

1 HB41
2 196711-1
3 By Representatives Stringer and Drummond
4 RFD: Judiciary
5 First Read: 05-MAR-19
6 PFD: 02/14/2019

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8 SYNOPSIS: Existing state law does not provide for
9 comprehensive oversight or regulation of
10 alternative nicotine products or retailers of these
11 products.

12 This bill would prohibit alternative
13 nicotine product retailers and manufacturers of
14 alternative nicotine products from advertising
15 alternative nicotine products near schools. This
16 bill would also prohibit specialty retailers of
17 alternative nicotine products from opening new
18 places of business near schools, child care
19 centers, churches, and other facilities. This bill
20 would also prevent retailers and manufacturers of
21 alternative nicotine products from advertising
22 those products as tobacco cessation devices, as a
23 healthy alternative to smoking, or as being
24 available in any variety of flavors.

25 This bill would also require retailers of
26 alternative nicotine products to obtain a tobacco
27 permit, to comply with FDA regulations governing

1 the retail sale of alternative nicotine products,
2 and to post warning signs in their stores regarding
3 the dangers of nicotine use and potential risks
4 associated with vaping.

5 This bill would also prohibit the use of
6 alternative nicotine products in various places,
7 including in schools, in child care facilities, and
8 in vehicles operated by child care facilities for
9 the purposes of transporting children.

10 This bill would also prohibit the sale or
11 transfer of alternative nicotine products to
12 minors.

13 This bill would also require the Alabama
14 Alcoholic Beverage Control Board to regulate retail
15 sales of alternative nicotine devices like sales of
16 tobacco products.

17 Amendment 621 of the Constitution of Alabama
18 of 1901, now appearing as Section 111.05 of the
19 Official Recompilation of the Constitution of
20 Alabama of 1901, as amended, prohibits a general
21 law whose purpose or effect would be to require a
22 new or increased expenditure of local funds from
23 becoming effective with regard to a local
24 governmental entity without enactment by a 2/3 vote
25 unless: it comes within one of a number of
26 specified exceptions; it is approved by the
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 Relating to alternative nicotine products; to amend
16 Sections 28-11-2, 28-11-4, 28-11-7, 28-11-8, 28-11-9,
17 28-11-11, 13A-12-3, and 13A-12-3.1, Code of Alabama 1975, to
18 require the Alabama Alcoholic Beverage Control Board to
19 regulate retail sales of alternative nicotine devices like
20 sales of tobacco products, and to prohibit the sale or
21 transfer of alternative nicotine products to minors; to add
22 Sections 28-11-16, 28-11-17, 28-11-18, 28-11-19, and 28-11-20,
23 to the Code of Alabama 1975, to prohibit alternative nicotine
24 product retailers and manufacturers of alternative nicotine
25 products from advertising alternative nicotine products near
26 schools; to prohibit specialty retailers of alternative
27 nicotine products from opening new places of business near

1 certain locations; to prevent retailers of alternative
2 nicotine products from advertising those products as tobacco
3 cessation devices, as a healthy alternative to smoking, or as
4 being available in any variety of flavors; to require
5 retailers of alternative nicotine products to obtain a tobacco
6 permit, to comply with FDA regulations governing the retail
7 sale of alternative nicotine products, and to post certain
8 warning signs; to prohibit the use of alternative nicotine
9 products in various places, including motor vehicles under
10 certain conditions; and in connection therewith would have as
11 its purpose or effect the requirement of a new or increased
12 expenditure of local funds within the meaning of Amendment 621
13 of the Constitution of Alabama of 1901, now appearing as
14 Section 111.05 of the Official Recompilation of the
15 Constitution of Alabama of 1901, as amended.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 28-11-2, 28-11-4, 28-11-7,
18 28-11-8, 28-11-9, 28-11-11, 13A-12-3, and 13A-12-3.1, Code of
19 Alabama 1975, are amended to read as follows:

20 "§28-11-2.

