

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

SENATE BILL 252

5 By: Senator J. Dismang
6 By: Representatives Wardlaw, K. Brown
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND THE ARKANSAS TOBACCO PRODUCTS TAX ACT
10 OF 1977; TO INFORM THE PUBLIC OF HEALTH RISKS CAUSED
11 BY VAPOR PRODUCTS AND E-LIQUID PRODUCTS; TO PREVENT
12 CONTAMINATION, ADULTERATION, OR INCLUSION OF
13 INGREDIENTS OR OTHER SUBSTANCES IN VAPOR PRODUCTS OR
14 E-LIQUID PRODUCTS THAT MIGHT CAUSE HARM TO PUBLIC
15 HEALTH AND SAFETY; TO ENSURE THE SAFETY OF ARKANSAS
16 YOUTH; TO DECLARE AN EMERGENCY; AND FOR OTHER
17 PURPOSES.
18

Subtitle

19
20
21 TO INFORM THE PUBLIC OF HEALTH RISKS
22 CAUSED BY VAPOR PRODUCTS AND E-LIQUID
23 PRODUCTS; TO ENSURE THE SAFETY OF
24 ARKANSAS YOUTH; AND TO DECLARE AN
25 EMERGENCY.
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

29 SECTION 1. Arkansas Code 19-6-831(b)(2), effective until the
30 contingency in Acts 2023, No. 629, § 17, is met, concerning the creation of
31 the Arkansas Tobacco Control Revenue Fund, is amended to read as follows:

32 (2) The fund also shall consist of any other revenues authorized
33 by law, including without limitation all certification fees collected by
34 Arkansas Tobacco Control under § 20-65-201 et seq. and all civil penalties
35 collected by Arkansas Tobacco Control under § 20-65-204(c).
36



1 SECTION 2. Arkansas Code 19-6-831(b)(2), effective when the
 2 contingency in Acts 2023, No. 629, § 17, is met, concerning the creation of
 3 the Arkansas Tobacco Control Revenue Fund, is amended to read as follows:

4 (2) The fund also shall consist of any other revenues authorized
 5 by law, including without limitation all certification fees collected by
 6 Arkansas Tobacco Control under § 20-65-201 et seq. and all civil penalties
 7 collected by Arkansas Tobacco Control under § 20-65-204(c).
 8

9 SECTION 3. Arkansas Code 19-6-831(c)(1), effective until the
 10 contingency in Acts 2023, No. 629, § 17, is met, concerning the creation of
 11 the Arkansas Tobacco Control Revenue Fund, is amended to read as follows:

12 (c)(1) The fund shall be used for expenses incurred by Arkansas
 13 Tobacco Control in the organization, maintenance, operation, and merchant
 14 education and training with regard to enforcement of § 5-27-227, § 20-65-101
 15 et seq., the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.,
 16 and the Unfair Cigarette Sales Act, § 4-75-701 et seq.
 17

18 SECTION 4. Arkansas Code 19-6-831(c)(1), effective when the
 19 contingency in Acts 2023, No. 629, § 17, is met, concerning the creation of
 20 the Arkansas Tobacco Control Revenue Fund, is amended to read as follows:

21 (c)(1) The fund shall be used for expenses incurred by Arkansas
 22 Tobacco Control in the organization, maintenance, operation, and merchant
 23 education and training with regard to enforcement of § 5-27-227, § 20-65-101
 24 et seq., the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.,
 25 § 20-56-401 et seq., and the Unfair Cigarette Sales Act, § 4-75-701 et seq.
 26

27 SECTION 5. Arkansas Code Title 20 is amended to add an additional
 28 chapter to read as follows:

29 CHAPTER 65 – TOBACCO PRODUCTS, VAPOR PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS,
 30 AND E-LIQUID PRODUCTS

31
 32 Subchapter 1 – General Provisions

33
 34 20-65-101. Definitions.

35 As used in this chapter, unless otherwise specified:

36 (1)(A) “Alternative nicotine product” means a product that

1 consists of or contains nicotine from any source that can be ingested into
2 the body by chewing, smoking, absorbing, dissolving, inhaling, snorting,
3 sniffing, or by any other means.

4 (B) "Alternative nicotine product" does not include a:

5 (i) Tobacco product;

6 (ii) Vapor product;

7 (iii) Product that is a drug under 21 U.S.C. §
8 321(g)(1);

9 (iv) Product that is a device under 21 U.S.C. §
10 321(h); or

11 (v) Product that constitutes a combination drug,
12 device, or biological product as described in 21 U.S.C. § 353(g);

13 (2) "Annual" or "annually" means the fiscal year from July 1
14 through the following June 30;

15 (3) "Brand family" means all styles of vapor products,
16 alternative nicotine products, and e-liquid products sold under the same
17 trademark and differentiated from another style by means of additional
18 modifiers or descriptors, and includes any brand name alone or in conjunction
19 with any other word, trademark, logo, symbol, motto, selling message,
20 recognizable pattern of colors, or any other indicia of product
21 identification identical to, similar to, or identifiable with a previously
22 known brand of vapor products, alternative nicotine product, or e-liquid
23 products;

