

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 5268

04/04/2024

Authored by Hollins

The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to electronic delivery devices; prohibiting the sale or offer for sale of
1.3 disposable electronic delivery devices; proposing civil penalties; amending
1.4 Minnesota Statutes 2022, section 461.19; proposing coding for new law in
Minnesota Statutes, chapter 461.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. ACT TITLE.

1.7 This act shall be known as the Restricting Electronic Smoking Products to Improve and
1.8 Respect the Environment (RESPIRE) Act.

1.9 Sec. 2. Minnesota Statutes 2022, section 461.19, is amended to read:

1.10 **461.19 EFFECT ON LOCAL ORDINANCE; NOTICE.**

1.11 Sections 461.12 to 461.18 and 461.24 do not preempt a local ordinance that provides
1.12 for more restrictive regulation of sales of tobacco, tobacco-related devices, electronic delivery
1.13 devices, ~~and~~ or nicotine ~~and~~ or lobelia delivery products. A governing body shall give notice
1.14 of its intention to consider adoption or substantial amendment of any local ordinance required
1.15 under section 461.12 or permitted under this section. The governing body shall take
1.16 reasonable steps to send notice by mail at least 30 days prior to the meeting to the last known
1.17 address of each licensee or person required to hold a license under section 461.12. The
1.18 notice shall state the time, place, and date of the meeting and the subject matter of the
1.19 proposed ordinance.

1.20 **EFFECTIVE DATE.** This section is effective January 1, 2025.

2.1 Sec. 3. **[461.24] SALE OF DISPOSABLE ELECTRONIC DELIVERY DEVICES**
2.2 **PROHIBITED.**

2.3 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
2.4 the meanings given.

2.5 (b) "Disposable electronic delivery device" means an electronic delivery device as
2.6 defined in section 609.685, subdivision 1, paragraph (c), that has a fixed or embedded
2.7 battery, including an electronic delivery device containing a battery that is not easily
2.8 removable by the user. Disposable electronic delivery device does not include drugs, devices,
2.9 or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic
2.10 Act, that are authorized for sale by the United States Food and Drug Administration.

2.11 (c) "Distributor" means a person, whether located inside or outside of this state, other
2.12 than a retailer, who sells in this state, tobacco, tobacco-related devices, electronic delivery
2.13 devices, or nicotine or lobelia delivery products, as those terms are defined in section
2.14 609.685, subdivision 1, or described in section 609.6855.

2.15 (d) "Retailer" means a person, whether located inside or outside this state, who sells or
2.16 offers for sale to a consumer in this state, tobacco, tobacco-related devices, electronic
2.17 delivery devices, or nicotine or lobelia delivery products, as those terms are defined in
2.18 section 609.685, subdivision 1, or described in section 609.6855.

2.19 (e) "Sell" includes any transfer of title or possession, exchange, or barter, by any means,
2.20 including but not limited to transactions conducted via the Internet or other electronic
2.21 platforms.

2.22 Subd. 2. **Prohibition.** No retailer or distributor shall sell or offer for sale in this state
2.23 any disposable electronic delivery device.

2.24 Subd. 3. **Forfeiture.** Any disposable electronic delivery device sold or offered for sale
2.25 in violation of subdivision 2 is deemed to be contraband and is subject to forfeiture in the
2.26 same manner as and in accordance with section 297F.21.

2.27 Subd. 4. **Civil penalties.** (a) A retailer or distributor who sells or offers for sale any
2.28 disposable electronic delivery device in violation of subdivision 2 is liable for a civil penalty:

2.29 (1) of up to \$500 for a first violation and up to \$2,000 for a subsequent violation for
2.30 each sale or offer for sale of a disposable electronic delivery device, if the total number sold
2.31 or offered for sale does not exceed 50 disposable electronic delivery devices; or

3.1 (2) of up to \$1,000 for a first violation and up to \$5,000 for a subsequent violation for
3.2 each sale or offer for sale of a disposable electronic delivery device, if the total number sold
3.3 or offered for sale exceeds 50 disposable electronic delivery devices.

3.4 (b) The licensing authority under section 461.12 may impose the civil penalties in
3.5 paragraph (a) on a retailer licensed according to section 461.12, who violates subdivision
3.6 2.

3.7 Subd. 5. **Enforcement.** In addition to any other remedy provided by law, the attorney
3.8 general may bring an action to enforce this section and may seek injunctive relief, fines,
3.9 penalties, and equitable relief, including enforcement costs relating to the specific violation
3.10 and attorney fees. In addition, a violation of this section is a violation of the Unlawful Trade
3.11 Practices Act, sections 325D.09 to 325D.16. Each violation of this section constitutes a
3.12 separate civil violation for which the licensing authority or attorney general may obtain
3.13 relief.

3.14 **EFFECTIVE DATE.** This section is effective January 1, 2025.