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AB-216 Product sales to minors: vapor products. (2015-2016)

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Assembly Bill No. 216

CHAPTER 769

An act to add Chapter 5 (commencing with Section 24600) to Division 20 of the Health and Safety Code, relating to product sales to minors.

[Approved by Governor October 11, 2015. Filed with Secretary of State October 11, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 216, Cristina Garcia. Product sales to minors: vapor products.

Existing law prohibits the sale of electronic cigarettes to people under 18 years of age. Existing law defines "electronic cigarette" as a device that can provide an inhalable dose of nicotine by delivering a vaporized solution.

This bill would prohibit the sale of any device intended to deliver a nonnicotine product in a vapor state, to be directly inhaled by the user, to a person under 18 years of age, or to a person under 21 years of age if SB 151 of the 2015–16 Regular Session is enacted and takes effect. The bill would exempt from its prohibition the sale of a drug or medical device that has been approved by the federal Food and Drug Administration. Because this bill would create a new crime or infraction, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 5 (commencing with Section 24600) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 5. Product Sales to Minors

24600. (a) It is unlawful for a person to sell or otherwise furnish any device intended to deliver a nonnicotine product in a vapor state, to be directly inhaled by the user, to a person under 18 years of age.

(b) Subdivision (a) does not prohibit the sale or furnishing of a drug or medical device that has been approved by the federal Food and Drug Administration pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(c) A violation of this section is an infraction punishable by a fine not exceeding five hundred dollars (\$500) for the first violation, by a fine not exceeding one thousand dollars (\$1,000) for the second violation, or by a fine not exceeding one thousand five

hundred dollars (\$1,500) for a third or subsequent violation.

SEC. 2. Chapter 5 (commencing with Section 24600) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 5. Product Sales to Minors

24600. (a) It is unlawful for a person to sell or otherwise furnish any device intended to deliver a nonnicotine product in a vapor state, to be directly inhaled by the user, to a person under 21 years of age.

(b) Subdivision (a) does not prohibit the sale or furnishing of a drug or medical device that has been approved by the federal Food and Drug Administration pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(c) A violation of this section is an infraction punishable by a fine not exceeding five hundred dollars (\$500) for the first violation, by a fine not exceeding one thousand dollars (\$1,000) for the second violation, or by a fine not exceeding one thousand five hundred dollars (\$1,500) for a third or subsequent violation.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. (a) Section 1 of this act shall become operative only if Senate Bill 151 of the 2015–16 Regular Session is not enacted or does not become effective.

(b) Section 2 of this act shall become operative only if Senate Bill 151 of the 2015–16 Regular Session is enacted and becomes effective.