

## AMENDMENTS TO HOUSE BILL NO. 97

Sponsor: SENATOR BAKER

Printer's No. 99

1 Amend Bill, page 1, line 1, by striking out "Title" and

2 inserting

3 Titles

4 Amend Bill, page 1, line 1, by inserting after "Offenses)"

5 and 53 (Municipalities Generally)

6 Amend Bill, page 1, line 4, by striking out the period after

7 "schools" and inserting

8 ; and, in preemptions relating to municipalities, further

9 providing for tobacco.

10 Amend Bill, page 1, lines 7 through 18; pages 2 through 4,

11 lines 1 through 30; page 5, lines 1 through 21; by striking out

12 all of said lines on said pages and inserting

13 Section 1. Section 6305 heading, (a) (4) and (k) of Title 18

14 of the Pennsylvania Consolidated Statutes are amended to read:

15 § 6305. Sale of tobacco products.

16 (a) Offense defined.--Except as set forth in subsection (f),  
17 a person is guilty of a summary offense if the person:

18 \* \* \*

19 (4) locates or places a [tobacco] vending machine

20 containing a tobacco product in a location accessible to

21 minors;

22 \* \* \*

23 Amend Bill, page 6, lines 24 through 26, by striking out

24 "dealer in tobacco products," in line 24 and all of lines 25 and

25 26 and inserting

26 retailer of other tobacco products.

27 Amend Bill, page 7, line 3, by inserting a bracket before "A"

1 Amend Bill, page 7, line 6, by inserting after "tobacco."

2 ] As follows:

3 (1) The term includes:

4 (i) Any product containing, made or derived from  
5 tobacco or nicotine that is intended for human  
6 consumption, whether smoked, heated, chewed, absorbed,  
7 dissolved, inhaled, snorted, sniffed or ingested by any  
8 other means, including, but not limited to, a cigarette,  
9 a cigar, a little cigar, chewing tobacco, pipe tobacco,  
10 snuff and snus.

11 (ii) Any electronic device that delivers nicotine or  
12 another substance to a person inhaling from the device,  
13 including, but not limited to, electronic nicotine  
14 delivery systems, an electronic cigarette, a cigar, a  
15 pipe and a hookah.

16 (iii) Any product containing, made or derived from  
17 either:

18 (A) Tobacco, whether in its natural or synthetic  
19 form; or

20 (B) Nicotine, whether in its natural or  
21 synthetic form, which is regulated by the United  
22 States Food and Drug Administration as a deemed  
23 tobacco product.

24 (iv) Any component, part or accessory of the product  
25 or electronic device under subparagraphs (i), (ii) and  
26 (iii), whether or not sold separately.

27 (2) The term does not include:

28 (i) A product that has been approved by the United  
29 States Food and Drug Administration for sale as a tobacco  
30 cessation product or for other therapeutic purposes where  
31 the product is marketed and sold solely for such approved  
32 purpose, so long as the product is not inhaled.

33 (ii) A device under paragraph (1)(ii) or (iii) if  
34 sold by a dispensary licensed under the act of April 17,  
35 2016 (P.L.84, No.16), known as the Medical Marijuana Act.

36 Amend Bill, page 7, line 7, by striking out the bracket  
37 before ""Tobacco"

38 Amend Bill, page 7, line 7, by striking out "]" "Vending"

39 Amend Bill, page 7, lines 8 and 9, by striking out ","  
40 nicotine products or ENDS"

41 Amend Bill, page 7, by inserting between lines 9 and 10

42 Section 2. Section 6306.1 heading, (a) and (d) of Title 18  
43 are amended and the section is amended by adding subsections to

1 read:

2 Amend Bill, page 7, line 10, by striking out ", nicotine  
3 products or ENDS" and inserting  
4 products

5 Amend Bill, page 7, lines 12 through 16, by striking out all  
6 of said lines and inserting

7 (a) [Offense defined] Pupils.--A pupil [who] commits a  
8 summary offense if the pupil possesses or uses [tobacco] a  
9 tobacco product:

10 (1) in a school building[,];

11 (2) on a school bus or other vehicle owned by, leased by  
12 or under the control of a school district; or

13 (3) on school property owned by, leased by or under the  
14 control of a school district [commits a summary offense].

15 (a.1) Other persons.--

16 (1) Any person, other than a pupil, commits a summary  
17 offense if the person uses a tobacco product:

18 (i) in a school building;

19 (ii) on a school bus or other vehicle owned by,  
20 leased by or under the control of a school district; or

21 (iii) on school property owned by, leased by or  
22 under the control of a school district.

