

**SENATE, No. 1262**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED FEBRUARY 3, 2020

**Sponsored by:**  
**Senator JOSEPH F. VITALE**  
**District 19 (Middlesex)**

**SYNOPSIS**

Revises requirements for sale of tobacco and vapor products; increases penalties for prohibited sales; increases fees for cigarette and vapor business licensure.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning tobacco and vapor products, amending various  
2 parts of the statutory law, and supplementing Title 2A of the  
3 New Jersey Statutes, P.L.2003, c.280 (C.45:14-40 et seq.), and  
4 P.L.1990, c.39 (C.54:40B-1 et seq.).

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

8  
9 1. Section 3 of P.L.1995, c.305 (C.2A:170-51.1) is amended to  
10 read as follows:

11 3. A person 21 years of age or older who purchases a tobacco  
12 product, including an electronic smoking device or vapor product,  
13 for a person who is under 21 years of age is a petty disorderly  
14 person.  
15 (cf: P.L.2017, c.118, s.1)

16  
17 2. Section 1 of P.L.2000, c.87 (C.2A:170-51.4) is amended to  
18 read as follows:

19 1. a. No **【person】** retailer, either directly or indirectly by an  
20 agent or employee, or by a vending machine owned by the **【person】**  
21 retailer or located in the **【person's】** retailer's establishment, shall  
22 sell, offer for sale, distribute for commercial purpose at no cost or  
23 minimal cost or with coupons or rebate offers, give or furnish, to a  
24 person under 21 years of age **【**:

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

28 (2) any electronic smoking device that can be used to deliver  
29 nicotine or other substances to the person inhaling from the device,  
30 including, but not limited to, an electronic cigarette, cigar, cigarillo,  
31 or pipe, or any cartridge or other component of the device or related  
32 product**】** any tobacco product.

33 Unless a retailer restricts access to the retailer's establishment to  
34 persons who are 21 years of age and older, all tobacco products  
35 shall be maintained in a manner that restricts direct public access to  
36 the products, which manner may include maintaining the products  
37 in a locked cabinet, behind the sales counter, or in an area of the  
38 establishment where access is restricted to employees only.  
39 Commencing 90 days after the effective date of P.L. , c.  
40 (pending before the Legislature as this bill), no tobacco product  
41 may be sold or distributed unless the person conducting the sale or  
42 distribution verifies the purchaser's age using an electronic age  
43 verification system.

44 b. The establishment of all of the following shall constitute a  
45 defense to any prosecution brought pursuant to subsection a. of this  
46 section:

**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 (1) that the purchaser of the tobacco product **【or electronic**  
2 **smoking device】** or the recipient of the promotional sample falsely  
3 represented, by producing either a driver's license or non-driver  
4 identification card issued by the New Jersey Motor Vehicle  
5 Commission, a similar card issued pursuant to the laws of another  
6 state or the federal government of Canada, or a photographic  
7 identification card issued by a county clerk, that the purchaser or  
8 recipient was of legal age to make the purchase or receive the  
9 sample and, commencing 90 days after the effective date of  
10 P.L. , c. (pending before the Legislature as this bill), the person  
11 making the sale or distribution verifies the purchaser's age using an  
12 electronic age verification system;

13 (2) that the appearance of the purchaser of the tobacco product  
14 **【or electronic smoking device】** or the recipient of the promotional  
15 sample was such that an ordinary prudent person would believe the  
16 purchaser or recipient to be of legal age to make the purchase or  
17 receive the sample; and

18 (3) that the sale or distribution of the tobacco product **【or**  
19 **electronic smoking device】** was made in good faith, relying upon  
20 the production and, commencing 90 days after the effective date of  
21 P.L. , c. (pending before the Legislature as this bill), verification  
22 of the identification set forth in paragraph (1) of this subsection, the  
23 appearance of the purchaser or recipient, and in the reasonable  
24 belief that the purchaser or recipient was of legal age to make the  
25 purchase or receive the sample.

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

1 d. In addition to the provisions of subsection c. of this section,  
2 ~~【upon the recommendation of the municipality, following a hearing~~  
3 ~~by the municipality,】~~ the Division of Taxation in the Department of  
4 the Treasury ~~【may】~~ :

5 ~~(1) shall, upon a third and each subsequent violation of the~~  
6 ~~provisions of subsection a. of this section, following a hearing by~~  
7 ~~the municipality, suspend 【or, after a second or subsequent~~  
8 ~~violation of the provisions of subsection a. of this section, revoke】 ,~~  
9 ~~for a period of not less than three years, the license issued under~~  
10 ~~section 202 of P.L.1948, c.65 (C.54:40A-4) of a retail dealer or the~~  
11 ~~license issued under section 4 of P.L.2019, c.147 (C.54:40B-3.3) of~~  
12 ~~a vapor business, as applicable; and~~

13 ~~(2) notwithstanding the provisions of paragraph (1) of this~~  
14 ~~subsection, upon a fourth or subsequent violation of the provisions~~  
15 ~~of subsection a. of this section, may, upon recommendation by the~~  
16 ~~municipality and following a hearing by the municipality, revoke~~  
17 ~~the license issued under section 202 of P.L.1948, c.65 (C.54:40A-4)~~  
18 ~~of a retail dealer or the license issued under section 4 of P.L.2019,~~  
19 ~~c.147 (C.54:40B-3.3) of a vapor business, as applicable.~~

20 The licensee shall additionally be subject to administrative  
21 charges, based on a schedule issued by the Director of the Division  
22 of Taxation ~~【~~, which may provide for a monetary penalty in lieu of  
23 a suspension~~】~~.

24 e. A penalty imposed pursuant to this section shall be in  
25 addition to any penalty that may be imposed pursuant to section 3  
26 of P.L.1999, c.90 (C.2C:33-13.1).

27 f. The provisions of this section shall not apply to any medical  
28 cannabis, medical cannabis product, paraphernalia, or related  
29 supplies dispensed to or on behalf of a registered qualifying patient  
30 pursuant to the “Jake Honig Compassionate Use Medical Cannabis  
31 Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

32 g. As used in this section:

33 “Tobacco product” means: any product containing, made of, or  
34 derived from tobacco or nicotine that is intended for human  
35 consumption or is likely to be consumed, whether inhaled,  
36 absorbed, or ingested by other means, including, but not limited to,  
37 a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, or snus;  
38 any vapor product; and any component, part, or accessory of a  
39 product containing, made of, or derived from tobacco or nicotine or  
40 a vapor product, regardless of whether the component, part, or  
41 accessory contains tobacco or nicotine. “Tobacco product”  
42 includes, but is not limited to, filters, rolling papers, blunt or hemp  
43 wraps, hookahs, and pipes. “Tobacco product” does not include  
44 any drug, device, or combination product approved by the federal  
45 Food and Drug Administration pursuant to the “Federal Food, Drug,  
46 and Cosmetic Act,” 21 U.S.C. ss.301 et seq.

