

[First Reprint]

SENATE, No. 3265

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED DECEMBER 6, 2018

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SYNOPSIS

Prohibits sale or distribution of flavored vapor products.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on January 9, 2020, with amendments.

(Sponsorship Updated As Of: 1/14/2020)

1 AN ACT concerning ¹**[electronic smoking devices]** vapor products¹
2 and supplementing Title 2A of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. No ¹**[person]** retailer¹, either directly or indirectly by an
8 agent or employee, or by a vending machine owned by the
9 ¹**[person]** retailer¹ or located in the ¹**[person's]** retailer's¹
10 establishment, shall sell, offer for sale, distribute for commercial
11 purpose at no cost or minimal cost or with coupons or rebate offers,
12 give or furnish, to a person any ¹**[electronic smoking device or any**
13 **cartridge or other component of the device or other related product,**
14 **including liquid nicotine,]** vapor product¹ that has a characterizing
15 flavor.

16 b. A ¹**[person who]** retailer that¹ violates the provisions of
17 subsection a. of this section shall be liable to a civil penalty of not
18 less than ¹**[\$250]** \$500¹ for the first violation, not less than
19 ¹**[\$500]** \$1,000¹ for the second violation, and ¹**[\$1,000]** not less
20 than \$2,000¹ for the third and each subsequent violation. The civil
21 penalty shall be collected pursuant to the "Penalty Enforcement
22 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary
23 proceeding before the municipal court having jurisdiction. An
24 official authorized by statute or ordinance to enforce the State or
25 local health codes or a law enforcement officer having enforcement
26 authority in that municipality shall issue a summons for a violation
27 of the provisions of subsection a. of this section, and shall serve and
28 execute all process with respect to the enforcement of this section
29 consistent with the Rules of Court. A penalty recovered under the
30 provisions of this subsection shall be recovered by and in the name
31 of the State by the local health agency. The penalty shall be paid
32 into the treasury of the municipality in which the violation occurred
33 for the general uses of the municipality.

34 c. ¹In addition to the provisions of subsection b. of this section,
35 the Division of Taxation in the Department of the Treasury:

36 (1) shall, upon a third and each subsequent violation of the
37 provisions of subsection a. of this section, following a hearing by
38 the municipality, suspend, for a period of not less than three years,
39 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
40 3.3) of a vapor business; and

41 (2) notwithstanding the provisions of paragraph (1) of this
42 subsection, upon a fourth or subsequent violation of the provisions
43 of subsection a. of this section, may, upon recommendation by the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted January 9, 2020.

1 municipality and following a hearing by the municipality, revoke
2 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
3 3.3) of a vapor business.

4 A licensee whose license is subject to suspension or revocation
5 shall additionally be subject to administrative charges, based on a
6 schedule issued by the Director of the Division of Taxation.

7 d. Nothing in this section shall be construed to apply to
8 medical cannabis, medical cannabis products, paraphernalia, or
9 related supplies dispensed to or on behalf of a registered qualifying
10 patient pursuant to the “Jake Honig Compassionate Use Medical
11 Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

12 e.¹ As used in this section:

13 "Characterizing flavor" means a distinguishable flavor, taste, or
14 aroma ¹other than tobacco¹, including, but not limited to, any fruit,
15 chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage,
16 herb, ¹mint, menthol, wintergreen,¹ or spice flavoring, that is
17 imparted, prior to or during consumption, by ¹[an electronic
18 smoking device or any cartridge or other component of the device
19 or other related] a vapor¹ product, including ¹[liquid nicotine, or]¹
20 any smoke or vapor emanating from that ¹[device or]¹ product.
21 ¹[An electronic smoking device or any cartridge or other
22 component of the device or other related product, including liquid
23 nicotine,] A vapor product¹ shall be deemed to have a
24 characterizing flavor if the ¹[device, cartridge, component, or
25 related]¹ product is advertised or marketed as having or producing
26 any such distinguishable flavor, taste, or aroma.

27 ¹["Electronic smoking device" means an electronic device that
28 can be used to deliver nicotine or other substances to the person
29 inhaling from the device, including, but not limited to, an electronic
30 cigarette, cigar, cigarillo, hookah, or pipe.

31 "Liquid nicotine" means any solution containing nicotine which
32 is designed or sold for use with an electronic smoking device.]

33 “Vapor product” means any device that may be used to deliver
34 any aerosolized or vaporized substance to the person inhaling from
35 the device, including, but not limited to, an e-cigarette, e-cigar, e-
36 pipe, vape pen, or e-hookah. “Vapor product” includes any
37 component, part, or accessory of the device, and also includes any
38 substance that may be aerosolized or vaporized by such device,
39 regardless of whether the substance contains nicotine. “Vapor
40 product” does not include any drug, device, or combination product
41 approved by the federal Food and Drug Administration pursuant to
42 the “Federal Food, Drug, and Cosmetic Act,”
43 21 U.S.C. s.301 et seq.¹

44
45 2. This act shall take effect ¹[immediately] 90 days after the
46 date of enactment¹.