

CONFERENCE COMMITTEE REPORT

HB 218

2016 Regular Session

Hoffmann

June 3, 2016

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 218 by Representative Hoffmann, recommend the following concerning the Reengrossed bill:

1. That the set of Senate Committee Amendments by the Senate Committee on Education (#2487) be adopted.
2. That the set of Senate Floor Amendments by Senator Morrish (#3172) be rejected.
3. That the following amendments to the Reengrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 3, after products" and before "on" insert a comma "," and insert "vapor products, and alternative nicotine products"

AMENDMENT NO. 2

On page 1, at the end of line 4, change "tobacco" to "such"

AMENDMENT NO. 3

On page 2, at the end of line 2, delete "or" and at the beginning of line 3, delete "made or derived from"

AMENDMENT NO. 4

On page 2, at the end of line 3, after "consumption" change the comma "," to a period "." and delete the remainder of the line and delete lines 4 and 5 and insert the following:

"(3) "Vapor product" means any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include any of the following:

(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(b) Device pursuant to 21 U.S.C. 321(h).

(c) Combination product described in 21 U.S.C. 353(g).

(4) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption,

whether chewed, absorbed, dissolved, or ingested by any other means.
"Alternative nicotine product" does not include any of the following:
(a) Tobacco product.
(b) Vapor product.
(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).
(d) Device pursuant to 21 U.S.C. 321(h).
(e) Combination product described in 21 U.S.C. 353(g)."

AMENDMENT NO. 5

On page 2, line 7, after "any" delete the remainder of the line and insert "tobacco product, vapor product, or alternative nicotine product"

AMENDMENT NO. 6

On page 2, line 9, after "any" and before "product" change "tobacco" to "such"

AMENDMENT NO. 7

On page 2, delete lines 12 through 19 and at the beginning of line 20, change "(3)" to "(2)"

AMENDMENT NO. 8

On page 2, line 20, after "of" and before "shall" delete "tobacco or any tobacco product" and insert "any tobacco product, vapor product, or alternative nicotine product"

AMENDMENT NO. 9

In Senate Committee Amendment No. 6 by the Senate Committee on Education (#2487), on page 1, at the beginning of line 18, change "(4)" to "(3)"

AMENDMENT NO. 10

On page 3, at the end of line 1, delete "not" and at the beginning of line 2, delete "to exceed two hundred dollars,"

AMENDMENT NO. 11

On page 3, line 2, after "or both." insert "Such fine shall not exceed twenty-five dollars for a first violation, one hundred dollars for a second violation, and two-hundred fifty dollars for a third and any succeeding violation. Monies collected in accordance with this Paragraph shall be used exclusively to defray the cost of enforcement of the provisions of this Section."

Respectfully submitted,

Representative Frank A. Hoffmann

Senator Jean-Paul J. Morrell

Representative Nancy Landry

Senator Dan "Blade" Morrish

Representative J. Rogers Pope

Senator Troy Carter

 DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

CONFERENCE COMMITTEE REPORT DIGEST
HB 218**2016 Regular Session****Hoffmann**
Keyword and oneliner of the instrument as it left the House

HEALTH/SMOKING: Prohibits the use of tobacco products on school property

Report adopts Senate amendments to:

1. Broaden application of proposed law prohibition to use of vapor products and alternative nicotine products both on school property and school buses.
2. Grant nonpublic school CEO discretion in defining what constitutes "school property" for purposes of proposed law enforcement.
3. Exempt school property rented, leased, or otherwise made available for use for noneducational purposes from proposed law prohibition.
4. Relative to penalties, increase maximum fine amount; provide differential fine amounts based on number of violations; and limit use of fine monies to defrayal of enforcement costs.

Report rejects Senate amendments which would have:

1. Prohibited possession of tobacco products, vapor products, and alternative nicotine products on school buses.

Report amends the bill to:

1. Make technical changes.

Digest of the bill as proposed by the Conference Committee

Present law prohibits certain activities related to smoking at schools but authorizes designated smoking areas. Proposed law deletes this authorization.

Present law prohibits any person from smoking, chewing, or otherwise consuming any tobacco or tobacco product in any elementary or secondary school building. Proposed law adds inhaling, ingesting, and absorbing to the prohibition; applies the prohibition to tobacco products, vapor products, and alternative nicotine products; and broadens the prohibited locations to any "school property". Excepts from this prohibition any such product approved by the U.S. Food and Drug Administration for sale as a tobacco cessation product and marketed and sold solely for such purpose. Defines "school property" as school grounds, playgrounds, premises, and property, including but not limited to land, improvements, school facilities, and school vehicles used for the provision of academic and extracurricular programs and administration located on the property of any elementary or secondary school, the La. School for the Deaf, the La. School for the Visually Impaired, the La. Special Education Center, and schools in the Special School District.

Present law prohibits smoking on any school bus transporting children attending any public school. Proposed law, instead of prohibiting smoking, prohibits the use of any tobacco,

vapor, or alternative nicotine product and applies this prohibition to any public school bus transporting students attending any school.

Present law requires public school governing authorities and authorizes nonpublic school governing authorities to adopt rules and regulations to assure compliance. Proposed law applies this requirement to both public and nonpublic school governing authorities.

Present law authorizes the governing authority of an elementary or secondary school to provide for appropriate penalties for violators, including but not limited to disciplinary action or a maximum fine of \$200, or both. Proposed law increases the maximum fine amount from \$200 to \$250; limits use of monies collected from fines to defrayal of enforcement costs; and provides for the following differential maximum fine amounts based on numbers of violations:

- (1) \$25 for first violation.
- (2) \$100 for second violation.
- (3) \$250 for third and any succeeding violation.

Proposed law provides definitions of the following terms:

- (1) "Tobacco product" means any product that contains tobacco and is intended for human consumption.
- (2) "Vapor product" means any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. Includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.
- (3) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.

Relative to such definitions:

- (1) Proposed law excludes the following from the definitions of both "vapor product" and "alternative nicotine product":
 - (a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).
 - (b) Device pursuant to 21 U.S.C. 321(h).
 - (c) Combination product described in 21 U.S.C. 353(g).
- (2) Proposed law excludes the following from the definition of "alternative nicotine product":
 - (a) Tobacco product.
 - (b) Vapor product.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 17:240(A), (B), and (C)(1) and (2))