24 (4) "Childcare facility" means the same as provided in § 20-78-
25 202;

26 (5) "Child-resistant packaging" means packaging that is designed
27 or constructed to be compliant with the Federal Child Nicotine Poisoning
28 Prevention Act, Pub. L. No. 114-116, 15 U.S.C. § 1472a;

29 (6) "Consumer" means a member of the public at large;

30 (7) "E-liquid" and "e-liquid product" means a liquid product,
31 which may or may not contain nicotine, that is inhaled when using a vapor
32 product and that may or may not include without limitation propylene glycol,
33 vegetable glycerin, nicotine from any source, and flavorings;

34 (8)(A) "E-liquid container" means a bottle or other container of
35 e-liquid that is sold or provided for mixing at retail and is marketed or
36 intended for use in a vapor product.

1 (B) "E-liquid container" does not include e-liquid
2 contained in a cartridge that is sold, marketed, or intended for use in a
3 vapor product if the cartridge is prefilled and sealed by the manufacturer
4 and is not intended to be opened by the consumer;

5 (9) "Healthcare facility" means the same as in § 20-27-1803;

6 (10)(A) "Manufacturer" means a person that manufactures,
7 fabricates, assembles, or processes a tobacco product or manufactures or
8 fabricates a vapor product, alternative nicotine product, or e-liquid
9 product, including without limitation a federally licensed importer and a
10 federally licensed distributor that deals in tobacco products, vapor
11 products, alternative nicotine products, or e-liquid products.

12 (B) "Manufacturer" includes a sales entity affiliate of
13 the manufacturer or any other entity representing the manufacturer with
14 regard to the sale of tobacco products, vapor products, alternative nicotine
15 products, or e-liquid products produced by the manufacturer to wholesalers or
16 permitted retailers.

17 (C) "Manufacturer" specifically includes a person that
18 mixes, compounds, repackages, or resizes e-liquid products or vapor products;

19 (11) "School" means:

20 (A) Any buildings, parking lots, playing fields,
21 playgrounds, school buses, or other school vehicles; or

22 (B) Any off-campus school-sponsored or school-sanctioned
23 events with respect to any public school, open-enrollment public charter
24 school, or private school where children attend classes in kindergarten
25 through grade twelve (K-12);

26 (12) "Tobacco products" means all products containing tobacco
27 for consumption, including without limitation cigarettes, cigars, little
28 cigars, cigarillos, chewing tobacco, smokeless tobacco, snuff, smoking
29 tobacco, including pipe tobacco, and smoking tobacco substitutes; and

30 (13) "Vapor product" means an electronic oral device of any size
31 or shape that contains a vapor of nicotine, e-liquid, or any other substance
32 that when used or inhaled simulates smoking, regardless of whether a visible
33 vapor is produced, including without limitation a device that:

34 (A) Is composed of a heating element, battery, electronic
35 circuit, chemical process, mechanical device, or a combination of heating
36 element, battery, electronic circuit, chemical process, or mechanical device;

1 (B) Works in combination with a cartridge, other
2 container, or liquid delivery device containing nicotine, e-liquid, or any
3 other substance and manufactured for use with vapor products;

4 (C) Is manufactured, distributed, marketed, or sold as any
5 type or derivation of a vapor product, e-cigarette, e-cigar, e-pipe, or any
6 other product name or descriptor; and

7 (D) Does not include a product regulated as a drug or
8 device by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.,
9 as it existed on January 1, 2015.

10
11 20-65-102. Safety inspections – Child-resistant packaging.

12 (a) To ensure that the citizens of this state receive only tobacco
13 products, vapor products, alternative nicotine products, or e-liquid products
14 that are fresh, uncontaminated, unadulterated, and otherwise free of
15 substances that might cause harm to public health and safety, and to ensure
16 the safety of Arkansas youth, the Director of Arkansas Tobacco Control may:

17 (1) Inspect or cause to be inspected any tobacco products, vapor
18 product, alternative nicotine product, or e-liquid container in places of
19 storage or distribution authorized under state law;

20 (2) In addition to any authorization or remedy under law,
21 require any tobacco products, vapor products, alternative nicotine products,
22 or e-liquid containers found to be contaminated, adulterated, damaged, or not
23 fresh be removed from stock and be either returned to the proper wholesaler
24 or manufacturer for disposal according to law or delivered to the director
25 for destruction or disposal;

26 (3) Prescribe any form, application, certificate, or other
27 documentation or record to be used in the administration and enforcement of
28 this chapter; and

29 (4) Promulgate rules necessary to implement and effectuate the
30 purposes of this chapter.

31 (b) All alternative nicotine products and e-liquids sold at retail in
32 this state shall be sold in child-resistant packaging.

