

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 473 Session of 2019

INTRODUCED BY SCAVELLO, HUTCHINSON, COSTA, LAUGHLIN, BLAKE, HAYWOOD, BREWSTER, ARGALL AND A. WILLIAMS, MARCH 22, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, NOVEMBER 20, 2019

AN ACT

~~Amending Titles 18 (Crimes and Offenses) and 53 (Municipalities <--
Generally) of the Pennsylvania Consolidated Statutes, in
minors, further providing for sale of tobacco and for use of
tobacco in schools prohibited; making a conforming amendment
to Title 53; and making a related repeal.~~

AMENDING TITLES 18 (CRIMES AND OFFENSES) AND 53 (MUNICIPALITIES <--
GENERALLY) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, IN
MINORS, FURTHER PROVIDING FOR THE OFFENSE OF SALE OF TOBACCO
AND FOR THE OFFENSE OF USE OF TOBACCO IN SCHOOLS; AND, IN
PREEMPTIONS RELATING TO MUNICIPALITIES, FURTHER PROVIDING FOR
TOBACCO.

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:

~~Section 1. Section 6305 heading, (a.1), (f)(1)(i)(D) and (k) <--
of Title 18 of the Pennsylvania Consolidated Statutes are
amended to read:~~

~~§ 6305. Sale of tobacco products.~~

~~* * *~~

~~(a.1) Purchase. A minor is guilty of a summary offense if
the minor:~~

~~(1) purchases or attempts to purchase a tobacco product;~~

1 or

2 ~~(2) knowingly falsely represents himself to be at least~~
3 ~~[18] 21 years of age to a person for the purpose of~~
4 ~~purchasing or receiving a tobacco product.~~

5 * * *

6 ~~(f) Exceptions.~~

7 ~~(1) The following affirmative defense is available:~~

8 ~~(i) It is an affirmative defense for a retailer to~~
9 ~~an offense under subsection (a) (1) and (2) that, prior to~~
10 ~~the date of the alleged violation, the retailer has~~
11 ~~complied with all of the following:~~

12 * * *

13 ~~(D) trained all employees selling tobacco~~
14 ~~products to verify that the purchaser is at least~~
15 ~~[18] 21 years of age before selling tobacco products;~~

16 * * *

17 ~~(k) Definitions. As used in this section, the following~~
18 ~~words and phrases shall have the meanings given to them in this~~
19 ~~subsection:~~

20 ~~"Cigarette." A roll for smoking made wholly or in part of~~
21 ~~tobacco, irrespective of size or shape and whether or not the~~
22 ~~tobacco is flavored, adulterated or mixed with any other~~
23 ~~ingredient, the wrapper or cover of which is made of paper or~~
24 ~~other substance or material except tobacco. The term does not~~
25 ~~include a cigar.~~

26 ~~"Cigarette license." A license issued under section 203 A or~~
27 ~~213 A of the act of April 9, 1929 (P.L.343, No.176), known as~~
28 ~~The Fiscal Code.~~

29 ~~"Department." The Department of Revenue of the Commonwealth.~~

30 ~~"Minor." An individual under [18] 21 years of age.~~

1 ~~"Pack of cigarettes." As defined in section 1201 of the act~~
2 ~~of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of~~
3 ~~1971.~~

4 ~~"Pipe tobacco." Any product containing tobacco made~~
5 ~~primarily for individual consumption that is intended to be~~
6 ~~smoked using tobacco paraphernalia.~~

7 ~~"Retailer." A person licensed to sell cigarettes under~~
8 ~~section 203 A or 213 A of the act of April 9, 1929 (P.L.343,~~
9 ~~No.176), known as The Fiscal Code, or a lawful retailer of other~~
10 ~~tobacco products.~~

11 ~~"Smokeless tobacco." Any product containing finely cut,~~
12 ~~ground, powdered, blended or leaf tobacco made primarily for~~
13 ~~individual consumption that is intended to be placed in the oral~~
14 ~~or nasal cavity and not intended to be smoked. The term~~
15 ~~includes, but is not limited to, chewing tobacco, dipping~~
16 ~~tobacco and snuff.~~

17 ~~"Tobacco product." [A cigarette, cigar, pipe tobacco or~~
18 ~~other smoking tobacco product or smokeless tobacco in any form,~~
19 ~~manufactured for the purpose of consumption by a purchaser, and~~
20 ~~any cigarette paper or product used for smoking tobacco.] As~~
21 ~~follows:~~

