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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1536

03/09/2015 Authored by Youakim, Applebaum, Halverson, Atkins, Freiberg and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to local government; sanitization regulation and inspections for certain
1.3 licensees who sell electronic delivery devices; amending Minnesota Statutes 2014,
1.4 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. Minnesota Statutes 2014, section 461.19, is amended to read:

1.7 **461.19 EFFECT ON LOCAL ORDINANCE; NOTICE.**

1.8 Sections 461.12 to 461.18 and 461.22 do not preempt a local ordinance that provides
1.9 for more restrictive regulation of sales of tobacco, tobacco-related devices, electronic
1.10 delivery devices, and nicotine and lobelia products. A governing body shall give notice
1.11 of its intention to consider adoption or substantial amendment of any local ordinance
1.12 required under section 461.12 or permitted under this section. The governing body shall
1.13 take reasonable steps to send notice by mail at least 30 days prior to the meeting to the last
1.14 known address of each licensee or person required to hold a license under section 461.12.
1.15 The notice shall state the time, place, and date of the meeting and the subject matter of
1.16 the proposed ordinance.

1.17 **Sec. 2. [461.22] INSPECTION OF CERTAIN FACILITIES.**

1.18 Subdivision 1. Definitions. (a) For purposes of this section, the following terms
1.19 have the meanings given.

1.20 (b) "Authorized licensing authority" means a town board or the governing body of
1.21 a home rule charter city, statutory city, county board, or the State Agricultural Society
1.22 granted the authority to license and regulate tobacco, tobacco-related devices, and
1.23 electronic delivery devices under section 461.12.

2.1 (c) "Customer" means any person who is not an employee of a licensee who enters
2.2 the licensee's business establishment, whether or not the person purchases any product
2.3 from the licensee.

2.4 (d) "Electronic delivery device" has the meaning given in section 609.685,
2.5 subdivision 1.

2.6 (e) "Handwashing station" means a sink or basin connected to a safe, sanitary,
2.7 and adequate supply of water for washing hands, which includes soap and single-use
2.8 disposable paper towels or an electric hand dryer, placed for use in maintaining personal
2.9 hygiene and designed for the washing of hands.

2.10 (f) "Licensee" means any entity licensed under section 461.12 that:

2.11 (1) engages in the sale of electronic delivery devices; and

2.12 (2) engages in the mixing of a solution to be used in an electronic delivery device,
2.13 allows employees or customers to sample an electronic delivery device or a solution to be
2.14 used in an electronic delivery device, or both.

2.15 (g) "Mixing" means preparing a solution for purposes of using that solution in an
2.16 electronic delivery device.

2.17 (h) "Mixing area" means the physical area where an individual, including the licensee,
2.18 employees of the licensee, or an individual at the request of the licensee, engages in mixing.

2.19 (i) "Sampling" means the act of trying an electronic delivery device or any solution
2.20 intended to be used in an electronic delivery device.

2.21 (j) "Solution" means any mixture intended to be used in an electronic delivery
2.22 device that may include, but is not limited to, concentrated or pure nicotine, propylene
2.23 glycol, glycerin, or flavorings.

2.24 **Subd. 2. Required sanitary measures for mixing areas.** (a) This subdivision
2.25 shall apply to an individual engaged in mixing a solution to be used in an electronic
2.26 delivery device, including a licensee, employee of a licensee, or individual requested by
2.27 the licensee to engage in mixing.

2.28 (b) Licensees shall ensure that all mixing areas are equipped with a handwashing
2.29 station for use by the licensee or employees of the licensee.

2.30 (c) All licensees and employees of a licensee shall abide by the following sanitary
2.31 measures when in the mixing area:

2.32 (1) clean hands and exposed portions of arms with soap and hot water in a
2.33 handwashing station in the mixing area upon entry into the mixing area and prior to
2.34 leaving the mixing area;

2.35 (2) wear clean clothing whenever in the mixing area;

2.36 (3) refrain from consuming food or drink while in the mixing area;

3.1 (4) if wearing gloves, gloves must be for single use only, disposed of immediately
3.2 after mixing, and not made of cloth;

3.3 (5) either dispose of all utensils used in the mixing area immediately after use or
3.4 thoroughly wash utensils with soap and hot water immediately prior to and immediately
3.5 after use; and

3.6 (6) keep all floors, walls, ceilings, counters, and other surfaces in the mixing area
3.7 clean.

3.8 Subd. 3. **Required sanitary measures for sampling.** (a) This subdivision shall
3.9 apply to any licensee that allows employees or customers to sample electronic delivery
3.10 devices or a solution within the licensee's business.

3.11 (b) All licensees and employees of a licensee shall use only single-use disposable
3.12 pieces for all portions of an electronic delivery device that come in contact with a
3.13 customer or employee's mouth.

3.14 Subd. 4. **Requirements for handling of nicotine.** (a) This subdivision shall only
3.15 apply to a licensee that engages in mixing.

3.16 (b) Any licensee that stores, handles, or otherwise possesses pure or diluted nicotine
3.17 must:

3.18 (1) train all employees and post safety standards in accordance with Minnesota
3.19 Rules, part 5206.0700, and Code of Federal Regulations, title 29, section 1910.1200; and

3.20 (2) notify the licensee's local fire and police departments that pure or diluted nicotine
3.21 is on the premises and provide the departments with a written description of the general
3.22 quantities of pure or diluted nicotine that the licensee possesses at any given time.

3.23 Subd. 5. **Inspection authority.** The authorized licensing authority shall inspect, at
3.24 least once annually, each licensee under this section for compliance with subdivisions 2
3.25 and 3, as those subdivisions apply to a particular licensee.

3.26 Subd. 6. **Penalty.** If a licensee or employee of a licensee violates any provision under
3.27 this section, the licensee shall be charged an administrative penalty of \$75. For a second
3.28 violation at the same location within 24 months of the initial violation, an administrative
3.29 penalty of \$200 must be imposed. For a third violation at the same location within 24
3.30 months after the initial violation, an administrative penalty of \$250 must be imposed,
3.31 and the licensee's authority to sell electronic delivery devices at that location must be
3.32 suspended for not less than seven days. No suspension or penalty may take effect until the
3.33 licensee has received notice, served personally or by mail, of the alleged violation, and has
3.34 had an opportunity for a hearing before a person authorized by the licensing authority to
3.35 conduct the hearing. A decision that a violation has occurred must be in writing.