

Regular Session, 2014

SENATE BILL NO. 12

BY SENATORS GALLOT, DORSEY-COLOMB, PEACOCK, GARY SMITH AND THOMPSON

ENVIRONMENTAL HEALTH. Prohibits the sale of electronic cigarettes and vapor pens to persons under age 18. (gov sig)

1 AN ACT
2 To amend and reenact R.S. 14:91.6(A) and 91.8, R.S. 26:901, 902(1), 905(B), 909(A)(2),
3 910, 910.1, the introductory paragraph of 911(A) and (A)(1) and (2), the introductory
4 paragraph of 917(A) and (C), and 932(6), and R.S. 47:851(C)(2), and to enact R.S.
5 14:91.6(B)(6) and (7), relative to alternative nicotine products and vapor products;
6 to prohibit the sale or other distribution of alternative nicotine products and vapor
7 pens to persons under the age of eighteen years; to provide relative to definitions;
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 14:91.6(A) and 91.8 are hereby amended and reenacted and R.S.
11 14:91.6(B)(6) and (7) are hereby enacted to read as follows:

12 §91.6. Unlawful distribution of sample tobacco products, alternative nicotine
13 products, or vapor products to persons under age eighteen; penalty

14 A. No person shall distribute or cause to be distributed to persons under
15 eighteen years of age a promotional sample of any tobacco product, alternative
16 nicotine product, or vapor product.

17 B. For purposes of this Section, the following definitions apply:

* * *

(6) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any:

(a) Tobacco product.

(b) Vapor product.

(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(d) Device pursuant to 21 U.S.C. 321(h).

(e) Combination product described in 21 U.S.C. 353(g).

(7) "Vapor product" means any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include any:

(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(b) Device pursuant to 21 U.S.C. 321(h).

(c) Combination product described in 21 U.S.C. 353(g).

* * *

§91.8. Unlawful sale, purchase, or possession of tobacco, alternative nicotine product, or vapor product; signs required; penalties

A. This Section shall be known and may be cited as the "Prevention of Youth Access to Tobacco Law".

B. It is the intent of the legislature that enforcement of this Section shall be

1 implemented in an equitable manner throughout the state. For the purpose of
2 equitable and uniform implementation and application of state and local laws and
3 regulations, the provisions of this Section shall supersede existing or subsequently
4 adopted local ordinances or regulations which relate to the sale, promotion, and
5 distribution of tobacco products, **alternative nicotine product, or vapor product.**

6 It is the intent of the legislature that this Section shall be equitably enforced so as to
7 ensure the eligibility for and receipt of any federal funds or grants the state now
8 receives or may receive relating to the provisions of this Section.

9 C. It is unlawful for any manufacturer, distributor, retailer, or other person
10 knowingly to sell or distribute any tobacco product, **alternative nicotine product,**
11 **or vapor product** to a person under the age of eighteen. However, it shall not be
12 unlawful for a person under the age of eighteen to accept receipt of a tobacco
13 product, **alternative nicotine product, or vapor product** from an employer when
14 required in the performance of such person's duties. At the point of purchase, a sign
15 in type not less than 30-point type shall be displayed that reads "LOUISIANA LAW
16 PROHIBITS THE SALE OF TOBACCO **PRODUCTS, ALTERNATIVE**
17 **NICOTINE PRODUCTS, OR VAPOR PRODUCTS** TO PERSONS UNDER
18 AGE 18".

19 D. It is unlawful for a vending machine operator to place in use a vending
20 machine to vend any tobacco product, **alternative nicotine product, or vapor**
21 **product** automatically, unless the machine displays a sign or sticker in not less than
22 22-point type on the front of the machine stating, "LOUISIANA LAW PROHIBITS
23 THE SALE OF TOBACCO **PRODUCTS, ALTERNATIVE NICOTINE**
24 **PRODUCTS, OR VAPOR PRODUCTS** TO PERSONS UNDER AGE 18", ~~or~~
25 ~~words of similar meaning.~~

26 E. It is unlawful for any person under the age of eighteen to buy any tobacco
27 product, **alternative nicotine product, or vapor product.**

28 F.(1) It is unlawful for any person under the age of eighteen to possess any
29 tobacco product, **alternative nicotine product, or vapor product.**

1 (2) However, it shall not be unlawful for a person under the age of eighteen
2 to possess a tobacco product, **alternative nicotine product, or vapor product** under
3 any of the following circumstances:

4 (a) When a person under eighteen years of age is accompanied by a parent,
5 spouse, or legal guardian twenty-one years of age or older.

