

SB2 PREFILED



1 SB2
2 8756HF2-1
3 By Senator Gudger
4 RFD: Children and Youth Health
5 First Read: 04-Feb-25
6 PFD: 22-May-24



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SYNOPSIS:

Under existing law, the Alcoholic Beverage Control (ABC) Board regulates and enforces the sale of tobacco, tobacco products, alternative nicotine products, and electronic nicotine delivery systems.

This bill would revise the definition of "electronic nicotine delivery system" to include battery powered devices that deliver substances other than tobacco through the inhalation of vapor.

This bill would prohibit the distribution of tobacco, tobacco products, electronic nicotine delivery systems, e-liquids, and alternative nicotine products through a vending machine.

Under existing law, there is no fee for a retail permit to distribute tobacco, tobacco products, electronic nicotine delivery systems, e-liquids, or alternative nicotine products.

This bill would require a one-time application fee and an annual permit fee for the distribution of those products, and would provide for the distribution of those fees.

Under existing law, the ABC Board may assess an administrative penalty for a violation of the tobacco retail laws.

This bill would increase the penalty that may be



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29 assessed and would provide for the distribution of the
30 penalty.

31 This bill would further provide for the
32 membership of the advisory board to the ABC Board.

33 This bill would increase the authorized
34 administrative penalty for certain tobacco advertising
35 violations.

36 Under existing law, the Department of Revenue
37 maintains a directory listing all e-liquid
38 manufacturers and manufacturers of alternative nicotine
39 authorized to be distributed in the state.

40 This bill would require a manufacturer to meet
41 certain requirements before being approved for the
42 directory.

43 This bill would further provide for the
44 requirement of tobacco retailers to post signage
45 warning of the dangers of tobacco product use.

46 This bill would provide the ABC Board with
47 general rulemaking authority to administer the tobacco
48 retail laws.

49 This bill would also require the State Board of
50 Education to adopt a model policy for the establishment
51 of vaping awareness, education, and prevention programs
52 to discourage the possession and use of prohibited
53 tobacco, tobacco products, electronic nicotine delivery
54 systems, e-liquids, and alternative nicotine products
55 by students in K-12 schools and would require local
56 school boards to adopt a policy based on the model



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57 policy.

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A BILL

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TO BE ENTITLED

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AN ACT

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



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85 require the board to adopt rules; to require the State Board
86 of Education to establish a model vaping awareness, education,
87 and prevention program and require each local board of
88 education to adopt a policy based on the model policy; and to
89 repeal Sections 28-11-15 and 28-11-19, Code of Alabama 1975.

90 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

91 Section 1. Sections 28-11-2, 28-11-3, 28-11-5,
92 28-11-6.1, 28-11-6.2, 28-11-7, 28-11-9, 28-11-10, 28-11-12,
93 28-11-14, 28-11-16, 28-11-17.1, and 28-11-18, Code of Alabama
94 1975, and Section 28-11-13, Code of Alabama 1975, as last
95 amended by Act 2024-79, 2024 Regular Session, are amended to
96 read as follows:

97 "§28-11-2

98 For purposes of this chapter, the following terms have
99 the following meanings unless the context clearly indicates
100 otherwise:

101 (1) ALTERNATIVE NICOTINE PRODUCT. ~~The term alternative~~
102 ~~nicotine product includes any~~Any product that consists of or
103 contains nicotine that can be ingested into the body by
104 chewing, smoking, absorbing, dissolving, inhaling, snorting,
105 sniffing, or by any other means. The term does not include a
106 tobacco product, electronic nicotine delivery system, or any
107 product that has been approved by the United States Food and
108 Drug Administration for sale as a tobacco cessation product or
109 for other medical purposes and that is being marketed and sold
110 solely for that purpose.

111 (2) BOARD. The Alabama Alcoholic Beverage Control
112 Board.



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113 (3) CHILD-RESISTANT PACKAGING. Liquid nicotine
114 container packaging meeting the requirements of 15 U.S.C. §
115 1472a.

116 (4) COMMISSIONER. The Commissioner of the Department of
117 Revenue.

118 (5) DELIVERY SALE. The delivery sale of tobacco,
119 tobacco products, electronic nicotine delivery systems,
120 e-liquids, or alternative nicotine products.

121 ~~(5)~~ (6) DISTRIBUTION. To sell, barter, exchange, or give
122 ~~tobacco or tobacco products~~ for promotional purposes or for
123 gratis.

