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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 586 Session of  
2015

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INTRODUCED BY PASHINSKI, THOMAS, BOBACK, BISHOP, D. COSTA,  
V. BROWN, DeLUCA, JAMES, MILLARD, COHEN, BROWNLEE, KORTZ,  
MULLERY, HARHAI, MURT, WATERS, DAVIS, STURLA AND WATSON,  
FEBRUARY 23, 2015

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REFERRED TO COMMITTEE ON HEALTH, FEBRUARY 23, 2015

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AN ACT

1 Providing for child-resistant packaging requirements for liquid  
2 nicotine; and imposing penalties.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Liquid  
7 Nicotine Packaging Requirements Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Child-resistant packaging." Packaging that is designed or  
13 constructed to be significantly difficult for children under  
14 five years of age to open or obtain a toxic or harmful amount of  
15 the substance contained therein within a reasonable time and not  
16 difficult for adults to use properly, but does not mean  
17 packaging which all such children cannot open or obtain a toxic

1 or harmful amount within a reasonable time.

2 "Nicotine liquid container." A bottle or other container of  
3 a nicotine liquid or other substance containing nicotine which  
4 is sold, marketed or intended for use in a tobacco substitute.  
5 The term does not include a container containing nicotine in a  
6 cartridge that is sold, marketed or intended for use in a  
7 tobacco substitute if the cartridge is prefilled and sealed by  
8 the manufacturer and not intended to be opened by the consumer.

9 Section 3. Liquid nicotine; packaging.

10 Unless specifically preempted by Federal law, no person shall  
11 manufacture, regardless of location, for sale in this  
12 Commonwealth, or sell or offer for sale in this Commonwealth, or  
13 otherwise introduce into the stream of commerce in this  
14 Commonwealth, any of the following:

15 (1) A liquid or gel substance containing nicotine unless  
16 that product is contained in child-resistant packaging.

17 (2) A nicotine liquid container unless that container  
18 constitutes child-resistant packaging.

19 Section 4. Restraining prohibited acts.

20 Whenever the Attorney General or a district attorney has  
21 reason to believe that any person is engaging or about to engage  
22 in conduct prohibited under section 3, and that proceedings  
23 would be in the public interest, the Attorney General or  
24 district attorney may bring an action in the name of the  
25 Commonwealth against the person to restrain by temporary or  
26 permanent injunction the prohibited conduct.

27 Section 5. Civil penalties.

28 In any action brought under section 4, if the court finds  
29 that a person is engaging or has willfully engaged in conduct  
30 prohibited by section 3, the Attorney General or the appropriate

1 district attorney, acting in the name of the Commonwealth, may  
2 recover, on behalf of the Commonwealth, a civil penalty of not  
3 more than \$1,000 per violation.

4 Section 6. Criminal penalties.

5 (a) Summary offense.--Any person who violates section 3  
6 commits a summary offense and shall, upon conviction, be  
7 sentenced to pay a fine of not less than \$100 and nor more than  
8 \$1,000.

9 (b) Second or subsequent offense.--Any person who, within  
10 two years after a conviction under subsection (a), violates  
11 section 3 commits a misdemeanor of the third degree and shall,  
12 upon conviction, be sentenced to pay a fine of not less than  
13 \$1,000 nor more than \$10,000 per day for each violation or to  
14 imprisonment for a period of not more than one year, or both.

15 (c) Violations to be separate offense.--Each violation of  
16 section 3 shall constitute a separate offense under subsections  
17 (a) and (b).

18 Section 7. Concurrent remedies.

19 The penalties and remedies prescribed by this act shall be  
20 deemed concurrent, and the existence of or exercise of any  
21 remedy shall not prevent the exercise of any other remedy under  
22 this act.

23 Section 8. Effective date.

24 This act shall take effect in 60 days.