21 "For purposes of this chapter, the following terms
22 have the following meanings unless the context clearly
23 indicates otherwise:

24 "(1) ALTERNATIVE NICOTINE PRODUCT. The term
25 alternative nicotine product includes ~~electronic cigarettes.~~
26 ~~An electronic cigarette is an electronic product or device~~
27 ~~that produces~~ vaporizing devices, such as electronic products

1 or devices that produce a vapor that delivers nicotine or
2 other substances to the person inhaling from the device to
3 simulate smoking, and is likely to includes, but is not
4 limited to, products that may be offered to, or purchased by,
5 or marketed to consumers as an electronic cigarette,
6 electronic cigar, electronic cigarillo, or electronic pipe,
7 electronic hookah, vape pen, vape tool, vaping device, or any
8 variation of these terms. The term also includes any liquid
9 intended to be vaporized in any device included in this
10 subdivision, regardless of whether or not the liquid contains
11 nicotine.

12 ~~"The term electronic cigarette does not include any~~
13 ~~of the following:~~

14 ~~"1. A cigarette or other tobacco product as defined~~
15 ~~in this section.~~

16 ~~"2. A product that is a drug under 21 U.S.C.~~
17 ~~§321(g)(1).~~

18 ~~"3. A product that is a device under 21 U.S.C.~~
19 ~~§321(h).~~

20 ~~"4. A combination product that is a device under 21~~
21 ~~U.S.C. §353(g).~~

22 ~~"The term alternative nicotine product does not~~
23 ~~include the following:~~

24 ~~"1. A cigarette or other tobacco product as defined~~
25 ~~in this section.~~

26 ~~"2. A product that is a drug under 21 U.S.C.~~
27 ~~§321(g)(1).~~

1 ~~"3. A product that is a device under 21 U.S.C.~~
2 ~~§321(h).~~

3 ~~"4. A combination product described in 21 U.S.C.~~
4 ~~§353(g).~~

5 "(2) ALTERNATIVE NICOTINE PRODUCT RETAILER. Any
6 retail business which offers for sale alternative nicotine
7 products.

8 "~~(2)~~(3) BOARD. The Alabama Alcoholic Beverage
9 Control Board.

10 (4) CHILD-RESISTANT PACKAGING. Liquid nicotine
11 container packaging meeting the requirements of 15 U.S.C.
12 §1472a.

13 "~~(3)~~(5) DISTRIBUTION. To sell, barter, exchange, or
14 give tobacco or tobacco products for promotional purposes or
15 for gratis.

16 "(6) FDA. The United States Food and Drug
17 Administration.

18 "~~(4)~~(7) MINOR. Any person under the age of 19 years.

19 "~~(5)~~(8) PERSON. Any natural person, firm,
20 partnership, association, company, corporation, or other
21 entity. Person does not include a manufacturer or wholesaler
22 of tobacco or tobacco products nor does it include employees
23 of the permit holder.

24 "~~(6)~~(9) PROOF OF IDENTIFICATION. Any one or more of
25 the following documents used for purposes of determining the
26 age of a person purchasing, attempting to purchase, or
27 receiving tobacco or tobacco products:

1 "a. A valid driver's license issued by any state and
2 bearing the photograph of the presenting person.

3 "b. United States Uniform Service Identification.

4 "c. A valid passport.

5 "d. A valid identification card issued by any state
6 agency for the purpose of identification and bearing the
7 photograph and date of birth of the presenting individual.

8 "e. For legal mail order purposes only a valid
9 signed certification that will verify the individual is 19
10 years of age or older.

11 "~~(7)~~ (10) RESPONSIBLE VENDOR PROGRAM. A program
12 administered by the board to encourage and support vendors in
13 training employees in legal and responsible sales practices.

14 "~~(8)~~ (11) SAMPLER. Any business or person who
15 distributes tobacco or tobacco products for promotional
16 purposes.

