

ASSEMBLY, No. 961

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Assemblywoman Vainieri Huttie

SYNOPSIS

Requires licensure for manufacturers, distributors, wholesale dealers, and retail dealers of electronic smoking devices and related products.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning electronic smoking devices, amending various
2 parts of the statutory law, and supplementing Title 45 of the
3 Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. (New section) "Director" means the Director of the Division
9 of Consumer Affairs in the Department of Law and Public Safety.

10 "Distributor" means any person who brings or causes to be
11 brought into this State vapor products purchased directly from the
12 manufacturers thereof and stores, sells, or otherwise disposes of the
13 same after they shall reach this State.

14 "Manufacturer" means any person who manufactures or
15 produces, or causes to be manufactured or produced, vapor products
16 and sells, uses, stores, or distributes the same regardless of whether
17 they are intended for sale, use, or distribution within or without this
18 State.

19 "Manufacturer's representative" means any person employed by a
20 manufacturer who, for promotional purposes, sells, stores, handles,
21 or distributes vapor products within this State, limited exclusively
22 to vapor products manufactured by the employing manufacturer.

23 "Person" means any individual, firm, corporation, copartnership,
24 joint venture, association, receiver, trustee, guardian, executor,
25 administrator, or any other person acting in a fiduciary capacity, or
26 any estate, trust, or group or combination acting as a unit, the State
27 Government and any political subdivision thereof, and the plural as
28 well as the singular, unless the intention to give a more limited
29 meaning is disclosed by the context.

30 "Place of business" means any place where vapor products are
31 sold or where vapor products are brought or kept for the purpose of
32 sale or consumption, including, so far as applicable, any vessel,
33 vehicle, airplane, train, or vapor product vending machine.

34 "Retail dealer" means any person who is engaged in this State in
35 the business of selling vapor products at retail. Any person placing
36 a vapor product vending machine at, on, or in any premises shall be
37 deemed to be a retail dealer for each such vending machine.

38 "Vapor product" means any non-combustible product containing
39 nicotine that employs a heating element, power source, electronic
40 circuit, or other electronic, chemical, or mechanical means,
41 regardless of shape or size, to produce vapor from nicotine in a
42 solution or any form. "Vapor product" includes, but is not limited
43 to, any electronic cigarette, electronic cigar, electronic cigarillo,
44 electronic hookah, electronic pipe, or similar product or device, and
45 any vapor cartridge or other container of nicotine in a solution or

**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 other form that is intended to be used with, or in, any such device.
 2 "Vapor product" does not include any product that is approved, and
 3 that is regulated as a prescription drug delivery service, by the
 4 United States Food and Drug Administration under Chapter V of
 5 the Food, Drug, and Cosmetic Act.

6 "Wholesale dealer" shall include any person, other than a
 7 distributor, who:

8 (1) Purchases vapor products from any other person who
 9 purchases from the manufacturer and who acquires such vapor
 10 products solely for the purpose of bona fide resale to retail dealers
 11 or to other persons for the purposes of resale only; or

12 (2) Services retail outlets by the maintenance of an established
 13 place of business for the purchase of vapor products, including, but
 14 not limited to, the maintenance of warehousing facilities for the
 15 storage and distribution of vapor products.

16

17 2. (New section) The director shall, pursuant to the
 18 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
 19 1 et seq.), establish requirements concerning the administration and
 20 enforcement of P.L. , c. (C.) (pending before the
 21 Legislature as this bill), including, but not limited to:

22 a. Establishing forms, procedures, and requirements to apply
 23 for initial or continued licensure;

24 b. Establishing standards and requirements to approve or deny
 25 an application for initial or continued licensure;

26 c. Establishing standards and requirements to suspend or
 27 revoke a license issued pursuant to section 3 of
 28 P.L. , c. (C.) (pending before the Legislature as this bill)
 29 for a violation of P.L. , c. (C.) (pending before the
 30 Legislature as this bill) or any other provision of law;

31 d. Establishing the scope of conduct authorized pursuant to
 32 each license issued under section 3 of P.L. , c. (C.)
 33 (pending before the Legislature as this bill); and

34 e. Establishing any other standards, procedures, or
 35 requirements as the director deems necessary for the administration
 36 and enforcement of P.L. , c. (C.) (pending before the
 37 Legislature as this bill).

