



Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 54

131st General Assembly
(As Passed by the Senate)

Sens. Jones, Eklund, Patton, Manning, Lehner, Tavares, Brown, Skindell, Thomas, Hottinger, Uecker, LaRose, Bacon, Balderson, Beagle, Burke, Cafaro, Hite, Obhof, Peterson, Sawyer, Schiavoni, Widener, Yuko

BILL SUMMARY

- Prohibits the retail sale of any liquid nicotine container for use in an electronic cigarette that does not meet certain child-resistant standards or guidelines.
- Establishes a civil penalty of not more than \$1,000 for each violation.
- Requires that the Department of Public Safety enforce the bill's provisions.

CONTENT AND OPERATION

Child resistant standards and guidelines for liquid nicotine containers

The bill prohibits a person from knowingly selling at retail any liquid nicotine container that does not satisfy either of the following:

(1) Child-resistant effectiveness standards for poison prevention established by the U.S. Consumer Product Safety Commission in federal regulations that are in effect on the bill's effective date. Under current regulations, special packaging must have a child-resistant effectiveness of not less than 85% without a demonstration of the proper means of opening the special packaging and not less than 80% after such a demonstration. In the case of unit packaging, there must be a child-resistant effectiveness of not less than 80%.¹

(2) Child-resistant packaging guidelines adopted by the Ohio Department of Health (ODH). The bill requires ODH to develop guidelines and adopt rules, in

¹ R.C. 2927.28(B)(1)(a). *See also* 16 Code of Federal Regulations 1700.15(b).

accordance with the Administrative Procedure Act, establishing standards for child-resistant packaging.²

Application and exceptions

The bill specifies that the prohibition described above applies in the case of a bottle or other container of a liquid that contains nicotine and is sold, marketed, or intended for use in an electronic cigarette.³ The prohibition, however, does not apply to either of the following:

- A liquid nicotine container that is prefilled and sealed by the manufacturer for use in an electronic cigarette and is not intended to be opened by the consumer;
- A liquid nicotine container that is sold at retail on or after the date that final regulations are issued by the U.S. Food and Drug Administration, or by any other federal agency with jurisdiction, mandating child-resistant effectiveness standards for liquid nicotine containers.⁴

Delayed effective date

Under the bill, the prohibition on the sale of any liquid nicotine container not meeting child-resistant standards or guidelines does not take effect until 180 days after the bill's effective date.⁵

Penalty

The bill specifies that whoever violates the prohibition on the sale of any liquid nicotine container not meeting child-resistant standards or guidelines is subject to a civil penalty of not more than \$1,000 for each violation. It also requires that the clerk of the court in the county in which the violation occurred pay the civil penalty to the county treasurer for deposit into the county treasury.⁶

² R.C. 2927.28(C) and Chapter 119.

³ R.C. 2927.28(A)(2).

⁴ R.C. 2927.28(B).

⁵ R.C. 2927.28(B)(1).

⁶ R.C. 2927.28(E).



Enforcement and investigation

The bill requires the Ohio Department of Public Safety (ODPS) to enforce the laws and rules relative to child-resistant packaging for liquid nicotine containers.⁷ The bill also requires ODPS to maintain an investigative unit to conduct investigations and enforcement activities related to child-resistant standards and guidelines and liquid nicotine containers.⁸

Electronic cigarettes - background

The bill defines "electronic cigarette" as any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe.⁹

According to the U.S. Food and Drug Administration, an electronic cigarette is a battery-operated product designed to deliver nicotine, flavor, and other chemicals to the user.¹⁰ Most electronic cigarettes consist of the following components: (1) a cartridge or tank holding a liquid solution that contains varying amounts of nicotine, flavorings, and other chemicals, (2) a heating device or vaporizer, and (3) a power source, usually a battery. In many electronic cigarettes, puffing activates the battery-powered heating device, which vaporizes the liquid in the cartridge. The resulting aerosol is then inhaled (commonly called "vaping").¹¹

HISTORY

ACTION	DATE
Introduced	02-12-15
Reported, S. Transportation, Commerce & Labor	06-10-15
Passed Senate (32-1)	06-16-15

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⁷ R.C. 2927.28(D) and 5502.01(L).

⁸ R.C. 5502.13.

⁹ R.C. 2927.02, not in the bill, and 2927.28(A).

¹⁰ U.S. Food and Drug Administration, *News & Events, Public Health Focus, Electronic Cigarettes* (last visited August 4, 2015), available at <<http://www.fda.gov/newsevents/publichealthfocus/ucm172906.htm>>.

¹¹ National Institute on Drug Abuse, *Drug Facts: Electronic Cigarettes* (last visited August 4, 2015), available at <<http://www.drugabuse.gov/publications/drugfacts/electronic-cigarettes-e-cigarettes>>.