17 "~~(9)~~ (12) SELF-SERVICE DISPLAY. A display that
18 contains tobacco or tobacco products and is located in an area
19 openly accessible to purchasers at retail and from which such
20 purchasers can readily access tobacco or tobacco products
21 without the assistance of the tobacco permit holder or an
22 employee of the permit holder. A display case that holds
23 tobacco or tobacco products behind locked doors does not
24 constitute a self-service display.

25 "(13) SPECIALTY RETAILER OF ALTERNATIVE NICOTINE
26 PRODUCTS. A business establishment at which any of the
27 following are true:

1 "a. The sale of alternative nicotine products
2 accounts for more than 35 percent of the total quarterly gross
3 receipts for the establishment.

4 "b. Twenty percent or more of the public retail
5 floor space is allocated for the offering, displaying, or
6 storage of alternative nicotine products.

7 "c. Twenty percent or more of the total shelf space,
8 including retail floor shelf space and shelf space in areas
9 accessible only to employees, is allocated for the offering,
10 displaying, or storage of alternative nicotine products.

11 "d. The retail space features a self-service display
12 for alternative nicotine products.

13 "e. Samples of alternative nicotine products are
14 offered to customers.

15 "f. Liquids intended to be vaporized in a device as
16 described in Section 28-11-2, Code of Alabama 1975, are
17 produced at the facility or are produced by the owner of the
18 establishment or any of its agents or employees for sale at
19 the establishment.

20 ~~"(10)~~ (14) TOBACCO or TOBACCO PRODUCTS. Tobacco or
21 any product containing tobacco, including, but not limited to,
22 the following:

23 "a. Cigarettes.

24 "b. Cigars.

25 "c. Chewing tobacco.

26 "d. Snuff.

27 "e. Pipe tobacco.

1 "f. Smokeless tobacco.

2 "~~(11)~~(15) TOBACCO PERMIT. A permit issued by the
3 board to allow the permit holder to engage in the distribution
4 of tobacco ~~or,~~ tobacco products, or alternative nicotine
5 products at the location identified in the permit.

6 "~~(12)~~(16) TOBACCO SPECIALTY STORE. A business that
7 derives at least 75 percent of its revenue from tobacco or
8 tobacco products.

9 "§28-11-4.

10 "(a) Pursuant to its ~~rule making~~ rulemaking
11 authority, the board ~~may promulgate~~ shall adopt rules and
12 ~~regulations~~ that have the full force and effect of law, for
13 purposes of, ~~but not limited to,~~ the following:

14 "(1) Establishing permits for the distribution of
15 tobacco ~~or,~~ tobacco products, and alternative nicotine
16 products.

17 "(2) Preventing the distribution of tobacco products
18 and alternative nicotine products to minors.

19 "(3) Conducting annual random compliance tests to
20 assure compliance with applicable state and federal laws and
21 guidelines regarding the distribution of tobacco ~~or,~~ tobacco
22 products ~~to minors,~~ and alternative nicotine products. The
23 tests ~~may utilize minors and may involve~~ involving any person
24 or location engaged in the distribution of tobacco may utilize
25 minors.

1 "(b) The board may adopt any other rules necessary
2 for enforcing compliance with applicable state and federal
3 law.

4 "§28-11-7.

5 "(a) Any person who distributes tobacco products or
6 alternative nicotine products within this state shall first
7 obtain a permit from the board for each location of
8 distribution. ~~There is no fee for the permit~~ at a cost to the
9 applicant of three hundred dollars (\$300) per permit.

10 "(b) Any person who maintains a tobacco ~~or,~~ tobacco
11 product, or alternative nicotine product vending machine on
12 his or her property in this state shall first obtain a permit
13 from the board for each machine at each machine location. The
14 permit for each machine shall be posted in a conspicuous place
15 on the machine.

16 "(c) A permit shall be valid only for the location
17 specified in the permit application.

18 "(d) A permit is not ~~transferrable~~ transferable or
19 assignable and shall be renewed annually. Notwithstanding the
20 foregoing, if a location for which a permit is obtained is
21 sold or transferred, the permit shall be transferred to the
22 person obtaining control of the location and shall be valid
23 for 30 days after the transfer during which time a new permit
24 shall be obtained.

