

**HB65 ENGROSSED**



1 HB65  
2 PFH7EGG-2  
3 By Representative Drummond  
4 RFD: Judiciary  
5 First Read: 06-Feb-24  
6 PFD: 30-Jan-24



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A BILL  
TO BE ENTITLED  
AN ACT

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



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29 establish a model vaping awareness, education, and prevention  
30 program and require each local board of education to adopt a  
31 policy based on the model policy; to repeal Sections 28-11-15  
32 and 28-11-19, Code of Alabama 1975, and in connection  
33 therewith would have as its purpose or effect the requirement  
34 of a new or increased expenditure of local funds within the  
35 meaning of Section 111.05 of the Constitution of Alabama of  
36 2022.

37 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

38 Section 1. Sections 28-11-2, 28-11-3, 28-11-5,  
39 28-11-6.1, 28-11-6.2, 28-11-7, 28-11-9, 28-11-10, 28-11-12,  
40 28-11-13, 28-11-14, 28-11-16, 28-11-17.1, and 28-11-18, Code  
41 of Alabama 1975, are amended to read as follows:

42 "§28-11-2

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

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

56 (2) BOARD. The Alabama Alcoholic Beverage Control



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57 Board.

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

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

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

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

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

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

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



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

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

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

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

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

111 ~~(13)~~ (14) PERSON. Any natural person, firm, partnership,  
112 association, company, corporation, or other entity. Person



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113 does not include a manufacturer or wholesaler of tobacco or  
114 tobacco products nor does it include employees of the permit  
115 holder.

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

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

123 b. United States Uniform Service Identification.

124 c. A valid passport.

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

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

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

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

138 ~~(17)~~ (18) SELF-SERVICE DISPLAY. A display that contains  
139 tobacco, ~~or~~ tobacco products, electronic nicotine delivery  
140 systems, alternative nicotine products, or e-liquids and is



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141 located in an area openly accessible to purchasers at retail  
142 and from which the purchasers can readily access tobacco or  
143 tobacco products without the assistance of the tobacco permit  
144 holder or an employee of the permit holder. A display case  
145 that holds tobacco or tobacco products behind locked doors  
146 does not constitute a self-service display.

147 ~~(18)~~ (19) SPECIALTY RETAILER OF ELECTRONIC NICOTINE  
148 DELIVERY SYSTEMS. A business establishment at which any of the  
149 following are true:

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

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

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

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

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



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

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

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

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

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

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





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197           ~~(21)~~(22) TOBACCO SPECIALTY STORE. A business that  
198 derives at least 75 percent of its revenue from tobacco or  
199 tobacco products.

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

207           "§28-11-3

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



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

241 "§28-11-5

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



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

261 "§28-11-6.1

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

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

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

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

278 "§28-11-6.2

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



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

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

290 "§28-11-7

291 (a) (1) Any person who distributes tobacco, tobacco  
292 products, electronic nicotine delivery systems, or alternative  
293 nicotine products within this state shall first obtain a  
294 permit from the board for each location of distribution. ~~There~~  
295 ~~is no fee for the permit.~~ Upon application, there shall be a  
296 one-time, nonrefundable filing fee of fifty dollars (\$50), in  
297 addition to a permit fee of one hundred fifty dollars (\$150),  
298 which shall be renewed annually. The one-time filing fee shall  
299 apply only to new applicants for a permit on or after the  
300 effective date of the act amending this section.

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

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

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



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309 to be used for the enforcement of this chapter.

310 (b) ~~Any person who maintains~~No person may maintain a  
311 tobacco, tobacco product, electronic nicotine delivery system,  
312 e-liquid, or alternative nicotine product vending machine ~~on~~  
313 ~~his or her property in this state shall first obtain a permit~~  
314 ~~from the board for each machine at each machine location. The~~  
315 ~~permit for each machine shall be posted in a conspicuous place~~  
316 ~~on the machine.~~

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

319 (d) ~~A permit is not transferable or assignable and~~  
320 ~~shall be renewed annually. Notwithstanding the foregoing, if~~If  
321 a location for which a permit ~~is~~has been obtained is sold or  
322 transferred, the permit, after submission of an application to  
323 transfer and a transfer fee of fifty dollars (\$50), shall~~may~~  
324 be transferred to the person obtaining control of the location  
325 ~~and shall be valid for 30 days after the transfer during which~~  
326 ~~time a new permit shall be obtained,~~ subject to approval by  
327 the board. The transferee shall meet any requirements,  
328 established by the rule of the board, required for a permit  
329 holder. The permitted transfer shall be effective for the  
330 duration of the license year, and the transferee shall renew  
331 the permit annually as provided in subsection (a). If a  
332 permitted business moves to a new location within the same  
333 governing jurisdiction, the business owner may apply for a  
334 location transfer as provided in this subsection. No more than  
335 one of each transfer type shall occur during a permit year.

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



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

340 "§28-11-9

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

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

347 a. Hear and decide all contested applications for  
348 permits.

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

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

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

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

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



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

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

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



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

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

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

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

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





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

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

433 "§28-11-10

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

447 "§28-11-12

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



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

452 (1) The Office of the Governor.

453 (2) The Office of the Attorney General.

454 (3) The Department of Mental Health.

455 (4) The Department of Public Health.

456 (5) The Alcoholic Beverage Control Board.

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

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

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

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

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

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

473 (12) The Alabama State Law Enforcement Agency.

474 (13) The Department of Revenue.

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



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477 (15) The executive director of Children First.

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

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

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

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

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

497 "§28-11-13

498 (a) (1) ~~It is unlawful for any~~An individual under ~~the~~  
499 ~~age of~~21 years of age may not~~te~~ purchase, use, possess, or  
500 transport tobacco, a tobacco product, an electronic nicotine  
501 delivery system or other electronic battery-powered device  
502 capable of being used to deliver any e-liquid, e-liquid  
503 substitute, tobacco, CBD oil, herbal extract, or nicotine  
504 salt, or any analog thereof, or any other substance to the



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

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

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

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

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



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533 jurisdiction of the juvenile court.

534 (2) A violation of this chapter by an individual 18  
535 years of age or older but under 21 years of age shall be  
536 punished as follows and assessed no other court costs or fees:

537 a. For a first violation, a written warning.

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

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

542 ~~(c)~~ (e) If a ~~minor~~ individual under 18 years of age is  
543 cited for any violation under this section, the citing agency  
544 shall make reasonable efforts to notify a parent, legal  
545 guardian, or legal custodian of the ~~minor unless the~~  
546 ~~minor~~ individual that the individual was cited for the  
547 violation. This subsection does not apply if the individual  
548 has been emancipated by court order or operation of law."

549 "§28-11-14

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

556 (2) Prohibited tobacco, tobacco products, electronic  
557 nicotine delivery systems, e-liquids, and alternative nicotine  
558 products kept, stored, or deposited in any place in this state  
559 for the purpose of unlawful sale or unlawful disposition or  
560 unlawful furnishing or distribution, and the vessels and



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561 receptacles in which the products are contained are declared  
562 to be contraband and shall be seized and forfeited to the  
563 state and may be condemned for destruction pursuant to the  
564 procedures set out in Article 11 of Chapter 4 concerning  
565 alcoholic beverages.

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

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

581 (c) All fixtures, equipment, materials, and personal  
582 property used in substantial connection with the sale or  
583 possession of tobacco, tobacco products, electronic nicotine  
584 delivery systems, e-liquids, and alternative nicotine products  
585 involved in a violation of this article shall be subject to  
586 the same seizure and forfeiture procedures as provided  
587 pursuant to Article 11 of Chapter 4.

588 (d) The board shall dispose of electronic nicotine



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

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

608 (e) Nothing in this section shall apply to any  
609 manufacturer of alternative nicotine products that were  
610 commercially marketed in the United States before February 15,  
611 2007."

612 "§28-11-16

613 "(a) (1) A retailer or manufacturer of electronic  
614 nicotine delivery systems, e-liquids, or alternative nicotine  
615 products may not advertise an electronic nicotine delivery  
616 system, e-liquid, or an alternative nicotine product in any of



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617 the following ways:

618 a. As a tobacco cessation product.

619 b. As a healthier alternative to smoking.

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

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

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

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

636 (2) A specialty retailer of electronic nicotine  
637 delivery systems or manufacturer of tobacco, tobacco products,  
638 electronic nicotine delivery systems, e-liquids, or  
639 alternative nicotine products may not use the brand name of  
640 any tobacco product, alternative nicotine product, e-liquid,  
641 or electronic nicotine delivery system to advertise at or  
642 sponsor any event at a stadium, concert, sporting event, or  
643 other public performance event for which individuals ~~aged~~ 21  
644 years of age or older make up less than 85 percent of the





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645 total age demographic of ~~performing participants~~individuals  
646 performing at the event.