38

39 3. (New section) a. No person shall engage in, or conduct the
 40 business of manufacturing, purchasing, selling, consigning, or
 41 distributing vapor products in this State without having first
 42 obtained the appropriate license for that purpose under this section
 43 or P.L.1948, c.65 (C.54:40A-1 et seq.). A manufacturer,
 44 manufacturer's representative, wholesale dealer, distributor, retail
 45 dealer, or retail dealer operating a vending machine who was issued
 46 a license under P.L.1948, c.65 (C.54:40A-1 et seq.) authorizing the
 47 license holder to engage in certain conduct concerning tobacco

1 products shall be authorized to engage in the corresponding conduct
2 with regard to vapor products for the purposes of P.L. , c. (C.)
3 (pending before the Legislature as this bill), and the license holder
4 shall not be required to obtain a separate license issued pursuant to
5 this section. No person, including a licensed retail dealer, shall
6 create, produce, or modify any vapor product or nicotine solution
7 for the purposes of sale or distribution within or without this State
8 unless that person is a licensed manufacturer.

9 b. A license issued pursuant to this section shall lapse on
10 March 31 of the period for which it is issued, and shall be continued
11 annually, provided that the licensee has paid the required fee and
12 met any other requirements established by the director. Each
13 license or certificate of licensure shall be exhibited in the place of
14 business for which it is issued and in such manner as may be
15 prescribed by the director.

16 c. (1) The following annual fees shall be paid to the director
17 for each license issued or continued pursuant to this section:

- 18 (a) \$10 for a manufacturer license;
- 19 (b) \$5 for a manufacturer's representative license;
- 20 (c) \$250 for a wholesale dealer license;
- 21 (d) \$350 for a distributor license;
- 22 (e) \$50 for a retail dealer license; and
- 23 (f) \$50 for retail dealer operating a vapor product vending
24 machine license.

25 (2) A fee of \$1 shall be paid to the director for issuance of an
26 amended or duplicate license or certificate of licensure.

27 (3) Of the \$50 fee paid to the director for each license issued
28 pursuant to subparagraphs (e) and (f) of paragraph (1) of this
29 subsection, \$30 shall be credited to the special projects and
30 development fund in the Department of Health established pursuant
31 to section 7 of P.L.1966, c.36 (C.26:2F-7) for the purposes
32 specified therein, and \$5 shall be credited each year to the division
33 for administrative costs associated with this section and section 2 of
34 P.L.1995, c.320 (C.26:3A2-20.1). The director shall determine and
35 certify to the State Treasurer on a monthly basis the amount of
36 revenues collected by the director which are to be credited to the
37 special projects and development fund in the Department of Health.

38 d. (1) In the case of a distributor who sells or intends to sell
39 vapor products at two or more places of business, whether
40 established or temporary, a separate license shall be required for
41 each place of business.

42 (2) In the case of a wholesale dealer who sells or intends to sell
43 vapor products at 10 or more places of business, whether
44 established or temporary, a separate license shall be required for
45 each place of business.

46 (3) In the case of a retail dealer who sells or intends to sell
47 vapor products at two or more places of business, whether

1 established or temporary, or whether in the same building or not, a
2 separate license shall be required for each place of business.

3 (4) Each vending machine for the sale of vapor products shall be
4 separately licensed and be deemed a separate place of business.

5 e. A licensee shall notify the director of a change in address for
6 the place of business for which a license has been issued pursuant to
7 this section. Failure to provide this notice within 30 days after the
8 change in address shall result in revocation of the license.

9 f. (1) Except as provided in paragraphs (2) and (3) of this
10 section, no license shall be assignable or transferable. In the case of
11 death, bankruptcy, receivership, or incompetency of the licensee, or
12 if for any other reason the business of the licensee shall devolve
13 upon another by operation of law, the director may, in the director's
14 discretion, extend the license for a limited time to the executor,
15 administrator, trustee, receiver, or person upon whom the license
16 has devolved.

17 (2) A purchaser or assignee of a wholesale dealer or distributor
18 license, or any other person upon whom the business of a licensed
19 wholesale dealer or licensed distributor shall devolve by operation
20 of law, shall, upon application to the director, be entitled to an
21 assignment or transfer of the wholesale dealer or distributor license
22 for the balance of the existing license period, provided that the
23 applicant otherwise meets the requirements for licensure and pays
24 to the director a transfer fee of \$5.

25 (3) The license issued for each vending machine for the sale of
26 vapor products may be transferred from machine to machine in the
27 same ownership.

28 g. The director may, upon notice and a hearing, suspend or
29 revoke a license issued pursuant to this section for a violation of
30 any of the provisions of P.L. , c. (C.) (pending before the
31 Legislature as this bill) or any other provision of law, including, but
32 not limited to, acting in a capacity that exceeds the licensee's scope
33 of licensure. A disciplinary proceeding or action initiated pursuant
34 to this subsection shall not be barred or abated by the expiration,
35 transfer, surrender, continuance, renewal, or extension of the license
36 that is the subject of the action or proceeding.

37

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

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

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

1 (2) any **【electronic smoking device that can be used to deliver**
2 nicotine or other substances to the person inhaling from the device,
3 including, but not limited to, an electronic cigarette, cigar, cigarillo,
4 or pipe, or any cartridge or other component of the device or related
5 product**】** vapor product, as that term is defined in section 1 of
6 P.L. , c. (C.) (pending before the Legislature as this bill).

7 b. The establishment of all of the following shall constitute a
8 defense to any prosecution brought pursuant to subsection a. of this
9 section:

10 (1) that the purchaser of the tobacco product or **【electronic**
11 **smoking device】** vapor product or the recipient of the promotional
12 sample falsely represented, by producing either a driver's license or
13 non-driver identification card issued by the New Jersey Motor
14 Vehicle Commission, a similar card issued pursuant to the laws of
15 another state or the federal government of Canada, or a
16 photographic identification card issued by a county clerk, that the
17 purchaser or recipient was of legal age to make the purchase or
18 receive the sample;

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

24 (3) that the sale or distribution of the tobacco product or
25 **【electronic smoking device】** vapor product was made in good faith,
26 relying upon the production of the identification set forth in
27 paragraph (1) of this subsection, the appearance of the purchaser or
28 recipient, and in the reasonable belief that the purchaser or recipient
29 was of legal age to make the purchase or receive the sample.

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

1 of this subsection shall be recovered by and in the name of the State
2 by the local health agency. The penalty shall be paid into the
3 treasury of the municipality in which the violation occurred for the
4 general uses of the municipality.

5 d. In addition to the provisions of subsection c. of this section,
6 upon the recommendation of the municipality, following a hearing
7 by the municipality, the Division of Taxation in the Department of
8 the Treasury or the Division of Consumer Affairs in the Department
9 of Law and Public Safety, as appropriate, may suspend or, after a
10 second or subsequent violation of the provisions of subsection a. of
11 this section, revoke **the** a license issued under section 202 of
12 P.L.1948, c.65 (C.54:40A-4) or section 3 of P.L. , c. (C.)
13 (pending before the Legislature as this bill) of a retail dealer. The
14 licensee shall be subject to administrative charges, based on a
15 schedule issued by the Director of the Division of Taxation or the
16 Director of the Division of Consumer Affairs, as appropriate, which
17 may provide for a monetary penalty in lieu of a suspension.

18 e. A penalty imposed pursuant to this section shall be in
19 addition to any penalty that may be imposed pursuant to section 3
20 of P.L.1999, c.90 (C.2C:33-13.1).
21 (cf: P.L.2017, c.118, s.2)

22
23 5. Section 1 of P.L.2015, c.294 (C.2A:170-51.9) is amended to
24 read as follows:

25 1. a. No person, either directly or indirectly by an agent or
26 employee, or by a vending machine owned by the person or located
27 in the person's establishment, shall sell, offer for sale, give, furnish,
28 or distribute for commercial purpose at no cost or minimal cost or
29 with coupons or rebate offers, to any other person, liquid nicotine in
30 a liquid nicotine container, which is intended for use in a vapor
31 product, unless the liquid nicotine is sold, offered for sale, given,
32 furnished, or distributed for commercial purpose in a child-resistant
33 container.

34 As used in this section:

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

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

45 (3) "Liquid nicotine container" means a bottle or other container
46 of a liquid, wax, gel, or other substance containing nicotine, where
47 the liquid or other contained substance is sold, marketed, or

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

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

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

38 c. In addition to the provisions of subsection b. of this section,
39 upon the recommendation of the municipality, following a hearing
40 by the municipality, the Division of Taxation in the Department of
41 the Treasury or the Division of [Taxation] Consumer Affairs in the
42 Department of [the Treasury] Law and Public Safety, as
43 appropriate, may suspend or, after a second or subsequent violation
44 of the provisions of subsection a. of this section, revoke the license
45 of a retail dealer issued under section 202 of P.L.1948, c.65
46 (C.54:40A-4) or section 3 of P.L. , c. (C.) (pending before
47 the Legislature as this bill). The licensee shall be subject to

1 administrative charges, based on a schedule issued by the Director
2 of the Division of Taxation or the Director of the Division of
3 **【Taxation】** Consumer Affairs, as appropriate, which may provide
4 for a monetary penalty in lieu of a suspension.
5 (cf: P.L.2015, c.294, s.1)
6

