

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 4351

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DATE	D-PG	OFFICIAL STATUS
02/29/2024	11840	Introduction and first reading Referred to Commerce and Consumer Protection

1.1

A bill for an act

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relating to commerce; prohibiting advertisement, distribution, and sale of certain

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vapor products; defining terms; establishing private right of action and civil penalty;

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proposing coding for new law in Minnesota Statutes, chapter 325F.

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

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Section 1. **[325F.782] DEFINITIONS.**

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Subdivision 1. **Scope.** For purposes of sections 325F.782 to 325F.7822, the following

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terms have the meanings given.

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Subd. 2. **Minor.** "Minor" means an individual who is younger than 21 years of age.

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Subd. 3. **Vapor product.** "Vapor product" means a noncombustible product that employs

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a heating element, power source, electronic circuit, or other electronic, chemical, or

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mechanical means, regardless of shape or size, that can be used to produce vapor from

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nicotine or any other substance, and the use or inhalation of which simulates smoking. Vapor

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product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic

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pipe, or similar product or device. Vapor product also includes a vapor cartridge or other

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container of nicotine or other substance in a solution or other form that is intended to be

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used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe,

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or similar product or device.

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Sec. 2. **[325F.7821] PROHIBITION ON DECEPTIVE VAPOR PRODUCTS.**

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A person or entity must not market, promote, label, brand, advertise, distribute, offer

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for sale, or sell a vapor product by:

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(1) imitating a product that is not a vapor product, including but not limited to:

2.1 (i) a food or brand of food commonly marketed to minors, including but not limited to
2.2 candy, desserts, and beverages;

2.3 (ii) school supplies commonly used by minors, including but not limited to erasers,
2.4 highlighters, pens, and pencils; and

2.5 (iii) a product based on or depicting a character, personality, or symbol known to appeal
2.6 to minors, including but not limited to a celebrity; a character in a comic book, movie,
2.7 television show, or video game; and a mythical creature;

2.8 (2) attempting to conceal the nature of the vapor product from parents, teachers, or other
2.9 adults; or

2.10 (3) using terms for, describing, or depicting any product described in clause (1).

2.11 Sec. 3. **[325F.7822] REMEDIES.**

2.12 Subdivision 1. **Private right of action.** A person or entity who violates section 325F.7821
2.13 is subject to the penalties and remedies, including a private right of action to recover damages,
2.14 provided under section 8.31.

2.15 Subd. 2. **Civil penalty.** In addition to the penalties and remedies under subdivision 1,
2.16 the attorney general is entitled to sue for and recover on behalf of the state a civil penalty
2.17 from a person or entity who violates section 325F.7821. The court must determine the civil
2.18 penalty amount, which must not exceed \$50,000.