

CITY of ALBUQUERQUE

TWENTY-FIRST COUNCIL

COUNCIL BILL NO. O-13-1 ENACTMENT NO. _____

SPONSORED BY: Don Harris

1 ORDINANCE

2 DETERRING THE SALE OF VAPOR PRODUCTS.

3 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
4 ALBUQUERQUE:

5 SECTION 1. The Sale of Vapor Products to Children Ordinance is hereby
6 adopted to read as follows:

7 “Section 1. SHORT TITLE. This Ordinance shall be known and may be
8 cited as the ‘Sale of Vapor Products to Children Ordinance.’

9 Section 2. PURPOSE

10 The use of vapor products has doubled among middle and high school
11 students from 2011 to 2012. A survey by the Centers for Disease Control and
12 Prevention found that about one in ten high school students admitted to using
13 vapor products. The city can implement protections faster than the State or
14 Federal government. The city can adapt more quickly to changes to the
15 products that the manufactures or vendors may make to take their products
16 outside the scope of this ordinance. Council finds it is reasonable to conclude
17 that the use of Vapor Products is a gateway to the use of tobacco products
18 which are extremely detrimental to the health of all persons, particularly
19 children.

20 Section 3. DEFINITIONS

21 CHILD or CHILDREN shall mean persons under 18 years of age. The
22 singular and plural shall include one another.

23 VAPOR PRODUCT shall mean any product that employs a mechanical
24 heating element, battery or circuit, regardless of shape or size, and can be
25 used to heat a liquid nicotine solution including, without limitation, e-
26 cigarettes, electronic cigarettes, electronic cigars, electronic cigarillos or

1 electronic pipes. The definition does not include any product regulated by the
2 United States Food and Drug Administration under Chapter V of the Federal
3 Food, Drug and Cosmetic Act.

4 **Section 4. VIOLATION**

5 It is a crime punishable pursuant to section 1-1-99 of this code of
6 ordinances for any person or entity to offer for sale or sell any vapor product
7 to any child in the city limits of the City of Albuquerque.”

8 **SECTION 2. SEVERABILITY CLAUSE.** If any section, paragraph, sentence,
9 clause, word or phrase of this Ordinance is for any reason held to be invalid or
10 unenforceable by any court of competent jurisdiction, such decision shall not
11 affect the validity of the remaining provisions of this Ordinance. The Council
12 hereby declares that it would have passed this Ordinance and each section,
13 paragraph, sentence, clause, word or phrase thereof irrespective of any
14 provision being declared unconstitutional or otherwise invalid.

15 **SECTION 3. COMPILATION.** This Ordinance shall be incorporated in and
16 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

17 **SECTION 4. EFFECTIVE DATE.** This Ordinance shall take effect five days
18 after publication by title and general summary.

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31 legislation\ordinances\A Synthetic Intoxicant final
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Mayor Richard J. Berry

CITY OF ALBUQUERQUE

Albuquerque, New Mexico

Office of the Mayor

INTER-OFFICE MEMORANDUM

December 2, 2013

To: Dan Lewis, President, City Council

From: Richard J. Berry, Mayor *RJB*

Subject: Sale of Vapor Products to Children Ordinance

This Ordinance establishes a criminal penalty to any person or entity that would sell any vapor product to any child (under 18 years of age) in the City of Albuquerque.

Recently, E-cigarettes and other vapor products that heat a liquid nicotine solution are not regulated or enforced and can be purchased by minors.

Adoption of this ordinance would allow the Albuquerque Police Department to enforce this ordinance on any person or vendor that would sell these vapor products to persons under the age of 18.

This Ordinance is forwarded to the Council for consideration and action.

Recommended:

Approved as to Legal Form:

[Signature] *12/2/13*
Robert J. Perry Date
Chief Administrative Officer

[Signature] *12/2/13*
David J. Tourek Date
City Attorney