6 (b) In private residences.

7 (c) When the tobacco product, **alternative nicotine product, or vapor**
8 **product** is handled during the course and scope of his employment and required in
9 the performance of such person's duties.

10 G. For purposes of this Section, the following definitions apply:

11 (1) "Tobacco product" means any cigar, cigarette, smokeless tobacco, or
12 smoking tobacco.

13 (2) "Cigar" means any roll of tobacco for smoking, irrespective of size or
14 shape, and irrespective of the tobacco being flavored, adulterated, or mixed with any
15 other ingredients, where such roll has a wrapper made chiefly of tobacco.

16 (3) "Cigarette" means any roll for smoking made wholly or in part of
17 tobacco, irrespective of size or shape and irrespective of the tobacco being flavored,
18 adulterated, or mixed with any other ingredient, where such roll has a wrapper or
19 cover made of paper, or any other material, except where such wrapper is wholly or
20 in greater part made of tobacco.

21 (4) "Smokeless tobacco" means any finely cut, ground, powdered, or leaf
22 tobacco that is intended to be placed in the oral or nasal cavity.

23 (5) "Smoking tobacco" means granulated, plug cut, crimp cut, ready rubbed,
24 and any other kind and form of tobacco prepared in such manner as to be suitable for
25 smoking in a pipe or cigarette.

26 **(6) "Alternative nicotine product" means any non-combustible product**
27 **containing nicotine that is intended for human consumption, whether chewed,**
28 **absorbed, dissolved, or ingested by any other means. "Alternative nicotine**
29 **product" does not include any:**

- 1 (a) Tobacco product.
- 2 (b) Vapor product.
- 3 (c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).
- 4 (d) Device pursuant to 21 U.S.C. 321(h).
- 5 (e) Combination product described in 21 U.S.C. 353(g).
- 6 (7) "Vapor product" means any non-combustible product containing
- 7 nicotine or other substances that employs a heating element, power source,
- 8 electronic circuit, or other electronic, chemical or mechanical means, regardless
- 9 of shape or size, that can be used to produce vapor from nicotine in a solution
- 10 or other form. "Vapor product" includes any electronic cigarette, electronic
- 11 cigar, electronic cigarillo, electronic pipe, or similar product or device and any
- 12 vapor cartridge or other container of nicotine in a solution or other form that
- 13 is intended to be used with or in an electronic cigarette, electronic cigar,
- 14 electronic cigarillo, electronic pipe, or similar product or device. "Vapor
- 15 product" does not include any:

16 (a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

17 (b) Device pursuant to 21 U.S.C. 321(h).

18 (c) Combination product described in 21 U.S.C. 353(g).

19 H.(1) A person who violates the provisions of this Section by selling or

20 buying tobacco products, **alternative nicotine products, or vapor products** shall

21 be fined not more than fifty dollars for the first violation. The penalties for

22 subsequent violations shall be a fine of not more than one hundred dollars for the

23 second violation, a fine of not more than two hundred fifty dollars for the third

24 violation, and a fine of not more than four hundred dollars for any violation

25 thereafter.

26 (2) A person who violates the provisions of this Section by possessing

27 tobacco products, **alternative nicotine products, or vapor products** shall be fined

28 not more than fifty dollars for each violation.

29 I. A violation of the signage requirement of Subsection C of this Section

1 shall be deemed to be a violation by the owner of the establishment where the
 2 violation occurred. A violation of the signage requirement of Subsection D of this
 3 Section shall be deemed to be a violation by the owner of the vending machine. For
 4 the first such violation, the owner shall be fined not more than fifty dollars. The
 5 penalties for subsequent violations shall be a fine of not more than one hundred
 6 dollars for the second violation, a fine of not more than two hundred fifty dollars for
 7 the third violation, and a fine of not more than five hundred dollars for any violation
 8 thereafter.

9 J. The law enforcement agency issuing the citation or making the arrest or
 10 the clerk of the court in which a prosecution is initiated, as the case may be, shall
 11 notify the commissioner of the office of alcohol and tobacco control of the action and
 12 the final disposition of the matter.