124 ~~(6)~~ (7) ELECTRONIC NICOTINE DELIVERY SYSTEM. Any
125 electronic device that uses a battery and heating element in
126 combination with an e-liquid or tobacco, or substitutes
127 thereof, to produce a vapor that delivers nicotine or other
128 substances to the individual inhaling from the device to
129 simulate smoking, and includes, but is not limited to,
130 products that may be offered to, purchased by, or marketed to
131 consumers as an electronic cigarette, electronic cigar,
132 electronic cigarillo, electronic pipe, electronic hookah, vape
133 pen, vape tool, vaping device, or any variation of these
134 terms. The term also includes any e-liquid intended to be
135 vaporized in any device included in this subdivision.

136 ~~(7)~~ (8) ELECTRONIC NICOTINE DELIVERY SYSTEM RETAILER.
137 Any retail business which offers for sale electronic nicotine
138 delivery systems.

139 ~~(8)~~ (9) E-LIQUID. A liquid that contains nicotine or
140 other substances and may include flavorings or other



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141 ingredients that are intended for use in an electronic
142 nicotine delivery system. The term includes e-liquid
143 substitutes, tobacco substitutes, and any other product that
144 may be used in conjunction with an electronic nicotine
145 delivery system, or other substances, including, but not
146 limited to, CBD oil.

147 ~~(9)~~ (10) E-LIQUID MANUFACTURER. Any person who
148 manufactures, fabricates, assembles, processes, mixes,
149 prepares, labels, repacks, or relabels an e-liquid to be
150 sealed in final packaging intended for consumer use. This term
151 includes an owner of a brand or formula for an e-liquid who
152 contracts with another person to complete the fabrication and
153 assembly of the product to the brand or formula owner's
154 standards.

155 ~~(10)~~ (11) FDA. The United States Food and Drug
156 Administration.

157 ~~(11)~~ (12) LIQUID NICOTINE CONTAINER. A bottle or other
158 container of a liquid product that is intended to be vaporized
159 and inhaled using an electronic nicotine delivery system. The
160 term does not include a container holding liquid that is
161 intended for use in a vapor product if the container is
162 ~~pre-filled~~ prefilled and sealed by the manufacturer and is not
163 intended to be opened by the consumer.

164 ~~(12)~~ (13) MINOR. Any individual under ~~the age of 19~~ 21
165 years of age.

166 ~~(13)~~ (14) PERSON. Any natural person, firm, partnership,
167 association, company, corporation, or other entity. Person
168 does not include a manufacturer or wholesaler of tobacco or



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169 tobacco products nor does it include employees of the permit
170 holder.

171 ~~(14)~~ (15) PROOF OF IDENTIFICATION. Any one or more of
172 the following documents used for purposes of determining the
173 age of an individual purchasing, attempting to purchase, or
174 receiving tobacco, tobacco products, electronic nicotine
175 delivery systems, or alternative nicotine products:

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

178 b. United States Uniform Service Identification.

179 c. A valid passport.

180 d. A valid identification card issued by any state
181 agency for the purpose of identification and bearing the
182 photograph and date of birth of the presenting individual.

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

186 ~~(15)~~ (16) RESPONSIBLE VENDOR PROGRAM. A program
187 administered by the board to encourage and support vendors in
188 training employees in legal and responsible sales practices.

189 ~~(16)~~ (17) SAMPLER. Any business or person who
190 distributes tobacco, ~~or~~ tobacco products, electronic nicotine
191 delivery systems, alternative nicotine products, or e-liquids
192 for promotional purposes.

193 ~~(17)~~ (18) SELF-SERVICE DISPLAY. A display that contains
194 tobacco, ~~or~~ tobacco products, electronic nicotine delivery
195 systems, alternative nicotine products, or e-liquids and is
196 located in an area openly accessible to purchasers at retail



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197 and from which the purchasers can readily access tobacco or
198 tobacco products without the assistance of the tobacco permit
199 holder or an employee of the permit holder. A display case
200 that holds tobacco or tobacco products behind locked doors
201 does not constitute a self-service display.

202 ~~(18)~~ (19) SPECIALTY RETAILER OF ELECTRONIC NICOTINE
203 DELIVERY SYSTEMS. A business establishment at which any of the
204 following are true:

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

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

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

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

222 ~~e.e.~~ e. Twenty percent or more of the total shelf space,
223 including retail floor shelf space and shelf space in areas
224 accessible only to employees, is allocated for the offering,



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225 displaying, or storage of electronic nicotine delivery
226 systems.

