

SB95 INTRODUCED



1 SB95

2 WRUPEE5-1

3 By Senators Figures, Kelley, Coleman, Stewart, Jones,
4 Smitherman, Carnley, Kitchens, Waggoner, Hovey, Williams,
5 Butler, Allen, Price, Chesteen, Albritton, Stutts, Sessions,
6 Weaver, Givhan, Bell, Elliott, Livingston, Reed, Barfoot,
7 Gudger, Melson, Shelnut, Beasley, Chambliss, Coleman-Madison,
8 Singleton, Hatcher, Orr, Roberts

9 RFD: Judiciary

10 First Read: 13-Feb-24



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SYNOPSIS:

Under existing law, it unlawful for an individual under 21 years of age to possess any tobacco, tobacco product, alternative nicotine product, or electronic nicotine delivery system, or false proof of identification.

This bill would specify that an individual under 21 years of age commits a violation for the possession of an electronic nicotine delivery system or other electronic battery-powered device capable of producing a vapor upon inhalation, without regard to which particular e-liquid or other substance, if any, was contained or otherwise used in the device.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds



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29 within the meaning of the amendment. However, the bill
30 does not require approval of a local governmental
31 entity or enactment by a 2/3 vote to become effective
32 because it comes within one of the specified exceptions
33 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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40 Relating to vaping devices; to amend Section 28-11-13,
41 Code of Alabama 1975, to further provide prohibitions on the
42 possession of an electronic nicotine delivery system by
43 individuals under 21 years of age; and in connection therewith
44 would have as its purpose or effect the requirement of a new
45 or increased expenditure of local funds within the meaning of
46 Section 111.05 of the Constitution of Alabama of 2022.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Section 28-11-13, Code of Alabama 1975, is
49 amended to read as follows:

50

"§28-11-13

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(a) (1) It is unlawful for any individual under ~~the age~~
52 ~~of~~ 21 years of age to purchase, use, possess, or transport
53 tobacco, a tobacco product, an electronic nicotine delivery
54 system or other electronic battery-powered device capable of
55 being used to deliver any e-liquid, e-liquid substitute,
56 tobacco, CBD oil, THC oil, herbal extract, or nicotine salt,



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57 or any analog thereof, or any other substance to the
58 individual through the inhalation of vapor, or an alternative
59 nicotine product within this state.

60 (2) For purposes of this subsection, a violation is
61 committed upon mere possession of an electronic nicotine
62 delivery system or other electronic battery-powered device as
63 described in subdivision (1), irrespective of which particular
64 e-liquid or other substance, if any, was contained or
65 otherwise used in the device.

66 (b) It shall not be unlawful for an individual under
67 ~~the age of~~ 21 years of age who is an employee of a tobacco,
68 tobacco product, electronic nicotine delivery system, or
69 alternative nicotine product permit holder to handle,
70 transport, or sell tobacco, a tobacco product, an electronic
71 nicotine delivery system, or an alternative tobacco product if
72 the employee is acting within the line and scope of employment
73 and the permit holder, or an employee of the permit holder who
74 is 21 years of age or older, is present.

75 ~~(b)~~ (c) It is unlawful for any individual under ~~the age~~
76 ~~of~~ 21 years of age to present or offer to another person proof
77 of identification ~~which~~ that is false, fraudulent, or not
78 actually his or her own proof of identification in order to
79 buy, receive, or otherwise obtain, or attempt to buy, receive,
80 or otherwise obtain, any tobacco, tobacco product, electronic
81 nicotine delivery system, or alternative nicotine product.

82 ~~(e)~~ (d) If a minor is cited for any violation under this
83 section, the citing agency shall make reasonable efforts to
84 notify a parent, legal guardian, or legal custodian of the



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85 minor unless the minor has been emancipated by court order or
86 operation of law."

87 Section 2. Although this bill would have as its purpose
88 or effect the requirement of a new or increased expenditure of
89 local funds, the bill is excluded from further requirements
90 and application under Section 111.05 of the Constitution of
91 Alabama of 2022, because the bill defines a new crime or
92 amends the definition of an existing crime.

93 Section 3. This act shall become effective on October
94 1, 2024.