

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 1055

Printer's No.: Printer's No. 1337

Sponsor: Senator Solobay

Prepared by: Gregg Warner

Synopsis: This bill amends section 6305 of the Crimes Code, Title 18 of the Pennsylvania Consolidated Statutes, to prohibit the sale of alternative nicotine products (e-cigarettes) to any minor.

Summary: Section 6305(a) of the Crimes Code currently makes it a summary offense if a person sells or furnishes a tobacco product to a minor. Section 6305(a.1) makes it a summary offense if a minor purchases a tobacco product or knowingly falsely represents his age for the purpose of purchasing a tobacco product. The bill adds alternative nicotine products to these provisions.

Definitions

An "alternative nicotine product" is defined as an electronic cigarette or any other product that consists of or contains nicotine that can be ingested into the body. The term includes any cartridge or component of an electronic cigarette.

An "electronic cigarette" is defined as an electronic product or device that produces a vapor that delivers nicotine or other substances to the person inhaling from the device to simulate smoking. It may be called an electronic cigarette, electronic cigar, electronic cigarillo or electronic pipe.

These terms do not include a cigarette or tobacco product, or a drug as defined in the Federal Food, Drug, and Cosmetic Act.

Conforming amendment

Section 6305 is referenced in section 301 of the General Local Government Code, Title 53 of the Pennsylvania Consolidated Statutes. Since the bill changes the title of section 6305 to include alternative nicotine products that change must be made in section 301 as well. Section 301 states that section 6305 preempts local ordinances on the same subject matter.

Effective date

This act takes effect in 60 days.

Background: Senate Bill 1055 makes changes to 18 Pa.C.S. §6305 so that the provisions of the section will apply to both tobacco products and alternative nicotine products. The pertinent provisions of the section currently read as follows:

§ 6305. Sale of tobacco.

(a) Offense defined.--Except as set forth in subsection (f), a person is guilty of a summary offense if the person:

- (1) sells a tobacco product to any minor;
- (2) furnishes, by purchase, gift or other means, a tobacco product to a minor;
- (4) locates or places a tobacco vending machine containing a tobacco product in a location accessible to minors;
- (5) displays or offers a cigarette for sale out of a pack of cigarettes; or
- (6) displays or offers for sale tobacco products in any manner which enables an individual other than the retailer or an employee of the retailer to physically handle tobacco products prior to purchase unless the tobacco products are located within the line of sight or under the control of a cashier or other employee during business hours, except that this paragraph shall not apply to retail stores which derive 75% or more of sales revenues from tobacco products.

(a.1) Purchase.--A minor is guilty of a summary offense if the minor:

- (1) purchases or attempts to purchase a tobacco product; or
- (2) knowingly falsely represents himself to be at least 18 years of age to a person for the purpose of purchasing or receiving a tobacco product.

(b) Penalty.--

(1) Except as set forth in paragraph (2), a person that violates subsection (a) shall be sentenced as follows:

- (i) for a first offense, to pay a fine of not less than \$100 nor more than \$250;
- (ii) for a second offense, to pay a fine of not less than \$250 nor more than \$500; or
- (iii) for a third or subsequent offense, to pay a fine of not less than \$500 nor more than \$1,000.

(2) A retailer that violates subsection (a) shall be sentenced as follows:

- (i) for a first offense, to pay a fine of not less than \$100 nor more than \$500;
- (ii) for a second offense, to pay a fine of not less than \$500 nor more than \$1,000;
- (iii) for a third offense, to pay a fine of not less than \$1,000 nor more than \$3,000; or
- (iv) for a fourth or subsequent offense, to pay a fine of not less than \$3,000 nor more than \$5,000.

(3) A minor who violates subsection (a.1) shall be sentenced to any or all of the following:

- (i) not more than 75 hours of community service;
- (ii) complete a tobacco use prevention and cessation program approved by the Department of Health;
- (iii) a fine not to exceed \$200; or
- (iv) a 30-day suspension of motor vehicle operating privileges.

* * *