



**House Ways and Means General Fund Reported  
Substitute for HB529**

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A BILL  
TO BE ENTITLED  
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

(2) DEPARTMENT. The Alabama Department of Revenue.

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

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



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29 wholesale in this state or imported into this state for use,  
30 consumption, or sale at retail. The tax shall be ten cents  
31 (\$0.10) per milliliter of a consumable vapor product. The tax  
32 shall not apply to sales between licensed wholesalers, being  
33 the purpose and intent of this provision that the tax levied  
34 is a levy on the ultimate consumer or user of consumable vapor  
35 products with the wholesaler acting merely as an agent of the  
36 state for the collection and payment of the tax to the state.

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

40 (2) The tax levied in subsection (a) shall be exclusive  
41 and shall be in lieu of any other or additional county or  
42 municipal taxes or license fees imposed on the sale or use of  
43 consumable vapor products, and any act of the Legislature or  
44 an ordinance or resolution by a taxing authority passed or  
45 enacted on or before October 1, 2026, imposing a local tax or  
46 local license fee on consumable vapor products is void.

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

51 Section 3. The proceeds from the tax levied in Section  
52 2 and the penalties collected under the provisions of this act  
53 shall be remitted to the department, which shall retain the  
54 amount necessary to fund the administrative costs of  
55 collecting the tax. The balance of the proceeds collected  
56 shall be distributed quarterly as follows:



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

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

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

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

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

83 (b) On or before the 20th day of each month, each  
84 person on whom the tax is imposed shall submit a statement to



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85 the department showing the amounts utilized in the measurement  
86 of the tax and all other information required by the  
87 department and shall pay to the department the amount of tax  
88 shown due.

89 (c) A licensee who timely files a return with the  
90 payment due may deduct from the amount of tax payable with the  
91 return a discount of 4.75 percent of the amount of tax payable  
92 to the state. If the person does not remit the full amount  
93 listed as due on the tax return, any discount claimed by the  
94 person is disallowed.

95 (d) It is the duty of every person receiving, storing,  
96 selling, or handling consumable vapor products subject to the  
97 tax to keep and preserve all documents relating to the  
98 purchase, sale, exchange, or receipt of all consumable vapor  
99 products subject to the tax. Any authorized representative of  
100 the department may audit and inspect this documentation during  
101 normal business hours of the seller. The purchaser shall  
102 retain all purchase invoices from the source for every  
103 purchase of consumable vapor products received for a period of  
104 90 days at the purchaser's location. At the end of the 90  
105 days, the purchase records shall be maintained with the  
106 required books and records for a period of three years from  
107 the date of purchase.

108 Section 5. (a) Any person subject to this act who fails  
109 to make any report required of them by the department or who  
110 fails to keep any of the records required by this act shall be  
111 guilty of a Class B misdemeanor. Each month of such failure  
112 shall constitute a separate offense. Consumable vapor products



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113 shall be included in the informational report for tobacco  
114 products filed with the department pursuant to and subject to  
115 the penalties of Section 40-23-260, Code of Alabama 1975.

116 (b) Any taxpayer who violates this section may be  
117 restrained from continuing in business, and the proper  
118 prosecution shall be instituted in the name of the State of  
119 Alabama by the Attorney General or by the counsel of the  
120 department until the person complies with this act.

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

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

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

132 "§28-11-2

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

136 (1) ALTERNATIVE NICOTINE PRODUCT. The term alternative  
137 nicotine product includes any product that consists of or  
138 contains nicotine that can be ingested into the body by  
139 chewing, smoking, absorbing, dissolving, inhaling, snorting,  
140 sniffing, or by any other means. The term does not include a



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141 tobacco product, electronic nicotine delivery system, or any  
142 product that has been approved by the United States Food and  
143 Drug Administration for sale as a tobacco cessation product or  
144 for other medical purposes and that is being marketed and sold  
145 solely for that purpose.

