
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1161 Session of
2023

INTRODUCED BY McNEILL, MADDEN, HILL-EVANS, RABB, SANCHEZ,
SAPPEY, PASHINSKI, SCHLOSSBERG, CIRESI AND SCHWEYER,
MAY 18, 2023

REFERRED TO COMMITTEE ON JUDICIARY, MAY 18, 2023

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in other offenses, providing for the
3 offense of sale of flavored tobacco products; and imposing a
4 penalty.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 7518. Sale of flavored tobacco products.

10 (a) Offense defined.--Except as provided under subsection

11 (b), a person commits an offense if the person sells, offers for
12 sale or possesses with the intent to sell or offer for sale a
13 flavored tobacco product or a tobacco product flavor enhancer.

14 (b) Exception.--Subsection (a) shall not apply to the
15 following:

16 (1) The sale or possession of flavored shisha tobacco
17 products by a hookah tobacco retailer.

18 (2) The sale or possession of loose leaf tobacco or

1 premium cigars.

2 (c) Penalty.--A person convicted of violating subsection (a)
3 shall be ordered to pay a fine of \$250 for each violation.

4 (d) Definitions.--The following words and phrases when used
5 in this section shall have the meanings given to them in this
6 subsection unless the context clearly indicates otherwise:

7 "Characterizing flavor." A distinguishable taste or aroma,
8 or both, other than the taste or aroma of tobacco, imparted by a
9 tobacco product or any byproduct produced by the tobacco
10 product. Characterizing flavors include, but are not limited to,
11 tastes or aromas relating to any fruit, chocolate, vanilla,
12 honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint,
13 wintergreen, herb or spice. A tobacco product shall not be
14 determined to have a characterizing flavor solely because of the
15 use of additives or flavorings or the provision of ingredient
16 information.

17 "Flavored tobacco product." A tobacco product that contains
18 a constituent that imparts a characterizing flavor. A tobacco
19 product shall be presumed to be a flavored tobacco product if a
20 manufacturer or any of the manufacturer's agents or employees,
21 in the course of their agency or employment, has made a
22 statement or claim directed to consumers or to the public that
23 the tobacco product has or produces a characterizing flavor,
24 including, but not limited to, text, color or images on the
25 product's labeling or packaging that are used to explicitly or
26 implicitly communicate that the tobacco product has a
27 characterizing flavor.

28 "Loose leaf tobacco."

29 (1) The term includes cut or shredded pipe tobacco
30 usually sold in pouches.

1 (2) The term does not include any tobacco product that,
2 because of the product's appearance, type, packaging or
3 labeling, is suitable for use and likely to be offered to, or
4 purchased by, consumers as tobacco for making cigarettes,
5 including roll-your-own cigarettes.

6 "Tobacco product."

7 (1) The term shall include the following:

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

15 (ii) An electronic device that delivers nicotine or
16 other substance to a person inhaling from the device,
17 including, but not limited to, electronic nicotine
18 delivery systems, an electronic cigarette, a cigar, a
19 pipe and a hookah.

20 (iii) A product containing, made or derived from
21 either:

22 (A) tobacco, whether in its natural or synthetic
23 form; or

24 (B) nicotine, whether in its natural or
25 synthetic form, that is regulated by the United
26 States Food and Drug Administration as a deemed
27 tobacco product.

28 (iv) Any component, part or accessory of the product
29 or electronic device identified under subparagraphs (i),
30 (ii) and (iii), whether or not sold separately.

1 (2) The term does not include:

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

7 (ii) A device under paragraph (1)(ii) or (iii) if
8 sold by a dispensary licensed under the act of April 17,
9 2016 (P.L.84, No.16), known as the Medical Marijuana Act.

10 "Tobacco product flavor enhancer." A product designed,
11 manufactured, produced, marketed or sold to produce a
12 characterizing flavor when added to a tobacco product.

13 Section 2. This act shall take effect in 60 days.