

## HB529 ENROLLED



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



## HB529 Enrolled

Enrolled, 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 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



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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, 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



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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 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



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85 levied in Section 2 has not been paid to the department, the  
86 person shall apply for a license in a manner provided by rule  
87 of the department. The license shall be a condition precedent  
88 to engaging or continuing in the business of selling vapor  
89 product. Failure to submit a properly completed license  
90 application may result in a delay in processing the  
91 application or denial of the license.

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

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

104 (c) A licensee who timely files a return with the  
105 payment due may deduct from the amount of tax payable with the  
106 return a discount of 4.75 percent of the amount of tax payable  
107 to the state. If the person does not remit the full amount  
108 listed as due on the tax return, any discount claimed by the  
109 person is disallowed.

110 (d) It is the duty of every person receiving, storing,  
111 selling, or handling consumable vapor products subject to the  
112 tax to keep and preserve all documents relating to the



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purchase, sale, exchange, or receipt of all consumable vapor products subject to the tax. Any authorized representative of the department may audit and inspect this documentation during normal business hours of the seller. The purchaser shall retain all purchase invoices from the source for every purchase of consumable vapor products received for a period of 90 days at the purchaser's location. At the end of the 90 days, the purchase records shall be maintained with the required books and records for a period of three years from the date of purchase.

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

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



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141 Alabama 1975.

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

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

147 "§28-11-2

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

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

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

163 (3) CHILD-RESISTANT PACKAGING. Liquid nicotine  
164 container packaging meeting the requirements of 15 U.S.C. §  
165 1472a.

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

168 (5) DISTRIBUTION. To sell, barter, exchange, or give



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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, 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.





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

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

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

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

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

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

219 b. United States Uniform Service Identification.

220 c. A valid passport.

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

224 e. For legal mail order purposes only, a valid signed



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225 certification that will verify the individual is 21 years of  
226 age or older.

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

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

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

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

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

246 b. Twenty percent or more of the public retail floor  
247 space is allocated for the offering, displaying, or storage of  
248 electronic nicotine delivery systems.

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



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253 systems.

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

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

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

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

272 (20) TOBACCO PERMIT. A permit issued by the board to  
273 allow the permit holder to engage in the distribution of  
274 tobacco, tobacco products, electronic nicotine delivery  
275 systems, or alternative nicotine products at the location  
276 identified in the permit.

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

280 "§28-11-7



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(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  
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



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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 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



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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.



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(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:

(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



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393 interstate commerce for commercial distribution.

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

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

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

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

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

409 (3) Send monthly notifications to each wholesaler,  
410 jobber, semijobber, retailer, importer, or distributor of  
411 tobacco products that have qualified or registered with the  
412 Department of Revenue, by electronic communication, containing  
413 a list of all changes that have been made to the directory in  
414 the previous month. In lieu of sending monthly notifications,  
415 the commissioner may make the information available in a  
416 prominent place on the Department of Revenue's public website.

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

420 (e) Notwithstanding subsection (a), if an e-liquid





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421 manufacturer or manufacturer of alternative nicotine products  
422 can demonstrate to the commissioner that the FDA has issued a  
423 rule, guidance, or any other formal statement that temporarily  
424 exempts a product from the federal premarket tobacco  
425 application requirements, the product may be added to the  
426 directory upon request by the manufacturer if the manufacturer  
427 provides sufficient evidence that the product is compliant  
428 with the federal rule, guidance, or other formal statement, as  
429 applicable.

430 (f) Each certifying e-liquid manufacturer and  
431 manufacturer of alternative nicotine products shall pay an  
432 initial fee of two thousand dollars (\$2,000) to offset the  
433 costs incurred by the department for processing the  
434 certifications and operating the directory. The commissioner  
435 shall collect an annual renewal fee of five hundred dollars  
436 (\$500) to offset the costs associated with maintaining the  
437 directory and satisfying the requirements of this section. The  
438 fees received under this section by the department shall be  
439 used by the department exclusively for processing the  
440 certifications and operating and maintaining the directory.  
441 After the payment of these expenses, two-thirds of the  
442 remaining funds shall be deposited into the General Fund, and  
443 the remaining one-third shall be distributed evenly to the  
444 Alabama State Law Enforcement Agency and to the board.

445 (g) Beginning on September 1, 2021, no e-liquid,  
446 e-liquid in combination with an electronic nicotine delivery  
447 system, or alternative nicotine product that, in the case of  
448 any such product, contains synthetic nicotine or nicotine



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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."

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

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



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Speaker of the House of Representatives

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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.

John Treadwell  
Clerk

Senate

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**06-May-25**

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Passed