

HB65 INTRODUCED



1 HB65
2 3I54EEE-1
3 By Representative Drummond
4 RFD: Judiciary
5 First Read: 06-Feb-24
6 PFD: 30-Jan-24



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SYNOPSIS:

Under existing law, the Alcoholic Beverage Control (ABC) Board regulates and enforces the sale of tobacco, tobacco products, alternative nicotine products, and electronic nicotine delivery systems.

This bill would revise the definition of "electronic nicotine delivery system" to include battery powered devices that deliver substances other than tobacco through the inhalation of vapor.

This bill would prohibit the distribution of tobacco, tobacco products, electronic nicotine delivery systems, e-liquids, and alternative nicotine products through a vending machine.

Under existing law, there is no fee for a retail permit to distribute tobacco, tobacco products, electronic nicotine delivery systems, e-liquids, or alternative nicotine products.

This bill would require a one-time application fee and an annual permit fee for the distribution of those products, and would provide for the distribution of those fees.

Under existing law, the ABC Board may assess an



HB65 INTRODUCED

26 administrative penalty for a violation of the tobacco
27 retail laws.

28 This bill would increase the penalty that may be
29 assessed and would provide for the distribution of the
30 penalty.

31 This bill would further provide for the
32 membership of the advisory board to the ABC Board.

33 Under existing law, an individual under 21 years
34 of age who possesses any tobacco, tobacco product,
35 alternative nicotine product, electronic nicotine
36 delivery system, or false proof of identification shall
37 be issued a citation similar to a uniform nontraffic
38 citation and a \$50 fine.

39 This bill would provide a series of graduated
40 consequences for a violation based on the number of
41 previous violations and would specify that a violation
42 is committed for possession of an electronic nicotine
43 delivery system, irrespective of the substance
44 contained therein.

45 This bill would increase the authorized
46 administrative penalty for certain tobacco advertising
47 violations.

48 Under existing law, the Department of Revenue
49 maintains a directory listing all e-liquid



HB65 INTRODUCED

50 manufacturers and manufacturers of alternative nicotine
51 authorized to be distributed in the state.

52 This bill would require a manufacturer to meet
53 certain requirements before being approved for the
54 directory.

55 This bill would further provide for the
56 requirement of tobacco retailers to post signage
57 warning of the dangers of tobacco product use.

58 This bill would provide the ABC Board with
59 general rulemaking authority to administer the tobacco
60 retail laws.

61 This bill would also require the State Board of
62 Education to adopt a model policy for the establishment
63 of vaping awareness, education, and prevention programs
64 to discourage the possession and use of prohibited
65 tobacco, tobacco products, electronic nicotine delivery
66 systems, e-liquids, and alternative nicotine products
67 by students in K-12 schools and would require local
68 school boards to adopt a policy based on the model
69 policy.

70 Section 111.05 of the Constitution of Alabama of
71 2022, prohibits a general law whose purpose or effect
72 would be to require a new or increased expenditure of
73 local funds from becoming effective with regard to a



HB65 INTRODUCED

74 local governmental entity without enactment by a 2/3
75 vote unless: it comes within one of a number of
76 specified exceptions; it is approved by the affected
77 entity; or the Legislature appropriates funds, or
78 provides a local source of revenue, to the entity for
79 the purpose. The purpose or effect of this bill would
80 be to require a new or increased expenditure of local
81 funds within the meaning of the amendment. However, the
82 bill does not require approval of a local governmental
83 entity or enactment by a 2/3 vote to become effective
84 because it comes within one of the specified exceptions
85 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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Relating to the Alcoholic Beverage Control Board; to
amend Sections 28-11-2, 28-11-3, 28-11-5, 28-11-6.1,

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28-11-6.2, 28-11-7, 28-11-9, 28-11-10, 28-11-12, 28-11-13,

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28-11-14, 28-11-16, 28-11-17.1, and 28-11-18, Code of Alabama

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1975, to revise the definition of "electronic nicotine

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delivery system" to include battery powered devices that

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deliver substances other than tobacco through the inhalation

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of vapor; to further provide restrictions on the sale of



HB65 INTRODUCED

100 tobacco and other related products to minors; to prohibit the
101 distribution of tobacco, tobacco products, electronic nicotine
102 delivery systems, e-liquids, and alternative nicotine products
103 through a vending machine; to provide license fees for the
104 retail sale of certain tobacco products; to further provide
105 for the authorized penalties for certain violations; to
106 establish the Tobacco Licensing and Compliance Fund in the
107 State Treasury and provide for its administration; to further
108 provide for the membership of the advisory board to the
109 Alcoholic Beverage Control Board; to further provide for the
110 requirement of tobacco retailers to post signage warning of
111 the dangers of tobacco product use; to require the board to
112 adopt rules; to require the State Board of Education to
113 establish a model vaping awareness, education, and prevention
114 program and require each local board of education to adopt a
115 policy based on the model policy; to repeal Sections 28-11-15
116 and 28-11-19, Code of Alabama 1975, and in connection
117 therewith would have as its purpose or effect the requirement
118 of a new or increased expenditure of local funds within the
119 meaning of Section 111.05 of the Constitution of Alabama of
120 2022.

121 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

122 Section 1. Sections 28-11-2, 28-11-3, 28-11-5,
123 28-11-6.1, 28-11-6.2, 28-11-7, 28-11-9, 28-11-10, 28-11-12,
124 28-11-13, 28-11-14, 28-11-16, 28-11-17.1, and 28-11-18, Code
125 of Alabama 1975, are amended to read as follows:

126 "§28-11-2

127 For purposes of this chapter, the following terms have



HB65 INTRODUCED

128 the following meanings unless the context clearly indicates
129 otherwise:

130 (1) ALTERNATIVE NICOTINE PRODUCT. ~~The term alternative~~
131 ~~nicotine product includes any~~Any product that consists of or
132 contains nicotine that can be ingested into the body by
133 chewing, smoking, absorbing, dissolving, inhaling, snorting,
134 sniffing, or by any other means. The term does not include a
135 tobacco product, electronic nicotine delivery system, or any
136 product that has been approved by the United States Food and
137 Drug Administration for sale as a tobacco cessation product or
138 for other medical purposes and that is being marketed and sold
139 solely for that purpose.

140 (2) BOARD. The Alabama Alcoholic Beverage Control
141 Board.

142 (3) CHILD-RESISTANT PACKAGING. Liquid nicotine
143 container packaging meeting the requirements of 15 U.S.C. §
144 1472a.

145 (4) COMMISSIONER. The Commissioner of the Department of
146 Revenue.

147 (5) DELIVERY SALE. The delivery sale of tobacco,
148 tobacco products, electronic nicotine delivery systems,
149 e-liquids, or alternative nicotine products.

150 ~~(5)~~ (6) DISTRIBUTION. To sell, barter, exchange, or give
151 ~~tobacco or tobacco products~~ for promotional purposes or for
152 gratis.