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

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

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

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

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

670 (d) A retailer or manufacturer of tobacco, tobacco  
671 products, electronic nicotine delivery systems, e-liquids, or  
672 alternative nicotine products may not advertise, market, or



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673 offer for sale tobacco, a tobacco product, an electronic  
674 nicotine delivery system, an e-liquid, or an alternative  
675 nicotine product in any of the following ways:

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

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

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

698 (4) By using, in the labeling or design of the product,  
699 its packaging, or in its advertising or marketing materials,  
700 trade dress, trademarks, branding, or other related imagery



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701 that depicts or signifies characters or symbols that are known  
702 to appeal primarily to minors, including, but not limited to,  
703 superheroes, comic book characters, video game characters,  
704 television show characters, movie characters, mythical  
705 creatures, unicorns, or that otherwise incorporates related  
706 imagery or scenery.

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

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

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

727 "§28-11-17.1

728 (a) (1) Beginning ~~March 1, 2022~~October 1, 2024, or other



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729 date not more than 30 days following a premarket tobacco  
730 application submission deadline issued by the FDA, whichever  
731 is later, every e-liquid manufacturer and manufacturer of  
732 alternative nicotine products whose products are sold in this  
733 state, whether directly or through a distributor, retailer, or  
734 similar intermediary or intermediaries, shall execute and  
735 deliver on a form prescribed by the commissioner, a  
736 certification to the commissioner certifying, under penalty of  
737 perjury, whether the product contains any synthetic nicotine  
738 or nicotine derived from a source other than tobacco, and that  
739 ~~either~~ any of the following apply:

740 a. The product was on the market in the United States  
741 as of August 8, 2016, and the manufacturer has applied for a  
742 marketing order pursuant to 21 U.S.C. § 387j for the e-liquid,  
743 e-liquid in combination with an electronic nicotine delivery  
744 system, or alternative nicotine product, whichever is  
745 applicable, by submitting a premarket tobacco product  
746 application on or before September 9, 2020, to the FDA; and  
747 either of the following is true:

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

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



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756 order.

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

762           c. For electronic nicotine delivery system and e-liquid  
763 products containing nicotine derived from tobacco or any  
764 other source, the product was commercially marketed in the  
765 United States as of April 12, 2022, and the manufacturer  
766 applied for a marketing order pursuant to 21 U.S.C. § 387j on  
767 or before May 14, 2022; provided, such products meet the  
768 following requirements: (i) The product is not a single use or  
769 disposable electronic nicotine delivery system; and (ii) the  
770 product does not use a sealed, prefilled, and disposable  
771 cartridge of nicotine in a solution.

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

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

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

782           (b) Any manufacturer submitting a certification  
783 pursuant to subsection (a) shall notify the commissioner



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784 within 30 days of any material change to the certification,  
785 including issuance by the FDA of any of the following:

786 (1) A market order or other authorization pursuant to  
787 21 U.S.C. § 387j.

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

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

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

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

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

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

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

808 (3) Remove from the directory any product that the  
809 board determines is a prohibited item pursuant to Section  
810 28-11-16(d).

811 ~~(3)~~ (4) Send monthly notifications to each wholesaler,



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812 jobber, semijobber, retailer, importer, or distributor of  
813 tobacco products that have qualified or registered with the  
814 Department of Revenue, by electronic communication, containing  
815 a list of all changes that have been made to the directory in  
816 the previous month. In lieu of sending monthly notifications,  
817 the commissioner may make the information available in a  
818 prominent place on the Department of Revenue's public website.

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

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

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



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

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

865 ~~(h)~~ (i) (1) ~~Beginning May 1, 2022, or on the date that~~  
866 ~~the Department of Revenue first makes the directory available~~  
867 ~~for public inspection on its website as provided in subsection~~





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868 ~~(d), whichever is later, an~~An e-liquid manufacturer or  
869 manufacturer of alternative nicotine products or electronic  
870 nicotine delivery systems who ~~offers for sale~~sells, furnishes,  
871 or gives away a product not listed on the directory is subject  
872 to a one thousand dollars (\$1,000) daily fine for each product  
873 offered for sale in violation of this section until the  
874 offending product is removed from the market or until the  
875 offending product is properly listed on the directory. For  
876 purposes of this subdivision "sale" includes a delivery sale  
877 of e-liquids or electronic nicotine delivery systems or  
878 alternative nicotine products, as defined under this chapter.

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

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

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

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

888 c. For a third or subsequent offense within a four-year  
889 period, an administrative penalty of one thousand dollars  
890 (\$1,000). In addition, the board may suspend or revoke the  
891 permit of the permit holder.

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



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896 enforcement officer.

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

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

907 (m) Nothing in this section shall apply to any  
908 manufacturer of alternative nicotine products that were  
909 commercially marketed in the United States before February 15,  
910 2007."

911 "§28-11-18

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

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

922 (1) "ALABAMA LAW STRICTLY PROHIBITS THE PURCHASE OF  
923 TOBACCO, TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS,



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924 E-LIQUIDS, AND ELECTRONIC NICOTINE DELIVERY SYSTEMS BY PERSONS  
925 UNDER ~~THE AGE OF~~ 21 YEARS OF AGE. PROOF OF AGE IS REQUIRED."

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

929 ~~(3)~~ (2) "WARNING: TOBACCO, TOBACCO PRODUCTS, ALTERNATIVE  
930 NICOTINE PRODUCTS, E-LIQUIDS, ELECTRONIC NICOTINE DELIVERY  
931 SYSTEMS, AND VAPING PRODUCTS OFFERED FOR SALE IN THIS STORE  
932 CONTAIN NICOTINE UNLESS OTHERWISE MARKED. NICOTINE IS A HIGHLY  
933 ADDICTIVE CHEMICAL WHICH CAN HARM BRAIN DEVELOPMENT IN  
934 CHILDREN AND ADOLESCENTS AND WHICH POSES SERIOUS HEALTH RISKS  
935 TO PREGNANT WOMEN AND THEIR BABIES.

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

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

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

950 Section 2. (a) By July 1, 2024, the State Board of  
951 Education shall adopt a model policy for the establishment of



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952 a vape awareness, education, and prevention program to  
953 prohibit the possession and use of prohibited tobacco, tobacco  
954 products, electronic nicotine delivery systems, e-liquids, and  
955 alternative nicotine products by students in K-12 schools.

956 (b) By September 1, 2024, each local board of education  
957 shall adopt a policy that, at a minimum, contains the criteria  
958 established in the model policy adopted by the State Board of  
959 Education.

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

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

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

977 (3)a. A requirement that any student in violation of  
978 the prohibition against possession or use of tobacco, tobacco  
979 products, electronic nicotine delivery systems, e-liquids, or



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980 alternative nicotine products be required to attend and  
981 complete a vaping awareness, education, and prevention class  
982 based on curriculum established by the Drug Education Council  
983 and approved by the State Board of Education.

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

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

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

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

1000           (7) A procedure for publicizing local school board  
1001 policy through publication in the student handbook, including  
1002 providing notice that the policy applies to behavior occurring  
1003 on school property, school buses, and at school-sponsored  
1004 functions.

1005           (8) A statement prohibiting the use of tobacco, tobacco  
1006 products, electronic nicotine delivery systems, e-liquids, and  
1007 alternative nicotine products, as those terms are defined



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1008 under Section 28-11-2, Code of Alabama 1975, by any teacher,  
1009 administrator, or other school employee on the campus of any  
1010 K-12 school.

1011 (c) The policy adopted by each local board of education  
1012 shall be included in the code of conduct policy of the local  
1013 board of education and included in the student handbook.

1014 (d) Any discipline received by a student for the  
1015 possession or use of tobacco, tobacco products, electronic  
1016 nicotine delivery systems, e-liquids, or alternative nicotine  
1017 products at a K-12 school, on a school bus, or at any  
1018 school-sponsored function in violation of this section shall  
1019 be in lieu of any penalty provided under Section 28-11-13,  
1020 Code of Alabama 1975.

1021 Section 3. The Alcoholic Beverage Control Board shall  
1022 adopt rules to implement and administer Chapter 11 of Title  
1023 28, Code of Alabama 1975.

1024 Section 4. Section 28-11-15, Code of Alabama 1975,  
1025 relating to the posting of signs regarding the sale of tobacco  
1026 and tobacco products, is repealed.

1027 Section 5. Section 28-11-19, Code of Alabama, 1975,  
1028 relating to limitation on locations of specialty retailers of  
1029 electronic nicotine delivery systems, is repealed.

1030 Section 6. Although this bill would have as its purpose  
1031 or effect the requirement of a new or increased expenditure of  
1032 local funds, the bill is excluded from further requirements  
1033 and application under Section 111.05 of the Constitution of  
1034 Alabama of 2022, because the bill defines a new crime or  
1035 amends the definition of an existing crime.



## HB65 Engrossed

1036                   Section 7. This act shall become effective June 1,  
1037   2024.



# HB65 Engrossed

1038  
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## House of Representatives

1041 Read for the first time and referred .....06-Feb-24  
1042 to the House of Representatives  
1043 committee on Judiciary  
1044  
1045 Read for the second time and placed .....28-Feb-24  
1046 on the calendar:  
1047 0 amendments  
1048  
1049 Read for the third time and passed .....19-Mar-24  
1050 as amended  
1051 Yeas 102  
1052 Nays 0  
1053 Abstains 0  
1054  
1055  
1056 John Treadwell  
1057 Clerk  
1058