

Amendment to HB 680-FN

1 Amend the title of the bill by replacing it with the following:

2  
3 AN ACT relative to the definition and regulation of e-cigarettes.  
4

5 Amend the bill by replacing all after the enacting clause with the following:  
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7 1 Youth Access To and Use of Tobacco Products; Definition of E-Cigarette. Amend RSA 126-  
8 K:2, II-a to read as follows:

9 II-a. "E-cigarette" means any electronic smoking device composed of a mouthpiece, a  
10 heating element, a battery, and electronic circuits that ~~[provides a vapor of pure]~~ **may or may not**  
11 **contain** nicotine ~~[mixed with propylene glycol to the user as the user simulates smoking]~~. This  
12 term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, or e-pipes,  
13 or under any other product name.

14 2 Alcoholic Beverages; Definition of E-Cigarette Added. Amend RSA 175:1, XXXI-a and XXXI-  
15 aa to read as follows:

16 XXXI-a. ***"E-cigarette" means any electronic smoking device composed of a***  
17 ***mouthpiece, a heating element, a battery, and electronic circuits that may or may not***  
18 ***contain nicotine. This term shall include such devices whether they are manufactured as***  
19 ***e-cigarettes, e-cigars, or e-pipes, or under any other product name.***

20 XXXI-aa. "Farmers' market" means an event or series of events at which 2 or more  
21 vendors of agricultural commodities gather for purposes of offering for sale such commodities to the  
22 public. Commodities offered for sale must include, but are not limited to, products of agriculture, as  
23 defined in RSA 21:34-a. "Farmers' market" shall not include any event held upon any premises  
24 owned, leased, or otherwise controlled by any individual vendor selling therein.

25 ~~[-XXXI-aa.] XXXI-aaa.~~ "Food" means solid nutritive material as distinguished from drink.

26 3 Definition of License. Amend RSA 175:1, XXXIX to read follows:

27 XXXIX. "License" means the authority granted by the commission to engage in the sale of  
28 liquor, wine, beverages, ~~[or]~~ tobacco products, **or e-cigarettes** otherwise unlawful unless evidenced  
29 by such document.

30 4 Definition of Retailer. Amend RSA 175:1, LIX-a to read as follows:

31 LIX-a. "Retailer," when used with respect to tobacco products **or e-cigarettes**, means any  
32 person who sells tobacco products **or e-cigarettes** to consumers, and any vending machine in which

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1 tobacco products are sold.

2       5 The Liquor Commission; Liquor Investigator. Amend RSA 176:9, III to read as follows:

3           III. The commissioner, deputy commissioner, assistant, or liquor investigator may enter  
4 any place where liquor, beverages, ~~or~~ tobacco products, **or e-cigarettes** are sold or manufactured,  
5 at any time, and may examine any license or permit issued or purported to have been issued under  
6 the terms of this title. They shall make complaints for violations of this title.

7       6 Liquor Licenses and Fees; Licenses Required. Amend RSA 178:1, VI to read as follows:

8           VI. No person shall sell tobacco products **or e-cigarettes** to individuals or the public in any  
9 method or manner, directly or indirectly, or keep for sale any tobacco products **or e-cigarettes**  
10 without first registering to do business with the secretary of state and obtaining a license for such  
11 activity under the provisions of this title. The commission shall provide a list of persons licensed  
12 under this section to the commissioner of the department of revenue administration upon request.

13       7 Licenses Authorized. Amend RSA 178:2, I to read as follows:

14           I. The commission may issue licenses to individuals, partnerships, limited liability  
15 companies and partnerships, or corporations but not to unincorporated associations, on applications  
16 duly made therefor for the manufacture, warehousing, sale, offer for sale, or solicitation of orders  
17 for sale of liquor or beverages and for retail sales of tobacco products **or e-cigarettes** within the  
18 state, subject to the limitations and restrictions imposed by this title. The commission shall keep a  
19 full record of all applications for licenses, of all recommendations for and remonstrances against the  
20 granting of licenses, and of the action taken on such applications.

21       8 Combination License. Amend RSA 178:18 to read as follows:

22           178:18 Combination License.

23           I. Off-premises licenses shall be issued only for grocery and drug stores not holding on-  
24 premises licenses. Such licenses shall authorize the licensees to sell fortified wine, table wine, and  
25 beverages for consumption only off the premises designated in the licenses and not to other  
26 licensees for resale. Such sale shall be made only in the immediate container in which the  
27 beverage, wine, or fortified wine was received by the off-premises combination licensee; except that  
28 in the case of the holder of a wholesale distributor license, beverages may be sold only in such  
29 barrels, bottles, or other containers as the commission may by rule prescribe. Off-premises licenses  
30 may also authorize the licensee to sell tobacco products **or e-cigarettes**. There shall be no  
31 restriction on the number of combination licenses held by any person. The license shall authorize  
32 the licensee to transport and deliver beverages, tobacco products, **e-cigarettes**, and table or  
33 fortified wines ordered from and sold by the licensee in vehicles operated under the licensee's  
34 control or an employee's control.

