

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas *As Engrossed: S2/25/25 S3/17/25*

2 95th General Assembly

# A Bill

3 Regular Session, 2025

SENATE BILL 252

4

5 By: Senator J. Dismang

6 By: Representatives Wardlaw, K. Brown

7

8

## For An Act To Be Entitled

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; AND FOR OTHER PURPOSES.

17

18

19

## Subtitle

20 *TO INFORM THE PUBLIC OF HEALTH RISKS*  
21 *CAUSED BY VAPOR PRODUCTS AND E-LIQUID*  
22 *PRODUCTS; AND TO ENSURE THE SAFETY OF*  
23 *ARKANSAS YOUTH.*

24

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26

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

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

34

35 SECTION 2. Arkansas Code 19-6-831(b)(2), effective when the  
36 contingency in Acts 2023, No. 629, § 17, is met, concerning the creation of



1 the Arkansas Tobacco Control Revenue Fund, is amended to read as follows:

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

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

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

15  
16 SECTION 4. Arkansas Code 19-6-831(c)(1), effective when the  
17 contingency in Acts 2023, No. 629, § 17, is met, concerning the creation of  
18 the Arkansas Tobacco Control Revenue Fund, is amended to read as follows:

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

24  
25 SECTION 5. Arkansas Code Title 20 is amended to add an additional  
26 chapter to read as follows:

27 CHAPTER 65 – TOBACCO PRODUCTS, VAPOR PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS,  
28 AND E-LIQUID PRODUCTS

29  
30 Subchapter 1 – General Provisions

31  
32 20-65-101. Definitions.

33 As used in this chapter, unless otherwise specified:

34 (1)(A) “Alternative nicotine product” means a product that  
35 consists of or contains nicotine from any source that can be ingested into  
36 the body by chewing, smoking, absorbing, dissolving, inhaling, snorting,

1 sniffing, or by any other means.

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

3 (i) Tobacco product;

4 (ii) Vapor product;

5 (iii) Product that is a drug under 21 U.S.C. §  
6 321(g)(1);

7 (iv) Product that is a device under 21 U.S.C. §  
8 321(h); or

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

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

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

22 (4) "Childcare facility" means the same as provided in § 20-78-  
23 202;

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

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

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

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

35 (B) "E-liquid container" does not include e-liquid  
36 contained in a cartridge that is sold, marketed, or intended for use in a

1 vapor product if the cartridge is prefilled and sealed by the manufacturer  
2 and is not intended to be opened by the consumer;

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

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

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

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

17 (11) "School" means:

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

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

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

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

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

35 (B) Works in combination with a cartridge, other  
36 container, or liquid delivery device containing nicotine, e-liquid, or any

1 other substance and manufactured for use with vapor products;

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

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

8  
9 20-65-102. Safety inspections – Child-resistant packaging.

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

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

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

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

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

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

31  
32 20-65-103. Prohibition on use in certain settings.

33 It is a violation of this chapter for any person to use a tobacco  
34 product, vapor product, alternative nicotine product, or e-liquid product in  
35 or on the grounds of any school, childcare facility, or healthcare facility.

36

1 20-65-104. Advertising prohibitions for vapor product, alternative  
2 nicotine product, e-liquid product, or e-liquid container.

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

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

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

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

26  
27 20-65-105. Contaminated or adulterated tobacco products, vapor  
28 products, alternative nicotine products, or e-liquid products.

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

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

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

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

3 (3) Does not have an approved certification as required in § 20-  
4 65-202.

5  
6 Subchapter 2 – Manufacturer Directory for Vapor Products and E-liquid  
7 Products

8  
9 20-65-201. Definitions.

10 As used in this subchapter:

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

15 (B) “E-liquid” and “e-liquid product” does not include a  
16 product that is a nicotine solution sold in a container without a battery or  
17 atomizer and that is intended to be refillable or that otherwise makes the  
18 nicotine solution accessible to the consumer through customary or reasonably  
19 foreseeable handling or use; and

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

24 (i) Is composed of a heating element, battery, electronic  
25 circuit, chemical process, mechanical device, or a combination of heating  
26 element, battery, electronic circuit, chemical process, or mechanical device;

27 (ii) Works in combination with a cartridge, other  
28 container, or liquid delivery device containing nicotine from any source or  
29 e-liquid and manufactured for use with vapor products; and

30 (iii) Is manufactured, distributed, marketed, or sold as  
31 any type or derivation of a vapor product, e-cigarette containing nicotine  
32 from any source, e-cigar containing nicotine from any source, e-pipe  
33 containing nicotine from any source, or any other vapor product name or  
34 descriptor.

35 (B) “Vapor product” does not include:

36 (i) A device that:

1 (a) Uses removable batteries;  
2 (b) Is sold without e-liquid; and  
3 (c) Is designed to utilized e-liquid in a  
4 refillable container; or

5 (ii) A product regulated as a drug or device by the  
6 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., as it existed  
7 on January 1, 2015.

8  
9 20-65-202. Establishment.

10 (a) The Director of Arkansas Tobacco Control shall develop and  
11 maintain a directory listing all manufacturers that have provided  
12 certifications that comply with this subchapter and each vapor product and e-  
13 liquid product that is listed in those certifications.

14 (b) The director shall:

15 (1) Make the directory available for public inspection on  
16 Arkansas Tobacco Control's website by November 1, 2025; and

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

20 (c) A person or entity is deemed to have received notice as required  
21 under subsection (d) of this section that a vapor product or e-liquid product  
22 of a manufacturer is not included in the directory maintained by Arkansas  
23 Tobacco Control under this section at the time Arkansas Tobacco Control's  
24 website fails to list any vapor product or e-liquid product in the directory  
25 or at the time the director removes the vapor product or e-liquid product  
26 from the directory.

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

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

35 (2) The vapor product or e-liquid product manufacturer shall  
36 have fifteen (15) days from the date of service of the notice of the



1 director's intended action to establish that the vapor product or e-liquid  
2 product manufacturer or its vapor product or e-liquid product should be  
3 included in the directory.

4 (3) If after fifteen (15) days from the date of service of the  
5 notice of the director's intended action the manufacturer of the vapor  
6 product or e-liquid products remains in noncompliance, and the manufacturer  
7 has not requested a hearing before the Arkansas Tobacco Control Board within  
8 fifteen (15) days of notice of the director's intended action, the  
9 manufacturer and its vapor product or e-liquid product shall be removed from  
10 the directory.

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

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

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

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

26 (ii) The United States Food and Drug Administration  
27 has issued a marketing denial order for the vapor product or e-liquid  
28 product, whichever is applicable, but the United States Food and Drug  
29 Administration or a federal court has issued a stay order or injunction  
30 during the pendency of the manufacturer's appeal of the marketing denial  
31 order;

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

35 (C) The manufacturer is not required to submit an  
36 additional marketing granted order or premarket tobacco product application

1 for the vapor product or e-liquid product because the vapor product or e-  
2 liquid product merely reflects changes to the name, brand family, or  
3 packaging of a vapor product or e-liquid product that is covered under  
4 subdivision (e)(1)(A) or (e)(1)(B) of this section.

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

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

10 (B) Document issued by the United States Food and Drug  
11 Administration or by a court confirming that the premarket tobacco product  
12 application has received a marketing denial order that has been and remains  
13 stayed by the United States Food and Drug Administration or court order,  
14 rescinded by the United States Food and Drug Administration, or vacated by a  
15 court; or

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

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

21 (B) The manufacturer may redact certain confidential  
22 commercial or financial information provided under subdivision (e)(2) of this  
23 section.

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

26  
27 20-65-203. Material change to certification.

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

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

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

35 (3) Any notice of action taken by the United States Food and  
36 Drug Administration affecting the ability of the new vapor product or e-

1 liquid product to be introduced or delivered into interstate commerce for  
2 commercial distribution; or

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

6  
7 20-65-204. Fees – Violations.

8 (a)(1) Each certifying manufacturer shall pay an initial fee of five  
9 hundred dollars (\$500) for each brand family of vapor products or e-liquid  
10 products to offset the costs incurred by Arkansas Tobacco Control for  
11 processing the certifications and operating the directory under § 20-65-202.

12 (2) The Director of Arkansas Tobacco Control shall collect an  
13 annual fee of two hundred fifty dollars (\$250) for each brand family of vapor  
14 products or e-liquid products to offset the costs associated with maintaining  
15 the directory and satisfying the requirements of this subchapter.

16 (3) Any certification fees collected under this section shall be  
17 deposited into the Arkansas Tobacco Control Revenue Fund established under §  
18 19-6-831.

19 (b)(1) If a manufacturer can demonstrate to the director that the  
20 United States Food and Drug Administration has issued a rule, guidance, or  
21 any other formal statement that temporarily exempts a vapor product or e-  
22 liquid product from the federal premarket tobacco application requirements,  
23 the vapor product or e-liquid product may be added to the directory upon  
24 request by the manufacturer if the manufacturer provides sufficient evidence  
25 that the vapor product or e-liquid product is compliant with the federal  
26 rule, guidance, or other formal statement, as applicable.

27 (2) On and after November 1, 2025, or on the date that Arkansas  
28 Tobacco Control first makes the directory available for public inspection on  
29 its website as provided in § 20-65-202, whichever is later, a manufacturer  
30 who offers for sale a vapor product or e-liquid product that is not listed on  
31 the directory is subject to a civil penalty of one thousand dollars (\$1,000)  
32 for each vapor product or e-liquid product offered for sale in violation of §  
33 20-65-202 until the vapor product or e-liquid product is removed from the  
34 market or properly listed on the directory.

35 (3) In addition to any penalty prescribed by law, a corporation,  
36 partnership, sole proprietor, limited partnership, or association engaged in

1 the manufacture of vapor products or e-liquid products that knowingly makes a  
2 false certification under this subchapter is subject to a civil penalty of  
3 not less than seventy-five thousand dollars (\$75,000) but not more than two  
4 hundred fifty thousand dollars (\$250,000) for each false certification.

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

7 (5) Beginning on November 1, 2025, or on the date that Arkansas  
8 Tobacco Control first makes the directory available for public inspection on  
9 its website under this subchapter, whichever is later, and subject to  
10 subdivisions (b)(7) and (b)(8) of this section, it is unlawful for any person  
11 or entity to sell, offer, or possess in this state, or import for personal  
12 consumption in this state, a vapor product or an e-liquid product that the  
13 person or entity knows is not included in the directory maintained by the  
14 director under this subchapter.

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

20 (7) If a vapor product or e-liquid product or a manufacturer of  
21 a vapor product or e-liquid product is removed from the directory established  
22 and maintained by the director under § 20-65-202, each wholesaler shall have  
23 sixty (60) days from the date the vapor product or e-liquid product is  
24 removed from the directory to remove any vapor product or e-liquid product  
25 from the wholesaler's inventory and physical location where the wholesaler  
26 takes orders for, receives orders for, or sells the vapor product or e-liquid  
27 product.

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

34 (c)(1) In addition to the other fines and forfeitures, a person who  
35 violates this section may be subject to a penalty for vapor products or e-  
36 liquid products held, sold, or offered for sale and confiscated by Arkansas

1 Tobacco Control in the amount of:

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

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

8 (2) The penalty under subdivision (c)(1) of this section shall  
9 be held to be in the nature of a civil penalty and may be collected by civil  
10 or administrative action and may be levied by the Arkansas Tobacco Control  
11 Board or any circuit court having jurisdiction in this state.

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

14

15 20-65-205. Enforcement.

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

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

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

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

36 (3)(A) A manufacturer shall provide written notice to the

1 director thirty (30) days before the termination of the authority of an agent  
2 appointed under subdivisions (a)(1) and (a)(2) of this section.

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

8 (C) In the event an agent terminates an agency  
9 appointment, the manufacturer shall notify the director of the termination  
10 within five (5) days of the termination and shall include proof to the  
11 satisfaction of the director of the appointment of a new agent.

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

15 (2) Unannounced follow-up compliance checks or inspections of  
16 all noncompliant retailers and wholesalers may be conducted within ninety  
17 (90) days after any violation of this subchapter.