1       “Vapor product” means any device that may be used to deliver  
2 any aerosolized or vaporized substance to the person inhaling from  
3 the device, including, but not limited to, an e-cigarette, e-cigar, e-  
4 pipe, vape pen, or e-hookah. “Vapor product” includes any  
5 component, part, or accessory of the device, and also includes any  
6 substance that may be aerosolized or vaporized by such device,  
7 regardless of whether the substance contains nicotine. “Vapor  
8 product” does not include any drug, device, or combination product  
9 approved by the federal Food and Drug Administration  
10 pursuant to the “Federal Food, Drug, and Cosmetic Act,”  
11 21 U.S.C. ss.301 et seq.  
12 (cf: P.L.2017, c.118, s.2)

13  
14       3. Section 1 of P.L.2015, c.294 (C.2A:170-51.9) is amended to  
15 read as follows:

16       1. a. No **【person】** retailer, either directly or indirectly by an  
17 agent or employee, or by a vending machine owned by the **【person】**  
18 retailer or located in the **【person's】** retailer's establishment, shall  
19 sell, offer for sale, give, furnish, or distribute for commercial  
20 purpose at no cost or minimal cost or with coupons or rebate offers,  
21 to any other person **【**, liquid nicotine in a liquid nicotine container,  
22 which is intended for use in a vapor product,**】** ;

23       (1) any vapor product, unless the product includes any tracking  
24 feature required by, and is included in any database developed and  
25 maintained pursuant to, the provisions of section 15 of  
26 P.L. , c. (C. ) (pending before the Legislature as this bill);

27       (2) vaping liquid with a nicotine content of more than two  
28 percent;

29       (3) container e-liquid unless the **【liquid nicotine】** container e-  
30 liquid is sold, offered for sale, given, furnished, or distributed for  
31 commercial purpose in a child-resistant container; or

32       (4) vaping liquid that has been mixed with any other substance  
33 by any entity other than the manufacturer of the vaping liquid.

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. "Vapor  
17 product" does not include any product that is approved, and that is  
18 regulated as a prescription drug delivery service, by the United  
19 States Food and Drug Administration under Chapter V of the Food,  
20 Drug, and Cosmetic Act.】

21 b. A 【person who】 retailer that violates the provisions of  
22 subsection a. of this section shall be liable to a civil penalty of not  
23 less than 【\$250】 \$500 for the first violation, not less than 【\$500】  
24 \$1,000 for the second violation, and 【\$1,000】 not less than \$2,000  
25 for the third and each subsequent violation. The civil penalty shall  
26 be collected pursuant to the "Penalty Enforcement Law of 1999,"  
27 P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding  
28 before the municipal court having jurisdiction. An official  
29 authorized by statute or ordinance to enforce the State or local  
30 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】 :

43 (1) shall, upon a third and each subsequent violation of the  
44 provisions of subsection a. of this section, following a hearing by  
45 the municipality, suspend 【or, after a second or subsequent  
46 violation of the provisions of subsection a. of this section, revoke  
47 the】 , for a period of not less than three years, the license 【of a

1 retail dealer】 issued under section 【202 of P.L.1948, c.65  
2 (C.54:40A-4)】 4 of P.L.2019, c.147 (C.54:40B-3.3) of a vapor  
3 business; and

4 (2) notwithstanding the provisions of paragraph (1) of this  
5 subsection, upon a fourth or subsequent violation of the provisions  
6 of subsection a. of this section, may, upon recommendation by the  
7 municipality and following a hearing by the municipality, revoke  
8 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-  
9 3.3) of a vapor business.

10 The licensee shall additionally be subject to administrative  
11 charges, based on a schedule issued by the Director of the Division  
12 of Taxation 【, which may provide for a monetary penalty in lieu of  
13 a suspension】.

14 d. The provisions of this section shall not apply to any medical  
15 cannabis, medical cannabis product, paraphernalia, or related  
16 supplies dispensed to or on behalf of a registered qualifying patient  
17 pursuant to the “Jake Honig Compassionate Use Medical Cannabis  
18 Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

19 e. As used in this section:

20 “Child-resistant container” means a container which is designed  
21 and constructed in a manner that meets the federal effectiveness  
22 specifications set forth in 16 C.F.R. 1700.15 and the special  
23 packaging testing requirements set forth in 16 CFR 1700.20, so that  
24 it is significantly difficult for a child five years of age or younger to  
25 open the package or otherwise risk exposure to vaping liquid.

26 “Container e-liquid” means a container of liquid nicotine or other  
27 liquid where the liquid is marketed, sold, or intended for use in an  
28 electronic smoking device, but does not include a prefilled cartridge  
29 or other container where the cartridge or container is marketed,  
30 sold, or intended for use as, or as a part of, an electronic smoking  
31 device.

32 “Vaping liquid” means any solution, including a liquid, wax, gel,  
33 or other substance, regardless of whether the solution contains  
34 nicotine, that is designed or sold for use with an electronic smoking  
35 device.

36 “Vapor product” means any device that may be used to deliver  
37 any aerosolized or vaporized substance to the person inhaling from  
38 the device, including, but not limited to, an e-cigarette, e-cigar, e-  
39 pipe, vape pen, or e-hookah. “Vapor product” includes any  
40 component, part, or accessory of the device, and also includes any  
41 substance that may be aerosolized or vaporized by such device,  
42 regardless of whether the substance contains nicotine. “Vapor  
43 product” does not include any drug, device, or combination product  
44 approved by the federal Food and Drug Administration pursuant to  
45 the “Federal Food, Drug, and Cosmetic Act,”  
46 21 U.S.C. ss.301 et seq.

47 (cf: P.L.2015, c.294, s.1)

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

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

20       b. The establishment of all of the following shall constitute a  
21 defense to any prosecution brought pursuant to subsection a. of this  
22 section:

23       (1) that the purchaser or recipient of the tobacco product **【or**  
24 electronic smoking device**】** falsely represented, by producing either  
25 a driver's license or non-driver identification card issued by the  
26 New Jersey Motor Vehicle Commission, a similar card issued  
27 pursuant to the laws of another state or the federal government of  
28 Canada, or a photographic identification card issued by a county  
29 clerk, that the purchaser or recipient was of legal age to purchase or  
30 receive the tobacco product **【or electronic smoking device】** and,  
31 commencing 90 days after the effective date of P.L. \_\_\_\_\_, c.  
32 (pending before the Legislature as this bill), the person making the  
33 sale or distribution verifies the purchaser's age using an electronic  
34 age verification system;

35       (2) that the appearance of the purchaser or recipient of the  
36 tobacco product **【or electronic smoking device】** was such that an  
37 ordinary prudent person would believe the purchaser or recipient to  
38 be of legal age to purchase or receive the tobacco product **【or**  
39 electronic smoking device**】**; and

40       (3) that the sale or distribution of the tobacco product **【or**  
41 electronic smoking device**】** was made in good faith, relying upon  
42 the production and, commencing 90 days after the effective date of  
43 P.L. \_\_\_\_\_, c. (pending before the Legislature as this bill), verification  
44 of the identification set forth in paragraph (1) of this subsection, the  
45 appearance of the purchaser or recipient, and in the reasonable



1 belief that the purchaser or recipient was of legal age to purchase or  
2 receive the tobacco product **【or electronic smoking device】**.

