

Senate Bill 572

By: Senators Mullis of the 53rd, Kennedy of the 18th, Harbison of the 15th and Brass of the 28th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 11 of Title 48 of the Official Code of Georgia Annotated, relating to taxes
 2 on tobacco and vaping products, so as to provide for the Attorney General to establish a
 3 vapor product directory; to require vapor product manufacturers to provide an attestation and
 4 certain information to the Attorney General; to provide for definitions; to prohibit illicit
 5 vapor products; to provide penalties for violations; to provide for related matters; to provide
 6 for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 11 of Title 48 of the Official Code of Georgia Annotated, relating to taxes on
 10 tobacco and vaping products, is amended by adding a new Code section to read as follows:

11 "48-11-14.1.

12 (a) Beginning September 1, 2024, every vapor product manufacturer that sells or intends
 13 to sell a vapor product in this state, whether directly or through a distributor, dealer, or
 14 importer, shall execute and deliver an attestation under the penalty of perjury to the
 15 Attorney General attesting that, as of the date of such attestation:

16 (1) The vapor product was available in the United States as of August 8, 2016, and the
 17 vapor product manufacturer has applied for a marketing order for such vapor product

S. B. 572

18 pursuant to 21 U.S.C. § 387j by submitting a Premarket Tobacco Product Application on
19 or before September 9, 2020, to the United States Food and Drug Administration (FDA),
20 and the application remains pending with the FDA; or
21 (2) The vapor product manufacturer has received a marketing granted order or other
22 authorization under the 21 U.S.C § 387j for such vapor product from the FDA.
23 (b) The vapor product manufacturer shall notify the Attorney General within 30 days of
24 any material change to the attestation, including if the FDA has issued a marketing granted
25 order or other authorization, issued a marketing denial order, or has ordered the vapor
26 product manufacturer to remove the vapor product, either temporarily or permanently, from
27 the United States market.
28 (c) The Attorney General shall develop a directory and shall:
29 (1) On or before December 1, 2024, make the directory available on the Attorney
30 General's website for public inspection; and
31 (2) Update the directory as necessary to correct mistakes and to add or remove vapor
32 product manufacturers or vapor products to ensure the directory's conformity with the
33 requirements of this section.
34 (d) Every distributor and retailer licensed under Code Section 48-11-4 shall provide, and
35 update as necessary, an email address to the Attorney General for the purpose of receiving
36 any notifications as may be required by this Code section.
37 (e) Beginning January 1, 2025, it shall be unlawful for any vapor product manufacturer to
38 knowingly, directly or indirectly, manufacture, distribute, sell, barter, or furnish in this state
39 any vapor product that is not included in the directory provided for in subsection (c) of this
40 Code section.
41 (f) A violation of any provision of this Code section may be subject to a civil penalty in
42 an amount not to exceed the greater of 500 percent of the retail value of the vapor products
43 or \$5,000.00, and may result in the probation, suspension, or revocation by the
44 commissioner of all licenses issued to the seller pursuant to Code Section 48-11-4. The

45 penalties provided by this subsection shall be in addition to any criminal or civil penalties
46 that may otherwise be provided by law.

47 (g) Any vapor products that have been sold, offered for sale, or possessed for sale in this
48 state in violation of this Code section shall be deemed contraband and such vapor products
49 shall be subject to seizure and destruction."

50 **SECTION 2.**

51 Said chapter is further amended by revising Code Section 48-11-29, which was previously
52 reserved, to read as follows:

53 "48-11-29.

54 (a) As used in this Code section, the term:

55 (1) 'Counterfeit vapor product' means any vapor product that, without authorization,
56 bears the trademark, trade name, or other identifying mark, imprint, or device, or any
57 likeness thereof, of a legally marketed vapor product or is not manufactured by the
58 manufacturer indicated on the product packaging, label, or container.

59 (2) 'Illicit vapor product' means:

60 (A) Any counterfeit vapor product;

61 (B) Any vapor product that was not manufactured, prepared, compounded, or
62 processed by a person registered with the United States Food and Drug Administration
63 pursuant to 21 U.S.C. § 387e; or

64 (C) Any vapor product not listed in the state's vapor product directory pursuant to Code
65 Section 48-11-14.1.

66 (b) It shall be unlawful for any person to knowingly, directly or indirectly, manufacture,
67 distribute, sell, barter, or furnish in this state an illicit vapor product.

68 (c) A violation of any provision of this Code section shall be punished by a civil penalty
69 in an amount not to exceed the greater of 500 percent of the retail value of the vapor
70 products or \$5,000.00, and may result in the probation, suspension, or revocation by the

71 commissioner of all licenses issued to the seller pursuant to Code Section 48-11-4. The
72 penalties provided by this Code section shall be in addition to any criminal or civil
73 penalties that may otherwise be provided by law.

74 (d) Any vapor products that have been sold, offered for sale, or possessed for sale in this
75 state in violation of Code section shall be deemed contraband and such vapor products shall
76 be subject to seizure and destruction. Reserved."

77 **SECTION 3.**

78 This Act shall become effective upon its approval by the Governor or upon its becoming law
79 without such approval.

80 **SECTION 4.**

81 All laws and parts of laws in conflict with this Act are repealed.