

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 5922 and 5923

STATE OF NEW JERSEY
218th LEGISLATURE

ADOPTED JANUARY 9, 2020

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Co-Sponsored by:

**Assemblyman Benson, Assemblywoman Jimenez, Assemblyman Caputo,
Assemblywomen Reynolds-Jackson, Swain, Assemblyman Tully,
Assemblywoman Lampitt and Senator Madden**

SYNOPSIS

Revises requirements for sale of tobacco and vapor products; increases penalties for prohibited sales; increases fees for cigarette and vapor business licensure.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Appropriations Committee.

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

1 AN ACT concerning tobacco and vapor products, amending various
2 parts of the statutory law, and supplementing Title 2A of the
3 New Jersey Statutes, P.L.2003, c.280 (C.45:14-40 et seq.), and
4 P.L.1990, c.39 (C.54:40B-1 et seq.).

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

8
9 1. Section 3 of P.L.1995, c.305 (C.2A:170-51.1) is amended to
10 read as follows:

11 3. A person 21 years of age or older who purchases a tobacco
12 product, including an electronic smoking device or vapor product,
13 for a person who is under 21 years of age is a petty disorderly
14 person.
15 (cf: P.L.2017, c.118, s.1)

16
17 2. Section 1 of P.L.2000, c.87 (C.2A:170-51.4) is amended to
18 read as follows:

19 1. a. No **person** retailer, either directly or indirectly by an
20 agent or employee, or by a vending machine owned by the **person**
21 retailer or located in the **person's** retailer's establishment, shall
22 sell, offer for sale, distribute for commercial purpose at no cost or
23 minimal cost or with coupons or rebate offers, give or furnish, to a
24 person under 21 years of age **:**

25 (1) any cigarettes made of tobacco or of any other matter or
26 substance which can be smoked, or any cigarette paper or tobacco
27 in any form, including smokeless tobacco; or

28 (2) any electronic smoking device that can be used to deliver
29 nicotine or other substances to the person inhaling from the device,
30 including, but not limited to, an electronic cigarette, cigar, cigarillo,
31 or pipe, or any cartridge or other component of the device or related
32 product **any tobacco product.**

33 Unless a retailer restricts access to the retailer's establishment to
34 persons who are 21 years of age and older, all tobacco products
35 shall be maintained in a manner that restricts direct public access to
36 the products, which manner may include maintaining the products
37 in a locked cabinet, behind the sales counter, or in an area of the
38 establishment where access is restricted to employees only.
39 Commencing 90 days after the effective date of P.L. , c.
40 (pending before the Legislature as this bill), no tobacco product
41 may be sold or distributed unless the person conducting the sale or
42 distribution verifies the purchaser's age using an electronic age
43 verification system.

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.

1 b. The establishment of all of the following shall constitute a
2 defense to any prosecution brought pursuant to subsection a. of this
3 section:

4 (1) that the purchaser of the tobacco product **【or electronic**
5 **smoking device】** or the recipient of the promotional sample falsely
6 represented, by producing either a driver's license or non-driver
7 identification card issued by the New Jersey Motor Vehicle
8 Commission, a similar card issued pursuant to the laws of another
9 state or the federal government of Canada, or a photographic
10 identification card issued by a county clerk, that the purchaser or
11 recipient was of legal age to make the purchase or receive the
12 sample and, commencing 90 days after the effective date of
13 P.L. , c. (pending before the Legislature as this bill), the person
14 making the sale or distribution verifies the purchaser's age using an
15 electronic age verification system;

16 (2) that the appearance of the purchaser of the tobacco product
17 **【or electronic smoking device】** or the recipient of the promotional
18 sample was such that an ordinary prudent person would believe the
19 purchaser or recipient to be of legal age to make the purchase or
20 receive the sample; and

21 (3) that the sale or distribution of the tobacco product **【or**
22 **electronic smoking device】** was made in good faith, relying upon
23 the production and, commencing 90 days after the effective date of
24 P.L. , c. (pending before the Legislature as this bill), verification
25 of the identification set forth in paragraph (1) of this subsection, the
26 appearance of the purchaser or recipient, and in the reasonable
27 belief that the purchaser or recipient was of legal age to make the
28 purchase or receive the sample.

29 c. A **【person who】** retailer that violates the provisions of
30 subsection a. of this section **【**, including an employee of a retail
31 dealer licensee under P.L.1948, c.65 (C.54:40A-1 et seq.) who
32 actually sells or otherwise provides a tobacco product to a person
33 under 21 years of age,**】** shall be liable to a civil penalty of not less
34 than **【\$250】** \$500 for the first violation, not less than **【\$500】**
35 \$1,000 for the second violation, and **【\$1,000】** not less than \$2,000
36 for the third and each subsequent violation. The civil penalty shall
37 be collected pursuant to the "Penalty Enforcement Law of 1999,"
38 P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding
39 before the municipal court having jurisdiction. An official
40 authorized by statute or ordinance to enforce the State or local
41 health codes or a law enforcement officer having enforcement
42 authority in that municipality may issue a summons for a violation
43 of the provisions of subsection a. of this section, and may serve and
44 execute all process with respect to the enforcement of this section
45 consistent with the Rules of Court. A penalty recovered under the
46 provisions of this subsection shall be recovered by and in the name
47 of the State by the local health agency. The penalty shall be paid

1 into the treasury of the municipality in which the violation occurred
2 for the general uses of the municipality.

3 d. In addition to the provisions of subsection c. of this section,
4 **【**upon the recommendation of the municipality, following a hearing
5 by the municipality,**】** the Division of Taxation in the Department of
6 the Treasury **【**may**】** :

7 (1) shall, upon a third and each subsequent violation of the
8 provisions of subsection a. of this section, following a hearing by
9 the municipality, suspend **【**or, after a second or subsequent
10 violation of the provisions of subsection a. of this section, revoke**】** ,
11 for a period of not less than three years, the license issued under
12 section 202 of P.L.1948, c.65 (C.54:40A-4) of a retail dealer or the
13 license issued under section 4 of P.L.2019, c.147 (C.54:40B-3.3) of
14 a vapor business, as applicable; and

15 (2) notwithstanding the provisions of paragraph (1) of this
16 subsection, upon a fourth or subsequent violation of the provisions
17 of subsection a. of this section, may, upon recommendation by the
18 municipality and following a hearing by the municipality, revoke
19 the license issued under section 202 of P.L.1948, c.65 (C.54:40A-4)
20 of a retail dealer or the license issued under section 4 of P.L.2019,
21 c.147 (C.54:40B-3.3) of a vapor business, as applicable.

