

A3178

SPONSOR'S STATEMENT: (Begins on page 3 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Health &
Senior Services
Appropriations
SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes 1/3/2020
1/16/2020

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

GOVERNOR'S STATEMENT RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

- "Flavored vaping products to be banned in April," Hunterdon County Democrat, January 23, 2020
- "Ban on sale of flavored vape products now law," The Press of Atlantic City, January 22, 2020
- "N.J. first state to ban flavored vaping products," The Star Ledger, January 22, 2020
- "Garden State takes lead in prohibiting flavored," NJBIZ, January 21, 2020
- "MURPHY SIGNS BILLS ON VAPING, SCHOOL LUNCHESES, 'GAY'" The Record, January 22, 2020
- "Vaping products with tempting flavors like mint," The Burlington County Times, January 22, 2020
- "N.J. first state to ban flavored vaping products," The Times, January 22, 2020

Rwh/cl

P.L. 2019, CHAPTER 425, *approved January 21, 2020*
Senate, No. 3265 (*First Reprint*)

1 AN ACT concerning ¹**[electronic smoking devices]** vapor products¹
2 and supplementing Title 2A of the New Jersey Statutes.

3

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

6

7 1. a. No ¹**[person]** retailer¹, either directly or indirectly by an
8 agent or employee, or by a vending machine owned by the
9 ¹**[person]** retailer¹ or located in the ¹**[person's]** retailer's¹
10 establishment, shall sell, offer for sale, distribute for commercial
11 purpose at no cost or minimal cost or with coupons or rebate offers,
12 give or furnish, to a person any ¹**[electronic smoking device or any**
13 **cartridge or other component of the device or other related product,**
14 **including liquid nicotine,]** vapor product¹ that has a characterizing
15 flavor.

16 b. A ¹**[person who]** retailer that¹ violates the provisions of
17 subsection a. of this section shall be liable to a civil penalty of not
18 less than ¹**[\$250]** \$500¹ for the first violation, not less than
19 ¹**[\$500]** \$1,000¹ for the second violation, and ¹**[\$1,000]** not less
20 than \$2,000¹ for the third and each subsequent violation. The civil
21 penalty shall be collected pursuant to the "Penalty Enforcement
22 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary
23 proceeding before the municipal court having jurisdiction. An
24 official authorized by statute or ordinance to enforce the State or
25 local health codes or a law enforcement officer having enforcement
26 authority in that municipality shall issue a summons for a violation
27 of the provisions of subsection a. of this section, and shall serve and
28 execute all process with respect to the enforcement of this section
29 consistent with the Rules of Court. A penalty recovered under the
30 provisions of this subsection shall be recovered by and in the name
31 of the State by the local health agency. The penalty shall be paid
32 into the treasury of the municipality in which the violation occurred
33 for the general uses of the municipality.

34 c. ¹In addition to the provisions of subsection b. of this section,
35 the Division of Taxation in the Department of the Treasury:

36 (1) shall, upon a third and each subsequent violation of the
37 provisions of subsection a. of this section, following a hearing by

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted January 9, 2020.

1 the municipality, suspend, for a period of not less than three years,
2 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
3 3.3) of a vapor business; and

4 (2) notwithstanding the provisions of paragraph (1) of this
5 subsection, upon a fourth or subsequent violation of the provisions
6 of subsection a. of this section, may, upon recommendation by the
7 municipality and following a hearing by the municipality, revoke
8 the license issued under section 4 of P.L.2019, c.147 (C.54:40B-
9 3.3) of a vapor business.

10 A licensee whose license is subject to suspension or revocation
11 shall additionally be subject to administrative charges, based on a
12 schedule issued by the Director of the Division of Taxation.

13 d. Nothing in this section shall be construed to apply to
14 medical cannabis, medical cannabis products, paraphernalia, or
15 related supplies dispensed to or on behalf of a registered qualifying
16 patient pursuant to the “Jake Honig Compassionate Use Medical
17 Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

18 e.¹ As used in this section:

19 "Characterizing flavor" means a distinguishable flavor, taste, or
20 aroma ¹other than tobacco¹, including, but not limited to, any fruit,
21 chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage,
22 herb, ¹mint, menthol, wintergreen,¹ or spice flavoring, that is
23 imparted, prior to or during consumption, by ¹[an electronic
24 smoking device or any cartridge or other component of the device
25 or other related] a vapor¹ product, including ¹[liquid nicotine, or]¹
26 any smoke or vapor emanating from that ¹[device or]¹ product.
27 ¹[An electronic smoking device or any cartridge or other
28 component of the device or other related product, including liquid
29 nicotine,] A vapor product¹ shall be deemed to have a
30 characterizing flavor if the ¹[device, cartridge, component, or
31 related]¹ product is advertised or marketed as having or producing
32 any such distinguishable flavor, taste, or aroma.

33 ¹["Electronic smoking device" means an electronic device that
34 can be used to deliver nicotine or other substances to the person
35 inhaling from the device, including, but not limited to, an electronic
36 cigarette, cigar, cigarillo, hookah, or pipe.

37 "Liquid nicotine" means any solution containing nicotine which
38 is designed or sold for use with an electronic smoking device.]

39 “Vapor product” means any device that may be used to deliver
40 any aerosolized or vaporized substance to the person inhaling from
41 the device, including, but not limited to, an e-cigarette, e-cigar, e-
42 pipe, vape pen, or e-hookah. “Vapor product” includes any
43 component, part, or accessory of the device, and also includes any
44 substance that may be aerosolized or vaporized by such device,
45 regardless of whether the substance contains nicotine. “Vapor
46 product” does not include any drug, device, or combination product
47 approved by the federal Food and Drug Administration pursuant to

1 the “Federal Food, Drug, and Cosmetic Act,”
2 21 U.S.C. s.301 et seq.¹

3

4 2. This act shall take effect ¹**[immediately]** 90 days after the
5 date of enactment¹ .

6

7

8

9

10 Prohibits sale or distribution of flavored vapor products.

SENATE, No. 3265

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED DECEMBER 6, 2018

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Co-Sponsored by:

Senators Beach and Ruiz

SYNOPSIS

Prohibits sale or distribution of flavored electronic smoking devices and related products.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/13/2019)

1 AN ACT concerning electronic smoking devices and supplementing
2 Title 2A of the New Jersey Statutes.

3

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

6

7 1. a. No person, either directly or indirectly by an agent or
8 employee, or by a vending machine owned by the person or located
9 in the person's establishment, shall sell, offer for sale, distribute for
10 commercial purpose at no cost or minimal cost or with coupons or
11 rebate offers, give or furnish, to a person any electronic smoking
12 device or any cartridge or other component of the device or other
13 related product, including liquid nicotine, that has a characterizing
14 flavor.

15 b. A person who violates the provisions of subsection a. of this
16 section shall be liable to a civil penalty of not less than \$250 for the
17 first violation, not less than \$500 for the second violation, and
18 \$1,000 for the third and each subsequent violation. The civil
19 penalty shall be collected pursuant to the "Penalty Enforcement
20 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary
21 proceeding before the municipal court having jurisdiction. An
22 official authorized by statute or ordinance to enforce the State or
23 local health codes or a law enforcement officer having enforcement
24 authority in that municipality shall issue a summons for a violation
25 of the provisions of subsection a. of this section, and shall serve and
26 execute all process with respect to the enforcement of this section
27 consistent with the Rules of Court. A penalty recovered under the
28 provisions of this subsection shall be recovered by and in the name
29 of the State by the local health agency. The penalty shall be paid
30 into the treasury of the municipality in which the violation occurred
31 for the general uses of the municipality.

32 c. As used in this section:

33 "Characterizing flavor" means a distinguishable flavor, taste, or
34 aroma, including, but not limited to, any fruit, chocolate, vanilla,
35 honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice
36 flavoring, that is imparted, prior to or during consumption, by an
37 electronic smoking device or any cartridge or other component of
38 the device or other related product, including liquid nicotine, or any
39 smoke or vapor emanating from that device or product. An
40 electronic smoking device or any cartridge or other component of
41 the device or other related product, including liquid nicotine, shall
42 be deemed to have a characterizing flavor if the device, cartridge,
43 component, or related product is advertised or marketed as having
44 or producing any such distinguishable flavor, taste, or aroma.

45 "Electronic smoking device" means an electronic device that can
46 be used to deliver nicotine or other substances to the person
47 inhaling from the device, including, but not limited to, an electronic
48 cigarette, cigar, cigarillo, hookah, or pipe.

1 "Liquid nicotine" means any solution containing nicotine which
2 is designed or sold for use with an electronic smoking device.

3

4 2. This act shall take effect immediately.

5

6

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STATEMENT

8

9 This bill prohibits the sale, offer for sale, and distribution of
10 electronic smoking devices and related products that have a
11 "characterizing flavor." As used in the substitute, "characterizing
12 flavor" means the electronic smoking device or related product, or
13 any smoke or vapor emanating from that device or product, imparts
14 a distinguishable flavor, taste, or aroma prior to or during
15 consumption, including, but not limited to, any fruit, chocolate,
16 vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or
17 spice flavoring; or the electronic smoking device or related product
18 is advertised or marketed as having or producing any such flavor,
19 taste, or aroma.

20 "Electronic smoking device" is defined to include any electronic
21 device that can be used to deliver nicotine or other substances to the
22 person inhaling from the device, including, but not limited to, an
23 electronic cigarette, cigar, cigarillo, hookah, or pipe. The
24 prohibition established under the substitute extends to any cartridge
25 or other component of the device or other related product, including
26 liquid nicotine, which is defined to mean any solution containing
27 nicotine that is designed or sold for use with an electronic smoking
28 device.

29 A person who violates the prohibition established under the
30 substitute bill will be liable for a civil penalty of not less than \$250
31 for the first violation, not less than \$500 for the second violation,
32 and \$1,000 for the third and each subsequent violation, to be
33 collected in a summary proceeding before the municipal court
34 having jurisdiction. An official authorized by statute or ordinance to
35 enforce the State or local health codes or a law enforcement officer
36 having enforcement authority in that municipality will be required
37 to issue a summons for a violation and serve and execute all process
38 consistent with the Rules of Court. Penalties will be recovered by
39 and in the name of the State by the local health agency, and will be
40 paid into the treasury of the municipality in which the violation
41 occurred for the general uses of the municipality

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 3265

STATE OF NEW JERSEY

DATED: NOVEMBER 14, 2019

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 3265.

This bill prohibits the sale, offer for sale, and distribution of electronic smoking devices and related products that have a “characterizing flavor.” As used in the bill, “characterizing flavor” means the electronic smoking device or related product, or any smoke or vapor emanating from that device or product, imparts a distinguishable flavor, taste, or aroma 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 electronic smoking device or related product is advertised or marketed as having or producing any such flavor, taste, or aroma.

