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LAW/IS 1/27/09

§§1,2 -
C.2A:170-51.5 &
2A:170-51.6
§3 - Note

P.L. 2008, CHAPTER 91, *approved October 1, 2008*
Senate, No. 613 (*First Reprint*)

1 **AN ACT** concerning tobacco products and supplementing Title 2A
2 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. The Legislature finds and declares that:

8 a. There has been a proliferation of flavored cigarettes in recent
9 years, and many of these products have fruit, chocolate or other
10 flavors that are particularly attractive to children;

11 b. According to public health experts, the existence of these
12 products increases the incidence of tobacco use among children;

13 c. The earlier a person begins using tobacco, the more likely the
14 person will become addicted to tobacco products and continue to
15 smoke throughout that person's life;

16 d. As a result, flavored cigarettes lead to increased tobacco use
17 and addiction, higher health care costs, and a greater incidence of
18 smoking-related illness and death; and

19 e. Therefore, flavored cigarettes pose a significant threat to the
20 health of the general public, and the protection of the public health
21 warrants that the sale and distribution of these products be
22 prohibited in this State.

23
24 2. a. No person, either directly or indirectly by an agent or
25 employee, or by a vending machine owned by the person or located
26 in the person's establishment, shall sell, offer for sale, distribute for
27 commercial purpose at no cost or minimal cost or with coupons or
28 rebate offers, give or furnish, to a person a cigarette, or any
29 component part thereof¹ [, including, but not limited to, the tobacco,
30 paper, roll or filter, or any other matter or substance which can be
31 smoked]¹, which contains a natural or artificial constituent or
32 additive that causes the cigarette or any smoke emanating from that
33 product to have a characterizing flavor other than tobacco, clove or
34 menthol. ¹In no event shall a cigarette or any component part
35 thereof be construed to have a characterizing flavor based solely on
36 the use of additives or flavorings, or the provision of an ingredient
37 list made available by any means.¹

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:

¹Assembly AHE committee amendments adopted May 22, 2008.

1 As used in this section:

2 (1) "characterizing flavor other than tobacco, clove or menthol"
3 means that: the cigarette, or any smoke emanating from that
4 product, imparts a distinguishable flavor, taste or aroma other than
5 tobacco, clove or menthol prior to or during consumption,
6 including, but not limited to, any fruit, chocolate, vanilla, honey,
7 candy, cocoa, dessert, alcoholic beverage, herb or spice flavoring;
8 or the cigarette or any component part thereof is advertised or
9 marketed as having or producing any such flavor, taste or aroma;
10 '[and]'

11 (2) "cigarette" means (a) any roll of tobacco wrapped in paper
12 or in any substance not containing tobacco, and (b) any roll of
13 tobacco wrapped in any substance containing tobacco which,
14 because of its appearance, the type of tobacco used in the filler, or
15 its packaging and labeling, is likely to be offered to, or purchased
16 by, consumers as a cigarette as described in subparagraph (a) of this
17 paragraph (2)¹; and

18 (3) "component part thereof" includes, but is not limited to, the
19 tobacco, paper, roll or filter, or any other matter or substance which
20 can be smoked¹.

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

38 c. In addition to the provisions of subsection b. of this section,
39 upon the recommendation of the municipality, following a hearing
40 by the municipality, the Division of Taxation in the Department of
41 the Treasury may suspend or, after a second or subsequent violation
42 of the provisions of subsection a. of this section, revoke the license
43 of a retail dealer issued under section 202 of P.L.1948, c.65
44 (C.54:40A-4). The licensee shall be subject to administrative
45 charges, based on a schedule issued by the Director of the Division
46 of Taxation, which may provide for a monetary penalty in lieu of a
47 suspension.

S613 [1R]

3

1 3. This act shall take effect on the 60th day after enactment.

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3

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5

6

Prohibits sale of certain flavored cigarettes.