22 The licensee shall additionally be subject to administrative
23 charges, based on a schedule issued by the Director of the Division
24 of Taxation **【**, which may provide for a monetary penalty in lieu of
25 a suspension**】**.

26 e. A penalty imposed pursuant to this section shall be in
27 addition to any penalty that may be imposed pursuant to section 3
28 of P.L.1999, c.90 (C.2C:33-13.1).

29 f. The provisions of this section shall not apply to any medical
30 cannabis, medical cannabis product, paraphernalia, or related
31 supplies dispensed to or on behalf of a registered qualifying patient
32 pursuant to the “Jake Honig Compassionate Use Medical Cannabis
33 Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

34 g. As used in this section:

35 “Tobacco product” means: any product containing, made of, or
36 derived from tobacco or nicotine that is intended for human
37 consumption or is likely to be consumed, whether inhaled,
38 absorbed, or ingested by other means, including, but not limited to,
39 a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, or snus;
40 any vapor product; and any component, part, or accessory of a
41 product containing, made of, or derived from tobacco or nicotine or
42 a vapor product, regardless of whether the component, part, or
43 accessory contains tobacco or nicotine. “Tobacco product”
44 includes, but is not limited to, filters, rolling papers, blunt or hemp
45 wraps, hookahs, and pipes. “Tobacco product” does not include
46 any drug, device, or combination product approved by the federal

1 Food and Drug Administration pursuant to the “Federal Food, Drug,
2 and Cosmetic Act,” 21 U.S.C. ss.301 et seq.

3 “Vapor product” means any device that may be used to deliver
4 any aerosolized or vaporized substance to the person inhaling from
5 the device, including, but not limited to, an e-cigarette, e-cigar, e-
6 pipe, vape pen, or e-hookah. “Vapor product” includes any
7 component, part, or accessory of the device, and also includes any
8 substance that may be aerosolized or vaporized by such device,
9 regardless of whether the substance contains nicotine. “Vapor
10 product” does not include any drug, device, or combination product
11 approved by the federal Food and Drug Administration
12 pursuant to the “Federal Food, Drug, and Cosmetic Act,”
13 21 U.S.C. ss.301 et seq.

14 (cf: P.L.2017, c.118, s.2)

15
16 3. Section 1 of P.L.2015, c.294 (C.2A:170-51.9) is amended to
17 read as follows:

18 1. a. No **【person】** retailer, either directly or indirectly by an
19 agent or employee, or by a vending machine owned by the **【person】**
20 retailer or located in the **【person's】** retailer's establishment, shall
21 sell, offer for sale, give, furnish, or distribute for commercial
22 purpose at no cost or minimal cost or with coupons or rebate offers,
23 to any other person **【**, liquid nicotine in a liquid nicotine container,
24 which is intended for use in a vapor product,**】** :

25 (1) any vapor product, unless the product includes any tracking
26 feature required by, and is included in any database developed and
27 maintained pursuant to, the provisions of section 15 of P.L. , c.
28 (C.) (pending before the Legislature as this bill);

29 (2) vaping liquid with a nicotine content of more than two
30 percent;

31 (3) container e-liquid unless the **【liquid nicotine】** container e-
32 liquid is sold, offered for sale, given, furnished, or distributed for
33 commercial purpose in a child-resistant container; or

34 (4) vaping liquid that has been mixed with any other substance
35 by any entity other than the manufacturer of the vaping liquid.

36 **【As used in this section:**

37 (1) "Child-resistant container" means a container which is
38 designed and constructed in a manner that meets the federal
39 effectiveness specifications set forth in 16 C.F.R. 1700.15 and the
40 special packaging testing requirements set forth in 16 CFR 1700.20,
41 so that it is significantly difficult for a child five years of age or
42 younger to open the package or otherwise risk exposure to liquid
43 nicotine.

44 (2) "Liquid nicotine" means any solution containing nicotine
45 which is designed or sold for use with an electronic smoking
46 device.

1 (3) "Liquid nicotine container" means a bottle or other container
2 of a liquid, wax, gel, or other substance containing nicotine, where
3 the liquid or other contained substance is sold, marketed, or
4 intended for use in a vapor product. "Liquid nicotine container"
5 does not include a liquid or other substance containing nicotine in a
6 cartridge that is sold, marketed, or intended for use in a vapor
7 product, provided that such cartridge is prefilled and sealed by the
8 manufacturer, with the seal remaining permanently intact through
9 retail purchase and use; is only disposable and is not refillable; and
10 is not intended to be opened by the consumer.

11 (4) "Vapor product" means any non-combustible product
12 containing nicotine that employs a heating element, power source,
13 electronic circuit, or other electronic, chemical, or mechanical
14 means, regardless of shape or size, to produce vapor from nicotine
15 in a solution or any form. "Vapor product" includes, but is not
16 limited to, any electronic cigarette, electronic cigar, electronic
17 cigarillo, electronic pipe, or similar product or device, and any
18 vapor cartridge or other container of nicotine in a solution or other
19 form that is intended to be used with, or in, any such device. "Vapor
20 product" does not include any product that is approved, and that is
21 regulated as a prescription drug delivery service, by the United
22 States Food and Drug Administration under Chapter V of the Food,
23 Drug, and Cosmetic Act.】

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

42 c. In addition to the provisions of subsection b. of this section,
43 【upon the recommendation of the municipality, following a hearing
44 by the municipality,】 the Division of Taxation in the Department of
45 the Treasury 【may】 ；

46 (1) shall, upon a third and each subsequent violation of the
47 provisions of subsection a. of this section, following a hearing by

1 the municipality, suspend or, after a second or subsequent
2 violation of the provisions of subsection a. of this section, revoke
3 the , for a period of not less than three years, the license of a
4 retail dealer issued under section 202 of P.L.1948, c.65
5 (C.54:40A-4) 4 of P.L.2019, c.147 (C.54:40B-3.3) of a vapor
6 business; and

7 (2) notwithstanding the provisions of paragraph (1) of this
8 subsection, upon a fourth or subsequent violation of the provisions
9 of subsection a. of this section, may, upon recommendation by the
10 municipality and following a hearing by the municipality, revoke
11 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
12 3.3) of a vapor business.

