Bill: HB1626 Amendment Number: H2

BIII Subtitle: TO PROHIBIT THE SALE OF DISPOSABLE VAPOR PRODUCTS.

### Sponsors:

Reps. Duffield, Achor, F. Allen, Andrews, Barnes, Barnett, Beaty, Beck, Bentley, S. Berry, Breaux, Brooks, K. Brown, Joey Carr, Childress, C. Cooper, Cozart, Crawford, Dalby, Duke, Eaton, Eaves, Ennett, K. Ferguson, D. Garner, Gazaway, Gramlich, Hall, Hawk, Holcomb, Hollowell, Hudson, Jean, L. Johnson, Long, Lundstrum, Lynch, Maddox, Magie, J. Mayberry, McAlindon, McClure, McCullough, M. McElroy, McGrew, McGruder, McNair, Milligan, Nazarenko, Painter, Perry, Pilkington, Puryear, J. Richardson, Richmond, Rose, Rye, Schulz, T. Shephard, Steele, Torres, Tosh, Unger, Walker, Warren, D. Whitaker, and Wooten

Sens. Irvin, Stubblefield, Stone, Wallace, Petty, Dees, Tucker, and Bryant

# **Basic Change:**

**House Amendment No. 2** --- HB1626-H2 narrows the scope of the original bill's prohibition on the retail sale of disposable vapor products and instead prohibits the retail sale of a disposable vapor product from a prohibited foreign party. HB1626-H2 allows a 90-day grace period for the licensees to liquidate, sell, or dispose of any disposable vapor products from prohibited foreign parties.

HB1626-H2 adopts the definition of "prohibited foreign party" contained in § 18-11-802, where it is defined as:

- A citizen or resident of a country subject to International Traffic in Arms Regulations;
- A foreign government formed within a country subject to International Traffic in Arms Regulations;
- A party other than an individual or a government that is created or organized under the laws of a foreign government within a country subject to International Traffic in Arms Regulations;
- Any party other than an individual or a government:
  - That is created or organized under the laws of any state; and
  - In which a significant interest or substantial control is directly or indirectly held or is capable of being exercised by:
    - A citizen or resident of a country subject to International Traffic in Arms Regulations;
    - A foreign government formed within a country subject to International Traffic in Arms Regulations;
    - A party other than an individual or a government that is created or organized under the laws of a foreign government within a country subject to International Traffic in Arms Regulations; or
    - A combination of the individuals, parties, or governments referred to above;
- An Entity of Particular Concern designated by the United States Department of State; or
- An agent, trustee, or other fiduciary of a person or entity enumerated above.

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**Original Bill** --- HB1626 prohibits the retail sale of a disposable vapor product within the state. A "disposable vapor product" is defined as a vapor product that:

- Has a battery that is not detachable from the atomizer or vaporizer;
- Cannot be refilled with e-liquid; and
- Is designed to be disposed of after the e-liquid is used.

The prohibition does not apply to the sale of a product that has been approved by the U.S. Food and Drug Administration (FDA). A violation is punishable as a Class A misdemeanor.

HB1626 allows the Director of Arkansas Tobacco Control of the Department of Finance and Administration (ATC) to seize and hold for disposition any disposable vapor product sold or offered for sale in violation of the prohibition. The bill adopts existing procedures for seizure, forfeiture, and destruction of seized products.

ATC is required to notify licensed manufacturers, wholesalers, retailers, and vendors of the requirements and the timeframe for compliance. HB1626 allows a 90-day grace period for the licensees to liquidate, sell, or dispose of any disposable vapor products.

### **Fiscal Impact:**

Undetermined reduction to sales and use tax collections.

[ The Department of Finance and Administration (DFA) does not have sufficient information to estimate the reduction to sales and use tax collections resulting from the prohibition of sales of disposable vapor products from prohibited foreign parties. ]

### **Taxpayer Impact:**

The sale of disposable vapor products from a prohibited foreign party will be prohibited. Any prohibited product that is sold or offered for sale is subject to seizure.

### **Resources Required:**

ATC Enforcement will need to make a large effort to identify and ensure removal of these products from all permitted and non-permitted premises in the state.

## Time Required:

It could take several months for ATC to inspect all tobacco outlets to ensure that all disposable vapor products are removed or confiscated.

#### **Procedural Changes:**

ATC will undertake efforts to educate the permittees and staff on the change in the law.

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Other Comments:		
None.		
Legal Analysis:		

None.

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