13 Section 2. R.S. 26:901, 902(1), 905(B), 909(A)(2), 910, 910.1, the introductory
 14 paragraph of 911(A) and (A)(1) and (2), the introductory paragraph of 917(A) and (C), and
 15 932(6) are hereby amended and reenacted to read as follows:

16 §901. Definitions

17 As used in this Chapter, the following terms have the meaning ascribed to
 18 them in this Section, unless the context clearly indicates otherwise:

19 (1) **"Alternative nicotine product" means any non-combustible product**
 20 **containing nicotine that is intended for human consumption, whether chewed,**
 21 **absorbed, dissolved, or ingested by any other means. "Alternative nicotine**
 22 **product" does not include any:**

23 **(a) Tobacco product.**

24 **(b) Vapor product.**

25 **(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).**

26 **(d) Device pursuant to 21 U.S.C. 321(h).**

27 **(e) Combination product described in 21 U.S.C. 353(g).**

28 (2) "Brand family" has the meaning as set forth in R.S. 13:5072(1).

29 ~~(2)~~(3) "Cigar" includes any roll of tobacco for smoking, irrespective of size

1 or shape, and irrespective of the tobacco being flavored, adulterated, or mixed with
2 any other ingredients, where such roll has a wrapper made chiefly of tobacco.

3 ~~(3)~~(4) "Cigarette" includes any roll for smoking made wholly or in part of
4 tobacco, irrespective of size or shape and irrespective of the tobacco being flavored,
5 adulterated, or mixed with any other ingredient, where such roll has a wrapper or
6 cover made of paper, or any other material except where such wrapper is wholly or
7 in greater part made of tobacco.

8 ~~(4)~~(5) "Commissioner" means the commissioner of alcohol and tobacco
9 control.

10 ~~(5)~~(6) "Dealer" includes every person who manufactures or purchases cigars,
11 cigarettes, or other tobacco products for distribution or resale in this state. The term
12 also means any person who imports cigars, cigarettes, or other tobacco products from
13 any state or foreign country for distribution, sale, or consumption in this state.

14 ~~(6)~~(7) "Exporter license" means the stamping agent designation as set forth
15 in R.S. 26:902(5)(b).

16 ~~(7)~~(8) "Facility" means a part or portion of an establishment which is
17 designed so as to impede a minor's access to a vending machine by walls or other
18 separation in combination with signs designed to notify the public that persons under
19 the age of eighteen are prohibited from the area.

20 ~~(8)~~(9) A "knowing violation or failure" is a knowing or intentional engaging
21 in conduct without a good faith belief that the conduct was consistent with the
22 provisions of this Chapter.

23 ~~(9)~~(10) "Manufacturer" means anyone engaged in the manufacture,
24 production, or foreign importation of tobacco products who sells to wholesalers.

25 ~~(10)~~(11) "Person" means any natural person, trustee, company, partnership,
26 corporation, or other legal entity.

27 ~~(11)~~(12) "Place of business" means the place where the tobacco orders,
28 **alternative nicotine products orders, or vapor products orders** are received, or
29 where the taxable tobacco articles are sold, or if sold by a retail dealer upon a

1 railroad train or on or from any other vehicle, the vehicle on which or from which
2 the taxable articles or alternative nicotine products or vapor products are sold by
3 the retail dealer. It also includes the establishment where vending machines are
4 located.

5 ~~(12)~~(13) "Purchase" means acquisition in any manner, for any consideration.
6 The term shall include transporting or receiving product in connection with a
7 purchase.

8 ~~(13)~~(14) "Retail dealer" includes every dealer other than a wholesale dealer,
9 or manufacturer who sells or offers for sale cigars, cigarettes, ~~or~~ other tobacco
10 products, alternative nicotine products, or vapor products, irrespective of quantity
11 or the number of sales.

12 ~~(14)~~(15) "Sale" or "sell" means any transfer, exchange, or barter in any
13 manner or by any means for any consideration. The term shall include distributing
14 or shipping product in connection with a sale. References to a sale "in" or "into" a
15 state refer to the state of the destination point of the product in the sale, without
16 regard to where title was transferred. References to sale "from" a state refer to the
17 sale of cigarettes that are located in that state to the destination in question without
18 regard to where title was transferred.