13 The licensee shall additionally be subject to administrative
14 charges, based on a schedule issued by the Director of the Division
15 of Taxation , which may provide for a monetary penalty in lieu of
16 a suspension].

17 d. The provisions of this section shall not apply to any medical
18 cannabis, medical cannabis product, paraphernalia, or related
19 supplies dispensed to or on behalf of a registered qualifying patient
20 pursuant to the “Jake Honig Compassionate Use Medical Cannabis
21 Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

22 e. As used in this section:

23 “Child-resistant container” means a container which is designed
24 and constructed in a manner that meets the federal effectiveness
25 specifications set forth in 16 C.F.R. 1700.15 and the special
26 packaging testing requirements set forth in 16 CFR 1700.20, so that
27 it is significantly difficult for a child five years of age or younger to
28 open the package or otherwise risk exposure to vaping liquid.

29 “Container e-liquid” means a container of liquid nicotine or other
30 liquid where the liquid is marketed, sold, or intended for use in an
31 electronic smoking device, but does not include a prefilled cartridge
32 or other container where the cartridge or container is marketed,
33 sold, or intended for use as, or as a part of, an electronic smoking
34 device.

35 “Vaping liquid” means any solution, including a liquid, wax, gel,
36 or other substance, regardless of whether the solution contains
37 nicotine, that is designed or sold for use with an electronic smoking
38 device.

39 “Vapor product” means any device that may be used to deliver
40 any aerosolized or vaporized substance to the person inhaling from
41 the device, including, but not limited to, an e-cigarette, e-cigar, e-
42 pipe, vape pen, or e-hookah. “Vapor product” includes any
43 component, part, or accessory of the device, and also includes any
44 substance that may be aerosolized or vaporized by such device,
45 regardless of whether the substance contains nicotine. “Vapor
46 product” does not include any drug, device, or combination product
47 approved by the federal Food and Drug Administration pursuant to

1 the “Federal Food, Drug, and Cosmetic Act,”
2 21 U.S.C. ss.301 et seq.
3 (cf: P.L.2015, c.294, s.1)
4

5 4. Section 3 of P.L.1999, c.90 (C.2C:33-13.1) is amended to
6 read as follows:

7 3. a. A **【person who】** retailer that sells or gives to a person
8 under 21 years of age any **【cigarettes made of tobacco or of any**
9 **other matter or substance which can be smoked, or any cigarette**
10 **paper or tobacco in any form, including smokeless tobacco, or any**
11 **electronic smoking device that can be used to deliver nicotine or**
12 **other substances to the person inhaling from the device, including,**
13 **but not limited to, an electronic cigarette, cigar, cigarillo, or pipe, or**
14 **any cartridge or other component of the device or related product,**
15 **including an employee of a retail dealer licensee under P.L.1948,**
16 **c.65 (C.54:40A-1 et seq.) who actually sells or otherwise provides**
17 **a】 tobacco product 【or electronic smoking device to a person under**
18 **21 years of age,】** shall be punished by a fine as provided for a
19 **【petty】** disorderly persons offense. A **【person who】** retailer that
20 has been previously punished under this section and **【who】** that
21 commits another offense under it may be **【punishable】** punished by
22 a fine of twice that provided for a **【petty】** disorderly persons
23 offense.

24 b. The establishment of all of the following shall constitute a
25 defense to any prosecution brought pursuant to subsection a. of this
26 section:

27 (1) that the purchaser or recipient of the tobacco product **【or**
28 **electronic smoking device】** falsely represented, by producing either
29 a driver's license or non-driver identification card issued by the
30 New Jersey Motor Vehicle Commission, a similar card issued
31 pursuant to the laws of another state or the federal government of
32 Canada, or a photographic identification card issued by a county
33 clerk, that the purchaser or recipient was of legal age to purchase or
34 receive the tobacco product **【or electronic smoking device】** and,
35 commencing 90 days after the effective date of P.L. _____, c.
36 (pending before the Legislature as this bill), the person making the
37 sale or distribution verifies the purchaser’s age using an electronic
38 age verification system;

39 (2) that the appearance of the purchaser or recipient of the
40 tobacco product **【or electronic smoking device】** was such that an
41 ordinary prudent person would believe the purchaser or recipient to
42 be of legal age to purchase or receive the tobacco product **【or**
43 **electronic smoking device】**; and

44 (3) that the sale or distribution of the tobacco product **【or**
45 **electronic smoking device】** was made in good faith, relying upon
46 the production and, commencing 90 days after the effective date of

1 P.L. , c. (pending before the Legislature as this bill), verification
2 of the identification set forth in paragraph (1) of this subsection, the
3 appearance of the purchaser or recipient, and in the reasonable
4 belief that the purchaser or recipient was of legal age to purchase or
5 receive the tobacco product [or electronic smoking device].

6 c. A penalty imposed pursuant to this section shall be in
7 addition to any penalty that may be imposed pursuant to section 1
8 of P.L.2000, c.87 (C.2A:170-51.4).

9 d. The provisions of this section shall not apply to any medical
10 cannabis, medical cannabis product, paraphernalia, or related
11 supplies dispensed or sold to or on behalf of a registered qualifying
12 patient pursuant to the provisions of the “Jake Honig
13 Compassionate Use Medical Cannabis Act,” P.L.2009, c.307
14 (C.24:6I-1 et al.).

15 e. As used in this section:

16 “Tobacco product” means: any product containing, made of, or
17 derived from tobacco or nicotine that is intended for human
18 consumption or is likely to be consumed, whether inhaled,
19 absorbed, or ingested by other means, including, but not limited to,
20 a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, or snus;
21 any vapor product; and any component, part, or accessory of a
22 product containing, made of, or derived from tobacco or nicotine or
23 a vapor product, regardless of whether the component, part, or
24 accessory contains tobacco or nicotine. “Tobacco product”
25 includes, but is not limited to, filters, rolling papers, blunt or hemp
26 wraps, hookahs, and pipes. “Tobacco product” does not include
27 any drug, device, or combination product approved by the federal
28 Food and Drug Administration pursuant to the “Federal Food, Drug,
29 and Cosmetic Act,” 21 U.S.C. ss.301 et seq.