22 ~~(1) The term includes:~~

23 ~~(i) Any product containing, made or derived from~~
24 ~~tobacco or nicotine that is intended for human~~
25 ~~consumption, whether smoked, heated, chewed, absorbed,~~
26 ~~dissolved, inhaled, snorted, sniffed or ingested by any~~
27 ~~other means, including, but not limited to, a cigarette,~~
28 ~~a cigar, a little cigar, chewing tobacco, pipe tobacco,~~
29 ~~snuff and snus.~~

30 ~~(ii) Any electronic device that delivers nicotine or~~

~~another substance to a person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe and hookah.~~

~~(iii) Any component, part or accessory of the product or electronic device under subparagraphs (i) and (ii), whether or not sold separately.~~

~~(2) The term does not include:~~

~~(i) A product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such approved purpose.~~

~~(ii) A device under paragraph (1)(ii) or (iii) if sold by a dispensary licensed under the act of April 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act.~~

~~"Tobacco vending machine." A mechanical or electrical device from which one or more tobacco products are dispensed for a consideration.~~

~~Section 2. Section 6306.1 heading, (a) and (d) of Title 18 are amended and the section is amended by adding subsections to read:~~

~~§ 6306.1. Use of tobacco products in schools prohibited.~~

~~(a) Offense defined. A pupil [who] commits a summary offense if the pupil possesses or uses [tobacco] a tobacco product:~~

~~(1) in a school building[,];~~

~~(2) on a school bus or other vehicle owned by, leased by or under the control of a school district; or~~

~~(3) on school property owned by, leased by or under the control of a school district [commits a summary offense].~~

1 ~~(a.1) Additional offense defined.~~

2 ~~(1) Any person other than a pupil commits a summary~~
3 ~~offense if the person uses a tobacco product:~~

4 ~~(i) in a school building;~~

5 ~~(ii) on a school bus or other vehicle owned by,~~
6 ~~leased by or under the control of a school district; or~~

7 ~~(iii) on school property owned by, leased by or~~
8 ~~under the control of a school district.~~

9 ~~(2) The board of school directors may designate certain~~
10 ~~areas on property owned by, leased by or under the control of~~
11 ~~the school district where tobacco product use by persons~~
12 ~~other than pupils is permitted. The areas shall be no less~~
13 ~~than 50 feet from school buildings, stadiums or bleachers.~~

14 ~~(a.2) Policy.~~

15 ~~(1) The board of school directors shall establish a~~
16 ~~policy to enforce the prohibition of tobacco product use~~
17 ~~under this section and may further establish policy relating~~
18 ~~to tobacco product use at school sponsored events which are~~
19 ~~held off school premises.~~

20 ~~(2) The board of school directors shall notify~~
21 ~~employees, pupils and parents of the policy developed in~~
22 ~~paragraph (1) by publishing the information in a student~~
23 ~~handbook and parent newsletter and on posters or other~~
24 ~~efficient means.~~

25 * * *

26 ~~(c.1) Construction. This section supersedes any municipal~~
27 ~~ordinance or school board regulation to the contrary.~~

28 ~~(d) Definitions. As used in this section, the following~~
29 ~~words and phrases shall have the meanings given to them in this~~
30 ~~subsection:~~

1 ~~"Pupil." A person between the ages of 6 and 21 years who is~~
2 ~~enrolled in school.~~

3 ~~"School." A school operated by a joint board, board of~~
4 ~~directors or school board where pupils are enrolled in~~
5 ~~compliance with Article XIII of the act of March 10, 1949~~
6 ~~(P.L.30, No.14), known as the Public School Code of 1949,~~
7 ~~including area vocational schools and intermediate units.~~

8 ~~["Tobacco." A lighted or unlighted cigarette, cigar, pipe or~~
9 ~~other lighted smoking product and smokeless tobacco in any~~
10 ~~form.]~~

11 ~~"Tobacco product." As follows:~~

12 ~~(1) The term includes:~~

13 ~~(i) Any product containing, made or derived from~~
14 ~~tobacco or nicotine that is intended for human~~
15 ~~consumption, whether smoked, heated, chewed, absorbed,~~
16 ~~dissolved, inhaled, snorted, sniffed or ingested by any~~
17 ~~other means, including, but not limited to, a cigarette,~~
18 ~~a cigar, a little cigar, chewing tobacco, pipe tobacco,~~
19 ~~snuff and snus.~~

