

CITY of ALBUQUERQUE

TWENTY-FIRST COUNCIL

COUNCIL BILL NO. F/S O-13-1 ENACTMENT NO. _____

SPONSORED BY: Don Harris

1 **ORDINANCE**

2 **DETTERRING 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 manufacturers 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 **ELECTRONIC SMOKING DEVICE means any product or device containing**
24 **or delivering nicotine or any other similar substance intended for human**
25 **consumption that can be used by a person to simulate smoking through**
26 **inhalation of vapor, vapor product or aerosol. Electronic smoking device**

1 includes any component part of such product or device whether or not sold
2 separately, including but not limited to vapor products. "Electronic smoking
3 device" does not include any product that has been approved by the United
4 States Food and Drug Administration for sale as a tobacco cessation product
5 and is being marketed and sold solely for the approved purpose.

6 VAPOR PRODUCT means any product or substance that contains nicotine
7 or a similar substance, and is intended for human consumption or is likely to
8 be consumed using an electronic smoking device. "Vapor product" does not
9 include any product specifically approved by the U.S. Food and Drug
10 Administration for sale as a tobacco cessation product that is being marketed
11 and sold solely for the approved purpose.

12 Section 4. VIOLATION

13 It is a crime punishable pursuant to section 1-1-99 of this code of
14 ordinances for any person or entity to sell, offer to sell, barter or give any
15 electronic smoking device or vapor product to any child in the city limits of the
16 City of Albuquerque."

17 Section 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
18 clause, word or phrase of this Ordinance is for any reason held to be invalid or
19 unenforceable by any court of competent jurisdiction, such decision shall not
20 affect the validity of the remaining provisions of this Ordinance. The Council
21 hereby declares that it would have passed this Ordinance and each section,
22 paragraph, sentence, clause, word or phrase thereof irrespective of any
23 provision being declared unconstitutional or otherwise invalid.

24 Section 3. COMPILATION. This Ordinance shall be incorporated in and
25 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

26 Section 4. EFFECTIVE DATE. This Ordinance shall take effect five days
27 after publication by title and general summary.

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