

HB357 ENROLLED



1 HB357
2 QN7FT45-3
3 By Representative Hollis
4 RFD: Ways and Means General Fund
5 First Read: 27-Feb-25



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Enrolled, An Act,

Relating to the tobacco tax; to amend Sections 40-25-1
40-25-2, 40-25-4, 40-25-8, 40-25-8.1, 40-25-14, 40-25-18,
40-25-25, and 40-25-29, Code of Alabama 1975; to define
"cigarette," "heated tobacco products," and "cigarettes
intended to be heated;" and to levy a tax on heated tobacco
products.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-25-1, 40-25-2, 40-25-4, 40-25-8,
40-25-8.1, 40-25-14, 40-25-18, 40-25-25, and 40-25-29, Code of
Alabama 1975, are amended to read as follows:

"§40-25-1

For the purposes of this article, the following terms
shall have the respective meanings ascribed by this section:

(1) WHOLESALE DEALER AND JOBBER. Persons, firms, or
corporations who buy tobacco products direct from the
manufacturer or an affiliate of the manufacturer and sell at
wholesale only, any one or more of the articles taxed herein
to licensed wholesale dealers, jobbers, semijobbers, and
retail dealers for the purpose of resale only.

(2) ~~RETAILER~~RETAIL DEALER. Every person, firm, or
corporation, other than a wholesale dealer or jobber, who
shall sell or offer for sale any one or more of the articles
taxed herein, irrespective of quantity or amount, or the
number of sales; and all persons operating under a retail
dealer's license.

(3) SEMIJOBBER. Persons, firms, or corporations who buy



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tobacco products from permitted wholesalers or obtain tobacco from any other source and sell at wholesale any one or more of the articles taxed herein to licensed retail dealers for the purpose of resale only.

(4) STAMPS. The stamp or stamps by the use of which the tax levied under this article is paid and shall be designated Alabama Revenue Stamps.

(5) CIGARS, CHERROOTS, STOGIES, ETC. A roll for smoking that is of any size or shape and that is made wholly or in part of tobacco or any substitute therefor, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in part of tobacco.

(6) HEATED TOBACCO PRODUCT. A product other than a cigarette intended to be heated, containing tobacco that produces an inhalable aerosol by heating the tobacco by means of a device without combustion of the tobacco or by heat generated from a combustion source that only or primarily heats rather than burns the tobacco.

(7) CIGARETTE or CIGARETTES. Shall have the same meaning as defined in Section 6-12-2 and shall include cigarette or cigarettes intended to be heated.

(8) CIGARETTEE OR CIGARETTES INTENDED TO BE HEATED. Means a cigarette containing tobacco that produces an inhalable aerosol (i) by heating the tobacco by means of an electronic device without combustion of the tobacco or (ii) by heat generated from a combustion source that only or primarily heats rather than burns the tobacco. "



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"§40-25-2

(a) In addition to all other taxes of every kind now imposed by law, every person, firm, corporation, club, or association, within the State of Alabama, who sells or stores or receives for the purpose of distribution to any person, firm, corporation, club, or association within the State of Alabama, cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco, snuff, heated tobacco products, or any substitute therefor, either or all, shall pay to the State of Alabama for state purposes only a license or privilege tax which shall be measured by and graduated in accordance with the volume of sales of such person, firm, corporation, club, or association in Alabama. There is hereby levied license or privilege taxes on articles containing tobacco enumerated in this article in the following amounts:

(1) LITTLE CIGARS. Upon cigars of all descriptions, including filtered cigars, made of tobacco, or any substitute therefor, and weighing not more than three pounds per 1,000, \$.04 for each ten cigars, or fractional part thereof.

(2) FILTERED CIGARS. Upon filtered cigars that have a cellulose acetate or similar integrated filter, made of tobacco, or any substitute therefor, and weighing more than three pounds per 1,000, \$0.015 for each filtered cigar.

(3) CHEROOTS, STOGIES, CIGARS, ETC. Upon all other cigars of any descriptions made of tobacco, or any substitute therefor, \$40.50 per thousand cigars, or \$0.0405 each.

(4) CIGARETTES. Upon all cigarettes made of tobacco, or any substitute therefor, other than cigarettes intended to be



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85 heated, 33.75 mills on each such cigarette.

86 (5) SMOKING TOBACCO. Upon all smoking tobacco,
87 including granulated, plug cut, crimp cut, ready rubbed, and
88 other kinds and forms of tobacco prepared in such manner as to
89 be suitable for smoking in a pipe or cigarette, upon each
90 package: Weighing not more than one and one-eighth ounces, tax
91 \$.04; over one and one-eighth ounces, not exceeding two
92 ounces, tax \$.10; over two ounces, not exceeding three ounces,
93 tax \$.16; over three ounces, not exceeding four ounces, tax
94 \$.21; \$.06 additional tax for each ounce or fractional part
95 thereof over four ounces.

96 (6) CHEWING TOBACCO. Upon all chewing tobacco prepared
97 in such manner as to be suitable for chewing only and not
98 suitable for smoking as described and taxed in subdivision (9)
99 of this subsection: \$.015 per ounce or fractional part
100 thereof.

101 (7) SNUFF. Upon each can or package of snuff weighing
102 not more than five-eighths ounces, one cent tax; over
103 five-eighths ounces and not exceeding one and five-eighths
104 ounces, \$.02 tax; over one and five-eighths ounces and not
105 exceeding two and one-half ounces, \$.04 tax; over two and
106 one-half ounces and not exceeding five ounces (cans, packages,
107 gullets), \$.06 tax; over three ounces and not exceeding five
108 ounces (glasses, tumblers, bottles), seven cents tax; over
109 five ounces and not exceeding six ounces, \$.08 tax; weighing
110 over six ounces, an additional \$.12 for each ounce or
111 fractional part thereof.

112 (8) HEATED TOBACCO PRODUCTS. Beginning November 1,



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2025, upon all heated tobacco products, the tax on a single-use consumable unit shall be \$0.017 per single-use consumable unit.

(9) CIGARETTES INTENDED TO BE HEATED. Beginning November 1, 2025, upon all cigarettes intended to be heated the tax of \$0.017 on each cigarette intended to be heated.

(b) Whenever in this article reference is made to any manufactured tobacco products on which the tax is based on weight, the weight as shown by the manufacturer or the federal internal revenue stamp shall apply.

(c) When any articles or commodities subject to tax in this article are given as prizes on punch boards, shooting galleries, premiums, etc., the tax shall be based on the tax rates in subsection (a) of such articles.

(d) The tax herein levied, except for the taxes levied by subsections (i) and (j), shall be paid to the state through the use of stamps as herein provided. However, every wholesaler, distributor, jobber, semijobber, or retail dealer shall add the amount of the tax levied herein to the price of the tobacco or tobacco products sold, it being the purpose and intent of this provision that the tax levied is in fact a levy on the ultimate consumer or user with the wholesaler, distributor, jobber, semijobber, or retail dealer acting merely as an agent of the state for the collection and payment of the tax to the state. Therefore, notwithstanding any exemptions from taxes which any such seller may now or hereafter enjoy under the Constitution or laws of this or any other state, or of the United States, he or she shall collect



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the tax imposed hereunder from the purchaser or consumer, and the amount of the tax shall constitute a debt from the purchaser or consumer to the seller until paid. It shall be unlawful for any person, firm, corporation, association, or copartnership to fail or refuse to add to the sales price and collect from the purchaser the amount of the tax to be added to the sales price and collected from the purchaser hereunder. Stamps in denominations to the amount of the tax or in denominations specified pursuant to subsection (e) of this section shall be affixed to the box or other container from or in which tobacco products taxed by this section are normally sold at retail. The stamps shall be affixed in such a manner that their removal will require continued application of water, steam, or heat; and in case of cigars, cheroots, chewing tobacco and like manufactured tobacco products, where sales are made from the original container, the stamps shall be affixed to the box or container in such a way that the stamps shall be torn in two or mutilated when such containers or boxes are opened for the sale of the tobacco products. In the case of cigarettes, smoking tobacco, snuff, heated tobacco products, and like products sold at retail in packages, the required amount of stamps to cover the tax shall be affixed to each individual package or container. All taxable tobaccos herein enumerated, when offered for sale, either at wholesale or retail, without having stamps affixed in the manner set out by this article, or without payment of the tax by return by the wholesaler, jobber, semijobber, or registered retailer, shall be subject to confiscation, in the manner provided for



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169 contraband goods as set out in this article.

170 (e) The Commissioner of Revenue shall prepare and issue
171 stamps in denominations for the amount of the tax imposed by
172 this article provided that if the commissioner determines that
173 it is not economical for the state to have a stamp prepared
174 and issued for one or more particular types of packages of
175 tobacco products, then the commissioner may by regulation
176 prescribe the use of a stamp in a denomination other than for
177 the amount of the tax imposed with the difference between the
178 amount of tax actually imposed and the amount of tax
179 denominated by the stamp paid with the use of a monthly
180 report; or may require a monthly report without use of a stamp
181 to report the amount of taxes due.

182 (f) The increases levied by this section shall be
183 exclusive and shall be in lieu of any other or additional
184 local taxes and/or license fees, county or municipal, imposed
185 on the sale or use of cigarettes, heated tobacco products,
186 and/or other tobacco products. Notwithstanding the foregoing,
187 an act of the Legislature or an ordinance or resolution by a
188 taxing authority passed or enacted on or before May 18, 2004,
189 imposing a local tax and/or license fee shall remain
190 operative, but no additional local tax and/or license fee may
191 thereafter be levied on the sale of cigarettes, heated tobacco
192 products, and/or other tobacco products.

193 (g) Local taxes and/or license fees, county or
194 municipal, imposed on the sale or use of cigarettes shall be
195 paid to the local government through the use of stamps affixed
196 to the product as provided herein for the state tax. Provided,



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however, this requirement shall not be interpreted to require the Department of Revenue to prepare all stamps or to collect all local taxes. Local governments may contract with another entity to collect their local cigarette tax but all local taxes must be collected as provided herein.

(h) Notwithstanding any other provision of this chapter, revenue from the additional tax in subsection (a)(4) imposed by Act 2015-535 shall be deposited into the State General Fund for the Medicaid Program.

(i) In the counties that have a local tobacco tax, there is hereby levied an additional county license or privilege tax on heated tobacco products and cigarettes intended to be heated, which shall equal half of the state tax rate as provided in subdivision (a)(8) and shall be paid to the county in which the heated tobacco products or cigarettes intended to be heated were sold to the purchaser.

Notwithstanding any other provision of this chapter, the taxes imposed by subdivision (a)(8) and this subsection shall be collected by the wholesaler, jobber, semijobber, or registered retailer from the purchaser at the time of purchase.

(j) In the municipalities that have a local tobacco tax, there is hereby levied an additional municipal license or privilege tax on heated tobacco products and cigarettes intended to be heated, which shall equal half of the local municipal tax or license fee as applied to the sale of cigarettes and shall be paid to the municipality in which the heated tobacco products or cigarettes intended to be heated were sold to the purchaser. Notwithstanding any other



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provision of this chapter, the taxes imposed by subdivision
(a) (8) and this subsection shall be collected by the
wholesaler, jobber, semijobber, or registered retailer from
the purchaser at the time of purchase."

"§40-25-4

The license taxes imposed by this article shall be paid
by affixing stamps in the manner and at the time herein set
forth. In the case of cigars, stogies, cheroots, chewing
tobacco, and like products, the stamps shall be affixed to the
box or container in which or from which normally sold at
retail. In the case of cigarettes, smoking tobacco, heated
tobacco products, and snuff, the stamps shall be affixed to
each individual package. Time allowed for affixing stamps
shall be as follows: Every wholesale or retail dealer in this
state, except wholesalers who are issued a permit by the
Department of Revenue, shall immediately after receipt of any
unstamped cigars, stogies, cheroots, chewing tobacco,
cigarettes, smoking tobacco, heated tobacco products, or
snuff, unless sooner offered for sale, cause the same to have
the requisite denominations and amount of stamp or stamps to
represent the tax affixed as stated herein. The stamping of
the cigars, stogies, cheroots, chewing tobacco, cigarettes,
smoking tobacco, heated tobacco products, and snuff shall
actually begin within one hour after receipt of the cigars,
stogies, cheroots, chewing tobacco, cigarettes, smoking
tobacco, heated tobacco products, and snuff in the premises of
the wholesale or retail dealer, except wholesalers who are
issued a permit by the Department of Revenue, and the stamping



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253 shall be continued with reasonable diligence by the wholesale
254 or retail dealer until all of the unstamped cigars, stogies,
255 cheroots, chewing tobacco, cigarettes, smoking tobacco, heated
256 tobacco products, and snuff have been stamped. Wholesalers who
257 have been issued a permit by the department shall affix the
258 required stamps prior to any sale. Every wholesale dealer
259 shall at the time of shipping or delivering any tobacco
260 products as enumerated herein make a true duplicate invoice of
261 the same which shall show full and complete details of the
262 sale or delivery of the taxable article, shall state the
263 tobacco tax separately from the price of the tobacco products,
264 and shall retain the same subject to the use and inspection of
265 the Department of Revenue, or its duly authorized agents for a
266 period of three years. Wholesaler invoices must be computer or
267 machine generated and the seller's or supplier's name must be
268 on the invoice. Handwritten invoices may not be considered
269 legitimate documentations to substantiate proof of sale.
270 Wholesale and retail dealers shall also keep a record of
271 purchases of all tobacco products enumerated and defined in
272 this article and hold all books, records, and memoranda
273 pertaining to the purchase and sale of those tobacco products
274 open to the inspection of the Department of Revenue or its
275 duly authorized agents at any and all times. Every wholesale
276 dealer shall furnish to the Department of Revenue a monthly
277 report, between the first and twentieth of each month for the
278 preceding month, of all orders for tobacco products purchased
279 through the wholesale dealer from without this state on a drop
280 shipment and consigned direct to the person, firm,



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corporation, or association of persons ordering the tobacco products from without this state through the wholesale dealer. If, upon examination of invoices of any tobacco product sold by a wholesaler or purchased or received, or both, by a retail dealer, he or she is unable to furnish evidence to the Department of Revenue of sufficient stamp purchases to cover the unstamped tobaccos purchased, the prima facie presumption shall arise that the tobacco products were sold without the proper stamps affixed thereto. Any wholesaler or retailer who fails or refuses to comply with any or all of the above provisions shall be deemed a violator of this section and, upon conviction, punished by a fine of not less than \$500 nor more than \$1,000, or imprisonment in the county jail for a period of six months, either or both, at the discretion of the court."

"§40-25-8

Any cigarettes, smoking tobacco, heated tobacco products, cigars, stogies, cheroots, chewing tobacco, snuff, or other products taxable under this article found at any point within the State of Alabama, which the cigarettes, smoking tobacco, heated tobacco products, cigars, stogies, cheroots, chewing tobacco, snuff, or other products taxable under this article shall have been within the State of Alabama for a period of two hours, or longer, in possession of any retailer or semijobber not having affixed to the package the stamps as provided in this article, or in the case of products not requiring a stamp to be affixed where purchase invoices do not itemize the applicable tobacco taxes, are declared to be



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309 contraband goods and may be seized by the Department of
310 Revenue, or its agents or by any peace officer of the State of
311 Alabama, without a warrant and the goods shall be delivered to
312 the Department of Revenue for destruction. Any of the goods,
313 wares, or merchandise when offered for sale, either at
314 wholesale or retail without the stamps having been first
315 affixed, or in the case of products not requiring a stamp to
316 be affixed where purchase invoices do not itemize the
317 applicable tobacco taxes, shall be subject to confiscation as
318 hereinabove provided. Any untaxed cigarettes, smoking tobacco,
319 heated tobacco products, cigars, stogies, cheroots, chewing
320 tobacco, snuff, or other products taxable under this article
321 found at any location within the State of Alabama, other than
322 the primary location of the permitted wholesaler or jobber,
323 registered semijobber, registered retailer or tobacco products
324 manufacturer who stores tobacco products at a bonded warehouse
325 in this state for resale, are declared to be contraband goods,
326 and those goods may be seized by the Department of Revenue, or
327 its agents or by any peace officer of the State of Alabama,
328 without a warrant and the goods shall be delivered to the
329 Department of Revenue for destruction. Any vehicle, not a
330 common carrier, used for the transportation for the purpose of
331 sale of unstamped articles as hereinabove enumerated shall
332 likewise be subject to confiscation and sale at public auction
333 to the highest bidder after due advertisement and notice to
334 the title owner of the vehicle. The proceeds of sale for any
335 vehicle sold hereunder shall be deposited into the State
336 Treasury by the Department of Revenue to be credited in the



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337 same manner as the tax otherwise due on the tobacco products
338 being transported. The cost of confiscation and sale shall be
339 paid out of the proceeds derived from the sale before making
340 remittance to the Treasurer. Should any unstamped tobaccos be
341 found in any vehicle which is engaged in the sale,
342 distribution, or delivery of taxable tobaccos, the same shall
343 be prima facie evidence that it was there for sale."

"§40-25-8.1

345 (a) Each person, firm, corporation, club, or
346 association that transports products required to be stamped as
347 provided in Section 40-25-8, which are not stamped or on which
348 tax has not been paid in accordance with this chapter and
349 Chapter 25A, upon the public highways, roads, or streets of
350 this state is required to have an active tobacco permit or
351 transporters permit under this chapter. Failure to obtain a
352 permit prior to transporting the products is a violation of
353 this section. A violation of this section may result in the
354 products being declared contraband goods that may be seized
355 without warrant by any law enforcement officer in this state.
356 The contraband goods may be disposed of or destroyed by the
357 law enforcement officer in accordance with this chapter. In
358 addition, a vehicle used in the transportation of confiscated
359 products may be subject to confiscation by the law enforcement
360 officer and sold at public auction to the highest bidder after
361 due advertisement pursuant to Chapter 13 of Title 32.

362 (b) The owner or driver, or both, of a vehicle used in
363 a violation of this section is guilty of a Class A misdemeanor
364 unless the tobacco products being transported exceeds any of



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the following quantities: 25,000 cigars, 50,000 filtered cigars, 50,000 little cigars, 50,000 cigarettes, 50,000 heated tobacco products, 25,000 cigar wraps, or 2,500 individual containers of loose or smokeless tobacco, in which case the owner or driver is guilty of a Class C felony. Any person convicted of a second or subsequent offense for a violation of this section is guilty of a Class C felony, regardless of the amount of tobacco products involved in the violation.

(c) This section shall not apply to individuals transporting tobacco for personal consumption as provided in Section 40-25-25."

"§40-25-14

Each and every wholesaler or jobber qualifying as such with the Department of Revenue shall be required to file a report between the first and twentieth of each month, covering the purchase or receipt by them of all tobacco products enumerated and defined herein during the preceding month. Said report shall give in detail the different kinds and quantities of tobacco products so purchased or received by them during the preceding month. The Department of Revenue shall furnish any person seeking to bring an action under Section 8-19-10 with information permitting the identification of a distributor which has affixed a stamp to a package of cigarettes or heated tobacco products in accordance with this section. In addition, between the first and twentieth of each month, each person licensed to affix the state tax stamp to cigarettes or heated tobacco products shall file with the Department of Revenue, for all cigarettes or heated tobacco



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393 products imported into the United States to which such person
394 has affixed the Alabama revenue stamp in the preceding month,
395 copies of the customs certificates with respect to such
396 cigarettes or heated tobacco products required to be submitted
397 by 19 U.S.C. § 1681a(c). Any wholesaler or jobber failing or
398 refusing to file the above report in the manner and time
399 allowed shall be deemed a violator of this section and upon
400 conviction shall be fined not less than \$100 nor more than
401 \$500 for each offense."

402 "§40-25-18

403 (a) Persons failing to properly affix the required
404 stamps to any cigars, cheroots, stogies, cigarettes, smoking
405 tobacco, heated tobacco products, chewing tobacco, and snuff
406 shall be required to pay, as part of the tax imposed
407 hereunder, a penalty of not less than twenty-five dollars
408 (\$25) nor more than five hundred dollars (\$500). Each article
409 or commodity not having proper stamps affixed thereto as
410 herein required shall be deemed a separate offense. Any
411 cigars, cheroots, stogies, cigarettes, smoking tobacco, heated
412 tobacco products, chewing tobacco, and snuff in the place of
413 business of any person required by this article to stamp the
414 same shall be prima facie evidence that they are intended for
415 sale. The Department of Revenue, upon good cause shown, may
416 waive or remit any penalty or any part thereof provided for in
417 this section. Any person, firm, corporation, club, or
418 association of persons who has been found guilty of violating
419 this article and who, after being punished by fine, penalty,
420 assessment, or imprisonment, is found guilty of a second or



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subsequent violation of this article shall have their license, as provided in Sections 40-12-72 and 40-12-73, revoked by the department, and no further license or permit shall be issued or granted to that person, firm, corporation, club, or association of persons for a period of one year from the date their license or permit has been revoked. Notice of the revocation shall be mailed to the probate judge and license inspector of the county in which the revocation was made.

(b) In addition to the penalty levied by the department pursuant to subsection (a), the county license inspector, license commissioner, revenue commissioner, tax assessor, or tax collector of the county in which the untaxed tobacco product is located may assess a penalty against any person failing to affix the required stamps to any cigars, cheroots, stogies, cigarettes, smoking tobacco, heated tobacco products and snuff. The amount of the additional penalty shall be not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(c) The department and local taxing official may assess the tax levied by this chapter pursuant to the assessment procedures set out in Chapter 2A of this title."

"§40-25-25

If any person, firm, or corporation who is not a regularly licensed dealer in tobacco products shall have in his or her possession within the state more than 30 packages of unstamped cigarettes or heated tobacco products or more than one box of unstamped cigars, such possession shall be presumed to be for the purpose of evading the payment of the



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taxes due thereon."

"§40-25-29

Any excise, license, privilege, or other tax levied on the sale of cigarettes or heated tobacco products by any county or municipal government within the State of Alabama shall be levied on the basis of a millage rate per cigarette or per single-use consumable unit of heated tobacco product, in a manner similar to the method of specifying the tax levied on cigarettes or heated tobacco products by ~~subdivision (8) of subsection (a) of~~ Section 40-25-2 (a), except where such taxing authority has levied a per package tax on cigarettes without any distinction as to the amount of cigarettes or heated tobacco products per package. This provision does not specify or limit the rate or amount of tax which may be levied on cigarettes or heated tobacco products by such county or municipal government. This provision is not to be construed as limiting or extending the taxing authority of any county or municipal government but rather this section specifies the manner in which such taxing authority may be exercised by the county or municipal government for the protection of the tax revenues accruing to the state and said county or municipal government, and for the protection of the public welfare, health, peace and morals of the people of this state."

Section 2. This act shall become effective on November 1, 2025.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and
was passed by the House 10-Apr-25, as amended.

John Treadwell
Clerk

Senate

07-May-25

Amended and Passed

House

07-May-25

Concurred in Senate
Amendment