

Subject Sale of flavored products

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Overview

This bill prohibits the sale or offer for sale of flavored products to consumers in Minnesota and establishes penalties for violations. Flavored product is defined as any tobacco, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that imparts a taste or smell other than the taste or smell of tobacco and that is distinguishable by a consumer before or during consumption.

Summary

| Section | Description |
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| 1 | Administrative penalties for sales and furnishing; licensees. Amends § 461.12, subd. 2. Modifies a subdivision governing imposition of administrative penalties by a local unit of government against individuals and entities licensed to sell tobacco, electronic delivery devices, and related items, to allow administrative penalties to be imposed for the sale or offer for sale of a flavored product. Requires administrative penalties for these sales to be calculated on a per-item and per-transaction basis, and allows penalties to be assessed cumulatively. |
| 2 | Effect on local ordinance; notice. Amends § 461.19. Provides that section 461.23, which prohibits the sale of flavored products, does not preempt a local ordinance that more restrictively regulates the sale of flavored products. |
| 3 | Sale of flavored products prohibited. Adds § 461.23. Prohibits the sale or offer for sale of flavored products, defined as tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products that impart a taste or smell other than the taste or smell of tobacco. Provides for penalties for violations. |

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Subd. 1. Definitions. Defines terms for this section: consumer, electronic delivery device, flavored product, licensee, nicotine or lobelia delivery product, out-of-state retailer, tobacco, and tobacco-related device.

Subd. 2. Prohibition. Prohibits the sale or offer for sale of a flavored product to any consumer in this state by: individuals and entities licensed by a local unit of government to sell tobacco, tobacco-related devices, and electronic delivery devices at retail; their employees and agents; and out-of-state retailers that sell tobacco, tobacco-related devices, and electronic delivery devices to consumers in Minnesota by phone, mail or other delivery service, or the Internet.

Subd. 3. Presumption that tobacco, device, or product is a flavored product. Lists criteria that establish a rebuttable presumption that tobacco, a tobacco-related device, an electronic delivery device, or a nicotine or lobelia delivery product is a flavored product:

- if a manufacturer, licensee, out-of-state retailer, or employee or agent makes a public statement or claim that the item imparts a taste or smell other than the taste or smell of tobacco; or
- if a manufacturer, licensee, out-of-state retailer, or employee or agent uses text, images, or colors on the label or packaging to indicate the item imparts a taste or smell other than the taste or smell of tobacco.

Subd. 4. Penalties. Provides a licensee that violates this section is subject to administrative penalties imposed by a local unit of government. Makes a flavored product sold or offered for sale to consumers in Minnesota subject to forfeiture, civil penalties, and enforcement actions that apply to other contraband tobacco products (civil penalties include up to \$1,000 for a first violation and up to \$5,000 for subsequent violations, and the attorney general may bring an action for injunctive relief and fines, penalties, and other equitable relief). Provides that each sale or offer for sale of a flavored product in violation of this section is a separate violation.

Effective date. This section is effective August 1, 2023, and applies to sales and offers for sale occurring on or after that date.



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