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

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

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

236 ~~(19)~~ (20) TOBACCO or TOBACCO PRODUCT. Any product made
237 or derived from tobacco that is intended for human
238 consumption, including any component, part, or accessory of a
239 tobacco product, except for raw materials other than tobacco
240 used in manufacturing a component, part, or accessory of a
241 tobacco product, but does not include an article that is a
242 drug under Section 201(g)(1) of the Federal Food, Drug, and
243 Cosmetic Act, a device under Section 201(h) of the Federal
244 Food, Drug, and Cosmetic Act, or a combination product
245 described in Section 503(g) of the Federal Food, Drug, and
246 Cosmetic Act.

247 ~~(20)~~ (21) TOBACCO PERMIT. A permit issued by the board
248 to allow the permit holder to engage in the distribution of
249 tobacco, tobacco products, electronic nicotine delivery
250 systems, e-liquids, or alternative nicotine products at the
251 location identified in the permit.

252 ~~(21)~~ (22) TOBACCO SPECIALTY STORE. A business that



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253 derives at least 75 percent of its revenue from tobacco or
254 tobacco products.

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

262 "§28-11-3

263 The board, in conjunction with federal, state, and
264 local law enforcement agencies, shall enforce state and
265 federal laws that prohibit the distribution of tobacco,
266 tobacco products, alternative nicotine products, e-liquids,
267 and electronic nicotine delivery systems to individuals under
268 ~~the age of~~ 21 years of age. Notwithstanding the foregoing, for
269 purposes of inspections and enforcement actions undertaken
270 pursuant to this section, individuals under ~~the age of~~ 21
271 years of age may be enlisted to attempt to purchase or
272 purchase tobacco, tobacco products, alternative nicotine
273 products, e-liquids, and electronic nicotine delivery systems,
274 provided that individuals under ~~the age of~~ 18 years of age
275 shall have the prior written consent of a parent or legal
276 guardian, and provided further that the individuals shall be
277 directly supervised during the conduct of each inspection or
278 enforcement action by an enforcement agent of the board or a
279 law enforcement officer, ~~or by a sheriff or head of police of~~
280 ~~any county, city, town, or other political subdivision, or by~~



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281 ~~a deputy or officer thereof. No individual under the age of 21~~
282 ~~years may misrepresent his or her age for the purpose of~~
283 ~~purchasing or attempting to purchase tobacco, tobacco~~
284 ~~products, alternative nicotine products, or electronic~~
285 ~~nicotine delivery systems. If questioned about his or her age~~
286 ~~during an attempt to purchase or receive tobacco, tobacco~~
287 ~~products, alternative nicotine products, or electronic~~
288 ~~nicotine delivery systems, an individual under the age of 21~~
289 ~~years shall state his or her true age. A photograph or video~~
290 ~~recording of any individual under the age of 21 years~~
291 ~~assisting in an inspection or enforcement action shall be~~
292 ~~taken prior to the investigation. The appearance of an~~
293 ~~individual under the age of 21 years participating in an~~
294 ~~inspection or enforcement action shall not be altered at the~~
295 ~~time of the inspection."~~

296 "§28-11-5

297 The board may use funding, if available, from the
298 Department of Mental Health, other state or federal agencies,
299 grants, and private or public organizations to enforce this
300 chapter and to provide and distribute prevention materials
301 related to tobacco, tobacco products, alternative nicotine
302 products, e-liquids, and electronic nicotine delivery systems
303 ~~and nicotine prevention materials~~ to retail tobacco merchants
304 and specialty retailers of electronic nicotine delivery
305 systems. The materials shall provide information regarding
306 state and federal laws that prohibit access to tobacco,
307 tobacco products, alternative nicotine products, e-liquids,
308 and electronic nicotine delivery systems by individuals under



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

316 "§28-11-6.1

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

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

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

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

333 "§28-11-6.2

334 (a) No tobacco, tobacco product, alternative nicotine
335 product, e-liquid, or electronic nicotine delivery system
336 shall be ~~distributed~~ sold, furnished, or given away at retail



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337 through a self-service display unless the display ~~is a vending~~
338 ~~machine as permitted under Section 28-11-6.1 or~~ is located in
339 a tobacco specialty store or at a specialty retailer of
340 electronic nicotine delivery systems and is located in an area
341 in which individuals under 21 years of age are not permitted
342 access.

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

345 "§28-11-7

346 (a) (1) Any person who distributes tobacco, tobacco
347 products, electronic nicotine delivery systems, or alternative
348 nicotine products within this state shall first obtain a
349 permit from the board for each location of distribution. ~~There~~
350 ~~is no fee for the permit.~~ Upon application, there shall be a
351 one-time, nonrefundable filing fee of fifty dollars (\$50), in
352 addition to a permit fee of one hundred fifty dollars (\$150),
353 which shall be renewed annually. The one-time filing fee shall
354 apply only to new applicants for a permit on or after the
355 effective date of the act amending this section.

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

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

362 b. Twenty-five percent shall be deposited into the
363 Public Safety Fund of the Alabama State Law Enforcement Agency
364 to be used for the enforcement of this chapter.



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365 (b) ~~Any person who maintains~~No person may maintain a
366 tobacco, tobacco product, electronic nicotine delivery system,
367 e-liquid, or alternative nicotine product vending machine ~~on~~
368 ~~his or her property in this state shall first obtain a permit~~
369 ~~from the board for each machine at each machine location. The~~
370 ~~permit for each machine shall be posted in a conspicuous place~~
371 ~~on the machine.~~

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

374 (d) ~~A permit is not transferable or assignable and~~
375 ~~shall be renewed annually. Notwithstanding the foregoing, if~~If
376 a location for which a permit ~~is~~has been obtained is sold or
377 transferred, the permit, after submission of an application to
378 transfer and a transfer fee of fifty dollars (\$50), shall~~may~~
379 be transferred to the person obtaining control of the location
380 ~~and shall be valid for 30 days after the transfer during which~~
381 ~~time a new permit shall be obtained,~~ subject to approval by
382 the board. The transferee shall meet any requirements,
383 established by the rule of the board, required for a permit
384 holder. The permitted transfer shall be effective for the
385 duration of the license year, and the transferee shall renew
386 the permit annually as provided in subsection (a). If a
387 permitted business moves to a new location within the same
388 governing jurisdiction, the business owner may apply for a
389 location transfer as provided in this subsection. No more than
390 one of each transfer type shall occur during a permit year.

391 (e) If feasible, the board by rule may adopt procedures
392 for the issuance and renewal of permits which combine tobacco



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393 permit procedures with the application and licensing
394 procedures for alcoholic beverages."

395 "§28-11-9

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

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

402 a. Hear and decide all contested applications for
403 permits.

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

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

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

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

416 (b) The board, or a hearing commission appointed by the
417 board, upon finding that a permit holder or any partner,
418 member, employee, officer, or director of the permit holder
419 has violated any of the laws of this state or the United
420 States relating to the manufacture, sale, possession, or



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

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

443 (d) The maximum length of suspension of a permit
444 pursuant to this chapter shall be one year. A permit holder
445 shall be ineligible to hold a permit pursuant to this chapter
446 for the location where the violation occurred until the
447 expiration or removal of the suspension. A permit holder whose
448 permit is revoked by the board or the hearing commission shall



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

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

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

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

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

476 ~~(4) Upon conviction of~~(3) For a ~~fourth~~third or



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477 subsequent violation at the same location within a two-year
478 period, the board or hearing commission ~~may~~shall levy an
479 administrative fine upon the permit holder ~~and the employee,~~
480 ~~if the violation is by an employee,~~ of not more than one
481 thousand dollars (\$1,000) and may suspend or revoke the
482 permit.

483 (f) Before imposition of any administrative
484 ~~fine~~penalty, the permit holder shall be afforded all
485 procedural rights to due process in addition to those rights
486 guaranteed by the Alabama Administrative Procedure Act,
487 Chapter 22 of Title 41."

488 "§28-11-10

489 The Tobacco Licensing and Compliance Fund is hereby
490 created in the State Treasury. The fund shall be administered
491 by the Licensing and Compliance Division of the board. All
492 fees and other funds collected by the board pursuant to this
493 chapter shall be deposited into the ~~State General Fund.~~ State
494 Treasury to the credit of the fund. Amounts deposited into the
495 fund shall be budgeted and allotted in accordance with
496 Sections 41-4-80 through 41-4-96 and Sections 41-19-1 through
497 41-19-12. Monies in the fund shall be used by the Licensing
498 and Compliance Division of the board for tobacco and nicotine
499 prevention education, operational costs associated with
500 regulating permitted locations, and the enforcement of this
501 chapter."