20 ~~(ii) Any electronic device that delivers nicotine or~~
21 ~~another substance to a person inhaling from the device,~~
22 ~~including, but not limited to, an electronic cigarette,~~
23 ~~cigar, pipe and hookah.~~

24 ~~(iii) Any component, part or accessory of the~~
25 ~~product or electronic device under subparagraphs (i) and~~
26 ~~(ii), whether or not sold separately.~~

27 ~~(2) The term does not include:~~

28 ~~(i) A product that has been approved by the United~~
29 ~~States Food and Drug Administration for sale as a tobacco~~
30 ~~cessation product or for other therapeutic purposes where~~

1 ~~the product is marketed and sold solely for such approved~~
2 ~~purpose.~~

3 ~~(ii) A device under paragraph (1)(ii) or (iii) if~~
4 ~~sold by a dispensary licensed under the act of April 17,~~
5 ~~2016 (P.L.84, No.16), known as the Medical Marijuana Act.~~

6 Section 3. Section 301 heading and (a) of Title 53 are
7 amended to read:

8 § 301. Tobacco product.

9 (a) General rule. Except as set forth in subsection (b),
10 the provisions of 18 Pa.C.S. § 6305 (relating to sale of tobacco
11 products) shall preempt and supersede any local ordinance or
12 rule concerning the subject matter of 18 Pa.C.S. § 6305 and of
13 section 206-A of the act of April 9, 1929 (P.L.343, No.176),
14 known as The Fiscal Code.

15 * * *

16 Section 4. Repeals are as follows:

17 (1) The General Assembly declares that the repeal under
18 paragraph (2) is necessary to effectuate the amendment or
19 addition of 18 Pa.C.S. § 6306.1(a), (a.1), (a.2) and (c.1).

20 (2) Section 3.5 of the act of April 27, 1927 (P.L.465,
21 No.299), referred to as the Fire and Panic Act, is repealed.

22 Section 5. This act shall take effect in 60 days.

23 SECTION 1. SECTION 6305 HEADING, (A) (4), (A.1), (F) (1) (I) (D) <--
24 AND (K) OF TITLE 18 OF THE PENNSYLVANIA CONSOLIDATED STATUTES
25 ARE AMENDED TO READ:

26 § 6305. SALE OF TOBACCO PRODUCTS.

27 (A) OFFENSE DEFINED.--EXCEPT AS SET FORTH IN SUBSECTION (F),
28 A PERSON IS GUILTY OF A SUMMARY OFFENSE IF THE PERSON:

29 * * *

30 (4) LOCATES OR PLACES A [TOBACCO] VENDING MACHINE

1 CONTAINING A TOBACCO PRODUCT IN A LOCATION ACCESSIBLE TO
2 MINORS;

3 * * *

4 (A.1) PURCHASE.--A MINOR IS GUILTY OF A SUMMARY OFFENSE IF
5 THE MINOR:

6 (1) PURCHASES OR ATTEMPTS TO PURCHASE A TOBACCO PRODUCT;
7 OR

8 (2) KNOWINGLY FALSELY REPRESENTS HIMSELF TO BE AT LEAST
9 [18] 21 YEARS OF AGE OR IF THE MINOR IS A MEMBER OF THE
10 ACTIVE OR RESERVE COMPONENTS OF ANY BRANCH OR UNIT OF THE
11 ARMED FORCES OF THE UNITED STATES OR A VETERAN WHO RECEIVED
12 AN HONORABLE DISCHARGE FROM ANY BRANCH OR UNIT OF THE ACTIVE
13 OR RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED
14 STATES, AT LEAST 18 YEARS OF AGE TO A PERSON FOR THE PURPOSE
15 OF PURCHASING OR RECEIVING A TOBACCO PRODUCT.

