

1 **Committee Print**
2 **B24-0020**
3 **Committee on the Judiciary & Public Safety**
4 **June 10, 2021**
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8 A BILL

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10 B24-0020
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13 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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17 To amend An act to prohibit the sale of tobacco to minors under sixteen years of age in the District
18 of Columbia to prohibit the sale and distribution of flavored tobacco products, and to
19 prohibit the sale and distribution of electronic smoking devices within one quarter mile of
20 a middle school or high school.

21 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
22 act may be cited as the “Flavored Tobacco Product Prohibition Amendment Act of 2021”.

23 Sec. 2. An act to prohibit the sale of tobacco to minors under sixteen years of age in the
24 District of Columbia, approved February 7, 1891 (26 Stat. 736; D.C. Official Code § 7-1721.01 *et*
25 *seq.*), is amended as follows:

26 (a) Section 2 (D.C. Official Code § 7-1721.01) is amended as follows:

27 (1) Paragraph (1) is redesignated as paragraph (2A).

28 (2) New paragraphs (1), (1A), and (1B) are added to read as follows:

29 “(1) “Characterizing flavor” means a distinguishable taste or aroma other than
30 tobacco, including fruit, chocolate, vanilla, candy, dessert, alcoholic beverage, menthol, mint, or
31 wintergreen.

32 “(1A) “Electronic smoking device” shall have the same meaning as provided in
33 section 4915(1) of the Department of Health Functions Clarification Act of 2001, effective April
34 4, 2006 (D.C. Law 16-90; D.C. Official Code § 7-741.01(1)).

35 “(1B) “Flavored tobacco product” means any tobacco product or synthetic nicotine
36 product that imparts a characterizing flavor.”.

37 (3) The newly designated paragraph (2A) is amended by striking the phrase “, as
38 that term is defined in section 4915(1) of the Department of Health Functions Clarification Act of
39 2001, effective April 4, 2006 (D.C. Law 16-90; D.C. Official Code § 7-741.01(1)).” and inserting
40 a period in its place.

41 (b) Section 3(b)(1) (D.C. Official Code § 7-1721.02(b)(1)) is amended by striking the
42 phrase “his or her age” and inserting the phrase “the purchaser’s age” in its place.

43 (c) Section 4 (D.C. Official Code § 7-1721.03) is amended as follows:

44 (1) Subsection (a)(2) is amended by striking the phrase “his or her employment”
45 and inserting the phrase “the person’s employment” in its place.

46 (2) Subsection (b) is amended by striking the phrase “his or her age” and inserting
47 the phrase “the person’s age” in its place.

48 (d) A new section 9 is added to read as follows:

49 “Sec. 9. Prohibitions on flavored tobacco products and electronic smoking devices.

50 “(a) No person shall sell, offer for sale, receive for sale, manufacture, distribute, purchase,
51 or facilitate the sale of:

52 “(1) A flavored tobacco product; or

53 “(2) An electronic smoking device within one quarter mile of any middle or high
54 school in the District.

55 “(b) There shall be a rebuttable presumption that a tobacco product is a flavored tobacco
56 product if a manufacturer or any of the manufacturer's agents or employees, in the course of their
57 agency or employment, has:

58 “(1) Made a public statement or claim directed to the public regarding a
59 characterizing flavor;

60 “(2) Used text or images on the tobacco product’s packaging to explicitly or
61 implicitly indicate that the tobacco product imparts a characterizing flavor; or

62 “(3) Taken action directed to consumers that would be reasonably expected to cause
63 consumers to believe that the tobacco product imparts a characterizing flavor.

64 “(c) A person who violates subsection (a) of this section shall be subject to a civil penalty
65 of:

66 “(1) Not more than \$25 per violation, if the person committing the violation is an
67 individual; and

68 “(2) Not more than \$10,000 per violation, if the person committing the violation is
69 a person other than an individual.

70 “(d) Any license to sell tobacco products issued pursuant to D.C. Official Code § 47-2404:

71 “(1) May be suspended, after a hearing, for a first or second violation of subsection
72 (a) of this section; and

73 “(2) Shall be revoked, after a hearing, for a third or subsequent violation of
74 subsection (a) of this section.

75 “(e) In addition to the penalties described in subsection (c) of this section, a violation of
76 subsection (a) of this section shall constitute a violation of D.C. Official Code § 28-3904. The
77 Attorney General may use the Attorney General’s investigatory powers pursuant to D.C. Official
78 Code § 28-3910 and enforcement authority pursuant to D.C. Official Code § 28-3909 to
79 investigate or prosecute suspected violations of subsection (a) of this section.”.

80 Sec. 3. Section 47-2404 of the District of Columbia Official Code is amended by adding
81 a new subsection (h-1) to read as follows:

82 “(h-1) The Mayor may, after a hearing, suspend any license issued under this section for a
83 first or second violation of section 9(a) of An act to prohibit the sale of tobacco to minors under
84 sixteen years of age in the District of Columbia, as approved by the Committee on the Judiciary
85 and Public Safety on June 10, 2021 (Committee print of Bill 24-20). The Mayor shall, after a
86 hearing, revoke any license issued under this section for a third or subsequent violation of section
87 9(a) of An act to prohibit the sale of tobacco to minors under sixteen years of age in the District of
88 Columbia, as approved by the Committee on the Judiciary and Public Safety on June 10, 2021
89 (Committee print of Bill 24-20).”.

90 Sec. 4. Fiscal impact statement.

91 The Council adopts the fiscal impact statement in the committee report as the fiscal impact
92 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
93 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

94 Sec. 5. Effective date.

95 This act shall take effect following approval by the Mayor (or in the event of veto by the
96 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
97 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
98 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
99 Columbia Register.