502 "§28-11-12

503 (a) An advisory board shall be established to monitor
504 the implementation of this chapter. The advisory board shall



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505 meet at least quarterly. Representation shall consist of one
506 representative from each of the following:

- 507 (1) The Office of the Governor.
- 508 (2) The Office of the Attorney General.
- 509 (3) The Department of Mental Health.
- 510 (4) The Department of Public Health.
- 511 (5) The Alcoholic Beverage Control Board.
- 512 (6) The Senate as appointed by the Lieutenant Governor.
- 513 (7) The House of Representatives as appointed by the
514 Speaker of the House of Representatives.
- 515 (8) The ~~Alabama Oilmen's Association and the Alabama~~
516 ~~Convenience Store Operators~~Petroleum & Convenience Marketers
517 of Alabama Association as appointed by the Governor and
518 selected from three nominees submitted by the association.
- 519 (9) The Alabama Retail Association as appointed by the
520 Governor and selected from three nominees submitted by the
521 association.
- 522 (10) The Alabama ~~Grocers'~~Grocers Association as
523 appointed by the Governor and selected from three nominees
524 submitted by the association.
- 525 (11) The Breathe Easier Alliance of Alabama as
526 appointed by the Governor and selected from three nominees
527 submitted by the entity.
- 528 (12) The Alabama State Law Enforcement Agency.
- 529 (13) The Department of Revenue.
- 530 (14) The Alabama Chapter of the American Academy of
531 Pediatrics, as appointed by the entity.
- 532 (15) The executive director of Children First.



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

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

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

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

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

552 "§28-11-13

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



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561 this state.

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

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

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

585 (d) (1) Except as otherwise provided, a violation of
586 this chapter by an individual under 18 years of age shall
587 constitute a delinquent act and the individual shall be
588 subject to the exclusive jurisdiction of the juvenile court.



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589 (2) Any individual 18 years of age or older but under
590 21 years of age who is in violation of this chapter shall be
591 issued a uniform nontraffic citation and, upon conviction,
592 shall be punished as follows and assessed no other court costs
593 or fees:

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

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

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

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

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

607 "§28-11-14

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

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



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617 for the purpose of unlawful sale or unlawful disposition or
618 unlawful furnishing or distribution, and the vessels and
619 receptacles in which the products are contained are declared
620 to be contraband and shall be seized and forfeited to the
621 state and may be condemned for destruction pursuant to the
622 procedures set out in Article 11 of Chapter 4 concerning
623 alcoholic beverages.

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

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

639 (c) All fixtures, equipment, materials, and personal
640 property used in substantial connection with the sale or
641 possession of tobacco, tobacco products, electronic nicotine
642 delivery systems, e-liquids, and alternative nicotine products
643 involved in a violation of this article shall be subject to
644 the same seizure and forfeiture procedures as provided



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645 pursuant to Article 11 of Chapter 4.

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

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

666 (e) Nothing in this section shall apply to any
667 manufacturer of alternative nicotine products that were
668 commercially marketed in the United States before February 15,
669 2007."

670 "§28-11-16

671 "(a) (1) A retailer or manufacturer of electronic
672 nicotine delivery systems, e-liquids, or alternative nicotine



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

- 676 a. As a tobacco cessation product.
- 677 b. As a healthier alternative to smoking.
- 678 c. As available for purchase in any variety of flavors
679 other than tobacco, mint, or menthol on any outdoor billboard.
- 680 d. On any outdoor billboard located within 1,000 feet
681 of any public or private K-12 school or public playground.

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

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

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



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

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

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

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

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

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

728 (d) A retailer or manufacturer of tobacco, tobacco



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729 products, electronic nicotine delivery systems, e-liquids, or
730 alternative nicotine products may not advertise, market, or
731 offer for sale tobacco, a tobacco product, an electronic
732 nicotine delivery system, an e-liquid, or an alternative
733 nicotine product in any of the following ways:

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

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

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

756 (4) By using, in the labeling or design of the product,



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757 its packaging, or in its advertising or marketing materials,
758 trade dress, trademarks, branding, or other related imagery
759 that depicts or signifies characters or symbols that are known
760 to appeal primarily to minors, including, but not limited to,
761 superheroes, comic book characters, video game characters,
762 television show characters, movie characters, mythical
763 creatures, unicorns, or that otherwise incorporates related
764 imagery or scenery.

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

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

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



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785 "§28-11-17.1

786 (a) (1) Beginning ~~March 1, 2022~~October 1, 2024, or other
787 date not more than 30 days following a premarket tobacco
788 application submission deadline issued by the FDA, whichever
789 is later, every e-liquid manufacturer and manufacturer of
790 alternative nicotine products whose products are sold in this
791 state, whether directly or through a distributor, retailer, or
792 similar intermediary or intermediaries, shall execute and
793 deliver on a form prescribed by the commissioner, a
794 certification to the commissioner certifying, under penalty of
795 perjury, whether the product contains any synthetic nicotine
796 or nicotine derived from a source other than tobacco, and that
797 ~~either~~any of the following apply:

798 a. The product was on the market in the United States
799 as of August 8, 2016, and the manufacturer has applied for a
800 marketing order pursuant to 21 U.S.C. § 387j for the e-liquid,
801 e-liquid in combination with an electronic nicotine delivery
802 system, or alternative nicotine product, whichever is
803 applicable, by submitting a premarket tobacco product
804 application on or before September 9, 2020, to the FDA; and
805 either of the following is true:

806 1. The premarket tobacco product application for the
807 product remains under review by the FDA.

