

1 **BOARD BILL NO. 170** **INTRODUCED BY: ALDERWOMAN FLOWERS**

2 An ordinance to raise the age to 21 years old for sales and distribution of alternative
3 nicotine products, and vapor products to be codified in Chapter 11 of the Revised Code of the
4 City of St. Louis; containing definitions; establishing penalties for violations; and containing a
5 severability and an emergency clause.

6 **WHEREAS**, 95% of smokers begin smoking before the age of 21 years old, according to
7 a survey published by the Substance Abuse and Mental Health Services Administration; and

8 **WHEREAS**, raising the age of sales and distribution of tobacco products, alternative
9 nicotine products, and vapor products would reduce the number of younger high school students
10 who use them and rely on 18 and 19 year olds to buy them; and

11 **WHEREAS**, the Institute of Medicine has estimated that raising the minimum age for
12 acquiring tobacco products to 21 years would result in a 12 percent decrease in smoking
13 prevalence across the nation by 2100; and

14 **WHEREAS**, electronic nicotine devices such as e-cigarettes and vapor products are
15 serving as nicotine injection systems and precursors for youth who do not smoke combustible
16 tobacco to begin smoking, when they might never have begun smoking tobacco products
17 otherwise; and

18 **WHEREAS**, according to the Centers for Disease Control and Prevention (CDC), use of
19 tobacco products other than cigarettes – electronic cigarettes, hookah and smokeless tobacco has
20 increased among middle and high school students between 2011 and 2015; and

21 **WHEREAS**, nicotine is a highly addictive substance and a neurotoxin for adolescent
22 brains; and

23 **WHEREAS**, tobacco use is one of the leading causes of preventable death in the U.S.

1 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

2 **SECTION ONE. Sale of Alternative Nicotine Products and Vapor Products to**
3 **minors – Unlawful.**

4 A. For purposes of this chapter the following definitions shall apply:

5 1. “Alternative Nicotine Product” means any non-combustible product
6 containing nicotine that is intended for human consumption, whether
7 chewed, absorbed, dissolved or ingested by any other means. The term
8 does not mean any vapor product, tobacco product or any product
9 regulated as a drug or device by the United States Food and Drug
10 Administration under Chapter V of the Food, Drug and Cosmetic Act or
11 any amendment thereto.

12 2. “Vapor Product” means any non-combustible product with or without
13 nicotine that employs a heating element, power source, electronic circuit
14 or other electronic, chemical means, regardless of shape or size, which can
15 be used to produce vapor with nicotine in a solution or other form. The
16 term includes any electronic cigarette, electronic cigar, electronic cigarillo,
17 electronic pipe or similar product or device, and any vapor cartridge or
18 other container of nicotine in a liquid solution or other form that is
19 intended to be used with or in an electronic cigarette, electronic cigar,
20 electronic cigarillo, electronic pipe or similar product or device. The term
21 does not include alternative nicotine or tobacco products.

22 3. “Minor” shall mean any person under the age of twenty-one (21) years of
23 age.

- 1 4. “Vending Machine” means any mechanical, electric or electronic self-
2 service device which upon insertion of money, tokens or any other form of
3 payment, dispenses tobacco products, alternative nicotine products or
4 vapor products.
- 5 5. “Department” means the Department of Health of the City of St. Louis.
- 6 6. “Proof of Age” means a driver’s license or other documentary or written
7 evidence that the individual is twenty-one years old or older.

8 B. Sale of Distribution To, Or Purchase or Receipt By Person Under 21 Years Old
9 Prohibited.

- 10 1. No person shall sell or distribute alternative nicotine products or vapor
11 products to any person under twenty-one (21) years old.
- 12 2. Any person found to have sold or distributed any alternative nicotine
13 product or vapor product to a family member who is under twenty-one
14 (21) years old shall be deemed to be in violation of subsection B (1) of this
15 section.
- 16 3. It shall be unlawful for any person under the age of twenty-one (21) years
17 old to represent that he or she has attained the age of twenty-one (21)
18 years old for the purpose of purchasing, asking for in any way, or
19 receiving alternative nicotine products or vapor products except in cases
20 authorized by law, including as authorized by the Department of law
21 enforcement.
- 22 4. It shall be unlawful for any person to give, lend, sell or otherwise provide
23 any person under the age of twenty-one (21) years old any falsified

1 identification or identification of another person for the purpose of
2 establishing the age of the individual as being twenty-one (21) years old or
3 older.

4 5. Any person selling or distributing alternative nicotine products or vapor
5 products shall require proof of age from the prospective purchaser or
6 recipient is twenty-one (21) years old or older.

7 6. If a sale or distribution of alternative nicotine products or vapor products
8 is made by an employee of the owner of an establishment in violation of
9 this section, the employee acting on behalf of the owner, as well as the
10 owner of the establishment shall be in violation of this section.

11 C. Sales or Distribution in Public Areas Prohibited.

12 No person shall sell or distribute alternative nicotine products or vapor products to
13 any person in or on any public street, public sidewalk, park, school, playground,
14 or other property owned by the City of St. Louis or owned by another
15 governmental entity.

16 D. Vending Machines.

17 1. Any vending machine used for the sale or distribution of alternative
18 nicotine products or vapor products may only dispense alternative nicotine
19 products and/or vapor products.

20 2. Any vending machine must only be located in an area –

21 a) where persons under the age of twenty-one (21) years old are
22 denied access; or

- 1 b) in public places where persons under the age of twenty-one (21)
2 years old are granted access, but only if the vending machine –
3 i. is located in areas of factories, businesses, offices or other
4 places that are not open to the public; or
5 ii. is under the continuous active supervision of the owner or
6 lessee of the premises or an employee thereof; or
7 iii. can be operated only by the activation of an electronic
8 switch by the owner or lessee of the premise, or an
9 employee thereof prior to such purchase; and
10 iv. is inaccessible to the public when the premises are closed.

11 E. Parental Responsibility.

12 It shall be unlawful for a natural or adoptive parent of a juvenile, any person
13 having legal custody of a juvenile, or an adult who has assumed responsible
14 custody or control of a juvenile after receiving written notice of this section to
15 knowingly permit a juvenile to violate this section under circumstances not
16 constituting an exception to this section.

17 F. Enforcement.

18 1. The Department may engage in activities calculated to measure and assure
19 compliance with the provisions of this section. Private organizations and
20 individuals, as may be designated by the Department, may engage in such
21 activities to measure and assure compliance with the provisions of this
22 section when such activity is authorized and approved by the Department.

- 1 2. The authority to enforce the provisions of this section is vested in the
2 Department and in the St. Louis Metropolitan Police Department.
- 3 3. The Department may choose to utilize the provisions of Chapter 11.95 for
4 administrative citations to enforce the provisions of this section.
- 5 4. Persons under the age of twenty-one (21) years old may be enlisted to test
6 compliance with the provisions of this section, provided however, that
7 juveniles who are under the age of 18 years old may be used to test
8 compliance only if written consent of such person’s natural or adoptive
9 parent of a juvenile, any person having legal custody of a juvenile, or an
10 adult who has assumed responsible custody or control of a juvenile is on
11 file with the Department and only under the auspices of the Department.

12 G. Prohibition of Selling, Distributing or Vending Without a Sign.

13 It shall be unlawful for any person to sell, distribute or vend, or permit the sale,
14 distribution or vending of alternative nicotine products, or vapor products on
15 premises he owns or leases unless the premises upon which such items are sold,
16 distributed or vended prominently displays a sign which shall contain in red
17 capital lettering at least one-half inch high on white background, and spaced so
18 the sign is clear and readable: IT IS A VIOLATION OF THE LAW FOR
19 ALTERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS TO BE
20 SOLD OR DISTRIBUTED TO ANY PERSON UNDER THE AGE OF
21 TWENTY-ONE (21).

22 If both tobacco products and alternative nicotine products or vapor products are
23 sold, distributed, or vended, one sign may prominently be displayed which shall

1 contain in red lettering at least one-half inch high on white background, and
2 spaced so that the sign is clear and readable, the following:

3 IT IS A VIOLATION OF THE LAW FOR TOBACCO PRODUCTS,
4 LATERNATIVE NICOTINE PRODUCTS OR VAPOR PRODUCTS TO BE
5 SOLD OR DISTRIBUTED TO ANY PERSON UNDER THE AGE OF
6 TWENTY-ONE (21).

7 H. Penalties.

8 Any person who is determined to have violated any provision of this section shall
9 be fined not less than one hundred dollars (\$100) for the first conviction; not less
10 than two-hundred fifty dollars (\$250) for the second conviction; and five hundred
11 dollars (\$500) for each subsequent conviction. The Department may choose to
12 utilize the provisions of Chapter 11.95 for administrative citations to enforce the
13 provisions of this section.

14 **Severability Clause.**

15 The provisions of this ordinance shall be severable. In the event that any provision of
16 this ordinance is found by a court of competent jurisdiction to be unconstitutional; the remaining
17 provisions of this ordinance are valid unless the court finds the valid provisions of this ordinance
18 are so essentially and inseparably connected with, and so dependent upon, the void provision that
19 it cannot be presumed that the Board of Aldermen would have enacted the valid provisions
20 without the void ones or unless the Court finds that the valid provisions, standing alone, are
21 incomplete and incapable of being executed in accordance with the legislative intent.

1 **Emergency Clause.**

2 This being an ordinance for the preservation of public peace, health and safety, it is
3 hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of
4 Article IV of the Charter of the City of St. Louis; and therefore, shall become effective
5 immediately upon its passage and approval of the Mayor.