

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

1 **AN ACT** concerning flavored cigars and amending P.L.2008, c.91.

2

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

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6 1. Section 1 of P.L.2008, c.91 (C.2A:170-51.5) is amended to
7 read as follows:

8 1. The Legislature finds and declares that:

9 a. There has been a proliferation of flavored cigarettes and
10 cigars in recent years, and many of these products have fruit,
11 chocolate, or other flavors that are particularly attractive to
12 children;

13 b. According to public health experts, the existence of these
14 products increases the incidence of tobacco use among children;

15 c. The earlier a person begins using tobacco, the more likely
16 the person will become addicted to tobacco products and continue
17 to smoke throughout that person's life;

18 d. As a result, flavored cigarettes and cigars lead to increased
19 tobacco use and addiction, higher health care costs, and a greater
20 incidence of smoking-related illness and death; and

21 e. Therefore, flavored cigarettes and cigars pose a significant
22 threat to the health of the general public, and the protection of the
23 public health warrants that the sale and distribution of these
24 products be prohibited in this State.

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

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

29 2. a. No person, either directly or indirectly by an agent or
30 employee, or by a vending machine owned by the person or located
31 in the person's establishment, shall sell, offer for sale, distribute for
32 commercial purpose at no cost or minimal cost or with coupons or
33 rebate offers, give, or furnish, to a person a cigarette or cigar, or
34 any component part thereof, which contains a natural or artificial
35 constituent or additive that causes the cigarette or cigar or any
36 smoke emanating from that product to have a characterizing flavor
37 other than tobacco, clove, or menthol. In no event shall a cigarette
38 or cigar or any component part thereof be construed to have a
39 characterizing flavor based solely on the use of additives or
40 flavorings, or the provision of an ingredient list made available by
41 any means.

42 As used in this section:

43 (1) "characterizing flavor other than tobacco, clove, or menthol"
44 means that: the cigarette or cigar, or any smoke emanating from
45 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.

1 than tobacco, clove, or menthol prior to or during consumption,
2 including, but not limited to, any fruit, chocolate, vanilla, honey,
3 candy, cocoa, dessert, alcoholic beverage, herb, or spice flavoring;
4 or the cigarette or cigar or any component part thereof is advertised
5 or marketed as having or producing any such flavor, taste, or aroma;

6 (2) "cigarette" means (a) any roll of tobacco wrapped in paper or
7 in any substance not containing tobacco, and (b) any roll of tobacco
8 wrapped in any substance containing tobacco which, because of its
9 appearance, the type of tobacco used in the filler, or its packaging
10 and labeling, is likely to be offered to, or purchased by, consumers
11 as a cigarette as described in subparagraph (a) of this paragraph (2);
12 **[and]**

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

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

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

39 c. In addition to the provisions of subsection b. of this section,
40 upon the recommendation of the municipality, following a hearing
41 by the municipality, the Division of Taxation in the Department of
42 the Treasury may suspend or, after a second or subsequent violation
43 of the provisions of subsection a. of this section, revoke the license
44 of a retail dealer issued under section 202 of P.L.1948, c.65
45 (C.54:40A-4). The licensee shall be subject to administrative
46 charges, based on a schedule issued by the Director of the Division

1 of Taxation, which may provide for a monetary penalty in lieu of a
2 suspension.

3 (cf: P.L.2008, c.91, s.2)

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5 3. This act shall take effect on the first day of the third month
6 next following the date of enactment.

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STATEMENT

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

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

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