153 ~~(6)~~ (7) ELECTRONIC NICOTINE DELIVERY SYSTEM. Any
154 electronic device that uses a battery and heating element in
155 combination with an e-liquid or tobacco, or substitutes



HB65 INTRODUCED

156 thereof, to produce a vapor that delivers nicotine or other
157 substances to the individual inhaling from the device to
158 simulate smoking, and includes, but is not limited to,
159 products that may be offered to, purchased by, or marketed to
160 consumers as an electronic cigarette, electronic cigar,
161 electronic cigarillo, electronic pipe, electronic hookah, vape
162 pen, vape tool, vaping device, or any variation of these
163 terms. The term also includes any e-liquid intended to be
164 vaporized in any device included in this subdivision.

165 ~~(7)~~ (8) ELECTRONIC NICOTINE DELIVERY SYSTEM RETAILER.

166 Any retail business which offers for sale electronic nicotine
167 delivery systems.

168 ~~(8)~~ (9) E-LIQUID. A liquid that contains nicotine or
169 other substances and may include flavorings or other
170 ingredients that are intended for use in an electronic
171 nicotine delivery system. The term includes e-liquid
172 substitutes, tobacco substitutes, and any other product that
173 may be used in conjunction with an electronic cigarette,
174 electronic nicotine delivery system, or other electronic
175 battery-powered device to deliver nicotine or other
176 substances, including, but not limited to, CBD oil, THC oil,
177 herbal extracts, and nicotine salts, or analogs thereof, into
178 the body through the inhalation of vapor.

179 ~~(9)~~ (10) E-LIQUID MANUFACTURER. Any person who
180 manufactures, fabricates, assembles, processes, mixes,
181 prepares, labels, repacks, or relabels an e-liquid to be
182 sealed in final packaging intended for consumer use. This term
183 includes an owner of a brand or formula for an e-liquid who



HB65 INTRODUCED

184 contracts with another person to complete the fabrication and
185 assembly of the product to the brand or formula owner's
186 standards.

187 ~~(10)~~ (11) FDA. The United States Food and Drug
188 Administration.

189 ~~(11)~~ (12) LIQUID NICOTINE CONTAINER. A bottle or other
190 container of a liquid product that is intended to be vaporized
191 and inhaled using an electronic nicotine delivery system. The
192 term does not include a container holding liquid that is
193 intended for use in a vapor product if the container is
194 ~~pre-filled~~ prefilled and sealed by the manufacturer and is not
195 intended to be opened by the consumer.

196 ~~(12)~~ (13) MINOR. Any individual under ~~the age of 19-21~~
197 years of age.

198 ~~(13)~~ (14) PERSON. Any natural person, firm, partnership,
199 association, company, corporation, or other entity. Person
200 does not include a manufacturer or wholesaler of tobacco or
201 tobacco products nor does it include employees of the permit
202 holder.

203 ~~(14)~~ (15) PROOF OF IDENTIFICATION. Any one or more of
204 the following documents used for purposes of determining the
205 age of an individual purchasing, attempting to purchase, or
206 receiving tobacco, tobacco products, electronic nicotine
207 delivery systems, or alternative nicotine products:

208 a. A valid ~~driver's~~ driver license issued by any state
209 and bearing the photograph of the presenting individual.

210 b. United States Uniform Service Identification.

211 c. A valid passport.



HB65 INTRODUCED

212 d. A valid identification card issued by any state
213 agency for the purpose of identification and bearing the
214 photograph and date of birth of the presenting individual.

215 e. For legal mail order purposes only, a valid signed
216 certification that will verify the individual is 21 years of
217 age or older.

218 ~~(15)~~ (16) RESPONSIBLE VENDOR PROGRAM. A program
219 administered by the board to encourage and support vendors in
220 training employees in legal and responsible sales practices.

221 ~~(16)~~ (17) SAMPLER. Any business or person who
222 distributes tobacco or tobacco products for promotional
223 purposes.

224 ~~(17)~~ (18) SELF-SERVICE DISPLAY. A display that contains
225 tobacco or tobacco products and is located in an area openly
226 accessible to purchasers at retail and from which the
227 purchasers can readily access tobacco or tobacco products
228 without the assistance of the tobacco permit holder or an
229 employee of the permit holder. A display case that holds
230 tobacco or tobacco products behind locked doors does not
231 constitute a self-service display.

232 ~~(18)~~ (19) SPECIALTY RETAILER OF ELECTRONIC NICOTINE
233 DELIVERY SYSTEMS. A business establishment at which any of the
234 following are true:

235 a. The trade name includes the words vape, vapor, or
236 any variation of the terms which may indicate that the
237 business sells electronic nicotine delivery systems or
238 alternative nicotine products.

239 ~~a. The sale of electronic nicotine delivery systems~~



HB65 INTRODUCED

240 ~~accounts for more than 35 percent of the total quarterly gross~~
241 ~~receipts for the establishment~~b. The provided list of intended
242 inventory includes 50 percent or more of electronic nicotine
243 delivery systems or alternative nicotine products, or both, by
244 quantity, by value, or both.

245 c. At any time after a permit has been issued, the
246 inventory maintained by the business includes 50 percent or
247 more of electronic nicotine delivery systems or alternative
248 nicotine products, or both, by quantity, by value, or both.

249 ~~b.~~d. Twenty percent or more of the public retail floor
250 space is allocated for the offering, displaying, or storage of
251 electronic nicotine delivery systems.

252 ~~e.~~e. Twenty percent or more of the total shelf space,
253 including retail floor shelf space and shelf space in areas
254 accessible only to employees, is allocated for the offering,
255 displaying, or storage of electronic nicotine delivery
256 systems.

257 ~~d.~~f. The retail space features a self-service display
258 for electronic nicotine delivery systems.

259 ~~e.~~g. Samples of electronic nicotine delivery systems
260 are offered to customers.

261 ~~f.~~h. Liquids intended to be vaporized through the use
262 of an electronic nicotine delivery system ~~are~~may be produced
263 at the facility or ~~are~~may be produced by the owner of the
264 establishment or any of its agents or employees ~~for sale at~~
265 ~~the establishment.~~

266 ~~(19)~~ (20) TOBACCO or TOBACCO PRODUCT. Any product made
267 or derived from tobacco that is intended for human



HB65 INTRODUCED

268 consumption, including any component, part, or accessory of a
269 tobacco product, except for raw materials other than tobacco
270 used in manufacturing a component, part, or accessory of a
271 tobacco product, but does not include an article that is a
272 drug under Section 201(g) (1) of the Federal Food, Drug, and
273 Cosmetic Act, a device under Section 201(h) of the Federal
274 Food, Drug, and Cosmetic Act, or a combination product
275 described in Section 503(g) of the Federal Food, Drug, and
276 Cosmetic Act.

277 ~~(20)~~ (21) TOBACCO PERMIT. A permit issued by the board
278 to allow the permit holder to engage in the distribution of
279 tobacco, tobacco products, electronic nicotine delivery
280 systems, e-liquids, or alternative nicotine products at the
281 location identified in the permit.

282 ~~(21)~~ (22) TOBACCO SPECIALTY STORE. A business that
283 derives at least 75 percent of its revenue from tobacco or
284 tobacco products."

285 "§28-11-3

286 The board, in conjunction with federal, state, and
287 local law enforcement agencies, shall enforce state and
288 federal laws that prohibit the distribution of tobacco,
289 tobacco products, alternative nicotine products, e-liquids,
290 and electronic nicotine delivery systems to individuals under
291 ~~the age of 21~~ years of age. Notwithstanding the foregoing, for
292 purposes of inspections and enforcement actions undertaken
293 pursuant to this section, individuals under ~~the age of 21~~
294 years of age may be enlisted to attempt to purchase or
295 purchase tobacco, tobacco products, alternative nicotine



HB65 INTRODUCED

296 products, e-liquids, and electronic nicotine delivery systems,
297 provided that individuals under ~~the age of 18~~ years of age
298 shall have the prior written consent of a parent or legal
299 guardian, and provided further that the individuals shall be
300 directly supervised during the conduct of each inspection or
301 enforcement action by an enforcement agent of the board or a
302 law enforcement officer, ~~or by a sheriff or head of police of~~
303 ~~any county, city, town, or other political subdivision, or by~~
304 ~~a deputy or officer thereof. No individual under the age of 21~~
305 ~~years may misrepresent his or her age for the purpose of~~
306 ~~purchasing or attempting to purchase tobacco, tobacco~~
307 ~~products, alternative nicotine products, or electronic~~
308 ~~nicotine delivery systems. If questioned about his or her age~~
309 ~~during an attempt to purchase or receive tobacco, tobacco~~
310 ~~products, alternative nicotine products, or electronic~~
311 ~~nicotine delivery systems, an individual under the age of 21~~
312 ~~years shall state his or her true age. A photograph or video~~
313 ~~recording of any individual under the age of 21 years~~
314 ~~assisting in an inspection or enforcement action shall be~~
315 ~~taken prior to the investigation. The appearance of an~~
316 ~~individual under the age of 21 years participating in an~~
317 ~~inspection or enforcement action shall not be altered at the~~
318 ~~time of the inspection."~~

319 "§28-11-5

320 The board may use funding, if available, from the
321 Department of Mental Health, other state or federal agencies,
322 grants, and private or public organizations to enforce this
323 chapter and to provide and distribute prevention materials



HB65 INTRODUCED

324 related to tobacco, tobacco products, alternative nicotine
325 products, e-liquids, and electronic nicotine delivery systems
326 ~~and nicotine prevention materials~~ to retail tobacco merchants
327 and specialty retailers of electronic nicotine delivery
328 systems. The materials shall provide information regarding
329 state and federal laws that prohibit access to tobacco,
330 tobacco products, alternative nicotine products, e-liquids,
331 and electronic nicotine delivery systems by individuals under
332 ~~the age of~~ 21 years of age and other appropriate information.
333 The board may also provide consultation services for
334 establishing programs to minimize or eliminate sales of
335 tobacco, tobacco products, alternative nicotine products,
336 e-liquids, and electronic nicotine delivery systems to
337 individuals under ~~the age of~~ 21 years of age pursuant to the
338 responsible vendor program."

339 "§28-11-6.1

340 ~~(a)~~ No tobacco, tobacco product, alternative nicotine
341 product, e-liquid, or electronic nicotine delivery system
342 shall be distributed by use of a vending machine ~~unless the~~
343 ~~machine:~~

344 ~~(1) Is located in an area in which individuals under~~
345 ~~the age of 21 years are not permitted access; or~~

346 ~~(2) Dispenses tobacco, tobacco products, alternative~~
347 ~~nicotine products, or electronic nicotine delivery systems~~
348 ~~through the operation of a device that requires the tobacco~~
349 ~~permit holder or an employee of the permit holder to control~~
350 ~~the distribution of the product.~~

351 ~~(b) No tobacco, tobacco product, alternative nicotine~~



HB65 INTRODUCED

352 ~~product, or electronic nicotine delivery system shall be~~
353 ~~distributed at retail by use of a vending machine if placed~~
354 ~~together with any non-tobacco product or non-nicotine product,~~
355 ~~other than matches, in the machine."~~

356 "§28-11-6.2

357 (a) No tobacco, tobacco product, alternative nicotine
358 product, e-liquid, or electronic nicotine delivery system
359 shall be distributed at retail through a self-service display
360 unless the display ~~is a vending machine as permitted under~~
361 ~~Section 28-11-6.1 or~~ is located in a tobacco specialty store
362 or at a specialty retailer of electronic nicotine delivery
363 systems and is located in an area in which individuals under
364 21 years of age are not permitted access.

365 (b) A violation of this section shall be subject to the
366 penalties provided in Section 28-11-9."

367 "§28-11-7

368 (a) (1) Any person who distributes tobacco, tobacco
369 products, electronic nicotine delivery systems, or alternative
370 nicotine products within this state shall first obtain a
371 permit from the board for each location of distribution. ~~There~~
372 ~~is no fee for the permit.~~ Upon application, there shall be a
373 one-time, nonrefundable filing fee of fifty dollars (\$50), in
374 addition to a permit fee of one hundred fifty dollars (\$150),
375 which shall be renewed annually. The one-time filing fee shall
376 apply only to new applicants for a permit on or after the
377 effective date of the act amending this section.

378 (2) The fees collected under this subsection shall be
379 distributed as follows:



HB65 INTRODUCED

380 a. Seventy-five percent shall be deposited into the
381 Tobacco Licensing and Compliance Fund to be used for
382 operational costs of enforcing this chapter and tobacco and
383 nicotine prevention education.

384 b. Twenty-five percent shall be deposited into the
385 Public Safety Fund of the Alabama State Law Enforcement Agency
386 to be used for the enforcement of this chapter.

387 (b) ~~Any person who maintains~~No person may maintain a
388 tobacco, tobacco product, electronic nicotine delivery system,
389 e-liquid, or alternative nicotine product vending machine ~~on~~
390 ~~his or her property in this state shall first obtain a permit~~
391 ~~from the board for each machine at each machine location. The~~
392 ~~permit for each machine shall be posted in a conspicuous place~~
393 ~~on the machine.~~

394 (c) A permit shall be valid only for the
395 ~~location~~address specified in the permit application.

396 (d) ~~A permit is not transferable or assignable and~~
397 ~~shall be renewed annually. Notwithstanding the foregoing, if~~If
398 a location for which a permit ~~is~~has been obtained is sold or
399 transferred, the permit, after submission of an application to
400 transfer and a transfer fee of fifty dollars (\$50), shallmay
401 be transferred to the person obtaining control of the location
402 ~~and shall be valid for 30 days after the transfer during which~~
403 ~~time a new permit shall be obtained~~, subject to approval by
404 the board. The transferee shall meet any requirements,
405 established by the rule of the board, required for a permit
406 holder. The permitted transfer shall be effective for the
407 duration of the license year, and the transferee shall renew



HB65 INTRODUCED

408 the permit annually as provided in subsection (a).

409 (e) If feasible, the board by rule may adopt procedures
410 for the issuance and renewal of permits which combine tobacco
411 permit procedures with the application and licensing
412 procedures for alcoholic beverages."

413 "§28-11-9

414 (a) Subject to the Alabama Administrative Procedure
415 Act, Chapter 22 of Title 41, the board shall have full and
416 final authority as to the suspension or revocation for cause
417 of any permit issued pursuant to this chapter.

418 (1) The board may appoint a hearing commission of at
419 least three persons which may do all of the following:

420 a. Hear and decide all contested applications for
421 permits.

422 b. Hear and decide all charges against any permit
423 holder or employee of a permit holder for violations of this
424 chapter, the law, or the rules of the board.

425 c. Revoke or suspend permits as provided in this
426 chapter.

427 d. Levy administrative fines upon permit holders ~~or~~
428 ~~employees of permit holders.~~

429 (2) No member of the hearing commission shall
430 participate in the hearing or disposition of any application
431 for a permit or charge against a permit holder or an employee
432 of a permit holder if he or she has an interest therein or was
433 involved in the investigation.

434 (b) The board, or a hearing commission appointed by the
435 board, upon finding that a permit holder or any partner,



HB65 INTRODUCED

436 member, employee, officer, or director of the permit holder
437 has violated any of the laws of this state or the United
438 States relating to the manufacture, sale, possession, or
439 transportation of tobacco, tobacco products, electronic
440 nicotine delivery systems, e-liquids, or alternative nicotine
441 products, or that the permit holder has acted in a manner
442 prejudicial to the welfare, health, peace, temperance, and
443 safety of the people of the community or of the state, ~~may~~
444 upon due notice and hearing, may levy administrative fines or
445 suspend or revoke the permit issued by the board, or a
446 combination of all three, as provided in subsection (e). In
447 all cases where the board or hearing commission ~~shall~~
448 levy levies an administrative fine or ~~suspend or revoke~~
449 suspends or revokes a permit, ~~it~~ the board shall set forth its
450 findings of fact, the evidence from which the findings of
451 facts are made, and the reasons upon which its actions are
452 based.

453 (c) The fines as specified in subsection (e) shall be
454 applicable per each violation. The permit holder ~~or employee~~
455 shall remit the administrative fine to the board within seven
456 calendar days from the day that the administrative fine is
457 levied. Failure by the permit holder to pay the administrative
458 fine within that time period shall result in an automatic
459 suspension of the permit until the administrative fine is
460 paid.

461 (d) The maximum length of suspension of a permit
462 pursuant to this chapter shall be one year. A permit holder
463 shall be ineligible to hold a permit pursuant to this chapter



HB65 INTRODUCED

464 for the location where the violation occurred until the
465 expiration or removal of the suspension. A permit holder whose
466 permit is revoked by the board or the hearing commission shall
467 be, at the discretion of the board or hearing commission,
468 ineligible to hold a permit pursuant to this chapter until the
469 expiration of one year from the date the permit is revoked at
470 the location where the violation occurred.

471 (e) The following administrative ~~finest may penalties~~
472 shall be levied for violations of this chapter ~~against valid~~
473 ~~permit holders or employees, or both:~~

474 (1) ~~Upon conviction for~~For a first violation at a
475 location in a four-year period~~by the permit holder or an~~
476 ~~employee of the permit holder,~~ the board or hearing commission
477 may levy a fine against the permit holder of not more than
478 five hundred dollars (\$500) or may offer the permit holder an
479 opportunity to provide training sessions administered by the
480 Responsible Vendor Program in lieu of ~~an~~the administrative
481 ~~fine upon the permit holder and the employee, if the violation~~
482 ~~is by an employee, of not more than two hundred dollars~~
483 ~~(\$200).~~

484 (2) ~~Upon conviction of~~For a second violation at the
485 same location within a ~~two-year~~four-year period, the board or
486 hearing commission ~~may~~shall levy an administrative fine upon
487 the permit holder ~~and the employee, if the violation is by an~~
488 ~~employee,~~ of not more than ~~four hundred dollars (\$400)~~seven
489 hundred fifty dollars (\$750).

490 ~~(3) Upon conviction of a third or subsequent violation~~
491 ~~at the same location within a two-year period, the board or~~



HB65 INTRODUCED

492 ~~hearing commission may levy an administrative fine upon the~~
493 ~~permit holder and the employee, if the violation is by an~~
494 ~~employee, of not more than seven hundred fifty dollars (\$750).~~

495 ~~(4) Upon conviction of~~ (3) For a ~~fourth~~third or
496 subsequent violation at the same location within a
497 ~~two-year~~four-year period, the board or hearing commission
498 ~~may~~shall levy an administrative fine upon the permit holder
499 ~~and the employee, if the violation is by an employee,~~ of not
500 more than one thousand dollars (\$1,000) and may suspend or
501 revoke the permit.

502 (f) Before imposition of any administrative
503 ~~fine~~penalty, the permit holder shall be afforded all
504 procedural rights to due process in addition to those rights
505 guaranteed by the Alabama Administrative Procedure Act,
506 Chapter 22 of Title 41."

507 "§28-11-10

508 The Tobacco Licensing and Compliance Fund is hereby
509 created in the State Treasury. The fund shall be administered
510 by the Licensing and Compliance Division of the board. All
511 fees and other funds collected by the board pursuant to this
512 chapter shall be deposited into the ~~State General Fund.~~State
513 Treasury to the credit of the fund. Amounts deposited into the
514 fund shall be budgeted and allotted in accordance with
515 Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through
516 41-19-12. Monies in the fund shall be used by the Licensing
517 and Compliance Division of the board for tobacco and nicotine
518 prevention education, operational costs associated with
519 regulating permitted locations, and the enforcement of this



HB65 INTRODUCED

520 [chapter.](#)"

521 "§28-11-12

522 (a) An advisory board shall be established to monitor
523 the implementation of this chapter. The advisory board shall
524 meet at least quarterly. Representation shall consist of one
525 representative from each of the following:

526 (1) The Office of the Governor.

527 (2) The Office of the Attorney General.

528 (3) The Department of Mental Health.

529 (4) The Department of Public Health.

530 (5) The Alcoholic Beverage Control Board.

531 (6) The Senate as appointed by the Lieutenant Governor.

532 (7) The House of Representatives as appointed by the
533 Speaker of the House of Representatives.

534 (8) The ~~Alabama Oilmen's Association and the Alabama~~
535 ~~Convenience Store Operators~~[Petroleum & Convenience Marketers](#)
536 [of Alabama Association](#) as appointed by the Governor and
537 selected from three nominees submitted by the association.

538 (9) The Alabama Retail Association as appointed by the
539 Governor and selected from three nominees submitted by the
540 association.

541 (10) The Alabama ~~Grocers'~~[Grocers](#) Association as
542 appointed by the Governor and selected from three nominees
543 submitted by the association.

544 [\(11\) The Breathe Easier Alliance of Alabama as](#)
545 [appointed by the Governor and selected from three nominees](#)
546 [submitted by the entity.](#)

547 [\(12\) The Alabama State Law Enforcement Agency.](#)



HB65 INTRODUCED

548 (13) The Department of Revenue.

549 (14) The Alabama Chapter of the American Academy of
550 Pediatrics, as appointed by the entity.

551 (15) The executive director of Children First.

552 (b) The ~~membership~~appointing authorities of the
553 advisory board shall ~~be~~coordinate their appointments to assure
554 membership is inclusive and ~~reflect~~reflects the racial,
555 gender, geographic, ~~urban/rural~~urban, rural, and economic
556 diversity of the state.

