

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

'An Act To Prohibit the Sale and Distribution of Flavored Tobacco Products and To Prohibit the Furnishing of Tobacco Products to Minors'

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 17-A MRSA §554, sub-§1, ¶B, as amended by PL 2015, c. 358, §3, is further amended to read:

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age any intoxicating liquor, cigarettes, tobacco product as defined in Title 22, section 1551, subsection 3, air rifles, gunpowder, smokeless powder or ammunition for firearms. Violation of this paragraph is a Class D crime;

Sec. 2. 17-A MRSA §554, sub-§2, ¶A, as amended by PL 2015, c. 358, §3, is further amended to read:

A. The defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of the child under 16 years of age who furnished the child cigarettes, any tobacco product as defined in Title 22, section 1551, subsection 3 or a reasonable amount of intoxicating liquor in the actor's home and presence;

Sec. 3. 22 MRSA §1541, sub-§1-A, as enacted by PL 2015, c. 318, §1, is amended to read:

1-A. Electronic smoking device. "Electronic smoking device" means a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation, a device manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic pipe, electronic hookah or so-called vape pen. "Electronic smoking device" includes any component, part or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. "Electronic smoking device" does not include drugs, devices or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.'

Amend the bill in section 1 in §1560-D in subsection 1 by striking out all of paragraph A (page 1, lines 7 to 19 in L.D.) and inserting the following:

'A. "Characterizing flavor" means a distinguishable taste or aroma of candy, chocolate, vanilla, fruit, berry, nut, herb, spice, honey or an alcoholic drink that is imparted to tobacco or tobacco smoke either prior to or during consumption. "Characterizing flavor" does not include a taste or aroma from tobacco. A cigar is deemed to have a characterizing flavor if the cigar is advertised or marketed as having or producing the taste or aroma of candy, chocolate, vanilla, fruit, berry, nut, herb, spice, honey or an alcoholic drink, other than the taste or aroma of tobacco, menthol, mint or wintergreen,

imparted either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; however, a tobacco product may not be considered to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.'

Amend the bill in section 1 in §1560-D in subsection 1 by striking out all of paragraph C-1 (page 1, lines 28 to 38 in L.D.) and inserting the following:

'C-1. "Electronic smoking device" has the same meaning as in section 1541, subsection 1-A.'

Amend the bill by inserting after section 1 the following:

'Sec. 2. 22 MRSA §1580-F is enacted to read:

§ 1580-F. Furnishing or allowing consumption of tobacco products by certain persons prohibited

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Minor" means a person who has not reached the age of 21 years, unless the person has attained 18 years of age as of July 1, 2018.

B. "Tobacco product" has the same meaning as in section 1551, subsection 3.

2. Offense. Except as provided in subsection 3, a person who is 21 years of age or older may not knowingly:

A. Procure, or in any way aid or assist in procuring, furnish, give, sell or deliver a tobacco product for or to a minor. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a Class D crime.

(2) A person who violates this paragraph commits a Class D crime for which a fine of not less than \$500 may be imposed, none of which may be suspended, if the violation involves a minor who is less than 18 years of age.

(3) A person who violates this paragraph after having been previously convicted of violating this paragraph or paragraph B within a 6-year period commits a Class D crime for which a fine of not less than \$1,000 may be imposed, none of which may be suspended.

(4) A person who violates this paragraph after having been previously convicted of violating this paragraph or paragraph B 2 or more times within a 6-year period commits a Class D crime for which a fine of not less than \$1,500 may be imposed, none of which may be suspended; or

B. Allow a minor under that person's control or in a place under that person's control to possess or consume a tobacco product. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a Class D crime.

(2) A person who violates this paragraph commits a Class D crime for which a fine of not less than \$1,000 may be imposed, none of which may be suspended, if the violation involves a minor who is less than 18 years of age.

(3) A person who violates this paragraph after having been previously convicted of violating this paragraph or paragraph A within a 6-year period commits a Class D crime for which a fine of not less than \$2,000 may be imposed, none of which may be suspended.

3. Exceptions. This section does not apply to a licensee under chapter 262-A or an agent of that licensee in the scope of employment.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment amends the bill by removing the flavors of menthol, mint and wintergreen from the list of flavors prohibited in the bill. It makes the definition of "electronic smoking device" in the bill consistent with the definition of "electronic smoking device" in the Maine Revised Statutes, Title 22.

It also provides that it is a Class D crime for a person who is 21 years of age or older to procure, furnish, give, sell or deliver a tobacco product to a minor or allow a minor under that person's control or in a place under that person's control to possess or consume a tobacco product. It is an exception to this provision if the person provides a tobacco product to a minor in a home in the presence of the minor's parent, guardian or custodian. This provision does not apply to a licensee under the Maine Revised Statutes, Title 22, chapter 262-A or agents of that licensee in the scope of employment. Current law provides that a person is guilty of endangering the welfare of a child if the person knowingly sells, furnishes, gives away or offers to sell, furnish or give away cigarettes to a child under 16 years of age. This amendment instead makes the same conduct illegal with respect to a tobacco product.

FISCAL NOTE REQUIRED

(See attached)