25 "(e) If feasible, the board may, by rule or
26 regulation, establish procedures for the issuance and renewal

1 of permits which combine tobacco permit procedures with the
2 application and licensing procedures for alcoholic beverages.

3 "§28-11-8.

4 "(a) It shall be unlawful for any person to
5 ~~distribute~~ sell or offer for sale tobacco or tobacco products
6 without first obtaining the appropriate permit from the board
7 ~~the appropriate permit~~. Failure to obtain or display a valid
8 permit by January 1, 1998~~7~~ shall result in issuance of a
9 warning citation. The board shall conduct an information and
10 education campaign by its Responsible Vendor Program to inform
11 distributors of tobacco products at retail or in vending
12 machines or self-service displays of the requirements of this
13 law. ~~Failure to obtain or display~~ Selling or offering for sale
14 tobacco or tobacco products without obtaining and displaying a
15 valid permit pursuant to this chapter after January 1, 1998
16 shall constitute a misdemeanor offense.

17 (b) It shall be unlawful for any person to sell or
18 offer for sale alternative nicotine products without first
19 obtaining the appropriate permit from the board. Failure to
20 obtain or display a valid permit within 90 days after the
21 effective date of the act adding this amendatory language
22 shall result in issuance of a warning citation. The board
23 shall conduct an information and education campaign by its
24 Responsible Vendor Program to inform distributors of
25 alternative nicotine products at retail or in vending machines
26 or self-service displays of the requirements of this law.
27 Selling or offering for sale alternative nicotine products

1 without obtaining and displaying a valid permit pursuant to
2 this chapter within 90 days after the effective date of the
3 act adding this amendatory language shall be a Class C
4 misdemeanor.

5 (c) Each violation for selling tobacco, tobacco
6 products, or alternative nicotine products without a valid
7 permit shall be treated as a separate offense and be
8 punishable as follows: For the first violation by a fine of
9 not less than one hundred dollars (\$100) nor more than five
10 hundred dollars (\$500) and for each subsequent violation by a
11 fine of not less than five hundred dollars (\$500) nor more
12 than one thousand five hundred dollars (\$1,500).

13 "§28-11-9.

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

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

20 "a. Hear and decide all contested applications for
21 permits.

22 "b. Hear and decide all charges against any permit
23 holder or employee of a permit holder for violations of this
24 chapter, the law, or the regulations of the board.

25 "c. Revoke or suspend permits as provided in this
26 chapter.

1 "d. Levy administrative fines upon permit holders or
2 employees of permit holders.

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

8 "(b) The board, or a hearing commission appointed by
9 the board, upon finding that a permit holder or any partner,
10 member, employee, officer, or director of the permit holder
11 has violated any of the laws of this state or the United
12 States relating to the manufacture, sale, possession, or
13 transportation of tobacco ~~or~~ tobacco products, or alternative
14 nicotine products, or that the permit holder has acted in a
15 manner prejudicial to the welfare, health, peace, temperance,
16 and safety of the people of the community or of the state,
17 may l upon due notice and hearing, levy administrative fines l,
18 ~~or~~ suspend or revoke the permit issued by the board, or a
19 combination of all three. In all cases where the board or
20 hearing commission shall levy an administrative fine, or
21 suspend or revoke a permit, it shall set forth its findings of
22 fact, the evidence from which the findings of facts are made,
23 and the reasons upon which its actions are based.

24 "(c) The fines as specified in subsection (e) shall
25 be applicable per each violation. The permit holder or
26 employee shall remit the administrative fine to the board
27 within seven calendar days from the day that the

1 administrative fine is levied. Failure by the permit holder to
2 pay the administrative fine within that time period shall
3 result in an automatic suspension of the permit until the
4 administrative fine is paid.