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

148 (3) CHILD-RESISTANT PACKAGING. Liquid nicotine  
149 container packaging meeting the requirements of 15 U.S.C. §  
150 1472a.

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

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

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

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



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169 delivery systems.

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

175 (9) E-LIQUID MANUFACTURER. Any person who manufactures,  
176 fabricates, assembles, processes, mixes, prepares, labels,  
177 repacks, or relabels an e-liquid to be sealed in final  
178 packaging intended for consumer use. This term includes an  
179 owner of a brand or formula for an e-liquid who contracts with  
180 another person to complete the fabrication and assembly of the  
181 product to the brand or formula owner's standards.

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

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

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

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



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

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

204           b. United States Uniform Service Identification.

205           c. A valid passport.

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

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

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

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

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





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

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

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

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

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

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

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

247 (19) TOBACCO or TOBACCO PRODUCT. Any product made or  
248 derived from tobacco that is intended for human consumption,  
249 including any component, part, or accessory of a tobacco  
250 product, except for raw materials other than tobacco used in  
251 manufacturing a component, part, or accessory of a tobacco  
252 product, but does not include an article that is a drug under



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253 Section 201(g) (1) of the Federal Food, Drug, and Cosmetic Act,  
254 a device under Section 201(h) of the Federal Food, Drug, and  
255 Cosmetic Act, or a combination product described in Section  
256 503(g) of the Federal Food, Drug, and Cosmetic Act.

257 (20) TOBACCO PERMIT. A permit issued by the board to  
258 allow the permit holder to engage in the distribution of  
259 tobacco, tobacco products, electronic nicotine delivery  
260 systems, or alternative nicotine products at the location  
261 identified in the permit.

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

265 "§28-11-7

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

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

278 (b) Any person who maintains a tobacco, tobacco  
279 product, electronic nicotine delivery system, or alternative  
280 nicotine product vending machine on his or her property in



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281 this state shall first obtain a permit from the board for each  
282 machine at each machine location. The permit for each machine  
283 shall be posted in a conspicuous place on the machine.

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

286 (d) A permit is not transferable or assignable and  
287 shall be renewed annually. Notwithstanding the foregoing, if a  
288 location for which a permit is obtained is sold or  
289 transferred, the permit shall be transferred to the person  
290 obtaining control of the location and shall be valid for 30  
291 days after the transfer during which time a new permit shall  
292 be obtained.

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

297 "§28-11-17.1

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

308 a. The product was on the market in the United States



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309 as of August 8, 2016, and the manufacturer has applied for a  
310 marketing order pursuant to 21 U.S.C. § 387j for the e-liquid,  
311 e-liquid in combination with an electronic nicotine delivery  
312 system, or alternative nicotine product that was on the market  
313 in the United States as of April 12, 2022 and the manufacturer  
314 applied for a marketing order pursuant to 21 U.S.C. § 387j on  
315 or before May 14, 2022; whichever is applicable, by  
316 submitting a premarket tobacco product application on or  
317 before September 9, 2020, to the FDA; and either of the  
318 following is true:

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

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

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

333 (2) In addition to the requirements in subdivision (1),  
334 each manufacturer shall provide a copy of the cover page of  
335 the premarket tobacco application with evidence of receipt of  
336 the application by the FDA or a copy of the cover page of the



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337 marketing order or other authorization issued pursuant to 21  
338 U.S.C. § 387j, whichever is applicable.

339 (3) If an alternative nicotine manufacturer can  
340 demonstrate to the commissioner that an alternative nicotine  
341 product was on the U.S. market as of April 14, 2022, and the  
342 manufacturer applied for a premarket tobacco product  
343 application ("PMTA") prior to May 14, 2022, pursuant to  
344 federal law, and the PMTA remains under review by the FDA, the  
345 alternative nicotine product shall be added to the directory  
346 upon request by the manufacturer if the manufacturer provides  
347 the Alabama Department of Revenue with the alternative  
348 nicotine product's FDA submission tracking number (STN), as  
349 received by the manufacturer after proper PMTA filing.

350 (4) To the extent that 21 U.S.C. § 387j is amended, or  
351 subsequent regulations or other official federal guidance is  
352 issued, changing compliance requirements or standards for an  
353 e-liquid, e-liquid in combination with an electronic nicotine  
354 delivery system, or alternative nicotine product to become  
355 federally compliant, each manufacturer of an e-liquid,  
356 e-liquid in combination with an electronic nicotine delivery  
357 system, or alternative nicotine product, as applicable, that  
358 is sold for retail sale in Alabama shall submit documentation  
359 to the commissioner substantiating compliance with such new  
360 federal requirements or standards within 30 days of when  
361 compliance with such requirement or standard is mandated.  
362 Failure to substantiate compliance with new federal  
363 requirements or standards shall be grounds for removal of the  
364 manufacturer and its e-liquid, e-liquid in combination with an



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365 electronic nicotine delivery system, or alternative nicotine  
366 product, as applicable, from the directory established  
367 pursuant to subsection (d).

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

372 (1) A market order or other authorization pursuant to  
373 21 U.S.C. § 387j.

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

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

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

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

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

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

389 (2) Update the directory as necessary in order to  
390 correct mistakes and to add or remove e-liquid manufacturers,  
391 manufacturers of alternative nicotine products, or products  
392 manufactured by those manufacturers consistent with the



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393 requirements of subsections (a) and (b) on a monthly basis.

394           (3) Send monthly notifications to each wholesaler,  
395 jobber, semijobber, retailer, importer, or distributor of  
396 tobacco products that have qualified or registered with the  
397 Department of Revenue, by electronic communication, containing  
398 a list of all changes that have been made to the directory in  
399 the previous month. In lieu of sending monthly notifications,  
400 the commissioner may make the information available in a  
401 prominent place on the Department of Revenue's public website.

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

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

415           (f) Each certifying e-liquid manufacturer and  
416 manufacturer of alternative nicotine products shall pay an  
417 initial fee of two thousand dollars (\$2,000) to offset the  
418 costs incurred by the department for processing the  
419 certifications and operating the directory. The commissioner  
420 shall collect an annual renewal fee of five hundred dollars



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421 (\$500) to offset the costs associated with maintaining the  
422 directory and satisfying the requirements of this section. The  
423 fees received under this section by the department shall be  
424 used by the department exclusively for processing the  
425 certifications and operating and maintaining the directory.  
426 After the payment of these expenses, two-thirds of the  
427 remaining funds shall be deposited into the General Fund, and  
428 the remaining one-third shall be distributed evenly to the  
429 Alabama State Law Enforcement Agency and to the board.

430 (g) Beginning on September 1, 2021, no e-liquid,  
431 e-liquid in combination with an electronic nicotine delivery  
432 system, or alternative nicotine product that, in the case of  
433 any such product, contains synthetic nicotine or nicotine  
434 derived from a source other than tobacco may be sold or  
435 otherwise distributed in this state without first obtaining  
436 approval from the FDA for sale as a drug under Section  
437 201(g)(1) of the Federal Food, Drug, and Cosmetic Act, a  
438 device under Section 201(h) of the Federal Food, Drug, and  
439 Cosmetic Act, a combination product described in Section  
440 503(g) of the Federal Food, Drug, and Cosmetic Act, or some  
441 other medical purpose.

442 (h)(1) Beginning May 1, 2022, or on the date that the  
443 Department of Revenue first makes the directory available for  
444 public inspection on its website as provided in subsection  
445 (d), whichever is later, an e-liquid manufacturer or  
446 manufacturer of alternative nicotine products who offers for  
447 sale a product not listed on the directory is subject to a one  
448 thousand dollars (\$1,000) daily fine for each product offered





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449 for sale in violation of this section until the offending  
450 product is removed from the market or until the offending  
451 product is properly listed on the directory.

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

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

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

458 Section 9. This act shall become effective on October  
459 1, 2025.