

SENATE BILL No. 193

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-7; IC 35-46-1.

Synopsis: Prohibition of flavored e-liquids. Prohibits the sale of flavored e-liquid to a person of any age. Defines "flavored e-liquid" as e-liquid that contains a constituent ingredient that is added for the purpose of imparting a characterizing flavor. Provides that a manufacturer, distributor, or retailer may not manufacture, distribute, or market flavored e-liquid in Indiana.

Effective: July 1, 2020.

Grooms

January 6, 2020, read first time and referred to Committee on Health and Provider Services.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 193

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-7-2-12 IS REPEALED [EFFECTIVE JULY 1,
2 2020]. Sec. 12: "Flavoring" means a food grade additive or synthetic
3 flavoring substance that is used to add flavor and that is not prohibited
4 by the federal Food and Drug Administration as an additive in vapor
5 products:

6 SECTION 2. IC 7.1-7-2-12.1 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2020]: **Sec. 12.1. "Flavored e-liquid" means**
9 **e-liquid that contains a constituent ingredient, agent, or other**
10 **compound or concentrate that is added for the purpose of**
11 **imparting a characterizing flavor.**

12 SECTION 3. IC 7.1-7-4-6, AS AMENDED BY P.L.17-2019,
13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2020]: Sec. 6. (a) As used in this section:

15 (1) "adulterated" means a product that:
16 (A) consists in whole or in part of any filthy, putrid, or
17 decomposed substance; or



- 1 (B) is contaminated by any added poisonous or added
 2 deleterious substance that may render the product injurious to
 3 health; and
 4 (2) "tamper evident package" means a package having at least one
 5 (1) indicator or barrier to entry that, if breached or missing, can
 6 reasonably be expected to provide visible evidence to consumers
 7 that tampering has occurred.
 8 (b) A manufacturing facility shall comply with the following
 9 requirements:
 10 (1) An e-liquid container must use a child proof cap that has the
 11 child resistant effectiveness set forth in the federal poison
 12 prevention packaging standards, 16 CFR 1700.15(b)(1).
 13 (2) An e-liquid container must use a tamper evident package. The
 14 tamper evident package feature must be designed to and remain
 15 intact when handled in a reasonable manner during the
 16 manufacture, distribution, and retail display of the e-liquid
 17 container.
 18 (3) The label on an e-liquid container must meet the nicotine
 19 addictiveness warning statement requirements set forth in 21 CFR
 20 1143.3.
 21 (4) The manufacturer or retailer may not add an adulterated
 22 product to any e-liquid produced for sale in Indiana.
 23 (5) The manufacturer must submit to random site visits by the
 24 commission.
 25 (6) The manufacturer may:
 26 (A) own and control both the e-liquid manufacturing process
 27 and the bottling process; or
 28 (B) subcontract with another manufacturer for the performance
 29 of the e-liquid manufacturing service, the bottling services, or
 30 both services.
 31 However, both the manufacturer performing a service under
 32 clause (B) and the manufacturer for which the service is
 33 performed must meet the requirements of this article.
 34 ~~(7) A manufacturer may use a flavoring, as defined by~~
 35 ~~IC 7.1-7-2-12, as an ingredient in an e-liquid.~~
 36 ~~(8) (7)~~ (7) The manufacturer or any person listed on the permit
 37 application may not have been convicted within ten (10) years
 38 before the date of application of:
 39 (A) a federal crime having a sentence of at least one (1) year;
 40 (B) an Indiana Class A, Class B, or Class C felony (for a crime
 41 committed before July 1, 2014) or a Level 1, Level 2, Level 3,
 42 Level 4, or Level 5 felony (for a crime committed after June



- 1 30, 2014);
 2 (C) a crime in a state other than Indiana having a penalty equal
 3 to the penalty for an Indiana Class A, Class B, or Class C
 4 felony (for a crime committed before July 1, 2014) or a Level
 5 1, Level 2, Level 3, Level 4, or Level 5 felony (for a crime
 6 committed after June 30, 2014);
 7 (D) an Indiana Class D felony involving a controlled substance
 8 under IC 35-48-4 (for a crime committed before July 1, 2014)
 9 or a Level 6 felony involving a controlled substance under
 10 IC 35-48-4 (for a crime committed after June 30, 2014); or
 11 (E) a crime in a state other than Indiana similar to a Class D
 12 felony involving a controlled substance under IC 35-48-4 (for
 13 a crime committed before July 1, 2014) or a Level 6 felony
 14 involving a controlled substance under IC 35-48-4 (for a crime
 15 committed after June 30, 2014).

16 SECTION 4. IC 7.1-7-5-0.5 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2020]: **Sec. 0.5. (a) A manufacturer, distributor, or retailer may
 19 not manufacture, distribute, or market flavored e-liquid in
 20 Indiana.**

21 **(b) The provisions in this chapter may not be construed to
 22 restrict the manufacture, distribution, or sale of unflavored
 23 e-liquids in accordance with this chapter.**

24 SECTION 5. IC 7.1-7-5-2, AS ADDED BY P.L.176-2015,
 25 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2020]: Sec. 2. (a) A manufacturer of e-liquid may file a
 27 request with the department for approval of an ingredient to be allowed
 28 in the composition of e-liquid.

29 (b) The department may approve the request filed under subsection
 30 (a) if the department determines that the ingredient will not:

- 31 **(1) pose an unreasonable threat to public health and safety; and**
 32 **(2) impart a characterizing flavor to the e-liquid.**

33 SECTION 6. IC 35-46-1-1.5, AS ADDED BY P.L.20-2013,
 34 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2020]: Sec. 1.5. As used in this chapter, "electronic cigarette"
 36 means a device that is capable of providing an inhalable dose of
 37 nicotine by delivering a vaporized solution **that does not contain
 38 flavored e-liquid (as defined in IC 7.1-7-2-12.1)**. The term includes
 39 the components and cartridges.

40 SECTION 7. IC 35-46-1-9.7 IS ADDED TO THE INDIANA CODE
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 42 1, 2020]: **Sec. 9.7. (a) For purposes of this section, "flavored**



1 e-liquid" has the meaning set forth in IC 7.1-7-2-12.1.

2 (b) A person who knowingly:

3 (1) sells or distributes flavored e-liquid to a person of any age;

4 or

5 (2) purchases flavored e-liquid for delivery to another person
6 of any age;

7 commits a Class C infraction. For a sale to take place under this
8 section, the buyer must pay the seller for the flavored e-liquid.

9 (c) It is not a defense that the person to whom the flavored
10 e-liquid was sold or distributed did not inhale or otherwise
11 consume the flavored e-liquid.

12 SECTION 8. IC 35-46-1-9.8 IS ADDED TO THE INDIANA CODE
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2020]: **Sec. 9.8. (a) For purposes of this section, "flavored
15 e-liquid" has the meaning set forth in IC 7.1-7-2-12.1.**

16 (b) A retail establishment that sells or distributes flavored
17 e-liquid to a person of any age commits a Class C infraction. For
18 a sale to take place under this section, the buyer must pay for the
19 flavored e-liquid.

20 (c) It is not a defense that the person to whom the flavored
21 e-liquid was sold or distributed did not inhale or otherwise
22 consume the flavored e-liquid.

