

[First Reprint]

**SENATE, No. 298**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

**Senator Turner**

**SYNOPSIS**

Prohibits the sale or distribution of flavored electronic smoking devices.

**CURRENT VERSION OF TEXT**

As reported by the Senate Health, Human Services and Senior Citizens Committee on May 16, 2016, with amendments.



**(Sponsorship Updated As Of: 3/15/2017)**

1 AN ACT concerning electronic smoking devices and amending  
2 P.L.2008, c.91.

3

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

6

7 1. Section 1 of P.L.2008, c.91 (C.2A:170-51.5) is amended to  
8 read as follows:

9 1. The Legislature finds and declares that:

10 a. There has been a proliferation of flavored cigarettes and  
11 flavored electronic smoking devices in recent years, and many of  
12 these products have fruit, chocolate, or other flavors that are  
13 particularly attractive to children;

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

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

19 d. As a result, flavored cigarettes and flavored electronic  
20 smoking devices lead to increased tobacco use and addiction, higher  
21 health care costs, and a greater incidence of smoking-related illness  
22 and death; and

23 e. Therefore, flavored cigarettes and flavored electronic  
24 devices pose a significant threat to the health of the general public,  
25 and the protection of the public health warrants that the sale and  
26 distribution of these products be prohibited in this State.

27 (cf: P.L.2008, c.91, s.1)

28

29 2. Section 2 of P.L.2008, c.91 (C.2A:170-51.6) is amended to read  
30 as follows:

31 2. a. No person, either directly or indirectly by an agent or  
32 employee, or by a vending machine owned by the person or located in  
33 the person's establishment, shall sell, offer for sale, distribute for  
34 commercial purpose at no cost or minimal cost or with coupons or  
35 rebate offers, give or furnish, to a person:

36 (1) a cigarette, or any component part thereof, which contains a  
37 natural or artificial constituent or additive that causes the cigarette or  
38 any smoke emanating from that product to have a characterizing flavor  
39 other than tobacco, clove, or menthol; or

40 (2) any electronic smoking device or any cartridge or other  
41 component of the device or other related product, including a liquid  
42 refill, that has a characterizing flavor other than tobacco, clove, or  
43 menthol.

**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>Senate SHH committee amendments adopted May 16, 2016.

1 In no event shall a cigarette, electronic smoking device, or any  
2 cartridge or any component part thereof or other related product,  
3 including a liquid refill, be construed to have a characterizing flavor  
4 based solely on the use of additives or flavorings, or the provision of  
5 an ingredient list made available by any means.

6 As used in this section:

7 (1) "characterizing flavor other than tobacco, clove or menthol"  
8 means that: the cigarette, electronic smoking device or any cartridge  
9 or other component of the device or other related product, including  
10 liquid refills, or any smoke or vapor emanating from that product or  
11 device, imparts a distinguishable flavor, taste, or aroma other than  
12 tobacco, clove, or menthol prior to or during consumption, including,  
13 but not limited to, any fruit, chocolate, vanilla, honey, candy, cocoa,  
14 dessert, alcoholic beverage, herb, or spice flavoring; or the  
15 cigarette~~or~~, any component part thereof, or the electronic smoking  
16 device or any cartridge or other component of the device or other  
17 related product, including a liquid refill, is advertised or marketed as  
18 having or producing any such flavor, taste, or aroma;

19 (2) "cigarette" means (a) any roll of tobacco wrapped in paper or in  
20 any substance not containing tobacco, and (b) any roll of tobacco  
21 wrapped in any substance containing tobacco which, because of its  
22 appearance, the type of tobacco used in the filler, or its packaging and  
23 labeling, is likely to be offered to, or purchased by, consumers as a  
24 cigarette as described in subparagraph (a) of this paragraph (2); and (3)

25 "component part thereof" includes, but is not limited to, the  
26 tobacco, paper, roll, or filter, or any other matter or substance which  
27 can be smoked;

28 (3) "electronic smoking device" means an electronic device that  
29 can be used to deliver nicotine or other substances to the person  
30 inhaling from the device, including, but not limited to, an electronic  
31 cigarette, cigar, cigarillo, <sup>1</sup>hookah,<sup>1</sup> or pipe.

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

1           c. In addition to the provisions of subsection b. of this section,  
2 upon the recommendation of the municipality, following a hearing by  
3 the municipality, the Division of Taxation in the Department of the  
4 Treasury **【may】** shall suspend or, after a second or subsequent  
5 violation of the provisions of subsection a. of this section, revoke the  
6 license of a retail dealer issued under section 202 of P.L.1948, c.65  
7 (C.54:40A-4). The licensee shall be subject to administrative charges,  
8 based on a schedule issued by the Director of the Division of Taxation,  
9 which may provide for a monetary penalty in lieu of a suspension.  
10 (cf: P.L.2008, c.91, s.2)

11

12           3. This act shall take effect immediately.