

SENATE, No. 3372

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 3, 2024

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Prohibits delivery of electronic smoking devices and tobacco products to individuals under 21 years of age.

CURRENT VERSION OF TEXT

As introduced.



S3372 POU

2

1 AN ACT concerning electronic smoking devices and tobacco
2 products, amending P.L.2000, c.87 and P.L.1999, c.90, and
3 supplementing Title 24 of the New Jersey Statutes.

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

7
8 1. (New section) a. No person shall complete a delivery of a
9 tobacco product or electronic smoking device to a residence without
10 first obtaining, upon delivery of the tobacco product or electronic
11 smoking device, the signature of an individual who is at least 21
12 years of age and who resides in that residence. Consistent with
13 federal law, the provisions of this subsection shall not apply to an
14 individual performing his or her assigned duties as an employee of
15 the United States Postal Service.

16 b. A violation of this section shall constitute a violation of
17 subsection a. of section 1 of P.L.2000, c.87 (C.2A:170-51.4) and
18 section 3 of P.L.1999, c.90 (C.2C:33-13.1).

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

22 1. a. No person, either directly or indirectly by an agent or
23 employee, or by a vending machine owned by the person or located
24 in the person's establishment, shall sell, offer for sale, complete a
25 delivery to a residence without first obtaining, upon delivery, the
26 signature of an individual who is at least 21 years of age and who
27 resides in that residence, distribute for commercial purpose at no
28 cost or minimal cost or with coupons or rebate offers, give or
29 furnish, to a person under 21 years of age:

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

33 (2) any electronic smoking device that can be used to deliver
34 nicotine or other substances to the person inhaling from the device,
35 including, but not limited to, an electronic cigarette, cigar, cigarillo,
36 or pipe, or any cartridge or other component of the device or related
37 product.

38 Consistent with federal law, the provisions of this subsection
39 shall not apply to an individual performing his or her assigned
40 duties as an employee of the United States Postal Service.

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

44 (1) that the purchaser of the tobacco product or electronic
45 smoking device, the individual signing for the delivery of the

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 tobacco product or electronic smoking device, or the recipient of
2 the promotional sample falsely represented, by producing either a
3 driver's license or non-driver identification card issued by the New
4 Jersey Motor Vehicle Commission, a similar card issued pursuant to
5 the laws of another state or the federal government of Canada, or a
6 photographic identification card issued by a county clerk, that the
7 purchaser or recipient was of legal age to make the purchase, sign
8 for the delivery, or receive the sample;

9 (2) that the appearance of the purchaser of the tobacco product
10 or electronic smoking device, the individual signing for the delivery
11 of the tobacco product or electronic smoking device, or the
12 recipient of the promotional sample was such that an ordinary
13 prudent person would believe the purchaser or recipient to be of
14 legal age to make the purchase, sign for the delivery, or receive the
15 sample; and

16 (3) that the sale, delivery, or distribution of the tobacco product
17 or electronic smoking device was made in good faith, relying upon
18 the production of the identification set forth in paragraph (1) of this
19 subsection, the appearance of the purchaser, signer, or recipient,
20 and in the reasonable belief that the purchaser, signer, or recipient
21 was of legal age to make the purchase or receive the sample.

22 c. A person who violates the provisions of subsection a. of this
23 section, including an employee of a retail dealer licensee under
24 P.L.1948, c.65 (C.54:40A-1 et seq.) who actually sells or otherwise
25 provides a tobacco product to a person under 21 years of age, shall
26 be liable to a civil penalty of not less than \$250 for the first
27 violation, not less than \$500 for the second violation, and \$1,000
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 d. In addition to the provisions of subsection c. 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 suspend or, after a second or subsequent violation
46 of the provisions of subsection a. of this section, revoke the license
47 issued under section 202 of P.L.1948, c.65 (C.54:40A-4) of a retail
48 dealer. The licensee shall be subject to administrative charges,

S3372 POU

1 based on a schedule issued by the Director of the Division of
2 Taxation, which may provide for a monetary penalty in lieu of a
3 suspension.

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

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

11 3. a. A person who delivers, sells, or gives to a person under
12 21 years of age any cigarettes made of tobacco or of any other
13 matter or substance which can be smoked, or any cigarette paper or
14 tobacco in any form, including smokeless tobacco, or any electronic
15 smoking device that can be used to deliver nicotine or other
16 substances to the person inhaling from the device, including, but not
17 limited to, an electronic cigarette, cigar, cigarillo, or pipe, or any
18 cartridge or other component of the device or related product,
19 including an employee of a retail dealer licensee under
20 P.L.1948, c.65 (C.54:40A-1 et seq.) who actually sells or otherwise
21 provides a tobacco product or electronic smoking device to a person
22 under 21 years of age, shall be punished by a fine as provided for a
23 petty disorderly persons offense. Consistent with federal law, the
24 provisions of this subsection shall not apply to an individual
25 performing his or her assigned duties as an employee of the United
26 States Postal Service. A person who has been previously punished
27 under this section and who commits another offense under it may be
28 punishable by a fine of twice that provided for a petty disorderly
29 persons offense.

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

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

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

46 (3) that the delivery, sale, or distribution of the tobacco product
47 or electronic smoking device was made in good faith, relying upon
48 the production of the identification set forth in paragraph (1) of this

1 subsection, the appearance of the purchaser or recipient, and in the
2 reasonable belief that the purchaser or recipient was of legal age to
3 purchase or receive the tobacco product or electronic smoking
4 device.

5 c. A penalty imposed pursuant to this section shall be in
6 addition to any penalty that may be imposed pursuant to section 1
7 of P.L.2000, c.87 (C.2A:170-51.4).
8 (cf: P.L.2017, c.118, s.3)

9
10 4. The Department of Health, pursuant to the "Administrative
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), may adopt
12 rules and regulations as are necessary to effectuate the provisions of
13 this act.

14
15 5. This act shall take effect 180 days after enactment.

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STATEMENT

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20 This bill prohibits the delivery of electronic smoking devices to
21 individuals under the age of 21. Under the bill, it is unlawful to
22 deliver an electronic smoking device or tobacco product to a
23 residence without first obtaining, upon delivery, the signature of an
24 individual who is at least 21 years and who resides in that
25 residence. A person who violates the provisions of the bill is to be
26 subject to the civil and criminal penalties that apply to individuals
27 who sell or furnish tobacco products and electronic smoking
28 devices to persons under 21 years of age.

29 The bill provides that the prohibition on the delivery of tobacco
30 products and electronic smoking devices to individuals under the
31 age of 21 is not to apply to an individual performing his or her
32 assigned duties as an employee of the United States Postal Service.