

## CHAPTER 91

AN ACT concerning tobacco products and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:170-51.5 Findings, declarations relative to flavored cigarettes.

1. The Legislature finds and declares that:

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

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

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

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

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

C.2A:170-51.6 Sales, distribution of certain flavored cigarettes prohibited; definitions; violations, penalties.

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

As used in this section:

(1) "characterizing flavor other than tobacco, clove or menthol" means that: the cigarette, or any smoke emanating from that product, imparts a distinguishable flavor, taste or aroma other than tobacco, clove or menthol prior to or during consumption, including, but not limited to, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice flavoring; or the cigarette or any component part thereof is advertised or marketed as having or producing any such flavor, taste or aroma;

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

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

b. A person who violates the provisions of subsection a. of this section shall be liable to a civil penalty of not less than \$250 for the first violation, not less than \$500 for the second violation, and \$1,000 for the third and each subsequent violation. The civil penalty shall be

collected pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary proceeding before the municipal court having jurisdiction. An official authorized by statute or ordinance to enforce the State or local health codes or a law enforcement officer having enforcement authority in that municipality may issue a summons for a violation of the provisions of subsection a. of this section, and may serve and execute all process with respect to the enforcement of this section consistent with the Rules of Court. A penalty recovered under the provisions of this subsection shall be recovered by and in the name of the State by the local health agency. The penalty shall be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

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

3. This act shall take effect on the 60th day after enactment.

Approved October 1, 2008.