557 (c) The chair of the advisory board shall be a
558 representative from the board who shall be responsible for the
559 conduct of the meetings and any correspondence derived
560 therefrom.

561 (d) Other than the legislative appointees, each
562 representative shall be appointed by his or her respective
563 department head, and shall hold the appointment for a one-year
564 term.

565 (e) A representative may be reappointed as deemed
566 appropriate by his or her department head, or in the case of
567 legislative appointees, the Lieutenant Governor or Speaker of
568 the House of Representatives.

569 (f) The advisory board may issue written
570 recommendations for program modification to the board."

571 "§28-11-13

572 (a) (1) ~~It is unlawful for any~~An individual under ~~the~~
573 ~~age of 21~~ years of age may not~~to~~ purchase, use, possess, or
574 transport tobacco, a tobacco product, an electronic nicotine
575 delivery system or other electronic battery-powered device



HB65 INTRODUCED

576 capable of being used to deliver any e-liquid, e-liquid
577 substitute, tobacco, CBD oil, THC oil, herbal extract, or
578 nicotine salt, or any analog thereof, or any other substance
579 to the individual through the inhalation of vapor, or an
580 alternative nicotine product within this state.

581 (2) For purposes of this subsection, a violation is
582 committed upon possession of an electronic nicotine delivery
583 system or other electronic battery-powered device as described
584 in subdivision (1), irrespective of which particular e-liquid
585 or other substance, if any, was contained in the device.

586 ~~(b)~~ (c) ~~It shall not be unlawful for~~ Notwithstanding
587 subsection (a), an individual under ~~the age of~~ 21 years of age
588 who is an employee of a tobacco, tobacco product, electronic
589 nicotine delivery system, or alternative nicotine product
590 permit holder ~~to~~ may handle, transport, or sell tobacco, a
591 tobacco product, an electronic nicotine delivery system, or an
592 alternative tobacco product, provided ~~if~~ the employee is
593 acting within the line and scope of employment and the permit
594 holder, or an employee of the permit holder who is 21 years of
595 age or older, is present.

596 ~~(b)~~ (c) ~~It is unlawful for any~~ An individual under ~~the~~
597 ~~age of~~ 21 years of age may not ~~to~~ present or offer to another
598 person proof of identification which is false, fraudulent, or
599 not actually his or her own proof of identification in order
600 to buy, receive, or otherwise obtain, or attempt to buy,
601 receive, or otherwise obtain, any tobacco, tobacco product,
602 electronic nicotine delivery system, e-liquid, or alternative
603 nicotine product.



HB65 INTRODUCED

604 (d) (1) Except as otherwise provided in Section 2 of the
605 act amending this section, an individual under 21 years of age
606 shall be punished as follows and assessed no other court costs
607 or fees:

608 a. For a first violation, a written warning.

609 b. For a second violation, community service of eight
610 hours.

611 c. For a third or subsequent violation, community
612 service of 16 hours and a fine of one hundred dollars (\$100).

613 (2) Violations shall not be considered criminal
614 offenses.

615 (3) The disposition of any individual under 18 years of
616 age charged with a violation of this section shall be subject
617 to the exclusive jurisdiction of the juvenile court and the
618 individual shall be subject to Article 2 of Chapter 15 of
619 Title 12.

620 ~~(e)~~ (e) If a ~~minor~~an individual under 18 years of age is
621 cited for any violation under this section, the citing agency
622 shall make reasonable efforts to notify a parent, legal
623 guardian, or legal custodian of the ~~minor unless the~~
624 ~~minor~~individual that the individual was cited for the
625 violation. This subsection does not apply if the individual
626 has been emancipated by court order or operation of law."

627 "§28-11-14

628 (a) (1) Any tobacco, tobacco product, alternative
629 nicotine product, e-liquid, electronic nicotine delivery
630 system, or false proof of identification found in the
631 possession of an individual under ~~the age of~~ 21 years of age



HB65 INTRODUCED

632 is contraband and subject to seizure by agents of the board or
633 any law enforcement officer.

634 (2) Prohibited tobacco, tobacco products, electronic
635 nicotine delivery systems, e-liquids, and alternative nicotine
636 products kept, stored, or deposited in any place in this state
637 for the purpose of unlawful sale or unlawful disposition or
638 unlawful furnishing or distribution, and the vessels and
639 receptacles in which the products are contained are declared
640 to be contraband and shall be seized and forfeited to the
641 state and may be condemned for destruction pursuant to the
642 procedures of Article 11 of Chapter 4.

643 (3) Prohibited tobacco, tobacco products, electronic
644 nicotine delivery systems, e-liquids, and alternative nicotine
645 products may be searched for, seized, and ordered to be
646 destroyed pursuant to the procedures of Article 11 of Chapter
647 4.

648 (b) In any criminal prosecutions against a person for a
649 violation of this chapter, on conviction, the court may order
650 the destruction of any prohibited tobacco, tobacco products,
651 electronic nicotine delivery systems, e-liquids, and
652 alternative nicotine products which were: (i) sold, offered
653 for sale, possessed, or otherwise disposed of by the
654 defendant; (ii) employed by the defendant for use or
655 disposition at any unlawful establishment by the defendant;
656 (iii) possessed or used in conducting the business of a
657 tobacco dealer; or (iv) used as evidence in the case.

658 (c) All fixtures, equipment, materials, and personal
659 property used in substantial connection with the sale or



HB65 INTRODUCED

660 possession of tobacco, tobacco products, electronic nicotine
661 delivery systems, e-liquids, and alternative nicotine products
662 involved in a knowing and intentional violation of this
663 article shall be subject to the same seizure and forfeiture
664 procedures as provided pursuant to Article 11 of Chapter 4.

665 (d) The board shall dispose of electronic nicotine
666 delivery systems, e-liquids, and alternative nicotine products
667 seized under this section by destruction as provided by rule
668 of the board. Any person from whom an electronic nicotine
669 delivery system, e-liquid, or alternative nicotine product is
670 seized and destroyed pursuant to this section shall be subject
671 to a fee, to be determined based on the cost of the
672 destruction and disposal of the electronic nicotine delivery
673 system, e-liquid, or alternative nicotine product as hazardous
674 waste. ~~Any individual under the age of 21 years violating~~
675 ~~Section 28-11-13 shall be issued a citation similar to a~~
676 ~~uniform nontraffic citation and shall be fined not less than~~
677 ~~ten dollars (\$10) nor more than fifty dollars (\$50) for each~~
678 ~~violation, and shall be assessed no other court costs or fees.~~

679 ~~(b) Notwithstanding any other provision of law, the~~
680 ~~disposition of any violation shall be within the jurisdiction~~
681 ~~of the district or municipal court and not the juvenile court.~~
682 ~~Violations shall not be considered criminal offenses and shall~~
683 ~~be administratively adjudicated by the district or municipal~~
684 ~~court.~~

685 (e) Nothing in this section shall apply to any
686 manufacturer of alternative nicotine products that were
687 manufactured before February 15, 2007, and that are not sold,



HB65 INTRODUCED

688 furnished, or distributed in this state."