19 ~~(15)~~(16) "Sales entity affiliate" means an entity that sells cigarettes that it
20 acquires directly from a manufacturer or importer and is affiliated with that
21 manufacturer or importer as established by documentation received directly from
22 that manufacturer or importer to the satisfaction of the attorney general. Entities are
23 affiliated with each other if one, directly or indirectly through one or more
24 intermediaries, controls or is controlled by or is under common control with the
25 other.

26 ~~(16)~~(17) "Secretary" means the secretary of the Department of Revenue and
27 includes any of his duly authorized assistants.

28 ~~(17)~~(18) "Self-service display" means any display that contains tobacco
29 products, alternative nicotine products, or vapor products, and is located in an

1 area openly accessible to the retail dealer's customers and from which such
2 customers can readily access tobacco products, **alternative nicotine products, or**
3 **vapor products** without the assistance of a salesperson. A display case that holds
4 tobacco products, **alternative nicotine products, or vapor products** behind locked
5 doors does not constitute a self-service display for purposes of this Chapter.

6 ~~(18)~~**(19)** "Smokeless tobacco" means any finely cut, ground, powdered, or
7 leaf tobacco that is intended to be placed in the oral or nasal cavity.

8 ~~(19)~~**(20)** "Smoking tobacco" includes granulated, plug cut, crimp cut, ready
9 rubbed, and any other kind and form of tobacco prepared in such manner as to be
10 suitable for smoking in pipe or cigarette.

11 ~~(20)~~**(21)** "Stamp" means the impression, device, stamp, label, or print
12 manufactured or printed as prescribed by the secretary by the use of which the tax
13 levied hereunder is paid. By way of extension, and not limitation, the term "stamp"
14 means any impression or character affixed to or which shall be stamped upon
15 commodities by metered stamping machine or device by use of which the tax levied
16 hereunder is paid.

17 ~~(21)~~**(22)** "Stamping agent" means a dealer that is authorized to affix tax
18 stamps to packages or other containers of cigarettes under R.S. 47:843 et seq. or any
19 dealer that is required to pay the excise tax or tobacco tax imposed pursuant to R.S.
20 47:841 et seq. on cigarettes.

21 ~~(22)~~**(23)** "State directory" or "directory" means the directory compiled by the
22 attorney general under R.S. 13:5073, or, in the case of reference to another state's
23 directory, the directory compiled under the similar law in that other state.

24 ~~(23)~~**(24)** "Tobacconist" means any bona fide tobacco retailer engaged in
25 receiving bulk smoking tobacco for the purpose of blending such tobacco for retail
26 sale at a particular retail outlet where fifty percent or more of the total purchases for
27 the preceding twelve months were purchases of tobacco products, excluding
28 cigarettes.

29 ~~(24)~~**(25)** "Tobacco product" means any cigar, cigarette, smokeless tobacco,

1 or smoking tobacco.

2 **(26) "Vapor product" means any non-combustible product containing**
3 **nicotine or other substances that employs a heating element, power source,**
4 **electronic circuit, or other electronic, chemical or mechanical means, regardless**
5 **of shape or size, that can be used to produce vapor from nicotine in a solution**
6 **or other form. "Vapor product" includes any electronic cigarette, electronic**
7 **cigar, electronic cigarillo, electronic pipe, or similar product or device and any**
8 **vapor cartridge or other container of nicotine in a solution or other form that**
9 **is intended to be used with or in an electronic cigarette, electronic cigar,**
10 **electronic cigarillo, electronic pipe, or similar product or device. "Vapor**
11 **product" does not include any:**

12 **(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).**

13 **(b) Device pursuant to 21 U.S.C. 321(h).**

14 **(c) Combination product described in 21 U.S.C. 353(g).**

15 ~~(25)~~**(27)** "Vending machine" means any mechanical, electric, or electronic
16 self-service device which, upon insertion of money, tokens, or any other form of
17 payment, automatically dispenses tobacco products, **alternative nicotine products,**
18 **or vapor products.**

19 ~~(26)~~**(28)** "Vending machine operator" means any person who controls the use
20 of one or more vending machines as to the supply of cigarettes or any tobacco
21 products in the machine or the receipts from cigarettes vended through such
22 machines.

