

# HB529 ENGROSSED



1 HB529  
2 HGKPW66-2  
3 By Representative Faulkner  
4 RFD: Ways and Means General Fund  
5 First Read: 03-Apr-25



## HB529 Engrossed

A BILL  
TO BE ENTITLED  
AN ACT

Relating to consumable vapor product; to levy a tax on these products and provide for the reporting, collection, and distribution of the proceeds from these taxes; to provide for recordkeeping; to amend Sections 28-11-2, 28-11-7 and 28-11-17.1, Code of Alabama 1975, to provide for the permitting of retailers of these products; and to provide criminal penalties for violations of these provisions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For the purposes of Sections 1 through 6, the following terms have the respective meanings ascribed to them by this section:

(1) CONSUMABLE VAPOR PRODUCT. The same meaning as the term defined in Section 40-23-1, Code of Alabama 1975.

(2) DEPARTMENT. The Alabama Department of Revenue.

(3) PERSON. Any individual, corporation, partnership, limited liability company, association, limited liability partnership, or other organization that engages in any for-profit or not-for-profit activities.

Section 2. (a) Beginning October 1, 2026, there is levied an excise tax upon all consumable vapor product sold at



## HB529 Engrossed

wholesale in this state or imported into this state for use, consumption, or sale at retail. The tax shall be ten cents (\$0.10) per milliliter of a consumable vapor product. The tax shall not apply to sales between licensed wholesalers, being the purpose and intent of this provision that the tax levied is a levy on the ultimate consumer or user of consumable vapor products with the wholesaler acting merely as an agent of the state for the collection and payment of the tax to the state.

(b) (1) Except as provided in subdivision (2), the tax shall be in addition to all other licenses and taxes levied by law.

(2) The tax levied in subsection (a) shall be in lieu of any business license fee measured by the volume of sale for selling consumable vapor products. Any act of the Legislature or resolution by a county commission passed or enacted on or before October 1, 2025, imposing a business license fee on engaging in the business of selling consumable vapor products, is void. Nothing in this section shall be construed to restrict a municipality's authority to issue a business license pursuant to Article 2 of Chapter 51 of Title 11 on the privilege of doing business as a consumable vapor products wholesaler, importer, or retailer. Any business license issued pursuant to Article 2 of Chapter 51 of Title 11 shall not be measured by the volume of sale for selling consumable vapor products.

(3) Notwithstanding any other provision of this act, an act of the Legislature or an ordinance or resolution by a taxing authority passed or enacted on or before October 1,



## HB529 Engrossed

2025, imposing or providing for the levy of a local tax or license fee shall remain operative; however, no additional local tax or license fee may be levied on the sale of consumable vapor products after the effective date of this act.

(c) The tax shall not apply to any consumable vapor product exported from this state for which proof of export is available in the form of a bill of lading, shipping document, and/or invoice.

Section 3. (a) The proceeds from the tax levied in Section 2 and the penalties collected under the provisions of this act shall be remitted to the department, which shall retain the amount necessary to fund the administrative costs of collecting the tax. Except as provided in subsection (b), the balance of the proceeds collected shall be distributed quarterly as follows:

(1) Fifty percent to the State Treasury to the State General Fund.

(2) Twenty-five percent to the counties in the state on a basis of the ratio of the population of each county to the total population of all counties in the state, as determined in the most recent federal census prior to the distribution.

(3) Twenty-five percent to the municipalities in the state on a basis of the ratio of the population of each municipality to the total population of all municipalities in the state, as determined in the most recent federal census prior to distribution.

(b) Notwithstanding subdivisions (2) and (3) of



## HB529 Engrossed

subsection (a), no county or municipality that levies a local tax on the sale of consumable vapor products, or substantially similar products, at wholesale or retail may receive a distribution of proceeds pursuant to this section.

Section 4. (a)(1) Before any person engages in the business of selling consumable vapor products on which the tax levied in Section 2 has not been paid to the department, the person shall apply for a license in a manner provided by rule of the department. The license shall be a condition precedent to engaging or continuing in the business of selling vapor product. Failure to submit a properly completed license application may result in a delay in processing the application or denial of the license.