808 2. The FDA has issued a no marketing order for the
809 e-liquid, e-liquid in combination with an electronic nicotine
810 delivery system, or alternative nicotine product, whichever is
811 applicable, from the FDA; however, the agency or a federal
812 court has issued a stay order or injunction during the



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813 pendency of the manufacturer's appeal of the no marketing
814 order.

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

820 c. For electronic nicotine delivery system and e-liquid
821 products containing nicotine derived from tobacco or any
822 other source, the product was commercially marketed in the
823 United States as of April 12, 2022, and the manufacturer
824 applied for a marketing order pursuant to 21 U.S.C. § 387j on
825 or before May 14, 2022; provided, such products meet the
826 following requirements: (i) The product is not a single use or
827 disposable electronic nicotine delivery system; and (ii) the
828 product does not use a sealed, prefilled, and disposable
829 cartridge of nicotine in a solution.

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

832 a. A~~a~~ copy of the cover page of the premarket tobacco
833 application with evidence of receipt of the application by the
834 FDA or a copy of the cover page of the marketing order or
835 other authorization issued pursuant to 21 U.S.C. § 387j,
836 whichever is applicable.

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

840 (b) Any manufacturer submitting a certification



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841 pursuant to subsection (a) shall notify the commissioner
842 within 30 days of any material change to the certification,
843 including issuance by the FDA of any of the following:

844 (1) A market order or other authorization pursuant to
845 21 U.S.C. § 387j.

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

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

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

853 (c) The commissioner shall develop and maintain a
854 directory listing all e-liquid manufacturers and manufacturers
855 of alternative nicotine products that have provided
856 certifications that comply with subsection (a) and all
857 products that are listed in those certifications.

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

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

861 (2) Update the directory as necessary in order to
862 correct mistakes and to add or remove e-liquid manufacturers,
863 manufacturers of alternative nicotine products, or products
864 manufactured by those manufacturers consistent with the
865 requirements of subsections (a) and (b) on a monthly basis.

866 (3) Remove from the directory any product that the
867 board determines is a prohibited item pursuant to Section
868 28-11-16(d).



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869 ~~(3)~~ (4) Send monthly notifications to each wholesaler,
870 jobber, semijobber, retailer, importer, or distributor of
871 tobacco products that have qualified or registered with the
872 Department of Revenue, by electronic communication, containing
873 a list of all changes that have been made to the directory in
874 the previous month. In lieu of sending monthly notifications,
875 the commissioner may make the information available in a
876 prominent place on the Department of Revenue's public website.

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

880 ~~(e)~~ (f) Notwithstanding subsection (a), if an e-liquid
881 manufacturer or manufacturer of alternative nicotine products
882 can demonstrate to the commissioner that the FDA has issued a
883 rule, guidance, or any other formal statement that temporarily
884 exempts a product from the federal premarket tobacco
885 application requirements, the product may be added to the
886 directory upon request by the manufacturer if the manufacturer
887 provides sufficient evidence that the product is compliant
888 with the federal rule, guidance, or other formal statement, as
889 applicable.

890 ~~(f)~~ (g) Each certifying e-liquid manufacturer and
891 manufacturer of alternative nicotine products shall pay an
892 initial fee of two thousand dollars (\$2,000) to offset the
893 costs incurred by the department for processing the
894 certifications and operating the directory. The commissioner
895 shall collect an annual renewal fee of five hundred dollars
896 (\$500) to offset the costs associated with maintaining the



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897 directory and satisfying the requirements of this section. The
898 fees received under this section by the department shall be
899 used by the department exclusively for processing the
900 certifications and operating and maintaining the directory.
901 After the payment of these expenses, ~~two-thirds~~one-half of the
902 remaining funds shall be deposited into the State General
903 Fund, and the remaining ~~one-third~~one-half shall be distributed
904 evenly to the Alabama State Law Enforcement Agency and to the
905 Licensing and Compliance Division of the board to be used for
906 the enforcement of this chapter.

907 ~~(g)~~ (h) Beginning on September 1, 2021, no e-liquid,
908 e-liquid in combination with an electronic nicotine delivery
909 system, or alternative nicotine product that, in the case of
910 any such product, contains synthetic nicotine or nicotine
911 derived from a source other than tobacco may be sold or
912 otherwise distributed in this state without either first
913 certifying that a premarket tobacco product application was
914 successfully submitted to the FDA and accepted for filing by
915 May 14, 2022, in accordance with the applicable requirements
916 under Section 201(rr) of the Federal Food, Drug, and Cosmetic
917 Act, or obtaining approval from the FDA for sale as a drug
918 under Section 201(g)(1) of the Federal Food, Drug, and
919 Cosmetic Act, a device under Section 201(h) of the Federal
920 Food, Drug, and Cosmetic Act, a combination product described
921 in Section 503(g) of the Federal Food, Drug, and Cosmetic Act,
922 or some other medical purpose.

923 ~~(h)~~ (i) (1) ~~Beginning May 1, 2022, or on the date that~~
924 ~~the Department of Revenue first makes the directory available~~



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925 ~~for public inspection on its website as provided in subsection~~
926 ~~(d), whichever is later, an~~An e-liquid manufacturer or
927 manufacturer of alternative nicotine products or electronic
928 nicotine delivery systems who ~~offers for sale~~sells, furnishes,
929 or gives away a product not listed on the directory is subject
930 to a one thousand dollars (\$1,000) daily fine for each product
931 offered for sale in violation of this section until the
932 offending product is removed from the market or until the
933 offending product is properly listed on the directory. For
934 purposes of this subdivision "sale" includes a delivery sale
935 of e-liquids or electronic nicotine delivery systems or
936 alternative nicotine products, as defined under this chapter.

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

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

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

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

946 c. For a third or subsequent offense within a four-year
947 period, an administrative penalty of one thousand dollars
948 (\$1,000). In addition, the board may suspend or revoke the
949 permit of the permit holder.

950 (2) All products offered for sale and not listed on the
951 directory shall be considered a prohibited item and declared
952 to be contraband and may be seized and forfeited as provided



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

955 (k) Any fine collected for a violation of this section
956 shall be deposited into the Education Trust Fund to the credit
957 of the State Board of Education to be used for the
958 establishment and administration of vape awareness, education,
959 and prevention programs and the provision of drug education
960 and prevention curriculum, as provided in Section 2 of the act
961 amending this section.

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

965 (m) Nothing in this section shall apply to any
966 manufacturer of alternative nicotine products that were
967 commercially marketed in the United States before February 15,
968 2007."

969 "§28-11-18

970 (a) All liquid nicotine containers offered for sale
971 that are intended to be vaporized in an electronic nicotine
972 delivery system shall be contained in child-resistant
973 packaging.

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

980 (1) "ALABAMA LAW STRICTLY PROHIBITS THE PURCHASE OF



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981 TOBACCO, TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS,
982 E-LIQUIDS, AND ELECTRONIC NICOTINE DELIVERY SYSTEMS BY PERSONS
983 UNDER ~~THE AGE OF~~ 21 YEARS OF AGE. PROOF OF AGE IS REQUIRED."

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

987 ~~-(3)~~ (2) "WARNING: TOBACCO, TOBACCO PRODUCTS, ALTERNATIVE
988 NICOTINE PRODUCTS, E-LIQUIDS, ELECTRONIC NICOTINE DELIVERY
989 SYSTEMS, AND VAPING PRODUCTS OFFERED FOR SALE IN THIS STORE
990 CONTAIN NICOTINE UNLESS OTHERWISE MARKED. NICOTINE IS A HIGHLY
991 ADDICTIVE CHEMICAL WHICH CAN HARM BRAIN DEVELOPMENT IN
992 CHILDREN AND ADOLESCENTS AND WHICH POSES SERIOUS HEALTH RISKS
993 TO PREGNANT WOMEN AND THEIR BABIES.

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

998 "THE USE OF SOME VAPING DEVICES MAY INCREASE YOUR RISK
999 OF EXPOSURE TO POTENTIALLY TOXIC LEVELS OF HEAVY METALS SUCH
1000 AS LEAD, CHROMIUM, AND NICKEL."

1001 (d) Posted signs required by this section, at a
1002 minimum, must accurately list the type of products sold at the
1003 retail establishment. If a retailer does not sell all of the
1004 product types listed in the statements described in
1005 subsections (b) or (c), the retailer may amend the products
1006 listed on the sign to accurately reflect the type of products
1007 sold."