23 ~~(27)~~**(29)** "Wholesale dealer" means a dealer whose principal business is that
24 of a wholesaler, who sells cigarettes, cigars, or other tobacco products to retail
25 dealers for purpose of resale, who is a bona fide wholesaler, and fifty percent of
26 whose total tobacco sales are to retail stores other than its own or its subsidiaries
27 within Louisiana. Wholesale dealer shall include any person in the state who
28 acquires cigarettes solely for the purpose of resale in vending machines, provided
29 such person services fifty or more cigarette vending machines in Louisiana other

1 than his own, and a Louisiana dealer who was affixing cigarette and tobacco stamps
2 as of January 1, 1974.

3 §902. Permits

4 The commissioner shall issue as authorized by this Section the following
5 types of permits and shall adopt rules and regulations that specify the identifying
6 information that is required to appear on the face of each type of permit:

7 (1) Retail Dealer Permit. A retail dealer permit shall be issued to a dealer
8 other than a wholesale dealer or vending machine operator for each retail outlet
9 where cigars, cigarettes, ~~or~~ other tobacco products, **alternative nicotine products,**
10 **or vapor products** are offered for sale either over the counter or by vending
11 machine.

12 * * *

13 §905. Renewal of a permit

14 * * *

15 B. If a dealer fails to file an application and pay the permit fees by the date
16 established by the commissioner, there shall be added to the fee, in addition to other
17 penalties provided in this Chapter, a delinquency penalty of twenty-five percent if
18 the failure is not more than thirty days, with an additional twenty-five percent for
19 each additional thirty days or fraction thereof during which the failure continues. If
20 the dealer fails to make his application by the date established by the commissioner,
21 the commissioner may, without notice or hearing, suspend his right to possess or sell
22 tobacco products, **alternative nicotine products, and vapor products.**

23 * * *

24 §909. General requirements of eligibility

25 A. The commissioner may suspend a permit previously issued or may refuse
26 to grant a permit if, after a hearing and by a preponderance of the evidence, it is
27 proven that the permittee, or an employee or agent thereof, or applicant either:

28 * * *

29 (2) Has violated the terms and provisions of R.S. 14:91.6 relative to the

1 unlawful distribution of tobacco products, **alternative nicotine products, or vapor**
2 **products.**

3 * * *

4 §910. Vending machines

5 In order to prevent persons under eighteen years of age from purchasing or
6 receiving tobacco products, **alternative nicotine products, or vapor products** from
7 vending machines, the sale or delivery of ~~tobacco~~ **such** products through a vending
8 machine is prohibited unless either:

9 (1) The machine is located in an establishment to which persons under the
10 age of eighteen are denied access.

11 (2) The machine is located in facilities where the dealer ensures that no
12 person younger than eighteen years of age is present or permitted to enter at any time
13 and the machine is located within the unobstructed line of sight of a dealer or a
14 dealer's agent or employee who is responsible for preventing persons younger than
15 eighteen years of age from purchasing tobacco products, **alternative nicotine**
16 **products, or vapor products** through that machine.

17 §910.1. Self-service displays

18 A. In order to prevent persons under eighteen years of age from purchasing
19 or receiving tobacco products, **alternative nicotine products, or vapor products**
20 from self-service displays, the sale or delivery of ~~tobacco~~ **such** products through a
21 self-service display is prohibited unless the machine is a vending machine **as defined**
22 **in R.S. 26:910** that complies with the terms and provisions of ~~R.S. 26:910~~ **that**
23 **Section.**

24 B.(1) The provisions of this Section shall not apply to a tobacconist at a
25 particular outlet or a retail tobacco business.

26 (2) "Retail tobacco business" for purposes of this Section means a bona fide
27 retail dealer engaged in the sale of tobacco products and accessories for retail sale
28 where fifty percent or more of the total sales for the preceding twelve months,
29 excluding fuel sales, were tobacco products, including cigarettes, **alternative**

1 nicotine products, or vapor products.

2 (3) "Tobacconist at a particular outlet" for purposes of this Section means
3 a bona fide retail dealer engaged in receiving bulk smoking tobacco for the purpose
4 of blending such tobacco for retail sale at a particular retail outlet where fifty percent
5 or more of the total purchases for the preceding twelve months were purchases of
6 tobacco products, excluding cigarettes, alternative nicotine products, or vapor
7 products.

8 §911. Acts prohibited

9 A. No person, agent, associate, employee, representative, or servant of any
10 person shall permit any of the following acts to be done on or about any premises
11 which sells or offers for sale tobacco products, alternative nicotine products, or
12 vapor products:

13 (1) Sell or serve tobacco products, alternative nicotine products, or vapor
14 products over-the-counter in a retail establishment to any person under the age of
15 eighteen unless such person submits a driver's license, selective service card, or other
16 lawful identification which on its face establishes the age of the person as eighteen
17 years or older and there is no reason to doubt the authenticity or correctness of the
18 identification.

19 (2) Violate the terms and provisions of R.S. 14:91.6 relative to the unlawful
20 distribution of tobacco products, alternative nicotine products, or vapor products.

21 * * *

22 §917. Violations by employee; employer liability

23 A. Sale of tobacco products, alternative nicotine products, or vapor
24 products to a minor by a retail dealer's agent, associate, employee, representative,
25 or servant shall be considered an act of the retail dealer for purposes of suspension,
26 revocation, or assessment of civil penalties unless all of the following conditions
27 exist:

28 * * *

29 C. The provisions of Subsection A of this Section shall not apply if a retail

1 dealer, or lawful retailer of alternative nicotine products or vapor products, as
 2 applicable, within one hundred eighty days from the hiring of an agent, associate,
 3 employee, representative, or servant can prove that he has made application to have
 4 the employee attend a training program or the retail dealer or lawful retailer, as
 5 applicable, has received an extension of time in which to comply from the
 6 commissioner because of unavailability of a training program.

7 * * *

8 §932. Definitions

9 For purposes of this Chapter, the following terms have the respective
 10 meanings ascribed to them in this Chapter, unless a different meaning clearly appears
 11 from the context:

12 * * *

13 (6) "Server" means any employee of a vendor, other than security personnel,
 14 who is authorized to sell or serve alcoholic beverages, ~~or~~ tobacco products,
 15 alternative nicotine products, or vapor products in the normal course of his or her
 16 employment or deals with customers who purchase or consume alcoholic beverages
 17 or tobacco products. "Server" shall not include individuals employed on a temporary
 18 or casual basis by a bona fide hotel or motel for banquets, catering, or other special
 19 events.

20 * * *

21 Section 3. R.S. 47:851(C)(2) is hereby amended and reenacted to read as follows:

22 §851. Dealers receiving unstamped and/or nontax paid cigarettes, cigars, and
 23 smoking tobaccos required to file monthly reports and maintain
 24 records; vending machine restrictions

25 * * *

26 C. Vending machine operators.

27 * * *

28 (2) In accordance with ~~state law prohibiting minors from purchasing tobacco~~
 29 ~~products~~ R.S. 14:91.8(D), vending machine operators shall affix a ~~sticker in a~~

1 ~~prominent place on each machine, in print not smaller than twenty-two point, **sign**~~
 2 ~~**or sticker in not less than 22-point type on the front of each machine**~~ stating,
 3 ~~"Louisiana Law Prohibits the Purchase of Tobacco Products by Anyone Under Age~~
 4 ~~17"~~ **"LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO**
 5 **PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR**
 6 **PRODUCTS TO PERSONS UNDER AGE 18"**.

7 * * *

8 Section 4. This Act shall become effective upon signature by the governor or, if not
 9 signed by the governor, upon expiration of the time for bills to become law without signature
 10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 12 effective on the day following such approval.

The original instrument was prepared by Christopher D. Adams. The following digest, which does not constitute a part of the legislative instrument, was prepared by Alden A. Clement, Jr.

DIGEST

Gallot (SB 12)

Present law prohibits the distribution of sample tobacco products to persons under the age of 18 years.

Proposed law retains present law and adds alternative nicotine products to the present law prohibition.

Proposed law defines "alternative nicotine product" as any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means, but does not include any:

1. Tobacco product
2. Vapor product
3. Product that is a drug pursuant to federal law (21 U.S.C. 321(g)(1))
4. Device pursuant to federal law (21 U.S.C. 321(h))
5. Combination product described in federal law (21 U.S.C. 353(g))

Proposed law defines "vapor product" as any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Proposed law further provides that "vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of

nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

Proposed law provides that "vapor product" does not include any:

- (1) Product that is a drug pursuant to federal law (21 U.S.C. 321(g)(1))
- (2) Device pursuant to federal law (21 U.S.C. 321(h))
- (3) Combination product described in federal law (21 U.S.C. 353(g))

Present law prohibits the sale of tobacco to or the purchase or possession of tobacco by any person under the age of 18 years.

Proposed law retains present law and adds alternative nicotine products and vapor products to the present law prohibition.