3 c. A penalty imposed pursuant to this section shall be in  
4 addition to any penalty that may be imposed pursuant to section 1  
5 of P.L.2000, c.87 (C.2A:170-51.4).

6 d. The provisions of this section shall not apply to any medical  
7 cannabis, medical cannabis product, paraphernalia, or related  
8 supplies dispensed or sold to or on behalf of a registered qualifying  
9 patient pursuant to the provisions of the “Jake Honig  
10 Compassionate Use Medical Cannabis Act,” P.L.2009, c.307  
11 (C.24:6I-1 et al.).

12 e. As used in this section:

13 “Tobacco product” means: any product containing, made of, or  
14 derived from tobacco or nicotine that is intended for human  
15 consumption or is likely to be consumed, whether inhaled,  
16 absorbed, or ingested by other means, including, but not limited to,  
17 a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, or snus;  
18 any vapor product; and any component, part, or accessory of a  
19 product containing, made of, or derived from tobacco or nicotine or  
20 a vapor product, regardless of whether the component, part, or  
21 accessory contains tobacco or nicotine. “Tobacco product”  
22 includes, but is not limited to, filters, rolling papers, blunt or hemp  
23 wraps, hookahs, and pipes. “Tobacco product” does not include  
24 any drug, device, or combination product approved by the federal  
25 Food and Drug Administration pursuant to the “Federal Food, Drug,  
26 and Cosmetic Act,” 21 U.S.C. ss.301 et seq.

27 “Vapor product” means any device that may be used to deliver  
28 any aerosolized or vaporized substance to the person inhaling from  
29 the device, including, but not limited to, an e-cigarette, e-cigar, e-  
30 pipe, vape pen, or e-hookah. “Vapor product” includes any  
31 component, part, or accessory of the device, and also includes any  
32 substance that may be aerosolized or vaporized by such device,  
33 regardless of whether the substance contains nicotine. “Vapor  
34 product” does not include any drug, device, or combination product  
35 approved by the federal Food and Drug Administration pursuant to  
36 the “Federal Food, Drug, and Cosmetic Act,”  
37 21 U.S.C. ss.301 et seq.

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

39  
40 5. Section 7 of P.L.1966, c.36 (C.26:2F-7) is amended to read  
41 as follows:

42 7. (a) There is hereby established a special projects and  
43 development fund which shall consist of all funds appropriated or  
44 otherwise made available for the purposes set forth in this section.  
45 The commissioner, with the approval of the Public Health Council,  
46 may make grants from the special projects and development fund to  
47 local health agencies, to hospitals, and to voluntary health agencies  
48 to provide State health assistance for new health services and for

1 special health projects in order to stimulate continued development  
2 of health services and to assure the citizens of New Jersey the  
3 benefits of the most advanced health protection techniques.

4 (b) Except as provided in subsection (c) of this section, grants  
5 from the special projects and development fund for specific  
6 purposes shall be made on an annual basis for a period not in excess  
7 of 5 years and such grants shall be in diminishing amounts during  
8 this period. The commissioner shall determine the conditions  
9 applicable to each such grant including the extent of local financial  
10 participation to be required. Grants from the special projects and  
11 development fund to voluntary health agencies shall not exceed  
12 40% of said fund.

13 (c) (1) Grants from the special projects and development fund  
14 shall be made on an annual basis to local health agencies for local  
15 enforcement efforts concerning the sale and commercial distribution  
16 of tobacco and vapor products to persons under the age of 21 years,  
17 in an amount determined by the commissioner. The grants shall be  
18 distributed based on the number of cigarette retail dealer, vapor  
19 business, and cigarette vending machine licenses issued within a  
20 local health agency's jurisdictional authority in order to ensure  
21 Statewide coverage and Statewide consistency of enforcement  
22 efforts; except that the commissioner may designate up to 5% of  
23 available funds, annually, for incentive grants to local health  
24 agencies to enhance enforcement efforts.

25 Each grant recipient shall report quarterly to the commissioner  
26 on the number of compliance check inspections it has completed  
27 and the results of those compliance checks. The commissioner shall  
28 determine any other conditions applicable to the grants.

29 (2) Beginning in 1999, notwithstanding the provisions of  
30 paragraph (1) of this subsection to the contrary, the commissioner  
31 may make grants from the special projects and development fund to  
32 public and private local agencies to reduce teenage use of addictive  
33 substances.

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

35

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

38 2. a. The Commissioner of Health is authorized to enforce the  
39 provisions of section 1 of P.L.2000, c.87 (C.2A:170-51.4) with  
40 respect to the prohibition on the sale and commercial distribution of  
41 tobacco products to persons under 21 years of age. The  
42 commissioner may delegate the enforcement authority provided in  
43 this section to local health agencies, subject to the availability of  
44 sufficient funding. The commissioner shall report quarterly to the  
45 Legislature on the enforcement program's progress, use of grants  
46 awarded pursuant to section 7 of P.L.1966, c.36 (C.26:2F-7), results  
47 of enforcement efforts and other matters the commissioner deems  
48 appropriate. The commissioner shall establish standards for

1 compliance inspections, including undercover compliance  
2 purchases, conducted by the Department of Health and local health  
3 agencies, which standards may include annual reporting by local  
4 health agencies conducting a compliance inspection concerning the  
5 number of inspections conducted, the number of violations cited,  
6 the amounts of any penalties collected, and any adverse actions  
7 taken against a retailer's tobacco retail dealer license or vapor  
8 business license.

9 b. The Department of the Treasury shall provide the  
10 commissioner with information about retail tobacco dealer licensees  
11 and vapor business licenses necessary to carry out the purpose of  
12 this section.

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

14  
15 7. Section 202 of P.L.1948, c.65 (C.54:40A-4) is amended to  
16 read as follows:

17 202. a. All licenses shall be issued by the director, who shall  
18 make rules and regulations respecting applications therefor and  
19 issuance thereof.

20 b. The following individuals related to distributors, wholesale  
21 dealers, retail dealers operating more than nine cigarette vending  
22 machines, and retail dealers who sell cigarettes at retail at more  
23 than nine premises shall submit with applications for a license,  
24 fingerprints, which shall be processed through the Federal Bureau  
25 of Investigation and the New Jersey State Police, and such other  
26 information as the director may require:

27 (1) Individuals having any interest whatsoever in a  
28 proprietorship or company.

29 (2) Partners of a partnership, regardless of percentage.

30 (3) Joint venturers in a joint venture.

31 (4) Officers, directors, and all stockholders holding directly or  
32 indirectly a beneficial interest in more than 5% of the outstanding  
33 shares of a corporation.