16 * * *

17 (F) EXCEPTIONS.--

18 (1) THE FOLLOWING AFFIRMATIVE DEFENSE IS AVAILABLE:

19 (I) IT IS AN AFFIRMATIVE DEFENSE FOR A RETAILER TO
20 AN OFFENSE UNDER SUBSECTION (A) (1) AND (2) THAT, PRIOR TO
21 THE DATE OF THE ALLEGED VIOLATION, THE RETAILER HAS
22 COMPLIED WITH ALL OF THE FOLLOWING:

23 * * *

24 (D) TRAINED ALL EMPLOYEES SELLING TOBACCO
25 PRODUCTS TO VERIFY THAT THE PURCHASER IS AT LEAST
26 [18] 21 YEARS OF AGE OR IF THE MINOR IS A MEMBER OF
27 THE ACTIVE OR RESERVE COMPONENTS OF ANY BRANCH OR
28 UNIT OF THE ARMED FORCES OF THE UNITED STATES OR A
29 VETERAN WHO RECEIVED AN HONORABLE DISCHARGE FROM ANY
30 BRANCH OR UNIT OF THE ACTIVE OR RESERVE COMPONENTS OF

1 THE ARMED FORCES OF THE UNITED STATES, AT LEAST 18
2 YEARS OF AGE BEFORE SELLING TOBACCO PRODUCTS;

3 * * *

4 (K) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
5 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
6 SUBSECTION:

7 "CIGARETTE." A ROLL FOR SMOKING MADE WHOLLY OR IN PART OF
8 TOBACCO, IRRESPECTIVE OF SIZE OR SHAPE AND WHETHER OR NOT THE
9 TOBACCO IS FLAVORED, ADULTERATED OR MIXED WITH ANY OTHER
10 INGREDIENT, THE WRAPPER OR COVER OF WHICH IS MADE OF PAPER OR
11 OTHER SUBSTANCE OR MATERIAL EXCEPT TOBACCO. THE TERM DOES NOT
12 INCLUDE A CIGAR.

13 "CIGARETTE LICENSE." A LICENSE ISSUED UNDER SECTION 203-A OR
14 213-A OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS
15 THE FISCAL CODE.

16 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

17 "ELECTRONIC CIGARETTE." AN ELECTRONIC DEVICE THAT DELIVERS
18 NICOTINE OR OTHER SUBSTANCES THROUGH VAPORIZATION AND
19 INHALATION.

20 "ELECTRONIC NICOTINE DELIVERY SYSTEM" OR "ENDS." A PRODUCT
21 OR DEVICE USED, INTENDED FOR USE OR DESIGNED FOR THE PURPOSE OF
22 INGESTING A NICOTINE PRODUCT. THE TERM INCLUDES AN ELECTRONIC
23 CIGARETTE.

24 "MINOR." [AN] AS FOLLOWS:

25 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), AN
26 INDIVIDUAL UNDER [18] 21 YEARS OF AGE.

27 (2) A MEMBER OF THE ACTIVE OR RESERVE COMPONENTS OF ANY
28 BRANCH OR UNIT OF THE ARMED FORCES OF THE UNITED STATES UNDER
29 18 YEARS OF AGE OR A VETERAN WHO RECEIVED AN HONORABLE
30 DISCHARGE FROM ANY BRANCH OR UNIT OF THE ACTIVE OR RESERVE

1 COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES UNDER 18
2 YEARS OF AGE.

3 "NICOTINE PRODUCT." A PRODUCT THAT CONTAINS OR CONSISTS OF
4 NICOTINE IN A FORM THAT CAN BE INGESTED BY CHEWING, SMOKING,
5 INHALING OR ANY OTHER MEANS.

6 "PACK OF CIGARETTES." AS DEFINED IN SECTION 1201 OF THE ACT
7 OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF
8 1971.

9 "PIPE TOBACCO." ANY PRODUCT CONTAINING TOBACCO MADE
10 PRIMARILY FOR INDIVIDUAL CONSUMPTION THAT IS INTENDED TO BE
11 SMOKED USING TOBACCO PARAPHERNALIA.

12 "RETAILER." A PERSON LICENSED UNDER SECTION 203-A OR 213-A
13 OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE
14 FISCAL CODE, OR OTHER LAWFUL RETAILER OF OTHER TOBACCO PRODUCTS.

15 "SMOKELESS TOBACCO." ANY PRODUCT CONTAINING FINELY CUT,
16 GROUND, POWDERED, BLENDED OR LEAF TOBACCO MADE PRIMARILY FOR
17 INDIVIDUAL CONSUMPTION THAT IS INTENDED TO BE PLACED IN THE ORAL
18 OR NASAL CAVITY AND NOT INTENDED TO BE SMOKED. THE TERM
19 INCLUDES, BUT IS NOT LIMITED TO, CHEWING TOBACCO, DIPPING
20 TOBACCO AND SNUFF.