A person who violates the prohibition established under the bill will be liable for 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, to be collected in a summary proceeding before the municipal court having jurisdiction. Penalties will be recovered by and in the name of the State by the local health agency, and will be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3265

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 9, 2020

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3265, with committee amendments.

This bill, as amended, prohibits the sale, offer for sale, and distribution of vapor products that have a “characterizing flavor” other than tobacco. As used in the bill, “characterizing flavor” means the vapor product, or any smoke or vapor emanating from the product, imparts a distinguishable flavor, taste, or aroma prior to or during consumption, including, but not limited to, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, mint, menthol, wintergreen, or spice flavoring; or the vapor product is advertised or marketed as having or producing any such flavor, taste, or aroma.

As used in the bill, “vapor product” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, as well as any component, part, or accessory of the device and any substance that may be aerosolized from the device, regardless of whether the substance contains nicotine.

A retailer who violates the prohibition established under the bill will be liable to a civil penalty of not less than \$500 for the first violation, not less than \$1,000 for the second violation, and not less than \$2,000 for the third and each subsequent violation, to be collected in a summary proceeding before the municipal court having jurisdiction. Penalties will be recovered by and in the name of the State by the local health agency, and will be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality. In addition, licensed vapor businesses will be subject to a mandatory three-year license suspension following a third and each subsequent violation, and may be subject to license revocation upon a fourth or subsequent violation, if recommended by the municipality. Licensed vapor businesses subject to averse licensure action will also be subject to administrative charges.

The prohibitions in the bill will not apply to medical cannabis, paraphernalia, or related supplies dispensed to or on behalf of a registered medical cannabis patient by an alternative treatment center pursuant to the provisions of the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

The bill will take effect 90 days after the date of enactment.

COMMITTEE AMENDMENTS:

The committee amendments double the penalties that would have been assessed under the bill as introduced, from \$250 for a first violation, \$500 for a second violation, and \$1,000 for a third or subsequent violation, to \$500 for a first violation, \$1,000 for a second violation, and \$2,000 for a third or subsequent violation. The amendments clarify that the penalty is to be assessed against the retailer.

The committee amendments add a provision establishing a mandatory three-year license suspension following a third and each subsequent violation, along with administrative charges, for licensed vapor businesses. The committee amendments also provide that a license may be revoked following a fourth or subsequent violation, if recommended by the municipality.

The committee amendments add language clarifying that the prohibition against flavored vapor products does not apply to medical cannabis dispensed under the State medical cannabis program.

The committee amendments clarify that “characterizing flavor” does not include tobacco-flavored vapor products.

The committee amendments revise the definitions used under the bill to replace “electronic smoking device” with “vapor product,” and to clarify that “characterizing flavor” includes menthol, mint, and wintergreen.

The committee amendments revise the effective date of the bill to provide it will take effect 90 days after the date of enactment, rather than immediately.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure increases to the Department of Law and Public Safety, the Administrative Office of the Courts, municipal courts, and local health departments from the additional workload to implement the provisions of the bill and adjudicate violations. The OLS also concludes that the bill’s impact on State revenues is uncertain. The bill may discourage consumers from purchasing certain vapor products, which in turn would reduce State revenue collections from taxes imposed on those products. If the bill results in consumer shifts to other products, such as non-flavored vapor products, cigarettes, or tobacco products, the State may see an offsetting revenue effect or additional revenue collections from the higher tax rates imposed on those alternative products. The OLS also finds this legislation will result in additional annual municipal revenue from penalties received from individuals in violation of the bill’s provisions.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3265
STATE OF NEW JERSEY
218th LEGISLATURE

DATED: DECEMBER 26, 2019

SUMMARY

Synopsis: Prohibits sale or distribution of flavored electronic smoking devices and related products.

Type of Impact: Annual State cost increase; annual local revenue and cost increases.

Agencies Affected: Department of Law and Public Safety; Administrative Office of the Courts; Municipal Courts; and Local Health Departments.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
Local Cost Increase		Indeterminate	
Local Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure increases to the Department of Law and Public Safety, the Administrative Office of the Courts, municipal courts, and local health departments from the additional workload to implement the provisions of the bill and adjudicate violations.
- The OLS also finds this legislation will result in additional annual municipal revenue from penalties received from individuals in violation of the bill’s provisions. The bill establishes 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. Penalties recovered are required to be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

BILL DESCRIPTION

This bill prohibits the sale, offer for sale, and distribution of flavored electronic smoking devices and related products.

A person who violates the prohibition established under the bill will be liable for 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, to be collected in a summary proceeding before the municipal court having jurisdiction. Penalties will be recovered by and in the name of the State by the local health agency, and will be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will cause indeterminate annual expenditure increases to the Department of Law and Public Safety, the Administrative Office of the Courts, municipal courts, and local health departments from the additional workload to enforce the ban on flavored electronic smoking devices and related products. The OLS also finds this legislation will result in indeterminate annual municipal revenue accruing from penalty payments received from violators of the new statutory provisions. The civil penalty established by the bill is a minimum of \$250 for a first offense, a minimum of \$500 for the second offense, and \$1,000 for each subsequent offense. As this is a new offense, the OLS has insufficient data to serve as a basis for projecting the frequency of civil penalty violations subject to the provisions of the bill. The OLS cannot determine 1) the number of violations that will result from the bill's provisions and, by extension, 2) the total of any resultant fine, fee, or assessment collections. The bill requires that any penalties recovered are to be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality. The OLS additionally notes that due to financial constraints many penalties assessed on those persons convicted of crimes are not paid.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3265 STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JANUARY 16, 2020

SUMMARY

- Synopsis:** Prohibits sale or distribution of flavored vapor products.
- Type of Impact:** Indeterminate State revenue impact; annual State cost increase; annual local revenue and cost increases.
- Agencies Affected:** Department of Law and Public Safety;
Department of the Treasury;
Administrative Office of the Courts;
Municipal Courts; and
Local Health Departments.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2020 and Thereafter</u>
State Revenue Impact	Indeterminate
State Cost Increase	Indeterminate
Local Cost Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will cause indeterminate annual expenditure increases to the Department of Law and Public Safety, Department of the Treasury, Administrative Office of the Courts, municipal courts, and local health departments from the additional workload to enforce the ban on vapor products that have a characterizing flavor.
- The bill will result in indeterminate annual municipal revenue accruing from penalty payments received from violators of the new statutory provisions. Penalties recovered are required to be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.
- The OLS also concludes that the bill's net impact on State revenues is uncertain and influenced by multiple factors, such as repeat offenses and changes in consumer behavior.

BILL DESCRIPTION

This bill prohibits the sale, offer for sale, and distribution of vapor products that have a “characterizing flavor” other than tobacco, including, but not limited to, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, mint, menthol, wintergreen, or spice flavoring; or the vapor product is advertised or marketed as having or producing any such flavor, taste, or aroma.

A retailer who violates the prohibition established under the bill will be liable to a civil penalty of not less than \$500 for the first violation, not less than \$1,000 for the second violation, and not less than \$2,000 for the third and each subsequent violation, to be collected in a summary proceeding before the municipal court having jurisdiction for the general uses of municipality. In addition, licensed vapor businesses will be subject to a mandatory three-year license suspension following a third and each subsequent violation, and may be subject to license revocation upon a fourth or subsequent violation, if recommended by the municipality. Licensed vapor businesses subject to averse licensure action will also be subject to administrative charges.

The prohibitions in the bill will not apply to medical cannabis, paraphernalia, or related supplies dispensed to or on behalf of a registered medical cannabis patient by an alternative treatment center. The bill will take effect 90 days after the date of enactment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will cause indeterminate annual expenditure increases to the Department of Law and Public Safety, Department of the Treasury, Administrative Office of the Courts, municipal courts, and local health departments from the additional workload to enforce the ban on vapor products that have a characterizing flavor. The bill will result in indeterminate annual municipal revenue accruing from penalty payments received from violators of the new statutory provisions. The OLS also concludes that the bill’s net impact on State revenues is uncertain and influenced by multiple factors, such as repeat offenses and changes in consumer behavior.

The civil penalty established by the bill is a minimum of \$500 for a first offense, a minimum of \$1,000 for the second offense, and \$2,000 for each subsequent offense. As this is a new offense, the OLS has insufficient data to serve as a basis for projecting the frequency of civil penalty violations subject to the provisions of the bill. The OLS cannot determine 1) the number of violations that will result from the bill’s provisions and, by extension, 2) the total of any resultant fine, fee, or assessment collections. The bill requires that any penalties recovered be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality. The OLS additionally notes that due to financial constraints many penalties assessed on those persons convicted of crimes are not paid.

Concerning State revenue collections, a licensee whose license is subject to suspension or revocation, pursuant to the provisions in the bill for multiple offenses, is subject to administrative charges, based on a schedule issued by the Division of Taxation. Those administrative charges are not required to be deposited into the treasury of any municipality. The OLS cannot predict the

number of licensees who will be multiple offenders or how the Division of Taxation will construct the administrative charge schedule.

The bill will discourage consumers from purchasing certain vapor products prohibited by the bill, which in turn will reduce State revenue collections from the taxes imposed on those products. However, if the bill results in consumer shifts to other products, such as non-flavored vapor products, cigarettes, or tobacco products, the State may see an offsetting revenue effect or additional revenue collections from the higher tax rates imposed on those alternative products.

Currently, certain vapor products are subject to the Tobacco and Vapor Products Tax and the sales tax. Data are not available for sales tax collections, but for the 12-month period beginning September 2018 and ending August 2019, the State collected roughly \$5.1 million from the liquid nicotine portion of the Tobacco and Vapor Products Tax.¹ The OLS notes that the imposition of the Tobacco and Vapor Products Tax on container e-liquid and liquid nicotine changed on November 1, 2019, so these collections do not reflect the current tax environment and are instead meant to demonstrate potential implications of the bill's prohibition.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Revenue Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

¹ Division of Taxation – Tobacco and Vapor Products Monthly Totals
(<https://www.state.nj.us/treasury/taxation/tobacomonthly.shtml>)

ASSEMBLY, No. 3178

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 8, 2018

Sponsored by:

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Co-Sponsored by:

**Assemblywoman Reynolds-Jackson, Assemblyman Houghtaling,
Assemblywoman Downey, Assemblymen Benson, S.Kean, DePhillips and
Assemblywoman Jimenez**

SYNOPSIS

Prohibits sale or distribution of flavored electronic smoking devices and related products.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/15/2019)

1 AN ACT concerning electronic smoking devices and supplementing
2 Title 2A of the New Jersey Statutes.

3

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

6

7 1. a. No person, either directly or indirectly by an agent or
8 employee, or by a vending machine owned by the person or located
9 in the person's establishment, shall sell, offer for sale, distribute for
10 commercial purpose at no cost or minimal cost or with coupons or
11 rebate offers, give or furnish, to a person any electronic smoking
12 device or any cartridge or other component of the device or other
13 related product, including liquid nicotine, that has a characterizing
14 flavor.

15 b. A person who violates the provisions of subsection a. of this
16 section shall be liable to a civil penalty of not less than \$250 for the
17 first violation, not less than \$500 for the second violation, and
18 \$1,000 for the third and each subsequent violation. The civil
19 penalty shall be collected pursuant to the "Penalty Enforcement
20 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary
21 proceeding before the municipal court having jurisdiction. An
22 official authorized by statute or ordinance to enforce the State or
23 local health codes or a law enforcement officer having enforcement
24 authority in that municipality shall issue a summons for a violation
25 of the provisions of subsection a. of this section, and shall serve and
26 execute all process with respect to the enforcement of this section
27 consistent with the Rules of Court. A penalty recovered under the
28 provisions of this subsection shall be recovered by and in the name
29 of the State by the local health agency. The penalty shall be paid
30 into the treasury of the municipality in which the violation occurred
31 for the general uses of the municipality.

32 c. As used in this section:

33 "Characterizing flavor" means a distinguishable flavor, taste, or
34 aroma, including, but not limited to, any fruit, chocolate, vanilla,
35 honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice
36 flavoring, that is imparted, prior to or during consumption, by an
37 electronic smoking device or any cartridge or other component of
38 the device or other related product, including liquid nicotine, or any
39 smoke or vapor emanating from that device or product. An
40 electronic smoking device or any cartridge or other component of
41 the device or other related product, including liquid nicotine, shall
42 be deemed to have a characterizing flavor if the device, cartridge,
43 component, or related product is advertised or marketed as having
44 or producing any such distinguishable flavor, taste, or aroma.

45 "Electronic smoking device" means an electronic device that can
46 be used to deliver nicotine or other substances to the person
47 inhaling from the device, including, but not limited to, an electronic
48 cigarette, cigar, cigarillo, hookah, or pipe.

1 "Liquid nicotine" means any solution containing nicotine which
2 is designed or sold for use with an electronic smoking device.

3

4 2. This act shall take effect immediately.

5

6

7

STATEMENT

8

9 This bill prohibits the sale, offer for sale, and distribution of
10 electronic smoking devices and related products that have a
11 "characterizing flavor." As used in the substitute, "characterizing
12 flavor" means the electronic smoking device or related product, or
13 any smoke or vapor emanating from that device or product, imparts
14 a distinguishable flavor, taste, or aroma prior to or during
15 consumption, including, but not limited to, any fruit, chocolate,
16 vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or
17 spice flavoring; or the electronic smoking device or related product
18 is advertised or marketed as having or producing any such flavor,
19 taste, or aroma.

20 "Electronic smoking device" is defined to include any electronic
21 device that can be used to deliver nicotine or other substances to the
22 person inhaling from the device, including, but not limited to, an
23 electronic cigarette, cigar, cigarillo, hookah, or pipe. The
24 prohibition established under the substitute extends to any cartridge
25 or other component of the device or other related product, including
26 liquid nicotine, which is defined to mean any solution containing
27 nicotine that is designed or sold for use with an electronic smoking
28 device.

29 A person who violates the prohibition established under the
30 substitute bill will be liable for a civil penalty of not less than \$250
31 for the first violation, not less than \$500 for the second violation,
32 and \$1,000 for the third and each subsequent violation, to be
33 collected in a summary proceeding before the municipal court
34 having jurisdiction. An official authorized by statute or ordinance to
35 enforce the State or local health codes or a law enforcement officer
36 having enforcement authority in that municipality will be required
37 to issue a summons for a violation and serve and execute all process
38 consistent with the Rules of Court. Penalties will be recovered by
39 and in the name of the State by the local health agency, and will be
40 paid into the treasury of the municipality in which the violation
41 occurred for the general uses of the municipality

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3178

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 14, 2019

The Assembly Health and Senior Services Committee reports favorably and with committee amendments Assembly Bill No. 3178.

As amended, this bill prohibits the sale, offer for sale, and distribution of electronic smoking devices and related products and cigarettes that have a characterizing flavor.

As used in the bill with regard to electronic smoking devices, "characterizing flavor" means a distinguishable flavor, taste, or aroma, including, but not limited to, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, mint, menthol, or spice flavoring, that is imparted, prior to or during consumption, by an electronic smoking device or any cartridge or other component of the device or other related product, including liquid nicotine, or any smoke or vapor emanating from that device or product. "Characterizing flavor" does not mean a naturally occurring flavor that has not been added to during the manufacture or distribution of the electronic smoking device or any cartridge or other component of the device or other related product.

"Electronic smoking device" means any device that can be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. "Electronic smoking device" includes any component, part, or accessory of the device, and any substance that may be aerosolized or vaporized by the device, whether or not the substance contains nicotine. "Electronic smoking device" does not include drugs, devices, or combination products authorized for sale by the federal Food and Drug Administration under the "Federal Food, Drug, and Cosmetic Act," 21 U.S.C. s.301 et seq.

A retailer who violates the provision of the bill pertaining to electronic smoking devices is to be liable to a civil penalty of not less than \$500 for the first violation, not less than \$750 for the second violation, not less than \$1,000 for the third, and for the fourth and each subsequent violation, not less than \$1,000 and a three-year suspension of the person's retail dealer licensee issued pursuant to P.L.1948, c.65 C.54:40A-1 et seq.

Under the bill, no retailer is to sell or distribute cigarettes, which contain 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. As used in the bill with regard to cigarettes, "characterizing flavor other than tobacco" means that: the cigarette, or any smoke emanating from that product, imparts a distinguishable flavor, taste or aroma other than tobacco prior to or during consumption, excluding a naturally occurring flavor that has not been added to the cigarette during the manufacture or distribution of the cigarette, and including, but not limited to, any menthol, mint, wintergreen, clove, 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. The bill provides that a retailer who violates this provision of the bill pertaining to cigarettes is to 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.

COMMITTEE AMENDMENTS:

The amendments:

- 1) make technical changes to the title and synopsis;
- 2) apply penalties for violations of the bill's provisions to retailers;
- 3) increase penalties for violations of the bill's provision that apply to electronic smoking devices;
- 4) with regard to electronic smoking devices, change the definition of "characterizing flavor" to include mint and menthol and to exclude certain naturally occurring flavors;
- 5) change the definition of "electronic smoking device" as provided in the bill; and
- 6) with regard to cigarettes, remove clove, menthol, mint, and wintergreen as permissible cigarette flavors and clarify that certain naturally occurring flavors are permissible in cigarettes.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3178

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 9, 2020

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3178 (1R), with committee amendments.

As amended by the committee, this bill prohibits the sale, offer for sale, and distribution of vapor products that have a “characterizing flavor” other than tobacco. As used in the bill, “characterizing flavor” means the vapor product, or any smoke or vapor emanating from the product, imparts a distinguishable flavor, taste, or aroma prior to or during consumption, including, but not limited to, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, mint, menthol, wintergreen, or spice flavoring; or the vapor product is advertised or marketed as having or producing any such flavor, taste, or aroma.

As used in the bill, “vapor product” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, as well as any component, part, or accessory of the device and any substance that may be aerosolized from the device, regardless of whether the substance contains nicotine.

A retailer who violates the prohibition established under the bill will be liable to a civil penalty of not less than \$500 for the first violation, not less than \$1,000 for the second violation, and not less than \$2,000 for the third and each subsequent violation, to be collected in a summary proceeding before the municipal court having jurisdiction. Penalties will be recovered by and in the name of the State by the local health agency, and will be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality. In addition, licensed vapor businesses will be subject to a mandatory three-year license suspension following a third and each subsequent violation, and may be subject to license revocation upon a fourth or subsequent violation, if recommended by the municipality. Licensed vapor businesses subject to averse licensure action will also be subject to administrative charges.

The prohibitions in the bill will not apply to medical cannabis, paraphernalia, or related supplies dispensed to or on behalf of a

registered medical cannabis patient by an alternative treatment center pursuant to the provisions of the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

The bill will take effect 90 days after the date of enactment.

COMMITTEE AMENDMENTS:

The committee amendments increase the penalties for a violation of the provisions of the bill to \$500 for a first violation, \$1,000 for a second violation, and \$2,000 for a third or subsequent violation; as referred to the committee, the bill provided for a \$500 penalty for a first violation, a \$750 penalty for a second violation, and a \$1,000 penalty for a third or subsequent violation.

The committee amendments revise a provision concerning a mandatory three-year license suspension for licensed vapor businesses to provide that the suspension applies following a third and each subsequent violation of the bill; as referred to the committee, the bill provided that the mandatory license suspension applied after a fourth or subsequent violation. The committee amendments also provide that a license may be revoked following a fourth or subsequent violation, if recommended by the municipality.

The committee amendments add language clarifying that the prohibition against flavored vapor products does not apply to medical cannabis dispensed under the State medical cannabis program.

The committee amendments revise the definitions used under the bill to replace “electronic smoking device” with “vapor product,” to clarify that “characterizing flavor” includes menthol, mint, and wintergreen, and to clarify that “characterizing flavor” does not include tobacco flavored vapor products.

The committee amendments remove provisions of the bill that would have additionally banned the sale of menthol cigarettes.

The committee amendments revise the effective date of the bill to provide it will take effect 90 days after the date of enactment, rather than immediately.

FISCAL IMPACT:

The Office of Legislative Services (OLS) finds that the bill will cause indeterminate annual expenditure increases to the Department of Law and Public Safety, the Administrative Office of the Courts, municipal courts, and local health departments from the additional workload to implement the provisions of the bill and adjudicate violations. The OLS also concludes that the bill's impact on State revenues is uncertain. The bill may discourage consumers from purchasing certain vapor products, which in turn would reduce State revenue collections from taxes imposed on those products. If the bill results in consumer shifts to other products, such as non-flavored vapor products, cigarettes, or tobacco products, the State may see an

offsetting revenue effect or additional revenue collections from the higher tax rates imposed on those alternative products. The OLS also finds this legislation will result in additional annual municipal revenue from penalties received from individuals in violation of the bill's provisions.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3178

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JANUARY 3, 2020

SUMMARY

- Synopsis:** Prohibits sale of menthol cigarettes and sale or distribution of flavored electronic smoking devices and related products.
- Type of Impact:** Annual State cost increase; annual state revenue loss; annual local revenue and cost increases.
- Agencies Affected:** Department of Law and Public Safety; Administrative Office of the Courts; Municipal Courts; and Local Health Departments; Department of the Treasury

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
State Revenue Loss		Indeterminate	
Local Cost Increase		Indeterminate	
Local Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) finds the provision of the bill prohibiting the sale of menthol cigarettes could result in an annual indeterminate reduction in State revenues from the cigarette tax and the sales and use tax. The precise magnitude of this impact is uncertain, since consumers of menthol cigarettes may seek alternative means of tobacco consumption that are still taxable or may choose to quit smoking. The OLS notes that imposing this ban could reduce cigarette tax revenues by as much as \$195 million and sales and use tax revenues by as much as \$36 million annually if all consumers of menthol cigarettes cease to purchase those products or alternative products that are subject to taxation.
- The OLS expects any revenue impacts on cigarette tax collections to initially affect only the State's General Fund, given that certain amounts of cigarette tax collections are statutorily dedicated for specific purposes before any residual tax revenues flow into the General Fund. Impacts on sales tax collections will affect the General Fund and the Property Tax Relief Fund.
- The OLS estimates that the bill will also cause indeterminate annual expenditure increases to the Department of Law and Public Safety, the Administrative Office of the Courts, municipal

courts, and local health departments from the additional workload to implement the provisions of the bill and adjudicate violations.

