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

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

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

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

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

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

(a) A person commits the offense of selling or giving an electronic smoking device, e-liquid or e-liquid product, vapor product, alternative tobacco product,
or a product containing nicotine to a minor if the person

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

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

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

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

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

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

(3) is

(A) prescribed by a health care professional;

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

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

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

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

(67) "alternative tobacco product" means a product that consists of or contains nicotine or any substance derived from tobacco or synthesized to resemble nicotine that is ingested by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means; "alternative tobacco product" does not
include a cigarette, tobacco product, vapor product, or other product that is a drug under 21 U.S.C. 321(g)(1), a product that is a device under 21 U.S.C. 321(h), or a product that constitutes a combination drug, device, or combination product as described in 21 U.S.C. 353(g);

(68) "electronic smoking device"

(A) means

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

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

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

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

(A) flavorings;

(B) propylene glycol;

(C) vegetable glycerin;

(D) nicotine from any source; or

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

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

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

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

(C) a device that works in combination with a cartridge, other
container, or liquid delivery device containing nicotine or any other substance manufactured for use with a vapor product; or

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

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

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