5 "(d) The maximum length of suspension of a permit
6 pursuant to this chapter shall be one year. A permit holder
7 shall be ineligible to hold a permit pursuant to this chapter
8 for the location where the violation occurred until the
9 expiration or removal of the suspension. A permit holder whose
10 permit is revoked by the board or the hearing commission shall
11 be, at the discretion of the board or hearing commission,
12 ineligible to hold a permit pursuant to this chapter until the
13 expiration of one year from the date the permit is revoked at
14 the location where the violation occurred.

15 "(e) The following administrative fines may be
16 levied for violations of this chapter against valid permit
17 holders or employees, or both:

18 "(1) Upon conviction for a first violation by the
19 permit holder or an employee of the permit holder, the board
20 or hearing commission may offer the permit holder an
21 opportunity to provide training sessions administered by the
22 Responsible Vendor Program in lieu of an administrative fine
23 upon the permit holder and the employee, if the violation is
24 by an employee, of not more than two hundred dollars (\$200).

25 "(2) Upon conviction of a second violation at the
26 same location within a two-year period, the board or hearing
27 commission may levy an administrative fine upon the permit

1 holder and the employee, if the violation is by an employee,
2 of not more than four hundred dollars (\$400).

3 "(3) Upon conviction of a third or subsequent
4 violation at the same location within a two-year period, the
5 board or hearing commission may levy an administrative fine
6 upon the permit holder and the employee, if the violation is
7 by an employee, of not more than seven hundred fifty dollars
8 (\$750).

9 "(4) Upon conviction of a fourth or subsequent
10 violation at the same location within a two-year period, the
11 board or hearing commission may levy an administrative fine
12 upon the permit holder and the employee, if the violation is
13 by an employee, of not more than one thousand dollars (\$1,000)
14 and may suspend or revoke the permit.

15 "(f) Before imposition of any administrative fine,
16 the permit holder shall be afforded all procedural rights to
17 due process in addition to those rights guaranteed by the
18 Alabama Administrative Procedure Act, Chapter 22 of Title 41.

19 "§28-11-11.

20 "The board shall issue an annual report to the
21 Governor, the Legislature, and the Attorney General concerning
22 compliance by state retail merchants with this chapter. The
23 report shall contain all of the following:

24 "(1) The total number of retail distributors of
25 tobacco, tobacco products, and alternative nicotine products
26 categorized by type of retail outlet.

1 "(2) The number of citations reported to the board,
2 categorized by type of retail outlet.

3 "(3) The total number of successful compliance
4 checks, categorized by type of retail outlet.

5 "(4) The extent and nature of organized educational
6 and government activities intended to promote, encourage, or
7 otherwise secure compliance with state and federal laws
8 prohibiting the sale or distribution of tobacco products to
9 minors.

10 "(5) Information as to the level of access and
11 availability of tobacco products to minors.

12 "(6) Noted impediments to implementation of this
13 chapter, as well as recommendations for alleviating the same.

14 "§13A-12-3.

15 "Any person who sells, barter, exchanges or gives
16 to any minor any ~~cigarettes, cigarette tobacco or cigarette~~
17 ~~paper, or any substitute for either of them~~ tobacco, tobacco
18 products, or alternative nicotine products shall, on
19 conviction, be fined not less than ~~\$10.00 nor more than \$50.00~~
20 one hundred dollars (\$100) nor more than three hundred dollars
21 (\$300) and may also be imprisoned in the county jail ~~or~~
22 ~~sentenced to hard labor for the county~~ for not more than 30
23 days.

24 "§13A-12-3.1.

25 "For purposes of this article, the following terms
26 shall have the following meanings:

1 (1) ALTERNATIVE NICOTINE PRODUCT. The same meaning
2 as in Section 28-11-2.

3 "~~(1)~~(2) BRAND STYLE. A variety of cigarettes
4 distinguished by the tobacco used, tar and nicotine content,
5 flavoring used, size of cigarette, filtration on the
6 cigarette, or packaging.

7 "~~(2)~~(3) CLEAR AND CONSPICUOUS STATEMENT. ~~The~~ A
8 statement that is of sufficient type size to be clearly
9 readable by the recipient of the communication.