Present law provides that, in order to prevent persons under 18 years of age from purchasing or receiving tobacco products from vending machines, the sale or delivery of tobacco products through a vending machine is prohibited unless either:

- (1) The machine is located in an establishment to which persons under the age of 18 are denied access.
- (2) The machine is located in facilities where the dealer ensures that no person younger than 18 years of age is present or permitted to enter at any time, and the machine is located within the unobstructed line of sight of a dealer or a dealer's agent or employee who is responsible for preventing persons younger than 18 years of age from purchasing tobacco products through that machine.

Proposed law retains present law and adds alternative nicotine products and vapor products to the coverage of present law.

Present law provides that, in order to prevent persons under 18 years of age from purchasing or receiving tobacco products from self-service displays, the sale or delivery of tobacco products through a self-service display is prohibited unless the machine is a vending machine that complies with the terms and provisions of present law.

Proposed law retains present law and adds alternative nicotine products and vapor products to the coverage of present law.

Present law provides relative to retail dealer permits and the renewal of retail dealer permits for the sale of cigars, cigarettes, and other tobacco products that are offered for sale either over the counter or by vending machine.

Proposed law retains present law and adds alternative nicotine products and vapor products to the coverage of present law.

Present law provides relative to the sale of tobacco products through vending machines and self-service displays.

Proposed law retains present law and adds alternative nicotine products and vapor products to the coverage of present law.

Present law defines "retail tobacco business" as a bona fide retail dealer engaged in the sale of tobacco products and accessories for retail sale where fifty percent or more of the total sales for the preceding 12 months, excluding fuel sales, were tobacco products, including cigarettes.

Proposed law retains present law and adds alternative nicotine products and vapor products to the definition of retail tobacco business.

Present law defines "tobacconist at a particular outlet" as a bona fide retail dealer engaged in receiving bulk smoking tobacco for the purpose of blending such tobacco for retail sale at a particular retail outlet where fifty percent or more of the total purchases for the preceding 12 months were purchases of tobacco products, excluding cigarettes.

Proposed law retains present law and also excludes alternative nicotine products and vapor products from the definition of "tobacconist at a particular outlet".

Present law prohibits any person, agent, associate, employee, representative, or servant of any person from selling or serving tobacco products over-the-counter in a retail establishment to any person under the age of 18 years unless such person submits a driver's license, selective service card, or other lawful identification that on its face establishes the age of the person as 18 years or older and there is no reason to doubt the authenticity or correctness of the identification. Present law further prohibits such persons from violating present law relative to the unlawful distribution of tobacco products to minors.

Proposed law retains present law and adds alternative nicotine products and vapor products to the coverage of present law.

Present law provides that the sale of tobacco products to a minor by a retail dealer's agent, associate, employee, representative, or servant is considered an act of the retail dealer except under certain circumstances.

Proposed law retains present law and adds the sale of alternative nicotine products and vapor products to the coverage of present law.

Present law provides that "server" means any employee of a vendor, other than security personnel, who is authorized to sell or serve alcoholic beverages or tobacco products in the normal course of his or her employment or deals with customers who purchase or consume alcoholic beverages or tobacco products.

Proposed law retains present law and adds alternative nicotine products and vapor products to the definition of "server".

Present law provides relative to dealers receiving unstamped and/or nontax paid cigarettes, cigars, and smoking tobaccos required to file monthly reports and maintain records. Present law further provides that vending machine operators must affix a sticker in a prominent place on each machine, in print not smaller than twenty-two point, stating that "Louisiana Law Prohibits the Purchase of Tobacco Products by Anyone Under Age 17".

Proposed law adds alternative nicotine products and vapor products to the coverage of present law and changes the age to be stated in the sticker from 17 years to 18 years.

Proposed law otherwise retains present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:91.6(A) and 91.8, R.S. 26:901, 902(1), 905(B), 909(A)(2), 910, 910.1, 911(A)(intro para), (A)(1) and (2), 917(A)(intro para) and (C), and 932(6), and R.S. 47:851(C)(2); adds R.S. 14:91.6(B)(6) and (7))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Adds vaporizers to the alternative nicotine products covered by proposed law.

Senate Floor Amendments to engrossed bill

1. Changes definition of "alternative nicotine product" and adds definition of "vapor product."
2. Adds vapor products to list of items covered by proposed law.