

SENATE No. 1279

The Commonwealth of Massachusetts

PRESENTED BY:

John F. Keenan

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act regulating flavored tobacco products.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | |
|--------------------------------|---------------------------------------|------------------|
| <i>John F. Keenan</i> | <i>Norfolk and Plymouth</i> | |
| <i>Carolyn C. Dykema</i> | <i>8th Middlesex</i> | <i>1/24/2019</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> | <i>1/24/2019</i> |
| <i>Donald H. Wong</i> | <i>9th Essex</i> | <i>1/24/2019</i> |
| <i>William N. Brownsberger</i> | <i>Second Suffolk and Middlesex</i> | <i>1/30/2019</i> |
| <i>David Paul Linsky</i> | <i>5th Middlesex</i> | <i>1/30/2019</i> |
| <i>James B. Eldridge</i> | <i>Middlesex and Worcester</i> | <i>1/30/2019</i> |
| <i>Bruce E. Tarr</i> | <i>First Essex and Middlesex</i> | <i>1/30/2019</i> |
| <i>Patrick M. O'Connor</i> | <i>Plymouth and Norfolk</i> | <i>1/30/2019</i> |
| <i>Mathew J. Muratore</i> | <i>1st Plymouth</i> | <i>1/30/2019</i> |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Bristol and Middlesex</i> | <i>1/30/2019</i> |
| <i>Hannah Kane</i> | <i>11th Worcester</i> | <i>1/30/2019</i> |
| <i>John J. Lawn, Jr.</i> | <i>10th Middlesex</i> | <i>1/30/2019</i> |
| <i>Jack Patrick Lewis</i> | <i>7th Middlesex</i> | <i>1/31/2019</i> |
| <i>Sal N. DiDomenico</i> | <i>Middlesex and Suffolk</i> | <i>2/1/2019</i> |
| <i>Joan B. Lovely</i> | <i>Second Essex</i> | <i>2/1/2019</i> |
| <i>Brian M. Ashe</i> | <i>2nd Hampden</i> | <i>2/1/2019</i> |
| <i>Michael J. Barrett</i> | <i>Third Middlesex</i> | <i>2/1/2019</i> |

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| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> | <i>2/1/2019</i> |
| <i>Daniel J. Hunt</i> | <i>13th Suffolk</i> | <i>2/1/2019</i> |
| <i>Harriette L. Chandler</i> | <i>First Worcester</i> | <i>2/1/2019</i> |
| <i>Julian Cyr</i> | <i>Cape and Islands</i> | <i>2/7/2019</i> |
| <i>Walter F. Timilty</i> | <i>Norfolk, Bristol and Plymouth</i> | <i>3/28/2019</i> |
| <i>Paul Brodeur</i> | <i>32nd Middlesex</i> | <i>5/9/2019</i> |
| <i>Tackey Chan</i> | <i>2nd Norfolk</i> | <i>5/9/2019</i> |
| <i>David Henry Argosky LeBoeuf</i> | <i>17th Worcester</i> | <i>5/14/2019</i> |
| <i>Edward J. Kennedy</i> | <i>First Middlesex</i> | <i>7/18/2019</i> |
| <i>Michael O. Moore</i> | <i>Second Worcester</i> | <i>7/25/2019</i> |
| <i>Lori A. Ehrlich</i> | <i>8th Essex</i> | <i>9/10/2019</i> |
| <i>Brendan P. Crighton</i> | <i>Third Essex</i> | <i>9/24/2019</i> |

SENATE No. 1279

By Mr. Keenan, a petition (accompanied by bill, Senate, No. 1279) of John F. Keenan, Carolyn C. Dykema, Jason M. Lewis, Donald H. Wong and other members of the General Court for legislation to regulate flavored tobacco products. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act regulating flavored tobacco products.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 270 of the General Laws, as amended by chapter 157 of the acts of
2 2018, is hereby amended by inserting after section 27 the following section:-

3 Section 28. (a) As used in this section, the following words shall have the following
4 meanings unless the context clearly requires otherwise:

5 “Characterizing Flavor”, means a distinguishable taste or aroma, other than the taste or
6 aroma of tobacco, imparted or detectable either prior to or during consumption of a tobacco
7 product or component part thereof, including but not limited to, a taste or aroma relating to any
8 fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint,
9 wintergreen, herb or spice; provided, however, that no tobacco product shall be determined to
10 have a characterizing flavor solely because of the provision of ingredient information or the use
11 of additives or flavorings that do not contribute to the distinguishable taste or aroma of the
12 product.

13 “Component part”, any element of a tobacco product, including, but not limited to, the
14 tobacco, filter and paper, but not including any constituent.

15 “Constituent”, any ingredient, substance, chemical or compound, other than tobacco,
16 water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product
17 during the processing, manufacturing or packaging of the tobacco product. Such term shall
18 include a smoke constituent.

19 “Distinguishable”, perceivable by either the sense of smell or taste.

20 “Flavored cigarette”, any cigarette, or any component part thereof, that contains or
21 imparts a characterizing flavor.

22 “Flavored tobacco product”, any tobacco product as defined in section 6, or any
23 component part thereof, that contains a constituent that has or produces a characterizing flavor. A
24 public statement, claim or indicia made or disseminated by the manufacturer of a tobacco
25 product, or by any person authorized or permitted by the manufacturer to make or disseminate
26 public statements concerning such tobacco product, that such tobacco product has or produces a
27 characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored
28 tobacco product.

29 “Smoke Constituent”, any chemical or chemical compound in mainstream or sidestream
30 tobacco smoke that either transfers from any component of the tobacco product to the smoke or
31 that is formed by the combustion or heating of tobacco, additives or other component of the
32 tobacco product.

33 “Tobacco product”, any product containing, made, or derived from tobacco or nicotine
34 that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled,
35 snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars,
36 little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars,
37 electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that
38 rely on vaporization or aerosolization. “Tobacco product” includes any component or part of a
39 tobacco product. “Tobacco product” does not include any product that has been approved by the
40 United States Food and Drug Administration either as a tobacco use cessation product or for
41 other medical purposes and which is being marketed and sold or prescribed solely for the
42 approved purpose.

43 (b) No retailer, retail establishment, or other person or entity shall sell or distribute or
44 cause to be sold or distributed or offer for sale any flavored cigarette to any consumer.

45 (c) No person or entity shall sell or distribute or cause to be sold or distributed or offer for
46 sale any flavored tobacco product to any consumer, except in a smoking bar as defined in section
47 22.

48 (d) A person who violates this section shall be subject to the same fines established for
49 violations of section 6.