10 "~~(3)~~(4) COMMISSIONER. The Commissioner of the
11 Alabama Department of Revenue.

12 "~~(4)~~(5) CONSUMER. An individual who acquires or
13 seeks to acquire cigarettes, or any one or more articles taxed
14 herein, for personal use.

15 "~~(5)~~(6) DELIVERY SALE. Any sale of cigarettes to a
16 consumer within this state, regardless of whether the seller
17 is located in this state, where either of the following are
18 true:

19 "a. ~~the~~ The purchaser submits the order for such
20 sale by means of a telephonic or other method of voice
21 transmission, the mails or any other delivery service,
22 facsimile transmission, or the Internet or other online
23 service ~~or.~~

24 "b. ~~the~~ The cigarettes are delivered by use of the
25 mails or other delivery service. ~~A sale of cigarettes that~~
26 ~~meets the requirements of this subdivision shall constitute a~~

1 ~~delivery sale regardless of whether the seller is located~~
2 ~~within or without the state.~~

3 "~~(6)~~ (7) DELIVERY SALES STATUTES. Those provisions
4 contained within Sections 13A-12-3.2, 13A-12-3.3, 13A-12-3.4,
5 13A-12-3.5, 13A-12-3.6, and 13A-12-3.7.

6 "~~(7)~~ (8) DELIVERY SERVICE. Any person, other than a
7 person who makes a delivery sale, who delivers to the consumer
8 the cigarettes sold in a delivery sale.

9 "~~(8)~~ (9) DEPARTMENT. The Alabama Department of
10 Revenue.

11 "~~(9)~~ (10) GOVERNMENT-ISSUED IDENTIFICATION. A state
12 driver's license, state identification card, passport, a
13 military identification, or an official naturalization or
14 immigration document, including an alien registration
15 recipient card or green card, or an immigrant visa.

16 "~~(10)~~ (11) LEGAL MINIMUM AGE. 19 years of age.

17 "~~(11)~~ (12) MAILS or MAILING. The shipment of
18 cigarettes through the United States Postal Service.

19 "~~(12)~~ (13) OUT-OF-STATE SALE. A sale of cigarettes to
20 a consumer located outside of this state where the consumer
21 submits the order for such sale by means of a telephonic or
22 other method of voice transmission, the mails or any other
23 delivery service, facsimile transmission, or the Internet or
24 other online service, and where the cigarettes are delivered
25 by use of the mails or other delivery service.

26 "~~(13)~~ (14) PERSON. Any individual, corporation,
27 partnership, limited liability company, association, or other

1 organization that engages in any for-profit or not-for-profit
2 activities.

3 "~~(14)~~(15) SHIPPING DOCUMENTS. Bills of lading, air
4 bills, or any other documents used to evidence the undertaking
5 by a delivery service to deliver letters, packages, or other
6 containers.

7 "~~(15)~~(16) SHIPPING PACKAGE. A container in which
8 packs or cartons of cigarettes are shipped in connection with
9 a delivery sale.

10 "~~(16)~~(17) STAMP or STAMPS. The stamp or stamps by
11 the use of which the tax levied under this article is paid and
12 shall be designated Alabama Revenue Stamps.

13 "~~(17)~~(18) WITHIN THIS STATE. Within the exterior
14 limits of the State of Alabama."

15 Section 2. Sections 28-11-16, 28-11-17, 28-11-18,
16 28-11-19, and 28-11-20, are added to the Code of Alabama 1975,
17 to read as follows:

18 §28-11-16.

19 (a) A retailer or manufacturer of alternative
20 nicotine products may not advertise an alternative nicotine
21 product in any of the following ways:

22 (1) As a tobacco cessation product.

23 (2) As a healthier alternative to smoking.

24 (3) As available for purchase in any variety of
25 flavors.

1 (4) On any outdoor billboard located within 1,000
2 feet of any public or private K-12 school or public
3 playground.

4 (b) (1) A violation of subsection (a) shall result in
5 a one hundred dollar (\$100) fine for the first occurrence.

