

§§1,2 -  
C.2A:170-51.5 &  
2A:170-51.6  
§3 - Note

P.L. 2008, CHAPTER 91, *approved October 1, 2008*  
Senate, No. 613 (*First Reprint*)

1 **AN ACT** concerning tobacco products and supplementing Title 2A  
2 of the New Jersey Statutes.

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

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7 1. The Legislature finds and declares that:

8 a. There has been a proliferation of flavored cigarettes in recent  
9 years, and many of these products have fruit, chocolate or other  
10 flavors that are particularly attractive to children;

11 b. According to public health experts, the existence of these  
12 products increases the incidence of tobacco use among children;

13 c. The earlier a person begins using tobacco, the more likely the  
14 person will become addicted to tobacco products and continue to  
15 smoke throughout that person's life;

16 d. As a result, flavored cigarettes lead to increased tobacco use  
17 and addiction, higher health care costs, and a greater incidence of  
18 smoking-related illness and death; and

19 e. Therefore, flavored cigarettes pose a significant threat to the  
20 health of the general public, and the protection of the public health  
21 warrants that the sale and distribution of these products be  
22 prohibited in this State.

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24 2. a. No person, either directly or indirectly by an agent or  
25 employee, or by a vending machine owned by the person or located  
26 in the person's establishment, shall sell, offer for sale, distribute for  
27 commercial purpose at no cost or minimal cost or with coupons or  
28 rebate offers, give or furnish, to a person a cigarette, or any  
29 component part thereof<sup>1</sup> [ , including, but not limited to, the tobacco,  
30 paper, roll or filter, or any other matter or substance which can be  
31 smoked ]<sup>1</sup>, which contains a natural or artificial constituent or  
32 additive that causes the cigarette or any smoke emanating from that  
33 product to have a characterizing flavor other than tobacco, clove or  
34 menthol. <sup>1</sup>In no event shall a cigarette or any component part  
35 thereof be construed to have a characterizing flavor based solely on  
36 the use of additives or flavorings, or the provision of an ingredient  
37 list made available by any means.<sup>1</sup>

**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:

<sup>1</sup>Assembly AHE committee amendments adopted May 22, 2008.

1 As used in this section:

2 (1) "characterizing flavor other than tobacco, clove or menthol"  
3 means that: the cigarette, or any smoke emanating from that  
4 product, imparts a distinguishable flavor, taste or aroma other than  
5 tobacco, clove or menthol prior to or during consumption,  
6 including, but not limited to, any fruit, chocolate, vanilla, honey,  
7 candy, cocoa, dessert, alcoholic beverage, herb or spice flavoring;  
8 or the cigarette or any component part thereof is advertised or  
9 marketed as having or producing any such flavor, taste or aroma;  
10 '[and]'

11 (2) "cigarette" means (a) any roll of tobacco wrapped in paper  
12 or in any substance not containing tobacco, and (b) any roll of  
13 tobacco wrapped in any substance containing tobacco which,  
14 because of its appearance, the type of tobacco used in the filler, or  
15 its packaging and labeling, is likely to be offered to, or purchased  
16 by, consumers as a cigarette as described in subparagraph (a) of this  
17 paragraph (2)<sup>1</sup>; and

18 (3) "component part thereof" includes, but is not limited to, the  
19 tobacco, paper, roll or filter, or any other matter or substance which  
20 can be smoked<sup>1</sup>.

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

38 c. In addition to the provisions of subsection b. of this section,  
39 upon the recommendation of the municipality, following a hearing  
40 by the municipality, the Division of Taxation in the Department of  
41 the Treasury may suspend or, after a second or subsequent violation  
42 of the provisions of subsection a. of this section, revoke the license  
43 of a retail dealer issued under section 202 of P.L.1948, c.65  
44 (C.54:40A-4). The licensee shall be subject to administrative  
45 charges, based on a schedule issued by the Director of the Division  
46 of Taxation, which may provide for a monetary penalty in lieu of a  
47 suspension.

**S613 [1R]**

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1 3. This act shall take effect on the 60th day after enactment.

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Prohibits sale of certain flavored cigarettes.