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

41 (cf: P.L.2017, c.118, s.3)

42
43 5. Section 7 of P.L.1966, c.36 (C.26:2F-7) is amended to read
44 as follows:

45 7. (a) There is hereby established a special projects and
46 development fund which shall consist of all funds appropriated or
47 otherwise made available for the purposes set forth in this section.
48 The commissioner, with the approval of the Public Health Council,

1 may make grants from the special projects and development fund to
2 local health agencies, to hospitals, and to voluntary health agencies
3 to provide State health assistance for new health services and for
4 special health projects in order to stimulate continued development
5 of health services and to assure the citizens of New Jersey the
6 benefits of the most advanced health protection techniques.

7 (b) Except as provided in subsection (c) of this section, grants
8 from the special projects and development fund for specific
9 purposes shall be made on an annual basis for a period not in excess
10 of 5 years and such grants shall be in diminishing amounts during
11 this period. The commissioner shall determine the conditions
12 applicable to each such grant including the extent of local financial
13 participation to be required. Grants from the special projects and
14 development fund to voluntary health agencies shall not exceed
15 40% of said fund.

16 (c) (1) Grants from the special projects and development fund
17 shall be made on an annual basis to local health agencies for local
18 enforcement efforts concerning the sale and commercial distribution
19 of tobacco and vapor products to persons under the age of 21 years,
20 in an amount determined by the commissioner. The grants shall be
21 distributed based on the number of cigarette retail dealer, vapor
22 business, and cigarette vending machine licenses issued within a
23 local health agency's jurisdictional authority in order to ensure
24 Statewide coverage and Statewide consistency of enforcement
25 efforts; except that the commissioner may designate up to 5% of
26 available funds, annually, for incentive grants to local health
27 agencies to enhance enforcement efforts.

28 Each grant recipient shall report quarterly to the commissioner
29 on the number of compliance check inspections it has completed
30 and the results of those compliance checks. The commissioner shall
31 determine any other conditions applicable to the grants.

32 (2) Beginning in 1999, notwithstanding the provisions of
33 paragraph (1) of this subsection to the contrary, the commissioner
34 may make grants from the special projects and development fund to
35 public and private local agencies to reduce teenage use of addictive
36 substances.

37 (cf: P.L.2017, c.118, s.4)

38
39 6. Section 2 of P.L.1995, c.320 (C.26:3A2-20.1) is amended
40 to read as follows:

41 2. a. The Commissioner of Health is authorized to enforce the
42 provisions of section 1 of P.L.2000, c.87 (C.2A:170-51.4) with
43 respect to the prohibition on the sale and commercial distribution of
44 tobacco products to persons under 21 years of age. The
45 commissioner may delegate the enforcement authority provided in
46 this section to local health agencies, subject to the availability of
47 sufficient funding. The commissioner shall report quarterly to the
48 Legislature on the enforcement program's progress, use of grants

1 awarded pursuant to section 7 of P.L.1966, c.36 (C.26:2F-7), results
 2 of enforcement efforts and other matters the commissioner deems
 3 appropriate. The commissioner shall establish standards for
 4 compliance inspections, including undercover compliance
 5 purchases, conducted by the Department of Health and local health
 6 agencies, which standards may include annual reporting by local
 7 health agencies conducting a compliance inspection concerning the
 8 number of inspections conducted, the number of violations cited,
 9 the amounts of any penalties collected, and any adverse actions
 10 taken against a retailer's tobacco retail dealer license or vapor
 11 business license.

12 b. The Department of the Treasury shall provide the
 13 commissioner with information about retail tobacco dealer licensees
 14 and vapor business licenses necessary to carry out the purpose of
 15 this section.

16 (cf: P.L.2017, c.118, s.5)

17

18 7. Section 202 of P.L.1948, c.65 (C.54:40A-4) is amended to
 19 read as follows:

20 202. a. All licenses shall be issued by the director, who shall
 21 make rules and regulations respecting applications therefor and
 22 issuance thereof.

23 b. The following individuals related to distributors, wholesale
 24 dealers, retail dealers operating more than nine cigarette vending
 25 machines, and retail dealers who sell cigarettes at retail at more
 26 than nine premises shall submit with applications for a license,
 27 fingerprints, which shall be processed through the Federal Bureau
 28 of Investigation and the New Jersey State Police, and such other
 29 information as the director may require:

30 (1) Individuals having any interest whatsoever in a
 31 proprietorship or company.

32 (2) Partners of a partnership, regardless of percentage.

33 (3) Joint venturers in a joint venture.

34 (4) Officers, directors, and all stockholders holding directly or
 35 indirectly a beneficial interest in more than 5% of the outstanding
 36 shares of a corporation.

37 (5) Employees receiving in excess of \$30,000.00 per annum
 38 compensation whether as salary, commission, bonus or otherwise
 39 and persons who, in the judgment of the director are employed in a
 40 supervisory capacity or have the power to make or substantially
 41 affect discretionary business judgments of the applicant entity with
 42 regard to the cigarette business.

43 (6) Other persons who the director establishes have the ability to
 44 control the applicant entity through any means including but not
 45 limited to, contracts, loans, mortgages or pledges of securities
 46 where such control is inimical to the policies of this act because
 47 such person is a career offender or a member of a career offender
 48 cartel as defined in paragraph (2) of subsection e. of this section.

1 Individuals licensed pursuant to the "Casino Control Act,"
2 P.L.1977, c.110 (C.5:12-1 et seq.) shall only be required to produce
3 evidence of said licensure in satisfaction of the foregoing.

4 The provisions in this subsection as to wholesale dealers, retail
5 dealers operating more than nine cigarette vending machines, and
6 retail dealers who sell cigarettes at retail at more than nine premises
7 do not apply to retail grocery stores and supermarkets primarily
8 engaged in the self-service sale of foods and household supplies for
9 off-premises consumption, to drug stores and pharmacies engaged
10 in the retail sale of prescription drugs and patent medicines and
11 which may carry a number of lines of related merchandise, or to
12 restaurants, hotels and motels operated by national corporations
13 with such premises in six or more states and primarily engaged in
14 the sale of foods for retail consumption or in the rental of rooms for
15 lodging.