21 "TOBACCO PRODUCT." [A CIGARETTE, CIGAR, PIPE TOBACCO OR
22 OTHER SMOKING TOBACCO PRODUCT OR SMOKELESS TOBACCO IN ANY FORM,
23 MANUFACTURED FOR THE PURPOSE OF CONSUMPTION BY A PURCHASER, AND
24 ANY CIGARETTE PAPER OR PRODUCT USED FOR SMOKING TOBACCO.] AS
25 FOLLOWS:

26 (1) THE TERM INCLUDES:

27 (I) ANY PRODUCT CONTAINING, MADE OR DERIVED FROM
28 TOBACCO OR NICOTINE THAT IS INTENDED FOR HUMAN
29 CONSUMPTION, WHETHER SMOKED, HEATED, CHEWED, ABSORBED,
30 DISSOLVED, INHALED, SNORTED, SNIFFED OR INGESTED BY ANY

1 OTHER MEANS, INCLUDING, BUT NOT LIMITED TO, A CIGARETTE,
2 A CIGAR, A LITTLE CIGAR, CHEWING TOBACCO, PIPE TOBACCO,
3 SNUFF AND SNUS.

4 (II) ANY ELECTRONIC DEVICE THAT DELIVERS NICOTINE OR
5 ANOTHER SUBSTANCE TO A PERSON INHALING FROM THE DEVICE,
6 INCLUDING, BUT NOT LIMITED TO, ELECTRONIC NICOTINE
7 DELIVERY SYSTEMS, AN ELECTRONIC CIGARETTE, A CIGAR, A
8 PIPE AND A HOOKAH.

9 (III) ANY PRODUCT CONTAINING, MADE OR DERIVED FROM
10 EITHER:

11 (A) TOBACCO, WHETHER IN ITS NATURAL OR SYNTHETIC
12 FORM; OR

13 (B) NICOTINE, WHETHER IN ITS NATURAL OR
14 SYNTHETIC FORM, WHICH IS REGULATED BY THE UNITED
15 STATES FOOD AND DRUG ADMINISTRATION AS A DEEMED
16 TOBACCO PRODUCT.

17 (IV) ANY COMPONENT, PART OR ACCESSORY OF THE PRODUCT
18 OR ELECTRONIC DEVICE UNDER SUBPARAGRAPHS (I), (II) AND
19 (III), WHETHER OR NOT SOLD SEPARATELY.

20 (2) THE TERM DOES NOT INCLUDE:

21 (I) A PRODUCT THAT HAS BEEN APPROVED BY THE UNITED
22 STATES FOOD AND DRUG ADMINISTRATION FOR SALE AS A TOBACCO
23 CESSATION PRODUCT OR FOR OTHER THERAPEUTIC PURPOSES WHERE
24 THE PRODUCT IS MARKETED AND SOLD SOLELY FOR SUCH APPROVED
25 PURPOSE, SO LONG AS THE PRODUCT IS NOT INHALED.

26 (II) A DEVICE UNDER PARAGRAPH (1) (II) OR (III) IF
27 SOLD BY A DISPENSARY LICENSED UNDER THE ACT OF APRIL 17,
28 2016 (P.L.84, NO.16), KNOWN AS THE MEDICAL MARIJUANA ACT.

29 "TOBACCO VENDING MACHINE." A MECHANICAL OR ELECTRICAL DEVICE
30 FROM WHICH ONE OR MORE TOBACCO PRODUCTS ARE DISPENSED FOR A

1 CONSIDERATION.

2 SECTION 2. SECTION 6306.1 HEADING, (A) AND (D) OF TITLE 18
3 ARE AMENDED AND THE SECTION IS AMENDED BY ADDING SUBSECTIONS TO
4 READ:

5 § 6306.1. USE OF TOBACCO PRODUCTS IN SCHOOLS PROHIBITED.

6 (A) [OFFENSE DEFINED] PUPILS.--A PUPIL [WHO] COMMITS A
7 SUMMARY OFFENSE IF THE PUPIL POSSESSES OR USES [TOBACCO] A
8 TOBACCO PRODUCT:

9 (1) IN A SCHOOL BUILDING[,];

10 (2) ON A SCHOOL BUS OR OTHER VEHICLE OWNED BY, LEASED BY
11 OR UNDER THE CONTROL OF A SCHOOL DISTRICT; OR

12 (3) ON SCHOOL PROPERTY OWNED BY, LEASED BY OR UNDER THE
13 CONTROL OF A SCHOOL DISTRICT [COMMITTS A SUMMARY OFFENSE].

14 (A.1) OTHER PERSONS.--

15 (1) ANY PERSON, OTHER THAN A PUPIL, COMMITS A SUMMARY
16 OFFENSE IF THE PERSON USES A TOBACCO PRODUCT:

17 (I) IN A SCHOOL BUILDING;

18 (II) ON A SCHOOL BUS OR OTHER VEHICLE OWNED BY,
19 LEASED BY OR UNDER THE CONTROL OF A SCHOOL DISTRICT; OR

20 (III) ON SCHOOL PROPERTY OWNED BY, LEASED BY OR
21 UNDER THE CONTROL OF A SCHOOL DISTRICT.

22 (2) THE BOARD OF SCHOOL DIRECTORS MAY DESIGNATE CERTAIN
23 AREAS ON PROPERTY OWNED BY, LEASED BY OR UNDER THE CONTROL OF
24 THE SCHOOL DISTRICT WHERE TOBACCO PRODUCT USE BY PERSONS
25 OTHER THAN PUPILS IS PERMITTED. THE AREAS MUST BE NO LESS
26 THAN 50 FEET FROM SCHOOL BUILDINGS, STADIUMS OR BLEACHERS.

27 (A.2) POLICY.--

28 (1) THE BOARD OF SCHOOL DIRECTORS SHALL ESTABLISH A
29 POLICY TO ENFORCE THE PROHIBITION OF TOBACCO PRODUCT USE
30 UNDER THIS SECTION AND MAY FURTHER ESTABLISH POLICY RELATING

1 TO TOBACCO PRODUCT USE AT SCHOOL-SPONSORED EVENTS THAT ARE
2 HELD OFF SCHOOL PREMISES.

3 (2) THE BOARD OF SCHOOL DIRECTORS SHALL NOTIFY
4 EMPLOYEES, PUPILS AND PARENTS OF THE POLICY DEVELOPED IN
5 ACCORDANCE WITH PARAGRAPH (1) BY PUBLISHING THE INFORMATION
6 IN A STUDENT HANDBOOK AND PARENT NEWSLETTER AND ON POSTERS OR
7 OTHER EFFICIENT MEANS.

8 * * *

9 (C.1) PREEMPTION.--THIS SECTION PREEMPTS ANY MUNICIPAL
10 ORDINANCE OR SCHOOL BOARD REGULATION TO THE CONTRARY.

11 (D) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
12 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
13 SUBSECTION:

14 "ELECTRONIC CIGARETTE." AN ELECTRONIC DEVICE THAT DELIVERS
15 NICOTINE OR OTHER SUBSTANCES THROUGH VAPORIZATION AND
16 INHALATION.

17 "ELECTRONIC NICOTINE DELIVERY SYSTEM" OR "ENDS." A PRODUCT
18 OR DEVICE USED, INTENDED FOR USE OR DESIGNED FOR THE PURPOSE OF
19 INGESTING A NICOTINE PRODUCT. THE TERM INCLUDES AN ELECTRONIC
20 CIGARETTE.

21 "NICOTINE PRODUCT." A PRODUCT THAT CONTAINS OR CONSISTS OF
22 NICOTINE IN A FORM THAT CAN BE INGESTED BY CHEWING, SMOKING,
23 INHALING OR ANY OTHER MEANS.

24 "PUPIL." A PERSON BETWEEN THE AGES OF 6 AND 21 YEARS WHO IS
25 ENROLLED IN SCHOOL.

26 "SCHOOL." A SCHOOL OPERATED BY A JOINT BOARD, BOARD OF
27 DIRECTORS OR SCHOOL BOARD WHERE PUPILS ARE ENROLLED IN
28 COMPLIANCE WITH ARTICLE XIII OF THE ACT OF MARCH 10, 1949
29 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949,
30 INCLUDING [AREA VOCATIONAL SCHOOLS AND INTERMEDIATE UNITS] A

1 CAREER AND TECHNICAL SCHOOL, CHARTER SCHOOL AND INTERMEDIATE
2 UNIT.

3 "TOBACCO PRODUCT." [A LIGHTED OR UNLIGHTED CIGARETTE, CIGAR,
4 PIPE OR OTHER LIGHTED SMOKING PRODUCT AND SMOKELESS TOBACCO IN
5 ANY FORM.] AS FOLLOWS:

6 (1) THE TERM INCLUDES:

7 (I) ANY PRODUCT CONTAINING, MADE OR DERIVED FROM
8 TOBACCO OR NICOTINE THAT IS INTENDED FOR HUMAN
9 CONSUMPTION, WHETHER SMOKED, HEATED, CHEWED, ABSORBED,
10 DISSOLVED, INHALED, SNORTED, SNIFFED OR INGESTED BY ANY
11 OTHER MEANS, INCLUDING, BUT NOT LIMITED TO, A CIGARETTE,
12 A CIGAR, A LITTLE CIGAR, CHEWING TOBACCO, PIPE TOBACCO,
13 SNUFF AND SNUS.

