

ASSEMBLY, No. 2797

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 28, 2022

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

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 or a cannabis item as defined in section 3 of P.L.2021, c.16
14 (C.24:6I-33), for a person who is under 21 years of age is a petty
15 disorderly person.
16 (cf: P.L.2021, c.25, s.9)

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

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

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

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

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

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

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

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

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

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

1 into the treasury of the municipality in which the violation occurred
2 for the general uses of the municipality.

3 d. In addition to the provisions of subsection c. of this section,
4 **【**upon the recommendation of the municipality, following a hearing
5 by the municipality,**】** the Division of Taxation in the Department of
6 the Treasury **【**may**】** ;

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

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

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 **【**, which may provide for a monetary penalty in lieu of
25 a suspension**】**.

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

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

34 g. 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

1 Food and Drug Administration pursuant to the “Federal Food, Drug,
2 and Cosmetic Act,” 21 U.S.C. ss.301 et seq.

3 “Vapor product” means any device that may be used to deliver
4 any aerosolized or vaporized substance to the person inhaling from
5 the device, including, but not limited to, an e-cigarette, e-cigar, e-
6 pipe, vape pen, or e-hookah. “Vapor product” includes any
7 component, part, or accessory of the device, and also includes any
8 substance that may be aerosolized or vaporized by such device,
9 regardless of whether the substance contains nicotine. “Vapor
10 product” does not include any drug, device, or combination product
11 approved by the federal Food and Drug Administration
12 pursuant to the “Federal Food, Drug, and Cosmetic Act,”
13 21 U.S.C. ss.301 et seq.

14 (cf: P.L.2017, c.118, s.2)

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

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

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

29 (2) vaping liquid with a nicotine content of more than two
30 percent;

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

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

36 **【As used in this section:**

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

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

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

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

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

42 c. In addition to the provisions of subsection b. of this section,
43 【upon the recommendation of the municipality, following a hearing
44 by the municipality,】 the Division of Taxation in the Department of
45 the Treasury 【may】 :

46 (1) shall, upon a third and each subsequent violation of the
47 provisions of subsection a. of this section, following a hearing by

1 the municipality, suspend **【**or, after a second or subsequent
2 violation of the provisions of subsection a. of this section, revoke
3 the】 , for a period of not less than three years, the license **【**of a
4 retail dealer】 issued under section **【**202 of P.L.1948, c.65
5 (C.54:40A-4)】 4 of P.L.2019, c.147 (C.54:40B-3.3) of a vapor
6 business; and

7 (2) notwithstanding the provisions of paragraph (1) of this
8 subsection, upon a fourth or subsequent violation of the provisions
9 of subsection a. of this section, may, upon recommendation by the
10 municipality and following a hearing by the municipality, revoke
11 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
12 3.3) of a vapor business.

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

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

22 e. As used in this section:

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

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

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

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

1 the “Federal Food, Drug, and Cosmetic Act,”
2 21 U.S.C. ss.301 et seq.
3 (cf: P.L.2015, c.294, s.1)
4

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

7 3. a. A person who sells or gives to a person under 21 years of
8 age any **【cigarettes made of tobacco or of any other matter or**
9 **substance which can be smoked, or any cigarette paper or tobacco**
10 **in any form, including smokeless tobacco, or any electronic**
11 **smoking device that can be used to deliver nicotine or other**
12 **substances to the person inhaling from the device, including, but not**
13 **limited to, an electronic cigarette, cigar, cigarillo, or pipe, or any**
14 **cartridge or other component of the device or related product, or**
15 **any】** cannabis item as defined in section 3 of P.L.2021, c.16
16 (C.24:6I-33), including an **【employee of a retail dealer licensee**
17 **under P.L.1948, c.65 (C.54:40A-1 et seq.) or】** employee of a
18 licensed cannabis establishment, cannabis distributor, or cannabis
19 delivery service under P.L.2021, c.16 (C.24:6I-31 et al.), who
20 actually sells or otherwise provides a **【tobacco product, electronic**
21 **smoking device, or】** cannabis item to a person under 21 years of
22 age, shall be punished by a fine as provided for a petty disorderly
23 persons offense. A person who has been previously punished under
24 this section and who commits another offense under it may be
25 punishable by a fine of twice that provided for a petty disorderly
26 persons offense.

