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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 administrative penalty for a violation of the tobacco retail laws.

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
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
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.

86

87

88 A BILL

89 TO BE ENTITLED

90 AN ACT

91

92 Relating to the Alcoholic Beverage Control Board; to
93 amend Sections 28-11-2, 28-11-3, 28-11-5, 28-11-6.1,
94 28-11-6.2, 28-11-7, 28-11-9, 28-11-10, 28-11-12, 28-11-13,
95 28-11-14, 28-11-16, 28-11-17.1, and 28-11-18, Code of Alabama
96 1975, to revise the definition of "electronic nicotine
97 delivery system" to include battery powered devices that
98 deliver substances other than tobacco through the inhalation
99 of vapor; to further provide restrictions on the sale of
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
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
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
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.

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, electronic nicotine
223 delivery systems, alternative nicotine products, or e-liquids
224 for promotional purposes.



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

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

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

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

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

251 ~~b.~~ d. Twenty percent or more of the public retail floor
252 space is allocated for the offering, displaying, or storage of



253 electronic nicotine delivery systems.

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

259 ~~e.f.~~f. The retail space features a self-service display
260 for electronic nicotine delivery systems.

261 ~~e.g.~~g. Samples of electronic nicotine delivery systems
262 are offered to customers.

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

268 ~~(19)~~(20) TOBACCO or TOBACCO PRODUCT. Any product made
269 or derived from tobacco that is intended for human
270 consumption, including any component, part, or accessory of a
271 tobacco product, except for raw materials other than tobacco
272 used in manufacturing a component, part, or accessory of a
273 tobacco product, but does not include an article that is a
274 drug under Section 201(g)(1) of the Federal Food, Drug, and
275 Cosmetic Act, a device under Section 201(h) of the Federal
276 Food, Drug, and Cosmetic Act, or a combination product
277 described in Section 503(g) of the Federal Food, Drug, and
278 Cosmetic Act.

279 ~~(20)~~(21) TOBACCO PERMIT. A permit issued by the board
280 to allow the permit holder to engage in the distribution of



281 tobacco, tobacco products, electronic nicotine delivery
282 systems, e-liquids, or alternative nicotine products at the
283 location identified in the permit.

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

287 (23) TOBACCO SUBSTITUTE. Products, including electronic
288 nicotine cigarettes or other electronic or battery-powered
289 devices, which contain or are designed to deliver nicotine or
290 other substances into the body through the inhalation of vapor
291 and which have not been approved by the U.S. Food and Drug
292 Administration for tobacco cessation or other medical
293 purposes."

294 "§28-11-3

295 The board, in conjunction with federal, state, and
296 local law enforcement agencies, shall enforce state and
297 federal laws that prohibit the distribution of tobacco,
298 tobacco products, alternative nicotine products, e-liquids,
299 and electronic nicotine delivery systems to individuals under
300 ~~the age of~~ 21 years of age. Notwithstanding the foregoing, for
301 purposes of inspections and enforcement actions undertaken
302 pursuant to this section, individuals under ~~the age of~~ 21
303 years of age may be enlisted to attempt to purchase or
304 purchase tobacco, tobacco products, alternative nicotine
305 products, e-liquids, and electronic nicotine delivery systems,
306 provided that individuals under ~~the age of~~ 18 years of age
307 shall have the prior written consent of a parent or legal
308 guardian, and provided further that the individuals shall be



309 directly supervised during the conduct of each inspection or
310 enforcement action by an enforcement agent of the board or a
311 law enforcement officer, ~~or by a sheriff or head of police of~~
312 ~~any county, city, town, or other political subdivision, or by~~
313 ~~a deputy or officer thereof. No individual under the age of 21~~
314 ~~years may misrepresent his or her age for the purpose of~~
315 ~~purchasing or attempting to purchase tobacco, tobacco~~
316 ~~products, alternative nicotine products, or electronic~~
317 ~~nicotine delivery systems. If questioned about his or her age~~
318 ~~during an attempt to purchase or receive tobacco, tobacco~~
319 ~~products, alternative nicotine products, or electronic~~
320 ~~nicotine delivery systems, an individual under the age of 21~~
321 ~~years shall state his or her true age. A photograph or video~~
322 ~~recording of any individual under the age of 21 years~~
323 ~~assisting in an inspection or enforcement action shall be~~
324 ~~taken prior to the investigation. The appearance of an~~
325 ~~individual under the age of 21 years participating in an~~
326 ~~inspection or enforcement action shall not be altered at the~~
327 ~~time of the inspection."~~

328 "§28-11-5

329 The board may use funding, if available, from the
330 Department of Mental Health, other state or federal agencies,
331 grants, and private or public organizations to enforce this
332 chapter and to provide and distribute prevention materials
333 related to tobacco, tobacco products, alternative nicotine
334 products, e-liquids, and electronic nicotine delivery systems
335 ~~and nicotine prevention materials~~ to retail tobacco merchants
336 and specialty retailers of electronic nicotine delivery



337 systems. The materials shall provide information regarding
338 state and federal laws that prohibit access to tobacco,
339 tobacco products, alternative nicotine products, e-liquids,
340 and electronic nicotine delivery systems by individuals under
341 ~~the age of~~ 21 years of age and other appropriate information.
342 The board may also provide consultation services for
343 establishing programs to minimize or eliminate sales of
344 tobacco, tobacco products, alternative nicotine products,
345 e-liquids, and electronic nicotine delivery systems to
346 individuals under ~~the age of~~ 21 years of age pursuant to the
347 responsible vendor program."

348 "§28-11-6.1

349 ~~(a)~~ No tobacco, tobacco product, alternative nicotine
350 product, e-liquid, or electronic nicotine delivery system
351 shall be distributed by use of a vending machine ~~unless the~~
352 ~~machine:~~

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

355 ~~(2) Dispenses tobacco, tobacco products, alternative~~
356 ~~nicotine products, or electronic nicotine delivery systems~~
357 ~~through the operation of a device that requires the tobacco~~
358 ~~permit holder or an employee of the permit holder to control~~
359 ~~the distribution of the product.~~

360 ~~(b) No tobacco, tobacco product, alternative nicotine~~
361 ~~product, or electronic nicotine delivery system shall be~~
362 ~~distributed at retail by use of a vending machine if placed~~
363 ~~together with any non-tobacco product or non-nicotine product,~~
364 ~~other than matches, in the machine."~~



365 "§28-11-6.2

366 (a) No tobacco, tobacco product, alternative nicotine
367 product, e-liquid, or electronic nicotine delivery system
368 shall be ~~distributed~~ sold, furnished, or given away at retail
369 through a self-service display unless the display ~~is a vending~~
370 ~~machine as permitted under Section 28-11-6.1 or~~ is located in
371 a tobacco specialty store or at a specialty retailer of
372 electronic nicotine delivery systems ~~and is located in an area~~
373 ~~in which individuals under 21 years of age are not permitted~~
374 access.

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

377 "§28-11-7

378 (a) (1) Any person who distributes tobacco, tobacco
379 products, electronic nicotine delivery systems, or alternative
380 nicotine products within this state shall first obtain a
381 permit from the board for each location of distribution. ~~There~~
382 ~~is no fee for the permit.~~ Upon application, there shall be a
383 one-time, nonrefundable filing fee of fifty dollars (\$50), in
384 addition to a permit fee of one hundred fifty dollars (\$150),
385 which shall be renewed annually. The one-time filing fee shall
386 apply only to new applicants for a permit on or after the
387 effective date of the act amending this section.

388 (2) The fees collected under this subsection shall be
389 distributed as follows:

390 a. Seventy-five percent shall be deposited into the
391 Tobacco Licensing and Compliance Fund to be used for
392 operational costs of enforcing this chapter and tobacco and



393 nicotine prevention education.

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

397 (b) ~~Any person who maintains~~No person may maintain a
398 tobacco, tobacco product, electronic nicotine delivery system,
399 e-liquid, or alternative nicotine product vending machine ~~on~~
400 ~~his or her property in this state shall first obtain a permit~~
401 ~~from the board for each machine at each machine location. The~~
402 ~~permit for each machine shall be posted in a conspicuous place~~
403 ~~on the machine.~~

404 (c) A permit shall be valid only for the location
405 specified in the permit application.

406 (d) ~~A permit is not transferable or assignable and~~
407 ~~shall be renewed annually. Notwithstanding the foregoing, if~~If
408 a location for which a permit ~~is~~has been obtained is sold or
409 transferred, the permit, after submission of an application to
410 transfer and a transfer fee of fifty dollars (\$50), shallmay
411 be transferred to the person obtaining control of the location
412 ~~and shall be valid for 30 days after the transfer during which~~
413 ~~time a new permit shall be obtained,~~ subject to approval by
414 the board. The transferee shall meet any requirements,
415 established by the rule of the board, required for a permit
416 holder. The permitted transfer shall be effective for the
417 duration of the license year, and the transferee shall renew
418 the permit annually as provided in subsection (a). If a
419 permitted business moves to a new location within the same
420 governing jurisdiction, the business owner may apply for a



421 location transfer as provided in this subsection. No more than
 422 one of each transfer type shall occur during a permit year.

423 (e) If feasible, the board by rule may adopt procedures
 424 for the issuance and renewal of permits which combine tobacco
 425 permit procedures with the application and licensing
 426 procedures for alcoholic beverages."

427 "§28-11-9

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

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

434 a. Hear and decide all contested applications for
 435 permits.

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

439 c. Revoke or suspend permits as provided in this
 440 chapter.

441 d. Levy administrative fines upon permit holders ~~or~~
 442 ~~employees of permit holders.~~

443 (2) No member of the hearing commission shall
 444 participate in the hearing or disposition of any application
 445 for a permit or charge against a permit holder or an employee
 446 of a permit holder if he or she has an interest therein or was
 447 involved in the investigation.

448 (b) The board, or a hearing commission appointed by the



449 board, upon finding that a permit holder or any partner,
450 member, employee, officer, or director of the permit holder
451 has violated any of the laws of this state or the United
452 States relating to the manufacture, sale, possession, or
453 transportation of tobacco, tobacco products, electronic
454 nicotine delivery systems, e-liquids, or alternative nicotine
455 products, or that the permit holder has acted in a manner
456 prejudicial to the welfare, health, peace, temperance, and
457 safety of the people of the community or of the state, ~~may~~
458 upon due notice and hearing, may levy administrative fines or
459 suspend or revoke the permit issued by the board, or a
460 combination of all three, as provided in subsection (e). In
461 all cases where the board or hearing commission ~~shall~~
462 levy levies an administrative fine or ~~suspend or revoke~~
463 suspends or revokes a permit, ~~it~~ the board shall set forth its
464 findings of fact, the evidence from which the findings of
465 facts are made, and the reasons upon which its actions are
466 based.

467 (c) The fines as specified in subsection (e) shall be
468 applicable per each violation. The permit holder ~~or employee~~
469 shall remit the administrative fine to the board within seven
470 calendar days from the day that the administrative fine is
471 levied. Failure by the permit holder to pay the administrative
472 fine within that time period shall result in an automatic
473 suspension of the permit until the administrative fine is
474 paid.

475 (d) The maximum length of suspension of a permit
476 pursuant to this chapter shall be one year. A permit holder



477 shall be ineligible to hold a permit pursuant to this chapter
478 for the location where the violation occurred until the
479 expiration or removal of the suspension. A permit holder whose
480 permit is revoked by the board or the hearing commission shall
481 be, at the discretion of the board or hearing commission,
482 ineligible to hold a permit pursuant to this chapter until the
483 expiration of one year from the date the permit is revoked at
484 the location where the violation occurred.

485 (e) The following administrative ~~fin~~es may penalties
486 shall be levied for violations of this chapter ~~against valid~~
487 ~~permit holders or employees, or both:~~

488 (1) ~~Upon conviction for~~For a first violation at a
489 location in a two-year period~~by the permit holder or an~~
490 ~~employee of the permit holder,~~ the board or hearing commission
491 may levy a fine against the permit holder of not more than
492 five hundred dollars (\$500)~~may offer the permit holder an~~
493 ~~opportunity to provide training sessions administered by the~~
494 ~~Responsible Vendor Program in lieu of an administrative fine~~
495 ~~upon the permit holder and the employee, if the violation is~~
496 ~~by an employee, of not more than two hundred dollars (\$200).~~

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

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



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

508 ~~(4) Upon conviction of~~ (3) For a ~~fourth~~third or
 509 subsequent violation at the same location within a two-year
 510 period, the board or hearing commission ~~may~~shall levy an
 511 administrative fine upon the permit holder ~~and the employee,~~
 512 ~~if the violation is by an employee,~~ of not more than one
 513 thousand dollars (\$1,000) and may suspend or revoke the
 514 permit.

515 (f) Before imposition of any administrative
 516 ~~fine~~penalty, the permit holder shall be afforded all
 517 procedural rights to due process in addition to those rights
 518 guaranteed by the Alabama Administrative Procedure Act,
 519 Chapter 22 of Title 41."

520 "§28-11-10

521 The Tobacco Licensing and Compliance Fund is hereby
 522 created in the State Treasury. The fund shall be administered
 523 by the Licensing and Compliance Division of the board. All
 524 fees and other funds collected by the board pursuant to this
 525 chapter shall be deposited into the ~~State General Fund.~~State
 526 Treasury to the credit of the fund. Amounts deposited into the
 527 fund shall be budgeted and allotted in accordance with
 528 Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through
 529 41-19-12. Monies in the fund shall be used by the Licensing
 530 and Compliance Division of the board for tobacco and nicotine
 531 prevention education, operational costs associated with
 532 regulating permitted locations, and the enforcement of this



533 [chapter.](#)"

534 "§28-11-12

535 (a) An advisory board shall be established to monitor
536 the implementation of this chapter. The advisory board shall
537 meet at least quarterly. Representation shall consist of one
538 representative from each of the following:

539 (1) The Office of the Governor.

540 (2) The Office of the Attorney General.

541 (3) The Department of Mental Health.

542 (4) The Department of Public Health.

543 (5) The Alcoholic Beverage Control Board.

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

545 (7) The House of Representatives as appointed by the
546 Speaker of the House of Representatives.

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

551 (9) The Alabama Retail Association as appointed by the
552 Governor and selected from three nominees submitted by the
553 association.

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

557 [\(11\) The Breathe Easier Alliance of Alabama as](#)
558 [appointed by the Governor and selected from three nominees](#)
559 [submitted by the entity.](#)

560 [\(12\) The Alabama State Law Enforcement Agency.](#)



561 (13) The Department of Revenue.

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

564 (15) The executive director of Children First.

565 (b) The ~~membership~~appointing authorities of the
 566 advisory board shall ~~be~~coordinate their appointments to assure
 567 membership is inclusive and ~~reflect~~reflects the racial,
 568 gender, geographic, ~~urban/rural~~urban, rural, and economic
 569 diversity of the state.

570 (c) The chair of the advisory board shall be a
 571 representative from the board who shall be responsible for the
 572 conduct of the meetings and any correspondence derived
 573 therefrom.

574 (d) Other than the legislative appointees, each
 575 representative shall be appointed by his or her respective
 576 department head, and shall hold the appointment for a one-year
 577 term.

578 (e) A representative may be reappointed as deemed
 579 appropriate by his or her department head, or in the case of
 580 legislative appointees, the Lieutenant Governor or Speaker of
 581 the House of Representatives.

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

584 "§28-11-13

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



589 capable of being used to deliver any e-liquid, e-liquid
590 substitute, tobacco, CBD oil, THC oil, herbal extract, or
591 nicotine salt, or any analog thereof, or any other substance
592 to the individual through the inhalation of vapor, or an
593 alternative nicotine product within this state.

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

599 ~~(b) It shall not be unlawful for~~ Notwithstanding
600 subsection (a), an individual under ~~the age of 21~~ years of age
601 who is an employee of a tobacco, tobacco product, electronic
602 nicotine delivery system, or alternative nicotine product
603 permit holder ~~to~~may handle, transport, or sell tobacco, a
604 tobacco product, an electronic nicotine delivery system, or an
605 alternative tobacco product, provided ~~if~~ the employee is
606 acting within the line and scope of employment and the permit
607 holder, or an employee of the permit holder who is 21 years of
608 age or older, is present.

609 ~~(b) (c) It is unlawful for any~~An individual under ~~the~~
610 ~~age of~~ 21 years of age may not~~to~~ present or offer to another
611 person proof of identification which is false, fraudulent, or
612 not actually his or her own proof of identification in order
613 to buy, receive, or otherwise obtain, or attempt to buy,
614 receive, or otherwise obtain, any tobacco, tobacco product,
615 electronic nicotine delivery system, e-liquid, or alternative
616 nicotine product.



617 (d) (1) Except as otherwise provided, a violation of
618 this chapter by a person under 18 years of age shall
619 constitute a delinquent act and be subject to the exclusive
620 jurisdiction of the juvenile court.

621 (2) A violation of this chapter by an individual 18
622 years of age or older but under 21 years of age shall be
623 punished as follows and assessed no other court costs or fees:

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

625 b. For a second violation, community service of eight
626 hours.

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

629 ~~(e)~~ (e) If a ~~minor~~ an individual under 18 years of age is
630 cited for any violation under this section, the citing agency
631 shall make reasonable efforts to notify a parent, legal
632 guardian, or legal custodian of the ~~minor unless the~~
633 ~~minor~~ individual that the individual was cited for the
634 violation. This subsection does not apply if the individual
635 has been emancipated by court order or operation of law."

636 "§28-11-14

637 (a) (1) Any tobacco, tobacco product, alternative
638 nicotine product, e-liquid, electronic nicotine delivery
639 system, or false proof of identification found in the
640 possession of an individual under ~~the age of~~ 21 years of age
641 is contraband and subject to seizure by any law enforcement
642 officer.

643 (2) Prohibited tobacco, tobacco products, electronic
644 nicotine delivery systems, e-liquids, and alternative nicotine



645 products kept, stored, or deposited in any place in this state
646 for the purpose of unlawful sale or unlawful disposition or
647 unlawful furnishing or distribution, and the vessels and
648 receptacles in which the products are contained are declared
649 to be contraband and shall be seized and forfeited to the
650 state and may be condemned for destruction pursuant to the
651 procedures set out in Article 11 of Chapter 4 concerning
652 alcoholic beverages.

653 (3) Prohibited tobacco, tobacco products, electronic
654 nicotine delivery systems, e-liquids, and alternative nicotine
655 products may be searched for, seized, and ordered to be
656 destroyed pursuant to the procedures set out in Article 11 of
657 Chapter 4 concerning alcoholic beverages.

658 (b) In any criminal prosecutions against a person for a
659 violation of this chapter, on conviction, the court may order
660 the destruction of any prohibited tobacco, tobacco products,
661 electronic nicotine delivery systems, e-liquids, and
662 alternative nicotine products which were: (i) sold, offered
663 for sale, possessed, or otherwise disposed of by the
664 defendant; (ii) employed by the defendant for use or
665 disposition at any unlawful establishment by the defendant;
666 (iii) possessed or used in conducting the business of a
667 tobacco dealer; or (iv) used as evidence in the case.

668 (c) All fixtures, equipment, materials, and personal
669 property used in substantial connection with the sale or
670 possession of tobacco, tobacco products, electronic nicotine
671 delivery systems, e-liquids, and alternative nicotine products
672 involved in a violation of this article shall be subject to



673 the same seizure and forfeiture procedures as provided
674 pursuant to Article 11 of Chapter 4.

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

689 ~~(b) Notwithstanding any other provision of law, the~~
690 ~~disposition of any violation shall be within the jurisdiction~~
691 ~~of the district or municipal court and not the juvenile court.~~
692 ~~Violations shall not be considered criminal offenses and shall~~
693 ~~be administratively adjudicated by the district or municipal~~
694 ~~court.~~

695 (e) Nothing in this section shall apply to any
696 manufacturer of alternative nicotine products that were
697 commercially marketed in the United States before February 15,
698 2007."

699 "§28-11-16

700 "(a) (1) A retailer or manufacturer of electronic



701 nicotine delivery systems, e-liquids, or alternative nicotine
702 products may not advertise an electronic nicotine delivery
703 system, e-liquid, or an alternative nicotine product in any of
704 the following ways:

- 705 a. As a tobacco cessation product.
- 706 b. As a healthier alternative to smoking.
- 707 c. As available for purchase in any variety of flavors
708 other than tobacco, mint, or menthol on any outdoor billboard.
- 709 d. On any outdoor billboard located within 1,000 feet
710 of any public or private K-12 school or public playground.

711 (2) Paragraphs a. and b. of subdivision (1) are not
712 applicable to products that have received an order from the
713 FDA permitting the product to be marketed as a modified risk
714 tobacco product, and are marketed in accordance with that
715 order.

716 (b) (1) A specialty retailer of electronic nicotine
717 delivery systems or manufacturer of tobacco, tobacco products,
718 electronic nicotine delivery systems, e-liquids, or
719 alternative nicotine products may not in any way sponsor,
720 finance, or advertise a scholarship of any kind using the
721 brand name of any tobacco product, alternative nicotine
722 product, e-liquid, or electronic nicotine delivery system.

723 (2) A specialty retailer of electronic nicotine
724 delivery systems or manufacturer of tobacco, tobacco products,
725 electronic nicotine delivery systems, e-liquids, or
726 alternative nicotine products may not use the brand name of
727 any tobacco product, alternative nicotine product, e-liquid,
728 or electronic nicotine delivery system to advertise at or



729 sponsor any event at a stadium, concert, sporting event, or
730 other public performance event for which individuals ~~aged~~ 21
731 years of age or older make up less than 85 percent of the
732 total age demographic of ~~performing participants~~individuals
733 performing at the event.

734 (3) A specialty retailer of electronic nicotine
735 delivery systems or manufacturer of tobacco, tobacco products,
736 electronic nicotine delivery systems, e-liquids, or
737 alternative nicotine products may not advertise a tobacco
738 product, electronic nicotine delivery system, e-liquid, or
739 alternative nicotine product in a newspaper, magazine,
740 periodical, or other print or digital publication distributed
741 in this state for which less than 85 percent of the viewership
742 or readership of the publication is made up of individuals 21
743 years of age or older as measured by competent and reliable
744 survey evidence.

745 (4) No specialty retailer of electronic nicotine
746 delivery systems shall allow anyone under 21 years of age to
747 be on the permitted premises.

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

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

754 (3) Each day a violation of subsection (a) or
755 subsection (b) persists shall constitute a separate and
756 subsequent violation.



757 (d) A retailer or manufacturer of tobacco, tobacco
758 products, electronic nicotine delivery systems, e-liquids, or
759 alternative nicotine products may not advertise, market, or
760 offer for sale tobacco, a tobacco product, an electronic
761 nicotine delivery system, an e-liquid, or an alternative
762 nicotine product in any of the following ways:

763 (1) By using, in the labeling or design of the product,
764 its packaging, or in its advertising or marketing materials,
765 the terms "candy" or "candies," any variant of these words, or
766 any other term referencing a type or brand of candy, including
767 types or brands of candy that do not include the words "candy"
768 or "candies" in their names or slogans.

769 (2) By using, in the labeling or design of the product,
770 its packaging, or in its advertising or marketing materials,
771 the terms "cake" or "cakes" or "cupcake" or "cupcakes" or
772 "pie" or "pies," any variant of these words, or any other term
773 referencing a type or brand of cake, pastry, or pie, including
774 types or brands of cakes, pastries, or pies that do not
775 include the words "cake" or "cakes" or "cupcake" or "cupcakes"
776 or "pie" or "pies" in their names or slogans.

777 (3) By using, in the labeling or design of the product,
778 its packaging, or in its advertising or marketing materials,
779 trade dress, trademarks, branding, or other related imagery
780 that imitates or replicates those of food brands or other
781 related products that are marketed to minors, including, but
782 not limited to, breakfast cereal, cookies, juice drinks, soft
783 drinks, frozen drinks, ice creams, sorbets, sherbets, and
784 frozen pops.



785 (4) By using, in the labeling or design of the product,
786 its packaging, or in its advertising or marketing materials,
787 trade dress, trademarks, branding, or other related imagery
788 that depicts or signifies characters or symbols that are known
789 to appeal primarily to minors, including, but not limited to,
790 superheroes, comic book characters, video game characters,
791 television show characters, movie characters, mythical
792 creatures, unicorns, or that otherwise incorporates related
793 imagery or scenery.

794 (e) The board may adopt rules to implement this
795 section, including rules regarding the suitability of labels
796 and procedures to reject advertising that appeals to minors,
797 including, but not limited to, the design of a product, its
798 packaging, or its advertising or marketing materials, trade
799 dress, trademarks, branding, or other related imagery. The
800 board may adopt rules to implement an appeal process to review
801 any labels that are denied.

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

806 (g) A specialty retailer of electronic nicotine
807 delivery systems may have a sign indicating the trade name of
808 the business. However, no additional signs, banners, or
809 flashing lights of any kind may be visible to the public from
810 outside of the business advertising that the business sells
811 electronic nicotine delivery systems, alternative nicotine
812 products, or e-liquids, including any depictions or



813 representations of any such products."

814 "§28-11-17.1

815 (a) (1) Beginning ~~March 1, 2022~~October 1, 2024, or other
816 date not more than 30 days following a premarket tobacco
817 application submission deadline issued by the FDA, whichever
818 is later, every e-liquid manufacturer and manufacturer of
819 alternative nicotine products whose products are sold in this
820 state, whether directly or through a distributor, retailer, or
821 similar intermediary or intermediaries, shall execute and
822 deliver on a form prescribed by the commissioner, a
823 certification to the commissioner certifying, under penalty of
824 perjury, whether the product contains any synthetic nicotine
825 or nicotine derived from a source other than tobacco, and that
826 either of the following apply:

827 a. The product was on the market in the United States
828 as of August 8, 2016, and the manufacturer has applied for a
829 marketing order pursuant to 21 U.S.C. § 387j for the e-liquid,
830 e-liquid in combination with an electronic nicotine delivery
831 system, or alternative nicotine product, whichever is
832 applicable, by submitting a premarket tobacco product
833 application on or before September 9, 2020, to the FDA for
834 products not containing synthetic nicotine, or by submitting a
835 premarket tobacco product application on or before May 14,
836 2022, to the FDA for products containing nicotine from a
837 source other than tobacco; and either of the following is
838 true:

839 1. The premarket tobacco product application for the
840 product remains under review by the FDA.



841 2. The FDA has issued a no marketing order for the
842 e-liquid, e-liquid in combination with an electronic nicotine
843 delivery system, or alternative nicotine product, whichever is
844 applicable, from the FDA; however, the agency or a federal
845 court has issued a stay order or injunction during the
846 pendency of the manufacturer's appeal of the no marketing
847 order.

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

853 (2) In addition to the requirements in subdivision (1),
854 each manufacturer shall provide:

855 a. A~~a~~ copy of the cover page of the premarket tobacco
856 application with evidence of receipt of the application by the
857 FDA or a copy of the cover page of the marketing order or
858 other authorization issued pursuant to 21 U.S.C. § 387j,
859 whichever is applicable.

860 b. Information that clearly identifies each product,
861 submission tracking number (STN), product name, product
862 subcategory, characterizing flavor, FDA order date, and type
863 of order.

864 (b) Any manufacturer submitting a certification
865 pursuant to subsection (a) shall notify the commissioner
866 within 30 days of any material change to the certification,
867 including issuance by the FDA of any of the following:



868 (1) A market order or other authorization pursuant to
869 21 U.S.C. § 387j.

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

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

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

877 (c) The commissioner shall develop and maintain a
878 directory listing all e-liquid manufacturers and manufacturers
879 of alternative nicotine products that have provided
880 certifications that comply with subsection (a) and all
881 products that are listed in those certifications.

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

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

885 (2) Update the directory as necessary in order to
886 correct mistakes and to add or remove e-liquid manufacturers,
887 manufacturers of alternative nicotine products, or products
888 manufactured by those manufacturers consistent with the
889 requirements of subsections (a) and (b) on a monthly basis.

890 (3) Remove from the directory any product that the
891 board determines is a prohibited item pursuant to Section
892 28-11-16(d).

893 ~~(3)~~ (4) Send monthly notifications to each wholesaler,
894 jobber, semijobber, retailer, importer, or distributor of
895 tobacco products that have qualified or registered with the



896 Department of Revenue, by electronic communication, containing
897 a list of all changes that have been made to the directory in
898 the previous month. In lieu of sending monthly notifications,
899 the commissioner may make the information available in a
900 prominent place on the Department of Revenue's public website.

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

904 ~~(e)~~ (f) Notwithstanding subsection (a), if an e-liquid
905 manufacturer or manufacturer of alternative nicotine products
906 can demonstrate to the commissioner that the FDA has issued a
907 rule, guidance, or any other formal statement that temporarily
908 exempts a product from the federal premarket tobacco
909 application requirements, the product may be added to the
910 directory upon request by the manufacturer if the manufacturer
911 provides sufficient evidence that the product is compliant
912 with the federal rule, guidance, or other formal statement, as
913 applicable.

914 ~~(f)~~ (g) Each certifying e-liquid manufacturer and
915 manufacturer of alternative nicotine products shall pay an
916 initial fee of two thousand dollars (\$2,000) to offset the
917 costs incurred by the department for processing the
918 certifications and operating the directory. The commissioner
919 shall collect an annual renewal fee of five hundred dollars
920 (\$500) to offset the costs associated with maintaining the
921 directory and satisfying the requirements of this section. The
922 fees received under this section by the department shall be
923 used by the department exclusively for processing the



924 certifications and operating and maintaining the directory.
925 After the payment of these expenses, ~~two-thirds~~one-half of the
926 remaining funds shall be deposited into the State General
927 Fund, and the remaining ~~one-third~~one-half shall be distributed
928 evenly to the Alabama State Law Enforcement Agency and to the
929 Licensing and Compliance Division of the board to be used for
930 the enforcement of this chapter.

931 ~~(g)~~ (h) Beginning on September 1, 2021, no e-liquid,
932 e-liquid in combination with an electronic nicotine delivery
933 system, or alternative nicotine product that, in the case of
934 any such product, contains synthetic nicotine or nicotine
935 derived from a source other than tobacco may be sold or
936 otherwise distributed in this state without either first
937 certifying that a premarket tobacco product application was
938 successfully submitted to the FDA and accepted for filing by
939 May 14, 2022, in accordance with the applicable requirements
940 under Section 201(rr) of the Federal Food, Drug, and Cosmetic
941 Act, or obtaining approval from the FDA for sale as a drug
942 under Section 201(g) (1) of the Federal Food, Drug, and
943 Cosmetic Act, a device under Section 201(h) of the Federal
944 Food, Drug, and Cosmetic Act, a combination product described
945 in Section 503(g) of the Federal Food, Drug, and Cosmetic Act,
946 or some other medical purpose.

947 ~~(h)~~ (i) (1) ~~Beginning May 1, 2022, or on the date that~~
948 ~~the Department of Revenue first makes the directory available~~
949 ~~for public inspection on its website as provided in subsection~~
950 ~~(d), whichever is later, an~~An e-liquid manufacturer or
951 manufacturer of alternative nicotine products or electronic



952 nicotine delivery systems who ~~offers for sale~~sells, furnishes,
953 or gives away a product not listed on the directory is subject
954 to a one thousand dollars (\$1,000) daily fine for each product
955 offered for sale in violation of this section until the
956 offending product is removed from the market or until the
957 offending product is properly listed on the directory. For
958 purposes of this subdivision "sale" includes a delivery sale
959 of e-liquids or electronic nicotine delivery systems or
960 alternative nicotine products, as defined under this chapter.

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

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

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

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

970 c. For a third or subsequent offense within a four-year
971 period, an administrative penalty of one thousand dollars
972 (\$1,000). In addition, the board may suspend or revoke the
973 permit of the permit holder.

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

979 (k) Any fine collected for a violation of this section



980 shall be deposited into the Education Trust Fund to the credit
 981 of the State Board of Education to be used for the
 982 establishment and administration of vape awareness, education,
 983 and prevention programs and the provision of drug education
 984 and prevention curriculum, as provided in Section 2 of the act
 985 amending this section.

986 ~~(i)~~ (1) The commissioner Alcoholic Beverage Control Board
 987 and the Commissioner of Revenue shall adopt rules for the
 988 implementation and enforcement of this section.

989 (m) Nothing in this section shall apply to any
 990 manufacturer of alternative nicotine products that were
 991 commercially marketed in the United States before February 15,
 992 2007."

993 "§28-11-18

994 (a) All liquid nicotine containers offered for sale
 995 that are intended to be vaporized in an electronic nicotine
 996 delivery system shall be contained in child-resistant
 997 packaging.

998 (b) A ~~specialty~~ retailer of tobacco, tobacco products,
 999 alternative nicotine products, e-liquids, or electronic
 1000 nicotine delivery systems shall display in a prominent area of
 1001 the retail store near the point of sale, an 8 1/2 x 11 inch a
 1002 sign or signs containing ~~which contains~~ the following
 1003 statements:

1004 (1) "ALABAMA LAW STRICTLY PROHIBITS THE PURCHASE OF
 1005 TOBACCO, TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS,
 1006 E-LIQUIDS, AND ELECTRONIC NICOTINE DELIVERY SYSTEMS BY PERSONS
 1007 UNDER ~~THE AGE OF~~ 21 YEARS OF AGE. PROOF OF AGE IS REQUIRED."



1008 ~~(2) "THE USE OF SOME VAPING DEVICES MAY INCREASE YOUR~~
 1009 ~~RISK OF EXPOSURE TO POTENTIALLY TOXIC LEVELS OF HEAVY METALS~~
 1010 ~~SUCH AS LEAD, CHROMIUM, AND NICKEL."~~

1011 ~~(3)~~ (2) "WARNING: TOBACCO, TOBACCO PRODUCTS, ALTERNATIVE
 1012 NICOTINE PRODUCTS, E-LIQUIDS, ELECTRONIC NICOTINE DELIVERY
 1013 SYSTEMS, AND VAPING PRODUCTS OFFERED FOR SALE IN THIS STORE
 1014 CONTAIN NICOTINE UNLESS OTHERWISE MARKED. NICOTINE IS A HIGHLY
 1015 ADDICTIVE CHEMICAL WHICH CAN HARM BRAIN DEVELOPMENT IN
 1016 CHILDREN AND ADOLESCENTS AND WHICH POSES SERIOUS HEALTH RISKS
 1017 TO PREGNANT WOMEN AND THEIR BABIES.

1018 (c) In addition to the requirements of subsection (b),
 1019 a retailer of alternative nicotine products, e-liquids, or
 1020 electronic nicotine delivery systems shall include the
 1021 following statement on the required posted sign:

1022 "THE USE OF SOME VAPING DEVICES MAY INCREASE YOUR RISK
 1023 OF EXPOSURE TO POTENTIALLY TOXIC LEVELS OF HEAVY METALS SUCH
 1024 AS LEAD, CHROMIUM, AND NICKEL."

1025 (d) Posted signs required by this section, at a
 1026 minimum, must accurately list the type of products sold at the
 1027 retail establishment. If a retailer does not sell all of the
 1028 product types listed in the statements described in
 1029 subsections (b) or (c), the retailer may amend the products
 1030 listed on the sign to accurately reflect the type of products
 1031 sold."

1032 Section 2. (a) By July 1, 2024, the State Board of
 1033 Education shall adopt a model policy for the establishment of
 1034 a vape awareness, education, and prevention program to
 1035 prohibit the possession and use of prohibited tobacco, tobacco



1036 products, electronic nicotine delivery systems, e-liquids, and
1037 alternative nicotine products by students in K-12 schools.

1038 (b) By September 1, 2024, each local board of education
1039 shall adopt a policy that, at a minimum, contains the criteria
1040 established in the model policy adopted by the State Board of
1041 Education.

1042 (c) The model policy adopted by the State Board of
1043 Education, at a minimum, shall contain all of the following:

1044 (1) A statement prohibiting the possession or use of
1045 tobacco, tobacco products, electronic nicotine delivery
1046 systems, e-liquids, and alternative nicotine product, as those
1047 terms are defined under Section 28-11-2, Code of Alabama 1975,
1048 by any student at a K-12 school, on a school bus, or at any
1049 school-sponsored function.

1050 (2) A series of graduated consequences for any student
1051 who violates this policy by possessing or using tobacco,
1052 tobacco products, electronic nicotine delivery systems,
1053 e-liquids, or alternative nicotine products as prohibited by
1054 this section. Graduated consequences may include, but are not
1055 limited to, in-school suspension, out-of-school suspension, or
1056 alternative school, or any combination thereof, and shall
1057 conform with applicable disability, antidiscrimination, and
1058 education laws and school discipline policies.

1059 (3)a. A requirement that any student in violation of
1060 the prohibition against possession or use of tobacco, tobacco
1061 products, electronic nicotine delivery systems, e-liquids, or
1062 alternative nicotine products be required to attend and
1063 complete a vaping awareness, education, and prevention class



1064 based on curriculum established by the Drug Education Council
1065 and approved by the State Board of Education.

1066 b. An additional requirement that on a second or
1067 subsequent violation, the student must attend and complete the
1068 vaping awareness, education, and prevention class with his or
1069 her parent or legal guardian.

1070 (4) A model complaint form and procedure for reporting
1071 violations of this section. An anonymous report may not be the
1072 basis of imposing formal disciplinary action against a
1073 student.

1074 (5) A procedure for the prompt investigation of reports
1075 of serious violations and complaints, specifying that the
1076 principal, assistant principal, or school resource officer is
1077 the individual responsible for the investigation.

1078 (6) A response procedure for a school to follow upon
1079 confirmation of the possession or use of tobacco, tobacco
1080 products, electronic nicotine delivery systems, e-liquids, or
1081 alternative nicotine products as prohibited by this section.

1082 (7) A procedure for publicizing local school board
1083 policy through publication in the student handbook, including
1084 providing notice that the policy applies to behavior occurring
1085 on school property, school buses, and at school-sponsored
1086 functions.

1087 (8) A statement prohibiting the use of tobacco, tobacco
1088 products, electronic nicotine delivery systems, e-liquids, and
1089 alternative nicotine products, as those terms are defined
1090 under Section 28-11-2, Code of Alabama 1975, by any teacher,
1091 administrator, or other school employee on the campus of any



1092 K-12 school.

1093 (c) The policy adopted by each local board of education
1094 shall be included in the code of conduct policy of the local
1095 board of education and included in the student handbook.

1096 (d) Any discipline received by a student for the
1097 possession or use of tobacco, tobacco products, electronic
1098 nicotine delivery systems, e-liquids, or alternative nicotine
1099 products at a K-12 school, on a school bus, or at any
1100 school-sponsored function in violation of this section shall
1101 be in lieu of any penalty provided under Section 28-11-13,
1102 Code of Alabama 1975.

1103 Section 3. The Alcoholic Beverage Control Board shall
1104 adopt rules to implement and administer Chapter 11 of Title
1105 28, Code of Alabama 1975.

1106 Section 4. Section 28-11-15, Code of Alabama 1975,
1107 relating to the posting of signs regarding the sale of tobacco
1108 and tobacco products, is repealed.

1109 Section 5. Section 28-11-19, Code of Alabama, 1975,
1110 relating to limitation on locations of specialty retailers of
1111 electronic nicotine delivery systems, is repealed.

1112 Section 6. Although this bill would have as its purpose
1113 or effect the requirement of a new or increased expenditure of
1114 local funds, the bill is excluded from further requirements
1115 and application under Section 111.05 of the Constitution of
1116 Alabama of 2022, because the bill defines a new crime or
1117 amends the definition of an existing crime.

1118 Section 7. This act shall become effective June 1,
1119 2024.