ASSEMBLY, No. 983

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman HERB CONAWAY, JR.
District 7 (Burlington)

SYNOPSIS
Prohibits sale of flavored cigars.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
A983 CONAWAY

2

AN ACT concerning flavored cigars 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:

   a. There has been a proliferation of flavored cigarettes and cigars 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 cigars 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 cigars 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.

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

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

   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 a cigarette or cigar, or any component part thereof, which contains a natural or artificial constituent or additive that causes the cigarette or cigar or any smoke emanating from that product to have a characterizing flavor other than tobacco, clove, or menthol. In no event shall a cigarette or cigar or any component part thereof 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 or cigar, or any smoke emanating from that product, imparts a distinguishable flavor, taste, or aroma other

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.
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 or cigar or any component part thereof 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);

(3) "component part thereof" includes, but is not limited to, the tobacco, paper, roll, or filter, or any other matter or substance which can be smoked; and

(4) "cigar" means any roll for smoking made wholly or in part of tobacco, or other substance or substances other than tobacco, irrespective of size, shape, or flavoring, which is wrapped or covered by a wrapper or cover made of tobacco, or any other substance or material containing tobacco, and which may contain a mouthpiece or tip.

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 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 on the first day of the third month
next following the date of enactment.

STATEMENT

This bill amends P.L.2008, c.91 (C.2A:170-51.5 et seq.) to
expand its prohibition on the sale or distribution of flavored
cigarettes to include flavored cigars as well.

The purpose of this bill is to close a “loophole” in the existing
law that has resulted in the increased use of cigars that can be
legally sold in fruity flavors among youth in this State because they
were not specifically included within the provisions of P.L.2008,
c.91. The enactment of this bill will fulfill the intent of that law to
prevent young people from being able to legally obtain these
alluring tobacco products and thereby take a significant step
towards advancing the public health interest of New Jersey and its
citizens.

The bill defines “cigar” to mean “any roll for smoking made
wholly or in part of tobacco, or other substance or substances other
than tobacco, irrespective of size, shape, or flavoring, which is
wrapped or covered by a wrapper or cover made of tobacco, or any
other substance or material containing tobacco, and which may
contain a mouthpiece or tip.”