

State of Tennessee

PUBLIC CHAPTER NO. 353

SENATE BILL NO. 411

By Overbey, Massey

Substituted for: House Bill No. 309

By McDaniel, Cameron Sexton, Williams, Gravitt, Stewart, Armstrong, Powell, Byrd, Lamberth, Hardaway, Harry Brooks, Dunlap, Todd, Towns, Lollar, Butt, Mark White, Kane, Moody

AN ACT to amend Tennessee Code Annotated, Title 4; Title 39; Title 47; Title 49; Title 62; Title 63 and Title 68, relative to vapor products.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-1501, is amended by deleting the section and substituting the following:

This part shall be known and may be cited as the "Prevention of Youth Access to Tobacco and Vapor Products Act."

SECTION 2. Tennessee Code Annotated, Section 39-17-1502(b), is amended by deleting the language "electronic cigarettes" wherever it appears and substituting the language "vapor products".

SECTION 3. Tennessee Code Annotated, Section 39-17-1503, is amended by deleting subdivision (4) and adding the following, appropriately designated subdivision:

() "Vapor product":

(A) Means any noncombustible product containing nicotine or any other substance that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce or emit vapor;

(B) Includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product, and any vapor cartridge or other container of a solution containing nicotine or any other substance that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product; and

(C) Does not include any product regulated under Chapter V of the Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.).

SECTION 4. Tennessee Code Annotated, Section 39-17-1504, is amended by deleting the language "tobacco product" wherever it appears and substituting the language "tobacco or vapor product".

SECTION 5. Tennessee Code Annotated, Section 39-17-1504, is further amended by deleting the language "tobacco products" wherever it appears and substituting the language "tobacco or vapor products".

SECTION 6. Tennessee Code Annotated, Section 39-17-1504(e), is amended by deleting the subsection.

SECTION 7. Tennessee Code Annotated, Section 39-17-1505(a), is amended by deleting the subsection and substituting the following:

It is unlawful for a person who has not attained eighteen (18) years of age to possess either a tobacco or vapor product, to purchase or accept receipt of either product, or to present or offer to any person any purported proof of age that is false, fraudulent, or not actually that person's own for the purpose of purchasing or receiving any tobacco or vapor product.

SECTION 8. Tennessee Code Annotated, Section 39-17-1505(b), is amended by deleting the word "tobacco".

SECTION 9. Tennessee Code Annotated, Section 39-17-1505(c), is amended by deleting the word "tobacco".

SECTION 10. Tennessee Code Annotated, Section 39-17-1505(f), is amended by deleting the subsection and substituting the following:

(f) It is not unlawful for a person under eighteen (18) years of age to handle or transport:

(1) Tobacco, tobacco products, or vapor products as a part of and in the course of the person's employment; provided, that the person is under the supervision of another employee who is at least twenty-one (21) years of age; or

(2) Tobacco or vapor products as part of an educational project that has been developed by the person for entry and display at an agricultural fair or other agricultural competition or event.

SECTION 11. Tennessee Code Annotated, Section 39-17-1509(c), is amended by deleting the subsection and substituting the following:

A person who demanded, was shown, and reasonably relied upon proof of age is not liable for a civil penalty for a violation of § 39-17-1504 or § 39-17-1507. In the case of distribution of any tobacco or vapor product by mail, a person who obtained a statement from the addressee that the addressee is at least eighteen (18) years of age is not liable for a civil penalty so long as that distributor of the tobacco or vapor product informed the addressee that § 39-17-1504 prohibits the distribution of tobacco and vapor products to a person under eighteen (18) years of age.

SECTION 12. Tennessee Code Annotated, Section 39-17-1509(d), is amended by deleting the language "at which tobacco products are sold" wherever it appears and substituting the language "at which any tobacco or vapor product is sold".

SECTION 13. Tennessee Code Annotated, Title 39, Chapter 17, Part 15, is amended by adding the following language as a new section:

(a) As used in this section, "liquid nicotine container":

(1) Means a bottle or other container that contains liquid nicotine or any other substance containing nicotine, where the liquid or other substance is sold, marketed, or intended for use in a vapor product; and

(2) Does not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in a vapor product; provided, that such cartridge is prefilled and sealed by the manufacturer, and not intended to be opened by the consumer.

(b) Unless specifically preempted by federal law, a liquid nicotine container used in conjunction with a vapor product that is sold at retail in this state shall satisfy the child-resistant effectiveness standards under 16 CFR 1700.15(b)(1) when tested in accordance with the requirements of 16 CFR 1700.20.

SECTION 14. Tennessee Code Annotated, Title 39, Chapter 17, Part 15, is amended by adding the following as a new section:

The department of agriculture is urged to study the effects of the sale and distribution of vapor products to persons under the age of eighteen (18) and is encouraged to make recommendations to the legislature with regard to reducing such sale and distribution.

SECTION 15. Tennessee Code Annotated, Title 68, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

Using a science and experience-based approach, the department of health shall develop and implement comprehensive tobacco prevention programs for this state. These programs shall include, when available, peer-reviewed and science-based educational materials on tobacco harm reduction and the comparative risks of alternative nicotine products, vapor products, smokeless tobacco products, cigarettes, and other combustible tobacco products.

SECTION 16. Section 13 of this act shall take effect January 1, 2016, the public welfare requiring it. All other sections shall take effect July 1, 2015, the public welfare requiring it.

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PASSED: April 20, 2015

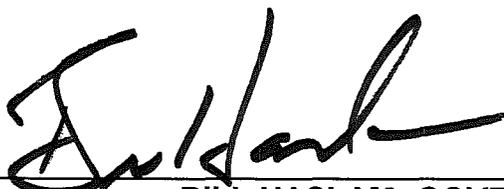


RON RAMSEY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of May 2015



BILL HASLAM, GOVERNOR