

# 2026 South Dakota Legislature

## House Bill 1112

### AMENDMENT 1112A FOR THE INTRODUCED BILL

1 **An Act to modify the definition of an electronic smoking device.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 34-46-1 be AMENDED:**

4 **34-46-1.** Terms used in this chapter mean:

5 (1) "Electronic smoking device," any e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, containing or delivering nicotine or any other substance with nicotine intended for human consumption ~~that, which~~ may be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product. The term does not include any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose, and is marketed and sold solely for that approved purpose;

6 (2) "Proof of age," a driver's license, nondriver identification card, tribal identification card, or other generally accepted means of identification that contains a picture of the individual and appears on its face to be valid;

7 (3) "Sample," tobacco products distributed to members of the general public at no cost for purposes of promoting the product;

8 (4) "Sampling," the distribution of samples to members of the general public in a public place;

9 (5) "Self-service display," a display that contains cigarettes or smokeless tobacco, or both, and is located in an area openly accessible to the merchant's consumers, and from which such consumers can readily access cigarettes or smokeless tobacco, or both, without the assistance of the merchant or an employee or agent of the merchant. A display case that holds tobacco products behind locked doors does not constitute a self-service display;

10 (6) "Smoke" or "Smoking," the act of inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated

1                   tobacco or plant product intended for inhalation, whether natural or synthetic, in  
2                   any manner or in any form, including the use of an electronic smoking device which  
3                   creates an aerosol or vapor, in any manner or in any form;

4                   (7) "Tobacco product," any item made of tobacco intended for human consumption,  
5                   including cigarettes, cigars, pipe tobacco, and smokeless tobacco, and vapor  
6                   products as defined in § 34-46-20;

7                   (8) "Tobacco speciality store," a business that derives at least seventy-five percent of  
8                   its revenue from the sale of tobacco products.