34 (5) Employees receiving in excess of \$30,000.00 per annum  
35 compensation whether as salary, commission, bonus or otherwise  
36 and persons who, in the judgment of the director are employed in a  
37 supervisory capacity or have the power to make or substantially  
38 affect discretionary business judgments of the applicant entity with  
39 regard to the cigarette business.

40 (6) Other persons who the director establishes have the ability to  
41 control the applicant entity through any means including but not  
42 limited to, contracts, loans, mortgages or pledges of securities  
43 where such control is inimical to the policies of this act because  
44 such person is a career offender or a member of a career offender  
45 cartel as defined in paragraph (2) of subsection e. of this section.  
46 Individuals licensed pursuant to the "Casino Control Act,"  
47 P.L.1977, c.110 (C.5:12-1 et seq.) shall only be required to produce  
48 evidence of said licensure in satisfaction of the foregoing.

1       The provisions in this subsection as to wholesale dealers, retail  
2       dealers operating more than nine cigarette vending machines, and  
3       retail dealers who sell cigarettes at retail at more than nine premises  
4       do not apply to retail grocery stores and supermarkets primarily  
5       engaged in the self-service sale of foods and household supplies for  
6       off-premises consumption, to drug stores and pharmacies engaged  
7       in the retail sale of prescription drugs and patent medicines and  
8       which may carry a number of lines of related merchandise, or to  
9       restaurants, hotels and motels operated by national corporations  
10      with such premises in six or more states and primarily engaged in  
11      the sale of foods for retail consumption or in the rental of rooms for  
12      lodging.

13      c. (1) The director shall not issue any license under this act  
14      where he has reasonable cause to believe that anyone required to  
15      submit information under this act has willfully withheld information  
16      requested of him for the purpose of determining the eligibility of  
17      the applicant to receive a license or where the director has  
18      reasonable cause to believe that information submitted in the  
19      application is false and misleading and is not made in good faith.

20      (2) The director shall not issue a license under this act to a  
21      person that is a manufacturer or importer of cigarettes, tobacco  
22      products or processed tobacco if the manufacturer or importer does  
23      not possess a valid federal permit issued pursuant to section 5713 of  
24      the federal Internal Revenue Code of 1986, 26 U.S.C. s.5713, that is  
25      not suspended or revoked.

26      d. The director shall not issue any license under this act where  
27      he has reasonable cause to believe that anyone required to be  
28      licensed or anyone required to submit information under this act,  
29      has been convicted of any offense in any jurisdiction which would  
30      be at the time of conviction a crime involving moral turpitude.

31      It is further provided that any applicant or person required to  
32      submit information who has a charge pending pursuant to any of the  
33      foregoing shall disclose that fact to the director. The director may  
34      then withhold action on new applications or, in the case of an  
35      application for the renewal of a license, issue a temporary license  
36      until there has been a disposition of the charge. The director shall  
37      have the discretion to waive the prohibition against licensure herein  
38      provided upon the presentation of proof that a period of not less  
39      than five years has elapsed since the last conviction or the  
40      expiration of any period of incarceration imposed with respect  
41      thereto.

42      e. The director shall not issue any license where the applicant  
43      or anyone required to submit information has been identified as a  
44      career offender or a member of a career offender cartel in such a  
45      manner as to create a reasonable belief that the association is of  
46      such a nature as to be inimical to the policies of this act or to the  
47      taxation, distribution, and sale of cigarettes within the State. The  
48      director may request the Attorney General for advice respecting

1 whether a person is a "career offender" within the meaning of this  
2 subsection, or is a "contumacious defiant" within the meaning of  
3 subsection f. of this section.

4 As used in this subsection:

5 (1) "career offender" means any person whose behavior is  
6 pursued in an occupational manner or context for the purpose of  
7 economic gain, utilizing such methods as are deemed criminal  
8 violations of the public policy of this State; and (2) "career offender  
9 cartel" means any group of persons who operate together as career  
10 offenders.

11 f. The director shall not issue any license where the applicant  
12 or anyone required to submit information has been found to be  
13 contumaciously defiant before any legislative investigative body or  
14 other official investigative body of this State or of the United States  
15 when such body is engaged in the investigation of organized crime,  
16 official corruption or the cigarette industry itself.

17 g. Each such license shall lapse on March 31 of the period for  
18 which it is issued, and each such license shall be continued annually  
19 upon the conditions that the licensee shall have paid the required  
20 fee and complied with all the provisions of this act and the rules and  
21 regulations of the director made pursuant thereto.

22 h. For each license issued to a distributor there shall be paid to  
23 the director a fee of \$350.00. If a distributor sells or intends to sell  
24 cigarettes at two or more places of business, whether established or  
25 temporary, a separate license shall be required for each place of  
26 business. Each license, or certificate, thereof, and such other  
27 evidence of license shall be exhibited in the place of business for  
28 which it is issued and in such manner as may be prescribed by the  
29 director. The director shall require each licensed distributor to file  
30 with him a bond in an amount not less than the average monthly  
31 value of the cigarette stamps used by the licensed distributor to  
32 guarantee the proper performance of his duties and the discharge of  
33 his liabilities under this act. The bond shall be executed by such  
34 licensed distributor as principal, and by a corporation approved by  
35 the director and duly authorized to engage in business as a surety  
36 company in the State of New Jersey, as surety. The bond shall run  
37 concurrently with the distributor's license.

38 For each license issued to a manufacturer, and for each  
39 continuance thereof, there shall be paid to the director a fee of  
40 \$10.00.

41 For each license issued to a manufacturer's representative, and  
42 for each continuance thereof, there shall be paid to the director a fee  
43 of \$5.00.

44 For each license issued to a wholesale dealer there shall be paid  
45 to the director a fee of \$250.00. If a wholesale dealer sells or  
46 intends to sell cigarettes at 10 or more places of business, whether  
47 established or temporary, a separate license shall be required for  
48 each place of business. Each license, or certificate thereof, and such

1 other evidence of license shall be exhibited in the place of business  
2 for which it is issued and in such manner as may be prescribed by  
3 the director.

4 For each license issued to a retail dealer and for each  
5 continuance thereof, excepting a retail dealer operating a cigarette  
6 vending machine, there shall be paid to the director a fee of ~~【\$40 in~~  
7 ~~1996 and \$50 in 1997 and each year thereafter】~~ \$500. For each  
8 license issued to a retail dealer operating a vending machine for the  
9 sale of cigarettes and for each continuance thereof, there shall be  
10 paid to the director a fee of ~~【\$40 in 1996 and \$50 in 1997 and each~~  
11 ~~year thereafter】~~ \$500. Of the license fee of ~~【\$40 and \$50,~~  
12 ~~respectively, \$30 shall be credited in 1996 and \$40 shall be credited~~  
13 ~~in 1997 and each year thereafter】~~ \$500, \$450 shall be annually  
14 credited to the special projects and development fund in the  
15 Department of Health ~~【and Senior Services】~~ established pursuant to  
16 section 7 of P.L.1966, c.36 (C.26:2F-7) for the purposes specified  
17 therein, and ~~【\$5】~~ \$50 shall be credited each year ~~【,~~ beginning with  
18 1996,~~】~~ to the division for administrative costs associated with the  
19 requirements established pursuant to subsection i. of this section  
20 and section 2 of P.L.1995, c.320 (C.26:3A2-20.1). The director  
21 shall determine and certify to the State Treasurer on a monthly basis  
22 the amount of revenues collected by the director which are to be  
23 credited to the special projects and development fund in the  
24 Department of Health.

