

# **Regulation of Vaporizing Products and the Prevention of Electronic Cigarette Use by Minors**

## **Sec. 1. Definitions**

“Vaporizing Products” are electronic devices which employ a battery to power a heating chamber that converts a liquid solution containing tobacco-derived nicotine, through a non-combustive process, into a vapor or vapor-like mist. The definition includes electronic cigarettes, electronic cigars, electronic cigarillos, and electronic pipes, which are personal Vaporizing Products on which users inhale through a mouthpiece.

Vaporizing Products are not:

- (a) “cigarettes” as defined in 18 USC § 2341;
- (b) a product that is a drug under 21 USC § 321(g)(1);
- (c) a product that is a device under 21 USC 321(h);
- (d) a combination product as described in 21 USC 353(g);
- (e) a “tobacco product” as described in 21 USC 387(a);
- (f) “modified risk tobacco products” as described in 21 USC 387(k).

## **Sec. 2. Distribution of Vaporizing Products to or possession by persons under 18 years of age prohibited.**

- (a) A 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, may not sell, offer for sale, give, or furnish any Vaporizing Product or any component to a person under 18 years of age.
- (b) Before selling, offering for sale, giving, or furnishing any Vaporizing Product, or any cartridge or component of any Vaporizing Product, to another person, the person selling, offering for sale, giving or furnishing the Vaporizing Product shall verify that the person is at least 18 years of age by:
  - (1) examining from any person that appears to be under 27 years of age a government-issued photographic identification that establishes the person is at least 18 years of age or;
  - (2) for sales made through the Internet or other remote sales methods, performing an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the person during the ordering process that establishes the person is 18 years of age or older.

- (c) No minor under 18 years of age shall possess, purchase or attempt to purchase any Vaporizing Product.
  - (1) In the furtherance, or facilitation of obtaining any Vaporizing Product no minor shall display or use a false or forged identification card or transfer, alter, or deface an identification card.
  - (2) It is not a violation of this Act for a person under 18 years of age to purchase or possess a Vaporizing Product if the person under the age of 18 purchases or is given the Vaporizing Product from a retail seller of Vaporizing Products or an employee of the retail seller pursuant to a plan or action to investigate, patrol, or otherwise conduct a “sting operation” or enforcement action against a retail seller of Vaporizing Products or on any premises authorized to sell Vaporizing Products to determine if Vaporizing Products are being sold or given to persons under 18 years of age if the “sting operation” or enforcement action is approved by the Department of State Police, the county sheriff, a municipal police department, the Department of Public Health, or a local health department.

### **Sec. 3. Penalties.**

- (a) Any person who violates subsection (a), (b), or (c) Section 2 of this Act is guilty of an offense and for the first offense shall be fined \$200, \$400 for the second offense in a 12-month period, and \$600 for the third or any subsequent offense in a 12-month period.
- (b) If a minor violates subsection (c) of Section 2 he or she is guilty of a petty offense and the court may impose a sentence of 4 hours of community service, a fine of \$25 plus court costs and/or completion of a diversion program for a first violation.
- (c) A second violation by a minor of subsection (c) of Section 2 that occurs within 12 months after the first violation is punishable by 8 hours of community service, a fine of \$50 plus court costs and/or completion of a diversion program.
- (d) A third or subsequent violation by a minor of subsection (c) of Section 2 that occurs within 12 months after the first violation is punishable by a \$100 fine and court costs, 12 hours of community service and/or completion of a diversion program.
- (e) Any second or subsequent violation not within the 12-month time period after the first violation is punishable as provided for a first violation.

### **Sec. 4.**

The provisions of this Act are severable. In the event that any provision of this Act or the application of any provision of this Act is held invalid by a court of law, the invalidity shall not affect any other provisions of the Act or the application of any other provision of the Act that can be given effect without the invalid provisions or application of the invalid provisions.

**Sec. 5. Effective Date.** This Act shall become effective on \_\_\_\_\_.