689 "§28-11-16

690 "(a) (1) A retailer or manufacturer of electronic
691 nicotine delivery systems, e-liquids, or alternative nicotine
692 products may not advertise an electronic nicotine delivery
693 system, e-liquid, or an alternative nicotine product in any of
694 the following ways:

695 a. As a tobacco cessation product.

696 b. As a healthier alternative to smoking.

697 c. As available for purchase in any variety of flavors
698 other than tobacco, mint, or menthol on any outdoor billboard.

699 d. On any outdoor billboard located within 1,000 feet
700 of any public or private K-12 school or public playground.

701 (2) Paragraphs a. and b. of subdivision (1) are not
702 applicable to products that have received an order from the
703 FDA permitting the product to be marketed as a modified risk
704 tobacco product, and are marketed in accordance with that
705 order.

706 (b) (1) A specialty retailer of electronic nicotine
707 delivery systems or manufacturer of tobacco, tobacco products,
708 electronic nicotine delivery systems, e-liquids, or
709 alternative nicotine products may not in any way sponsor,
710 finance, or advertise a scholarship of any kind using the
711 brand name of any tobacco product, alternative nicotine
712 product, e-liquid, or electronic nicotine delivery system.

713 (2) A specialty retailer of electronic nicotine
714 delivery systems or manufacturer of tobacco, tobacco products,
715 electronic nicotine delivery systems, e-liquids, or



HB65 INTRODUCED

716 alternative nicotine products may not use the brand name of
717 any tobacco product, alternative nicotine product, e-liquid,
718 or electronic nicotine delivery system to advertise at or
719 sponsor any event at a stadium, concert, sporting event, or
720 other public performance event for which individuals ~~aged~~ 21
721 years of age or older make up less than 85 percent of the
722 total age demographic of ~~performing participants~~ individuals
723 performing at the event.

724 (3) A specialty retailer of electronic nicotine
725 delivery systems or manufacturer of tobacco, tobacco products,
726 electronic nicotine delivery systems, e-liquids, or
727 alternative nicotine products may not advertise a tobacco
728 product, electronic nicotine delivery system, e-liquid, or
729 alternative nicotine product in a newspaper, magazine,
730 periodical, or other print or digital publication distributed
731 in this state for which less than 85 percent of the viewership
732 or readership of the publication is made up of individuals 21
733 years of age or older as measured by competent and reliable
734 survey evidence.

735 (c) (1) A violation of subsection (a) or subsection (b)
736 shall result in a ~~one hundred dollar (\$100)~~ three hundred
737 dollar (\$300) fine for the first occurrence.

738 (2) A second or subsequent violation of subsection (a)
739 or subsection (b) shall result in a ~~five hundred dollar~~
740 ~~(\$500)~~ seven hundred fifty dollar (\$750) fine per occurrence.

741 (3) Each day a violation of subsection (a) or
742 subsection (b) persists shall constitute a separate and
743 subsequent violation.



HB65 INTRODUCED

744 (d) A retailer or manufacturer of tobacco, tobacco
745 products, electronic nicotine delivery systems, e-liquids, or
746 alternative nicotine products may not advertise, market, or
747 offer for sale tobacco, a tobacco product, an electronic
748 nicotine delivery system, an e-liquid, or an alternative
749 nicotine product in any of the following ways:

750 (1) By using, in the labeling or design of the product,
751 its packaging, or in its advertising or marketing materials,
752 the terms "candy" or "candies," any variant of these words, or
753 any other term referencing a type or brand of candy, including
754 types or brands of candy that do not include the words "candy"
755 or "candies" in their names or slogans.

756 (2) By using, in the labeling or design of the product,
757 its packaging, or in its advertising or marketing materials,
758 the terms "cake" or "cakes" or "cupcake" or "cupcakes" or
759 "pie" or "pies," any variant of these words, or any other term
760 referencing a type or brand of cake, pastry, or pie, including
761 types or brands of cakes, pastries, or pies that do not
762 include the words "cake" or "cakes" or "cupcake" or "cupcakes"
763 or "pie" or "pies" in their names or slogans.

764 (3) By using, in the labeling or design of the product,
765 its packaging, or in its advertising or marketing materials,
766 trade dress, trademarks, branding, or other related imagery
767 that imitates or replicates those of food brands or other
768 related products that are marketed to minors, including, but
769 not limited to, breakfast cereal, cookies, juice drinks, soft
770 drinks, frozen drinks, ice creams, sorbets, sherbets, and
771 frozen pops.



HB65 INTRODUCED

772 (4) By using, in the labeling or design of the product,
773 its packaging, or in its advertising or marketing materials,
774 trade dress, trademarks, branding, or other related imagery
775 that depicts or signifies characters or symbols that are known
776 to appeal primarily to minors, including, but not limited to,
777 superheroes, comic book characters, video game characters,
778 television show characters, movie characters, mythical
779 creatures, unicorns, or that otherwise incorporates related
780 imagery or scenery.

781 (e) The board may adopt rules to implement this
782 section, including rules regarding the suitability of labels
783 and procedures to reject advertising that appeals to minors,
784 including, but not limited to, the design of a product, its
785 packaging, or its advertising or marketing materials, trade
786 dress, trademarks, branding, or other related imagery.

787 (f) Any item found in violation of subsection (d) is a
788 prohibited item and shall be considered contraband and may be
789 seized as provided by Section 28-11-14 by an agent of the
790 board or any law enforcement officer."

791 "§28-11-17.1

792 (a) (1) Beginning ~~March 1, 2022~~October 1, 2024, or other
793 date not more than 30 days following a premarket tobacco
794 application submission deadline issued by the FDA, whichever
795 is later, every e-liquid manufacturer and manufacturer of
796 alternative nicotine products whose products are sold in this
797 state, whether directly or through a distributor, retailer, or
798 similar intermediary or intermediaries, shall execute and
799 deliver on a form prescribed by the commissioner, a



HB65 INTRODUCED

800 certification to the commissioner certifying, under penalty of
801 perjury, whether the product contains any synthetic nicotine
802 or nicotine derived from a source other than tobacco, and that
803 either of the following apply:

804 a. The product was on the market in the United States
805 as of August 8, 2016, and the manufacturer has applied for a
806 marketing order pursuant to 21 U.S.C. § 387j for the e-liquid,
807 e-liquid in combination with an electronic nicotine delivery
808 system, or alternative nicotine product, whichever is
809 applicable, by submitting a premarket tobacco product
810 application on or before September 9, 2020, to the FDA for
811 products not containing synthetic nicotine or by submitting a
812 premarket tobacco product application on or before May 14,
813 2022, to the FDA for products containing synthetic nicotine;
814 and either of the following is true:

815 1. The premarket tobacco product application for the
816 product remains under review by the FDA.

817 2. The FDA has issued a no marketing order for the
818 e-liquid, e-liquid in combination with an electronic nicotine
819 delivery system, or alternative nicotine product, whichever is
820 applicable, from the FDA; however, the agency or a federal
821 court has issued a stay order or injunction during the
822 pendency of the manufacturer's appeal of the no marketing
823 order.