SENATE, No. 613

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator BARBARA BUONO

District 18 (Middlesex)

Co-Sponsored by:

Senator Gordon

SYNOPSIS

Prohibits sale of certain flavored cigarettes.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/15/2008)

1 AN ACT concerning tobacco products and supplementing Title 2A
2 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. The Legislature finds and declares that:

8 a. There has been a proliferation of flavored cigarettes in recent
9 years, and many of these products have fruit, chocolate or other
10 flavors that are particularly attractive to children;

11 b. According to public health experts, the existence of these
12 products increases the incidence of tobacco use among children;

13 c. The earlier a person begins using tobacco, the more likely the
14 person will become addicted to tobacco products and continue to
15 smoke throughout that person's life;

16 d. As a result, flavored cigarettes lead to increased tobacco use
17 and addiction, higher health care costs, and a greater incidence of
18 smoking-related illness and death; and

19 e. Therefore, flavored cigarettes pose a significant threat to the
20 health of the general public, and the protection of the public health
21 warrants that the sale and distribution of these products be
22 prohibited in this State.

23

24 2. a. No person, either directly or indirectly by an agent or
25 employee, or by a vending machine owned by the person or located
26 in the person's establishment, shall sell, offer for sale, distribute for
27 commercial purpose at no cost or minimal cost or with coupons or
28 rebate offers, give or furnish, to a person a cigarette, or any
29 component part thereof, including, but not limited to, the tobacco,
30 paper, roll or filter, or any other matter or substance which can be
31 smoked, which contains a natural or artificial constituent or additive
32 that causes the cigarette or any smoke emanating from that product
33 to have a characterizing flavor other than tobacco, clove or menthol.

34 As used in this section;

35 (1) "characterizing flavor other than tobacco, clove or menthol"
36 means that: the cigarette, or any smoke emanating from that
37 product, imparts a distinguishable flavor, taste or aroma other than
38 tobacco, clove or menthol prior to or during consumption,
39 including, but not limited to, any fruit, chocolate, vanilla, honey,
40 candy, cocoa, dessert, alcoholic beverage, herb or spice flavoring;
41 or the cigarette or any component part thereof is advertised or
42 marketed as having or producing any such flavor, taste or aroma;
43 and

44 (2) "cigarette" means (a) any roll of tobacco wrapped in paper or
45 in any substance not containing tobacco, and (b) any roll of
46 tobacco wrapped in any substance containing tobacco which,
47 because of its appearance, the type of tobacco used in the filler, or
48 its packaging and labeling, is likely to be offered to, or purchased

1 by, consumers as a cigarette as described in subparagraph (a) of this
2 paragraph (2).

3 b. A person who violates the provisions of subsection a. of this
4 section shall be liable to a civil penalty of not less than \$250 for the
5 first violation, not less than \$500 for the second violation, and
6 \$1,000 for the third and each subsequent violation. The civil
7 penalty shall be collected pursuant to the "Penalty Enforcement
8 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary
9 proceeding before the municipal court having jurisdiction. An
10 official authorized by statute or ordinance to enforce the State or
11 local health codes or a law enforcement officer having enforcement
12 authority in that municipality may issue a summons for a violation
13 of the provisions of subsection a. of this section, and may serve and
14 execute all process with respect to the enforcement of this section
15 consistent with the Rules of Court. A penalty recovered under the
16 provisions of this subsection shall be recovered by and in the name
17 of the State by the local health agency. The penalty shall be paid
18 into the treasury of the municipality in which the violation occurred
19 for the general uses of the municipality.

20 c. In addition to the provisions of subsection b. of this section,
21 upon the recommendation of the municipality, following a hearing
22 by the municipality, the Division of Taxation in the Department of
23 the Treasury may suspend or, after a second or subsequent violation
24 of the provisions of subsection a. of this section, revoke the license
25 of a retail dealer issued under section 202 of P.L.1948, c.65
26 (C.54:40A-4). The licensee shall be subject to administrative
27 charges, based on a schedule issued by the Director of the Division
28 of Taxation, which may provide for a monetary penalty in lieu of a
29 suspension.

30
31 3. This act shall take effect on the 60th day after enactment.
32
33

34 STATEMENT
35

36 This bill prohibits the sale of certain flavored cigarette in New
37 Jersey.

38 The bill provides specifically as follows:

- 39 • The bill prohibits selling or furnishing to a person a cigarette, or
40 any component thereof, which contains a natural or artificial
41 constituent or additive that causes the cigarette or any smoke
42 emanating from the cigarette to have a characterizing flavor that
43 is attractive to youth.
- 44 • The prohibition applies to cigarettes with characterizing flavors
45 other than tobacco, clove or menthol, such that the cigarette or
46 any smoke emanating from that product imparts a distinguishable
47 flavor, taste or aroma prior to or during consumption, including,

S613 VITALE, BUONO

- 1 but not limited to, any fruit, chocolate, vanilla, honey, candy,
2 cocoa, dessert, alcoholic beverage, herb or spice flavoring; or the
3 cigarette or any component thereof, is advertised or marketed as
4 having or producing any such flavor, taste or aroma.
- 5 • The prohibition does not apply to little cigars, small cigars,
6 cigarillos, large cigars, pipe tobacco, or smokeless tobacco.
 - 7 • A person who violates the provisions of the bill is liable to a civil
8 penalty of not less than \$250 for the first violation, not less than
9 \$500 for the second violation, and \$1,000 for the third and each
10 subsequent violation, to be collected pursuant to the “Penalty
11 Enforcement Law of 1999,” in a summary proceeding before the
12 municipal court having jurisdiction. A health or law enforcement
13 officer having enforcement authority in that municipality may
14 issue a summons for a violation. The penalty is to be recovered
15 by and in the name of the State by the local health agency, and
16 paid into the treasury of the municipality in which the violation
17 occurred for the general uses of the municipality.
 - 18 • In addition, upon the recommendation of the municipality,
19 following a hearing by the municipality, the Division of Taxation
20 may suspend or, after a second or subsequent violation of the
21 provisions of the bill, revoke the license of a retail dealer issued
22 under N.J.S.A.54:40A-4. The licensee is subject to
23 administrative charges, based on a schedule issued by the
24 Director of the Division of Taxation, which may provide for a
25 monetary penalty in lieu of a suspension.
 - 26 • The bill takes effect on the 60th day after enactment.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 613

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 22, 2008

The Assembly Health and Senior Services Committee reports favorably and with amendments Senate Bill No. 613.

As amended by the committee, this bill prohibits the sale of certain flavored cigarettes in New Jersey.

The bill provides specifically as follows:

- The bill prohibits selling or furnishing to a person a cigarette, or any component thereof, which contains a natural or artificial constituent or additive that causes the cigarette or any smoke emanating from the cigarette to have a characterizing flavor that is attractive to youth.
- The prohibition applies to cigarettes with characterizing flavors other than tobacco, clove or menthol, such that the cigarette or any smoke emanating from that 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 cigarette or any component thereof, is advertised or marketed as having or producing any such flavor, taste or aroma.
- In no event is a cigarette or any component part thereof to be construed to have a characterizing flavor based solely on the use of additives or flavorings, or the provision of an ingredient list made available by any means.
- The prohibition does not apply to little cigars, small cigars, cigarillos, large cigars, pipe tobacco, or smokeless tobacco.
- The bill defines:
 - "characterizing flavor other than tobacco, clove or menthol" to mean that: the cigarette, or any smoke emanating from that product, imparts a distinguishable flavor, taste or aroma other than tobacco, clove or menthol, 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 cigarette or any component part thereof is advertised or marketed as having or producing any such flavor, taste or aroma;
 - "cigarette" to mean (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and (b) any roll of tobacco

wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette as described in this bill; and

-- “component part thereof” to include, but not be limited to, the tobacco, paper, roll or filter, or any other matter or substance which can be smoked.

- A person who violates the provisions of the bill is 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, to be collected pursuant to the “Penalty Enforcement Law of 1999,” in a summary proceeding before the municipal court having jurisdiction. A health or law enforcement officer having enforcement authority in that municipality may issue a summons for a violation. The penalty is to be recovered by and in the name of the State by the local health agency, and paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.
- In addition, upon the recommendation of the municipality, following a hearing by the municipality, the Division of Taxation may suspend or, after a second or subsequent violation of the provisions of the bill, revoke the license of a retail dealer issued under N.J.S.A.54:40A-4. The licensee is subject to administrative charges, based on a schedule issued by the Director of the Division of Taxation, which may provide for a monetary penalty in lieu of a suspension.
- The bill takes effect on the 60th day after enactment.

