



## BILL & AMENDMENT SUMMARY

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# E-Cigarettes HF 2109

Status of Bill: House Floor  
Committee: Commerce (22-1)  
Lead Democrats: Rep. Lykam  
Floor Manager: Rep. Baltimore  
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### Bill Summary

HF 2109 adds new definitions for new products to Chapter 453A (Cigarette and Tobacco Taxes) and clearly makes it illegal for persons under the age of 18 years to be in possession of these new products. The bill does not bring these new products into existing law concerning the taxing of cigarette and other tobacco products, nor does it include these new definitions in the taxing section. The bill also does not include these new products under the "Smokefree Air Act", Chapter 142D.

Here are the two new definitions added to Chapter 453A:

1. Alternative Nicotine Product – a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. Alternative Nicotine Product (ANP) does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or a device by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.
2. Vapor Product – a noncombustible product containing nicotine that employs a mechanical heating element, battery, or circuit, regardless of shape or size, that can be used to heat a nicotine solution, an electronic cigarette, an electronic cigar, an electronic cigarillo, or an electronic pipe. Vapor Product (VP) does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

Both ANP and VP are added to chapter 453A.2 (Persons Under the Legal Age) to clearly state that persons are prohibited from giving, selling, or otherwise providing other persons with ANPs and VPs that are under the age of 18 years. That same section is amended to clearly state that it is illegal for a person under the age of 18 years to possess, purchase, or attempt to purchase an ANP or a VP (Section 2). Of course, these products are also added to the list of exemptions if the underage person is part of compliance effort that is conducted by law enforcement (Section 3).

Section 4 of the bill authorizes a retailer or an employee of a retailer that sells ANPs and VPs to keep a driver's license or a non-operator ID card of a person who is believed to be underage and trying to purchase these products. Again, this is already allowed in situations where the employee believes that the person is underage and they are trying to purchase products that are prohibited for persons under 18 years.

The Alcoholic Beverages Division is required to add provisions of state and federal law regarding ANPs and VPs to their tobacco compliance employee training program (Section 5).

ANPs and VPs are added to the list of items that only an authorized retailer that holds a retail permit can sell. (Section 6)

Section 7 states that it is illegal for a retailer to sell ANPs and VPs through the use of a self-service display.

Section 8 makes it illegal for a manufacturer, distributor, wholesaler, retailer, or distributing agent to give away samples of ANPs and VPs to persons under the age of 18 years or within 500 feet of any playground, school, high school, or other facility that is being used primarily by persons under 18 years for recreational, educational, or other purposes. This is currently prohibited for tobacco products and cigarettes.

The bill does not make any changes to current fines and penalties for violations under chapter 453A, but does change the title of the section regarding violations to include ANPs and VPs. (Section 10)

## **Amendment Summary**

**H-8007 by Rep. T. Olson, et al** – strikes everything after the enacting clause and creates a new definition for an Electronic Smoking Device which does not include any device which has been approved by the U.S. Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for that purpose. The definition of ESDs and their regulation are put in a new chapter, 142B. Language requires retailers of these electronic smoking devices (ESD) to obtain a retail permit under the same manner as found in chapter 453A. Prohibits the ability for persons under the age of 18 years from using, possessing, purchasing or attempting to purchase an ESD, and for persons to supply ESDs to persons under the 18 years. The Alcoholic Beverages Division is required to include training on ESDs in their employee training program. Penalties and violations of ESDs are treated in the same manner as penalties and violations under chapter 453A. Electronic smoking devices are not subject to taxation nor are they included in the Smoke Free Air Act.

**H-8009 by Rep. Meyer, et al** – makes references throughout chapter 453A to ensure that ANPs and VPs are treated in the same manner as cigarettes or tobacco products regarding the rules and regulations of permit holders. Language is added to the definitions of ANP and VP to exclude products that have been approved by the U.S. Food and Drug Administration for smoking cessation purposes. Adds ANPs and VPs to two chapters (232C.4 and 321.216C) where references to cigarettes, tobacco and minors already exist to ensure that these products are treated the same for minors as cigarettes and tobacco.

**H-8006 by Rep. Baltimore** – adds language to the permitting section, 453A.13, to state that retailers who would like to become engaged in the selling, offering for sale, or distributing ANPs or VPs must obtain an applicable permit.

**H-8008 by Rep. Ruff, et al** – adds language to the bill to prohibit the use or possession of an ANP or a VP from the property of any public or private school. The Board of Directors of a school district and the authorities in charge of a nonpublic school must adopt necessary rules to implement this prohibition.