33
34 20-65-103. Prohibition on use in certain settings.

35 It is a violation of this chapter for any person to use a tobacco
36 product, vapor product, alternative nicotine product, or e-liquid product in

1 or on the grounds of any school, childcare facility, or healthcare facility.

2
3 20-65-104. Advertising prohibitions for vapor product, alternative
4 nicotine product, e-liquid product, or e-liquid container.

5 A person may not advertise, market, or offer for sale in this state any
6 tobacco products, vapor products, alternative nicotine products, e-liquid
7 products, or e-liquid containers by using, in the labeling or design of the
8 product, its packaging, or its advertising or marketing materials, trade
9 dress, trademarks, branding, or other related imagery that:

10 (1) Imitates or replicates those of food brands or other related
11 products that are commonly marketed to children or minors, including without
12 limitation breakfast cereals, cookies, juice drinks, soft drinks, frozen
13 drinks, ice creams, sorbets, sherbets, and frozen pops;

14 (2) Depicts or signifies characters or symbols that are known to
15 a reasonable person to appeal primarily to or are commonly associated with
16 children or minors, including without limitation superheroes, cartoons or
17 cartoon characters, anime characters, comic book characters, video game
18 characters, television show characters, movie characters, mythical creatures,
19 or unicorns, or that otherwise incorporates related imagery or scenery; or

20 (3) Uses the terms “candy”, “candies”, “cake”, “cakes”, “pies”,
21 or “cupcakes” or any variant of these terms when that variant term is used in
22 a manner to market to children or minors or known to a reasonable person to
23 appeal primarily to children or minors, or any other term referencing a type
24 or brand of candy, cakes, pastries, or pies, including types or brands of
25 candies, cakes, pastries, or pies that do not include the words “candy”,
26 “candies”, “cake”, “cakes”, “pies”, or “cupcakes” in their names, labels, or
27 slogans.

28
29 20-65-105. Contaminated or adulterated tobacco products, vapor
30 products, alternative nicotine products, or e-liquid products.

31 (a) It is a violation of this chapter for any person to offer for sale
32 in this state or sell to persons located in this state any contaminated or
33 adulterated tobacco products, vapor product, alternative nicotine product, or
34 e-liquid product.

35 (b) A tobacco product, vapor product, alternative nicotine product, or
36 e-liquid product in this state is contaminated or adulterated if the product:

1 (1) Consists in whole or in part of any filthy, putrid, or
2 decomposed substance;

3 (2) Contains any added poisonous or deleterious substance that
4 may render the product injurious to public health; or

5 (3) Does not have an approved certification as required in § 20-
6 65-202.

7
8 Subchapter 2 – Manufacturer Directory for Vapor Products and E-liquid
9 Products

10
11 20-65-201. Definitions.

12 As used in this subchapter:

13 (1) “E-liquid” and “e-liquid product” means a liquid product
14 containing nicotine from any source that is inhaled when using a vapor
15 product, and that may or may not include without limitation propylene glycol,
16 vegetable glycerin, and flavorings; and

17 (2) “Vapor product” means an electronic oral device of any size
18 or shape that contains a vapor of nicotine or e-liquid that when used or
19 inhaled simulates smoking, regardless of whether a visible vapor is produced,
20 including without limitation a device that:

21 (A) Is composed of a heating element, battery, electronic
22 circuit, chemical process, mechanical device, or a combination of heating
23 element, battery, electronic circuit, chemical process, or mechanical device;

24 (B) Works in combination with a cartridge, other
25 container, or liquid delivery device containing nicotine from any source or
26 e-liquid and manufactured for use with vapor products;

27 (C) Is manufactured, distributed, marketed, or sold as any
28 type or derivation of a vapor product, e-cigarette containing nicotine from
29 any source, e-cigar containing nicotine from any source, e-pipe containing
30 nicotine from any source, or any other vapor product name or descriptor; and

31 (D) Does not include a product regulated as a drug or
32 device by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.,
33 as it existed on January 1, 2015.

34
35 20-65-202. Establishment.

36 (a) The Director of Arkansas Tobacco Control shall develop and

1 maintain a directory listing all manufacturers that have provided
2 certifications that comply with this subchapter and each vapor product and e-
3 liquid product that is listed in those certifications.

4 (b) The director shall:

5 (1) Make the directory available for public inspection on
6 Arkansas Tobacco Control's website by July 1, 2025; and

7 (2) Update the directory to correct mistakes and add or remove
8 manufacturers or a vapor product or e-liquid product consistent with the
9 requirements of this section on a monthly basis.

10 (c) A person or entity is deemed to have received notice as required
11 under subsection (d) of this section that a vapor product or e-liquid product
12 of a manufacturer is not included in the directory maintained by Arkansas
13 Tobacco Control under this section at the time Arkansas Tobacco Control's
14 website fails to list any vapor product or e-liquid product in the directory
15 or at the time the director removes the vapor product or e-liquid product
16 from the directory.