25 If a retail dealer sells or intends to sell cigarettes at two or more  
26 places of business, whether established or temporary, or whether in  
27 the same building or not, a separate license shall be required for  
28 each place of business. Each vending machine for the sale of  
29 cigarettes shall be separately licensed and be deemed a separate  
30 place of business. Each license, or certificate thereof, and such  
31 other evidence of license shall be exhibited in the place of business  
32 for which it is issued and in such manner as may be prescribed by  
33 the director.

34 Any person licensed only as a distributor or as a manufacturer or  
35 as a manufacturer's representative or as a wholesale dealer or as a  
36 retail dealer shall not operate in any other capacity except under  
37 that for which he is licensed herein, unless the appropriate license  
38 or licenses therefor are first secured.

39 For each license issued to a consumer and for each continuance  
40 thereof there shall be paid to the director a fee of \$1.00. Each  
41 license, or certificate thereof, or such other evidence of license as  
42 may be prescribed by the director, shall be so kept by the consumer  
43 as to be readily available for inspection.

44 No license shall be issued to any person except upon the  
45 payment of the full fee therefor, any statute or exemption to the  
46 contrary notwithstanding. No license shall be assignable or  
47 transferable, except as hereinafter provided, but in the case of death,

1 bankruptcy, receivership, or incompetency of the licensee, or if for  
2 any other reason whatsoever the business of the licensee shall  
3 devolve upon another by operation of law, the director may, in his  
4 discretion, extend said license for a limited time to the executor,  
5 administrator, trustee, receiver, or person upon whom the same has  
6 devolved. A purchaser or assignee of a licensed wholesaler or  
7 licensed distributor, or any other person upon whom the business of  
8 a licensed wholesaler or licensed distributor shall devolve by  
9 operation of law, shall upon application to the director, be entitled  
10 to an assignment or transfer of the wholesale or distributor license  
11 for the balance of the existing license period upon payment of a  
12 transfer fee of \$5.00 and subject to his qualification to be a licensed  
13 wholesaler or licensed distributor under the provisions of this act.  
14 The license issued for each vending machine for the sale of  
15 cigarettes may be transferred from machine to machine in the same  
16 ownership. No refund of the license fee shall be paid to any person  
17 upon the surrender or revocation of any license except a license fee  
18 paid or collected in error. But, upon payment of a \$1.00 fee, there  
19 may be obtained (1) a duplicate license, or certificate thereof, in the  
20 event the original is lost, destroyed or defaced, and (2) an amended  
21 license, or certificate thereof, upon a change in the location of the  
22 place of business of any distributor or dealer.

23 i. The director shall require an applicant for a cigarette retail  
24 dealer license, including a license to operate a vending machine for  
25 the sale of cigarettes, to include on the application the address of  
26 the place of business where the cigarettes will be sold or the address  
27 where the vending machine will be located, as the case may be.

28 If the place of business or the vending machine is moved to a  
29 different address than that provided on the license application, the  
30 licensee shall notify the director within 30 days of the change of  
31 address.

32 (cf: P.L.2013, c.145, s.1)

33

34 8. Section 2 of P.L.1987, c.423 (C.54:40A-4.1) is amended to  
35 read as follows;

36 2. a. Notwithstanding any other provision of law to the  
37 contrary, a person to whom a license is issued pursuant to P.L.1948,  
38 c.65 (C.54:40A-1 et seq.) shall, as a condition of the license,  
39 conspicuously post a legible sign at the point of display of the  
40 tobacco products and at the point of sale. The sign, which also shall  
41 be posted conspicuously on any licensed cigarette vending machine,  
42 shall be at least six inches by three inches in bold letters at least  
43 one-quarter inch high and shall read as follows:

44 "A **【person who】** retailer that sells or offers to sell a tobacco  
45 product to a person under 21 years of age shall pay a penalty of up  
46 to **【\$1,000】** \$2,000 and may be subject to a license suspension or  
47 revocation.

1 Proof of age **【may be】** is required for purchase."

2 b. Each licensee shall be required, within 90 days after the  
3 effective date of P.L. , c. (pending before the Legislature as this  
4 bill), to acquire a system that can be used to electronically verify  
5 the age of an individual purchasing a tobacco product.  
6 (cf: P.L.2017, c.118, s.6)

7  
8 9. Section 4 of P.L.2005, c.85 (C.54:40A-49) is amended to  
9 read as follows:

10 4. A person shall not engage in a retail sale of cigarettes in this  
11 State unless the sale is a face-to-face sale, except that a person may  
12 engage in a non-face-to-face sale of cigarettes to a person in this  
13 State if the following conditions are met:

14 a. The seller has fully complied with all of the requirements of  
15 the Jenkins Act, 15 U.S.C. s.375 et seq., for shipments to this State;

16 b. The seller has verified payment of, paid, or collected all  
17 applicable State taxes, including the cigarette taxes imposed by the  
18 "Cigarette Tax Act," P.L.1948, c.65 (C.54:40A-1 et seq.) and the  
19 sales or use taxes imposed by the "Sales and Use Tax Act,"  
20 P.L.1966, c.30 (C.54:32B-1 et seq.), due on the cigarettes; and

21 c. The seller has, before mailing or shipping the cigarettes:

22 (1) obtained from the purchaser reliable confirmation that the  
23 purchaser is at least 21 years old and a statement by the purchaser  
24 under penalty of perjury certifying the purchaser's date of birth and  
25 address;

26 (2) made good faith effort to verify the information contained in  
27 the certification provided by the purchaser against a commercially  
28 available database or has obtained a photocopy or other image of a  
29 government-issued identification bearing the purchaser's image and  
30 stating the date of birth or age of the purchaser;

31 (3) received payment for the sale from the prospective purchaser  
32 by a credit or debit card that has been issued in the purchaser's  
33 name or by check; **【and】**

34 (4) verified that a credit or debit card used for payment has been  
35 issued in the purchaser's name, and the address to which the  
36 cigarettes are being shipped matches the credit or debit card  
37 company's address for the cardholder; and

38 (5) mailed or shipped the cigarettes using a method that requires  
39 age verification at the time of delivery.

40 Sellers taking an order for a non-face-to-face sale may request  
41 that prospective purchasers provide their e-mail addresses.

42 (cf: P.L.2017, c.118, s.7)

43  
44 10. Section 4 of P.L.2019, c.147 (C.54:40B-3.3) is amended to  
45 read as follows:

46 4. a. After the effective date of P.L.2019, c.147 (C.54:40B-  
47 3.3 et al.), container e-liquid shall not be sold at retail in the State  
48 except by a licensed vapor business.



1       b. Vapor business licenses shall be issued by the director, who  
2 shall make rules and regulations respecting application and  
3 issuance. Each such license shall lapse on March 31 of the period  
4 for which it is issued, and each such license shall be continued  
5 annually upon the conditions that the licensee shall have paid the  
6 required fee and complied with the provisions of P.L.2019, c.147  
7 (C.54:40B-3.3 et al.) and the rules and regulations of the director  
8 made pursuant thereto.

9       If a vapor business sells or intends to sell container e-liquid at  
10 two or more places of business, whether established or temporary,  
11 or whether in the same building or not, a separate license shall be  
12 required for each place of business. Each license, or certificate  
13 thereof, and such other evidence of license shall be exhibited in the  
14 place of business for which it is issued and in such manner as may  
15 be prescribed by the director.

16       No license shall be issued to any person except upon the  
17 payment of a ~~【\$50】~~ \$500 fee. No license shall be assignable or  
18 transferable, but in the case of death, bankruptcy, receivership, or  
19 incompetency of the licensee, or if, for any other reason  
20 whatsoever, the business of the licensee shall devolve upon another  
21 by operation of law, the director may, in the director's discretion,  
22 extend said license for a limited time to the executor, administrator,  
23 trustee, receiver, or person upon whom the same has devolved.

24       The director shall require an applicant for a vapor business  
25 license, to include on the application the address of the place of  
26 business where the container e-liquid will be sold. If the place of  
27 business is moved to a different address than that provided on the  
28 license application, the licensee shall notify the director within 30  
29 days of the change of address.

30       c. The director may, upon notice and after hearing, suspend or  
31 revoke the license or all licenses under this section issued to any  
32 person who violates any of the provisions of P.L.2019, c.147  
33 (C.54:40B-3.3 et al.), or who, after being issued a license becomes  
34 disqualified for licensure pursuant to P.L.2019, c.147 (C.54:40B-3.3  
35 et al.) or of any rule or regulation of the director made pursuant  
36 thereto or if the licensee has ceased to act in the capacity for which  
37 the license was issued or for other good cause. No person whose  
38 license has been suspended or revoked shall sell container e-liquid  
39 or permit container e-liquid to be sold during the period of such  
40 suspension or revocation on the premises occupied by that person or  
41 upon other premises controlled by that person or others, or in any  
42 other manner or form whatever. No disciplinary proceeding or  
43 action shall be barred or abated by the expiration, transfer,  
44 surrender, continuance, renewal, or extension of a license issued  
45 under the provisions of P.L.2019, c.147 (C.54:40B-3.3 et al.).  
46 (cf: P.L.2019, c.147, s.4)

1        11. Section 11 of P.L.2019, c.147 (C.54:40B-3.9) is amended to  
2 read as follows:

3        11. In addition to the license required by section 4 of P.L.2019,  
4 c.147 (C.54:40B-3.3), a municipality may adopt an ordinance  
5 concerning the licensure and regulation of a vapor business, which  
6 may include assessing a separate vapor business permit fee against  
7 any entity operating a licensed vapor business. The full amount of  
8 any permit fees collected by a municipality pursuant to this section,  
9 less administrative costs, shall be used to fund compliance  
10 inspections, including undercover compliance purchases, conducted  
11 by the local health agency having jurisdiction consistent with the  
12 requirements established by the Commissioner of Health pursuant  
13 to section 2 of P.L.1995, c.320 (C.26:3A2-20.1). Nothing in  
14 P.L.2019, c.147 (C.54:40B-3.3 et al.) shall be construed to preempt  
15 the provisions of any existing or new municipal ordinance  
16 concerning the licensure and regulation of a vapor business.  
17 (cf: P.L.2019, c.147, s.11)

18  
19        12. (New section) a. It shall be unlawful for a retailer, either  
20 directly or indirectly by an agent or employee, or by a vending  
21 machine owned by the retailer or located in the retailer's  
22 establishment, to sell, offer for sale, give, furnish, or distribute for  
23 commercial purpose at no cost or minimal cost or with coupons or  
24 rebate offers, to any person any electronic smoking device that is  
25 designed to mimic the appearance of another object, when the  
26 appearance of the electronic smoking device makes it difficult for  
27 the average person to determine, based on casual observance,  
28 whether the item is the object it is designed to mimic or an  
29 electronic smoking device. Prohibited designs shall include, but  
30 shall not be limited to, electronic smoking devices designed to  
31 resemble a pen or other writing utensil, flash drive or universal  
32 serial bus drive, mobile phone, clothing, jewelry, cosmetic product,  
33 eating utensil, or personal hygiene product, provided that nothing in  
34 this section shall be construed to prohibit the sale, offer for sale, or  
35 commercial distribution of an electronic smoking device designed  
36 to resemble a product traditionally used for the consumption of  
37 tobacco, including a cigarette, cigarette pack, pipe, cigar, or  
38 hookah.

39        b. A retailer that violates the provisions of subsection a. of this  
40 section shall be liable to a civil penalty of not less than \$1,000 for  
41 the first violation and not less than \$2,000 for a second or  
42 subsequent violation. The civil penalty shall be collected pursuant  
43 to the "Penalty Enforcement Law of 1999," P.L.1999, c.274  
44 (C.2A:58-10 et seq.), in a summary proceeding before the municipal  
45 court having jurisdiction. An official authorized by statute or  
46 ordinance to enforce the State or local health codes, or a law  
47 enforcement officer having enforcement authority in that  
48 municipality, may issue a summons for a violation of the provisions

1 of subsection a. of this section, and may serve and execute all  
2 process with respect to the enforcement of this section consistent  
3 with the Rules of Court. A penalty recovered under the provisions  
4 of this subsection shall be recovered by and in the name of the State  
5 by the local health agency. The penalty shall be paid into the  
6 treasury of the municipality in which the violation occurred for the  
7 general uses of the municipality.

8 c. In addition to the provisions of subsection b. of this section,  
9 following a hearing by the municipality, the Division of Taxation in  
10 the Department of the Treasury:

11 (1) shall, upon a third and each subsequent violation of the  
12 provisions of subsection a. of this section, following a hearing be  
13 the municipality, suspend, for a period of not less than three years,  
14 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-  
15 3.3) of a vapor business; and

16 (2) notwithstanding the provisions of paragraph (1) of this  
17 subsection, upon a fourth or subsequent violation of the provisions  
18 of subsection a. of this section, may, upon recommendation by the  
19 municipality and following a hearing by the municipality, revoke  
20 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-  
21 3.3) of a vapor business.

22 The licensee shall additionally be subject to administrative  
23 charges, based on a schedule issued by the Director of the Division  
24 of Taxation.