824 b. The manufacturer has received a marketing order or
825 other authorization under 21 U.S.C. § 387j for the e-liquid,
826 e-liquid in combination with an electronic nicotine delivery
827 system, or alternative nicotine product, whichever is
828 applicable, from the FDA.

829 (2) In addition to the requirements in subdivision (1),



HB65 INTRODUCED

830 each manufacturer shall provide:

831 a. A~~a~~ copy of the cover page of the premarket tobacco
832 application with evidence of receipt of the application by the
833 FDA or a copy of the cover page of the marketing order or
834 other authorization issued pursuant to 21 U.S.C. § 387j,
835 whichever is applicable.

836 b. Information that clearly identifies each product,
837 submission tracking number (STN), product name, product
838 subcategory, characterizing flavor, FDA order date, and type
839 of order.

840 (b) Any manufacturer submitting a certification
841 pursuant to subsection (a) shall notify the commissioner
842 within 30 days of any material change to the certification,
843 including issuance by the FDA of any of the following:

844 (1) A market order or other authorization pursuant to
845 21 U.S.C. § 387j.

846 (2) An order requiring a manufacturer to remove a
847 product from the market either temporarily or permanently.

848 (3) Any notice of action taken by the FDA affecting the
849 ability of the new product to be introduced or delivered into
850 interstate commerce for commercial distribution.

851 (4) Any change in policy that results in a product no
852 longer being exempt from federal enforcement oversight.

853 (c) The commissioner shall develop and maintain a
854 directory listing all e-liquid manufacturers and manufacturers
855 of alternative nicotine products that have provided
856 certifications that comply with subsection (a) and all
857 products that are listed in those certifications.



HB65 INTRODUCED

858 (d) The commissioner shall do all of the following:

859 (1) Make the directory available for public inspection
860 on its website by May 1, 2022.

861 (2) Update the directory as necessary in order to
862 correct mistakes and to add or remove e-liquid manufacturers,
863 manufacturers of alternative nicotine products, or products
864 manufactured by those manufacturers consistent with the
865 requirements of subsections (a) and (b) on a monthly basis.

866 (3) Remove from the directory any product that the
867 board determines is a prohibited item pursuant to Section
868 28-11-16(d).

869 ~~(3)~~ (4) Send monthly notifications to each wholesaler,
870 jobber, semijobber, retailer, importer, or distributor of
871 tobacco products that have qualified or registered with the
872 Department of Revenue, by electronic communication, containing
873 a list of all changes that have been made to the directory in
874 the previous month. In lieu of sending monthly notifications,
875 the commissioner may make the information available in a
876 prominent place on the Department of Revenue's public website.

877 ~~(4)~~ (e) Information required to be listed in the
878 directory shall not be subject to the confidentiality and
879 disclosure provisions in Section 40-2A-10.

880 ~~(e)~~ (f) Notwithstanding subsection (a), if an e-liquid
881 manufacturer or manufacturer of alternative nicotine products
882 can demonstrate to the commissioner that the FDA has issued a
883 rule, guidance, or any other formal statement that temporarily
884 exempts a product from the federal premarket tobacco
885 application requirements, the product may be added to the



HB65 INTRODUCED

886 directory upon request by the manufacturer if the manufacturer
887 provides sufficient evidence that the product is compliant
888 with the federal rule, guidance, or other formal statement, as
889 applicable.

890 ~~(f)~~ (g) Each certifying e-liquid manufacturer and
891 manufacturer of alternative nicotine products shall pay an
892 initial fee of two thousand dollars (\$2,000) to offset the
893 costs incurred by the department for processing the
894 certifications and operating the directory. The commissioner
895 shall collect an annual renewal fee of five hundred dollars
896 (\$500) to offset the costs associated with maintaining the
897 directory and satisfying the requirements of this section. The
898 fees received under this section by the department shall be
899 used by the department exclusively for processing the
900 certifications and operating and maintaining the directory.
901 After the payment of these expenses, ~~two-thirds~~ one-half of the
902 remaining funds shall be deposited into the State General
903 Fund, and the remaining ~~one-third~~ one-half shall be distributed
904 evenly to the Alabama State Law Enforcement Agency and to the
905 Licensing and Compliance Division of the board to be used for
906 the enforcement of this chapter.

907 ~~(g)~~ (h) Beginning on September 1, 2021, no e-liquid,
908 e-liquid in combination with an electronic nicotine delivery
909 system, or alternative nicotine product that, in the case of
910 any such product, contains synthetic nicotine or nicotine
911 derived from a source other than tobacco may be sold or
912 otherwise distributed in this state without either first
913 certifying that a premarket tobacco product application was



HB65 INTRODUCED

914 successfully submitted to the FDA and accepted for filing by
915 May 14, 2022, in accordance with the applicable requirements
916 under Section 201(rr) of the Federal Food, Drug, and Cosmetic
917 Act, or obtaining approval from the FDA for sale as a drug
918 under Section 201(g)(1) of the Federal Food, Drug, and
919 Cosmetic Act, a device under Section 201(h) of the Federal
920 Food, Drug, and Cosmetic Act, a combination product described
921 in Section 503(g) of the Federal Food, Drug, and Cosmetic Act,
922 or some other medical purpose.

923 ~~(h) (i) (1) Beginning May 1, 2022, or on the date that~~
924 ~~the Department of Revenue first makes the directory available~~
925 ~~for public inspection on its website as provided in subsection~~
926 ~~(d), whichever is later, an~~An e-liquid manufacturer or
927 manufacturer of alternative nicotine products or electronic
928 nicotine delivery systems who offers for sale a product not
929 listed on the directory is subject to a one thousand dollars
930 (\$1,000) daily fine for each product offered for sale in
931 violation of this section until the offending product is
932 removed from the market or until the offending product is
933 properly listed on the directory. For purposes of this
934 subdivision "sale" includes a delivery sale of e-liquids or
935 electronic nicotine delivery systems or alternative nicotine
936 products, as defined under this chapter.

937 (2) Any other violation of this section shall result in
938 a fine of five hundred dollars (\$500) per offense.

939 (j) (1) When any retail permit holder offers for sale a
940 product not listed on the directory, the board shall assess
941 the following administrative penalties:



HB65 INTRODUCED

942 a. For a first offense within a four-year period, an
943 administrative penalty of five hundred dollars (\$500).

944 b. For a second offense within a four-year period, an
945 administrative penalty of seven hundred fifty dollars (\$750).

946 c. For a third or subsequent offense within a four-year
947 period, an administrative penalty of one thousand dollars
948 (\$1,000). In addition, the board may suspend or revoke the
949 permit of the permit holder.

950 (2) All products offered for sale and not listed on the
951 directory shall be considered a prohibited item and declared
952 to be contraband and may be seized and forfeited as provided
953 in Section 28-11-14 by agents of the board or any law
954 enforcement officer.

955 (k) Any fine collected for a violation of this section
956 shall be deposited into the Education Trust Fund to the credit
957 of the State Board of Education to be used for the
958 establishment and administration of vape awareness, education,
959 and prevention programs and the provision of drug education
960 and prevention curriculum, as provided in Section 2 of the act
961 amending this section.

962 ~~(i)~~ (1) The ~~commissioner~~Alcoholic Beverage Control Board
963 and the Commissioner of Revenue shall adopt rules for the
964 implementation and enforcement of this section."

