

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 4351

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Introduction and first reading
Referred to Commerce and Consumer Protection

1.1 A bill for an act
1.2 relating to commerce; prohibiting advertisement, distribution, and sale of certain
1.3 vapor products; defining terms; establishing private right of action and civil penalty;
1.4 proposing coding for new law in Minnesota Statutes, chapter 325F.

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

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

1.7 Subdivision 1. **Scope.** For purposes of sections 325F.782 to 325F.7822, the following
1.8 terms have the meanings given.

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

1.10 Subd. 3. **Vapor product.** "Vapor product" means a noncombustible product that employs
1.11 a heating element, power source, electronic circuit, or other electronic, chemical, or
1.12 mechanical means, regardless of shape or size, that can be used to produce vapor from
1.13 nicotine or any other substance, and the use or inhalation of which simulates smoking. Vapor
1.14 product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic
1.15 pipe, or similar product or device. Vapor product also includes a vapor cartridge or other
1.16 container of nicotine or other substance in a solution or other form that is intended to be
1.17 used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe,
1.18 or similar product or device.

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

1.20 A person or entity must not market, promote, label, brand, advertise, distribute, offer
1.21 for sale, or sell a vapor product by:

1.22 (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.