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

30 (1) that the purchaser or recipient of the **【tobacco product,**
31 **electronic smoking device, or】** cannabis item falsely represented,
32 by producing a driver's license or non-driver identification card
33 issued by the New Jersey Motor Vehicle Commission, a similar
34 card issued pursuant to the laws of another state or the federal
35 government of Canada, a photographic identification card issued by
36 a county clerk, or other form of government-issued identification
37 described in subparagraph (a) of paragraph (6) of subsection a. of
38 section 18 of P.L.2021, c.16 (C.24:6I-35), that the purchaser or
39 recipient was of legal age to purchase or receive the **【tobacco**
40 **product, electronic smoking device, or】** cannabis item;

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

46 (3) that the sale or distribution of the **【tobacco product,**
47 **electronic smoking device, or】** cannabis item was made in good

1 faith, 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,
5 electronic smoking device, or] cannabis item.

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) concerning tobacco products or
9 electronic smoking devices, or] section 64 of P.L.2021, c.16
10 (C.2C:35-10d) or section 6 of P.L.2021, c.25 (C.2A:170-51.11)
11 concerning cannabis items.
12 (cf: P.L.2021, c.25, s.10)

13
14 5. Section 7 of P.L.1966, c.36 (C.26:2F-7) is amended to read
15 as follows:

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

26 (b) Except as provided in subsection (c) of this section, grants
27 from the special projects and development fund for specific
28 purposes shall be made on an annual basis for a period not in excess
29 of 5 years and such grants shall be in diminishing amounts during
30 this period. The commissioner shall determine the conditions
31 applicable to each such grant including the extent of local financial
32 participation to be required. Grants from the special projects and
33 development fund to voluntary health agencies shall not exceed
34 40% of said fund.

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

47 Each grant recipient shall report quarterly to the commissioner
48 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 6. Section 2 of P.L.1995, c.320 (C.26:3A2-20.1) is amended
11 to 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 to persons under 21 years of age. The
16 commissioner may delegate the enforcement authority provided in
17 this section to local health agencies, subject to the availability of
18 sufficient funding. The commissioner shall report quarterly to the
19 Legislature on the enforcement program's progress, use of grants
20 awarded pursuant to section 7 of P.L.1966, c.36 (C.26:2F-7), results
21 of enforcement efforts and other matters the commissioner deems
22 appropriate. The commissioner shall establish standards for
23 compliance inspections, including undercover compliance
24 purchases, conducted by the Department of Health and local health
25 agencies, which standards may include annual reporting by local
26 health agencies conducting a compliance inspection concerning the
27 number of inspections conducted, the number of violations cited,
28 the amounts of any penalties collected, and any adverse actions
29 taken against a retailer's tobacco retail dealer license or vapor
30 business license.

31 b. The Department of the Treasury shall provide the
32 commissioner with information about retail tobacco dealer licensees
33 and vapor business licenses necessary to carry out the purpose of
34 this section.

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

36
37 7. Section 202 of P.L.1948, c.65 (C.54:40A-4) is amended to
38 read as follows:

39 202. a. All licenses shall be issued by the director, who shall
40 make rules and regulations respecting applications therefor and
41 issuance thereof.

42 b. The following individuals related to distributors, wholesale
43 dealers, retail dealers operating more than nine cigarette vending
44 machines, and retail dealers who sell cigarettes at retail at more
45 than nine premises shall submit with applications for a license,
46 fingerprints, which shall be processed through the Federal Bureau
47 of Investigation and the New Jersey State Police, and such other
48 information as the director may require:

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

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

4 (3) Joint venturers in a joint venture.

