

[First Reprint]

**SENATE, No. 3265**

---

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

---

INTRODUCED DECEMBER 6, 2018

**Sponsored by:**

**Senator SHIRLEY K. TURNER**

**District 15 (Hunterdon and Mercer)**

**Senator RICHARD J. CODEY**

**District 27 (Essex and Morris)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Senators Beach, Ruiz, Assemblywoman Reynolds-Jackson, Assemblyman Houghtaling, Assemblywoman Downey, Assemblymen Benson, S.Kean, DePhillips, Assemblywoman Jimenez, Assemblyman Holley, Assemblywomen Mosquera, Jasey, Assemblyman McKeon and Assemblywoman Lopez**

**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 <sup>1</sup>**[electronic smoking devices]** vapor products<sup>1</sup>  
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 <sup>1</sup>**[person]** retailer<sup>1</sup>, either directly or indirectly by an  
8 agent or employee, or by a vending machine owned by the  
9 <sup>1</sup>**[person]** retailer<sup>1</sup> or located in the <sup>1</sup>**[person's]** retailer's<sup>1</sup>  
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 <sup>1</sup>**[electronic smoking device or any**  
13 **cartridge or other component of the device or other related product,**  
14 **including liquid nicotine,]** vapor product<sup>1</sup> that has a characterizing  
15 flavor.

16 b. A <sup>1</sup>**[person who]** retailer that<sup>1</sup> violates the provisions of  
17 subsection a. of this section shall be liable to a civil penalty of not  
18 less than <sup>1</sup>**[\$250]** \$500<sup>1</sup> for the first violation, not less than  
19 <sup>1</sup>**[\$500]** \$1,000<sup>1</sup> for the second violation, and <sup>1</sup>**[\$1,000]** not less  
20 than \$2,000<sup>1</sup> 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. <sup>1</sup>In 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:

<sup>1</sup>Senate 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.<sup>1</sup> As used in this section:

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

27 <sup>1</sup>["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.<sup>1</sup>

44  
45 2. This act shall take effect <sup>1</sup>[immediately] 90 days after the  
46 date of enactment<sup>1</sup> .