- The OLS also finds this legislation will result in additional annual municipal revenue from penalties received from individuals in violation of the bill's provisions. Penalties recovered are required to be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

BILL DESCRIPTION

This bill prohibits the sale and commercial distribution of menthol cigarettes and updates current law to reflect the federal ban on clove-flavored cigarettes. The bill provides that a retailer who violates this provision of the bill pertaining to menthol cigarettes is to 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. A retailer may also have his license revoked after a second or subsequent violation. This bill also prohibits the sale, offer for sale, and distribution of flavored electronic smoking devices and related products and a retailer who violates this prohibition will be liable for a civil penalty of not less than \$500 for the first violation, not less than \$750 for the second violation, \$1,000 for the third violation, and not less than \$1,000 and a three-year suspension of the person's retail dealer license for the fourth and each subsequent violation. Civil penalties are to be collected in a summary proceeding before the municipal court having jurisdiction. Penalties will be recovered by and in the name of the State by the local health agency, and will be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Prohibition on Sale of Menthol Cigarettes

The OLS finds that prohibiting the sale of menthol cigarettes could result in an annual reduction in State revenues from the cigarette tax and the sales and use tax. The precise magnitude of the bill's impact is uncertain, since consumers of menthol cigarettes may seek alternative means of tobacco consumption that are still taxable or may choose to quit smoking. The OLS notes that imposing this ban could reduce cigarette tax revenues by as much as \$195 million and sales and use tax revenues by as much as \$36 million annually if all consumers of menthol cigarettes cease to purchase those products or alternative products that are subject to taxation.

The OLS expects any revenue impacts of the bill on cigarette tax collections to initially affect only the State's General Fund, given that certain amounts of cigarette tax collections are statutorily dedicated for specific purposes before any residual tax revenues flow into the General Fund. Impacts on sales tax collections will affect the General Fund and the Property Tax Relief Fund.

The cigarette tax is imposed at a rate of \$0.135 per cigarette, or \$2.70 per pack of 20 cigarettes. Preliminary cigarette tax collections¹ for FY 2019 totaled \$591 million. Of the \$591 million collected, \$391.5 million was dedicated to the Health Care Subsidy Fund, \$94.8 million was dedicated to debt service, \$5.9 million was dedicated for anti-smoking initiatives, and \$98.7 million was deposited into the State's General Fund. Based on the \$591 million in cigarette tax collections for FY 2019, approximately 218.9 million packs of cigarettes were taxed and sold in the State during the fiscal year.

According to the Federal Trade Commission's Cigarette Report for 2017, the domestic market share of menthol cigarettes was 36 percent in 2017², and the five-year average for 2013 through 2017 was 33 percent. Applying the five-year average to the total number of packs sold during FY 2019 in this State yields approximately 72.2 million packs of menthol cigarettes (218.9 million packs of cigarettes * 33 percent = 72.2 million packs of menthol cigarettes), valued at roughly \$195 million in revenue (72.2 million * \$2.70 per pack = \$195 million).

The OLS cannot predict the behavior of smokers who currently purchase menthol cigarettes in this State in response to a menthol cigarette ban. Those who currently purchase menthol cigarettes could choose to smoke non-flavored cigarettes, switch to alternatives like vaping, cross over into neighboring states where the sale of menthol cigarettes is still legal, purchase menthol cigarettes illegally, or quit smoking altogether. If those who currently purchase menthol cigarettes choose to quit smoking or pursue methods of acquiring menthol cigarettes that are not subject to the State's cigarette tax, cigarette tax revenues could fall by as much as \$195 million annually (the total estimated share of State cigarette tax collections attributable to menthol cigarettes). Although the actual reduction in cigarette tax revenues will not be of this magnitude, the effects of this bill coupled with the long-term decreasing trend in smoking rates will result in some decline in cigarette tax revenues over the next ten years. This decline will negatively affect statutory dedications of this revenue source, including the dedication to the Health Care Subsidy Fund and anti-smoking initiatives.

The OLS recognizes that this ban could have additional revenue impacts, such as decreasing sales and use tax collections from sales of menthol cigarettes. Assuming that the estimated 72.2 million packs of menthol cigarettes were sold at the State's average retail price per pack of \$7.51³, the sales tax would yield roughly \$36 million from those sales (72.2 million packs * \$7.51 per pack * 6.625 percent = \$36 million). Given that sales tax revenues are mostly deposited into the State's General Fund (a portion is dedicated to the State's Property Tax Relief Fund - \$5.4 million in this calculation), that fund could see a reduction in available resources of as much as \$30.5 million annually. These estimates do not account for any shifting of prohibited expenditures to other taxable goods. To the extent that individuals may shift from buying products that are prohibited under the bill to other taxable items, the reduction in sales and use tax revenue attributable to the bill may be lower than estimated above.

The OLS also notes that, by prohibiting the sale of menthol cigarettes, it is possible that some individuals will be diverted from developing or continuing tobacco habits that would lead to negative health outcomes. If the individual is enrolled in a State-funded health benefits program (e.g. Medicaid or the State Health Benefits Program), the State may be responsible for paying for health care services related to such health problems. The OLS lacks sufficient data to estimate the magnitude or net direction of such effects on State health care spending.

¹ The cigarette tax collections were obtained from various accounts in the State's accounting system as of November 8, 2019. These numbers do not represent audited amounts and could be subject to change.

² Table 7B – Domestic Market Share of Menthol and Non-menthol Cigarettes (2001-2017) (https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2017-federal-trade-commission-smokeless-tobacco-report/ftc_cigarette_report_2017.pdf)

³ State Excise and Sales Tax Per Pack of Cigarettes Total Amounts and State Rankings – Campaign for Tobacco-Free Kids (June 28, 2019).

Prohibition on Sale of Distribution of Flavored Electronic Smoking Devices and Related Products

The OLS concludes that the bill will cause indeterminate annual expenditure increases to the Department of Law and Public Safety, the Administrative Office of the Courts, municipal courts, and local health departments from the additional workload to enforce the ban on flavored electronic smoking devices and related products. The OLS also finds this legislation will result in indeterminate annual municipal revenue accruing from penalty payments received from violators of the new statutory provisions. The civil penalty established by the bill is a minimum of \$500 for a first offense, a minimum of \$750 for the second offense, \$1,000 for the third offense, and not less than \$1,000 and a three-year suspension of the person's retail dealer license for the fourth and each subsequent offense.

As this is a new offense, the OLS has insufficient data to serve as a basis for projecting the frequency of civil penalty violations subject to the provisions of the bill. The OLS cannot determine 1) the number of violations that will result from the bill's provisions and, by extension, 2) the total of any resultant fine, fee, or assessment collections. The bill requires that any penalties recovered are to be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality. The OLS additionally notes that due to financial constraints many penalties assessed on those persons convicted of crimes are not paid.

Section: Law and Public Safety

*Analyst: Kristin Brunner Santos
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 3178

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JANUARY 16, 2020

SUMMARY

- Synopsis:** Prohibits sale or distribution of flavored vapor products.
- Type of Impact:** Indeterminate State revenue impact; annual State cost increase; annual local revenue and cost increases.
- Agencies Affected:** Department of Law and Public Safety;
Department of the Treasury;
Administrative Office of the Courts;
Municipal Courts; and
Local Health Departments.

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2020 and Thereafter</u>
State Revenue Impact	Indeterminate
State Cost Increase	Indeterminate
Local Cost Increase	Indeterminate
Local Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will cause indeterminate annual expenditure increases to the Department of Law and Public Safety, Department of the Treasury, Administrative Office of the Courts, municipal courts, and local health departments from the additional workload to enforce the ban on vapor products that have a characterizing flavor.
- The bill will result in indeterminate annual municipal revenue accruing from penalty payments received from violators of the new statutory provisions. Penalties recovered are required to be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.
- The OLS also concludes that the bill's net impact on State revenues is uncertain and influenced by multiple factors, such as repeat offenses and changes in consumer behavior.

BILL DESCRIPTION

This bill prohibits the sale, offer for sale, and distribution of vapor products that have a “characterizing flavor” other than tobacco, including, but not limited to, any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, mint, menthol, wintergreen, or spice flavoring; or the vapor product is advertised or marketed as having or producing any such flavor, taste, or aroma.

A retailer who violates the prohibition established under the bill will be liable to a civil penalty of not less than \$500 for the first violation, not less than \$1,000 for the second violation, and not less than \$2,000 for the third and each subsequent violation, to be collected in a summary proceeding before the municipal court having jurisdiction for the general uses of the municipality. In addition, licensed vapor businesses will be subject to a mandatory three-year license suspension following a third and each subsequent violation, and may be subject to license revocation upon a fourth or subsequent violation, if recommended by the municipality. Licensed vapor businesses subject to averse licensure action will also be subject to administrative charges.

The prohibitions in the bill will not apply to medical cannabis, paraphernalia, or related supplies dispensed to or on behalf of a registered medical cannabis patient by an alternative treatment center. The bill will take effect 90 days after the date of enactment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will cause indeterminate annual expenditure increases to the Department of Law and Public Safety, Department of the Treasury, Administrative Office of the Courts, municipal courts, and local health departments from the additional workload to enforce the ban on vapor products that have a characterizing flavor. The bill will result in indeterminate annual municipal revenue accruing from penalty payments received from violators of the new statutory provisions. The OLS also concludes that the bill’s net impact on State revenues is uncertain and influenced by multiple factors, such as repeat offenses and changes in consumer behavior.

The civil penalty established by the bill is a minimum of \$500 for a first offense, a minimum of \$1,000 for the second offense, and \$2,000 for each subsequent offense. As this is a new offense, the OLS has insufficient data to serve as a basis for projecting the frequency of civil penalty violations subject to the provisions of the bill. The OLS cannot determine 1) the number of violations that will result from the bill’s provisions and, by extension, 2) the total of any resultant fine, fee, or assessment collections. The bill requires that any penalties recovered be paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality. The OLS additionally notes that due to financial constraints many penalties assessed on those persons convicted of crimes are not paid.