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

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

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

23 The provisions in this subsection as to wholesale dealers, retail
24 dealers operating more than nine cigarette vending machines, and
25 retail dealers who sell cigarettes at retail at more than nine premises
26 do not apply to retail grocery stores and supermarkets primarily
27 engaged in the self-service sale of foods and household supplies for
28 off-premises consumption, to drug stores and pharmacies engaged
29 in the retail sale of prescription drugs and patent medicines and
30 which may carry a number of lines of related merchandise, or to
31 restaurants, hotels and motels operated by national corporations
32 with such premises in six or more states and primarily engaged in
33 the sale of foods for retail consumption or in the rental of rooms for
34 lodging.

35 c. (1) The director shall not issue any license under this act
36 where he has reasonable cause to believe that anyone required to
37 submit information under this act has willfully withheld information
38 requested of him for the purpose of determining the eligibility of
39 the applicant to receive a license or where the director has
40 reasonable cause to believe that information submitted in the
41 application is false and misleading and is not made in good faith.

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

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

6 It is further provided that any applicant or person required to
7 submit information who has a charge pending pursuant to any of the
8 foregoing shall disclose that fact to the director. The director may
9 then withhold action on new applications or, in the case of an
10 application for the renewal of a license, issue a temporary license
11 until there has been a disposition of the charge. The director shall
12 have the discretion to waive the prohibition against licensure herein
13 provided upon the presentation of proof that a period of not less
14 than five years has elapsed since the last conviction or the
15 expiration of any period of incarceration imposed with respect
16 thereto.

17 e. The director shall not issue any license where the applicant
18 or anyone required to submit information has been identified as a
19 career offender or a member of a career offender cartel in such a
20 manner as to create a reasonable belief that the association is of
21 such a nature as to be inimical to the policies of this act or to the
22 taxation, distribution, and sale of cigarettes within the State. The
23 director may request the Attorney General for advice respecting
24 whether a person is a "career offender" within the meaning of this
25 subsection, or is a "contumacious defiant" within the meaning of
26 subsection f. of this section.

27 As used in this subsection:

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

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

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

45 h. For each license issued to a distributor there shall be paid to
46 the director a fee of \$350.00. If a distributor sells or intends to sell
47 cigarettes at two or more places of business, whether established or
48 temporary, a separate license shall be required for each place of

1 business. Each license, or certificate, thereof, and such other
2 evidence of license shall be exhibited in the place of business for
3 which it is issued and in such manner as may be prescribed by the
4 director. The director shall require each licensed distributor to file
5 with him a bond in an amount not less than the average monthly
6 value of the cigarette stamps used by the licensed distributor to
7 guarantee the proper performance of his duties and the discharge of
8 his liabilities under this act. The bond shall be executed by such
9 licensed distributor as principal, and by a corporation approved by
10 the director and duly authorized to engage in business as a surety
11 company in the State of New Jersey, as surety. The bond shall run
12 concurrently with the distributor's license.

13 For each license issued to a manufacturer, and for each
14 continuance thereof, there shall be paid to the director a fee of
15 \$10.00.

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

19 For each license issued to a wholesale dealer there shall be paid
20 to the director a fee of \$250.00. If a wholesale dealer sells or
21 intends to sell cigarettes at 10 or more places of business, whether
22 established or temporary, a separate license shall be required for
23 each place of business. Each license, or certificate thereof, and such
24 other evidence of license shall be exhibited in the place of business
25 for which it is issued and in such manner as may be prescribed by
26 the director.

