

SENATE BILL NO. 141

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY SENATOR STEVENS

Introduced: 1/19/16

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to possession of an electronic smoking device, e-liquid or e-liquid
2 product, vapor product, or alternative tobacco product by a minor and to selling or
3 giving an electronic smoking device, e-liquid or e-liquid product, vapor product, or
4 alternative tobacco product to a minor."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** AS 11.76.105(a) is amended to read:

7 (a) A person under 19 years of age may not knowingly possess a cigarette, **an**
8 **electronic smoking device, e-liquid or e-liquid product, vapor product,**
9 **alternative tobacco product,** [A] cigar, tobacco, or a product containing tobacco in
10 this state. This subsection does not apply to a person who is a prisoner at an adult
11 correctional facility.

12 * **Sec. 2.** AS 11.76.109(a) is amended to read:

13 (a) A person commits the offense of selling or giving **an electronic smoking**
14 **device, e-liquid or e-liquid product, vapor product, alternative tobacco product,**

1 or a product containing nicotine to a minor if the person

2 (1) negligently sells an electronic smoking device, e-liquid or e-
 3 liquid product, vapor product, alternative tobacco product, or a product
 4 containing nicotine to a person under 19 years of age; or

5 (2) is 19 years of age or older and negligently exchanges or gives an
 6 electronic smoking device, e-liquid or e-liquid product, vapor product,
 7 alternative tobacco product, or a product containing nicotine to a person under 19
 8 years of age.

9 * **Sec. 3.** AS 11.76.109(b) is amended to read:

10 (b) The provisions of (a) of this section do not apply to the sale, exchange, or
 11 gift to a person under 19 years of age of an electronic smoking device, e-liquid or e-
 12 liquid product, vapor product, alternative tobacco product, or a product
 13 containing nicotine that is intended or expected to be consumed without being
 14 combusted if the electronic smoking device, e-liquid or e-liquid product, vapor
 15 product, alternative tobacco product, or product

16 (1) has been approved by the United States Food and Drug
 17 Administration for sale as a tobacco use cessation or harm reduction product or for
 18 other medical purposes;

19 (2) is being marketed and sold solely for the approved purposes; and

20 (3) is

21 (A) prescribed by a health care professional;

22 (B) given to a person by the person's parent or legal guardian;

23 (C) provided by a state-approved tobacco cessation program
 24 administered by the Department of Health and Social Services; or

25 (D) provided by a pharmacist to a person 18 years of age or
 26 older without a prescription.

27 * **Sec. 4.** AS 11.81.900(b) is amended by adding new paragraphs to read:

28 (67) "alternative tobacco product" means a product that consists of or
 29 contains nicotine or any substance derived from tobacco or synthesized to resemble
 30 nicotine that is ingested by chewing, smoking, absorbing, dissolving, inhaling,
 31 snorting, sniffing, or by any other means; "alternative tobacco product" does not

1 include a cigarette, tobacco product, vapor product, or other product that is a drug
2 under 21 U.S.C. 321(g)(1), a product that is a device under 21 U.S.C. 321(h), or a
3 product that constitutes a combination drug, device, or combination product as
4 described in 21 U.S.C. 353(g);

5 (68) "electronic smoking device"

6 (A) means

7 (i) an electronic cigarette, electronic cigar, electronic
8 cigarillo, electronic pipe, or other similar device that is used to
9 aerosolize and deliver nicotine or other substances to the person
10 inhaling from the device; and

11 (ii) a component, solution, alternative tobacco product,
12 e-liquid or e-liquid product, vapor product, or other related product of
13 an electronic cigarette, electronic cigar, electronic cigarillo, electronic
14 pipe, or other similar device;

15 (B) does not include a drug, device, or combination product
16 approved for sale by the United States Food and Drug Administration, as those
17 terms are defined in 21 U.S.C. 301-399f (Food, Drug, and Cosmetic Act);

18 (69) "e-liquid or e-liquid product" means a liquid product that is
19 vaporized and inhaled when using a vapor product and may contain

20 (A) flavorings;

21 (B) propylene glycol;

22 (C) vegetable glycerin;

23 (D) nicotine from any source; or

24 (E) any product derived from tobacco or synthesized to
25 resemble the effects of tobacco on the body;

26 (70) "vapor product" means a device that simulates smoking,
27 regardless of whether a visible vapor is produced, and that is

28 (A) an electronic oral device of any size or shape;

29 (B) a device composed of a heating element, battery element,
30 electronic circuit, chemical process, mechanical device, or a combination;

31 (C) a device that works in combination with a cartridge, other

1 container, or liquid delivery device containing nicotine or any other substance
2 manufactured for use with a vapor product; or

3 (D) a device that is manufactured, distributed, marketed, or
4 sold as any type of derivation of a vapor product, e-cigarette, e-cigar, e-pipe, or
5 any other similar device that contains or produces a vapor of nicotine, e-liquid
6 or e-liquid product, or any other substance; "vapor product" does not include a
7 drug, device, or combination product, as defined in 21 U.S.C. 301-399f (Food,
8 Drug, and Cosmetic Act), that is approved for sale by the United States Food
9 and Drug Administration.

10 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 **APPLICABILITY.** AS 11.76.105(a), as amended by sec. 1 of this Act,
13 AS 11.76.109(a), as amended by sec. 2 of this Act, and AS 11.76.109(b), as amended by sec.
14 3 of this Act, apply to offenses committed on or after the effective date of this Act.