

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-1020.01 Jennifer Berman x3286

HOUSE BILL 20-1319

HOUSE SPONSORSHIP

Caraveo and Becker,

SENATE SPONSORSHIP

Fields and Priola,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A PROHIBITION AGAINST THE SALE OF FLAVORED**
102 **NICOTINE PRODUCTS, AND, IN CONNECTION THEREWITH,**
103 **EXEMPTING A RETAILER'S AGE-RESTRICTED PREMISES FROM**
104 **THE PROHIBITION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

On and after September 1, 2020, the bill prohibits the sale of flavored cigarettes, tobacco products, and nicotine products, including flavored electronic cigarettes, and products intended to be added to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

cigarettes, tobacco products, or nicotine products to produce a flavor other than tobacco.

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

SECTION 1. In Colorado Revised Statutes, 44-7-104, **add** (1.5) as follows:

44-7-104. Enforcement authority - designation of agency - coordination - sharing of information. (1.5) THE DIVISION HAS THE POWER TO ENFORCE SECTION 44-7-104.6 RELATING TO THE PROHIBITION AGAINST THE SALE OF FLAVORED CIGARETTES, TOBACCO PRODUCTS, AND NICOTINE PRODUCTS AND FLAVOR ENHANCERS, AS THOSE TERMS ARE DEFINED IN SECTION 44-7-104.6 (4).

SECTION 2. In Colorado Revised Statutes, **add** 44-7-104.6 as follows:

44-7-104.6. Prohibition against selling flavored cigarettes, tobacco products, and nicotine products - rules - definitions.

(1) (a) ON AND AFTER SEPTEMBER 1, 2020, EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, A RETAILER SHALL NOT SELL, OFFER FOR SALE, PERMIT THE SALE OF, OR OTHERWISE FURNISH A FLAVORED CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT OR A FLAVOR ENHANCER.

(b) TO DEMONSTRATE COMPLIANCE WITH THIS SECTION, A RETAILER SHALL SUBMIT DOCUMENTATION TO THE DIVISION DEMONSTRATING THAT ANY FLAVORED CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS OR FLAVOR ENHANCERS AT THE RETAILER'S RETAIL LOCATION HAVE BEEN DESTROYED. THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES REGARDING THE FORM AND MANNER IN WHICH A RETAILER MUST SUBMIT THE DOCUMENTATION.

1 (2) THE PROHIBITION SET FORTH IN SUBSECTION (1) OF THIS
2 SECTION DOES NOT APPLY TO A RETAILER'S AGE-RESTRICTED PREMISES.

3 (3) THERE IS A REBUTTABLE PRESUMPTION THAT A CIGARETTE,
4 TOBACCO PRODUCT, OR NICOTINE PRODUCT BEING SOLD, OFFERED FOR
5 SALE, PERMITTED TO BE SOLD, OR OTHERWISE FURNISHED AT A RETAILER'S
6 RETAIL LOCATION IS A FLAVORED CIGARETTE, TOBACCO PRODUCT, OR
7 NICOTINE PRODUCT OR A FLAVOR ENHANCER IF THE RETAILER, THE
8 MANUFACTURER, OR ANY EMPLOYEE OR AGENT OF THE RETAILER OR
9 MANUFACTURER:

10 (a) HAS MADE A PUBLIC STATEMENT OR CLAIM THAT THE PRODUCT
11 IMPARTS A TASTE OR SMELL OTHER THAN THE TASTE OR SMELL OF
12 TOBACCO;

13 (b) USES ANY TEXT OR IMAGE ON THE PRODUCT'S LABELING,
14 PACKAGING, OR SIGNAGE PROMOTING THE PRODUCT THAT EXPLICITLY OR
15 IMPLICITLY INDICATES THAT THE PRODUCT IMPARTS A TASTE OR SMELL
16 OTHER THAN THE TASTE OR SMELL OF TOBACCO; OR

17 (c) HAS TAKEN ANY ACTION DIRECTED TOWARD CONSUMERS THAT
18 A REASONABLE PERSON WOULD EXPECT TO CAUSE CONSUMERS TO BELIEVE
19 THAT THE CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT
20 IMPARTS A TASTE OR SMELL OTHER THAN THE TASTE OR SMELL OF
21 TOBACCO.