27 For each license issued to a retail dealer and for each
28 continuance thereof, excepting a retail dealer operating a cigarette
29 vending machine, there shall be paid to the director a fee of ~~【\$40 in~~
30 ~~1996 and \$50 in 1997 and each year thereafter】~~ \$500. For each
31 license issued to a retail dealer operating a vending machine for the
32 sale of cigarettes and for each continuance thereof, there shall be
33 paid to the director a fee of ~~【\$40 in 1996 and \$50 in 1997 and each~~
34 ~~year thereafter】~~ \$500. Of the license fee of ~~【\$40 and \$50,~~
35 ~~respectively, \$30 shall be credited in 1996 and \$40 shall be credited~~
36 ~~in 1997 and each year thereafter】~~ \$500, \$450 shall be annually
37 credited to the special projects and development fund in the
38 Department of Health ~~【and Senior Services】~~ established pursuant to
39 section 7 of P.L.1966, c.36 (C.26:2F-7) for the purposes specified
40 therein, and ~~【\$5】~~ \$50 shall be credited each year ~~【,~~ beginning with
41 1996,~~】~~ to the division for administrative costs associated with the
42 requirements established pursuant to subsection i. of this section
43 and section 2 of P.L.1995, c.320 (C.26:3A2-20.1). The director
44 shall determine and certify to the State Treasurer on a monthly basis
45 the amount of revenues collected by the director which are to be
46 credited to the special projects and development fund in the
47 Department of Health.

1 If a retail dealer sells or intends to sell cigarettes at two or more
2 places of business, whether established or temporary, or whether in
3 the same building or not, a separate license shall be required for
4 each place of business. Each vending machine for the sale of
5 cigarettes shall be separately licensed and be deemed a separate
6 place of business. Each license, or certificate thereof, and such
7 other evidence of license shall be exhibited in the place of business
8 for which it is issued and in such manner as may be prescribed by
9 the director.

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

15 For each license issued to a consumer and for each continuance
16 thereof there shall be paid to the director a fee of \$1.00. Each
17 license, or certificate thereof, or such other evidence of license as
18 may be prescribed by the director, shall be so kept by the consumer
19 as to be readily available for inspection.

20 No license shall be issued to any person except upon the
21 payment of the full fee therefor, any statute or exemption to the
22 contrary notwithstanding. No license shall be assignable or
23 transferable, except as hereinafter provided, but in the case of death,
24 bankruptcy, receivership, or incompetency of the licensee, or if for
25 any other reason whatsoever the business of the licensee shall
26 devolve upon another by operation of law, the director may, in his
27 discretion, extend said license for a limited time to the executor,
28 administrator, trustee, receiver, or person upon whom the same has
29 devolved. A purchaser or assignee of a licensed wholesaler or
30 licensed distributor, or any other person upon whom the business of
31 a licensed wholesaler or licensed distributor shall devolve by
32 operation of law, shall upon application to the director, be entitled
33 to an assignment or transfer of the wholesale or distributor license
34 for the balance of the existing license period upon payment of a
35 transfer fee of \$5.00 and subject to his qualification to be a licensed
36 wholesaler or licensed distributor under the provisions of this act.
37 The license issued for each vending machine for the sale of
38 cigarettes may be transferred from machine to machine in the same
39 ownership. No refund of the license fee shall be paid to any person
40 upon the surrender or revocation of any license except a license fee
41 paid or collected in error. But, upon payment of a \$1.00 fee, there
42 may be obtained (1) a duplicate license, or certificate thereof, in the
43 event the original is lost, destroyed or defaced, and (2) an amended
44 license, or certificate thereof, upon a change in the location of the
45 place of business of any distributor or dealer.

46 i. The director shall require an applicant for a cigarette retail
47 dealer license, including a license to operate a vending machine for
48 the sale of cigarettes, to include on the application the address of

1 the place of business where the cigarettes will be sold or the address
2 where the vending machine will be located, as the case may be.

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

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

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

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

19 "A **person who** retailer that sells or offers to sell a tobacco
20 product to a person under 21 years of age shall pay a penalty of up
21 to **[\$1,000]** \$2,000 and may be subject to a license suspension or
22 revocation.

23 Proof of age **may be** is required for purchase."

24 b. Each licensee shall be required, within 90 days after the
25 effective date of P.L. , c. (pending before the Legislature as this
26 bill), to acquire a system that can be used to electronically verify
27 the age of an individual purchasing a tobacco product.

28 (cf: P.L.2017, c.118, s.6)

29
30 9. Section 4 of P.L.2005, c.85 (C.54:40A-49) is amended to
31 read as follows:

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

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

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

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

44 (1) obtained from the purchaser reliable confirmation that the
45 purchaser is at least 21 years old and a statement by the purchaser
46 under penalty of perjury certifying the purchaser's date of birth and
47 address;

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

6 (3) received payment for the sale from the prospective purchaser
7 by a credit or debit card that has been issued in the purchaser's
8 name or by check; **and**

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

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

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

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

18
19 10. Section 4 of P.L.2019, c.147 (C.54:40B-3.3) is amended to
20 read as follows:

21 4. a. After the effective date of P.L.2019, c.147 (C.54:40B-
22 3.3 et al.), container e-liquid shall not be sold at retail in the State
23 except by a licensed vapor business.

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

32 If a vapor business sells or intends to sell container e-liquid at
33 two or more places of business, whether established or temporary,
34 or whether in the same building or not, a separate license shall be
35 required for each place of business. Each license, or certificate
36 thereof, and such other evidence of license shall be exhibited in the
37 place of business for which it is issued and in such manner as may
38 be prescribed by the director.

39 No license shall be issued to any person except upon the
40 payment of a **[\$50]** \$500 fee. No license shall be assignable or
41 transferable, but in the case of death, bankruptcy, receivership, or
42 incompetency of the licensee, or if, for any other reason
43 whatsoever, the business of the licensee shall devolve upon another
44 by operation of law, the director may, in the director's discretion,
45 extend said license for a limited time to the executor, administrator,
46 trustee, receiver, or person upon whom the same has devolved.

47 The director shall require an applicant for a vapor business
48 license, to include on the application the address of the place of

1 business where the container e-liquid will be sold. If the place of
2 business is moved to a different address than that provided on the
3 license application, the licensee shall notify the director within 30
4 days of the change of address.

5 c. The director may, upon notice and after hearing, suspend or
6 revoke the license or all licenses under this section issued to any
7 person who violates any of the provisions of P.L.2019, c.147
8 (C.54:40B-3.3 et al.), or who, after being issued a license becomes
9 disqualified for licensure pursuant to P.L.2019, c.147 (C.54:40B-3.3
10 et al.) or of any rule or regulation of the director made pursuant
11 thereto or if the licensee has ceased to act in the capacity for which
12 the license was issued or for other good cause. No person whose
13 license has been suspended or revoked shall sell container e-liquid
14 or permit container e-liquid to be sold during the period of such
15 suspension or revocation on the premises occupied by that person or
16 upon other premises controlled by that person or others, or in any
17 other manner or form whatever. No disciplinary proceeding or
18 action shall be barred or abated by the expiration, transfer,
19 surrender, continuance, renewal, or extension of a license issued
20 under the provisions of P.L.2019, c.147 (C.54:40B-3.3 et al.).
21 (cf: P.L.2019, c.147, s.4)
22

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

25 11. In addition to the license required by section 4 of P.L.2019,
26 c.147 (C.54:40B-3.3), a municipality may adopt an ordinance
27 concerning the licensure and regulation of a vapor business, which
28 may include assessing a separate vapor business permit fee against
29 any entity operating a licensed vapor business. The full amount of
30 any permit fees collected by a municipality pursuant to this section,
31 less administrative costs, shall be used to fund compliance
32 inspections, including undercover compliance purchases, conducted
33 by the local health agency having jurisdiction consistent with the
34 requirements established by the Commissioner of Health pursuant
35 to section 2 of P.L.1995, c.320 (C.26:3A2-20.1). Nothing in
36 P.L.2019, c.147 (C.54:40B-3.3 et al.) shall be construed to preempt
37 the provisions of any existing or new municipal ordinance
38 concerning the licensure and regulation of a vapor business.
39 (cf: P.L.2019, c.147, s.11)
40

41 12. (New section) a. It shall be unlawful for a retailer, either
42 directly or indirectly by an agent or employee, or by a vending
43 machine owned by the retailer or located in the retailer's
44 establishment, to sell, offer for sale, give, furnish, or distribute for
45 commercial purpose at no cost or minimal cost or with coupons or
46 rebate offers, to any person any electronic smoking device that is
47 designed to mimic the appearance of another object, when the
48 appearance of the electronic smoking device makes it difficult for

1 the average person to determine, based on casual observance,
2 whether the item is the object it is designed to mimic or an
3 electronic smoking device. Prohibited designs shall include, but
4 shall not be limited to, electronic smoking devices designed to
5 resemble a pen or other writing utensil, flash drive or universal
6 serial bus drive, mobile phone, clothing, jewelry, cosmetic product,
7 eating utensil, or personal hygiene product, provided that nothing in
8 this section shall be construed to prohibit the sale, offer for sale, or
9 commercial distribution of an electronic smoking device designed
10 to resemble a product traditionally used for the consumption of
11 tobacco, including a cigarette, cigarette pack, pipe, cigar, or
12 hookah.

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

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

33 (1) shall, upon a third and each subsequent violation of the
34 provisions of subsection a. of this section, following a hearing by
35 the municipality, suspend, for a period of not less than three years,
36 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
37 3.3) of a vapor business; and

38 (2) notwithstanding the provisions of paragraph (1) of this
39 subsection, upon a fourth or subsequent violation of the provisions
40 of subsection a. of this section, may, upon recommendation by the
41 municipality and following a hearing by the municipality, revoke
42 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
43 3.3) of a vapor business.

44 The licensee shall additionally be subject to administrative
45 charges, based on a schedule issued by the Director of the Division
46 of Taxation.

47 d. As used in this section, "electronic smoking device" means
48 any device that may be used to deliver any aerosolized or vaporized

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

10
11 13. (New section) a. A retailer that sells or gives to a person
12 under 21 years of age any tobacco product, shall be punished by a
13 fine as provided for a disorderly persons offense. A retailer that has
14 been previously punished under this section and that commits
15 another offense under it may be punished by a fine of twice that
16 provided for a disorderly persons offense.

17 b. The establishment of all of the following shall constitute a
18 defense to any prosecution brought pursuant to subsection a. of this
19 section:

20 (1) that the purchaser or recipient of the tobacco product falsely
21 represented, by producing a driver's license or non-driver
22 identification card issued by the New Jersey Motor Vehicle
23 Commission, a similar card issued pursuant to the laws of another
24 state or the federal government of Canada, a photographic
25 identification card issued by a county clerk, or other form of
26 government-issued identification described in subparagraph (a) of
27 paragraph (6) of subsection a. of section 18 of P.L.2021, c.16
28 (C.24:6I-35), that the purchaser or recipient was of legal age to
29 purchase or receive the tobacco product and, commencing 90 days
30 after the effective date of P.L. , c. (pending before the
31 Legislature as this bill), the person making the sale or distribution
32 verifies the purchaser's age using an electronic age verification
33 system;

34 (2) that the appearance of the purchaser or recipient of the
35 tobacco product was such that an ordinary prudent person would
36 believe the purchaser or recipient to be of legal age to purchase or
37 receive the tobacco product; and

38 (3) that the sale or distribution of the tobacco product was made
39 in good faith, relying upon the production and, commencing 90
40 days after the effective date of P.L. , c. (pending before the
41 Legislature as this bill), verification of the identification set forth in
42 paragraph (1) of this subsection, the appearance of the purchaser or
43 recipient, and in the reasonable belief that the purchaser or recipient
44 was of legal age to purchase or receive the tobacco product.

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

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

7 e. As used in this section:

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

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

33

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

40 b. Nothing in subsection a. of this section shall be construed to
41 prohibit a pharmacy practice site or business entity that has a
42 pharmacy practice site located on its premises from selling or
43 offering for sale smoking cessation products approved by the
44 federal Food and Drug Administration, and nothing in subsection a.
45 of this section shall be construed to prohibit a pharmacy practice
46 site, or a business entity that has a pharmacy practice site located on
47 its premises, that has been issued a medical cannabis dispensary
48 permit pursuant to the “Jake Honig Compassionate Use Medical

1 Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.), from dispensing
2 medical cannabis, paraphernalia, and related supplies to or on
3 behalf of a registered qualifying patient.

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

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

31 e. As used in this section:

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

46 “Vapor product” means any device that may be used to deliver
47 any aerosolized or vaporized substance to the person inhaling from
48 the device, including, but not limited to, an e-cigarette, e-cigar, e-

1 pipe, vape pen, or e-hookah. "Vapor product" includes any
2 component, part, or accessory of the device, and also includes any
3 substance that may be aerosolized or vaporized by such device,
4 regardless of whether the substance contains nicotine. "Vapor
5 product" does not include any drug, device, or combination product
6 approved by the federal Food and Drug Administration pursuant to
7 the "Federal Food, Drug, and Cosmetic Act,"
8 21 U.S.C. ss.301 et seq.

9
10 15. (New section) A person shall not engage in a retail sale of
11 or vapor products in this State unless the sale is a face-to-face sale,
12 except that a person may engage in a non-face-to-face sale of a
13 vapor product to a person in this State if the following conditions
14 are met:

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

22 b. The seller has, before mailing or shipping the vapor product:

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

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

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

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

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

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

43 c. Nothing in this section shall relieve the seller of vapor
44 products from any other applicable requirement of law relating to
45 the sale of vapor products.

46
47 16. (New section) a. The director shall adopt, by regulation,
48 requirements for the establishment of an electronic database that

1 shall be used to track all vapor products sold in New Jersey for the
2 purpose of ensuring product integrity and compliance with
3 applicable State and federal laws. Information in the database shall
4 include, but shall not limited to, the manufacturer of the product
5 and the batch, lot, and serial numbers of the product, consumer
6 safety alerts for the product, and any other information as may be
7 required by the director.

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

17
18 17. This act shall take effect July 1, 2023.
19
20

21 STATEMENT

22
23 This bill increases the penalties that apply to any retailer that
24 sells tobacco or vapor products to a person younger than 21 years of
25 age. Current law provides that a person who violates the
26 prohibition against underage sales is liable to a civil penalty of not
27 less than \$250 for a first offense, not less than \$500 for a second
28 offense, and \$500 for a third or subsequent offense. In addition, a
29 person's cigarette retail dealer license may be suspended following
30 a first violation or revoked following a second or subsequent
31 violation, based on the recommendation of the municipality and
32 following a hearing, provided that the current law allows for the
33 imposition of an administrative penalty in lieu of suspension or
34 revocation.

35 The bill will increase these penalties to \$500 for a first offense,
36 \$1,000 for a second offense, and \$2,000 for a third or subsequent
37 offense, and clarify that all penalties are assessed against the
38 retailer where the prohibited sale is made, and not against an
39 employee who makes a prohibited sale. The bill further provides
40 for mandatory three-year suspension of a retail dealer or vapor
41 business license following a third and each subsequent violation,
42 except that a license may be revoked following a fourth or
43 subsequent violation, based on the recommendation of the
44 municipality. A retailer subject to adverse licensure action will also
45 be subject to administrative penalties. The bill removes language
46 authorizing the assessment of an administrative penalty in lieu of
47 license suspension or revocation. The bill does not revise the

1 penalties that apply to sales of adult use cannabis items to persons
2 under 21 years of age.

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.