(2) The department shall assess the penalties under Section 40-25-16.1, Code of Alabama 1975, on any person who engages in the business of selling any consumable vapor product for which a license is required by this act without having first obtained and subsequently retained a valid license.

(b) On or before the 20th day of each month, each person on whom the tax is imposed shall submit a statement to the department showing the amounts utilized in the measurement of the tax and all other information required by the department and shall pay to the department the amount of tax shown due.

(c) A licensee who timely files a return with the payment due may deduct from the amount of tax payable with the return a discount of 4.75 percent of the amount of tax payable



## HB529 Engrossed

113 to the state. If the person does not remit the full amount  
114 listed as due on the tax return, any discount claimed by the  
115 person is disallowed.

116 (d) It is the duty of every person receiving, storing,  
117 selling, or handling consumable vapor products subject to the  
118 tax to keep and preserve all documents relating to the  
119 purchase, sale, exchange, or receipt of all consumable vapor  
120 products subject to the tax. Any authorized representative of  
121 the department may audit and inspect this documentation during  
122 normal business hours of the seller. The purchaser shall  
123 retain all purchase invoices from the source for every  
124 purchase of consumable vapor products received for a period of  
125 90 days at the purchaser's location. At the end of the 90  
126 days, the purchase records shall be maintained with the  
127 required books and records for a period of three years from  
128 the date of purchase.

129 Section 5. (a) Any person subject to this act who fails  
130 to make any report required of them by the department or who  
131 fails to keep any of the records required by this act shall be  
132 guilty of a Class B misdemeanor. Each month of such failure  
133 shall constitute a separate offense. Consumable vapor products  
134 shall be included in the informational report for tobacco  
135 products filed with the department pursuant to and subject to  
136 the penalties of Section 40-23-260, Code of Alabama 1975.

137 (b) Any taxpayer who violates this section may be  
138 restrained from continuing in business, and the proper  
139 prosecution shall be instituted in the name of the State of  
140 Alabama by the Attorney General or by the counsel of the



## HB529 Engrossed

department until the person complies with this act.

Section 6. (a) The Alabama Alcoholic Beverage Control Board or any law enforcement officer may confiscate any consumable vapor product in the possession of a person selling or offering for sale consumable vapor products that does not hold the permit required pursuant to Section 28-11-7, Code of Alabama 1975.

(b) Any product confiscated pursuant to this section shall be contraband and destroyed in a manner provided by the board.

Section 7. Sections 28-11-2, 28-11-7, and 28-11-17.1 Code of Alabama 1975, are amended to read as follows:

"§28-11-2

For purposes of this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:

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

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



## HB529 Engrossed

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

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

(5) DISTRIBUTION. To sell, barter, exchange, or give tobacco or tobacco products for promotional purposes or for gratis.

(6) ELECTRONIC NICOTINE DELIVERY SYSTEM. Any electronic device that uses a battery and heating element in combination with an e-liquid or tobacco to produce a vapor that delivers nicotine to the individual inhaling from the device to simulate smoking, and includes, but is not limited to, products that may be offered to, purchased by, or marketed to consumers as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, vape tool, vaping device, or any variation of these terms. The term also includes any e-liquid intended to be vaporized in any device included in this subdivision.

(7) ELECTRONIC NICOTINE DELIVERY SYSTEM RETAILER. Any retail business which offers for sale electronic nicotine delivery systems.

(8) E-LIQUID. A liquid that contains nicotine and may include flavorings or other ingredients that are intended for use in an electronic nicotine delivery system. This term also includes "consumable vapor product" as the term is defined in Section 40-23-1.

(9) E-LIQUID MANUFACTURER. Any person who manufactures,





## HB529 Engrossed

fabricates, assembles, processes, mixes, prepares, labels, repacks, or relabels an e-liquid to be sealed in final packaging intended for consumer use. This term includes an owner of a brand or formula for an e-liquid who contracts with another person to complete the fabrication and assembly of the product to the brand or formula owner's standards.

(10) FDA. The United States Food and Drug Administration.

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

(12) MINOR. Any individual under the age of 19 years.

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

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

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



## HB529 Engrossed

b. United States Uniform Service Identification.

c. A valid passport.

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

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

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

(16) SAMPLER. Any business or person who distributes tobacco or tobacco products for promotional purposes.

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

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

a. The sale of electronic nicotine delivery systems accounts for more than 35 percent of the total quarterly gross receipts for the establishment.

b. Twenty percent or more of the public retail floor



## HB529 Engrossed

space is allocated for the offering, displaying, or storage of electronic nicotine delivery systems.

c. Twenty percent or more of the total shelf space, including retail floor shelf space and shelf space in areas accessible only to employees, is allocated for the offering, displaying, or storage of electronic nicotine delivery systems.

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

e. Samples of electronic nicotine delivery systems are offered to customers.

f. Liquids intended to be vaporized through the use of an electronic nicotine delivery system are produced at the facility or are produced by the owner of the establishment or any of its agents or employees for sale at the establishment.

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

(20) TOBACCO PERMIT. A permit issued by the board to allow the permit holder to engage in the distribution of tobacco, tobacco products, electronic nicotine delivery



## HB529 Engrossed

systems, or alternative nicotine products at the location identified in the permit.

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

"§28-11-7

(a) (1) Any person who distributes tobacco, ~~or tobacco products, electronic nicotine delivery systems, or alternative nicotine products~~ within this state shall first obtain a permit from the board for each location of distribution. There is no fee for the permit.

(2) Any person who distributes alternative nicotine products or electronic nicotine delivery systems within this state shall first obtain a permit from the board for each location of distribution. An annual fee of one hundred fifty dollars (\$150) is established for this permit. The proceeds from this permit fee shall be credited to the board and used for the operational costs of enforcing this chapter.

(b) Any person who maintains a tobacco, tobacco product, electronic nicotine delivery system, or alternative nicotine product vending machine on his or her property in this state shall first obtain a permit from the board for each machine at each machine location. The permit for each machine shall be posted in a conspicuous place on the machine.

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

(d) A permit is not transferable or assignable and shall be renewed annually. Notwithstanding the foregoing, if a



## HB529 Engrossed

location for which a permit is obtained is sold or transferred, the permit shall be transferred to the person obtaining control of the location and shall be valid for 30 days after the transfer during which time a new permit shall be obtained.

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

"§28-11-17.1

(a) (1) Beginning March 1, 2022, or other date not more than 30 days following a premarket tobacco application submission deadline issued by the FDA, whichever is later, every e-liquid manufacturer and manufacturer of alternative nicotine products whose products are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the commissioner, a certification to the commissioner certifying, under penalty of perjury, either of the following:

a. The product was on the market in the United States as of August 8, 2016, and the manufacturer has applied for a marketing order pursuant to 21 U.S.C. § 387j for the e-liquid, e-liquid in combination with an electronic nicotine delivery system, or alternative nicotine product that was on the market in the United States as of April 12, 2022 and the manufacturer applied for a marketing order pursuant to 21 U.S.C. § 387j on or before May 14, 2022; whichever is applicable, by



## HB529 Engrossed

submitting a premarket tobacco product application on or before September 9, 2020, to the FDA; and either of the following is true:

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

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

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

(2) In addition to the requirements in subdivision (1), each manufacturer shall provide a copy of the cover page of the premarket tobacco application with evidence of receipt of the application by the FDA or a copy of the cover page of the marketing order or other authorization issued pursuant to 21 U.S.C. § 387j, whichever is applicable.

(3) If an alternative nicotine manufacturer can demonstrate to the commissioner that an alternative nicotine product was on the U.S. market as of April 14, 2022, and the manufacturer applied for a premarket tobacco product application ("PMTA") prior to May 14, 2022, pursuant to



federal law, and the PMTA remains under review by the FDA, the  
alternative nicotine product shall be added to the directory  
upon request by the manufacturer if the manufacturer provides  
the Alabama Department of Revenue with the alternative  
nicotine product's FDA submission tracking number (STN), as  
received by the manufacturer after proper PMTA filing.

(4) To the extent that 21 U.S.C. § 387j is amended, or  
subsequent regulations or other official federal guidance is  
issued, changing compliance requirements or standards for an  
e-liquid, e-liquid in combination with an electronic nicotine  
delivery system, or alternative nicotine product to become  
federally compliant, each manufacturer of an e-liquid,  
e-liquid in combination with an electronic nicotine delivery  
system, or alternative nicotine product, as applicable, that  
is sold for retail sale in Alabama shall submit documentation  
to the commissioner substantiating compliance with such new  
federal requirements or standards within 30 days of when  
compliance with such requirement or standard is mandated.  
Failure to substantiate compliance with new federal  
requirements or standards shall be grounds for removal of the  
manufacturer and its e-liquid, e-liquid in combination with an  
electronic nicotine delivery system, or alternative nicotine  
product, as applicable, from the directory established  
pursuant to subsection (d).

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



## HB529 Engrossed

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

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

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

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

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

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

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

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

(3) Send monthly notifications to each wholesaler, jobber, semijobber, retailer, importer, or distributor of tobacco products that have qualified or registered with the Department of Revenue, by electronic communication, containing a list of all changes that have been made to the directory in the previous month. In lieu of sending monthly notifications,





## HB529 Engrossed

the commissioner may make the information available in a prominent place on the Department of Revenue's public website.

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

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

(f) Each certifying e-liquid manufacturer and manufacturer of alternative nicotine products shall pay an initial fee of two thousand dollars (\$2,000) to offset the costs incurred by the department for processing the certifications and operating the directory. The commissioner shall collect an annual renewal fee of five hundred dollars (\$500) to offset the costs associated with maintaining the directory and satisfying the requirements of this section. The fees received under this section by the department shall be used by the department exclusively for processing the certifications and operating and maintaining the directory. After the payment of these expenses, two-thirds of the remaining funds shall be deposited into the General Fund, and



## HB529 Engrossed

the remaining one-third shall be distributed evenly to the Alabama State Law Enforcement Agency and to the board.

(g) Beginning on September 1, 2021, no e-liquid, e-liquid in combination with an electronic nicotine delivery system, or alternative nicotine product that, in the case of any such product, contains synthetic nicotine or nicotine derived from a source other than tobacco may be sold or otherwise distributed in this state without first obtaining approval from the FDA for sale as a drug under Section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act, a device under Section 201(h) of the Federal Food, Drug, and Cosmetic Act, a combination product described in Section 503(g) of the Federal Food, Drug, and Cosmetic Act, or some other medical purpose.

(h)(1) Beginning May 1, 2022, or on the date that the Department of Revenue first makes the directory available for public inspection on its website as provided in subsection (d), whichever is later, an e-liquid manufacturer or manufacturer of alternative nicotine products who offers for sale a product not listed on the directory is subject to a one thousand dollars (\$1,000) daily fine for each product offered for sale in violation of this section until the offending product is removed from the market or until the offending product is properly listed on the directory.

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

(i) The commissioner shall adopt rules for the implementation and enforcement of this section."



## HB529 Engrossed

477           Section 8. The department shall enforce this act and  
478   may adopt rules to administer and enforce this act.

479           Section 9. This act shall become effective on October  
480   1, 2025.



## HB529 Engrossed

481  
482  
483

### House of Representatives

484 Read for the first time and referred .....03-Apr-25  
485 to the House of Representatives  
486 committee on Ways and Means General  
487 Fund  
488  
489 Read for the second time and placed .....09-Apr-25  
490 on the calendar:  
491 1 amendment  
492  
493 Read for the third time and passed .....10-Apr-25  
494 as amended  
495 Yeas 86  
496 Nays 10  
497 Abstains 7  
498  
499  
500 John Treadwell  
501 Clerk  
502