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

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

28 b. The establishment of all of the following shall constitute a
29 defense to any prosecution brought pursuant to subsection a. of this
30 section:

31 (1) that the purchaser or recipient of the tobacco product or
32 **【electronic smoking device】** vapor product falsely represented, by
33 producing either a driver's license or non-driver identification card
34 issued by the New Jersey Motor Vehicle Commission, a similar
35 card issued pursuant to the laws of another state or the federal
36 government of Canada, or a photographic identification card issued
37 by a county clerk, that the purchaser or recipient was of legal age to
38 purchase or receive the tobacco product or **【electronic smoking**
39 **device】** vapor product;

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

45 (3) that the sale or distribution of the tobacco product or
46 **【electronic smoking device】** vapor product was made in good faith,

1 relying upon the production of the identification set forth in
2 paragraph (1) of this subsection, the appearance of the purchaser or
3 recipient, and in the reasonable belief that the purchaser or recipient
4 was of legal age to purchase or receive the tobacco product or
5 **【electronic smoking device】** vapor product.

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

10
11 7. Section 7 of P.L.1966, c.36 (C.26:2F-7) is amended to read
12 as follows:

13 7. **【(a)】** a. There is hereby established a special projects and
14 development fund which shall consist of all funds appropriated or
15 otherwise made available for the purposes set forth in this section.
16 The commissioner, with the approval of the Public Health Council,
17 may make grants from the special projects and development fund to
18 local health agencies, to hospitals, and to voluntary health agencies
19 to provide State health assistance for new health services and for
20 special health projects in order to stimulate continued development
21 of health services and to assure the citizens of New Jersey the
22 benefits of the most advanced health protection techniques.

23 **【(b)】** b. Except as provided in subsection **【(c)】** c. of this
24 section, grants from the special projects and development fund for
25 specific purposes shall be made on an annual basis for a period not
26 in excess of 5 years and such grants shall be in diminishing amounts
27 during this period. The commissioner shall determine the conditions
28 applicable to each such grant including the extent of local financial
29 participation to be required. Grants from the special projects and
30 development fund to voluntary health agencies shall not exceed
31 40% of said fund.

32 **【(c)】** c. (1) Grants from the special projects and development
33 fund shall be made on an annual basis to local health agencies for
34 local enforcement efforts concerning the sale and commercial
35 distribution of tobacco products and vapor products to persons
36 under the age of 21 years, in an amount determined by the
37 commissioner. The grants shall be distributed based on the number
38 of cigarette retail dealer, vapor product retail dealer, and cigarette
39 and vapor product vending machine licenses issued within a local
40 health agency's jurisdictional authority in order to ensure Statewide
41 coverage and Statewide consistency of enforcement efforts; except
42 that the commissioner may designate up to 5% of available funds,
43 annually, for incentive grants to local health agencies to enhance
44 enforcement efforts.

45 Each grant recipient shall report quarterly to the commissioner
46 on the number of compliance check inspections it has completed

1 and the results of those compliance checks. The commissioner shall
2 determine any other conditions applicable to the grants.

3 (2) Beginning in 1999, notwithstanding the provisions of
4 paragraph (1) of this subsection to the contrary, the commissioner
5 may make grants from the special projects and development fund to
6 public and private local agencies to reduce teenage use of addictive
7 substances.

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

9

10 8. Section 2 of P.L.1995, c.320 (C.26:3A2-20.1) is amended to
11 read as follows:

12 2. a. The Commissioner of Health is authorized to enforce the
13 provisions of section 1 of P.L.2000, c.87 (C.2A:170-51.4) with
14 respect to the prohibition on the sale and commercial distribution of
15 tobacco products and vapor products to persons under 21 years of
16 age. The commissioner may delegate the enforcement authority
17 provided in this section to local health agencies, subject to the
18 availability of sufficient funding. The commissioner shall report
19 quarterly to the Legislature on the enforcement program's progress,
20 use of grants awarded pursuant to section 7 of P.L.1966, c.36
21 (C.26:2F-7), results of enforcement efforts and other matters the
22 commissioner deems appropriate.

23 b. The Department of the Treasury shall provide the
24 commissioner with information about retail tobacco dealer licensees
25 and retail vapor product dealer licensees necessary to carry out the
26 purpose of this section.

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

28

29 9. This act shall take effect the first day of the seventh month
30 next following enactment, except that the Director of the Division
31 of Consumer Affairs in the Department of Law and Public Safety
32 may take any advance administrative action as may be necessary to
33 implement the provisions of this act.