14 (II) ANY ELECTRONIC DEVICE THAT DELIVERS NICOTINE OR
15 ANOTHER SUBSTANCE TO A PERSON INHALING FROM THE DEVICE,
16 INCLUDING, BUT NOT LIMITED TO, ELECTRONIC NICOTINE
17 DELIVERY SYSTEMS, AN ELECTRONIC CIGARETTE, A CIGAR, A
18 PIPE AND A HOOKAH.

19 (III) ANY PRODUCT CONTAINING, MADE OR DERIVED FROM
20 EITHER:

21 (A) TOBACCO, WHETHER IN ITS NATURAL OR SYNTHETIC
22 FORM; OR

23 (B) NICOTINE, WHETHER IN ITS NATURAL OR
24 SYNTHETIC FORM, WHICH IS REGULATED BY THE UNITED
25 STATES FOOD AND DRUG ADMINISTRATION AS A DEEMED
26 TOBACCO PRODUCT.

27 (IV) ANY COMPONENT, PART OR ACCESSORY OF THE PRODUCT
28 OR ELECTRONIC DEVICE UNDER SUBPARAGRAPHS (I), (II) AND
29 (III), WHETHER OR NOT SOLD SEPARATELY.

30 (2) THE TERM DOES NOT INCLUDE:

1 (I) A PRODUCT THAT HAS BEEN APPROVED BY THE UNITED
2 STATES FOOD AND DRUG ADMINISTRATION FOR SALE AS A TOBACCO
3 CESSATION PRODUCT OR FOR OTHER THERAPEUTIC PURPOSES WHERE
4 THE PRODUCT IS MARKETED AND SOLD SOLELY FOR SUCH APPROVED
5 PURPOSE, SO LONG AS THE PRODUCT IS NOT INHALED.

6 (II) A DEVICE UNDER PARAGRAPH (1)(II) OR (III) IF
7 SOLD BY A DISPENSARY LICENSED UNDER THE ACT OF APRIL 17,
8 2016 (P.L.84, NO.16), KNOWN AS THE MEDICAL MARIJUANA ACT.

9 SECTION 3. SECTION 301 OF TITLE 53 IS AMENDED TO READ:

10 § 301. TOBACCO PRODUCT.

11 (A) GENERAL RULE.--EXCEPT AS SET FORTH IN SUBSECTION (B),
12 THE PROVISIONS OF 18 PA.C.S. § 6305 (RELATING TO SALE OF TOBACCO
13 PRODUCTS) SHALL PREEMPT AND SUPERSEDE ANY LOCAL ORDINANCE OR
14 RULE CONCERNING THE SUBJECT MATTER OF 18 PA.C.S. § 6305 AND OF
15 SECTION 206-A OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176),
16 KNOWN AS THE FISCAL CODE.

17 (B) EXCEPTION.--THIS SECTION DOES NOT PROHIBIT:

18 (1) LOCAL REGULATION AUTHORIZED BY THE ACT OF APRIL 27,
19 1927 (P.L.465, NO.299), REFERRED TO AS THE FIRE AND PANIC
20 ACT.

21 (2) LOCAL REGULATION ENACTED PRIOR TO JANUARY 1, 2002.

22 SECTION 4. REPEALS ARE AS FOLLOWS:

23 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
24 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE AMENDMENT OR
25 ADDITION OF 18 PA.C.S. § 6306.1(A), (A.1), (A.2) AND (C.1).

26 (2) SECTION 3.5 OF THE ACT OF APRIL 27, 1927 (P.L.465,
27 NO.299), REFERRED TO AS THE FIRE AND PANIC ACT, IS REPEALED.

28 SECTION 5. THIS ACT SHALL TAKE EFFECT JULY 1, 2020, OR
29 IMMEDIATELY, WHICHEVER IS LATER.