89 during any time of operation predominantly or totally to serving
90 alcoholic beverages, intoxicating beverages, or intoxicating

carlton1-00059A-17

201765__

91 liquors, or any combination thereof, for consumption on the
92 licensed premises; in which the serving of food, if any, is
93 merely incidental to the consumption of any such beverage; and
94 that is not located within, and does not share any common
95 entryway or common indoor area with, any other enclosed indoor
96 workplace including any business for which the sale of food or
97 any other product or service is more than an incidental source
98 of gross revenue.

99 (9) "Vapor-generating electronic device" means any product
100 that employs an electronic, a chemical, or a mechanical means
101 capable of producing vapor or aerosol from a nicotine product or
102 any other substance, including, but not limited to, an
103 electronic cigarette, electronic cigar, electronic cigarillo,
104 electronic pipe, or other similar device or product, any
105 replacement cartridge for such device, and any other container
106 of a solution or other substance intended to be used with or
107 within an electronic cigarette, electronic cigar, electronic
108 cigarillo, electronic pipe, or other similar device or product.

109 (10) "Vapor-generating electronic device retailer" means
110 any enclosed indoor workplace dedicated to or predominantly for
111 the retail sale of vapor-generating electronic devices and
112 components, parts, and accessories for such products, in which
113 the sale of other products or services is merely incidental.

114 (d) LEGISLATION. In the next regular legislative session
115 occurring after voter approval of this section or any amendment
116 to this section ~~amendment~~, the ~~Florida~~ legislature shall adopt
117 legislation to implement this section and any amendment to this
118 section ~~amendment~~ in a manner consistent with its broad purpose
119 and stated terms, and having an effective date no later than

carlton1-00059A-17

201765__

120 July 1 of the year following voter approval. Such legislation
121 shall include, without limitation, civil penalties for
122 violations of this section; provisions for administrative
123 enforcement; and the requirement and authorization of agency
124 rules for implementation and enforcement. This section does not
125 ~~Nothing herein shall~~ preclude the legislature from enacting any
126 law constituting or allowing a more restrictive regulation of
127 tobacco smoking or the use of vapor-generating electronic
128 devices than is provided in this section.