34

35

36

STATEMENT

37

38 This bill establishes certain requirements for licensure for
39 manufacturers, wholesale dealers, distributors, and retail dealers of
40 vapor products, which are defined to mean electronic smoking
41 devices and related products, including the liquid nicotine
42 cartridges used in the devices.

43 Specifically, the bill will require annual licensure for each person
44 engaging in the business of manufacturing, purchasing, selling,
45 consigning, or distributing vapor products. Licenses will lapse on
46 March 31 of the period for which they are issued and will be
47 continued annually, provided the licensee pays the licensure fees

1 and meets the requirements for continued licensure. The Director
2 of the Division of Consumer Affairs in the Department of Law and
3 Public Safety will be charged with administering and enforcing the
4 provisions of the bill. The bill clarifies that an individual holding a
5 tobacco license issued under the “Cigarette Tax Act,” P.L.1948,
6 c.65 (C.54:40A-1 et seq.), will be deemed to hold the corresponding
7 licensure for the purposes of the bill, authorizing the individual to
8 engage in the same conduct permitted under the license for both
9 tobacco and vapor products.

10 The annual vapor product licensure fees established under the
11 bill are as follows: \$10 for a manufacturer license; \$5 for a
12 manufacturer representative license; \$250 for a wholesale dealer
13 license; \$350 for a distributor license; \$50 for a retail dealer
14 license; and \$50 for a retail dealer operating a vapor product
15 vending machine license. Additionally, a fee of \$1 will apply for
16 issuance of an amended or duplicate vapor product license or
17 certificate of licensure.

18 Of the \$50 fee paid to the director for issuance of each vapor
19 product retail dealer license and each vending machine license, \$30
20 is to be credited to the special projects and development fund in the
21 Department of Health established pursuant to section 7 of P.L.1966,
22 c.36 (C.26:2F-7), and \$5 is to be credited each year to the division
23 for administrative costs. The director is to determine and certify to
24 the State Treasurer, on a monthly basis, the amount of revenues
25 which are to be credited to the special projects and development
26 fund in the Department of Health.

27 In the case of a vapor product distributor who sells or intends to
28 sell vapor products at two or more places of business, whether
29 established or temporary, a separate license will be required for
30 each place of business. In the case of a vapor product wholesale
31 dealer who sells or intends to sell vapor products at 10 or more
32 places of business, whether established or temporary, a separate
33 license will be required for each place of business. In the case of a
34 vapor product retail dealer who sells or intends to sell vapor
35 products at two or more places of business, whether established or
36 temporary, or whether in the same building or not, a separate
37 license will be required for each place of business. A separate vapor
38 product license will be required for each vending machine operated
39 by a vapor retail dealer. Each vapor product license or certificate of
40 licensure issued under the bill is to be exhibited in the place of
41 business for which it is issued and in such manner as may be
42 prescribed by the director. Vapor product licensees will be required
43 to notify the director of a change in address within 30 days of the
44 change, or the license will be subject to revocation.

45 The bill specifies that no person, including a licensed vapor
46 product retail dealer, may create, produce, or modify any vapor
47 product or nicotine solution for the purposes of sale or distribution

1 within or without the State unless that person is a licensed vapor
2 manufacturer.

3 Vapor product licenses issued under the bill may not be
4 transferred or assigned, except that: (1) a vapor product vending
5 machine license may be transferred to another machine owned by
6 the retail dealer; and (2) a vapor product wholesale dealer or
7 distributor license may be transferred or assigned, provided the
8 assignee or transferee otherwise qualifies for licensure and pays a
9 \$5 transfer fee. In the case of death, bankruptcy, receivership, or
10 incompetency of a licensee, or if for any other reason the business
11 of the vapor product licensee devolves upon another by operation of
12 law, the director will be permitted to extend the license for a limited
13 time to the executor, administrator, trustee, receiver, or person upon
14 whom the license devolved.

15 The director may, upon notice and a hearing, suspend or revoke a
16 vapor product license issued under the bill for a violation of the bill
17 or any other provision of law, including, but not limited to, acting in
18 a capacity that exceeds the licensee's scope of licensure. A
19 disciplinary proceeding or action initiated under the bill will not be
20 barred or abated by the expiration, transfer, surrender, continuance,
21 renewal, or extension of the license that is the subject of the action
22 or proceeding.

23 The bill additionally revises various statutory provisions to
24 include updated references to the licensure provisions established
25 under the bill and to harmonize the terminology used throughout the
26 statutes. The bill does not otherwise revise the tobacco product
27 licensure provisions under the "Cigarette Tax Act."