Concerning State revenue collections, a licensee whose license is subject to suspension or revocation, pursuant to the provisions in the bill for multiple offenses, is subject to administrative charges, based on a schedule issued by the Division of Taxation. Those administrative charges are not required to be deposited into the treasury of any municipality. The OLS cannot predict the

number of licensees who will be multiple offenders or how the Division of Taxation will construct the administrative charge schedule.

The bill will discourage consumers from purchasing certain vapor products prohibited by the bill, which in turn will reduce State revenue collections from the taxes imposed on those products. However, if the bill results in consumer shifts to other products, such as non-flavored vapor products, cigarettes, or tobacco products, the State may see an offsetting revenue effect or additional revenue collections from the higher tax rates imposed on those alternative products.

Currently, certain vapor products are subject to the Tobacco and Vapor Products Tax and the sales tax. Data are not available for sales tax collections, but for the 12-month period beginning September 2018 and ending August 2019, the State collected roughly \$5.1 million from the liquid nicotine portion of the Tobacco and Vapor Products Tax.¹ The OLS notes that the imposition of the Tobacco and Vapor Products Tax on container e-liquid and liquid nicotine changed on November 1, 2019, so these collections do not reflect the current tax environment and are instead meant to demonstrate potential implications of the bill's prohibition.

Section: Revenue, Finance and Appropriations
Analyst: Jordan M. DiGiovanni
Revenue Analyst
Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

¹ Division of Taxation – Tobacco and Vapor Products Monthly Totals
(<https://www.state.nj.us/treasury/taxation/tobacomonthly.shtml>)

Governor Murphy Signs Legislation to Make New Jersey First State in the Nation to Impose Permanent Ban on Flavored Vape Products

01/21/2020

TRENTON – Governor Phil Murphy today signed legislation to make New Jersey the first state in the nation to impose a permanent ban on flavored vape products. The legislation (S3265) prohibits the sale and distribution of flavored vape products, including menthol. The Legislature passed the bill based on a recommendation from Governor Murphy’s Electric Smoking Device Task Force, which was created by Executive Order No. 84 and directed to formulate a comprehensive strategy to protect New Jerseyans from the hazards of electronic cigarettes.

“As Governor, I am first and foremost charged with protecting the health and safety of our people,” **said Governor Murphy**. “Research shows that flavored electronic smoking devices and products, such as mint, candy, fruit, and chocolate, are extremely appealing, especially to children. I commend my partners in the Legislature for reacting swiftly to the Task Force’s recommendations to pass legislation that will protect both youth and adults from the hazards of flavored electronic smoking device use.”

Primary sponsors of the legislation include Senators Shirley Turney, Richard Codey, and Joseph Vitale and Assemblymembers Herb Conaway, Jr., Carol Murphy, and Valerie Vainieri Huttle.

“The rapid increase in vaping’s popularity among middle and high schoolers is deeply troubling, especially given their lack of understanding as to what it is they are putting into their bodies,” **said Senator Turner**. “By banning flavored vaping products, this law will help to discourage our youth from taking up this dangerous habit and reduce its prevalence in our homes and schools.”

“There is no doubt that the tobacco industry have used flavored vaping products as a means of enticing young people to use their products, making them prone to addiction and a lifetime of serious health risks,” **said Senator Codey**. “The flavors are a marketing ploy to get them hooked at a young age, when they are more susceptible and more vulnerable, physically and socially. We have been successful in bringing down smoking rates for cigarettes, but it took a concerted effort. We now have to do the same for flavored vaping products because the risk to young people is more immediate and just as severe.”

“Our state cannot and will not ignore the widespread use of these harmful nicotine products among adolescents,” **said Assemblyman Conaway**. “Flavored products are designed to attract young people, which is one of the reasons why most traditional cigarette flavors were banned a decade ago. Getting flavored vaping products off the market will protect our youth. If we don’t, we will have another generation of young people addicted to nicotine when we were so close to reducing widespread dependency on this chemical.”

“The nicotine in e-cigarettes is just as harmful as that of traditional cigarettes, yet many people may not realize just how detrimental nicotine really is for anyone under the age of 25,” **said Assemblywoman Murphy**. “Nicotine can expose developing brains to negative effects such as addiction, mood disorders and lower impulse control. Many teens are even worried about the damage vaping can do to their health but are too addicted to stop. It’s our responsibility to help them by doing everything in our power to limit the appeal of – and access to – these products going forward.”

“Study after study has shown that flavors such as cotton candy and mango not only draw teens in, but keep them coming back when it comes to electronic cigarettes,” **said Assemblywoman Vainieri Huttle**. “Mint is especially popular since the menthol helps ease new users into vaping by cooling their throat and reducing any harshness they would normally feel when inhaling the nicotine. We know what needs to be done to help keep kids safe and that’s what we’re doing with this law.”

Governor Murphy Takes Action on Legislation

01/21/2020

TRENTON – Today, Governor Phil Murphy signed the following bills into law:

S-62/A-2478 (Singleton, Oroho/DeAngelo, Houghtaling, Space) – Requires certain contractors to register under "The Public Works Contractor Registration Act"

S-358/A-4587 (Rice/Sumter, Reynolds-Jackson) – Establishes database with certain information about individuals elected to public office in this State

S-376/A-3839 (Madden, Gopal/Moriarty, Lagana, Mukherji, Murphy) – Eliminates eligibility time limit on tuition benefits for spouses of certain public safety workers killed in performance of their duties

S-497/A-4626 (Vitale, Madden/Mosquera, McKnight, Vainieri Huttle) – Allows certain prior statements by children to be admitted into evidence in child abuse and termination of parental rights cases

S-498/ACS for A-3391 (Vitale, Oroho/DeCroce, Johnson, DiMaso) – Makes various changes to "Criminal Injuries Compensation Act of 1971"

S-521/A-4378 (T. Kean, C.A. Brown, Pou, Ruiz/Caputo, Mukherji, Vainieri Huttle) – Requires NJ State Council on Arts to establish "Artist District" designation and select certain municipalities or areas within municipalities for such designation

S-589/ACS for A-422 (Weinberg/Mosquera, Jones, Moriarty) – Requires Secretary of State to establish secure Internet website for online voter registration; authorizes use of digitized signatures from New Jersey Motor Vehicle Commission's database

S-700/A-3836 (Ruiz, Cunningham/Schaer, Mukherji, Jasey) – "Higher Education Citizenship Equality Act"; defines domicile for dependent students for purpose of eligibility for State student grants and scholarships, and resident tuition rate

S-721/A-1751 (Greenstein, Cunningham, Diegnan/Quijano, Benson) – Authorizes use of certain electric school buses

S-758/A-1987 (Cunningham, Cruz-Perez/Sumter, Mukherji, Quijano) – Requires incarcerated individual from State to be counted at residential address for legislative redistricting purposes

S-765/A-541 (Cunningham, T. Kean, Ruiz/Mazzeo, Jasey, Vainieri Huttle, Sumter, Benson) – Prohibits Higher Education Student Assistance Authority from referring defaulted loans under New Jersey College Loans to Assist State Students (NJCLASS) Loan Program for certain actions if authority and borrower have entered into settlement agreement

S-782/A-1110 (Sarlo, Scutari/Downey, Houghtaling, Dancer) – Increases workers' compensation for loss of hand or foot

S-834 wGR/A-4186 (Scutari, Greenstein/Jones, Pintor Marin) – Prohibits resale of non-prescription diabetes test devices by pharmacists

S-939/A-3331 (Pou/Vainieri Huttle, Lopez, McKnight) – Requires forms and materials for individuals with developmental disabilities to be available in languages other than English

S-974/A-3040 (Singleton, T. Kean/Vainieri Huttle, Timberlake, Mosquera) – Requires newborn infants be screened for spinal muscular atrophy

- S-1032/A-2389 (Vitale, Gopal/Schaer, Benson, Verrelli)** – Concerns expansion of services provided by DHS mental health screening services
- S-1146/A-2365 (Codey, Rice/Vainieri Huttle, Mukherji, Downey)** – Requires hospital patient's medical record to include notation if patient is at increased risk of confusion, agitation, behavioral problems, and wandering due to dementia related disorder
- S-1298/ACS for A-2972 (A.M. Bucco, Singleton/Mazzeo, Dunn, Space)** – Permits municipalities to provide information on property tax bills concerning amount of local tax dollars saved through shared services
- S-1318/A-3156 (Ruiz, Scutari/Lampitt, Mosquera)** – Permits counties and non-governmental, community-based agencies to establish family justice centers which provide coordinated, multi-agency governmental and non-governmental assistance to victims of certain crimes and offenses, including domestic violence, and their family members
- S-1505/A-1707 (Vitale/Vainieri Huttle, Lampitt, Benson, Mosquera)** – Expands membership of NJ Task Force on Child Abuse and Neglect
- S-1647/A-3181 (Diegnan, Codey/Conaway, Vainieri Huttle, Benson, Murphy)** – Prohibits use of coupons, price rebates, and price reduction promotions in sales of tobacco and vapor products
- S-1683/A-4267 (Smith, Greenstein/McKeon, Space, Wirths)** – Concerns regulation of solid waste, hazardous waste, and soil and fill recycling industries
- S-1703/A-715 (Connors, Holzapfel/Gove, Rumpf, DiMaso)** – Exempts disabled veterans from beach buggy permit fees
- S-1791/A-3414 (Weinberg/Johnson, Vainieri Huttle, Houghtaling)** – Requires employers to disclose certain wage information to employees
- S-1796/A-4693 (Addiego, Sweeney/Murphy)** – Permits school district of residence to provide aid in-lieu-of transportation to pupil attending Marine Academy of Science and Technology provided certain conditions are met
- S-1832/A-211 (Ruiz, Sarlo/Chiaravalloti, Zwicker, Pintor Marin)** – Establishes loan redemption program and tuition reimbursement program for certain teachers of science, technology, engineering, and mathematics
- S-2267/A-3616 (Sweeney, Corrado/Burzichelli, Holley, Calabrese)** – Gives State lottery winners option of remaining anonymous indefinitely
- S-2303/A-4843 (Sweeney, Ruiz, Cunningham/Wimberly, Karabinchak, Calabrese)** – Requires establishment of Work and Learn Consortiums by certain educational institutions to establish certificate and degree programs identified in high labor-demand industries
- S-2389 wGR/A-5449 (Singleton/Quijano, Downey, Houghtaling, Moriarty)** – Requires New Jersey State Board of Pharmacy to establish prescription drug pricing disclosure website and certain pharmaceutical manufacturing companies to provide prescription drug price information
- S-2428/A-4965 (Scutari/Quijano, Vainieri Huttle)** – Requires that massage and bodywork therapists and employers carry professional liability insurance
- S-2469/A-3745 (Singleton, Oroho/Wirths, Mazzeo, Space)** – Prohibits person from contracting for public work if person is federally debarred from receiving federal contract
- S-2511/A-4020 (Madden/Mazzeo, Murphy, Johnson)** – Changes title of DEP "conservation officer" to "conservation police officer"
- S-2521/A-4087 (Cryan, Greenstein/Vainieri Huttle, Lopez, Timberlake)** – Requires reporting of inmate abuse by employees of State correctional facilities and establishes reporting and investigation program
- S-2522/A-4090 (Cryan, Greenstein/Vainieri Huttle, Lopez, Timberlake)** – Limits cross gender strip searches in

