

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3704**

---

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

---

ADOPTED FEBRUARY 27, 2017

**Sponsored by:**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**SYNOPSIS**

Prohibits sale or distribution of flavored electronic smoking devices and related products.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Health and Senior Services Committee.



1 AN ACT concerning electronic smoking devices and supplementing  
2 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 person, either directly or indirectly by an agent or  
8 employee, or by a vending machine owned by the person or located  
9 in the person's establishment, shall sell, offer for sale, distribute for  
10 commercial purpose at no cost or minimal cost or with coupons or  
11 rebate offers, give or furnish, to a person any electronic smoking  
12 device or any cartridge or other component of the device or other  
13 related product, including liquid nicotine, that has a characterizing  
14 flavor.

15 b. A person who violates the provisions of subsection a. of this  
16 section shall be liable to a civil penalty of not less than \$250 for the  
17 first violation, not less than \$500 for the second violation, and  
18 \$1,000 for the third and each subsequent violation. The civil  
19 penalty shall be collected pursuant to the "Penalty Enforcement  
20 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary  
21 proceeding before the municipal court having jurisdiction. An  
22 official authorized by statute or ordinance to enforce the State or  
23 local health codes or a law enforcement officer having enforcement  
24 authority in that municipality shall issue a summons for a violation  
25 of the provisions of subsection a. of this section, and shall serve and  
26 execute all process with respect to the enforcement of this section  
27 consistent with the Rules of Court. A penalty recovered under the  
28 provisions of this subsection shall be recovered by and in the name  
29 of the State by the local health agency. The penalty shall be paid  
30 into the treasury of the municipality in which the violation occurred  
31 for the general uses of the municipality.

32 c. As used in this section:

33 "Characterizing flavor" means a distinguishable flavor, taste, or  
34 aroma, including, but not limited to, any fruit, chocolate, vanilla,  
35 honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice  
36 flavoring, that is imparted, prior to or during consumption, by an  
37 electronic smoking device or any cartridge or other component of  
38 the device or other related product, including liquid nicotine, or any  
39 smoke or vapor emanating from that device or product. An  
40 electronic smoking device or any cartridge or other component of  
41 the device or other related product, including liquid nicotine, shall  
42 be deemed to have a characterizing flavor if the device, cartridge,  
43 component, or related product is advertised or marketed as having  
44 or producing any such distinguishable flavor, taste, or aroma.

45 "Electronic smoking device" means an electronic device that can  
46 be used to deliver nicotine or other substances to the person  
47 inhaling from the device, including, but not limited to, an electronic  
48 cigarette, cigar, cigarillo, hookah, or pipe.

1 "Liquid nicotine" means any solution containing nicotine which  
2 is designed or sold for use with an electronic smoking device.

3

4 2. This act shall take effect immediately.