As reported by the committee, this bill is identical to Assembly Bill No. 1614 Aca (McKeon/Vainieri Huttie/Love), which the committee also reported on this date.

COMMITTEE AMENDMENTS

The committee amendments to the bill:

- stipulate that a cigarette or any component part thereof is not to be construed to have a characterizing flavor based solely on the use of additives or flavorings, or the provision of an ingredient list made available by any means; and
- define “component part thereof” to include, but not be limited to, the tobacco, paper, roll or filter, or any other matter or substance which can be smoked.

MINORITY STATEMENT

Submitted by Assemblyman Polistina

The sponsors of this bill should be commended for their efforts to prohibit the sale of flavored cigarettes, which will reduce their availability and appeal to minors.

However, because the committee members were not given adequate time during the meeting to review and thoroughly discuss the proposed amendments in a thoughtful manner, I am compelled to withhold my support for this legislation at this time.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 613

STATE OF NEW JERSEY

DATED: FEBRUARY 14, 2008

The Senate Health, Human Services and Senior Citizens Committee reports favorably Senate Bill No. 613.

This bill prohibits the sale of certain flavored cigarettes in New Jersey.

The bill provides specifically as follows:

- The bill prohibits selling or furnishing to a person a cigarette, or any component thereof, which contains a natural or artificial constituent or additive that causes the cigarette or any smoke emanating from the cigarette to have a characterizing flavor that is attractive to youth.
- The prohibition applies to cigarettes with characterizing flavors other than tobacco, clove or menthol, such that the cigarette or any smoke emanating from that 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 cigarette or any component thereof, is advertised or marketed as having or producing any such flavor, taste or aroma.
- The prohibition does not apply to little cigars, small cigars, cigarillos, large cigars, pipe tobacco, or smokeless tobacco.
- A person who violates the provisions of the bill is 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, to be collected pursuant to the "Penalty Enforcement Law of 1999," in a summary proceeding before the municipal court having jurisdiction. A health or law enforcement officer having enforcement authority in that municipality may issue a summons for a violation. The penalty is to be recovered by and in the name of the State by the local health agency, and paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.
- In addition, upon the recommendation of the municipality, following a hearing by the municipality, the Division of Taxation may suspend or, after a second or subsequent violation of the provisions of the bill, revoke the license of a retail dealer issued under

N.J.S.A.54:40A-4. The licensee is subject to administrative charges, based on a schedule issued by the Director of the Division of Taxation, which may provide for a monetary penalty in lieu of a suspension.

- The bill takes effect on the 60th day after enactment.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

This bill is identical to Assembly No. 1614 (McKeon/Vainieri Huttel), which is pending in the Assembly Health and Senior Services Committee.

ASSEMBLY, No. 1614

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblywoman SANDRA LOVE

District 4 (Camden and Gloucester)

SYNOPSIS

Prohibits sale of certain flavored cigarettes.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/13/2008)

1 AN ACT concerning tobacco products and supplementing Title 2A
2 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. The Legislature finds and declares that:

8 a. There has been a proliferation of flavored cigarettes in recent
9 years, and many of these products have fruit, chocolate or other
10 flavors that are particularly attractive to children;

11 b. According to public health experts, the existence of these
12 products increases the incidence of tobacco use among children;

13 c. The earlier a person begins using tobacco, the more likely the
14 person will become addicted to tobacco products and continue to
15 smoke throughout that person's life;

16 d. As a result, flavored cigarettes lead to increased tobacco use
17 and addiction, higher health care costs, and a greater incidence of
18 smoking-related illness and death; and

19 e. Therefore, flavored cigarettes pose a significant threat to the
20 health of the general public, and the protection of the public health
21 warrants that the sale and distribution of these products be
22 prohibited in this State.

23

24 2. a. No person, either directly or indirectly by an agent or
25 employee, or by a vending machine owned by the person or located
26 in the person's establishment, shall sell, offer for sale, distribute for
27 commercial purpose at no cost or minimal cost or with coupons or
28 rebate offers, give or furnish, to a person a cigarette, or any
29 component part thereof, including, but not limited to, the tobacco,
30 paper, roll or filter, or any other matter or substance which can be
31 smoked, which contains a natural or artificial constituent or additive
32 that causes the cigarette or any smoke emanating from that product
33 to have a characterizing flavor other than tobacco, clove or menthol.

34 As used in this section:

35 (1) "characterizing flavor other than tobacco, clove or menthol"
36 means that: the cigarette, or any smoke emanating from that
37 product, imparts a distinguishable flavor, taste or aroma other than
38 tobacco, clove or menthol prior to or during consumption,
39 including, but not limited to, any fruit, chocolate, vanilla, honey,
40 candy, cocoa, dessert, alcoholic beverage, herb or spice flavoring;
41 or the cigarette or any component part thereof is advertised or
42 marketed as having or producing any such flavor, taste or aroma;
43 and

44 (2) "cigarette" means (a) any roll of tobacco wrapped in paper or
45 in any substance not containing tobacco, and (b) any roll of tobacco
46 wrapped in any substance containing tobacco which, because of its
47 appearance, the type of tobacco used in the filler, or its packaging
48 and labeling, is likely to be offered to, or purchased by, consumers

1 as a cigarette as described in subparagraph (a) of this paragraph (2).

2 b. A person who violates the provisions of subsection a. of this
3 section shall be liable to a civil penalty of not less than \$250 for the
4 first violation, not less than \$500 for the second violation, and
5 \$1,000 for the third and each subsequent violation. The civil
6 penalty shall be collected pursuant to the "Penalty Enforcement
7 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), in a summary
8 proceeding before the municipal court having jurisdiction. An
9 official authorized by statute or ordinance to enforce the State or
10 local health codes or a law enforcement officer having enforcement
11 authority in that municipality may issue a summons for a violation
12 of the provisions of subsection a. of this section, and may serve and
13 execute all process with respect to the enforcement of this section
14 consistent with the Rules of Court. A penalty recovered under the
15 provisions of this subsection shall be recovered by and in the name
16 of the State by the local health agency. The penalty shall be paid
17 into the treasury of the municipality in which the violation occurred
18 for the general uses of the municipality.

19 c. In addition to the provisions of subsection b. of this section,
20 upon the recommendation of the municipality, following a hearing
21 by the municipality, the Division of Taxation in the Department of
22 the Treasury may suspend or, after a second or subsequent violation
23 of the provisions of subsection a. of this section, revoke the license
24 of a retail dealer issued under section 202 of P.L.1948, c.65
25 (C.54:40A-4). The licensee shall be subject to administrative
26 charges, based on a schedule issued by the Director of the Division
27 of Taxation, which may provide for a monetary penalty in lieu of a
28 suspension.

29

30 3. This act shall take effect on the 60th day after enactment.

31

32

33

STATEMENT

34

35 This bill prohibits the sale of certain flavored cigarettes in New
36 Jersey.

37 The bill provides specifically as follows:

38 • The bill prohibits selling or furnishing to a person a cigarette, or
39 any component thereof, which contains a natural or artificial
40 constituent or additive that causes the cigarette or any smoke
41 emanating from the cigarette to have a characterizing flavor that
42 is attractive to youth.

43 • The prohibition applies to cigarettes with characterizing flavors
44 other than tobacco, clove or menthol, such that the cigarette or
45 any smoke emanating from that product imparts a distinguishable
46 flavor, taste or aroma prior to or during consumption, including,
47 but not limited to, any fruit, chocolate, vanilla, honey, candy,