17 (d)(1)(A) The director may not remove the manufacturer or its vapor
18 product or e-liquid product from the directory until at least fifteen (15)
19 days after the manufacturer has been given notice of an intended action.

20 (B) Notice shall be sufficient and be deemed immediately
21 received by a manufacturer if the notice is sent either electronically or by
22 facsimile to an email address or facsimile number, as the case may be,
23 provided by the manufacturer in the manufacturer's most recent certification
24 filed under this subchapter.

25 (2) The vapor product or e-liquid product manufacturer shall
26 have fifteen (15) days from the date of service of the notice of the
27 director's intended action to establish that the vapor product or e-liquid
28 product manufacturer or its vapor product or e-liquid product should be
29 included in the directory.

30 (3) If after fifteen (15) days from the date of service of the
31 notice of the director's intended action the manufacturer of the vapor
32 product or e-liquid products remains in noncompliance, and the manufacturer
33 has not requested a hearing before the Arkansas Tobacco Control Board within
34 fifteen (15) days of notice of the director's intended action, the
35 manufacturer and its vapor product or e-liquid product shall be removed from
36 the directory.

1 (4) Every manufacturer shall provide and update as necessary an
2 email address to the director for the purpose of receiving any notifications
3 required by this subchapter.

4 (e)(1) Beginning May 1, 2025, a vapor product or e-liquid product
5 shall not be offered for sale in this state or sold to a person located in
6 this state unless the manufacturer certifies before that date, on a form
7 prescribed by the director, under penalty of perjury, that:

8 (A) The vapor product or e-liquid product was on the
9 market in the United States as of August 8, 2016, and the manufacturer has
10 applied for a marketing order under 21 U.S.C. § 387j for the vapor product or
11 e-liquid product, whichever is applicable, by submitting a premarket tobacco
12 product application on or before September 9, 2020, and either:

13 (i) The premarket tobacco application for the vapor
14 product, alternative nicotine product, or e-liquid product remains under
15 review by the United States Food and Drug Administration; or

16 (ii) The United States Food and Drug Administration
17 has issued a marketing denial order for the vapor product or e-liquid
18 product, whichever is applicable, but the United States Food and Drug
19 Administration or a federal court has issued a stay order or injunction
20 during the pendency of the manufacturer's appeal of the marketing denial
21 order;

22 (B) The manufacturer has received a marketing granted
23 order under 21 U.S.C. § 387j for the vapor product or e-liquid product from
24 the United States Food and Drug Administration; or

25 (C) The manufacturer is not required to submit an
26 additional marketing granted order or premarket tobacco product application
27 for the vapor product or e-liquid product because the vapor product or e-
28 liquid product merely reflects changes to the name, brand family, or
29 packaging of a vapor product or e-liquid product that is covered under
30 subdivision (e)(1)(A) or (e)(1)(B) of this section.

31 (2) In addition to the requirements in subdivision (e)(1) of
32 this section, each manufacturer shall provide to Arkansas Tobacco Control a
33 copy of the cover page of the:

34 (A) Premarket tobacco application with evidence of receipt
35 of the application by the United States Food and Drug Administration;

36 (B) Document issued by the United States Food and Drug

1 Administration or by a court confirming that the premarket tobacco product
 2 application has received a marketing denial order that has been and remains
 3 stayed by the United States Food and Drug Administration or court order,
 4 rescinded by the United States Food and Drug Administration, or vacated by a
 5 court; or

6 (C) Marketing granted order issued under 21 U.S.C. § 387j.

7 (3)(A) The information submitted by the manufacturer under
 8 subdivision (e)(2) of this section shall be considered confidential
 9 commercial or financial information for purposes of the Freedom of
 10 Information Act of 1967, § 25-19-101 et seq.

11 (B) The manufacturer may redact certain confidential
 12 commercial or financial information provided under subdivision (e)(2) of this
 13 section.

14 (C) The director shall not disclose confidential
 15 commercial or financial information except as required or authorized by law.

16
 17 20-65-203. Material change to certification.

18 A manufacturer shall notify the Director of Arkansas Tobacco Control
 19 within thirty (30) days of any material change to the information provided in
 20 § 20-65-202, including issuance by the United States Food and Drug
 21 Administration of:

22 (1) A marketing granted order issued under 21 U.S.C. § 387j;

23 (2) An order requiring a manufacturer to remove a vapor product
 24 or e-liquid product from the market either temporarily or permanently;

25 (3) Any notice of action taken by the United States Food and
 26 Drug Administration affecting the ability of the new vapor product or e-
 27 liquid product to be introduced or delivered into interstate commerce for
 28 commercial distribution; or

29 (4) Any change in policy that results in a vapor product or e-
 30 liquid product no longer being exempt from oversight of the United States
 31 Food and Drug Administration.

32
 33 20-65-204. Fees – Violations.

34 (a)(1) Each certifying manufacturer shall pay an initial fee of one
 35 thousand dollars (\$1,000) for each brand family of vapor products or e-liquid
 36 products to offset the costs incurred by Arkansas Tobacco Control for

1 processing the certifications and operating the directory under § 20-65-202.

2 (2) The Director of Arkansas Tobacco Control shall collect an
3 annual fee of five hundred dollars (\$500) for each brand family of vapor
4 products or e-liquid products to offset the costs associated with maintaining
5 the directory and satisfying the requirements of this subchapter.

6 (3) Any certification fees collected under this section shall be
7 deposited into the Arkansas Tobacco Control Revenue Fund established under §
8 19-6-831.

9 (b)(1) If a manufacturer can demonstrate to the director that the
10 United States Food and Drug Administration has issued a rule, guidance, or
11 any other formal statement that temporarily exempts a vapor product or e-
12 liquid product from the federal premarket tobacco application requirements,
13 the vapor product or e-liquid product may be added to the directory upon
14 request by the manufacturer if the manufacturer provides sufficient evidence
15 that the vapor product or e-liquid product is compliant with the federal
16 rule, guidance, or other formal statement, as applicable.

17 (2) On and after July 1, 2025, or on the date that Arkansas
18 Tobacco Control first makes the directory available for public inspection on
19 its website as provided in § 20-65-202, whichever is later, a manufacturer
20 who offers for sale a vapor product or e-liquid product that is not listed on
21 the directory is subject to a civil penalty of one thousand dollars (\$1,000)
22 for each vapor product or e-liquid product offered for sale in violation of §
23 20-65-202 until the vapor product or e-liquid product is removed from the
24 market or properly listed on the directory.

25 (3) In addition to any penalty prescribed by law, a corporation,
26 partnership, sole proprietor, limited partnership, or association engaged in
27 the manufacture of vapor products or e-liquid products that knowingly makes a
28 false certification under this subchapter is subject to a civil penalty of
29 not less than seventy-five thousand dollars (\$75,000) but not more than two
30 hundred fifty thousand dollars (\$250,000) for each false certification.

31 (4) A repeated violation of this section shall constitute a
32 deceptive trade practice under § 4-88-101 et seq.

33 (5) Beginning on July 1, 2025, or on the date that Arkansas
34 Tobacco Control first makes the directory available for public inspection on
35 its website under this subchapter, whichever is later, and subject to
36 subdivisions (b)(7) and (b)(8) of this section, it is unlawful for any person

1 or entity to sell, offer, or possess in this state, or import for personal
2 consumption in this state, a vapor product or an e-liquid product that the
3 person or entity knows is not included in the directory maintained by the
4 director under this subchapter.

5 (6) A person or entity is deemed to have received notice that a
6 manufacturer is not included in the directory maintained by Arkansas Tobacco
7 Control at the time Arkansas Tobacco Control's website fails to list any
8 manufacturer in the directory or at the time the director removes the
9 manufacturer from the directory.

10 (7) If a vapor product or e-liquid product or a manufacturer of
11 a vapor product or e-liquid product is removed from the directory established
12 and maintained by the director under § 20-65-202, each wholesaler shall have
13 sixty (60) days from the date the vapor product or e-liquid product is
14 removed from the directory to remove any vapor product or e-liquid product
15 from the wholesaler's inventory and physical location where the wholesaler
16 takes orders for, receives orders for, or sells the vapor product or e-liquid
17 product.

18 (8) If a vapor product or e-liquid product or a manufacturer of
19 a vapor product or e-liquid product is removed from the directory established
20 and maintained by the director under § 20-65-202, each retailer shall have
21 one hundred twenty (120) days from the date any vapor product or e-liquid
22 product is removed from the directory to sell or remove the vapor product or
23 e-liquid product from the retailer's inventory and permitted location.

24 (c)(1) In addition to the other fines and forfeitures, a person who
25 violates this section may be subject to a penalty for vapor products or e-
26 liquid products held, sold, or offered for sale and confiscated by Arkansas
27 Tobacco Control in the amount of:

28 (A) Twenty-five dollars (\$25.00) for each individual vapor
29 product or e-liquid product up to twenty (20) individual vapor products or e-
30 liquid products; and

31 (B) Fifty dollars (\$50.00) for each individual vapor
32 product or e-liquid product in excess of twenty (20) individual vapor
33 products or e-liquid products.

34 (2) The penalty under subdivision (c)(1) of this section shall
35 be held to be in the nature of a civil penalty and may be collected by civil
36 or administrative action and may be levied by the Arkansas Tobacco Control

1 Board or any circuit court having jurisdiction in this state.

2 (3) A penalty assessed under this subsection shall be deposited
3 into the Arkansas Tobacco Control Revenue Fund established under § 19-6-831.

4
5 20-65-205. Enforcement.

6 (a)(1)(A) A nonresident manufacturer that is not registered to do
7 business in the state, as a condition precedent to having its name or its
8 vapor products or e-liquid products listed and retained in the directory
9 created under this subchapter, shall appoint and continually engage without
10 interruption a registered agent in this state for service of process on whom
11 all process and any action or proceeding arising out of the enforcement of
12 this section may be served.

13 (B) The manufacturer shall provide to the Director of
14 Arkansas Tobacco Control the name, address, and telephone number of its agent
15 for service of process and shall provide any other information relating to
16 its agent as may be requested by the director.

17 (2)(A) A manufacturer that is located outside of the United
18 States, as an additional condition precedent to having its vapor products or
19 e-liquid products listed or retained in the directory, shall cause each of
20 its importers of any of its vapor products or e-liquid products to be sold in
21 this state to appoint, and continually engage without interruption, an agent
22 in this state in accordance with the provisions of this section.

23 (B) All obligations of a manufacturer imposed by this
24 section with respect to appointment of its agent shall also apply to
25 importers with respect to appointment of their agents; and

26 (3)(A) A manufacturer shall provide written notice to the
27 director thirty (30) days before the termination of the authority of an agent
28 appointed under subdivisions (a)(1) and (a)(2) of this section.

29 (B) No less than five (5) days before the termination of
30 an existing agent appointment, a manufacturer shall provide to the director
31 the name, address, and telephone number of its newly appointed agent for
32 service of process and shall provide any other information relating to the
33 new appointment as may be requested by the director.

34 (C) In the event an agent terminates an agency
35 appointment, the manufacturer shall notify the director of the termination
36 within five (5) days of the termination and shall include proof to the

1 satisfaction of the director of the appointment of a new agent.

2 (b)(1) Each retailer and wholesaler that sells or distributes vapor
 3 products or e-liquid products in this state may be subject to unannounced
 4 compliance checks or inspections for purposes of enforcing this subchapter.

5 (2) Unannounced follow-up compliance checks or inspections of
 6 all noncompliant retailers and wholesalers shall be conducted within ninety
 7 (90) days after any violation of this subchapter.

8 (3) The director shall publish the results of all compliance
 9 checks or inspections at least annually and shall make the results available
 10 to the public on request.

11 (c) The director may promulgate rules necessary to effect the purposes
 12 of this subchapter.

13
 14 SECTION 6. Arkansas Code § 26-57-203(4), concerning the definition of
 15 "child-resistant packaging" within the Arkansas Tobacco Products Tax Act of
 16 1977, is repealed to be codified in a location more suitable to the subject
 17 matter.

18 ~~(4)(A) "Child resistant packaging" means packaging that is~~
 19 ~~designed or constructed to be:~~

20 ~~(i) Significantly difficult for children under five~~
 21 ~~(5) years of age to:~~

22 ~~(a) Open; or~~

23 ~~(b) Obtain a toxic or harmful amount of the~~
 24 ~~substance contained therein within a reasonable time; and~~

25 ~~(ii) Not difficult for an average adult to use~~
 26 ~~properly.~~

27 ~~(B) "Child resistant packaging" does not mean packaging~~
 28 ~~that children cannot open or obtain a toxic or harmful amount within a~~
 29 ~~reasonable time when tested in accordance with the method described in 16~~
 30 ~~C.F.R. § 1700.20, as it existed on January 1, 2015;~~

31
 32 SECTION 7. Arkansas Code 26-57-247(b), effective until the contingency
 33 in Acts 2023, No. 629, § 17, is met, concerning seizure, forfeiture, and
 34 disposition of tobacco products and other property, is amended to read as
 35 follows:

36 (b) The Director of Arkansas Tobacco Control may seize and hold for

1 disposition of the courts or the Arkansas Tobacco Control Board all tobacco
2 products, vapor products, alternative nicotine products, or e-liquid products
3 found in the possession of a person dealing in, or a consumer of, tobacco
4 products, vapor products, alternative nicotine products, or e-liquid products
5 if:

6 (1) Prima facie evidence exists that the full amount of excise
7 tax due on the tobacco products has not been paid to the Secretary of the
8 Department of Finance and Administration;

9 (2) Tobacco products, vapor products, alternative nicotine
10 products, or e-liquid products are in the possession of a wholesaler who does
11 not possess a current Arkansas wholesale permit;

12 (3) A retail establishment does not possess a current Arkansas
13 retail permit; ~~or~~

14 (4) The tobacco products, vapor products, alternative nicotine
15 products, or e-liquid products have been offered for sale to the public at
16 another location without a current Arkansas retail permit; or

17 (5) Tobacco products, vapor products, alternative nicotine
18 products, or e-liquid products are possessed, sold, or offered for sale in
19 violation of § 20-65-101 et seq.

20
21 SECTION 8. Arkansas Code 26-57-247(b), effective when the contingency
22 in Acts 2023, No. 629, § 17, is met, concerning seizure, forfeiture, and
23 disposition of tobacco products and other property, is amended to read as
24 follows:

25 (b) The Director of Arkansas Tobacco Control may seize and hold for
26 disposition of the courts or the Arkansas Tobacco Control Board all tobacco
27 products, vapor products, alternative nicotine products, e-liquid products,
28 or hemp-derived products found in the possession of a person dealing in, or a
29 consumer of, tobacco products, vapor products, alternative nicotine products,
30 e-liquid products, or hemp-derived products if:

31 (1) Prima facie evidence exists that the full amount of excise
32 tax due on the tobacco products has not been paid to the Secretary of the
33 Department of Finance and Administration;

34 (2) Tobacco products, vapor products, alternative nicotine
35 products, or e-liquid products are in the possession of a wholesaler who does
36 not possess a current Arkansas wholesale permit;

1 (3) A retail establishment does not possess a current Arkansas
2 retail permit;

3 (4) The tobacco products, vapor products, alternative nicotine
4 products, or e-liquid products have been offered for sale to the public at
5 another location without a current Arkansas retail permit; ~~or~~

6 (5) Hemp-derived products are possessed, sold, or offered for
7 sale in violation of § 20-56-401 et seq.; or

8 (6) Tobacco products, vapor products, alternative nicotine
9 products, or e-liquid products are possessed, sold, or offered for sale in
10 violation of § 20-65-101 et seq.

11
12 SECTION 9. Arkansas Code § 26-57-254 is repealed to be codified in a
13 location more suitable to the subject matter.

14 ~~26-57-254. Safety inspections on permitted products — Restrictions on~~
15 ~~use of e-liquid products and alternative nicotine products — Definitions.~~

16 ~~(a) In order to assure that the citizens of this state receive only~~
17 ~~tobacco products, vapor products, alternative nicotine products, or e-liquid~~
18 ~~products that are fresh and not contaminated, and to ensure the safety of~~
19 ~~Arkansas youth, the Director of Arkansas Tobacco Control is authorized under~~
20 ~~this subchapter to:~~

21 ~~(1) Inspect or cause to be inspected any tobacco product, vapor~~
22 ~~product, alternative nicotine product, or e-liquid container in places of~~
23 ~~storage or distribution authorized under this subchapter; and~~

24 ~~(2) Require any tobacco products, vapor products, alternative~~
25 ~~nicotine products, or e-liquid containers found to be contaminated, damaged,~~
26 ~~or not fresh be removed from stock and be either returned to the proper~~
27 ~~wholesaler or manufacturer for disposal according to law or delivered to the~~
28 ~~Director of Arkansas Tobacco Control for destruction or disposal.~~

29 ~~(b)(1) It is a violation for any person to use a tobacco product,~~
30 ~~vapor product, alternative nicotine product, or e-liquid product in or on the~~
31 ~~grounds of any school, childcare facility, or healthcare facility.~~

32 ~~(2) As used in subdivision (b)(1) of this section:~~

33 ~~(A) “Childcare facility” means the same as provided in §~~
34 ~~20-78-202(2);~~

35 ~~(B) “Healthcare facility” means the same as provided in §~~
36 ~~20-27-1803(6); and~~

1 ~~(C) “School” means:~~

2 ~~(i) Any buildings, parking lots, playing fields,~~
3 ~~playgrounds, school buses, or other school vehicles; or~~

4 ~~(ii) Any off campus school sponsored or school-~~
5 ~~sanctioned events with respect to any public, charter, or private school~~
6 ~~where children attend classes in kindergarten programs or grades one through~~
7 ~~twelve (1-12).~~

8 ~~(c) On and after July 22, 2015, all alternative nicotine products and~~
9 ~~e-liquid containers containing nicotine sold at retail in this state shall~~
10 ~~satisfy the child resistant packaging effectiveness standards described in §~~
11 ~~26-57-203 when tested in accordance with the method described by 16 C.F.R. §~~
12 ~~1700.20, as it existed on January 1, 2015.~~

13 ~~(d) As used in this section, “e-liquid container” means a bottle or~~
14 ~~other container of e-liquid that is sold or provided for mixing at retail and~~
15 ~~is marketed or intended for use in a vapor product, but does not include e-~~
16 ~~liquid contained in a cartridge that is sold, marketed, or intended for use~~
17 ~~in a vapor product if the cartridge is prefilled and sealed by the~~
18 ~~manufacturer and is not intended to be opened by the consumer.~~

19
20 SECTION 10. Arkansas Code 26-57-255(g)(3)(A)-(C), effective until the
21 contingency in Acts 2023, No. 629, § 17, is met, concerning the creation of
22 the Arkansas Tobacco Control Board, are amended to read as follows:

23 (3)(A) Conduct public hearings when appropriate regarding a
24 permit authorized under this subchapter or in violation of this subchapter,
25 the Unfair Cigarette Sales Act, § 4-75-701 et seq., § 5-27-227, § 20-65-101
26 et seq., or any other federal, state, or local statute, ordinance, rule, or
27 regulation concerning the sale of tobacco products, vapor products,
28 alternative nicotine products, or e-liquid products to minors or the rules
29 promulgated by Arkansas Tobacco Control.

30 (B) After notice and hearing held in accordance with the
31 Arkansas Administrative Procedure Act, § 25-15-201 et seq., if the board
32 finds a violation of this subchapter, the Unfair Cigarette Sales Act, § 4-75-
33 701 et seq., § 20-65-101 et seq., or the rules promulgated by Arkansas
34 Tobacco Control, the board may suspend or revoke any or all permits issued by
35 the director to any person.

36 (C)(i) The board may levy a civil penalty in an amount not

1 to exceed five thousand dollars (\$5,000) for each violation against a person
2 found to be in violation of this subchapter, the Unfair Cigarette Sales Act,
3 § 4-75-701 et seq., § 20-65-101 et seq., or the rules promulgated by Arkansas
4 Tobacco Control.

5 (ii) The board shall levy a civil penalty in
6 accordance with the guidelines set out in § 20-65-204 for a violation of §
7 20-65-204.

8
9 SECTION 11. Arkansas Code 26-57-255(g)(3)(A)-(C), effective when the
10 contingency in Acts 2023, No. 629, § 17, is met, concerning the creation of
11 the Arkansas Tobacco Control Board, are amended to read as follows:

12 (3)(A) Conduct public hearings when appropriate regarding a
13 permit authorized under this subchapter or in violation of this subchapter,
14 the Unfair Cigarette Sales Act, § 4-75-701 et seq., § 5-27-227, § 20-56-401
15 et seq., § 20-65-101 et seq., or any other federal, state, or local statute,
16 ordinance, rule, or regulation concerning the sale of tobacco products, vapor
17 products, alternative nicotine products, e-liquid products, or hemp-derived
18 products to minors or the rules promulgated by Arkansas Tobacco Control.

19 (B) After notice and hearing held in accordance with the
20 Arkansas Administrative Procedure Act, § 25-15-201 et seq., if the board
21 finds a violation of this subchapter, the Unfair Cigarette Sales Act, § 4-75-
22 701 et seq., § 20-56-401 et seq., § 20-65-101 et seq., or the rules
23 promulgated by Arkansas Tobacco Control, the board may suspend or revoke any
24 or all permits issued by the director to any person.

25 (C)(i) The board may levy a civil penalty in an amount not
26 to exceed five thousand dollars (\$5,000) for each violation against a person
27 found to be in violation of this subchapter, the Unfair Cigarette Sales Act,
28 § 4-75-701 et seq., § 20-56-401 et seq., § 20-65-101 et seq., or the rules
29 promulgated by Arkansas Tobacco Control.

30 (ii) The board shall levy a civil penalty in
31 accordance with the guidelines set out in § 20-65-204 for a violation of §
32 20-65-204.

33
34 SECTION 12. Arkansas Code 26-57-256(a), effective until the
35 contingency in Acts 2023, No. 629, § 17, is met, concerning the powers of
36 Arkansas Tobacco Control, is amended to add an additional subdivision to read

1 as follows:

2 (7) Develop and maintain a directory as described under § 20-65-
3 202.

4
5 SECTION 13. Arkansas Code 26-57-256(a), effective when the contingency
6 in Acts 2023, No. 629, § 17, is met, concerning the powers of Arkansas
7 Tobacco Control, is amended to add an additional subdivision to read as
8 follows:

9 (7) Develop and maintain a directory as described under § 20-65-
10 202.

11
12 SECTION 14. EMERGENCY CLAUSE. It is found and determined by the
13 General Assembly of the State of Arkansas that vapor products and e-liquid
14 products are being sold in this state that are not authorized by the United
15 States Food and Drug Administration or subject to pending premarket
16 applications; that vapor products and e-liquids are common with the youth
17 with forty-four percent (44%) of Arkansas high school seniors reporting to
18 have tried vapor products or e-liquid products; that a vapor product and e-
19 liquid product directory would authorize the state to bar the sale of
20 products that are not authorized by the United States Food and Drug
21 Administration or subject to pending premarket applications; and that this
22 act is immediately necessary to protect the health and safety of the youth of
23 this state from vapor products and e-liquid products that are not authorized
24 by the United States Food and Drug Administration or subject to pending
25 premarket applications. Therefore, an emergency is declared to exist, and
26 this act being immediately necessary for the preservation of the public
27 peace, health, and safety shall become effective on:

28 (1) The date of its approval by the Governor;

29 (2) If the bill is neither approved nor vetoed by the Governor,
30 the expiration of the period of time during which the Governor may veto the
31 bill; or

32 (3) If the bill is vetoed by the Governor and the veto is
33 overridden, the date the last house overrides the veto.

34
35
36