

3rd Sub. S.B. 0061

ELECTRONIC CIGARETTE AMENDMENTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 2

FEBRUARY 28, 2024 10:49 AM

Representative **Brady Brammer** proposes the following amendments:

1. *Page 14, Lines 403 through 406:*

403 requirements established by the department under Subsection (2).

404 (c) Notwithstanding Subsections (3)(a) and (3)(b), **beginning on January 1, 2025,** a person may
not sell an electronic

405 cigarette product that is not a premarket authorized or pending electronic cigarette product as

406 that term is defined in Section 76-10-101.

2. *Page 17, Lines 511 through 512:*

511 (b) the electronic cigarette product is a premarket authorized or pending electronic

512 cigarette product as defined in Section 76-10-101 **and will not be illegal to be sold in the state as of**
January 1, 2025 .

3. *Page 19, Lines 580 through 581:*

580 (7) (a) Beginning on ~~{November 1, 2024}~~ **January 1, 2025** , a person may not sell or offer for
retail sale an

581 electronic cigarette product in this state that is not included in the registry.

4. *Page 23, Lines 695 through 699:*

695 (b) "Flavored electronic cigarette product" includes an electronic cigarette product that

696 is labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa,

697 dessert, alcoholic beverage, herb, ~~{or}~~ spice ~~{.}~~ **, or mint.**

698 (c) "Flavored electronic cigarette product" does not include an electronic cigarette

699 product that~~[:]~~ has a taste or smell of only tobacco ~~{, mint,}~~ or menthol.

5. *Page 25, Lines 749 through 760:*

749 (16) "Premarket authorized or pending electronic cigarette product" means an

750 electronic cigarette product that:

751 (a) **(i)** has been approved by an order granting a premarket tobacco product application of

752 the electronic cigarette product by the United States Food and Drug Administration under 21

753 U.S.C. Sec. 387j(c)(1)(A)(i); or

754 ~~{(b)(i)}~~ **(ii)(A)** was marketed in the United States on or before August 8, 2016;

755 ~~{(ii)}~~ (B) the manufacturer submitted a premarket tobacco product application for the
756 electronic cigarette product to the United States Food and Drug Administration under 21
757 U.S.C. Sec. 387j on or before September 9, 2020; and
758 ~~{(iii)}~~ (C) has an application described in Subsection ~~{(16)(b)(ii)}~~ (16)(a)(ii)(B) that
either remains under
759 review by the United States Food and Drug Administration or a final decision on the
760 application has not taken effect ~~{-}~~ ; and
(b) does not exceed:
(i) 3.25% nicotine by weight per container; or
(ii) a nicotine concentration of 32.5 milligrams per milliliter

6. Page 26, Line 797 through Page 27, Line 804:

797 (1) ~~{+}~~ ~~{It}~~ Subject to Subsection (2), it is unlawful for a tobacco retailer that is not a
retail tobacco specialty business to
798 give, distribute, sell, offer for sale, or furnish a flavored electronic cigarette product to any
799 person. ~~{+}~~ ~~{It}~~ =
(2) Notwithstanding Subsection (1), and beginning on January 1, 2025, it is unlawful for a person to
give, distribute, sell, offer for sale, or furnish to any
800 person a flavored electronic cigarette product.
801 ~~{(2) It}~~ (3) Beginning on January 1, 2025, it is unlawful for a person to give, distribute, sell,
offer for sale, or furnish to any
802 person an electronic cigarette product that is not a premarket authorized or pending electronic
803 cigarette product.
804 [(2)] ~~{(3)}~~ (4) An individual who violates this section is guilty of: