

SENATE, No. 1039

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 31, 2022

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 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 P.L. _____, c.
41 (pending before the Legislature as this bill), no tobacco product
42 may be sold or distributed unless the person conducting the sale or
43 distribution verifies the purchaser's age using an electronic age
44 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 P.L. __,
13 c. (pending before the Legislature as this bill), the person making
14 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

1 (3) that the sale or distribution of the [tobacco product,
2 electronic smoking device, or] cannabis item was made in good
3 faith, relying upon the production of the identification set forth in
4 paragraph (1) of this subsection, the appearance of the purchaser or
5 recipient, and in the reasonable belief that the purchaser or recipient
6 was of legal age to purchase or receive the [tobacco product,
7 electronic smoking device, or] cannabis item.

8 c. A penalty imposed pursuant to this section shall be in
9 addition to any penalty that may be imposed pursuant to [section 1
10 of P.L.2000, c.87 (C.2A:170-51.4) concerning tobacco products or
11 electronic smoking devices, or] section 64 of P.L.2021, c.16
12 (C.2C:35-10d) or section 6 of P.L.2021, c.25 (C.2A:170-51.11)
13 concerning cannabis items.
14 (cf: P.L.2021, c.25, s.10)
15

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

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

28 (b) Except as provided in subsection (c) of this section, grants
29 from the special projects and development fund for specific
30 purposes shall be made on an annual basis for a period not in excess
31 of 5 years and such grants shall be in diminishing amounts during
32 this period. The commissioner shall determine the conditions
33 applicable to each such grant including the extent of local financial
34 participation to be required. Grants from the special projects and
35 development fund to voluntary health agencies shall not exceed
36 40% of said fund.

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

1 available funds, annually, for incentive grants to local health
2 agencies to enhance enforcement efforts.

3 Each grant recipient shall report quarterly to the commissioner
4 on the number of compliance check inspections it has completed
5 and the results of those compliance checks. The commissioner shall
6 determine any other conditions applicable to the grants.

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

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

13

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

16 2. a. The Commissioner of Health is authorized to enforce the
17 provisions of section 1 of P.L.2000, c.87 (C.2A:170-51.4) with
18 respect to the prohibition on the sale and commercial distribution of
19 tobacco products to persons under 21 years of age. The
20 commissioner may delegate the enforcement authority provided in
21 this section to local health agencies, subject to the availability of
22 sufficient funding. The commissioner shall report quarterly to the
23 Legislature on the enforcement program's progress, use of grants
24 awarded pursuant to section 7 of P.L.1966, c.36 (C.26:2F-7), results
25 of enforcement efforts and other matters the commissioner deems
26 appropriate. The commissioner shall establish standards for
27 compliance inspections, including undercover compliance
28 purchases, conducted by the Department of Health and local health
29 agencies, which standards may include annual reporting by local
30 health agencies conducting a compliance inspection concerning the
31 number of inspections conducted, the number of violations cited,
32 the amounts of any penalties collected, and any adverse actions
33 taken against a retailer's tobacco retail dealer license or vapor
34 business license.

35 b. The Department of the Treasury shall provide the
36 commissioner with information about retail tobacco dealer licensees
37 and vapor business licenses necessary to carry out the purpose of
38 this section.

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

40

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

43 202. a. All licenses shall be issued by the director, who shall
44 make rules and regulations respecting applications therefor and
45 issuance thereof.

46 b. The following individuals related to distributors, wholesale
47 dealers, retail dealers operating more than nine cigarette vending
48 machines, and retail dealers who sell cigarettes at retail at more

1 than nine premises shall submit with applications for a license,
2 fingerprints, which shall be processed through the Federal Bureau
3 of Investigation and the New Jersey State Police, and such other
4 information as the director may require:

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

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

8 (3) Joint venturers in a joint venture.

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

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

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

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

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

46 (2) The director shall not issue a license under this act to a
47 person that is a manufacturer or importer of cigarettes, tobacco
48 products or processed tobacco if the manufacturer or importer does

1 not possess a valid federal permit issued pursuant to section 5713 of
2 the federal Internal Revenue Code of 1986, 26 U.S.C. s.5713, that is
3 not suspended or revoked.

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

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

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

30 As used in this subsection:

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

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

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

1 h. For each license issued to a distributor there shall be paid to
2 the director a fee of \$350.00. If a distributor sells or intends to sell
3 cigarettes at two or more places of business, whether established or
4 temporary, a separate license shall be required for each place of
5 business. Each license, or certificate, thereof, and such other
6 evidence of license shall be exhibited in the place of business for
7 which it is issued and in such manner as may be prescribed by the
8 director. The director shall require each licensed distributor to file
9 with him a bond in an amount not less than the average monthly
10 value of the cigarette stamps used by the licensed distributor to
11 guarantee the proper performance of his duties and the discharge of
12 his liabilities under this act. The bond shall be executed by such
13 licensed distributor as principal, and by a corporation approved by
14 the director and duly authorized to engage in business as a surety
15 company in the State of New Jersey, as surety. The bond shall run
16 concurrently with the distributor's license.

17 For each license issued to a manufacturer, and for each
18 continuance thereof, there shall be paid to the director a fee of
19 \$10.00.

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

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

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

1 shall determine and certify to the State Treasurer on a monthly basis
2 the amount of revenues collected by the director which are to be
3 credited to the special projects and development fund in the
4 Department of Health.

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

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

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

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

1 license, or certificate thereof, upon a change in the location of the
2 place of business of any distributor or dealer.

3 i. The director shall require an applicant for a cigarette retail
4 dealer license, including a license to operate a vending machine for
5 the sale of cigarettes, to include on the application the address of
6 the place of business where the cigarettes will be sold or the address
7 where the vending machine will be located, as the case may be.

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

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

13
14 8. Section 2 of P.L.1987, c.423 (C.54:40A-4.1) is amended to
15 read as follows;

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

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

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

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

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

34
35 9. Section 4 of P.L.2005, c.85 (C.54:40A-49) is amended to
36 read as follows:

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

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

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

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

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

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

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

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

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

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

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

22
23 10. Section 4 of P.L.2019, c.147 (C.54:40B-3.3) is amended to
24 read as follows:

25 4. a. After the effective date of P.L.2019, c.147 (C.54:40B-
26 3.3 et al.), container e-liquid shall not be sold at retail in the State
27 except by a licensed vapor business.

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

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

43 No license shall be issued to any person except upon the
44 payment of a **【\$50】** \$500 fee. No license shall be assignable or
45 transferable, but in the case of death, bankruptcy, receivership, or
46 incompetency of the licensee, or if, for any other reason
47 whatsoever, the business of the licensee shall devolve upon another
48 by operation of law, the director may, in the director's discretion,

1 extend said license for a limited time to the executor, administrator,
2 trustee, receiver, or person upon whom the same has devolved.

3 The director shall require an applicant for a vapor business
4 license, to include on the application the address of the place of
5 business where the container e-liquid will be sold. If the place of
6 business is moved to a different address than that provided on the
7 license application, the licensee shall notify the director within 30
8 days of the change of address.

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

26

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

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

44

45 12. (New section) a. It shall be unlawful for a retailer, either
46 directly or indirectly by an agent or employee, or by a vending
47 machine owned by the retailer or located in the retailer's
48 establishment, to sell, offer for sale, give, furnish, or distribute for

1 commercial purpose at no cost or minimal cost or with coupons or
2 rebate offers, to any person any electronic smoking device that is
3 designed to mimic the appearance of another object, when the
4 appearance of the electronic smoking device makes it difficult for
5 the average person to determine, based on casual observance,
6 whether the item is the object it is designed to mimic or an
7 electronic smoking device. Prohibited designs shall include, but
8 shall not be limited to, electronic smoking devices designed to
9 resemble a pen or other writing utensil, flash drive or universal
10 serial bus drive, mobile phone, clothing, jewelry, cosmetic product,
11 eating utensil, or personal hygiene product, provided that nothing in
12 this section shall be construed to prohibit the sale, offer for sale, or
13 commercial distribution of an electronic smoking device designed
14 to resemble a product traditionally used for the consumption of
15 tobacco, including a cigarette, cigarette pack, pipe, cigar, or
16 hookah.

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

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

37 (1) shall, upon a third and each subsequent violation of the
38 provisions of subsection a. of this section, following a hearing by
39 the municipality, suspend, for a period of not less than three years,
40 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
41 3.3) of a vapor business; and

42 (2) notwithstanding the provisions of paragraph (1) of this
43 subsection, upon a fourth or subsequent violation of the provisions
44 of subsection a. of this section, may, upon recommendation by the
45 municipality and following a hearing by the municipality, revoke
46 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
47 3.3) of a vapor business.

1 The licensee shall additionally be subject to administrative
2 charges, based on a schedule issued by the Director of the Division
3 of Taxation.

4 d. As used in this section, “electronic smoking device” means
5 any device that may be used to deliver any aerosolized or vaporized
6 substance to the person inhaling from the device, including, but not
7 limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
8 Electronic smoking device includes any component, part, or
9 accessory of the device, and also includes any substance that may
10 be aerosolized or vaporized by such device, regardless of whether
11 the substance contains nicotine. “Electronic smoking device” does
12 not include any drug, device, or combination product approved by
13 the federal Food and Drug Administration pursuant to the “Federal
14 Food, Drug, and Cosmetic Act,” 21 U.S.C. ss.301 et seq.
15

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

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

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

39 (2) that the appearance of the purchaser or recipient of the
40 tobacco product was such that an ordinary prudent person would
41 believe the purchaser or recipient to be of legal age to purchase or
42 receive the tobacco product; and

43 (3) that the sale or distribution of the tobacco product was made
44 in good faith, relying upon the production and, commencing 90
45 days after the effective date of P.L. , c. (pending before the
46 Legislature as this bill), verification of the identification set forth in
47 paragraph (1) of this subsection, the appearance of the purchaser or

1 recipient, and in the reasonable belief that the purchaser or recipient
2 was of legal age to purchase or receive the tobacco product.

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

39 14. (New section) a. No person, either directly or indirectly by
40 an agent or employee, or by a vending machine located on the
41 premises, shall sell or offer for sale at a pharmacy practice site that
42 has been issued a permit under P.L.2003, c.280 (C.45:14-
43 40 et seq.), or at a business entity that has a pharmacy practice site
44 located on its premises, any tobacco product.

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

1 federal Food and Drug Administration, and nothing in subsection a.
2 of this section shall be construed to prohibit a pharmacy practice
3 site, or a business entity that has a pharmacy practice site located on
4 its premises, that has been issued a medical cannabis dispensary
5 permit pursuant to the “Jake Honig Compassionate Use Medical
6 Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.), from dispensing
7 medical cannabis, paraphernalia, and related supplies to or on
8 behalf of a registered qualifying patient.

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

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

36 e. As used in this section:

37 “Tobacco product” means: any product containing, made of, or
38 derived from tobacco or nicotine that is intended for human
39 consumption or is likely to be consumed, whether inhaled,
40 absorbed, or ingested by other means, including, but not limited to,
41 a cigarette, cigar, pipe tobacco, chewing tobacco, snuff, or snus;
42 any vapor product; and any component, part, or accessory of a
43 product containing, made of, or derived from tobacco or nicotine or
44 a vapor product, regardless of whether the component, part, or
45 accessory contains tobacco or nicotine. “Tobacco product”
46 includes, but is not limited to, filters, rolling papers, blunt or hemp
47 wraps, hookahs, and pipes. “Tobacco product” does not include
48 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 pursuant to
12 the “Federal Food, Drug, and Cosmetic Act,”
13 21 U.S.C. ss.301 et seq.
14

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

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

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

28 (1) obtained from the purchaser reliable confirmation that the
29 purchaser is at least 21 years old and a statement by the purchaser
30 under penalty of perjury certifying the purchaser's date of birth and
31 address;

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

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

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

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

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

1 subsequent violation, based on the recommendation of the
2 municipality. A retailer subject to adverse licensure action will also
3 be subject to administrative penalties. The bill removes language
4 authorizing the assessment of an administrative penalty in lieu of
5 license suspension or revocation. The bill does not revise the
6 penalties that apply to sales of adult use cannabis items to persons
7 under 21 years of age.

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

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

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

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

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

47 The current penalties for sale of a vaping liquid that is not in a
48 child-resistant container are \$250 for a first violation, \$500 for a

1 second violation, and \$1,000 for a third or subsequent violation, in
2 addition to possible license suspension or revocation. The bill
3 makes these penalties applicable to any sale prohibited under the
4 bill, and doubles the penalties to \$500 for a first offense, \$1,000 for
5 a second offense, and \$2,000 for a third or subsequent offense. In
6 addition, a retailer will be subject to a mandatory three-year license
7 suspension following a third and each subsequent violation, and a
8 potential license revocation following a fourth or subsequent
9 violation, if recommended by the municipality. Violators subject to
10 adverse licensure action will also be subject to administrative
11 penalties.

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

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

38 The bill requires the Commissioner of Health to establish
39 standards for compliance inspections, including undercover
40 compliance purchases, conducted by the Department of Health and
41 by local boards of health, which may include annual reporting
42 concerning the results of compliance inspections.

43 Current law provides for a \$50 licensure fee for tobacco retail
44 dealers and vapor businesses. The bill increases these licensure
45 fees to \$500. The bill further authorizes municipalities to assess an
46 additional permit fee against vapor businesses, provided that the full
47 amount of any permit fees collected, less administrative costs, are to

1 be used to fund compliance inspections, including undercover
2 compliance purchases, made by the local health agency.

3 The bill prohibits pharmacy practice sites, and business entities
4 that have a pharmacy practice site located on the premises, from
5 selling or offering for sale any tobacco product, including vapor
6 products. A violation of this prohibition will be punishable by a
7 civil penalty of \$1,000 for a first offense and \$2,000 for a second or
8 subsequent offense. In addition, pharmacy practice sites will be
9 subject to disciplinary action by the Board of Pharmacy, and
10 business entities with a pharmacy practice site located on the
11 premises will be subject to disciplinary action by any agency,
12 board, or office having jurisdiction. The prohibition will not apply
13 to smoking cessation products approved by the federal Food and
14 Drug Administration, and will not restrict the dispensing of medical
15 cannabis and related supplies if the pharmacy holds a medical
16 cannabis dispensary permit.

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