6 (2) A second or subsequent violation of subsection
7 (a) shall result in a five hundred dollar (\$500) fine per
8 occurrence.

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

11 §28-11-17.

12 (a) It is unlawful to distribute, sell, or offer for
13 sale any alternative nicotine product that is required by
14 federal rule or federal law to meet FDA approval guidelines
15 and that has not been approved by the FDA.

16 (b) Each violation of subsection (a) shall be a
17 Class C misdemeanor.

18 §28-11-18.

19 (a) All liquids offered for sale that are intended
20 to be vaporized in any device described in Section 28-11-2,
21 Code of Alabama 1975, shall be contained in child-resistant
22 packaging.

23 (b) A specialty retailer of alternative nicotine
24 products shall display in a prominent area of the retail store
25 near the point of sale a sign which contains the following
26 statements:

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

4 (2) "WARNING: PRODUCTS OFFERED FOR SALE IN THIS
5 STORE CONTAIN NICOTINE UNLESS OTHERWISE MARKED. NICOTINE IS A
6 HIGHLY ADDICTIVE CHEMICAL WHICH CAN HARM BRAIN DEVELOPMENT IN
7 CHILDREN AND ADOLESCENTS AND WHICH POSES SERIOUS HEALTH RISKS
8 TO PREGNANT WOMEN AND THEIR BABIES."

9 §28-11-19.

10 (a) A person may not use an alternative nicotine
11 product under any of the following circumstances:

12 (1) On the grounds or in the buildings of any public
13 K-12 school or state two-year or four-year institution of
14 higher education, including parking lots, playing fields, and
15 school buses.

16 (2) At any bus stop serving students of a public
17 K-12 school for a period of one hour before and one hour after
18 any scheduled student pick-up or drop-off time.

19 (3) On the grounds or in the buildings of any child
20 care facility, regardless of whether or not children are
21 present at the facility.

22 (4) In any motor vehicle that is operated by
23 employees or agents of any child care facility and used to
24 transport children, whether children are present in the
25 vehicle or not.

26 (5) On the grounds or in the buildings of any health
27 care facility, including, but not limited to hospitals, health

1 clinics, physician's offices, and surgery centers, except for
2 designated areas where smoking is already allowed.

3 (6) Inside or at any sports arena or stadium.

4 (7) Within any indoor public place.

5 (8) In any place of employment, except for
6 designated areas where smoking is already allowed.

7 (9) In any public or private parking deck.

8 (10) At any playground.

9 (11) At any youth sporting event.

10 (12) At any off-campus public K-12 school-sponsored
11 or school-sanctioned event.

12 (13) In a motor vehicle, whether in motion or at
13 rest, in which a minor is a passenger or driver.

14 (14) On the grounds or in the buildings of any state
15 park.

16 (b) (1) A violation of subsection (a) shall result in
17 a one hundred dollar (\$100) fine for the first occurrence.

18 (2) A second or subsequent violation of subsection
19 (a) shall result in a five hundred dollar (\$500) fine per
20 occurrence.

21 §28-11-20.

22 (a) Beginning January 1, 2020, a county may not
23 issue a license to conduct business as a specialty retailer of
24 alternative nicotine products if the retail business is
25 located within 1,000 feet of any of the following:

26 (1) A public or private K-12 school.

27 (2) A licensed child-care facility or preschool.

- 1 (3) A church.
- 2 (4) A public library.
- 3 (5) A public playground.
- 4 (6) A public park.
- 5 (7) A youth center or other space used primarily for
- 6 youth oriented activities.

7 (b) This section does not apply to a specialty
8 retailer of alternative nicotine products that obtained a
9 business license at a location prohibited in subsection (a)
10 prior to January 1, 2020, that has conducted business as a
11 specialty retailer of alternative nicotine products at that
12 location for at least 18 consecutive months, and that remains
13 in the same location.

14 Section 3. Although this bill would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds, the bill is excluded from further
17 requirements and application under Amendment 621, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended, because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 4. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.