965 "§28-11-18

966 (a) All liquid nicotine containers offered for sale
967 that are intended to be vaporized in an electronic nicotine
968 delivery system shall be contained in child-resistant
969 packaging.



HB65 INTRODUCED

970 (b) A ~~specialty~~ retailer of tobacco, tobacco products,
971 alternative nicotine products, e-liquids, or electronic
972 nicotine delivery systems shall display in a prominent area of
973 the retail store near the point of sale, an 8 1/2 x 11 inch a
974 sign or signs containing~~which contains~~ the following
975 statements:

976 (1) "ALABAMA LAW STRICTLY PROHIBITS THE PURCHASE OF
977 TOBACCO, TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS,
978 E-LIQUIDS, AND ELECTRONIC NICOTINE DELIVERY SYSTEMS BY PERSONS
979 UNDER ~~THE AGE OF~~ 21 YEARS OF AGE. PROOF OF AGE IS REQUIRED."

980 ~~(2) "THE USE OF SOME VAPING DEVICES MAY INCREASE YOUR~~
981 ~~RISK OF EXPOSURE TO POTENTIALLY TOXIC LEVELS OF HEAVY METALS~~
982 ~~SUCH AS LEAD, CHROMIUM, AND NICKEL."~~

983 ~~(3)~~ (2) "WARNING: TOBACCO, TOBACCO PRODUCTS, ALTERNATIVE
984 NICOTINE PRODUCTS, E-LIQUIDS, ELECTRONIC NICOTINE DELIVERY
985 SYSTEMS, AND VAPING PRODUCTS OFFERED FOR SALE IN THIS STORE
986 CONTAIN NICOTINE UNLESS OTHERWISE MARKED. NICOTINE IS A HIGHLY
987 ADDICTIVE CHEMICAL WHICH CAN HARM BRAIN DEVELOPMENT IN
988 CHILDREN AND ADOLESCENTS AND WHICH POSES SERIOUS HEALTH RISKS
989 TO PREGNANT WOMEN AND THEIR BABIES.

990 (c) In addition to the requirements of subsection (b),
991 a retailer of alternative nicotine products, e-liquids, or
992 electronic nicotine delivery systems shall include the
993 following statement on the required posted sign:

994 "THE USE OF SOME VAPING DEVICES MAY INCREASE YOUR RISK
995 OF EXPOSURE TO POTENTIALLY TOXIC LEVELS OF HEAVY METALS SUCH
996 AS LEAD, CHROMIUM, AND NICKEL."

997 (d) Posted signs required by this section, at a



HB65 INTRODUCED

998 minimum, must accurately list the type of products sold at the
999 retail establishment. If a retailer does not sell all of the
1000 product types listed in the statements described in
1001 subsections (b) or (c), the retailer may amend the products
1002 listed on the sign to accurately reflect the type of products
1003 sold."

1004 Section 2. (a) By July 1, 2024, the State Board of
1005 Education shall adopt a model policy for the establishment of
1006 a vape awareness, education, and prevention program to
1007 prohibit the possession and use of prohibited tobacco, tobacco
1008 products, electronic nicotine delivery systems, e-liquids, and
1009 alternative nicotine products by students in K-12 schools.

1010 (b) By September 1, 2024, each local board of education
1011 shall adopt a policy that, at a minimum, contains the criteria
1012 established in the model policy adopted by the State Board of
1013 Education.

1014 (c) The model policy adopted by the State Board of
1015 Education, at a minimum, shall contain all of the following:

1016 (1) A statement prohibiting the possession or use of
1017 tobacco, tobacco products, electronic nicotine delivery
1018 systems, e-liquids, and alternative nicotine product, as those
1019 terms are defined under Section 28-11-2, Code of Alabama 1975,
1020 by any student at a K-12 school, on a school bus, or at any
1021 school-sponsored function.

1022 (2) A series of graduated consequences for any student
1023 who violates this policy by possessing or using tobacco,
1024 tobacco products, electronic nicotine delivery systems,
1025 e-liquids, or alternative nicotine products as prohibited by



HB65 INTRODUCED

1026 this section. Graduated consequences may include, but are not
1027 limited to, in-school suspension, out-of-school suspension, or
1028 alternative school, or any combination thereof, and shall
1029 conform with applicable disability, antidiscrimination, and
1030 education laws and school discipline policies.

1031 (3)a. A requirement that any student in violation of
1032 the prohibition against possession or use of tobacco, tobacco
1033 products, electronic nicotine delivery systems, e-liquids, or
1034 alternative nicotine products be required to attend and
1035 complete a vaping awareness, education, and prevention class
1036 based on curriculum established by the Drug Education Council
1037 and approved by the State Board of Education.

1038 b. An additional requirement that on a second or
1039 subsequent violation, the student must attend and complete the
1040 vaping awareness, education, and prevention class with his or
1041 her parent or legal guardian.

1042 (4) A model complaint form and procedure for reporting
1043 violations of this section. An anonymous report may not be the
1044 basis of imposing formal disciplinary action against a
1045 student.

1046 (5) A procedure for the prompt investigation of reports
1047 of serious violations and complaints, specifying that the
1048 principal, assistant principal, or school resource officer is
1049 the individual responsible for the investigation.

1050 (6) A response procedure for a school to follow upon
1051 confirmation of the possession or use of tobacco, tobacco
1052 products, electronic nicotine delivery systems, e-liquids, or
1053 alternative nicotine products as prohibited by this section.



HB65 INTRODUCED

1054 (7) A procedure for publicizing local school board
1055 policy through publication in the student handbook, including
1056 providing notice that the policy applies to behavior occurring
1057 on school property, school buses, and at school-sponsored
1058 functions.

1059 (c) The policy adopted by each local board of education
1060 shall be included in the code of conduct policy of the local
1061 board of education and included in the student handbook.

1062 (d) Any discipline received by a student for the
1063 possession or use of tobacco, tobacco products, electronic
1064 nicotine delivery systems, e-liquids, or alternative nicotine
1065 products at a K-12 school, on a school bus, or at any
1066 school-sponsored function in violation of this section shall
1067 be in lieu of any penalty provided under Section 28-11-13,
1068 Code of Alabama 1975.

1069 Section 3. The Alcoholic Beverage Control Board shall
1070 adopt rules to implement and administer Chapter 11 of Title
1071 28, Code of Alabama 1975.

1072 Section 4. Section 28-11-15, Code of Alabama 1975,
1073 relating to the posting of signs regarding the sale of tobacco
1074 and tobacco products, is repealed.

1075 Section 5. Section 28-11-19, Code of Alabama, 1975,
1076 relating to limitation on locations of specialty retailers of
1077 electronic nicotine delivery systems, is repealed.

1078 Section 6. Although this bill would have as its purpose
1079 or effect the requirement of a new or increased expenditure of
1080 local funds, the bill is excluded from further requirements
1081 and application under Section 111.05 of the Constitution of



HB65 INTRODUCED

1082 Alabama of 2022, because the bill defines a new crime or
1083 amends the definition of an existing crime.
1084 Section 7. This act shall become effective June 1,
1085 2024.