[First Reprint]

SENATE, No. 298

STATE OF NEW JERSEY

217th LEGISLATURE

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)
S298 [1R] VITALE, CODEY

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

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

1. Section 1 of P.L.2008, c.91 (C.2A:170-51.5) is amended to read as follows:
   1. The Legislature finds and declares that:
      a. There has been a proliferation of flavored cigarettes and flavored electronic smoking devices in recent years, and many of these products have fruit, chocolate, or other flavors that are particularly attractive to children;
      b. According to public health experts, the existence of these products increases the incidence of tobacco use among children;
      c. The earlier a person begins using tobacco, the more likely the person will become addicted to tobacco products and continue to smoke throughout that person’s life;
      d. As a result, flavored cigarettes and flavored electronic smoking devices lead to increased tobacco use and addiction, higher health care costs, and a greater incidence of smoking-related illness and death; and
      e. Therefore, flavored cigarettes and flavored electronic devices pose a significant threat to the health of the general public, and the protection of the public health warrants that the sale and distribution of these products be prohibited in this State.

2. Section 2 of P.L.2008, c.91 (C.2A:170-51.6) is amended to read as follows:
   2. a. No person, either directly or indirectly by an agent or employee, or by a vending machine owned by the person or located in the person’s establishment, shall sell, offer for sale, distribute for commercial purpose at no cost or minimal cost or with coupons or rebate offers, give or furnish, to a person:
      (1) a cigarette, or any component part thereof, which contains a natural or artificial constituent or additive that causes the cigarette or any smoke emanating from that product to have a characterizing flavor other than tobacco, clove, or menthol; or
      (2) any electronic smoking device or any cartridge or other component of the device or other related product, including a liquid refill, that has a characterizing flavor other than tobacco, clove, or 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:

Senate SHH committee amendments adopted May 16, 2016.
In no event shall a cigarette, electronic smoking device, or any cartridge or any component part thereof or other related product, including a liquid refill, be construed to have a characterizing flavor based solely on the use of additives or flavorings, or the provision of an ingredient list made available by any means.

As used in this section:

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

(2) "cigarette" means (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and (b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette as described in subparagraph (a) of this paragraph (2); and (3) "component part thereof" includes, but is not limited to, the tobacco, paper, roll, filter, or any other matter or substance which can be smoked;

(3) "electronic smoking device" means an electronic device that can be used to deliver nicotine or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, hookah, or pipe.

b. A person who violates the provisions of subsection a. of this section shall be liable to a civil penalty of not less than $250 for the first violation, not less than $500 for the second violation, and $1,000 for the third and each subsequent violation. The civil penalty shall be collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. An official authorized by statute or ordinance to enforce the State or local health codes or a law enforcement officer having enforcement authority in that municipality may issue a summons for a violation of the provisions of subsection a. of this section, and may serve and execute all process with respect to the enforcement of this section consistent with the Rules of Court. A penalty recovered under the provisions of this subsection shall be recovered by and in the name of the State by the local health agency. The penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.
c. In addition to the provisions of subsection b. of this section, upon the recommendation of the municipality, following a hearing by the municipality, the Division of Taxation in the Department of the Treasury [may] shall suspend or, after a second or subsequent violation of the provisions of subsection a. of this section, revoke the license of a retail dealer issued under section 202 of P.L.1948, c.65 (C.54:40A-4). The licensee shall be subject to administrative charges, based on a schedule issued by the Director of the Division of Taxation, which may provide for a monetary penalty in lieu of a suspension.

(cf: P.L.2008, c.91, s.2)

3. This act shall take effect immediately.