

AN ACT

ENTITLED, An Act to revise certain provisions regarding vapor products.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 34-46-1 be amended to read:

34-46-1. Terms used in this chapter mean:

- (1) "Electronic smoking device," any e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen containing or delivering nicotine or any other substance intended for human consumption that may be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product;
- (2) "Proof of age," a driver's license, nondriver identification card, tribal identification card, or other generally accepted means of identification that contains a picture of the individual and appears on its face to be valid;
- (3) "Sample," tobacco products distributed to members of the general public at no cost for purposes of promoting the product;
- (4) "Sampling," the distribution of samples to members of the general public in a public place;
- (5) "Self-service display," a display that contains cigarettes or smokeless tobacco, or both, and is located in an area openly accessible to the merchant's consumers, and from which such consumers can readily access cigarettes or smokeless tobacco, or both, without the assistance of the merchant or an employee or agent of the merchant. A display case that holds tobacco products behind locked doors does not constitute a self-service display;
- (6) "Smoke" or "smoking," the act of inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any

form, including the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form;

- (7) "Tobacco product," any item made of tobacco intended for human consumption, including cigarettes, cigars, pipe tobacco, and smokeless tobacco, and vapor products as defined in § 34-46-20;
- (8) "Tobacco speciality store," a business that derives at least seventy-five percent of its revenue from the sale of tobacco products.

Section 2. That § 34-46-14 be amended to read:

34-46-14. No person may smoke tobacco product or carry any lighted tobacco product in any public place or place of employment. A violation of this section is a petty offense.

Section 3. That § 34-46-20 be amended to read:

34-46-20. For the purposes of this chapter, the term, tobacco product, includes vapor product. The term, vapor product, means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. The term, vapor product, includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic smoking device, or similar product or device. The term, vapor product, does not include any product approved by the United States Food and Drug Administration for sale as tobacco cessation products and marketed and sold solely for that purpose.

An Act to revise certain provisions regarding vapor products.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1209

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1209  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office
this \_\_\_\_ day of \_\_\_\_\_,
20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby
approved this \_\_\_\_\_ day of
\_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State