25 d. As used in this section, “electronic smoking device” means  
26 any device that may be used to deliver any aerosolized or vaporized  
27 substance to the person inhaling from the device, including, but not  
28 limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.  
29 Electronic smoking device includes any component, part, or  
30 accessory of the device, and also includes any substance that may  
31 be aerosolized or vaporized by such device, regardless of whether  
32 the substance contains nicotine. “Electronic smoking device” does  
33 not include any drug, device, or combination product approved by  
34 the federal Food and Drug Administration pursuant to the “Federal  
35 Food, Drug, and Cosmetic Act,” 21 U.S.C. ss.301 et seq.

36  
37 13. (New section) a. No person, either directly or indirectly by  
38 an agent or employee, or by a vending machine located on the  
39 premises, shall sell or offer for sale at a pharmacy practice site that  
40 has been issued a permit under P.L.2003, c.280 (C.45:14-  
41 40 et seq.), or at a business entity that has a pharmacy practice site  
42 located on its premises, any tobacco product.

43 b. Nothing in subsection a. of this section shall be construed to  
44 prohibit a pharmacy practice site or business entity that has a  
45 pharmacy practice site located on its premises from selling or  
46 offering for sale smoking cessation products approved by the  
47 federal Food and Drug Administration, and nothing in subsection a.  
48 of this section shall be construed to prohibit a pharmacy practice

1 site, or a business entity that has a pharmacy practice site located on  
2 its premises, that has been issued a medical cannabis dispensary  
3 permit pursuant to the “Jake Honig Compassionate Use Medical  
4 Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.), from dispensing  
5 medical cannabis, paraphernalia, and related supplies to or on  
6 behalf of a registered qualifying patient.

7 c. The owner of a pharmacy practice site or a business entity  
8 that has a pharmacy practice site located on its premises that  
9 violates the provisions of subsection a. of this section shall be liable  
10 to a civil penalty of not less than \$500 for the first violation, not  
11 less than \$1,000 for the second violation, and not less than \$2,000  
12 for the third and each subsequent violation. The civil penalty shall  
13 be collected pursuant to the "Penalty Enforcement Law of 1999,"  
14 P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding  
15 before the municipal court having jurisdiction. An official  
16 authorized by statute or ordinance to enforce the State or local  
17 health codes or a law enforcement officer having enforcement  
18 authority in that municipality may issue a summons for a violation  
19 of the provisions of subsection a. of this section, and may serve and  
20 execute all process with respect to the enforcement of this section  
21 consistent with the Rules of Court. A penalty recovered under the  
22 provisions of this subsection shall be recovered by and in the name  
23 of the State by the local health agency. The penalty shall be paid  
24 into the treasury of the municipality in which the violation occurred  
25 for the general uses of the municipality.

26 d. In addition to the provisions of subsection c. of this section,  
27 a pharmacy practice site at which a violation of subsection a. of this  
28 section occurs may be subject to disciplinary action by the Board of  
29 Pharmacy, and a business entity that has a pharmacy practice site  
30 located on its premises at which a violation of subsection a. of this  
31 section occurs may be subject to disciplinary action by an agency,  
32 board, office, or other appropriate governmental entity having  
33 jurisdiction.

34 e. As used in this section:

35 “Tobacco product” means: any product containing, made of, or  
36 derived from tobacco or nicotine that is intended for human  
37 consumption or is likely to be consumed, whether inhaled,  
38 absorbed, or ingested by other means, including, but not limited to,  
39 a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, or snus;  
40 any vapor product; and any component, part, or accessory of a  
41 product containing, made of, or derived from tobacco or nicotine or  
42 a vapor product, regardless of whether the component, part, or  
43 accessory contains tobacco or nicotine. “Tobacco product”  
44 includes, but is not limited to, filters, rolling papers, blunt or hemp  
45 wraps, hookahs, and pipes. “Tobacco product” does not include  
46 any drug, device, or combination product approved by the federal  
47 Food and Drug Administration pursuant to the “Federal Food, Drug,  
48 and Cosmetic Act,” 21 U.S.C. ss.301 et seq.

1       “Vapor product” means any device that may be used to deliver  
2 any aerosolized or vaporized substance to the person inhaling from  
3 the device, including, but not limited to, an e-cigarette, e-cigar, e-  
4 pipe, vape pen, or e-hookah. “Vapor product” includes any  
5 component, part, or accessory of the device, and also includes any  
6 substance that may be aerosolized or vaporized by such device,  
7 regardless of whether the substance contains nicotine. “Vapor  
8 product” does not include any drug, device, or combination product  
9 approved by the federal Food and Drug Administration pursuant to  
10 the “Federal Food, Drug, and Cosmetic Act,”  
11 21 U.S.C. ss.301 et seq.

12  
13       14. (New section) A person shall not engage in a retail sale of  
14 or vapor products in this State unless the sale is a face-to-face sale,  
15 except that a person may engage in a non-face-to-face sale of a  
16 vapor product to a person in this State if the following conditions  
17 are met:

18       a. The seller has verified payment of, paid, or collected all  
19 applicable State taxes, including the taxes imposed on liquid  
20 nicotine pursuant to section 5 of P.L.2018, c.50 (C.54:40B-3.2) and  
21 the taxes imposed on container e-liquid pursuant to section 5 of  
22 P.L.2019, c.147 (C.54:40B-3.4), as applicable, and the sales or use  
23 taxes imposed by the "Sales and Use Tax Act," P.L.1966, c.30  
24 (C.54:32B-1 et seq.), due on the vapor product; and

25       b. The seller has, before mailing or shipping the vapor product:  
26       (1) obtained from the purchaser reliable confirmation that the  
27 purchaser is at least 21 years old and a statement by the purchaser  
28 under penalty of perjury certifying the purchaser's date of birth and  
29 address;

30       (2) made good faith effort to verify the information contained in  
31 the certification provided by the purchaser against a commercially  
32 available database or has obtained a photocopy or other image of a  
33 government-issued identification bearing the purchaser's image and  
34 stating the date of birth or age of the purchaser;

35       (3) received payment for the sale from the prospective purchaser  
36 by a credit or debit card that has been issued in the purchaser's  
37 name or by check;

38       (4) verified that a credit or debit card used for payment has been  
39 issued in the purchaser's name, and the address to which the vapor  
40 product is being shipped matches the credit or debit card company's  
41 address for the cardholder; and

42       (5) mailed or shipped the vapor product using a method that  
43 requires age verification at the time of delivery.

44       Sellers taking an order for a non-face-to-face sale may request  
45 that prospective purchasers provide their e-mail addresses.

46       c. Nothing in this section shall relieve the seller of vapor  
47 products from any other applicable requirement of law relating to  
48 the sale of vapor products.

b. The director shall adopt, by regulation, requirements for the development of a standardized tracking feature to be included on all vapor products sold in the State that may be used to identify illicit, counterfeit, adulterated, or otherwise illegal or unsafe vapor products in New Jersey. The tracking feature may be a stamp issued by the division, a barcode imprinted on the vapor product by the manufacturer, or any other feature the director deems appropriate. The director shall designate the appropriate means of including the standardized tracking feature on vapor products.

