

LFC Requester:	Brendon Grey
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date January 18, 2024

Bill No: SB 80

Sponsor: Senator Linda M. Lopez
Short Title: Prohibiting Sale of Flavored Tobacco Products

Agency Name and Code Number: Regulation and Licensing Department - 420

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NA	NA		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Minimal	Minimal	Minimal	Recurring	Tobacco Products Administration Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB 80 amends the Tobacco Products Act, prohibiting the sale of flavored tobacco products. There is no effective date.

- Flavored tobacco products are defined as any tobacco product that contains any ingredient, substance, chemical, or compound other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of a tobacco product, that imparts a characterizing flavor.
- Characterizing flavor is defined as distinguishable taste or aroma or both, other than the taste or aroma of tobacco, parted by a tobacco product. However, a tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.
- The Bill also adds the requirement that all licensees post a sign stating, “IT IS ILLEGAL TO SELL FLAVORED TOBACCO PRODUCTS.”

FISCAL IMPLICATIONS

- Existing Alcoholic Beverage Control (ABC) Division staff will be able to administer any additional citations resulting from the prohibition.
- Monetary administrative penalties collected by ABC will not result in substantial revenue, with licensees complying with the Act.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

- Existing Alcoholic Beverage Control (ABC) Division staff will be able to administer any additional citations resulting from the prohibition.
- Monetary administrative penalties collected by ABC will not result in substantial revenue, with licensees complying with the Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

- While the Bill provides a definition for “flavored tobacco products” and “characterizing flavor” this may be difficult to enforce. In a practical setting, the “characterizing flavor” can be determined based on labeling, however, if those descriptive labels are not utilized, the only way to determine the “characterizing flavor” is through consumption, or use, by enforcement officials, and even this may lead to subjective opinions on whether or not a characterizing flavor can be determined.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

- Licensees will continue to sell flavored tobacco products.

AMENDMENTS