

HB8 ENROLLED



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



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1 Enrolled, An Act,

2
3 Relating to the Alcoholic Beverage Control Board; to
4 amend Sections 28-11-2, 28-11-3, 28-11-5, 28-11-6.1,
5 28-11-6.2, 28-11-7, 28-11-9, 28-11-10, 28-11-12, 28-11-14,
6 28-11-16, 28-11-17.1, and 28-11-18, Code of Alabama 1975, and
7 Section 28-11-13, Code of Alabama 1975, as last amended by Act
8 2024-79, 2024 Regular Session, to further provide restrictions
9 on the sale of tobacco and other related products; to prohibit
10 the distribution of tobacco, tobacco products, electronic
11 nicotine delivery systems, e-liquids, and alternative nicotine
12 products through a vending machine; to require a license for
13 the retail sale of certain tobacco, synthetic tobacco,
14 electronic nicotine delivery systems, e-liquids, and
15 alternative nicotine products and provide for license fees; to
16 provide restrictions on the sale of electronic nicotine
17 delivery systems and e-liquids; to further provide for the
18 authorized penalties for certain violations; to establish the
19 Tobacco Licensing and Compliance Fund in the State Treasury
20 and provide for its administration; to further provide for the
21 membership of the advisory board to the Alcoholic Beverage
22 Control Board; to further provide for the requirement of
23 tobacco retailers to post signage warning of the dangers of
24 tobacco product use; to require the board to adopt rules; to
25 add Sections 28-11-7.1 and 28-11-17.2 to the Code of Alabama
26 1975, to provide for the sale of electronic nicotine delivery
27 systems and to require vaping products to be manufactured in
28 the United States; and to require the State Board of Education



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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 Board.

(3) CHILD-RESISTANT PACKAGING. Liquid nicotine



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57 container packaging meeting the requirements of 15 U.S.C. §
58 1472a.

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

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

64 ~~(5)~~ (6) DISTRIBUTION. To sell, barter, exchange, or give
65 ~~tobacco or tobacco products~~ for promotional purposes or for
66 gratis.

67 ~~(6)~~ (7) ELECTRONIC NICOTINE DELIVERY SYSTEM. Any
68 electronic device that uses a battery and heating element in
69 combination with an e-liquid or tobacco, or substitutes
70 thereof, to produce a vapor that delivers nicotine or other
71 substances to the individual inhaling from the device to
72 simulate smoking, and includes, but is not limited to,
73 products that may be offered to, purchased by, or marketed to
74 consumers as an electronic cigarette, electronic cigar,
75 electronic cigarillo, electronic pipe, electronic hookah, vape
76 pen, vape tool, vaping device, or any variation of these
77 terms. The term also includes any e-liquid intended to be
78 vaporized in any device included in this subdivision.

79 ~~(7)~~ (8) ELECTRONIC NICOTINE DELIVERY SYSTEM RETAILER.
80 Any retail business which offers for sale electronic nicotine
81 delivery systems.

82 ~~(8)~~ (9) E-LIQUID. A liquid that contains nicotine or
83 other substances and may include flavorings or other
84 ingredients that are intended for use in an electronic



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nicotine delivery system. The term includes e-liquid substitutes, tobacco substitutes, and any other product that may be used in conjunction with an electronic nicotine delivery system, or other substances.

~~(9)~~ (10) 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.

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

~~(11)~~ (12) 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~~ prefilled and sealed by the manufacturer and is not intended to be opened by the consumer.

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

~~(13)~~ (14) PERSON. Any natural person, firm, partnership, association, company, corporation, or other entity. ~~Person~~ The term does not include a manufacturer or wholesaler of tobacco or tobacco products nor does it include employees of the permit holder.



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113 ~~(14)~~(15) PROOF OF IDENTIFICATION. Any one or more of
114 the following documents used for purposes of determining the
115 age of an individual purchasing, attempting to purchase, or
116 receiving tobacco, tobacco products, electronic nicotine
117 delivery systems, or alternative nicotine products:

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

120 b. United States Uniform Service Identification and
121 Privilege Card.

122 c. A valid passport.

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

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

129 ~~(15)~~(16) RESPONSIBLE VENDOR PROGRAM. A program
130 administered by the board to encourage and support vendors in
131 training employees in legal and responsible sales practices.

132 ~~(16)~~(17) SAMPLER. Any business or person who
133 distributes tobacco, ~~or~~tobacco products, electronic nicotine
134 delivery systems, e-liquids, or alternative nicotine products
135 for promotional purposes.

136 ~~(17)~~(18) SELF-SERVICE DISPLAY. A display that contains
137 tobacco, ~~or~~tobacco products, electronic nicotine delivery
138 systems, e-liquids, or alternative nicotine products and is
139 located in an area openly accessible to purchasers at retail
140 and from which the purchasers can readily access tobacco or



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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, e-liquids, or alternative nicotine products.

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



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169 systems.

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

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

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

179 ~~(19)~~ (20) TOBACCO or TOBACCO PRODUCT. Any product made
180 or derived from tobacco that is intended for human
181 consumption, including any component, part, or accessory of a
182 tobacco product, except for raw materials other than tobacco
183 used in manufacturing a component, part, or accessory of a
184 tobacco product, but does not include an article that is a
185 drug under Section 201(g)(1) of the Federal Food, Drug, and
186 Cosmetic Act, a device under Section 201(h) of the Federal
187 Food, Drug, and Cosmetic Act, or a combination product
188 described in Section 503(g) of the Federal Food, Drug, and
189 Cosmetic Act.

190 ~~(20)~~ (21) TOBACCO PERMIT. A permit issued by the board
191 to allow the permit holder to engage in the distribution of
192 tobacco, tobacco products, electronic nicotine delivery
193 systems, e-liquids, or alternative nicotine products at the
194 location identified in the permit.

195 ~~(21)~~ (22) TOBACCO SPECIALTY STORE. A business that
196 derives at least 75 percent of its revenue from tobacco or



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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 any county, city, town, or other political subdivision, or by a deputy or officer thereof.~~ No individual under the age of 21



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~~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, and electronic nicotine delivery systems by individuals under ~~the age of 21 years~~ of age and other appropriate information.



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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, or electronic nicotine delivery system shall be distributed sold, offered for sale, furnished, or given away at retail through a self-service display unless the display ~~is a~~



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~~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) Any person who distributes tobacco, tobacco
products, ~~electronic nicotine delivery systems, or~~ non-vapor
based 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.

~~(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.



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(d) ~~A permit is not transferable or assignable and shall be renewed annually. Notwithstanding the foregoing, 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), may ~~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,~~ 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 for the issuance and renewal of permits which combine tobacco permit procedures with the application and licensing procedures for alcoholic beverages.

(f) All monies collected under this section shall be deposited into the State Treasury to the credit of the Vaping Licensing and Enforcement Fund under Section 28-11-10."

"§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



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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 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



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suspend or revoke the permit issued by the board, or a combination of all three. In all cases where the board or hearing commission ~~shall levy~~levies an administrative fine or ~~suspend or revoke~~suspends or revokes a permit, ~~it~~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 ~~finer may~~penalties shall be levied for violations of this chapter ~~against valid permit holders or employees, or both:~~



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(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 one
thousand dollars (\$1,000)~~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)~~two
thousand five hundred dollars (\$2,500).

~~(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).~~

~~(4) Upon conviction of~~(3) For a ~~fourth~~third or
subsequent 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 ~~one~~five
thousand dollars ~~(\$1,000)~~(\$5,000) and ~~may suspend or~~shall
revoke the permit. A permit shall not be reissued at the
location, regardless of change in ownership, at anytime during



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421 the revocation period.

422 (f) Before imposition of any administrative
423 ~~fine~~penalty, the permit holder shall be afforded all
424 procedural rights to due process in addition to those rights
425 guaranteed by the Alabama Administrative Procedure Act,
426 Chapter 22 of Title 41.

427 (g) All fines and other monies collected under this
428 section shall be deposited into the State Treasury to the
429 credit of the Vaping Licensing and Enforcement Fund under
430 Section 28-11-10."

431 "§28-11-10

432 The Vaping Licensing and Enforcement Fund is hereby
433 created in the State Treasury. All fees and other funds
434 collected pursuant to this chapter shall be deposited into the
435 ~~State General Fund~~State Treasury to the credit of the fund.
436 Amounts deposited into the fund shall be budgeted and allotted
437 in accordance with Sections 41-4-80 through 41-4-96 and
438 Sections 41-19-1 through 41-19-12. Monies in the fund shall be
439 distributed as follows:

440 (1) Forty percent to the Licensing and Compliance
441 Division of the board for operational costs of enforcing this
442 chapter and providing tobacco and nicotine prevention
443 education.

444 (2) Twenty percent to the Public Safety Fund of the
445 Alabama State Law Enforcement Agency to be used for the
446 enforcement of this chapter.

447 (3) Twenty percent to the State Board of Education for
448 the establishment and administration of vape awareness,



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education, and prevention programs and the provision of drug education and prevention curriculum, as provided in Section 3 of the act amending this section.

(4) Twenty percent to the Unified Judicial System for the provision of drug education and prevention curriculum and court-ordered nonresidential addiction or substance abuse rehabilitation courses under Section 28-11-13(d)."

"§28-11-12

(a) An advisory board shall be established to monitor 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~~
GovernorPresident Pro Tempore of the Senate.

(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 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' Association as appointed by~~



the Governor and selected from three nominees submitted by the association. (8) The Alabama State Law Enforcement Agency.

(9) The Department of Revenue.

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

(11) 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~~President Pro Tempore of the Senate 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



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of age to purchase, use, possess, or transport tobacco, a tobacco product, alternative nicotine product, e-liquid, tobacco substitute, or an electronic nicotine delivery system or other electronic battery-powered device capable of being used to deliver any e-liquid ~~or e-liquid substitute~~; tobacco ~~or tobacco substitute~~; CBD oil ~~or THC oil~~; liquid that contains cannabinoids derived from or found in hemp which is intended for use in an electronic nicotine delivery system; herbal extract~~;~~ or nicotine salt, or any analog ~~thereof~~ of the foregoing~~;~~ or any other substance to the individual through the inhalation of vapor~~, or an alternative nicotine product~~ within this state.

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

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



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

(d) Except as otherwise provided, a violation of this section by an individual under 19 years of age shall constitute a delinquent act and the individual shall be subject to the exclusive jurisdiction of the juvenile court as follows:

(1) For a first violation, the individual's parent or legal guardian shall be notified and the court shall require the individual to attend an in-person vaping awareness, education, and prevention class as described in Section 3(d) of the act amending this section.

(2) For a second violation, the individual's parent or legal guardian shall be notified and the court shall require the individual to attend a nonresidential addiction or substance abuse rehabilitation course approved by the court and the Department of Public Health. The course shall be at no cost to the individual. The course may be in-person or online. The cost of the treatment shall be paid out of the Vaping Licensing and Enforcement Fund pursuant to Section 28-11-10(4).

a. If the individual is under 19 years of age, the individual's parent or legal guardian must attend the course



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561 with the individual.

562 b. If the individual is 19 or more years of age, the
563 court shall require the individual to attend the course with a
564 rehabilitation sponsor approved by the court. Any of the
565 following may serve as a rehabilitation sponsor subject to
566 approval by the court: a parent or legal guardian, school
567 counselor, teacher, school administrator, member of the
568 clergy, or other individual approved by the court.

569 (3) No court costs or fees may be assessed under this
570 subsection.

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

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

579 "§28-11-14

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

586 (2) Prohibited tobacco, tobacco products, electronic
587 nicotine delivery systems, e-liquids, and alternative nicotine
588 products kept, stored, or deposited in any place in this state



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589 for the purpose of unlawful sale or unlawful disposition or
590 unlawful furnishing or distribution, and the vessels and
591 receptacles in which the products are contained are declared
592 to be contraband and shall be seized and forfeited to the
593 state and may be condemned for destruction pursuant to the
594 procedures set out in Article 11 of Chapter 4 concerning
595 alcoholic beverages.

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

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

611 (c) All fixtures, equipment, materials, and personal
612 property used in substantial connection with the sale or
613 possession of tobacco, tobacco products, electronic nicotine
614 delivery systems, e-liquids, and alternative nicotine products
615 involved in a violation of this article shall be subject to
616 the same seizure and forfeiture procedures as provided



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617 pursuant to Article 11 of Chapter 4.

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

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

638 (e) Nothing in this section shall apply to any
639 manufacturer of alternative nicotine products that were
640 commercially marketed in the United States before February 15,
641 2007."

642 "§28-11-16

643 (a) (1) A retailer or manufacturer of electronic
644 nicotine delivery systems, e-liquids, or alternative nicotine



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products may not advertise an electronic nicotine delivery system, e-liquid, or an alternative nicotine product in any of the following ways:

a. As a tobacco cessation product.

b. As a healthier alternative to smoking.

c. As available for purchase in any variety of flavors other than tobacco, mint, or menthol on any outdoor billboard.

d. On any outdoor billboard located within 1,000 feet of any public or private K-12 school or public playground.

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

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

(2) A specialty retailer of electronic nicotine delivery systems or manufacturer of tobacco, tobacco products, electronic nicotine delivery systems, e-liquids, or alternative nicotine products may not use the brand name of any tobacco product, alternative nicotine product, e-liquid, or electronic nicotine delivery system to advertise at or sponsor any event at a stadium, concert, sporting event, or



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other public performance event for which individuals ~~aged 21~~
years of age or older make up less than 85 percent of the
total age demographic of ~~performing participants~~individuals
performing at the event.

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

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

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

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

(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



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701 nicotine delivery system, an e-liquid, or an alternative
702 nicotine product in any of the following ways:

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

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

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

725 (4) By using, in the labeling or design of the product,
726 its packaging, or in its advertising or marketing materials,
727 trade dress, trademarks, branding, or other related imagery
728 that depicts or signifies characters or symbols that are known



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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 representations of any such products.

(h) All fines and other monies collected under this section shall be deposited into the State Treasury to the credit of the Vaping Licensing and Enforcement Fund under



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Section 28-11-10."

"§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, to: (i) whether the product contains any synthetic nicotine or nicotine derived from a source other than tobacco; (ii) where the product was manufactured; and (iii) that any ~~either 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



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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.

c. For electronic nicotine delivery systems and e-liquid products containing nicotine derived from tobacco or any other source, the product was commercially marketed 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.

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

a. A~~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~~;~~;

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

(b) Any manufacturer submitting a certification pursuant to subsection (a) shall notify the commissioner within 30 days of any material change to the certification,



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813 including issuance by the FDA of any of the following:

814 (1) A market order or other authorization pursuant to
815 21 U.S.C. § 387j.

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

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

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

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

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

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

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

836 (3) Remove from the directory any product that the
837 board determines is a prohibited item pursuant to this section
838 or Section 28-11-16(d).

839 ~~(3)~~ (4) Send monthly notifications to each wholesaler,
840 jobber, semijobber, retailer, importer, or distributor of



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

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

~~(e)~~ (f) 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 product 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)~~ (g) 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



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

~~(g)~~(h) 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 either first certifying that a premarket tobacco product application was successfully submitted to the FDA and accepted for filing by May 14, 2022, in accordance with the applicable requirements under Section 201(rr) of the Federal Food, Drug, and Cosmetic Act, or 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)~~(i) (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~~An e-liquid manufacturer or



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manufacturer of alternative nicotine products or electronic
nicotine delivery systems who ~~offers for sale~~sells, furnishes,
or gives away a product not listed on the directory is subject
to a one thousand ~~dollars~~dollar (\$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 one thousand dollars (\$1,000).

b. For a second offense within a four-year period, an
administrative penalty of two thousand five hundred dollars
(\$2,500).

c. For a third or subsequent offense within a four-year
period, an administrative penalty of five thousand dollars
(\$5,000). In addition, the board shall revoke the permit of
the permit holder and no permit may be issued at the location
for a minimum of one year after the date of revocation.

(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



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925 in Section 28-11-14 by agents of the board or any law
926 enforcement officer.

927 (k) Any fine collected for a violation of this section
928 shall be deposited into the Vaping Licensing and Enforcement
929 Fund under Section 28-11-10.

930 (l) Nothing in this section shall apply to any
931 manufacturer of alternative nicotine products that were
932 commercially marketed in the United States before February 15,
933 2007.

934 ~~(i)~~ (m) The commissioner Alcoholic Beverage Control Board
935 and the Commissioner of Revenue shall adopt rules for the
936 implementation and enforcement of this section."

937 "§28-11-18

938 (a) All liquid nicotine containers offered for sale
939 that are intended to be vaporized in an electronic nicotine
940 delivery system shall be contained in child-resistant
941 packaging.

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

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

952 ~~(2) "THE USE OF SOME VAPING DEVICES MAY INCREASE YOUR~~



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~~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. Section 28-11-7.1 and Section 28-11-17.2 are
added to the Code of Alabama 1975, to read as follows:

§28-11-7.1

(a) A person desiring to operate as a specialty
retailer of electronic nicotine delivery systems shall apply



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for a license from the board. The board, by rule, shall establish requirements for the license, which shall include an application fee of fifty dollars (\$50). On approval by the board, the person shall pay to the board a license fee of one thousand dollars (\$1,000), which shall be renewed annually. All fees collected by the board under this section shall be deposited into the Vaping Licensing and Enforcement Fund under Section 28-11-10.

(b) A license issued under this section shall be valid only for one location specified in the permit application.

(c) (1) Except as provided in subdivision (2), e-liquids, electronic nicotine delivery systems, and vapor-based alternative nicotine products may only be sold at retail by a licensed specialty retailer of electronic nicotine delivery systems.

(2) An e-liquid, electronic nicotine delivery system, and vapor-based alternative nicotine product that has received a marketing order or other authorization under 21 U.S.C. § 387j(c)(1)(A)(i) authorizing the product to be introduced or delivered for introduction into interstate commerce may be sold by a person permitted under Section 28-11-7.

(d) No specialty retailer of electronic nicotine delivery systems shall allow anyone under 21 years of age to be within the retail establishment. Each specialty retailer of electronic nicotine delivery systems, as a condition of entry into the retail establishment, shall require each patron to verify his or her age using a third-party age verification service approved by the board. The age verification service



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1009 shall require the presentation and electronic scanning of the
1010 patron's driver license or nondriver identification card as a
1011 condition of entry into the retail establishment.

1012 (e) Any person who violates this section shall be
1013 punished as provided in Section 28-11-9(e).

1014 §28-11-17.2

1015 (a) (1) The Legislature finds and declares the
1016 following:

1017 a. Electronic nicotine delivery systems, commonly
1018 called electronic cigarettes or e-cigarettes, or simply
1019 "vapes," are battery-powered devices that use a heating
1020 mechanism to vaporize a mixture containing nicotine or other
1021 chemicals with the intent that the vapor be inhaled.

1022 b. E-cigarettes are inherently harmful. The main
1023 ingredient, nicotine, is highly addictive, and the amounts of
1024 nicotine are largely unregulated. A single e-cigarette can
1025 have as much nicotine as hundreds of traditional cigarettes.
1026 Scientific studies have shown that the most commonly used
1027 organic solvent of e-cigarette oil, propylene glycol, has been
1028 shown to form carcinogens including formaldehyde when
1029 oxidized. The components of e-cigarettes contain varying
1030 amounts of carcinogenic metals, the most common of which are
1031 chromium, nickel, and aluminum which, when heated, can be
1032 released into the device and enter the user's body.

1033 c. E-liquids manufactured in foreign countries are
1034 notorious for being manufactured with pesticide-grade
1035 nicotine, industrial propylene glycol, and other chemicals
1036 highly harmful chemicals to the human body. There have been



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1037 many reports of these foreign products being fraudulently
1038 labeled to bypass customs enforcement and regulators.

1039 d. There are thousands of different types of
1040 e-cigarettes and varying e-liquids sold in the United States
1041 today, but only an extremely small fraction of this amount has
1042 actually received approval from the federal Food and Drug
1043 Administration.

1044 e. The FDA has largely been silent in its role as
1045 industry regulator, and has not acted to remove unlawful
1046 vaping products from the shelves of retailers, nor has it
1047 acted to properly approve or disapprove vaping products for
1048 retail sale in the United States.

1049 (2) Based on the foregoing, the Legislature declares
1050 that the health, safety, and welfare of the residents of the
1051 State of Alabama requires that until the FDA begins to
1052 effectively regulate vaping products in the United States,
1053 this state must restrict and prohibit the sale of foreign
1054 vaping products.

1055 (b) Beginning October 1, 2025, no e-liquid, electronic
1056 nicotine delivery system, or alternative nicotine product may
1057 be added to the Electronic Nicotine Delivery System (ENDS)
1058 Directory maintained by the Department of Revenue pursuant to
1059 Section 28-11-17.1 unless either of the following apply:

1060 (1) The product and its components are made, packaged,
1061 labeled, and manufactured in the United States.

1062 (2) The manufacturer of the product has received a
1063 marketing order or other authorization under 21 U.S.C. §
1064 387j(c)(1)(A)(i) authorizing the product to be introduced or



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1065 delivered for introduction into interstate commerce.

1066 (c) The Department of Revenue may require a
1067 manufacturer, wholesaler, or distributor of an e-liquid,
1068 electronic nicotine delivery system, or alternative nicotine
1069 product to certify under penalty of perjury that its products
1070 are in compliance with subdivision (b)(1).

1071 Section 3. (a) On or before September 1, 2025, the
1072 State Board of Education shall adopt a model policy for the
1073 establishment of a vape awareness, education, and prevention
1074 program to prohibit the possession and use of prohibited
1075 tobacco, tobacco products, electronic nicotine delivery
1076 systems, e-liquids, and alternative nicotine products by
1077 students in public K-12 schools.

1078 (b) On or before November 1, 2025, each local board of
1079 education shall adopt a policy that, at a minimum, contains
1080 the criteria established in the model policy adopted by the
1081 State Board of Education.

1082 (c) The model policy adopted by the State Board of
1083 Education, at a minimum, shall contain all of the following:

1084 (1) A statement prohibiting the possession or use of
1085 tobacco, tobacco products, electronic nicotine delivery
1086 systems, e-liquids, and alternative nicotine products, as
1087 those terms are defined under Section 28-11-2, Code of Alabama
1088 1975, by any student at a public K-12 school, on a school bus,
1089 or at any school-sponsored function.

1090 (2) A series of graduated consequences for any student
1091 who violates the policy by possessing or using tobacco,
1092 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: (i) Notification of the student's parent or guardian; (ii) required participation in a vaping awareness, education, and prevention class; (iii) in-school suspension, out-of-school suspension, or alternative school; (iv) referral of the matter to the juvenile court for disposition pursuant to Section 28-11-13(d), Code of Alabama 1975; or (v) any combination of the foregoing. Graduated consequences shall conform with applicable disability, antidiscrimination, and education laws and school discipline policies.

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

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

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

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



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1121 (7) A statement prohibiting the use of tobacco, tobacco
1122 products, electronic nicotine delivery systems, e-liquids, and
1123 alternative nicotine products, as those terms are defined
1124 under Section 28-11-2, Code of Alabama 1975, by any teacher,
1125 administrator, or other school employee on the campus of any
1126 public K-12 school.

1127 (d) The State Department of Education shall coordinate
1128 with the Drug Education Council to develop a vaping awareness,
1129 education, and prevention class based on curriculum
1130 established by the Drug Education Council. The content of the
1131 class shall be approved by the State Board of Education. The
1132 department shall make the curriculum available to each local
1133 board of education through the local superintendent of
1134 education.

1135 (e) The policy adopted by each local board of education
1136 shall be included in the code of conduct policy of the local
1137 board of education and included in the student handbook.

1138 Section 4. The Alcoholic Beverage Control Board shall
1139 adopt rules to implement and administer Chapter 11 of Title
1140 28, Code of Alabama 1975.

1141 Section 5. Section 28-11-15, Code of Alabama 1975,
1142 relating to the posting of signs regarding the sale of tobacco
1143 and tobacco products, is repealed.

1144 Section 6. Section 28-11-19, Code of Alabama 1975,
1145 relating to limitation on locations of specialty retailers of
1146 electronic nicotine delivery systems, is repealed.

1147 Section 7. This act shall become effective on June 1,
1148 2025.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 15-Apr-25, as amended.

John Treadwell
Clerk

Senate	<u>06-May-25</u>	Amended and Passed
House	<u>06-May-25</u>	Concurred in Senate Amendment