

FIRST REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

# HOUSE BILL NO. 531

## 98TH GENERAL ASSEMBLY

1404H.01T

2015

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### AN ACT

To repeal section 407.926, RSMo, and to enact in lieu thereof one new section relating to child-resistant packaging for liquid nicotine containers, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 407.926, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.926, to read as follows:

407.926. 1. Any person or entity who sells tobacco products, alternative nicotine products, or vapor products shall deny the sale of such tobacco products to any person who is less than eighteen years of age.

2. Any person or entity who sells or distributes tobacco products, alternative nicotine products, or vapor products by mail or through the internet in this state in violation of subsection 1 of this section shall be assessed a fine of two hundred fifty dollars for the first violation and five hundred dollars for each subsequent violation.

3. Alternative nicotine products and vapor products shall only be sold to persons eighteen years of age or older, shall be subject to local and state sales tax, but shall not be otherwise taxed or regulated as tobacco products.

**4. (1) Any nicotine liquid container that is sold at retail in this state shall satisfy the child-resistant effectiveness standards set forth in 16 CFR 1700.15(b) as in effect on the effective date of this section when tested in accordance with the method described in 16 CFR 1700.20 as in effect on the effective date of this section.**

**(2) For the purposes of this subsection, “nicotine liquid container” shall mean a bottle or other container of liquid or other substance containing nicotine if the liquid or substance is sold, marketed, or intended for use in a vapor product. A “nicotine liquid**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **container” shall not include a liquid or other substance containing nicotine in a cartridge**  
19 **that is sold, marketed, or intended for use in a vapor product, provided that such cartridge**  
20 **is prefilled and sealed by the manufacturer and not intended to be opened by the**  
21 **consumer.**

22 **(3) Any person who engages in retail sales of liquid nicotine containers in this state**  
23 **in violation of this subsection shall be assessed a fine of two hundred fifty dollars for the**  
24 **first violation and five hundred dollars for each subsequent violation.**

25 **(4) The department of health and senior services may adopt rules necessary to**  
26 **carry out the provisions of this subsection. Any rule or portion of a rule, as that term is**  
27 **defined in section 536.010, that is created under the authority delegated in this section shall**  
28 **become effective only if it complies with and is subject to all of the provisions of chapter**  
29 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and**  
30 **if any of the powers vested with the general assembly under chapter 536 to review, to delay**  
31 **the effective date, or to disapprove and annul a rule are subsequently held**  
32 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
33 **after August 28, 2015, shall be invalid and void.**

34 **(5) The provisions of this subsection and any rules adopted hereunder shall be null,**  
35 **void, and of no force and effect upon the effective date of the final regulations issued by the**  
36 **federal Food and Drug Administration or from any other federal agency if such regulations**  
37 **mandate child-resistant effectiveness standards for nicotine liquid containers.**

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