State correctional facilities

S-2532/A-4086 (Greenstein, Cruz-Perez/Vainieri Huttle, Lopez, Timberlake) – Requires correctional police officers receive 20 hours in-service training, including four hours in prevention of sexual misconduct, non-fraternization, and manipulation

S-2555/A-3990 (Gopal, Ruiz/Mukherji, Benson, Karabinchak) – Allows dependent students whose parents or guardians hold H-1B visas to qualify for in-State tuition at public institutions of higher education provided they meet certain criteria

S-2564/A-3519 (Turner, Singleton/Benson, McKnight, Jasey) – Establishes "Restorative Justice in Education Pilot Program" in Department of Education

SCS for S-2599/ACS for A-1268 (Bateman, Beach/Tucker, Conaway, Lampitt, Quijano) – Authorizes veterans' property tax exemption and veterans' property tax deduction for honorably discharged veterans of United States Armed Forces who did not serve in time of war or other emergency

S-2826/A-3274 (Greenstein/Vainieri Huttle, Dancer, Benson) – Requires institutions of higher education to offer cats and dogs no longer used for educational, research, or scientific purposes for adoption; designated the "Homes for Animal Heroes Act"

S-2849/A-4590 (A.M. Bucco/DiMaio, Caputo, Dunn) – Designates Seeing Eye® dog as State Dog

S-3036/A-1697 (Lagana, Scutari/Dancer, Downey) – Prohibits medical providers from reporting certain workers' compensation medical charges to collection and credit reporting agencies

S-3061/A-4603 (Ruiz, Greenstein/Lampitt, Mukherji, Benson) – Provides corporation business tax and gross income tax credits for businesses that participate in DOL registered apprenticeship programs; establishes grant program for tax-exempt organizations participating in DOL registered apprenticeship programs

S-3065/A-4657 (Ruiz, Singleton/Armato, Benson, Timberlake) – Establishes youth apprenticeship pilot program in Department of Education

S-3067/A-4602 (Ruiz, Singleton/Lampitt, Reynolds-Jackson, Sumter) – Establishes five year Apprentice Assistance and Support Services Pilot Program

S-3116/A-4683 (Ruiz/Speight, Munoz, Tucker) – Requires certain medical facilities to undertake end-of-life planning and training

S-3117/A-4685 (Ruiz/Speight, Pinkin, Munoz) – Requires emergency departments to take certain measures concerning palliative care for patients

S-3126/A-4107 (Gopal/Benson, DeCroce, Chiaravalloti) – Requires drivers to stop at railroad crossing when on-track equipment is approaching railroad crossing

S-3170/A-5145 (Cryan, Pou/Quijano, Milam, Land) – Increases prenotification time and requires severance pay in certain plant closings, transfers, and mass layoffs

S-3227/A-5261 (Gopal/Tully, Pinkin, Swain) – Requires restaurants to post signs advising customers to notify servers of food allergies; requires restaurant managers to complete food allergen training

S-3265/A-3178 (Turner, Codey, Vitale/Conaway, Murphy, Vainieri Huttle) – Prohibits sale or distribution of flavored vapor products

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S-3330 wGR/A-5066 (Addiego, Singleton/Jones, Vainieri Huttle, Lampitt, Murphy) – Establishes pilot program in DCF to study impact of child care services provided by community providers operating in public school facilities; requires community providers to meet certain criteria

S-3422/A-6056 (Singer, T. Kean/Houghtaling, Downey, Vainieri Huttle) – Requires declaration of Code Blue

alert when National Weather Service predicts temperatures of 32 degrees Fahrenheit or lower

S-3468/A-5105 (Sweeney, Singleton/Murphy, Karabinchak, Vainieri Huttle) – Establishes Task Force on Maximizing Employment for People with Disabilities

S-3511/A-5298 (Singer, T. Kean/Mukherji, Vainieri Huttle, Downey) – Authorizes certain health care and social service resources to be made available during Code Blue alert

S-3581/A-5963 (Singleton/Lopez, Quijano) – Prohibits certain business financing contracts that contain judgment by confession provisions

S-3685/A-5345 (Sarlo, Singleton/Mukherji, Conaway, McKnight) – Establishes program to increase participation of underrepresented students in New Jersey's science and engineering workforce

S-3756/A-6115 (Ruiz, Sarlo, O'Scanlon/Jasey, Jones, Wirths) – Requires limited purpose regional school districts to coordinate with constituent districts regarding school calendar and curriculum

S-3763/A-6116 (Addiego, Bateman, Sarlo/DeAngelo, Dancer, Space) – Renames joint meetings as regional service agencies; grandfathers existing joint meetings

S-3869/A-5561 (Sarlo/Burzichelli, Houghtaling) – Prohibits local governments from imposing fines on alarm companies in certain circumstances

S-3871/A-5427 (Bateman, Scutari/DePhillips, McKeon) – Adds member from Retired Judges Association of New Jersey to State Investment Council

SCS for S-3878/ACS for A-5394 (Ruiz, Weinberg, Cunningham/Moriarty, McKnight, Pinkin) – Reaffirms and clarifies that Attorney General and Division on Civil Rights may initiate actions in Superior Court to enforce "Law Against Discrimination"

S-3920 wGR/A-5552 (Pou/Wimberly, Sumter) – Concerns provision of energy to certain manufacturing facilities by providing exemptions to certain energy related taxes

S-3923/A-5680 (Madden, Singleton/Giblin, Timberlake, Murphy) – Concerns labor harmony agreements for hospitality projects

SCS for S-3939 and 3944/ACS for A-5681 and 5682 (Smith, Greenstein, Bateman, Codey/Pinkin, Lopez, McKeon) – Establishes Recycling Market Development Council

S-3985/A-5663 (Smith/McKeon, Pinkin, Vainieri Huttle) – Amends "Electric Discount and Energy Competition Act" to add definition of "open access offshore wind transmission facility" and revises law concerning "qualified offshore wind projects"

S-4025/A-5695 (Pou/Wimberly, Sumter) – Makes FY 2020 language allocation of \$1,000,000 appropriated to Grants for Urban Parks to Hinchliffe Stadium in Paterson

S-4162/A-6014 (Smith, Greenstein/Vainieri Huttle, Pinkin, Houghtaling) – Establishes NJ Climate Change Resource Center at Rutgers University; appropriates up to \$500,000

S-4165/A-4364 (Rice/Giblin, Caputo, Tucker) – Expands University Hospital board of directors membership from 11 to 13 members

S-4188/A-6075 (Beach/Murphy, Dancer, Lampitt) – "Lindsay's Law"; provides tax benefits to organ and bone marrow donors and their employers, and provides paid time off to donors who are State or local government employees

S-4200/A-5855 (Ruiz, Turner/Coughlin, Lampitt, Holley) – Requires State to pay difference between federal allocation and total cost of reduced price breakfast or lunch; appropriates \$4.5 million

S-4247/A-6049 (Gopal, O'Scanlon/Conaway, Houghtaling, Downey) – Establishes criteria for distribution of Fiscal Year 2020 funding to Community Food Bank of New Jersey and partner organizations

S-4264/A-5962 (Pou/Wimberly, Sumter, Calabrese) – Designates State Highway Route 19 as "William J. Pascrell Jr. Highway"

S-4275/A-6088 (Smith, Greenstein/Burzichelli) – Allows BPU to increase cost to customers of Class I renewable energy requirement for energy years 2022 through 2024, under certain conditions

S-4276/A-6109 (Corrado, Bateman/Armato, Calabrese, Land) – Appropriates \$32,153,936 to State Agriculture Development Committee, and amends 2017 appropriations for stewardship activities, for farmland preservation purposes

S-4277/A-6112 (Greenstein, Bateman/Freiman, Danielsen, Downey) – Appropriates \$5,000,000 from constitutionally dedicated CBT revenues to State Agriculture Development Committee for municipal planning incentive grants for farmland preservation purposes

S-4278/A-6108 (Greenstein, Bateman/Taliaferro, Karabinchak, Kennedy) – Appropriates \$21 million from constitutionally dedicated CBT revenues to State Agriculture Development Committee for county planning incentive grants for farmland preservation purposes

S-4279/A-6106 (Smith, Bateman/Houghtaling, Reynolds-Jackson, Pinkin) – Appropriates \$1,350,000 from constitutionally dedicated CBT revenues to State Agriculture Development Committee for grants to certain nonprofit organizations for farmland preservation purposes

S-4286/A-5890 (Vitale/Swain, Jones) – Clarifies procedures concerning collection of child support on behalf of child over age 19 when court has ordered such support

S-4309/A-6107 (Turner, Cruz-Perez/Mejia, Vainieri Huttie, Zwicker) – Appropriates \$13,902,723 from constitutionally dedicated CBT revenues to NJ Historic Trust for grants for certain historic preservation projects and associated administrative expenses

S-4310/A-6114 (Codey, Bateman/Carter, Murphy, Lopez) – Appropriates \$8,872,682 to DEP from constitutionally dedicated CBT revenues for grants to certain nonprofit entities to acquire or develop lands for recreation and conservation purposes

S-4311/A-6113 (Greenstein, Bateman/Speight, Mukherji, Verrelli) – Appropriates \$77,450,448 from constitutionally dedicated CBT revenues and various Green Acres funds to DEP for local government open space acquisition and park development projects

S-4312/A-6111 (Smith, Bateman/Giblin, Mazzeo, Land) – Appropriates \$36.143 million from constitutionally dedicated CBT revenues for recreation and conservation purposes to DEP for State capital and park development projects

S-4313/A-6110 (Corrado, Bateman/Moriarty, McKeon, Swain) – Appropriates \$33.915 million from constitutionally dedicated CBT revenues to DEP for State acquisition of lands for recreation and conservation purposes, including Blue Acres projects

SCS for S-4315/ACS for A-6063 (Beach, Turner/Jones, Zwicker) – Creates fund to reimburse local units of government for cost of certain mail-in ballot procedures; appropriates \$3,000,000

SJR-51/AJR-189 (Rice, Turner/Verrelli, Reynolds-Jackson, Sumter) – Establishes the "New Jersey State Commission on Urban Violence"

SJR-65/AJR-90 (Weinberg, Addiego/DiMaso, Vainieri Huttie, Schepisi) – Designates March 19th "Women in Public Office Day" in New Jersey

SJR-80/AJR-121 (Lagana, Weinberg/Jones, Benson, Chiaravalloti, DeCroce) – Urges federal government to adhere to commitment to improve Northeast Corridor rail infrastructure by providing funding to complete Gateway Program

SJR-125/AJR-169 (Gopal, Codey/Wolfe, Pinkin) – Designates the second week of October of each year as "Obesity Care Week" in NJ

- A-344/S-1575 (Murphy, McKeon, Timberlake/Cruz-Perez, Singleton)** – Revises certain aspects of the New Jersey Individual Development Account Program
- A-1040/S-3928 (Houghtaling, Taliaferro/Andrzejczak)** – Establishes NJ "Landowner of the Year" award program
- A-1146/S-4330 (Wimberly, Holley/Pou, Singleton)** – Establishes "New Jersey Investing in You Promise Neighborhood Commission"
- A-1277/S-2629 (Tucker, Holley, Lopez/Singleton, Gopal)** – Requires hospitals and homeless shelters to provide information on services and resources to individuals who are homeless or military veterans
- A-1449/S-3168 (Benson, DeAngelo/Greenstein, Turner)** – Provides job security to certain organ and bone marrow donors
- A-1477/S-3228 (Chaparro, Vainieri Huttle, Benson, Jimenez, Mukherji, Downey/Gopal, Scutari)** – Establishes Statewide Hit and Run Advisory Program to facilitate apprehension of persons fleeing motor vehicle accident scene; designated as "Zackhary's Law"
- A-1478/S-1648 (Chaparro, Vainieri Huttle/Diegnan, T. Kean)** – Revises law governing theater liquor licenses
- A-1604/S-2734 (Conaway, Murphy, Jimenez/Singleton)** – "Recreational Therapists Licensing Act"
- A-1796/S-2609 (McKeon, Downey/Lagana, Gopal)** – Prevents criminal defendant from asserting "gay and transgender panic" defense to murder charge in order to reduce charge to manslaughter committed in heat of passion
- A-1924/S-2930 (Mukherji, A.M. Bucco, DeAngelo, DeCroce/Beach)** – Exempts certain honorably discharged United States military veterans from initial insurance producer licensing fee
- A-1992/S-1780 (Sumter, Benson, Vainieri Huttle, Houghtaling, Wimberly/Diegnan, Turner)** – "New Jersey Call Center Jobs Act"
- A-2183/S-1687 (Land, Johnson/Cruz-Perez, Andrzejczak)** – "Music Therapist Licensing Act"
- ACS for A-2431 wGR/SCS for S-1865 (Benson, Jimenez, DeCroce/Weinberg, T. Kean)** – Requires health insurers to provide plans that limit patient cost-sharing concerning certain prescription drug coverage
- ACS for A-2444 and S-2656/S-2081 (Benson, Lampitt, Pinkin, Mukherji/Turner, Singleton)** – Provides for coverage of comprehensive tobacco cessation benefits in Medicaid
- A-2767/S-2924 (Greenwald, Mosquera, McKnight/Greenstein, Singleton)** – Amends certain provisions of sexual assault statute to clarify elements necessary for conviction
- A-3312/S-1972 (Murphy, Lagana, Downey, Sumter/Gopal, Corrado)** – Requires Legislature to adopt and distribute policy prohibiting sexual harassment; requires members, officers, and employees of Legislature to complete online training on policy once every two years
- A-3670/S-995 (Benson, Giblin, Murphy/Vitale, Weinberg)** – Provides for designation of acute stroke ready hospitals, establishes Stroke Care Advisory Panel and Statewide stroke database, and requires development of emergency medical services stroke care protocols
- ACS for A-4136/SCS for S-2675 (Land, Milam/Andrzejczak, Van Drew)** – Establishes Possession In Excess of Daily Limit Vessel License for black sea bass and summer flounder; dedicates fees therefrom to marine fisheries programs
- A-4147/S-2744 (Lampitt, Houghtaling, Zwicker/Ruiz, Corrado)** – Requires school districts and nonpublic schools to conduct audit of security features of buildings, grounds, and communication systems and to submit audit to NJ Office of Homeland Security and Preparedness and DOE

- A-4150/S-2742 (Lampitt, Jones, Timberlake/Ruiz, Corrado)** – Requires meeting between student and appropriate school personnel after multiple suspensions or proposed expulsion from public school to identify behavior or health difficulties
- A-4151/S-2745 (Swain, Tully, Jasey/Ruiz, Corrado)** – Requires school security training for persons employed by public and nonpublic schools in substitute capacity and for employees and volunteers of youth programs operated in school buildings
- A-4260/S-4335 (Timberlake, Giblin, Tucker, Caputo/Pou, Scutari)** – Prohibits sale of certain toy guns and imitation firearms
- A-4370/S-2919 (Carroll/A.M. Bucco)** – Increases membership of board of trustees of Washington Association of New Jersey
- A-4377/S-2934 (Benson, Land, DeCroce/Greenstein)** – Requires DOT and OIT to develop materials concerning capabilities of airports in NJ and establishes "Public Use Airports Task Force"
- A-4517/S-4341 (Wimberly, Speight, Reynolds-Jackson/Singleton, Cunningham)** – Establishes "New Jersey Eviction Crisis Task Force"
- A-4529/S-3191 (Mazzeo, Armato/Gopal, Andrezejczak)** – Concerns reimbursements to Superstorm Sandy-impacted homeowners subjected to contractor fraud
- A-4563/S-3096 (Zwicker, Benson/Greenstein, Gill)** – Prohibits use of bots to deceive person about origin and content of communication for certain commercial or election purposes
- A-4564/S-3087 (Zwicker, Freiman/Greenstein)** – Establishes "Voting Precinct Transparency Act;" requires filing of election district, county district, and municipal ward boundary data with Secretary of State for posting and download on official website with matching election results data
- A-4699/S-2938 (Moriarty, Burzichelli, Bramnick/Turner)** – Regulates annual report filing services
- A-4803/S-4211 (Greenwald, Johnson, Pintor Marin/Cryan, Vitale)** – Authorizes certain entities to directly bill Victims of Crime Compensation Office for counseling services provided to victims of firearm and stabbing crimes
- A-4822/S-3408 (Wimberly, Tully, Swain/Singleton, Greenstein)** – Permits municipalities to lease vacant municipal land for tiny home occupancy; directs DCA to enhance regulatory guidance on acceptable tiny home construction and use
- A-4904 wGR/S-3347 (Mukherji, Quijano, Mazzeo/Cryan, Sweeney)** – Concerns property taxes due and owing on real property owned by certain federal employees or contractors under certain circumstances
- A-4954/S-3368 (Quijano, Murphy, Carter/Singleton, Greenstein)** – Revises requirements for provision of counseling and support services to emergency services personnel
- ACS for A-4972/SCS for S-1490 (Moriarty/Beach, Scutari)** – Establishes certain consumer protections related to arbitration organizations
- A-4978 wGR/S-3498 (Timberlake, Zwicker, Vainieri Huttle/Greenstein, Cryan)** – Prohibits online education services from using and disclosing certain information, engaging in targeted advertising, and requires deletion of certain information in certain circumstances
- A-5023/S-3467 (McKnight, Mukherji, Chaparro, Chiaravalloti/Cunningham)** – Exempts from DOT permitting requirements certain signs not located in protected areas that have been approved by municipality
- A-5028/S-3523 (Mukherji, Conaway, Pintor Marin/Vitale, Diegnan)** – Establishes "James Nicholas Rentas's Law," revises "New Jersey SmokeFree Air Act"
- A-5029/S-3522 (Sumter, Reynolds-Jackson, Johnson/Rice, T. Kean)** – Requires New Jersey Office on Minority and Multicultural Health to study racial disparities on sexual and reproductive health of African-American women

A-5031/S-3455 (Speight, McKnight, Timberlake/Ruiz) – Requires hospital emergency departments to ask person of childbearing age about recent pregnancy history

A-5314/S-3692 (Zwicker, Milam, Mazzeo/Cryan, Ruiz) – Requires DHS to study social isolation occurring in certain population groups

A-5344/S-3833 (Mukherji, Vainieri Huttel, Milam/Gopal, Corrado) – Establishes uniform standard for acceptable proof of veteran status for veteran's ID cards and various State and local programs

A-5388/S-3895 (Speight, Pintor Marin, Greenwald/Greenstein, Ruiz) – Requires specialized in-service training regarding crime victims for police departments in certain high-crime areas

A-5389/S-3896 (Speight, Pintor Marin, Greenwald/Greenstein, Ruiz) – Requires training or experience in crime victims' rights for certain members of Victims of Crime Compensation Review Board

A-5432/S-3796 (Milam, Land/Andrzejczak) – Requires DEP Commissioner to establish individual transferable quota system for menhaden purse seine fishery

A-5445/S-3909 (Swain, Tully, Spearman/T. Kean, Corrado) – Requires AG to establish program to detect fentanyl in State's illegal drug supply and make information related to presence of fentanyl available in database accessible by law enforcement

A-5511/S-1852 (Spearman, Jones, Reynolds-Jackson/Turner, Cruz-Perez) – Revises certain penalties for illegal operation of snowmobile, all-terrain vehicle, or dirt bike

A-5580/S-3842 (Johnson, Moriarty, Greenwald/Weinberg, Sarlo) – Extends availability period for tax credits for certain expenses incurred for production of certain film and digital media content, raises annual cap related to film production, and provides for annual administration of film tax credits

A-5583/S-3919 (Pinkin, Lopez, Mukherji/Smith, Bateman) – Prohibits sale, lease, rent, or installation of certain equipment or products containing hydrofluorocarbons or other greenhouse gases

A-5630/S-3981 (Pintor Marin, Munoz, Reynolds-Jackson/Weinberg, Corrado) – Requires Civil Service Commission to establish and maintain hotline for State employees to submit reports of workplace discrimination and harassment

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A-5667/S-3933 (Mukherji, Vainieri Huttel, Armato, DeCroce, Karabinchak/Singer, Scutari) – "Charlie's Law"; requires pharmacy practice sites and hospice programs to furnish patients with information and means to safely dispose of unused prescription drugs and medications

A-5801/S-4064 (Coughlin, Houghtaling, Verrelli/Singleton, Sweeney) – Concerns responsibility of contractors for wage claims against subcontractors

A-5817/S-4263 (Mazzeo, Armato/Cunningham, Sweeney, C.A. Brown) – Allows certain persons to qualify for casino key employee license and casino employee registration