22 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
23 REQUIRES:

24 (a) "AGE-RESTRICTED PREMISES" MEANS RETAIL PREMISES AT
25 WHICH A CUSTOMER, IN ORDER TO ENTER THE RETAIL PREMISES, MUST
26 PRESENT TO THE OWNER OR AN EMPLOYEE A VALID GOVERNMENT-ISSUED
27 PHOTOGRAPHIC IDENTIFICATION THAT DEMONSTRATES THAT THE

1 CUSTOMER IS TWENTY-ONE YEARS OF AGE OR OLDER.

2 (b) "FLAVORED CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
3 PRODUCT" MEANS A CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
4 PRODUCT THAT IMPARTS A TASTE OR SMELL, OTHER THAN THE TASTE OR
5 SMELL OF TOBACCO, EITHER BEFORE OR DURING THE CONSUMPTION OF THE
6 PRODUCT, INCLUDING BUT NOT LIMITED TO ANY TASTE OR SMELL
7 RELATING TO FRUIT, MENTHOL, MINT, WINTERGREEN, CHOCOLATE, COCOA,
8 VANILLA, HONEY, OR ANY CANDY, DESSERT, ALCOHOL BEVERAGE, HERB,
9 OR SPICE.

10 (c) "FLAVOR ENHANCER" MEANS A PRODUCT THAT IS DESIGNED,
11 MANUFACTURED, PRODUCED, MARKETED, OR SOLD FOR THE PURPOSE OF
12 PRODUCING A FLAVORED CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
13 PRODUCT WHEN ADDED TO A CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
14 PRODUCT.

15 **SECTION 3.** In Colorado Revised Statutes, 44-7-106, **add** (5) as
16 follows:

17 **44-7-106. Limitation on fines.** (5) FOR A VIOLATION OF SECTION
18 44-7-104.6, THE PENALTY IS AS FOLLOWS:

19 (a) A FINE IN AN AMOUNT OF TWO HUNDRED FIFTY DOLLARS FOR
20 A FIRST VIOLATION COMMITTED WITHIN A TWENTY-FOUR-MONTH PERIOD;

21 (b) A FINE IN AN AMOUNT OF FIVE HUNDRED DOLLARS FOR A
22 SECOND VIOLATION COMMITTED WITHIN A TWENTY-FOUR-MONTH PERIOD;

23 (c) A FINE IN AN AMOUNT OF ONE THOUSAND DOLLARS FOR A
24 THIRD VIOLATION COMMITTED WITHIN A TWENTY-FOUR-MONTH PERIOD
25 AND A PROHIBITION AGAINST THE RETAILER SELLING CIGARETTES,
26 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THE RETAIL LOCATION AT
27 WHICH THE VIOLATION OCCURRED FOR AT LEAST SEVEN DAYS AFTER THE

1 DATE THAT THE FINE IS IMPOSED;

2 (d) A FINE IN AN AMOUNT BETWEEN ONE THOUSAND DOLLARS AND
3 FIFTEEN THOUSAND DOLLARS FOR A FOURTH VIOLATION COMMITTED
4 WITHIN A TWENTY-FOUR-MONTH PERIOD AND A PROHIBITION AGAINST THE
5 RETAILER SELLING CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
6 PRODUCTS AT THE RETAIL LOCATION AT WHICH THE VIOLATION OCCURRED
7 FOR AT LEAST FIFTEEN DAYS AFTER THE DATE THAT THE FINE IS IMPOSED;
8 AND

9 (e) A FINE IN AN AMOUNT OF FIFTEEN THOUSAND DOLLARS FOR A
10 FIFTH OR SUBSEQUENT VIOLATION COMMITTED WITHIN A
11 TWENTY-FOUR-MONTH PERIOD AND A PROHIBITION AGAINST SELLING
12 CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THE RETAIL
13 LOCATION AT WHICH THE VIOLATION OCCURRED FOR AT LEAST ONE YEAR
14 AFTER THE DATE THAT THE FINE IS IMPOSED.

15 **SECTION 4. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety.