
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

AB 935 (Connolly) - Tobacco sales: flavored tobacco ban

Version: July 10, 2023

Policy Vote: HEALTH 10 - 0, GOV. & F. 6
- 2

Urgency: No

Mandate: No

Hearing Date: August 14, 2023

Consultant: Agnes Lee

Bill Summary: AB 935 would align the enforcement and punishment for violations of the prohibition on flavored tobacco with violations of the Stop Tobacco Access to Kids Enforcement Act (STAKE Act).

Fiscal Impact:

- The California Department of Public Health (CDPH) estimates General Fund costs of \$2.4 million in 2024-25 and \$2 million in 2025-26 and ongoing thereafter for state operations. This includes costs for staffing to conduct investigations and inspections of tobacco retailers to ensure compliance.
- The California Department of Tax and Fee Administration (CDTFA) estimates costs ranging from \$10,000 to \$50,000 for computer programming related to issuing determinations for the civil penalty, suspending, or revoking a retailer's cigarette and tobacco products license, and developing notifications (Cigarette and Tobacco Products Compliance Fund). The CDTFA indicates unknown revenue estimates from civil penalties.

Background: The CDPH operates a program to reduce the availability of tobacco products to persons under 21 years of age through authorized enforcement activities pursuant to the STAKE Act. Civil penalties may be assessed against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under 21, except for military personnel 18 years of age or older, any tobacco product, instrument, or paraphernalia that is designed for the smoking or ingestion of tobacco products ranging from \$400 to \$6,000 for a first, second, third, fourth, or fifth violation within a five-year period.

The CDTFA licenses retailers who sell cigarettes or tobacco products. CDTFA must provide tobacco product licensees with at least ten days' written notice of a pending suspension or revocation and an opportunity to appeal, as specified. The law prohibits CDTFA from accepting or considering an appeal of suspension or revocation if the appeal is founded upon the grounds of whether the retailer, or any agent or employee, violated the STAKE Act. Current law requires CDTFA to also impose a \$250 civil penalty for STAKE Act violations, as specified, and deposits penalty proceeds into the Cigarette and Tobacco Products Compliance Fund which funds compliance costs.

Current law prohibits a tobacco retailer, or any of the tobacco retailer's agents or employees, from selling, offering for sale, or possessing with the intent to sell or offer for

sale, a “flavored tobacco product,” as defined, or a “tobacco product flavor enhancer,” as defined. A tobacco retailer, or agent or employee of a tobacco retailer, who violates the prohibition on flavored tobacco is deemed guilty of an infraction punished by a fine of \$250 for each violation. Under current state law, enforcement for these provisions is not governed by the STAKE Act.

Proposed Law: Specific provisions of the bill would:

- Align the enforcement and punishment for violations of the prohibition on flavored tobacco with violations of the STAKE Act, rather than the existing infraction and fine of \$250 for each violation.
- Require the civil penalty assessed by the CDTFA for violations of the prohibition of flavored tobacco as they relate to the STAKE Act to be deposited into the Cigarette and Tobacco Products Compliance Fund to be made available to CDTFA, upon appropriation by the Legislature, for compliance activities.
- Add the violation of the prohibition of flavored tobacco to existing law for which CDTFA is prohibited from accepting or considering an appeal of suspension or revocation of a license.

-- END --