A-5916/S-4255 (Chiaravalloti, McKnight, Karabinchak/Cunningham, Weinberg) – Authorizes DOH to notify elected officials of financial distress of certain hospitals

A-5918/SCS for S-3741 and 4253 (Chiaravalloti, McKnight/Weinberg, Cunningham, Vitale) – Expands hospital reporting requirements

A-5970/S-4201 (Lopez, Speight, Chaparro/Codey) – Amends list of environmental infrastructure projects approved for long-term funding for FY2020 to include new projects, remove certain projects, and modify estimated loan amounts for certain projects

A-5971/S-4202 (Mukherji, Pintor Marin, Spearman/Bateman, Corrado) – Authorizes NJ Infrastructure Bank to expend additional sums to make loans for environmental infrastructure projects for FY2020

A-5972/S-4203 (Pinkin, Benson, Zwicker/Greenstein, Singleton) – Makes changes to New Jersey Infrastructure Bank's enabling act

A-5977/S-4282 (Greenwald, Downey, Vainieri Huttie/Vitale, Singleton) – Provides for establishment of Regional Health Hub Program as replacement to Accountable Care Organization Demonstration Project, and designates existing accountable care organizations and look-alike organizations as Regional Health Hubs

A-6119/S-4336 (Egan, Houghtaling/Madden) – Revises "The Public Works Contractor Registration Act" and amends definition of registered apprenticeship program

AJR-35/SJR-159 (McKnight, Chaparro, Chiaravalloti, DeCroce/Cunningham, Greenstein) – Designates third full week in March as "Domestic Violence Services Awareness Week" to bring awareness of services available to domestic violence victims

AJR-103/SJR-70 (Rooney, DePhillips, Murphy/Corrado) – Permanently designates January as "NUT Carcinoma Awareness Month" in New Jersey

AJR-118/SJR-157 (McKnight, Timberlake, McKeon/Pou, Madden) – Designates April of each year as "Financial Literacy Month" in New Jersey

AJR-180/SJR-112 (DeAngelo, McKnight, Murphy/Singleton, Corrado) – Designates February in each year as "Career and Technical Education Month" in New Jersey

Governor Murphy declined to sign the following bills, meaning they expire without becoming law:

S-691/A-657 (Ruiz, Pou/Jasey, Caputo, Pintor Marin, Sumter, Wimberly) – Requires that if a school district satisfies 80% or more of the required NJ Quality Single Accountability Continuum standards in an area of district effectiveness under State intervention, the State must return that area to local control

S-1083/A-544 (Cruz-Perez, Gopal/Mazzeo, Houghtaling, Holley, Dancer) – Establishes loan program and provides corporation business tax and gross income tax credits for establishment of new vineyards and wineries

S-2421/A-1030 (Smith, Bateman/Johnson, Kennedy, Benson, DeAngelo) – Concerns installation of electric vehicle charging stations in common interest communities

S-2425/A-3851 (Singleton, Andrzejczak/Conaway) – Revises law relating to common interest communities

S-2429/A-4028 (Scutari, Pou/Bramnick, Downey) – Requires automobile insurers to disclose policy limits upon request by an attorney under certain circumstances

S-2835/A-3926 (Singleton, Ruiz/Conaway, Lampitt, Murphy) – Requires public schools to administer written screenings for depression for students in certain grades

S-2897/A-1433 (Madden, Singer/Benson, Wimberly, Carter) – Requires DCA to establish procedures for inspection and abatement of mold hazards in residential buildings and school facilities, and certification programs for mold inspectors and mold hazard abatement workers

S-2957/A-4712 (Stack/Mukherji, Chaparro) – Establishes five-year moratorium on conversions of certain residential rental premises in qualified counties

S-2958/A-4535 (Sarlo, Oroho/Zwicker, DePhillips, DeCroce) – Establishes the "Energy Infrastructure Public-Private Partnership Act"

S-3062/A-2049 (Ruiz, Greenstein/Howarth, Benson, Murphy) – Provides corporation business tax and gross income tax credits for businesses that employ apprentices in DOL registered apprenticeships

S-3063/A-4655 (Ruiz/Armato, Vainieri Huttie, DeAngelo) – Provides tuition fee waiver apprenticeship courses

S-3137/A-1308 (Sweeney, Oroho, Singleton/Greenwald, Milam, Land) – The "Electronic Construction Procurement Act"

S-3252/A-4713 (Greenstein, Stack/DeAngelo, Quijano) – "New Townhouse Fire Safety Act"; requires automatic fire sprinkler systems in new townhomes

S-3263/A-4837 (T. Kean, Diegnan/Vainieri Huttle, Chiaravalloti, McKnight) – Revises and updates membership and purpose of Advisory Council on the Deaf and Hard of Hearing in DHS

S-3270/A-5095 (Pou/McKeon, Freiman, DeCroce) – Establishes certain requirements for stop loss insurance offered to small employers

S-3393/ACS for A-5384 and 5157 (Sarlo, Addiego/Mazzeo, Murphy, Houghtaling, Calabrese, Armato, Dancer) – Allows certain preserved farms to hold 14 special occasion events per year; imposes further event restrictions on residentially-exposed preserved farms

S-3770/A-6118 (Sarlo, Oroho, Sweeney/Greenwald, Jones) – Establishes "New Jersey Economic and Fiscal Policy Review Commission" to provide ongoing review of State and local tax structure, economic conditions, and related fiscal issues

S-3888/A-5585 (Ruiz/Dancer, Pintor Marin) – Extends document submission deadlines under Economic Redevelopment and Growth Grant program and Urban Transit Hub Tax Credit program

S-4035/A-5702 (Pou, Singleton/Wimberly, Reynolds-Jackson, Sumter) – Makes Fiscal Year 2020 supplemental appropriation of \$1,700,000 for Thomas Edison State University

S-4281/A-6094 (Smith, Diegnan/Danielsen, Pinkin) – Requires State to sell and convey to Educational Services Commission of New Jersey certain land and improvements known as Piscataway Regional Day School

S-4331/A-4727 (Diegnan, Madden/Karabinchak, Holley, Jones) – Requires person taking written examination for permit to watch video of rights and responsibilities of driver stopped by law enforcement; requires testing on rights and responsibilities of driver stopped by law enforcement

A-491/S-4340 (Jimenez/Sacco, Stack) – Enhances PFRS accidental death pension for surviving spouse by providing for minimum of \$50,000 annually

A-1044/S-1441 (Houghtaling, Downey, DiMaio, Space/Doherty, Madden) – Requires Director of Division of Taxation to examine feasibility of centralized property tax information system to verify property taxes paid by homestead property tax reimbursement claimants

A-1045/S-2856 (Houghtaling, Downey, Dancer/Gopal, Oroho) – Clarifies sales tax collection responsibilities of horse-boarding businesses in New Jersey

A-1526/S-1048 (Zwicker, Johnson/Vitale) – Concerns payment of independent contractors

A-2731/S-3407 (Taliaferro, Space/Sweeney, Oroho) – Removes statutory limitation on number of permits that may be issued by Division of Fish and Wildlife for the taking of beaver

A-4382/S-2815 (Pinkin, Lopez, Kennedy/Beach, Smith) – Requires paint producers to implement or participate in paint stewardship program

A-4463/S-3927 (Freiman, Egan, Karabinchak/Oroho, Andrzejczak) – Establishes "Electronic Permit Processing Review System"

A-4788/S-3880 (Karabinchak, Freiman, Calabrese/Diegnan) – Establishes expedited construction inspection program

A-5072/S-3496 (Karabinchak, Johnson, Mukherji/Greenstein, Cryan) – "Defense Against Porch Pirates Act"; creates new category of theft, with penalties including mandatory restitution and community service, for taking package delivered to residence by cargo carrier

A-5446/S-3907 (Land, Reynolds-Jackson, Verrelli/T. Kean, Lagana) – Requires reporting of opioid deaths

A-5629/S-3980 (Pintor Marin, Munoz/Weinberg, Corrado) – Clarifies provisions concerning disclosure of existence and content of discrimination or harassment complaints; requires certain disclosures to person against whom complaint is made

[Copy of Statement](#)

ACS for A-5922 and 5923/SCS for S-4223 and 4224 (Conaway, Vainieri Huttle, Lopez, Pinkin/Vitale, Sweeney) – Revises requirements for sale of tobacco and vapor products; increases penalties for prohibited sales; increases fees for cigarette and vapor business licensure

[Copy of Statement](#)

**GOVERNOR'S STATEMENT UPON SIGNING FOR
SENATE BILL NO. 3265
(FIRST REPRINT)**

Today I am signing Senate Bill No. 3265 (First Reprint), which prohibits the sale of flavored vaping products in the State. This legislation aligns with the findings of the Electronic Smoking Device Task Force ("Task Force") that I convened in September 2019 when I signed Executive Order No. 84. The Task Force's Report cited national data regarding the appeal of flavored vape products to young adults. The availability of flavors like "bubble gum" and "cotton candy" have been proven to entice middle-school aged children and younger to start vaping in alarming numbers. We have seen the rate of cigarette use among New Jersey youth decline significantly over the past 20 years due in large part to the tireless efforts of the Department of Health and impassioned advocates and parents. Since 2014, the number of young people who use vaping products has risen exponentially. This bill is a necessary step to address the vaping epidemic among our State's youth.

I am particularly proud that New Jersey will become the first state with a legislatively-passed ban on flavored vaping products. This new law is a testament to the commitment of both my Administration and the Legislature to address this issue expeditiously. I want to especially thank the bill's first prime sponsors, Senator Shirley Turner and Assemblyman Herb Conaway, as well as Senator Joseph Vitale, who has been a leader on confronting this public health risk.

I have declined, however, to sign Assembly Committee Substitute for Assembly Bill Nos. 5922 and 5923, which revises certain statutory requirements for the sale of tobacco and vapor products. While I appreciate the Legislature's effort to implement many of the Task Force's recommendations, particularly provisions that would help curb sales to children and young adults, I cannot support a piecemeal approach to a problem that requires a comprehensive solution.

In its original form, the bill - then two separate bills - would have required an overhaul and expansion of the current limited licensing system for vapor businesses and increased the tax on vapor products. My office strongly suggested that the Legislature consider reworking the current tax scheme, which is unnecessarily complicated and favors certain players in the marketplace, and conveyed our concerns to the Legislature about the bill's inconsistent treatment of different vaping retailers and manufacturers. Unfortunately, the bill's final form did not

address these concerns. I look forward to working with the Legislature in this new legislative session to determine best practices for regulating the vaping industry and hope that we can reach a result that treats all affected entities fairly, protects the health of New Jersey residents, and penalizes the bad actors in the vaping marketplace.

Date: January 21, 2020

/s/ Philip D. Murphy

Governor

Attest:

/s/ Robert L. Garrenger III

Acting Chief Counsel to the Governor