23 (2) The board of school directors may designate certain  
24 areas on property owned by, leased by or under the control of  
25 the school district where tobacco product use by persons  
26 other than pupils is permitted. The areas must be no less  
27 than 50 feet from school buildings, stadiums or bleachers.

28 (a.2) Policy.--

29 (1) The board of school directors shall establish a  
30 policy to enforce the prohibition of tobacco product use  
31 under this section and may further establish policy relating  
32 to tobacco product use at school-sponsored events that are  
33 held off school premises.

34 (2) The board of school directors shall notify  
35 employees, pupils and parents of the policy developed in  
36 accordance with paragraph (1) by publishing the information  
37 in a student handbook and parent newsletter and on posters or  
38 other efficient means.

39 \* \* \*

40 (c.1) Preemption.--This section preempts any municipal  
41 ordinance or school board regulation to the contrary.

42 Amend Bill, page 7, lines 29 and 30; page 8, lines 1 through  
43 4; by striking out "The term shall not include, with" in line  
44 29, all of line 30 on page 7 and all of lines 1 through 4 on

1 page 8

2 Amend Bill, page 8, line 11, by inserting a bracket before  
3 "area"

4 Amend Bill, page 8, line 11, by striking out ", charter  
5 schools"

6 Amend Bill, page 8, line 12, by inserting after "units"  
7 ] a career and technical school, charter school and  
8 intermediate unit

9 Amend Bill, page 8, line 13, by inserting after "'Tobacco"  
10 product

11 Amend Bill, page 8, lines 13 through 16, by striking out "A  
12 lighted or unlighted cigarette, cigar," in line 13 and all of  
13 lines 14 through 16 and inserting

14 [A lighted or unlighted cigarette, cigar, pipe or other  
15 lighted smoking product and smokeless tobacco in any form.] As  
16 follows:

17 (1) The term includes:

18 (i) Any product containing, made or derived from  
19 tobacco or nicotine that is intended for human  
20 consumption, whether smoked, heated, chewed, absorbed,  
21 dissolved, inhaled, snorted, sniffed or ingested by any  
22 other means, including, but not limited to, a cigarette,  
23 a cigar, a little cigar, chewing tobacco, pipe tobacco,  
24 snuff and snus.

25 (ii) Any electronic device that delivers nicotine or  
26 another substance to a person inhaling from the device,  
27 including, but not limited to, electronic nicotine  
28 delivery systems, an electronic cigarette, a cigar, a  
29 pipe and a hookah.

30 (iii) Any product containing, made or derived from  
31 either:

32 (A) Tobacco, whether in its natural or synthetic  
33 form; or

34 (B) Nicotine, whether in its natural or  
35 synthetic form, which is regulated by the United  
36 States Food and Drug Administration as a deemed  
37 tobacco product.

38 (iv) Any component, part or accessory of the product  
39 or electronic device under subparagraphs (i), (ii) and  
40 (iii), whether or not sold separately.

41 (2) The term does not include:

1           (i) A product that has been approved by the United  
2           States Food and Drug Administration for sale as a tobacco  
3           cessation product or for other therapeutic purposes where  
4           the product is marketed and sold solely for such approved  
5           purpose, so long as the product is not inhaled.

6           (ii) A device under paragraph (1)(ii) or (iii) if  
7           sold by a dispensary licensed under the act of April 17,  
8           2016 (P.L.84, No.16), known as the Medical Marijuana Act.

9           Section 3. Section 301 of Title 53 is amended to read:

10 § 301. Tobacco product.

11           (a) General rule.--Except as set forth in subsection (b),  
12 the provisions of 18 Pa.C.S. § 6305 (relating to sale of tobacco  
13 products) shall preempt and supersede any local ordinance or  
14 rule concerning the subject matter of 18 Pa.C.S. § 6305 and of  
15 section 206-A of the act of April 9, 1929 (P.L.343, No.176),  
16 known as The Fiscal Code.

17           (b) Exception.--This section does not prohibit:

18           (1) Local regulation authorized by the act of April 27,  
19 1927 (P.L.465, No.299), referred to as the Fire and Panic  
20 Act.

21           (2) Local regulation enacted prior to January 1, 2002.

22 Section 4. Repeals are as follows:

23           (1) The General Assembly declares that the repeal under  
24 paragraph (2) is necessary to effectuate the amendment or  
25 addition of 18 Pa.C.S. § 6306.1(a), (a.1), (a.2) and (c.1).

26           (2) Section 3.5 of the act of April 27, 1927 (P.L.465,  
27 No.299), referred to as the Fire and Panic Act, is repealed.

28 Amend Bill, page 8, line 17, by striking out "2" and

29 inserting

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