

Int. No.

By Council Member Levine

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to prohibiting the sale of flavored electronic cigarettes

Be it enacted by the Council as follows:

1 Section 1. Section 17-713 of title 7 of the administrative code of the city of New York is
2 amended to read as follows:

3 [a. "Cigarette"] Cigarette. The term "cigarette" means any roll for smoking made wholly
4 or in part of tobacco or any other substance, irrespective of size or shape and whether or not such
5 tobacco or substance is flavored, adulterated or mixed with any other ingredient, the wrapper or
6 cover of which is made of paper or any other substance or material but is not made in whole or in
7 part of tobacco.

8 [b. "Characterizing flavor"] Characterizing flavor. The term "characterizing flavor" means
9 a distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or
10 wintergreen, imparted either prior to or during consumption of a tobacco product or component
11 part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla,
12 honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco
13 product shall be determined to have a characterizing flavor solely because of the use of additives
14 or flavorings or the provision of ingredient information.

15 [c. "Component part"] Component part. The term "component part" means any element of
16 a tobacco product or electronic cigarette, including, but not limited to, the tobacco, filter and paper,
17 but not including any constituent.

1 [d. "Constituent"] Constituent. The term "constituent" means any ingredient, substance,
2 chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by
3 the manufacturer to a tobacco product or electronic cigarette during the processing, manufacture
4 or packing of the tobacco product or electronic cigarette. Such term shall include a smoke or vapor
5 constituent.

6 Electronic cigarette. The term "electronic cigarette" means an electronic or battery-
7 operated device that delivers vapor for inhalation. Electronic cigarette shall include any refill,
8 cartridge, and any other component of an electronic cigarette. Electronic cigarette shall not include
9 any product approved by the food and drug administration for sale as a drug or medical device.

10 Flavored electronic cigarette. The term "flavored electronic cigarette" means any electronic
11 cigarette or any component part thereof that contains a constituent that imparts a characterizing
12 flavor. A public statement or claim made or disseminated by the manufacturer of an electronic
13 cigarette, or by any person authorized or permitted by the manufacturer to make or disseminate
14 public statements concerning such electronic cigarette, that such electronic cigarette has or
15 produces a characterizing flavor shall constitute presumptive evidence that the electronic cigarette
16 is a flavored electronic cigarette. Flavored electronic cigarette shall not include tobacco-flavored
17 or flavorless electronic cigarettes.

18 [e. "Flavored tobacco product"] Flavored tobacco product. The term "flavored tobacco
19 product" means any tobacco product or any component part thereof that contains a constituent that
20 imparts a characterizing flavor. A public statement or claim made or disseminated by the
21 manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer
22 to make or disseminate public statements concerning such tobacco product, that such tobacco

1 product has or produces a characterizing flavor shall constitute presumptive evidence that the
2 tobacco product is a flavored tobacco product.

3 [f. [Repealed.]]

4 [g. "Person"] Person. The term "person" means any natural person, partnership, firm, joint
5 stock company, corporation, or employee thereof, or other legal entity.

6 [h. "Smoke constituent"] Smoke constituent. The term "smoke constituent" means any
7 chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers
8 from any component of the tobacco product to the smoke or that is formed by the combustion or
9 heating of tobacco, additives or other component of the tobacco product.

10 [i. "Tobacco bar"] Tobacco bar. The term "tobacco bar" has the meaning as such term is
11 defined in subdivision jj of section 17-502 of this code.

12 [j. "Tobacco product"] Tobacco product. The term "tobacco product" means any product
13 which contains tobacco that is intended for human consumption, including any component, part,
14 or accessory of such product. Tobacco product shall include, but not be limited to, any cigar, little
15 cigar, chewing tobacco, pipe tobacco, roll-your-own tobacco, snus, bidi, snuff, tobacco-containing
16 shisha, or dissolvable tobacco product. Tobacco product shall not include cigarettes or any product
17 that has been approved by the United States food and drug administration for sale as a tobacco use
18 cessation product or for other medical purposes and that is being marketed and sold solely for such
19 purposes.

20 § 2. Section 17-715 of the administrative code of the city of New York is amended to read
21 as follows:

22 § 17-715 Sale of flavored tobacco products and flavored electronic cigarettes prohibited.

23 a. It shall be unlawful for any person to sell or offer for sale, or to possess with intent to sell or

1 offer for sale, any flavored tobacco product except in a tobacco bar. It shall be unlawful for any
2 person to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored
3 electronic cigarette.

4 b. There shall be a presumption that a retail dealer in possession of four or more flavored
5 tobacco products, which shall include individual tobacco products or electronic cigarettes,
6 packages of tobacco products or electronic cigarettes, or any combination thereof, possesses such
7 tobacco products or electronic cigarettes with intent to sell or offer for sale.

8 § 3. This local law shall take effect 90 days after its enactment into law, provided that the
9 commissioner shall promulgate any rules necessary for implementing and carrying out the
10 provisions of this local law prior to its effective date.

11

SIL
LS #6996
12/26/18

Plain Language Summary

Current Introduction Number:

Not assigned yet

Prime Sponsors:

Council Members Levine

Bill Title:

A local law to amend the administrative code of the city of New York, in relation to prohibiting the sale of flavored electronic cigarettes

Bill Summary:

This plain language summary is for informational purposes only and does not substitute for legal counsel. For more information, you should review the full text of the bill, which is available online at legistar.council.nyc.gov.

This bill would ban the sale of flavored electronic cigarettes, and creates an assumption that any retail dealer in possession of four or more flavored electronic cigarettes intends to sell or offer for sale flavored electronic cigarettes.

Effective Date:

90 days after it becomes law

Legislative Impact:

- Agency Rulemaking Required:** Is City agency rulemaking required?
- Report Required:** Is a report due to Council required?
- Sunset Date Included:** Does the legislation have a sunset date?
- Council Appointment Required:** Is an appointment by the Council required?
- Other Appointment Required:** Are other appointments not by the Council required?

Note: In the full bill text online at legistar.council.nyc.gov, language in proposed consolidated laws that is enclosed by [brackets] would be deleted, and language that is underlined would be new. Language in proposed unconsolidated laws, in contrast, will not have brackets or underlining because it would be entirely new. Consolidation means that the law is placed in the New York City Charter or Administrative Code.

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