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AB-762 Disposable, battery-embedded vapor inhalation device: prohibition. (2025-2026)

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AMENDED IN ASSEMBLY MARCH 28, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 762

Introduced by Assembly Members Irwin and Wilson

February 18, 2025

An act to add Chapter 5.1 (commencing with Section 42260) to Part 3 of Division 30 of the Public Resources Code, relating to vapor inhalation devices.

LEGISLATIVE COUNSEL'S DIGEST

AB 762, as amended, Irwin. Disposable, battery-embedded vapor inhalation device: prohibition.

Existing

(1) Existing law regulates the manufacture, sale, and disposal of various single-use products, including single-use foodware accessories and condiments and single-use carryout bags. Existing law prohibits a store from, among other things, providing, distributing, or selling a carryout bag at the point of sale, except as specified. Existing law defines terms for these purposes.

This bill would prohibit, beginning January 1, 2026, a person from selling, distributing, or offering for sale a new or refurbished disposable, battery-embedded vapor inhalation device in this state. The bill would define a "disposable, battery-embedded vapor inhalation device" to mean a vaporization device that is not designed or intended to be reused, as specified.

Existing law authorizes a city, county, city and county, or the state, to impose civil liability on a person or entity that knowingly violated, or reasonably should have known that it violated, provisions relating to the above-described carryout bag prohibition in specified fine amounts, including \$1,000 per day for the first violation. Existing law requires any civil penalties collected to be paid to whichever office brought the action, as specified, and authorizes the Attorney General to expend any penalties it collects, upon appropriation by the Legislature, to enforce those provisions.

This bill would authorize a city, a county, a city and county, or the state, to enforce the above-described disposable, battery-embedded vapor inhalation device prohibition and to impose civil liability on a person or

entity in violation of the prohibition in specified fine amounts, including \$500 for the first violation. The bill would require any civil penalties collected to be paid to whichever office brought the action, as specified, and would authorize the Attorney General to expended any penalties it collects, upon appropriation by the Legislature, to enforce these provisions. The bill would specify that any remedies provided pursuant to these provisions are not exclusive and are in addition to the remedies that may be available pursuant to specified provisions relating to unfair competition. ~~The~~

The bill would make any person who violates the above-described disposable battery-embedded vapor inhalation device prohibition guilty of an infraction punishable by a fine of not more than \$500. By expanding the scope of an infraction, this bill would impose a state-mandated local program.

(2) Existing law, the Cigarette and Tobacco Products Licensing Act of 2003, provides for the licensure and regulation of manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products by the State Board of Equalization.

Existing law requires every person desiring to engage in the sale of cigarettes or tobacco products as, among other things, a wholesaler to file with the board an application for a license, as specified. Existing law authorizes the California Department of Tax and Fee Administration to suspend or revoke a license described above, as specified, of any importer or any manufacturer that has failed to comply with specified provisions relating to monthly reporting of distributors and wholesale costs.

This bill would authorize the department to revoke or suspend any license to engage in the sale of cigarettes or tobacco products, as defined, of any person with a license who is in violation of the above-described prohibition for a disposable, battery-embedded vapor inhalation device containing a tobacco product.

(3) The Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities, including retail commercial cannabis activity.

MAUCRSA establishes the Department of Cannabis Control within the Business, Consumer Services, and Housing Agency to administer the act. MAUCRSA authorizes the department to issue state licenses only to qualified applicants, and authorizes the department to revoke or suspend a license if, among other things, a licensee fails to actively and diligently pursue requirements for a license.

This bill would authorize the department to revoke or suspend a license issued by the department of any person with a license who is in violation of the above-described prohibition for a disposable, battery-embedded vapor inhalation device containing a cannabis product, as defined.

The bill would specify that any penalty described above is in addition to the other penalties authorized by the bill. The bill would require costs incurred by a state agency in carrying out these provisions to be recoverable by the Attorney General, upon the request of the agency, from the liable person or persons.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: ~~no~~yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 5.1 (commencing with Section 42260) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 5.1. Disposable, Battery-embedded Vapor Inhalation Devices

42260. (a) (1) For purposes of this section, a "disposable, battery-embedded vapor inhalation device" means a vaporization device that is not designed or intended to be reused, and includes any vaporization device that meets either, or both, of the following requirements:

(A) (i) The vaporization device is not refillable.

(ii) For purposes of this subparagraph, a vaporization device is not considered refillable unless it is designed to include any of the following:

(I) A single-use container that is separately available and can be replaced.

(II) A container that can be refilled.

(III) A coil that is not intended to be replaced by an individual user in the normal course of use, including any coil that is contained in a single-use cartridge or pod that is not separately available and cannot be replaced.

(B) (i) The vaporization device is not rechargeable.

(ii) For purposes of this subparagraph, a vaporization device is not considered rechargeable if it is designed to contain a battery that cannot be recharged.

(2) "Disposable, battery-embedded vapor inhalation device" does not include a device, as defined in Section 321(h) of Title 21 of the United States Code, if either of the following applies:

(A) It is a class I device as defined in subsection (a) of Section 360c of Title 21 of the United States Code, and either of the following applies:

(i) It is a device described in Section 414.202 of Title 42 of the Code of Federal Regulations.

(ii) Either of the following applies:

(I) The device is predominantly used in a health care setting by a provider.

(II) The device is predominantly prescribed by a health care provider.

(B) It is a class II or class III device as defined in subsection (a) of Section 360c of Title 21 of the United States Code.

(b) On and after January 1, 2026, a person shall not sell, distribute, or offer for sale a new or refurbished disposable, battery-embedded vapor inhalation device in this state.

(c) (1) A city, a county, a city and county, or the state may enforce this section and impose civil liability on a person or entity in violation of this section in the amount of five hundred dollars (\$500) for the first violation, one thousand dollars (\$1,000) for the second violation, and two thousand dollars (\$2,000) for the third and any subsequent violations.

(2) Any civil penalties collected pursuant to paragraph (1) shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action. The penalties collected by the Attorney General may be expended by the Attorney General, upon appropriation by the Legislature, to enforce this chapter.

(3) The remedies provided by this section are not exclusive and are in addition to the remedies that may be available pursuant to Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

(d) Any person who violates this section shall be guilty of an infraction punishable by a fine of not more than five hundred dollars (\$500).

(e) (1) The California Department of Tax and Fee Administration may revoke or suspend a license to engage in the sale of cigarettes or tobacco products, pursuant to the provisions applicable to the revocation or suspension of a license set forth in the Cigarette and Tobacco Products Licensing Act of 2003 (Division 8.6 (commencing with Section 22970) of the Business and Professions Code), of any person with a license who is in violation of this section for a disposable, battery-embedded vapor inhalation device containing a tobacco product.

(2) For purposes of this subdivision, "tobacco product" has the same meaning as that term is defined in Section 22971 of the Business and Professions Code.

(f) (1) The Department of Cannabis Control may revoke or suspend a license issued by the department, pursuant to Medicinal and Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business and Professions Code), of any person with a license who is in violation of this section for a disposable, battery-embedded vapor inhalation device containing a cannabis product.

(2) For purposes of this subdivision, "cannabis" or "cannabis product" have the same meaning as those terms are defined in Section 26001 of the Business and Professions Code.

(g) Any penalty described in this section is in addition to the other penalties authorized by this section.

~~(4)~~

(h) The costs incurred by a state agency in carrying out this chapter shall be recoverable by the Attorney General, upon the request of the agency, from the liable person or persons.

SEC. 2. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*