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**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2014-2**

**INTRODUCED BY:**

Councilor Trujillo

Councilor Bushee

**AN ORDINANCE**

**RELATING TO THE PROHIBITION OF THE PROCUREMENT OF TOBACCO BY MINORS; AMENDING SUBSECTION 16-15.4 SFCC 1987 TO AMEND THE DEFINITION OF "TOBACCO PRODUCT" AND CREATE A NEW DEFINITION FOR "ELECTRONIC SMOKING DEVICE".**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

**Section 1. Subsection 16-15.4 SFCC 1987 (being Ord. #2005-7, §3) is amended to read:**

**16-15.4 ~~[Procuring]~~ Prohibiting the Procurement of Tobacco by Minors.**

A. Definitions as used in this section:

(1) Electronic smoking device means any product containing or delivering nicotine or any substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. "Electronic smoking device" includes any component part of such product whether or not sold separately. "Electronic smoking device" does not include any product that has been approved by the

1 United States Food and Drug Administration for sale as a tobacco cessation product and is  
2 being marketed and sold solely for the approved purpose.

3 ([1]2) *Minor* means an individual who is less than eighteen (18) years of age.

4 ([2]3) *Tobacco product* means any [~~tobacco cigarette, cigar, pipe tobacco,~~  
5 ~~smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking,~~  
6 ~~chewing, inhalation or other manner of ingestion]~~ product that is made from or derived from  
7 tobacco or contains nicotine or any substance intended to be inhaled or ingested in a way that  
8 simulates smoking, and is intended for human consumption or is likely to be consumed,  
9 whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other  
10 means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco,  
11 snuff, snus or an electronic smoking device. "Tobacco product" does not include any product  
12 specifically approved by the United States Food and Drug Administration for sale as a  
13 tobacco cessation product that is being marketed and sold solely for the approved purpose.

14 B. No person shall knowingly sell, offer to sell, barter or give any tobacco product to  
15 any minor.

16 C. No minor shall procure or attempt to procure any tobacco products.

17 D. No person shall sell, offer to sell or deliver a tobacco product in a form other than an  
18 original factory-sealed package.

19 E. Evidence of the age and identity of the person may be shown by any document that  
20 contains a picture of the person issued by a federal, state, county or municipal government, including  
21 a motor vehicle driver's license or an identification card issued to a member of the armed forces.

22 F. Any person selling goods at retail or wholesale may refuse to sell tobacco products to  
23 any person who is unable to produce an identity card as evidence that he is eighteen (18) years of age  
24 or over.

25 G. No minor shall present any written, printed, or photostatic evidence of age or identity


1 that is false for the purpose of procuring or attempting to procure any tobacco products.

2 H. A person who sells, distributes, promotes or advertises tobacco products shall not  
3 provide free samples or tobacco products to a minor. This shall not apply to an individual who  
4 provides free samples of tobacco products to a family member or to an acquaintance on private  
5 property not held open to the public.

6 I. The police department [~~shall~~] is authorized to conduct random, unannounced  
7 inspection of facilities where tobacco products are sold to ensure compliance with the provisions of  
8 the section.

9 J. Any person who violates paragraphs B, D and H of this section is guilty of a petty  
10 misdemeanor. A person who violates paragraphs C and G of this section shall be referred to the  
11 juvenile probation office.

12 APPROVED AS TO FORM:

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14 Kelley A. Brennan

15 KELLEY A. BRENNAN, INTERIM CITY ATTORNEY

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