A1614 MCKEON, VAINIERI HUTTLE

- 1 cocoa, dessert, alcoholic beverage, herb or spice flavoring; or the
2 cigarette or any component thereof, is advertised or marketed as
3 having or producing any such flavor, taste or aroma.
- 4 • The prohibition does not apply to little cigars, small cigars,
5 cigarillos, large cigars, pipe tobacco, or smokeless tobacco.
 - 6 • A person who violates the provisions of the bill is liable to a civil
7 penalty of not less than \$250 for the first violation, not less than
8 \$500 for the second violation, and \$1,000 for the third and each
9 subsequent violation, to be collected pursuant to the “Penalty
10 Enforcement Law of 1999,” in a summary proceeding before the
11 municipal court having jurisdiction. A health or law enforcement
12 officer having enforcement authority in that municipality may
13 issue a summons for a violation. The penalty is to be recovered
14 by and in the name of the State by the local health agency, and
15 paid into the treasury of the municipality in which the violation
16 occurred for the general uses of the municipality.
 - 17 • In addition, upon the recommendation of the municipality,
18 following a hearing by the municipality, the Division of Taxation
19 may suspend or, after a second or subsequent violation of the
20 provisions of the bill, revoke the license of a retail dealer issued
21 under N.J.S.A.54:40A-4. The licensee is subject to
22 administrative charges, based on a schedule issued by the
23 Director of the Division of Taxation, which may provide for a
24 monetary penalty in lieu of a suspension.
 - 25 • The bill takes effect on the 60th day after enactment.

ASSEMBLY HEALTH AND SENIOR SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1614

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 22, 2008

The Assembly Health and Senior Services Committee reports favorably and with amendments Assembly Bill No. 1614.

As amended by the committee, this bill prohibits the sale of certain flavored cigarettes in New Jersey.

The bill provides specifically as follows:

- The bill prohibits selling or furnishing to a person a cigarette, or any component thereof, which contains a natural or artificial constituent or additive that causes the cigarette or any smoke emanating from the cigarette to have a characterizing flavor that is attractive to youth.
- The prohibition applies to cigarettes with characterizing flavors other than tobacco, clove or menthol, such that the cigarette or any smoke emanating from that 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 cigarette or any component thereof, is advertised or marketed as having or producing any such flavor, taste or aroma.
- In no event is a cigarette or any component part thereof to be construed to have a characterizing flavor based solely on the use of additives or flavorings, or the provision of an ingredient list made available by any means.
- The prohibition does not apply to little cigars, small cigars, cigarillos, large cigars, pipe tobacco, or smokeless tobacco.
- The bill defines:
 - "characterizing flavor other than tobacco, clove or menthol" to mean that: the cigarette, or any smoke emanating from that product, imparts a distinguishable flavor, taste or aroma other than tobacco, clove or menthol, 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 cigarette or any component part thereof is advertised or marketed as having or producing any such flavor, taste or aroma;
 - "cigarette" to mean (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco, and (b) any roll of tobacco

wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette as described in this bill; and

-- “component part thereof” to include, but not be limited to, the tobacco, paper, roll or filter, or any other matter or substance which can be smoked.

- A person who violates the provisions of the bill is 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, to be collected pursuant to the “Penalty Enforcement Law of 1999,” in a summary proceeding before the municipal court having jurisdiction. A health or law enforcement officer having enforcement authority in that municipality may issue a summons for a violation. The penalty is to be recovered by and in the name of the State by the local health agency, and paid into the treasury of the municipality in which the violation occurred for the general uses of the municipality.
- In addition, upon the recommendation of the municipality, following a hearing by the municipality, the Division of Taxation may suspend or, after a second or subsequent violation of the provisions of the bill, revoke the license of a retail dealer issued under N.J.S.A.54:40A-4. The licensee is subject to administrative charges, based on a schedule issued by the Director of the Division of Taxation, which may provide for a monetary penalty in lieu of a suspension.
- The bill takes effect on the 60th day after enactment.

As reported by the committee, this bill is identical to Senate Bill No. 613 Aca (Vitale/Buono), which the committee also reported on this date.

This bill was pre-filed for introduction in the 2008-2009 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amendments to the bill:

- stipulate that a cigarette or any component part thereof is not to be construed to have a characterizing flavor based solely on the use of additives or flavorings, or the provision of an ingredient list made available by any means; and
- define “component part thereof” to include, but not be limited to, the tobacco, paper, roll or filter, or any other matter or substance which can be smoked.

MINORITY STATEMENT

Submitted by Assemblyman Polistina

The sponsors of this bill should be commended for their efforts to prohibit the sale of flavored cigarettes, which will reduce their availability and appeal to minors.

However, because the committee members were not given adequate time during the meeting to review and thoroughly discuss the proposed amendments in a thoughtful manner, I am compelled to withhold my support for this legislation at this time.