



Ohio Legislative Service Commission

Bill Analysis

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H.B. 168

131st General Assembly
(As Introduced)

Reps. Huffman, Grossman, Kraus, Cupp, Phillips, Scherer, Rezabek, Anielski, Green, Lepore-Hagan, Henne, Blessing, Duffey

BILL SUMMARY

- Prohibits the manufacture for sale, offer for sale, or sale of liquid intended for use in an electronic cigarette that is not in child-resistant packaging.
- Establishes a civil penalty of up to \$1,000 for each violation.

CONTENT AND OPERATION

Prohibition on sale of liquids in packaging that is not child-resistant

Unless specifically preempted by federal law, the bill prohibits a person from selling, offering for sale, manufacturing, or otherwise introducing into the stream of commerce in Ohio any liquid, whether or not it contains nicotine, that is intended for human consumption and use in an electronic cigarette if the liquid is not in child-resistant packaging.¹ The bill specifies that it does not apply to electronic cigarette products sold in sealed, prefilled, or disposable replacement cartridges.

Penalty

The bill establishes a civil penalty of up to \$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.

¹ R.C. 1349.83.

Guidelines and rulemaking

The bill requires the Department of Health to develop guidelines and adopt rules establishing standards for child-resistant packaging.

Enforcement

The bill requires the Department of Public Safety to enforce the laws and rules relative to child-resistant packaging for electronic cigarettes.²

Definitions

The bill defines "child-resistant packaging" as packaging that is both of the following:

(a) Designed or constructed to be significantly difficult, within a reasonable time, for a child under five years of age to open or to obtain a toxic or harmful amount of the substance contained in the packaging; and

(b) Not difficult for a normal adult to open or to properly use the product.

The bill also 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.³

Electronic cigarette background

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.⁴ Most electronic cigarettes consist of the following components: (1) a cartridge 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

² R.C. 5502.01.

³ R.C. 2927.02.

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



device, which vaporizes the liquid in the cartridge. The resulting aerosol is then inhaled ("vaping").⁵

HISTORY

ACTION	DATE
Introduced	04-23-15

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⁵ National Institute on Drug Abuse, *Drug Facts: Electronic Cigarettes* (last visited May 4, 2015), available at <<http://www.drugabuse.gov/publications/drugfacts/electronic-cigarettes-e-cigarettes>>.

