

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-1020.01 Jennifer Berman x3286

HOUSE BILL 20-1319

HOUSE SPONSORSHIP

Caraveo and Becker,

SENATE SPONSORSHIP

Fields and Priola,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A PROHIBITION AGAINST THE SALE OF FLAVORED
102 NICOTINE PRODUCTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

On and after September 1, 2020, the bill prohibits the sale of flavored cigarettes, tobacco products, and nicotine products, including flavored electronic cigarettes, and products intended to be added to cigarettes, tobacco products, or nicotine products to produce a flavor other than tobacco.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 44-7-104, **add** (1.5)
3 as follows:

4 **44-7-104. Enforcement authority - designation of agency -**
5 **coordination - sharing of information.** (1.5) THE DIVISION HAS THE
6 POWER TO ENFORCE SECTION 44-7-104.6 RELATING TO THE PROHIBITION
7 AGAINST THE SALE OF FLAVORED CIGARETTES, TOBACCO PRODUCTS, AND
8 NICOTINE PRODUCTS AND FLAVOR ENHANCERS, AS THOSE TERMS ARE
9 DEFINED IN SECTION 44-7-104.6 (3).

10 **SECTION 2.** In Colorado Revised Statutes, **add** 44-7-104.6 as
11 follows:

12 **44-7-104.6. Prohibition against selling flavored cigarettes,**
13 **tobacco products, and nicotine products - definitions.** (1) ON AND
14 AFTER SEPTEMBER 1, 2020, A RETAILER SHALL NOT SELL, OFFER FOR SALE,
15 PERMIT THE SALE OF, OR OTHERWISE FURNISH A FLAVORED CIGARETTE,
16 TOBACCO PRODUCT, OR NICOTINE PRODUCT OR A FLAVOR ENHANCER.

17 (2) THERE IS A REBUTTABLE PRESUMPTION THAT A CIGARETTE,
18 TOBACCO PRODUCT, OR NICOTINE PRODUCT BEING SOLD, OFFERED FOR
19 SALE, PERMITTED TO BE SOLD, OR OTHERWISE FURNISHED AT A RETAILER'S
20 RETAIL LOCATION IS A FLAVORED CIGARETTE, TOBACCO PRODUCT, OR
21 NICOTINE PRODUCT OR A FLAVOR ENHANCER IF THE RETAILER, THE
22 MANUFACTURER, OR ANY EMPLOYEE OR AGENT OF THE RETAILER OR
23 MANUFACTURER:

24 (a) HAS MADE A PUBLIC STATEMENT OR CLAIM THAT THE PRODUCT
25 IMPARTS A TASTE OR SMELL OTHER THAN THE TASTE OR SMELL OF
26 TOBACCO;

1 (b) USES ANY TEXT OR IMAGE ON THE PRODUCT'S LABELING,
2 PACKAGING, OR SIGNAGE PROMOTING THE PRODUCT THAT EXPLICITLY OR
3 IMPLICITLY INDICATES THAT THE PRODUCT IMPARTS A TASTE OR SMELL
4 OTHER THAN THE TASTE OR SMELL OF TOBACCO; OR

5 (c) HAS TAKEN ANY ACTION DIRECTED TOWARD CONSUMERS THAT
6 A REASONABLE PERSON WOULD EXPECT TO CAUSE CONSUMERS TO BELIEVE
7 THAT THE CIGARETTE, TOBACCO PRODUCT, OR NICOTINE PRODUCT
8 IMPARTS A TASTE OR SMELL OTHER THAN THE TASTE OR SMELL OF
9 TOBACCO.

10 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
11 REQUIRES:

12 (a) "FLAVORED CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
13 PRODUCT" MEANS A CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
14 PRODUCT THAT IMPARTS A TASTE OR SMELL, OTHER THAN THE TASTE OR
15 SMELL OF TOBACCO, EITHER BEFORE OR DURING THE CONSUMPTION OF THE
16 PRODUCT, INCLUDING BUT NOT LIMITED TO ANY TASTE OR SMELL
17 RELATING TO FRUIT, MENTHOL, MINT, WINTERGREEN, CHOCOLATE, COCOA,
18 VANILLA, HONEY, OR ANY CANDY, DESSERT, ALCOHOL BEVERAGE, HERB,
19 OR SPICE.

20 (b) "FLAVOR ENHANCER" MEANS A PRODUCT THAT IS DESIGNED,
21 MANUFACTURED, PRODUCED, MARKETED, OR SOLD FOR THE PURPOSE OF
22 PRODUCING A FLAVORED CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
23 PRODUCT WHEN ADDED TO A CIGARETTE, TOBACCO PRODUCT, OR NICOTINE
24 PRODUCT.

25 **SECTION 3.** In Colorado Revised Statutes, 44-7-106, **add** (5) as
26 follows:

27 **44-7-106. Limitation on fines.** (5) FOR A VIOLATION OF SECTION

1 44-7-104.6, THE PENALTY IS AS FOLLOWS:

2 (a) A FINE IN AN AMOUNT OF TWO HUNDRED FIFTY DOLLARS FOR
3 A FIRST VIOLATION COMMITTED WITHIN A TWENTY-FOUR-MONTH PERIOD;

4 (b) A FINE IN AN AMOUNT OF FIVE HUNDRED DOLLARS FOR A
5 SECOND VIOLATION COMMITTED WITHIN A TWENTY-FOUR-MONTH PERIOD;

6 (c) A FINE IN AN AMOUNT OF ONE THOUSAND DOLLARS FOR A
7 THIRD VIOLATION COMMITTED WITHIN A TWENTY-FOUR-MONTH PERIOD
8 AND A PROHIBITION AGAINST THE RETAILER SELLING CIGARETTES,
9 TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THE RETAIL LOCATION AT
10 WHICH THE VIOLATION OCCURRED FOR AT LEAST SEVEN DAYS AFTER THE
11 DATE THAT THE FINE IS IMPOSED;

12 (d) A FINE IN AN AMOUNT BETWEEN ONE THOUSAND DOLLARS AND
13 FIFTEEN THOUSAND DOLLARS FOR A FOURTH VIOLATION COMMITTED
14 WITHIN A TWENTY-FOUR-MONTH PERIOD AND A PROHIBITION AGAINST THE
15 RETAILER SELLING CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE
16 PRODUCTS AT THE RETAIL LOCATION AT WHICH THE VIOLATION OCCURRED
17 FOR AT LEAST FIFTEEN DAYS AFTER THE DATE THAT THE FINE IS IMPOSED;
18 AND

19 (e) A FINE IN AN AMOUNT OF FIFTEEN THOUSAND DOLLARS FOR A
20 FIFTH OR SUBSEQUENT VIOLATION COMMITTED WITHIN A
21 TWENTY-FOUR-MONTH PERIOD AND A PROHIBITION AGAINST SELLING
22 CIGARETTES, TOBACCO PRODUCTS, OR NICOTINE PRODUCTS AT THE RETAIL
23 LOCATION AT WHICH THE VIOLATION OCCURRED FOR AT LEAST ONE YEAR
24 AFTER THE DATE THAT THE FINE IS IMPOSED.

25 **SECTION 4. Safety clause.** The general assembly hereby finds,
26 determines, and declares that this act is necessary for the immediate
27 preservation of the public peace, health, or safety.