16 c. (1) The director shall not issue any license under this act
17 where he has reasonable cause to believe that anyone required to
18 submit information under this act has willfully withheld information
19 requested of him for the purpose of determining the eligibility of
20 the applicant to receive a license or where the director has
21 reasonable cause to believe that information submitted in the
22 application is false and misleading and is not made in good faith.

23 (2) The director shall not issue a license under this act to a
24 person that is a manufacturer or importer of cigarettes, tobacco
25 products or processed tobacco if the manufacturer or importer does
26 not possess a valid federal permit issued pursuant to section 5713 of
27 the federal Internal Revenue Code of 1986, 26 U.S.C. s.5713, that is
28 not suspended or revoked.

29 d. The director shall not issue any license under this act where
30 he has reasonable cause to believe that anyone required to be
31 licensed or anyone required to submit information under this act,
32 has been convicted of any offense in any jurisdiction which would
33 be at the time of conviction a crime involving moral turpitude.

34 It is further provided that any applicant or person required to
35 submit information who has a charge pending pursuant to any of the
36 foregoing shall disclose that fact to the director. The director may
37 then withhold action on new applications or, in the case of an
38 application for the renewal of a license, issue a temporary license
39 until there has been a disposition of the charge. The director shall
40 have the discretion to waive the prohibition against licensure herein
41 provided upon the presentation of proof that a period of not less
42 than five years has elapsed since the last conviction or the
43 expiration of any period of incarceration imposed with respect
44 thereto.

45 e. The director shall not issue any license where the applicant
46 or anyone required to submit information has been identified as a
47 career offender or a member of a career offender cartel in such a
48 manner as to create a reasonable belief that the association is of

1 such a nature as to be inimical to the policies of this act or to the
2 taxation, distribution, and sale of cigarettes within the State. The
3 director may request the Attorney General for advice respecting
4 whether a person is a "career offender" within the meaning of this
5 subsection, or is a "contumacious defiant" within the meaning of
6 subsection f. of this section.

7 As used in this subsection:

8 (1) "career offender" means any person whose behavior is
9 pursued in an occupational manner or context for the purpose of
10 economic gain, utilizing such methods as are deemed criminal
11 violations of the public policy of this State; and (2) "career offender
12 cartel" means any group of persons who operate together as career
13 offenders.

14 f. The director shall not issue any license where the applicant
15 or anyone required to submit information has been found to be
16 contumaciously defiant before any legislative investigative body or
17 other official investigative body of this State or of the United States
18 when such body is engaged in the investigation of organized crime,
19 official corruption or the cigarette industry itself.

20 g. Each such license shall lapse on March 31 of the period for
21 which it is issued, and each such license shall be continued annually
22 upon the conditions that the licensee shall have paid the required
23 fee and complied with all the provisions of this act and the rules and
24 regulations of the director made pursuant thereto.

25 h. For each license issued to a distributor there shall be paid to
26 the director a fee of \$350.00. If a distributor sells or intends to sell
27 cigarettes at two or more places of business, whether established or
28 temporary, a separate license shall be required for each place of
29 business. Each license, or certificate, thereof, and such other
30 evidence of license shall be exhibited in the place of business for
31 which it is issued and in such manner as may be prescribed by the
32 director. The director shall require each licensed distributor to file
33 with him a bond in an amount not less than the average monthly
34 value of the cigarette stamps used by the licensed distributor to
35 guarantee the proper performance of his duties and the discharge of
36 his liabilities under this act. The bond shall be executed by such
37 licensed distributor as principal, and by a corporation approved by
38 the director and duly authorized to engage in business as a surety
39 company in the State of New Jersey, as surety. The bond shall run
40 concurrently with the distributor's license.

41 For each license issued to a manufacturer, and for each
42 continuance thereof, there shall be paid to the director a fee of
43 \$10.00.

44 For each license issued to a manufacturer's representative, and
45 for each continuance thereof, there shall be paid to the director a fee
46 of \$5.00.

47 For each license issued to a wholesale dealer there shall be paid
48 to the director a fee of \$250.00. If a wholesale dealer sells or

1 intends to sell cigarettes at 10 or more places of business, whether
2 established or temporary, a separate license shall be required for
3 each place of business. Each license, or certificate thereof, and such
4 other evidence of license shall be exhibited in the place of business
5 for which it is issued and in such manner as may be prescribed by
6 the director.

7 For each license issued to a retail dealer and for each
8 continuance thereof, excepting a retail dealer operating a cigarette
9 vending machine, there shall be paid to the director a fee of ~~[\$40 in~~
10 ~~1996 and \$50 in 1997 and each year thereafter]~~ \$500. For each
11 license issued to a retail dealer operating a vending machine for the
12 sale of cigarettes and for each continuance thereof, there shall be
13 paid to the director a fee of ~~[\$40 in 1996 and \$50 in 1997 and each~~
14 ~~year thereafter]~~ \$500. Of the license fee of ~~[\$40 and \$50,~~
15 ~~respectively, \$30 shall be credited in 1996 and \$40 shall be credited~~
16 ~~in 1997 and each year thereafter]~~ \$500, \$450 shall be annually
17 credited to the special projects and development fund in the
18 Department of Health ~~[and Senior Services]~~ established pursuant to
19 section 7 of P.L.1966, c.36 (C.26:2F-7) for the purposes specified
20 therein, and ~~[\$5]~~ \$50 shall be credited each year ~~[], beginning with~~
21 ~~1996,]~~ to the division for administrative costs associated with the
22 requirements established pursuant to subsection i. of this section
23 and section 2 of P.L.1995, c.320 (C.26:3A2-20.1). The director
24 shall determine and certify to the State Treasurer on a monthly basis
25 the amount of revenues collected by the director which are to be
26 credited to the special projects and development fund in the
27 Department of Health.

28 If a retail dealer sells or intends to sell cigarettes at two or more
29 places of business, whether established or temporary, or whether in
30 the same building or not, a separate license shall be required for
31 each place of business. Each vending machine for the sale of
32 cigarettes shall be separately licensed and be deemed a separate
33 place of business. Each license, or certificate thereof, and such
34 other evidence of license shall be exhibited in the place of business
35 for which it is issued and in such manner as may be prescribed by
36 the director.

37 Any person licensed only as a distributor or as a manufacturer or
38 as a manufacturer's representative or as a wholesale dealer or as a
39 retail dealer shall not operate in any other capacity except under
40 that for which he is licensed herein, unless the appropriate license
41 or licenses therefor are first secured.