1008 Section 2. (a) By July 1, 2024, the State Board of



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1009 Education shall adopt a model policy for the establishment of
1010 a vape awareness, education, and prevention program to
1011 prohibit the possession and use of prohibited tobacco, tobacco
1012 products, electronic nicotine delivery systems, e-liquids, and
1013 alternative nicotine products by students in K-12 schools.

1014 (b) By September 1, 2024, each local board of education
1015 shall adopt a policy that, at a minimum, contains the criteria
1016 established in the model policy adopted by the State Board of
1017 Education.

1018 (c) The model policy adopted by the State Board of
1019 Education, at a minimum, shall contain all of the following:

1020 (1) A statement prohibiting the possession or use of
1021 tobacco, tobacco products, electronic nicotine delivery
1022 systems, e-liquids, and alternative nicotine product, as those
1023 terms are defined under Section 28-11-2, Code of Alabama 1975,
1024 by any student at a K-12 school, on a school bus, or at any
1025 school-sponsored function.

1026 (2) A series of graduated consequences for any student
1027 who violates this policy by possessing or using tobacco,
1028 tobacco products, electronic nicotine delivery systems,
1029 e-liquids, or alternative nicotine products as prohibited by
1030 this section. Graduated consequences may include, but are not
1031 limited to, in-school suspension, out-of-school suspension, or
1032 alternative school, or any combination thereof, and shall
1033 conform with applicable disability, antidiscrimination, and
1034 education laws and school discipline policies.

1035 (3)a. A requirement that any student in violation of
1036 the prohibition against possession or use of tobacco, tobacco



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1037 products, electronic nicotine delivery systems, e-liquids, or
1038 alternative nicotine products be required to attend and
1039 complete a vaping awareness, education, and prevention class
1040 based on curriculum established by the Drug Education Council
1041 and approved by the State Board of Education.

1042 b. An additional requirement that on a second or
1043 subsequent violation, the student must attend and complete the
1044 vaping awareness, education, and prevention class with his or
1045 her parent or legal guardian.

1046 (4) A model complaint form and procedure for reporting
1047 violations of this section. An anonymous report may not be the
1048 basis of imposing formal disciplinary action against a
1049 student.

1050 (5) A procedure for the prompt investigation of reports
1051 of serious violations and complaints, specifying that the
1052 principal, assistant principal, or school resource officer is
1053 the individual responsible for the investigation.

1054 (6) A response procedure for a school to follow upon
1055 confirmation of the possession or use of tobacco, tobacco
1056 products, electronic nicotine delivery systems, e-liquids, or
1057 alternative nicotine products as prohibited by this section.

1058 (7) A procedure for publicizing local school board
1059 policy through publication in the student handbook, including
1060 providing notice that the policy applies to behavior occurring
1061 on school property, school buses, and at school-sponsored
1062 functions.

1063 (8) A statement prohibiting the use of tobacco, tobacco
1064 products, electronic nicotine delivery systems, e-liquids, and



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1065 alternative nicotine products, as those terms are defined
1066 under Section 28-11-2, Code of Alabama 1975, by any teacher,
1067 administrator, or other school employee on the campus of any
1068 K-12 school.

1069 (c) The policy adopted by each local board of education
1070 shall be included in the code of conduct policy of the local
1071 board of education and included in the student handbook.

1072 (d) Any discipline received by a student for the
1073 possession or use of tobacco, tobacco products, electronic
1074 nicotine delivery systems, e-liquids, or alternative nicotine
1075 products at a K-12 school, on a school bus, or at any
1076 school-sponsored function in violation of this section shall
1077 be in lieu of any penalty provided under Section 28-11-13,
1078 Code of Alabama 1975.

1079 Section 3. The Alcoholic Beverage Control Board shall
1080 adopt rules to implement and administer Chapter 11 of Title
1081 28, Code of Alabama 1975.

1082 Section 4. Section 28-11-15, Code of Alabama 1975,
1083 relating to the posting of signs regarding the sale of tobacco
1084 and tobacco products, is repealed.

1085 Section 5. Section 28-11-19, Code of Alabama, 1975,
1086 relating to limitation on locations of specialty retailers of
1087 electronic nicotine delivery systems, is repealed.

1088 Section 6. Although this bill would have as its purpose
1089 or effect the requirement of a new or increased expenditure of
1090 local funds, the bill is excluded from further requirements
1091 and application under Section 111.05 of the Constitution of
1092 Alabama of 2022, because the bill defines a new crime or



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1093 amends the definition of an existing crime.

1094 Section 7. This act shall become effective June 1,

1095 2025.