

HB8 ENGROSSED



1 HB8
2 PS6P9RR-2
3 By Representative Drummond
4 RFD: Judiciary
5 First Read: 04-Feb-25
6 PFD: 08-Jul-24



HB8 Engrossed

A BILL

TO BE ENTITLED

AN ACT

Relating to the Alcoholic Beverage Control Board; to amend Sections 28-11-2, 28-11-3, 28-11-5, 28-11-6.1, 28-11-6.2, 28-11-7, 28-11-9, 28-11-10, 28-11-12, 28-11-14, 28-11-16, 28-11-17.1, and 28-11-18, Code of Alabama 1975, and Section 28-11-13, Code of Alabama 1975, as last amended by Act 2024-79, 2024 Regular Session, to revise the definition of "electronic nicotine delivery system" to include battery powered devices that deliver substances other than tobacco through the inhalation of vapor; to further provide restrictions on the sale of tobacco and other related products to minors; to prohibit the distribution of tobacco, tobacco products, electronic nicotine delivery systems, e-liquids, and alternative nicotine products through a vending machine; to provide license fees for the retail sale of certain tobacco products; to further provide for the authorized penalties for certain violations; to establish the Tobacco Licensing and Compliance Fund in the State Treasury and provide for its administration; to further provide for the membership of the advisory board to the Alcoholic Beverage Control Board; to further provide for the requirement of tobacco retailers to



HB8 Engrossed

post signage warning of the dangers of tobacco product use; to require the board to adopt rules; to require the State Board of Education to establish a model vaping awareness, education, and prevention program and require each local board of education to adopt a policy based on the model policy; and to repeal Sections 28-11-15 and 28-11-19, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 28-11-2, 28-11-3, 28-11-5, 28-11-6.1, 28-11-6.2, 28-11-7, 28-11-9, 28-11-10, 28-11-12, 28-11-14, 28-11-16, 28-11-17.1, and 28-11-18, Code of Alabama 1975, and Section 28-11-13, Code of Alabama 1975, as last amended by Act 2024-79, 2024 Regular Session, 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~~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



HB8 Engrossed

57 Board.

58 (3) CHILD-RESISTANT PACKAGING. Liquid nicotine
59 container packaging meeting the requirements of 15 U.S.C. §
60 1472a.

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

63 (5) DELIVERY SALE. The delivery sale of tobacco,
64 tobacco products, electronic nicotine delivery systems,
65 e-liquids, or alternative nicotine products.

66 ~~+(5)~~ (6) DISTRIBUTION. To sell, barter, exchange, or give
67 ~~tobacco or tobacco products~~ for promotional purposes or for
68 gratis.

69 ~~+(6)~~ (7) ELECTRONIC NICOTINE DELIVERY SYSTEM. Any
70 electronic device that uses a battery and heating element in
71 combination with an e-liquid or tobacco, or substitutes
72 thereof, to produce a vapor that delivers nicotine or other
73 substances to the individual inhaling from the device to
74 simulate smoking, and includes, but is not limited to,
75 products that may be offered to, purchased by, or marketed to
76 consumers as an electronic cigarette, electronic cigar,
77 electronic cigarillo, electronic pipe, electronic hookah, vape
78 pen, vape tool, vaping device, or any variation of these
79 terms. The term also includes any e-liquid intended to be
80 vaporized in any device included in this subdivision.

81 ~~+(7)~~ (8) ELECTRONIC NICOTINE DELIVERY SYSTEM RETAILER.
82 Any retail business which offers for sale electronic nicotine
83 delivery systems.

84 ~~+(8)~~ (9) E-LIQUID. A liquid that contains nicotine or



HB8 Engrossed

85 other substances and may include flavorings or other
86 ingredients that are intended for use in an electronic
87 nicotine delivery system. The term includes e-liquid
88 substitutes, tobacco substitutes, and any other product that
89 may be used in conjunction with an electronic nicotine
90 delivery system, or other substances, including, but not
91 limited to, CBD oil.

92 ~~(9)~~ (10) E-LIQUID MANUFACTURER. Any person who
93 manufactures, fabricates, assembles, processes, mixes,
94 prepares, labels, repacks, or relabels an e-liquid to be
95 sealed in final packaging intended for consumer use. This term
96 includes an owner of a brand or formula for an e-liquid who
97 contracts with another person to complete the fabrication and
98 assembly of the product to the brand or formula owner's
99 standards.

100 ~~(10)~~ (11) FDA. The United States Food and Drug
101 Administration.

102 ~~(11)~~ (12) LIQUID NICOTINE CONTAINER. A bottle or other
103 container of a liquid product that is intended to be vaporized
104 and inhaled using an electronic nicotine delivery system. The
105 term does not include a container holding liquid that is
106 intended for use in a vapor product if the container is
107 ~~pre-filled~~ prefilled and sealed by the manufacturer and is not
108 intended to be opened by the consumer.

109 ~~(12)~~ (13) MINOR. Any individual under ~~the age of 19~~ 21
110 years of age.

111 ~~(13)~~ (14) PERSON. Any natural person, firm, partnership,
112 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)~~ (15) 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~~ driver license issued by any state and bearing the photograph of the presenting individual.

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)~~ (16) RESPONSIBLE VENDOR PROGRAM. A program administered by the board to encourage and support vendors in training employees in legal and responsible sales practices.

~~(16)~~ (17) SAMPLER. Any business or person who distributes tobacco, ~~or tobacco products,~~ electronic nicotine delivery systems, alternative nicotine products, or e-liquids for promotional purposes.

~~(17)~~ (18) SELF-SERVICE DISPLAY. A display that contains tobacco, ~~or tobacco products,~~ electronic nicotine delivery systems, alternative nicotine products, or e-liquids 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)~~ (19) SPECIALTY RETAILER OF ELECTRONIC NICOTINE DELIVERY SYSTEMS. A business establishment at which any of the following are true:

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

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

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

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

~~e.e.~~ e. Twenty percent or more of the total shelf space, including retail floor shelf space and shelf space in areas



HB8 Engrossed

accessible only to employees, is allocated for the offering, displaying, or storage of electronic nicotine delivery systems.

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

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

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

~~(19)~~ (20) 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)~~ (21) 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 systems, e-liquids, or alternative nicotine products at the location identified in the permit.



HB8 Engrossed

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

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

"§28-11-3

The board, in conjunction with federal, state, and local law enforcement agencies, shall enforce state and federal laws that prohibit the distribution of tobacco, tobacco products, alternative nicotine products, e-liquids, and electronic nicotine delivery systems to individuals under ~~the age of 21 years of age~~. Notwithstanding the foregoing, for purposes of inspections and enforcement actions undertaken pursuant to this section, individuals under ~~the age of 21 years of age~~ may be enlisted to attempt to purchase or purchase tobacco, tobacco products, alternative nicotine products, e-liquids, and electronic nicotine delivery systems, provided that individuals under ~~the age of 18 years of age~~ shall have the prior written consent of a parent or legal guardian, and provided further that the individuals shall be directly supervised during the conduct of each inspection or enforcement action by an enforcement agent of the board or a law enforcement officer, ~~or by a sheriff or head of police of~~



HB8 Engrossed

~~any county, city, town, or other political subdivision, or by
a deputy or officer thereof. No individual under the age of 21
years may misrepresent his or her age for the purpose of
purchasing or attempting to purchase tobacco, tobacco
products, alternative nicotine products, or electronic
nicotine delivery systems. If questioned about his or her age
during an attempt to purchase or receive tobacco, tobacco
products, alternative nicotine products, or electronic
nicotine delivery systems, an individual under the age of 21
years shall state his or her true age. A photograph or video
recording of any individual under the age of 21 years
assisting in an inspection or enforcement action shall be
taken prior to the investigation. The appearance of an
individual under the age of 21 years participating in an
inspection or enforcement action shall not be altered at the
time of the inspection."~~

"§28-11-5

The board may use funding, if available, from the
Department of Mental Health, other state or federal agencies,
grants, and private or public organizations to enforce this
chapter and to provide and distribute prevention materials
related to tobacco, tobacco products, alternative nicotine
products, e-liquids, and electronic nicotine delivery systems
~~and nicotine prevention materials~~ to retail tobacco merchants
and specialty retailers of electronic nicotine delivery
systems. The materials shall provide information regarding
state and federal laws that prohibit access to tobacco,
tobacco products, alternative nicotine products, e-liquids,

HB8 Engrossed



and electronic nicotine delivery systems by individuals under ~~the age of 21 years~~ of age and other appropriate information. The board may also provide consultation services for establishing programs to minimize or eliminate sales of tobacco, tobacco products, alternative nicotine products, e-liquids, and electronic nicotine delivery systems to individuals under ~~the age of 21 years~~ of age pursuant to the responsible vendor program."

"§28-11-6.1

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

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

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

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

"§28-11-6.2

(a) No tobacco, tobacco product, alternative nicotine product, e-liquid, or electronic nicotine delivery system



HB8 Engrossed

shall be ~~distributed~~ sold, furnished, or given away at retail through a self-service display unless the display ~~is a vending machine as permitted under Section 28-11-6.1~~ or is located in a tobacco specialty store or at a specialty retailer of electronic nicotine delivery systems and is located in an area in which individuals under 21 years of age are not permitted access.

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

"§28-11-7

(a) (1) Any person who distributes tobacco, 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.~~ Upon application, there shall be a one-time, nonrefundable filing fee of fifty dollars (\$50), in addition to a permit fee of one hundred fifty dollars (\$150), which shall be renewed annually. The one-time filing fee shall apply only to new applicants for a permit on or after the effective date of the act amending this section.

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

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

b. Twenty-five percent shall be deposited into the Public Safety Fund of the Alabama State Law Enforcement Agency



HB8 Engrossed

to be used for the enforcement of this chapter.

(b) ~~Any person who maintains~~No person may maintain a tobacco, tobacco product, electronic nicotine delivery system, e-liquid, 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~~If a location for which a permit ~~is~~has been obtained is sold or transferred, the permit, after submission of an application to transfer and a transfer fee of fifty dollars (\$50), shall~~may~~ 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,~~ subject to approval by the board. The transferee shall meet any requirements, established by the rule of the board, required for a permit holder. The permitted transfer shall be effective for the duration of the license year, and the transferee shall renew the permit annually as provided in subsection (a). If a permitted business moves to a new location within the same governing jurisdiction, the business owner may apply for a location transfer as provided in this subsection. No more than one of each transfer type shall occur during a permit year.

(e) If feasible, the board by rule may adopt procedures

HB8 Engrossed



for the issuance and renewal of permits which combine tobacco permit procedures with the application and licensing procedures for alcoholic beverages."

"§28-11-9

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

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

a. Hear and decide all contested applications for permits.

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

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

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

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

(b) The board, or a hearing commission appointed by the board, upon finding that a permit holder or any partner, member, employee, officer, or director of the permit holder has violated any of the laws of this state or the United



HB8 Engrossed

States relating to the manufacture, sale, possession, or transportation of tobacco, tobacco products, electronic nicotine delivery systems, e-liquids, or alternative nicotine products, or that the permit holder has acted in a manner prejudicial to the welfare, health, peace, temperance, and safety of the people of the community or of the state, ~~may~~ upon due notice and hearing, may levy administrative fines or suspend or revoke the permit issued by the board, or a combination of all three, as provided in subsection (e). In all cases where the board or hearing commission ~~shall~~ levy levies an administrative fine or ~~suspend or revoke~~ suspends or revokes a permit, ~~if the board~~ shall set forth its findings of fact, the evidence from which the findings of facts are made, and the reasons upon which its actions are based.

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

(d) The maximum length of suspension of a permit pursuant to this chapter shall be one year. A permit holder shall be ineligible to hold a permit pursuant to this chapter for the location where the violation occurred until the expiration or removal of the suspension. A permit holder whose



permit is revoked by the board or the hearing commission shall be, at the discretion of the board or hearing commission, ineligible to hold a permit pursuant to this chapter until the expiration of one year from the date the permit is revoked at the location where the violation occurred.

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

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

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

~~(3) Upon conviction of a third or subsequent violation at the same location within a two-year period, the board or hearing commission may levy an administrative fine upon the permit holder and the employee, if the violation is by an employee, of not more than seven hundred fifty dollars (\$750).~~



HB8 Engrossed

421 ~~(4) Upon conviction of~~ (3) For a ~~fourth~~ third or
422 subsequent violation at the same location within a two-year
423 period, the board or hearing commission ~~may~~ shall levy an
424 administrative fine upon the permit holder ~~and the employee,~~
425 ~~if the violation is by an employee,~~ of not more than one
426 thousand dollars (\$1,000) and may suspend or revoke the
427 permit.

428 (f) Before imposition of any administrative
429 ~~fine~~ penalty, the permit holder shall be afforded all
430 procedural rights to due process in addition to those rights
431 guaranteed by the Alabama Administrative Procedure Act,
432 Chapter 22 of Title 41."

433 "§28-11-10

434 The Tobacco Licensing and Compliance Fund is hereby
435 created in the State Treasury. The fund shall be administered
436 by the Licensing and Compliance Division of the board. All
437 fees and other funds collected by the board pursuant to this
438 chapter shall be deposited into the ~~State General Fund.~~ State
439 Treasury to the credit of the fund. Amounts deposited into the
440 fund shall be budgeted and allotted in accordance with
441 Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through
442 41-19-12. Monies in the fund shall be used by the Licensing
443 and Compliance Division of the board for tobacco and nicotine
444 prevention education, operational costs associated with
445 regulating permitted locations, and the enforcement of this
446 chapter."

447 "§28-11-12

448 (a) An advisory board shall be established to monitor

HB8 Engrossed



the implementation of this chapter. The advisory board shall meet at least quarterly. Representation shall consist of one representative from each of the following:

(1) The Office of the Governor.

(2) The Office of the Attorney General.

(3) The Department of Mental Health.

(4) The Department of Public Health.

(5) The Alcoholic Beverage Control Board.

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

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

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

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

(10) The Alabama ~~Grocers'~~Grocers Association as appointed by the Governor and selected from three nominees submitted by the association.

(11) The Breathe Easier Alliance of Alabama as appointed by the Governor and selected from three nominees submitted by the entity.

(12) The Alabama State Law Enforcement Agency.

(13) The Department of Revenue.

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



HB8 Engrossed

(15) The executive director of Children First.

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

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

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

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

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

"§28-11-13

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



505 inhalation of vapor, or an alternative nicotine product within
506 this state.

507 (2) For purposes of this subsection, a violation is
508 committed upon mere possession of an electronic nicotine
509 delivery system or other electronic battery-powered device as
510 described in subdivision (1), irrespective of which particular
511 e-liquid or other substance, if any, was contained or
512 otherwise used in the device.

513 (b) ~~It shall not be unlawful for~~ Notwithstanding
514 subsection (a), an individual under 21 years of age who is an
515 employee of a tobacco, tobacco product, electronic nicotine
516 delivery system, or alternative nicotine product permit holder
517 ~~to~~ may handle, transport, or sell tobacco, a tobacco product,
518 an electronic nicotine delivery system, or an alternative
519 tobacco product, ~~if~~ provided the employee is acting within the
520 line and scope of employment and the permit holder, or an
521 employee of the permit holder who is 21 years of age or older,
522 is present.

523 (c) It is unlawful for any individual under 21 years of
524 age to present or offer to another person proof of
525 identification that is false, fraudulent, or not actually his
526 or her own proof of identification in order to buy, receive,
527 or otherwise obtain, or attempt to buy, receive, or otherwise
528 obtain, any tobacco, tobacco product, electronic nicotine
529 delivery system, e-liquid, or alternative nicotine product.

530 (d) (1) Except as otherwise provided, a violation of
531 this chapter by an individual under 18 years of age shall
532 constitute a delinquent act and the individual shall be



subject to the exclusive jurisdiction of the juvenile court.

(2) Any individual 18 years of age or older but under 21 years of age who is in violation of this chapter shall be issued a uniform nontraffic citation and, upon conviction, shall be punished as follows and assessed no other court costs or fees:

a. For a first violation, a written warning.

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

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

~~(d)~~ (e) If a minor is cited for any violation under this section, the citing agency shall make reasonable efforts to notify a parent, legal guardian, or legal custodian of the minor unless the minor has been emancipated by court order or operation of law.

~~(e)~~ (f) Nothing in this section shall apply to devices used to deliver medication prescribed or ordered by a physician licensed to practice medicine in this state."

"§28-11-14

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

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



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

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

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

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



HB8 Engrossed

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

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

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

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

"§28-11-16

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



HB8 Engrossed

617 nicotine delivery systems, e-liquids, or alternative nicotine
618 products may not advertise an electronic nicotine delivery
619 system, e-liquid, or an alternative nicotine product in any of
620 the following ways:

- 621 a. As a tobacco cessation product.
- 622 b. As a healthier alternative to smoking.
- 623 c. As available for purchase in any variety of flavors
624 other than tobacco, mint, or menthol on any outdoor billboard.
- 625 d. On any outdoor billboard located within 1,000 feet
626 of any public or private K-12 school or public playground.

627 (2) Paragraphs a. and b. of subdivision (1) are not
628 applicable to products that have received an order from the
629 FDA permitting the product to be marketed as a modified risk
630 tobacco product, and are marketed in accordance with that
631 order.

632 (b) (1) A specialty retailer of electronic nicotine
633 delivery systems or manufacturer of tobacco, tobacco products,
634 electronic nicotine delivery systems, e-liquids, or
635 alternative nicotine products may not in any way sponsor,
636 finance, or advertise a scholarship of any kind using the
637 brand name of any tobacco product, alternative nicotine
638 product, e-liquid, or electronic nicotine delivery system.

639 (2) A specialty retailer of electronic nicotine
640 delivery systems or manufacturer of tobacco, tobacco products,
641 electronic nicotine delivery systems, e-liquids, or
642 alternative nicotine products may not use the brand name of
643 any tobacco product, alternative nicotine product, e-liquid,
644 or electronic nicotine delivery system to advertise at or



645 sponsor any event at a stadium, concert, sporting event, or
646 other public performance event for which individuals ~~aged 21~~
647 years of age or older make up less than 85 percent of the
648 total age demographic of ~~performing participants~~individuals
649 performing at the event.

650 (3) A specialty retailer of electronic nicotine
651 delivery systems or manufacturer of tobacco, tobacco products,
652 electronic nicotine delivery systems, e-liquids, or
653 alternative nicotine products may not advertise a tobacco
654 product, electronic nicotine delivery system, e-liquid, or
655 alternative nicotine product in a newspaper, magazine,
656 periodical, or other print or digital publication distributed
657 in this state for which less than 85 percent of the viewership
658 or readership of the publication is made up of individuals 21
659 years of age or older as measured by competent and reliable
660 survey evidence.

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

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

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

670 (3) Each day a violation of subsection (a) or
671 subsection (b) persists shall constitute a separate and
672 subsequent violation.



HB8 Engrossed

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

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

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

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



HB8 Engrossed

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

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

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

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



HB8 Engrossed

representations of any such products."

"§28-11-17.1

(a) (1) Beginning ~~March 1, 2022~~October 1, 2025, 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, whether the product contains any synthetic nicotine or nicotine derived from a source other than tobacco, and that ~~either any~~ of the following apply:

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, 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 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



757 court has issued a stay order or injunction during the
758 pendency of the manufacturer's appeal of the no marketing
759 order.

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

765 c. For electronic nicotine delivery system and e-liquid
766 products containing nicotine derived from tobacco or any
767 other source, the product was commercially marketed in the
768 United States as of April 12, 2022, and the manufacturer
769 applied for a marketing order pursuant to 21 U.S.C. § 387j on
770 or before May 14, 2022.

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

773 a. A~~a~~ copy of the cover page of the premarket tobacco
774 application with evidence of receipt of the application by the
775 FDA or a copy of the cover page of the marketing order or
776 other authorization issued pursuant to 21 U.S.C. § 387j,
777 whichever is applicable.

778 b. Information that clearly identifies each product,
779 submission tracking number (STN), product name, product
780 subcategory, characterizing flavor, and product SKU number.

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



HB8 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) Remove from the directory any product that the board determines is a prohibited item pursuant to Section 28-11-16(d).

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

HB8 Engrossed



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

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

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

831 ~~(f)~~(g) Each certifying e-liquid manufacturer and
832 manufacturer of alternative nicotine products shall pay an
833 initial fee of two thousand dollars (\$2,000) to offset the
834 costs incurred by the department for processing the
835 certifications and operating the directory. The commissioner
836 shall collect an annual renewal fee of five hundred dollars
837 (\$500) to offset the costs associated with maintaining the
838 directory and satisfying the requirements of this section. The
839 fees received under this section by the department shall be
840 used by the department exclusively for processing the



HB8 Engrossed

841 certifications and operating and maintaining the directory.
842 After the payment of these expenses, ~~two-thirds~~one-half of the
843 remaining funds shall be deposited into the State General
844 Fund, and the remaining ~~one-third~~one-half shall be distributed
845 evenly to the Alabama State Law Enforcement Agency and to the
846 Licensing and Compliance Division of the board to be used for
847 the enforcement of this chapter.

848 ~~(g)~~(h) Beginning on September 1, 2021, no e-liquid,
849 e-liquid in combination with an electronic nicotine delivery
850 system, or alternative nicotine product that, in the case of
851 any such product, contains synthetic nicotine or nicotine
852 derived from a source other than tobacco may be sold or
853 otherwise distributed in this state without either first
854 certifying that a premarket tobacco product application was
855 successfully submitted to the FDA and accepted for filing by
856 May 14, 2022, in accordance with the applicable requirements
857 under Section 201(rr) of the Federal Food, Drug, and Cosmetic
858 Act, or obtaining approval from the FDA for sale as a drug
859 under Section 201(g)(1) of the Federal Food, Drug, and
860 Cosmetic Act, a device under Section 201(h) of the Federal
861 Food, Drug, and Cosmetic Act, a combination product described
862 in Section 503(g) of the Federal Food, Drug, and Cosmetic Act,
863 or some other medical purpose.

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



nicotine delivery systems who ~~offers for sales~~ sells, furnishes, or gives away 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. For purposes of this subdivision "sale" includes a delivery sale of e-liquids or electronic nicotine delivery systems or alternative nicotine products, as defined under this chapter.

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

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

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

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

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

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

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



HB8 Engrossed

897 shall be deposited into the Education Trust Fund to the credit
898 of the State Board of Education to be used for the
899 establishment and administration of vape awareness, education,
900 and prevention programs and the provision of drug education
901 and prevention curriculum, as provided in Section 2 of the act
902 amending this section.

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

906 (m) Nothing in this section shall apply to any
907 manufacturer of alternative nicotine products that were
908 commercially marketed in the United States before February 15,
909 2007."

910 "§28-11-18

911 (a) All liquid nicotine containers offered for sale
912 that are intended to be vaporized in an electronic nicotine
913 delivery system shall be contained in child-resistant
914 packaging.

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

921 (1) "ALABAMA LAW STRICTLY PROHIBITS THE PURCHASE OF
922 TOBACCO, TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS,
923 E-LIQUIDS, AND ELECTRONIC NICOTINE DELIVERY SYSTEMS BY PERSONS
924 UNDER THE AGE OF 21 YEARS OF AGE. PROOF OF AGE IS REQUIRED."



HB8 Engrossed

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

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

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

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

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

Section 2. (a) By July 1, 2025, the State Board of Education shall adopt a model policy for the establishment of a vape awareness, education, and prevention program to prohibit the possession and use of prohibited tobacco, tobacco



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

(b) By September 1, 2025, each local board of education shall adopt a policy that, at a minimum, contains the criteria established in the model policy adopted by the State Board of Education.

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

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

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

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



981 based on curriculum established by the Drug Education Council
982 and approved by the State Board of Education.

983 b. An additional requirement that on a second or
984 subsequent violation, the student must attend and complete the
985 vaping awareness, education, and prevention class with his or
986 her parent or legal guardian.

987 (4) A model complaint form and procedure for reporting
988 violations of this section. An anonymous report may not be the
989 basis of imposing formal disciplinary action against a
990 student.

991 (5) A procedure for the prompt investigation of reports
992 of serious violations and complaints, specifying that the
993 principal, assistant principal, or school resource officer is
994 the individual responsible for the investigation.

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

999 (7) A procedure for publicizing local school board
1000 policy through publication in the student handbook, including
1001 providing notice that the policy applies to behavior occurring
1002 on school property, school buses, and at school-sponsored
1003 functions.

1004 (8) A statement prohibiting the use of tobacco, tobacco
1005 products, electronic nicotine delivery systems, e-liquids, and
1006 alternative nicotine products, as those terms are defined
1007 under Section 28-11-2, Code of Alabama 1975, by any teacher,
1008 administrator, or other school employee on the campus of any

HB8 Engrossed



1009 K-12 school.

1010 (c) The policy adopted by each local board of education
1011 shall be included in the code of conduct policy of the local
1012 board of education and included in the student handbook.

1013 Section 3. The Alcoholic Beverage Control Board shall
1014 adopt rules to implement and administer Chapter 11 of Title
1015 28, Code of Alabama 1975.

1016 Section 4. Section 28-11-15, Code of Alabama 1975,
1017 relating to the posting of signs regarding the sale of tobacco
1018 and tobacco products, is repealed.

1019 Section 5. Section 28-11-19, Code of Alabama, 1975,
1020 relating to limitation on locations of specialty retailers of
1021 electronic nicotine delivery systems, is repealed.

1022 Section 6. Although this bill would have as its purpose
1023 or effect the requirement of a new or increased expenditure of
1024 local funds, the bill is excluded from further requirements
1025 and application under Section 111.05 of the Constitution of
1026 Alabama of 2022, because the bill defines a new crime or
1027 amends the definition of an existing crime.

1028 Section 7. This act shall become effective June 1,
1029 2025.



HB8 Engrossed

1030
1031
1032

House of Representatives

1033 Read for the first time and referred04-Feb-25
1034 to the House of Representatives
1035 committee on Judiciary
1036
1037 Read for the second time and placed09-Apr-25
1038 on the calendar:
1039 2 amendments
1040
1041 Read for the third time and passed15-Apr-25
1042 as amended
1043 Yeas 89
1044 Nays 9
1045 Abs 1
1046
1047 John Treadwell
1048 Clerk
1049