

# HOUSE RESEARCH

## Bill Summary

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**Subject:** Regulation of Electronic Cigarettes

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### Overview

This bill modifies sections of statute relating to the use or sale of tobacco products. The sections of statute amended now include reference to electronic devices containing nicotine.

#### Section

- 1 Electronic cigarettes.** Amends § 144.414 by adding to subdivision providing that in any indoor building owned by the state and under the direction of the commissioner of administration, the use of electronic cigarettes is prohibited in the same way the use of tobacco cigarettes is prohibited.
- 2 Tobacco products prohibited in public schools.** Amends § 144.4165 to include inhaling or exhaling vapor from an electronic delivery device as a prohibited act in a public school.
- 3 Municipal license of tobacco, tobacco-related devices, and similar products.** Amends § 461.12.

**Subd. 1. Authorization.** Extends governing body authorization, including the State Agricultural Society, to issue licenses for the sale of tobacco products to include the sale or electronic delivery devices and nicotine and lobelia delivery products.

**Subd. 2. Administrative penalties; licenses.** Extends administrative penalties to licensees or employees who sell electronic delivery devices or nicotine or lobelia delivery products to a person under the age of 18.

## Section

**Subd. 3. Administrative penalty; individuals.** Extends administrative penalties to individuals who sell electronic delivery devices or nicotine or lobelia delivery products to a person under the age of 18.

**Subd. 4. Minors.** Extends licensing authority's requirement to consult with interested parties on alternative penalties for minors for a minor's purchase of electronic delivery devices, or nicotine or lobelia delivery products.

**Subd. 5. Compliance checks.** Extends licensing authorities duty to conduct unannounced compliance checks to locations that sell tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products.

**Subd. 6. Defense.** Extends affirmative defense to sale of electronic delivery devices, or nicotine or lobelia delivery products.

**Subd. 7. Judicial review.** Makes no changes.

**Subd. 8. Notice to commissioner.** Makes no changes.

### **4 Ban on self-service sale of packs; exceptions.** Amends § 461.18.

**Subd. 1. Except in adult-only facilities.** Requires that no person offer electronic delivery devices or nicotine or lobelia delivery products for sale in an open display accessible to the public. Provides for an exception for facilities which derive at least 90 percent of their revenue from tobacco and tobacco-related products where retailers ensure no person under 18 years old is allowed to enter.

**Subd. 2. Vending machine sales prohibited.** Extends prohibition of vending machine sales to include electronic delivery devices, or nicotine or lobelia delivery products. The already existing exception for facilities that cannot be entered by persons younger than 18 years of age still applies.

**Subd. 3. Federal regulations for cartons, multipacks.** Makes no changes.

### **5 Effect on local ordinance; notice.** Amends § 461.19 to include sales of tobacco-related devices, electronic delivery devices, and nicotine and lobelia products. This section already provided that sections 461.12 to 461.18 will not preempt a local ordinance providing to more restrictive regulation.

### **6 Sale of tobacco to children.** Amends § 609.685.

**Subd. 1. Definitions.** (a) Expands definition of "tobacco" by inserting "including but not limited to" prior to the list of examples of tobacco.

(b) Expands definition of "tobacco-related devices" to include devices intentionally designed or intended to be used in a way that enables chewing, sniffing, smoking, or inhalation of tobacco products, and components of devices which may be separately marketed or sold.

## Section

(c) Adds a definition for “electronic delivery device” that includes any product, and its individual parts, containing or delivering nicotine, lobelia, or other substance intended for human consumption in a way that simulates smoking. The definition excludes products approved by the FDA for sale as tobacco-cessation, tobacco-dependence, or other medical purposes and which is marketed and sold for such approved purposes.

**Subd. 1a. Penalty to sell.** Extends criminal penalties under paragraph (a) to the sale of tobacco-related devices or electronic delivery devices to persons under 18 years of age

**Subd. 2. Other offenses.** Extends criminal penalties under paragraph (a) to the furnishing of electronic delivery devices to persons under 18 years of age. Extends criminal penalties under paragraph (b) to persons under the age of 18 who use false identification to misrepresent age in order to purchase an electronic delivery device.

**Subd. 3. Petty misdemeanor.** Extends petty misdemeanor guilt to persons under the age of 18 who possess, smoke, chew, ingest, purchase, or attempt to purchase tobacco-related devices or electronic delivery devices.

**Subd. 4. Effect on local ordinances.** Makes no changes.

**Subd. 5. Exceptions.** Amends paragraph (b) to include exceptions for persons under the age of 18 attempting to purchase electronic delivery devices while acting under supervision of an adult for training, education, research, or enforcement purposes.

**Subd. 6. Seizure of false identification.** Makes no changes.

**7 Sale of nicotine delivery products to children.** Amends § 609.6855 to exclude electronic delivery devices from criminal penalties relating to the sale of nontobacco nicotine products to persons under the age of 18. Sale of electronic delivery devices to persons under the age of 18 is addressed in section 6 of this bill.