## STATEMENT

The bill will increase these penalties to \$500 for a first offense, \$1,000 for a second offense, and \$2,000 for a third or subsequent offense, and clarify that all penalties are assessed against the retailer where the prohibited sale is made, and not against an employee who makes a prohibited sale. The bill further provides for mandatory three-year suspension of a retail dealer or vapor business license following a third and each subsequent violation, except that a license may be revoked following a fourth or subsequent violation, based on the recommendation of the municipality. A retailer subject to adverse licensure action will also be subject to administrative penalties. The bill removes language

1 authorizing the assessment of an administrative penalty in lieu of  
2 license suspension or revocation.

3 Current law also provides that a person who sells a tobacco or  
4 vapor product to a person under 21 years of age is liable to the \$500  
5 fine applicable to petty disorderly persons offenses, which fine is  
6 doubled for a subsequent offense. The bill increases this fine by  
7 providing that a retailer that makes a prohibited underage sale is  
8 liable to the \$1,000 fine applicable to disorderly persons offenses,  
9 which fine will still be doubled for a subsequent violation.

10 Current law provides that a person who purchases tobacco  
11 products for someone younger than 21 years of age is guilty of a  
12 petty disorderly persons offense, which offense is punishable by  
13 imprisonment for up to 30 days, a fine of up to \$500, or both. The  
14 bill provides that the offense also applies to the purchase of vapor  
15 products for someone younger than 21 years of age.

16 The bill requires that, no later than 90 days after the effective  
17 date of the bill, all tobacco and vapor product retailers are to  
18 acquire and begin using an electronic age verification system to  
19 prevent sales of tobacco and vapor products to persons under age  
20 21. The bill additionally requires that, unless the retailer restricts  
21 access to the retailer's establishment to persons age 21 years and  
22 older, all tobacco and vapor products are to be maintained in a  
23 manner that restricts public access to the products, which may  
24 include maintaining the products behind the sales counter, in a  
25 locked cabinet, or in an area of the establishment that is restricted to  
26 employees only.

27 Current law requires all cigarette sales to take place in a face-to-  
28 face transaction unless the seller has ensured that all State taxes  
29 have been paid on the cigarettes and takes certain enumerated steps  
30 to verify that the purchaser is over 21 years of age. The bill  
31 establishes identical requirements for vapor products and adds a  
32 new requirement for mail order cigarettes and vapor products  
33 requiring age verification at the time of delivery.

34 The bill revises the current requirement that vaping liquids be  
35 sold in child-resistant containers to additionally: (1) prohibit the  
36 sale of vaping liquids that contain nicotine in a concentration of  
37 more than two percent; (2) prohibit the sale of vaping liquids  
38 products that were mixed with any other substance by any entity  
39 other than the manufacturer; and (3) prohibit the sale of any vapor  
40 product that is not included in the database to be established  
41 pursuant to the bill.

42 The current penalties for sale of a vaping liquid that is not in a  
43 child-resistant container are \$250 for a first violation, \$500 for a  
44 second violation, and \$1,000 for a third or subsequent violation, in  
45 addition to possible license suspension or revocation. The bill  
46 makes these penalties applicable to any sale prohibited under the  
47 bill, and doubles the penalties to \$500 for a first offense, \$1,000 for  
48 a second offense, and \$2,000 for a third or subsequent offense. In

1 addition, a retailer will be subject to a mandatory three-year license  
2 suspension following a third and each subsequent violation, and a  
3 potential license revocation following a fourth or subsequent  
4 violation, if recommended by the municipality. Violators subject to  
5 adverse licensure action will also be subject to administrative  
6 penalties.

7 The bill prohibits the sale of electronic smoking devices that are  
8 designed to mimic the appearance of another object, when the  
9 appearance of the electronic smoking device makes it difficult for  
10 the average person to determine, based on casual observance,  
11 whether the item is the object it is designed to mimic or an  
12 electronic smoking device. Prohibited designs will include, but not  
13 be limited to, devices designed to resemble a pen or other writing  
14 utensil, flash drive or universal serial bus drive, mobile phone,  
15 clothing, jewelry, cosmetic product, eating utensil, or personal  
16 hygiene product; however, it will not be prohibited to sell an  
17 electronic smoking device designed to resemble a product  
18 traditionally used for the consumption of tobacco, such as a  
19 cigarette, cigarette pack, pipe, cigar, or hookah. A violation of this  
20 prohibition will be punishable by a civil penalty of \$1,000 for a first  
21 offense and \$2,000 for a second or subsequent offense, plus a  
22 mandatory three-year license suspension following a third and each  
23 subsequent violation, and a possible license revocation following a  
24 fourth or subsequent violation, if recommended by the municipality.  
25 Violators subject to adverse licensure action will also be subject to  
26 administrative penalties.

27 The bill clarifies that the various restrictions on the sale of  
28 tobacco and vapor products do not apply to any medical cannabis,  
29 paraphernalia, or related supplies dispensed to or on behalf of a  
30 registered medical cannabis patient by an alternative treatment  
31 center under the “Jake Honig Compassionate Use Medical Cannabis  
32 Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

33 The bill requires the Commissioner of Health to establish  
34 standards for compliance inspections, including undercover  
35 compliance purchases, conducted by the Department of Health and  
36 by local boards of health, which may include annual reporting  
37 concerning the results of compliance inspections.

38 Current law provides for a \$50 licensure fee for tobacco retail  
39 dealers and vapor businesses. The bill increases these licensure  
40 fees to \$500. The bill further authorizes municipalities to assess an  
41 additional permit fee against vapor businesses, provided that the full  
42 amount of any permit fees collected, less administrative costs, are to  
43 be used to fund compliance inspections, including undercover  
44 compliance purchases, made by the local health agency.

45 The bill prohibits pharmacy practice sites, and business entities  
46 that have a pharmacy practice site located on the premises, from  
47 selling or offering for sale any tobacco product, including vapor  
48 products. A violation of this prohibition will be punishable by a



1 civil penalty of \$1,000 for a first offense and \$2,000 for a second or  
2 subsequent offense. In addition, pharmacy practice sites will be  
3 subject to disciplinary action by the Board of Pharmacy, and  
4 business entities with a pharmacy practice site located on the  
5 premises will be subject to disciplinary action by any agency,  
6 board, or office having jurisdiction. The prohibition will not apply  
7 to smoking cessation products approved by the federal Food and  
8 Drug Administration, and will not restrict the dispensing of medical  
9 cannabis and related supplies if the pharmacy holds a medical  
10 cannabis dispensary permit.

11 The bill requires the Director of the Division of Taxation to  
12 adopt, by regulation, requirements for the establishment of an  
13 electronic database that will be used to track all vapor products sold  
14 in New Jersey for the purpose of ensuring product integrity and  
15 compliance with State and federal law. Additionally, the director  
16 will be required to adopt requirements for the development of a  
17 standardized tracking feature to be included on all vapor products  
18 sold in the State that may be used to identify illicit, counterfeit,  
19 adulterated, or otherwise illegal or unsafe vapor products in the  
20 State.