35           II. All sales of tobacco, **e-cigarettes**, beverages, fortified wines, and table wine shall be  
36 recorded on cash registers. No additional registers shall be added during the remainder of the year  
37 without prior approval of the commission. No rebate shall be allowed for cash registers

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1 discontinued during the license year.

2 III. The commission may suspend the tobacco, ***e-cigarette***, or alcohol sales portion of the  
3 license separately under the provisions of RSA 179:57; any revocation shall revoke the entire  
4 license.

5 9 Retail Wine License. Amend RSA 178:19 to read as follows:

6 178:19 Retail Wine License.

7 I. A retail wine license may be issued by the commission to any person operating a retail  
8 outlet in this state which shall allow the licensee to sell tobacco products, ***e-cigarettes***, fortified  
9 wines, and table wines directly to individuals at retail on the premises for consumption off the  
10 premises; provided, however, that persons holding any license authorizing the sale of liquor or wine  
11 by the glass under this chapter shall sell the wines authorized pursuant to this section in a separate  
12 area of the premises from the areas licensed for on-premises consumption. A separate license shall  
13 be required with respect to each place of business of an applicant. The license shall authorize the  
14 licensee to transport and deliver fortified and table wines ordered from and sold by the commission  
15 and sold by the licensee in vehicles operated under the licensee's control or an employee's control.

16 II. All sales of wine, ~~and~~ tobacco products, ***and e-cigarettes*** shall be recorded on cash  
17 registers. No additional registers shall be added during the remainder of the year without prior  
18 approval of the commission. No rebate shall be allowed for cash registers discontinued during the  
19 license year.

20 III. On-premises licensees licensed under this chapter shall maintain separate rooms for  
21 storage, shelving, display, and sale of tobacco products, ***e-cigarettes***, and fortified and table wine  
22 for consumption off the premises. Such rooms shall be equipped with at least one cash register  
23 which shall be capable of separately registering wine sales, and such rooms shall have an attendant  
24 at all times while open for business. Wine purchased for resale by virtue of the retail wine license  
25 shall be purchased on separate invoices from that wine intended for consumption in the dining room  
26 or lounge, and separate sales records shall be maintained for this purpose.

27 IV. The commission may suspend the tobacco, ***e-cigarette***, or alcohol sales portion of the  
28 license separately under the provisions of RSA 179:57; any revocation shall revoke the entire  
29 license.

30 10 Retail Tobacco License. Amend RSA 178:19-a to read as follows:

31 178:19-a Retail Tobacco License.

32 I. The commission may issue a retail tobacco license to a person engaged in the business of  
33 retail sales and distribution of tobacco products ***or e-cigarettes*** in this state. Each retail outlet  
34 shall have a separate license regardless of the fact that one or more outlets may be owned or  
35 controlled by a single person.

36 II. A retail tobacco license shall be prominently displayed on the premises described in it.

37 III. The commission, when issuing or renewing a retail tobacco license, shall furnish a sign

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1 which shall read or be substantially similar to the following: "State Law prohibits the sale of  
2 tobacco products **or e-cigarettes** to persons under age 18. Warning: violators of these provisions  
3 may be subject to a fine."

4 11 Beer Specialty License. Amend RSA 178:19-d, I to read as follows:

5 I. A beer specialty license may be issued by the commission to any person operating a retail  
6 outlet in this state the primary business of which is the sale of beer as defined in RSA 175:1. A beer  
7 specialty license shall allow the licensee to sell beverage, wine, [~~and~~] tobacco products, **and e-**  
8 **cigarettes** directly to individuals at retail on the premises for consumption off the premises; beer  
9 may be sold in such barrels, bottles, or other containers as the commission may by rule prescribe.

10 12 Beer Specialty License. Amend RSA 178:19-d, V and VI to read as follows:

11 V. All sales of beer, [~~and~~] tobacco products, **and e-cigarettes** shall be recorded on cash  
12 registers. No additional registers shall be added during the remainder of the year without prior  
13 approval of the commission. No rebate shall be allowed for cash registers discontinued during the  
14 license year.

15 VI. The commission may suspend the tobacco, **e-cigarette**, or alcohol sales portion of the  
16 license separately under the provisions of RSA 179:57.

17 13 Effective Date. This act shall take effect 60 days after its passage.

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**AMENDED ANALYSIS**

This bill changes the definition of e-cigarette to provide that the device may or may not contain nicotine. The bill also includes e-cigarettes in the sale and licensure requirements of RSA 176 and RSA 178.