42 For each license issued to a consumer and for each continuance
43 thereof there shall be paid to the director a fee of \$1.00. Each
44 license, or certificate thereof, or such other evidence of license as
45 may be prescribed by the director, shall be so kept by the consumer
46 as to be readily available for inspection.

1 No license shall be issued to any person except upon the
2 payment of the full fee therefor, any statute or exemption to the
3 contrary notwithstanding. No license shall be assignable or
4 transferable, except as hereinafter provided, but in the case of death,
5 bankruptcy, receivership, or incompetency of the licensee, or if for
6 any other reason whatsoever the business of the licensee shall
7 devolve upon another by operation of law, the director may, in his
8 discretion, extend said license for a limited time to the executor,
9 administrator, trustee, receiver, or person upon whom the same has
10 devolved. A purchaser or assignee of a licensed wholesaler or
11 licensed distributor, or any other person upon whom the business of
12 a licensed wholesaler or licensed distributor shall devolve by
13 operation of law, shall upon application to the director, be entitled
14 to an assignment or transfer of the wholesale or distributor license
15 for the balance of the existing license period upon payment of a
16 transfer fee of \$5.00 and subject to his qualification to be a licensed
17 wholesaler or licensed distributor under the provisions of this act.
18 The license issued for each vending machine for the sale of
19 cigarettes may be transferred from machine to machine in the same
20 ownership. No refund of the license fee shall be paid to any person
21 upon the surrender or revocation of any license except a license fee
22 paid or collected in error. But, upon payment of a \$1.00 fee, there
23 may be obtained (1) a duplicate license, or certificate thereof, in the
24 event the original is lost, destroyed or defaced, and (2) an amended
25 license, or certificate thereof, upon a change in the location of the
26 place of business of any distributor or dealer.

27 i. The director shall require an applicant for a cigarette retail
28 dealer license, including a license to operate a vending machine for
29 the sale of cigarettes, to include on the application the address of
30 the place of business where the cigarettes will be sold or the address
31 where the vending machine will be located, as the case may be.

32 If the place of business or the vending machine is moved to a
33 different address than that provided on the license application, the
34 licensee shall notify the director within 30 days of the change of
35 address.

36 (cf: P.L.2013, c.145, s.1)

37

38 8. Section 2 of P.L.1987, c.423 (C.54:40A-4.1) is amended to
39 read as follows;

40 2. a. Notwithstanding any other provision of law to the
41 contrary, a person to whom a license is issued pursuant to P.L.1948,
42 c.65 (C.54:40A-1 et seq.) shall, as a condition of the license,
43 conspicuously post a legible sign at the point of display of the
44 tobacco products and at the point of sale. The sign, which also shall
45 be posted conspicuously on any licensed cigarette vending machine,
46 shall be at least six inches by three inches in bold letters at least
47 one-quarter inch high and shall read as follows:

1 "A **person who** retailer that sells or offers to sell a tobacco
2 product to a person under 21 years of age shall pay a penalty of up
3 to **[\$1,000] \$2,000** and may be subject to a license suspension or
4 revocation.

5 Proof of age **may be** is required for purchase."

6 b. Each licensee shall be required, within 90 days after the
7 effective date of P.L. , c. (pending before the Legislature as this
8 bill), to acquire a system that can be used to electronically verify
9 the age of an individual purchasing a tobacco product.

10 (cf: P.L.2017, c.118, s.6)

11
12 9. Section 4 of P.L.2005, c.85 (C.54:40A-49) is amended to
13 read as follows:

14 4. A person shall not engage in a retail sale of cigarettes in this
15 State unless the sale is a face-to-face sale, except that a person may
16 engage in a non-face-to-face sale of cigarettes to a person in this
17 State if the following conditions are met:

18 a. The seller has fully complied with all of the requirements of
19 the Jenkins Act, 15 U.S.C. s.375 et seq., for shipments to this State;

20 b. The seller has verified payment of, paid, or collected all
21 applicable State taxes, including the cigarette taxes imposed by the
22 "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.) and the
23 sales or use taxes imposed by the "Sales and Use Tax Act,"
24 P.L.1966, c.30 (C.54:32B-1 et seq.), due on the cigarettes; and

25 c. The seller has, before mailing or shipping the cigarettes:

26 (1) obtained from the purchaser reliable confirmation that the
27 purchaser is at least 21 years old and a statement by the purchaser
28 under penalty of perjury certifying the purchaser's date of birth and
29 address;

30 (2) made good faith effort to verify the information contained in
31 the certification provided by the purchaser against a commercially
32 available database or has obtained a photocopy or other image of a
33 government-issued identification bearing the purchaser's image and
34 stating the date of birth or age of the purchaser;

35 (3) received payment for the sale from the prospective purchaser
36 by a credit or debit card that has been issued in the purchaser's
37 name or by check; **and**

38 (4) verified that a credit or debit card used for payment has been
39 issued in the purchaser's name, and the address to which the
40 cigarettes are being shipped matches the credit or debit card
41 company's address for the cardholder; and

42 (5) mailed or shipped the cigarettes using a method that requires
43 age verification at the time of delivery.

44 Sellers taking an order for a non-face-to-face sale may request
45 that prospective purchasers provide their e-mail addresses.

46 (cf: P.L.2017, c.118, s.7)

1 10. Section 4 of P.L.2019, c.147 (C.54:40B-3.3) is amended to
2 read as follows:

3 4. a. After the effective date of P.L.2019, c.147 (C.54:40B-3.3 et
4 al.), container e-liquid shall not be sold at retail in the State except
5 by a licensed vapor business.

6 b. Vapor business licenses shall be issued by the director, who
7 shall make rules and regulations respecting application and
8 issuance. Each such license shall lapse on March 31 of the period
9 for which it is issued, and each such license shall be continued
10 annually upon the conditions that the licensee shall have paid the
11 required fee and complied with the provisions of P.L.2019, c.147
12 (C.54:40B-3.3 et al.) and the rules and regulations of the director
13 made pursuant thereto.

14 If a vapor business sells or intends to sell container e-liquid at
15 two or more places of business, whether established or temporary,
16 or whether in the same building or not, a separate license shall be
17 required for each place of business. Each license, or certificate
18 thereof, and such other evidence of license shall be exhibited in the
19 place of business for which it is issued and in such manner as may
20 be prescribed by the director.

21 No license shall be issued to any person except upon the
22 payment of a ~~【\$50】~~ \$500 fee. No license shall be assignable or
23 transferable, but in the case of death, bankruptcy, receivership, or
24 incompetency of the licensee, or if, for any other reason
25 whatsoever, the business of the licensee shall devolve upon another
26 by operation of law, the director may, in the director's discretion,
27 extend said license for a limited time to the executor, administrator,
28 trustee, receiver, or person upon whom the same has devolved.

29 The director shall require an applicant for a vapor business
30 license, to include on the application the address of the place of
31 business where the container e-liquid will be sold. If the place of
32 business is moved to a different address than that provided on the
33 license application, the licensee shall notify the director within 30
34 days of the change of address.

35 c. The director may, upon notice and after hearing, suspend or
36 revoke the license or all licenses under this section issued to any
37 person who violates any of the provisions of P.L.2019, c.147
38 (C.54:40B-3.3 et al.), or who, after being issued a license becomes
39 disqualified for licensure pursuant to P.L.2019, c.147 (C.54:40B-3.3
40 et al.) or of any rule or regulation of the director made pursuant
41 thereto or if the licensee has ceased to act in the capacity for which
42 the license was issued or for other good cause. No person whose
43 license has been suspended or revoked shall sell container e-liquid
44 or permit container e-liquid to be sold during the period of such
45 suspension or revocation on the premises occupied by that person or
46 upon other premises controlled by that person or others, or in any
47 other manner or form whatever. No disciplinary proceeding or
48 action shall be barred or abated by the expiration, transfer,

1 surrender, continuance, renewal, or extension of a license issued
2 under the provisions of P.L.2019, c.147 (C.54:40B-3.3 et al.).
3 (cf: P.L.2019, c.147, s.4)
4

5 11. Section 11 of P.L.2019, c.147 (C.54:40B-3.9) is amended to
6 read as follows:

7 11. In addition to the license required by section 4 of P.L.2019,
8 c.147 (C.54:40B-3.3), a municipality may adopt an ordinance
9 concerning the licensure and regulation of a vapor business, which
10 may include assessing a separate vapor business permit fee against
11 any entity operating a licensed vapor business. The full amount of
12 any permit fees collected by a municipality pursuant to this section,
13 less administrative costs, shall be used to fund compliance
14 inspections, including undercover compliance purchases, conducted
15 by the local health agency having jurisdiction consistent with the
16 requirements established by the Commissioner of Health pursuant
17 to section 2 of P.L.1995, c.320 (C.26:3A2-20.1). Nothing in
18 P.L.2019, c.147 (C.54:40B-3.3 et al.) shall be construed to preempt
19 the provisions of any existing or new municipal ordinance
20 concerning the licensure and regulation of a vapor business.
21 (cf: P.L.2019, c.147, s.11)
22

23 12. (New section) a. It shall be unlawful for a retailer, either
24 directly or indirectly by an agent or employee, or by a vending
25 machine owned by the retailer or located in the retailer's
26 establishment, to sell, offer for sale, give, furnish, or distribute for
27 commercial purpose at no cost or minimal cost or with coupons or
28 rebate offers, to any person any electronic smoking device that is
29 designed to mimic the appearance of another object, when the
30 appearance of the electronic smoking device makes it difficult for
31 the average person to determine, based on casual observance,
32 whether the item is the object it is designed to mimic or an
33 electronic smoking device. Prohibited designs shall include, but
34 shall not be limited to, electronic smoking devices designed to
35 resemble a pen or other writing utensil, flash drive or universal
36 serial bus drive, mobile phone, clothing, jewelry, cosmetic product,
37 eating utensil, or personal hygiene product, provided that nothing in
38 this section shall be construed to prohibit the sale, offer for sale, or
39 commercial distribution of an electronic smoking device designed
40 to resemble a product traditionally used for the consumption of
41 tobacco, including a cigarette, cigarette pack, pipe, cigar, or
42 hookah.

43 b. A retailer that violates the provisions of subsection a. of this
44 section shall be liable to a civil penalty of not less than \$1,000 for
45 the first violation and not less than \$2,000 for a second or
46 subsequent violation. The civil penalty shall be collected pursuant
47 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274
48 (C.2A:58-10 et seq.), in a summary proceeding before the municipal

1 court having jurisdiction. An official authorized by statute or
2 ordinance to enforce the State or local health codes, or a law
3 enforcement officer having enforcement authority in that
4 municipality, may issue a summons for a violation of the provisions
5 of subsection a. of this section, and may serve and execute all
6 process with respect to the enforcement of this section consistent
7 with the Rules of Court. A penalty recovered under the provisions
8 of this subsection shall be recovered by and in the name of the State
9 by the local health agency. The penalty shall be paid into the
10 treasury of the municipality in which the violation occurred for the
11 general uses of the municipality.

12 c. In addition to the provisions of subsection b. of this section,
13 following a hearing by the municipality, the Division of Taxation in
14 the Department of the Treasury:

15 (1) shall, upon a third and each subsequent violation of the
16 provisions of subsection a. of this section, following a hearing by
17 the municipality, suspend, for a period of not less than three years,
18 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
19 3.3) of a vapor business; and

20 (2) notwithstanding the provisions of paragraph (1) of this
21 subsection, upon a fourth or subsequent violation of the provisions
22 of subsection a. of this section, may, upon recommendation by the
23 municipality and following a hearing by the municipality, revoke
24 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
25 3.3) of a vapor business.

26 The licensee shall additionally be subject to administrative
27 charges, based on a schedule issued by the Director of the Division
28 of Taxation.

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

41 13. (New section) a. No person, either directly or indirectly by
42 an agent or employee, or by a vending machine located on the
43 premises, shall sell or offer for sale at a pharmacy practice site that
44 has been issued a permit under P.L.2003, c.280 (C.45:14-40 et
45 seq.), or at a business entity that has a pharmacy practice site
46 located on its premises, any tobacco product.

47 b. Nothing in subsection a. of this section shall be construed to
48 prohibit a pharmacy practice site or business entity that has a

1 pharmacy practice site located on its premises from selling or
2 offering for sale smoking cessation products approved by the
3 federal Food and Drug Administration, and nothing in subsection a.
4 of this section shall be construed to prohibit a pharmacy practice
5 site, or a business entity that has a pharmacy practice site located on
6 its premises, that has been issued a medical cannabis dispensary
7 permit pursuant to the “Jake Honig Compassionate Use Medical
8 Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.), from dispensing
9 medical cannabis, paraphernalia, and related supplies to or on
10 behalf of a registered qualifying patient.

11 c. The owner of a pharmacy practice site or a business entity
12 that has a pharmacy practice site located on its premises that
13 violates the provisions of subsection a. of this section shall be liable
14 to a civil penalty of not less than \$500 for the first violation, not
15 less than \$1,000 for the second violation, and not less than \$2,000
16 for the third and each subsequent violation. The civil penalty shall
17 be collected pursuant to the “Penalty Enforcement Law of 1999,”
18 P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding
19 before the municipal court having jurisdiction. An official
20 authorized by statute or ordinance to enforce the State or local
21 health codes or a law enforcement officer having enforcement
22 authority in that municipality may issue a summons for a violation
23 of the provisions of subsection a. of this section, and may serve and
24 execute all process with respect to the enforcement of this section
25 consistent with the Rules of Court. A penalty recovered under the
26 provisions of this subsection shall be recovered by and in the name
27 of the State by the local health agency. The penalty shall be paid
28 into the treasury of the municipality in which the violation occurred
29 for the general uses of the municipality.

30 d. In addition to the provisions of subsection c. of this section,
31 a pharmacy practice site at which a violation of subsection a. of this
32 section occurs may be subject to disciplinary action by the Board of
33 Pharmacy, and a business entity that has a pharmacy practice site
34 located on its premises at which a violation of subsection a. of this
35 section occurs may be subject to disciplinary action by an agency,
36 board, office, or other appropriate governmental entity having
37 jurisdiction.

38 e. As used in this section:

39 “Tobacco product” means: any product containing, made of, or
40 derived from tobacco or nicotine that is intended for human
41 consumption or is likely to be consumed, whether inhaled,
42 absorbed, or ingested by other means, including, but not limited to,
43 a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, or snus;
44 any vapor product; and any component, part, or accessory of a
45 product containing, made of, or derived from tobacco or nicotine or
46 a vapor product, regardless of whether the component, part, or
47 accessory contains tobacco or nicotine. “Tobacco product”
48 includes, but is not limited to, filters, rolling papers, blunt or hemp

1 wraps, hookahs, and pipes. “Tobacco product” does not include
2 any drug, device, or combination product approved by the federal
3 Food and Drug Administration pursuant to the “Federal Food, Drug,
4 and Cosmetic Act,” 21 U.S.C. ss.301 et seq.

5 “Vapor product” means any device that may be used to deliver
6 any aerosolized or vaporized substance to the person inhaling from
7 the device, including, but not limited to, an e-cigarette, e-cigar, e-
8 pipe, vape pen, or e-hookah. “Vapor product” includes any
9 component, part, or accessory of the device, and also includes any
10 substance that may be aerosolized or vaporized by such device,
11 regardless of whether the substance contains nicotine. “Vapor
12 product” does not include any drug, device, or combination product
13 approved by the federal Food and Drug Administration pursuant to
14 the “Federal Food, Drug, and Cosmetic Act,”
15 21 U.S.C. ss.301 et seq.

16
17 14. (New section) A person shall not engage in a retail sale of
18 or vapor products in this State unless the sale is a face-to-face sale,
19 except that a person may engage in a non-face-to-face sale of a
20 vapor product to a person in this State if the following conditions
21 are met:

22 a. The seller has verified payment of, paid, or collected all
23 applicable State taxes, including the taxes imposed on liquid
24 nicotine pursuant to section 5 of P.L.2018, c.50 (C.54:40B-3.2) and
25 the taxes imposed on container e-liquid pursuant to section 5 of
26 P.L.2019, c.147 (C.54:40B-3.4), as applicable, and the sales or use
27 taxes imposed by the "Sales and Use Tax Act," P.L.1966, c.30
28 (C.54:32B-1 et seq.), due on the vapor product; and

29 b. The seller has, before mailing or shipping the vapor product:
30 (1) obtained from the purchaser reliable confirmation that the
31 purchaser is at least 21 years old and a statement by the purchaser
32 under penalty of perjury certifying the purchaser's date of birth and
33 address;

34 (2) made good faith effort to verify the information contained in
35 the certification provided by the purchaser against a commercially
36 available database or has obtained a photocopy or other image of a
37 government-issued identification bearing the purchaser's image and
38 stating the date of birth or age of the purchaser;

39 (3) received payment for the sale from the prospective purchaser
40 by a credit or debit card that has been issued in the purchaser's
41 name or by check;

42 (4) verified that a credit or debit card used for payment has been
43 issued in the purchaser's name, and the address to which the vapor
44 product is being shipped matches the credit or debit card company's
45 address for the cardholder; and

46 (5) mailed or shipped the vapor product using a method that
47 requires age verification at the time of delivery.

1 Sellers taking an order for a non-face-to-face sale may request
2 that prospective purchasers provide their e-mail addresses.

3 c. Nothing in this section shall relieve the seller of vapor
4 products from any other applicable requirement of law relating to
5 the sale of vapor products.

6

7 15. (New section) a. The director shall adopt, by regulation,
8 requirements for the establishment of an electronic database that
9 shall be used to track all vapor products sold in New Jersey for the
10 purpose of ensuring product integrity and compliance with
11 applicable State and federal laws. Information in the database shall
12 include, but shall not limited to, the manufacturer of the product
13 and the batch, lot, and serial numbers of the product, consumer
14 safety alerts for the product, and any other information as may be
15 required by the director.

16 b. The director shall adopt, by regulation, requirements for the
17 development of a standardized tracking feature to be included on all
18 vapor products sold in the State that may be used to identify illicit,
19 counterfeit, adulterated, or otherwise illegal or unsafe vapor
20 products in New Jersey. The tracking feature may be a stamp issued
21 by the division, a barcode imprinted on the vapor product by the
22 manufacturer, or any other feature the director deems appropriate.
23 The director shall designate the appropriate means of including the
24 standardized tracking feature on vapor products.

25

26 16. This act shall take effect July 1, 2020.