

CHAPTER 396

AN ACT concerning sales of tobacco and vapor 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:170-51.11 Prohibitions concerning sale of tobacco, vapor products at retail; violations, penalties.

1. a. No person shall, either directly or indirectly by an agent or employee, when engaging in the sale or offer for sale of any tobacco or vapor product to a consumer at retail:

- (1) offer, provide, or accept coupons, including online coupons;
- (2) offer or provide price reduction promotions, including online promotional discount codes; or
- (3) offer or provide price rebates.

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 a license issued under section 202 of P.L.1948, c.65 (C.54:40A-4) of a retail dealer. 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.

d. A penalty imposed pursuant to this section shall be in addition to any other penalty that may be imposed in connection with the offense.

e. Nothing in this section shall apply to coupons, price reductions, or price rebates for smoking cessation products, including gum, lozenges, or other aids to smoking cessation approved by the federal Food and Drug Administration, and nothing in this section shall be construed to prohibit a medical cannabis dispensary or clinical registrant issued a permit pursuant to P.L.2009, c.307 (C.24:6I-1 et al.) from using coupons, price reductions, or price rebates in connection with medical cannabis, paraphernalia, or other related products dispensed to or on behalf of a registered qualifying patient.

Nothing in this section shall be construed to impose liability on news media that accept or public advertising that may include coupons, price reductions, or rebates that violate the provisions of this section.

f. As used in this section:

“Tobacco product” means cigarettes made of tobacco or of any other matter or substance which can be smoked, or any cigarette paper or tobacco in any form, including smokeless tobacco.

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

2. This act shall take effect on the first day of the second month next following the date of enactment.

Approved January 21, 2020.