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

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

23  
24 SECTION 6. Arkansas Code § 26-57-203(4), concerning the definition of  
25 "child-resistant packaging" within the Arkansas Tobacco Products Tax Act of  
26 1977, is repealed to be codified in a location more suitable to the subject  
27 matter.

28 ~~(4)(A) "Child-resistant packaging" means packaging that is~~  
29 ~~designed or constructed to be:~~

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

32 ~~(a) Open; or~~

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

35 ~~(ii) Not difficult for an average adult to use~~  
36 ~~properly.~~

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

5  
6           SECTION 7. Arkansas Code 26-57-247(b), effective until the contingency  
7 in Acts 2023, No. 629, § 17, is met, concerning seizure, forfeiture, and  
8 disposition of tobacco products and other property, is amended to read as  
9 follows:

10           (b) The Director of Arkansas Tobacco Control may seize and hold for  
11 disposition of the courts or the Arkansas Tobacco Control Board all tobacco  
12 products, vapor products, alternative nicotine products, or e-liquid products  
13 found in the possession of a person dealing in, or a consumer of, tobacco  
14 products, vapor products, alternative nicotine products, or e-liquid products  
15 if:

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

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

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

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

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

30  
31           SECTION 8. Arkansas Code 26-57-247(b), effective when the contingency  
32 in Acts 2023, No. 629, § 17, is met, concerning seizure, forfeiture, and  
33 disposition of tobacco products and other property, is amended to read as  
34 follows:

35           (b) The Director of Arkansas Tobacco Control may seize and hold for  
36 disposition of the courts or the Arkansas Tobacco Control Board all tobacco

1 products, vapor products, alternative nicotine products, e-liquid products,  
2 or hemp-derived products found in the possession of a person dealing in, or a  
3 consumer of, tobacco products, vapor products, alternative nicotine products,  
4 e-liquid products, or hemp-derived products if:

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

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

11 (3) A retail establishment does not possess a current Arkansas  
12 retail permit;

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

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

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

21  
22 SECTION 9. Arkansas Code § 26-57-254 is repealed to be codified in a  
23 location more suitable to the subject matter.

24 ~~26-57-254. Safety inspections on permitted products—Restrictions on~~  
25 ~~use of e-liquid products and alternative nicotine products—Definitions.~~

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

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

34 ~~(2) Require any tobacco products, vapor products, alternative~~  
35 ~~nicotine products, or e-liquid containers found to be contaminated, damaged,~~  
36 ~~or not fresh be removed from stock and be either returned to the proper~~



1 ~~wholesaler or manufacturer for disposal according to law or delivered to the~~  
2 ~~Director of Arkansas Tobacco Control for destruction or disposal.~~

3 ~~(b)(1) It is a violation for any person to use a tobacco product,~~  
4 ~~vapor product, alternative nicotine product, or e-liquid product in or on the~~  
5 ~~grounds of any school, child care facility, or health care facility.~~

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

7 ~~(A) "Child care facility" means the same as provided in §~~  
8 ~~20-78-202(2);~~

9 ~~(B) "Health care facility" means the same as provided in §~~  
10 ~~20-27-1803(6); and~~

11 ~~(C) "School" means:~~

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

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

18 ~~(c) On and after July 22, 2015, all alternative nicotine products and~~  
19 ~~e-liquid containers containing nicotine sold at retail in this state shall~~  
20 ~~satisfy the child-resistant packaging effectiveness standards described in §~~  
21 ~~26-57-203 when tested in accordance with the method described by 16 C.F.R. §~~  
22 ~~1700.20, as it existed on January 1, 2015.~~

23 ~~(d) As used in this section, "e-liquid container" means a bottle or~~  
24 ~~other container of e-liquid that is sold or provided for mixing at retail and~~  
25 ~~is marketed or intended for use in a vapor product, but does not include e-~~  
26 ~~liquid contained in a cartridge that is sold, marketed, or intended for use~~  
27 ~~in a vapor product if the cartridge is prefilled and sealed by the~~  
28 ~~manufacturer and is not intended to be opened by the consumer.~~

29  
30 SECTION 10. Arkansas Code 26-57-255(g)(3)(A)-(C), effective until the  
31 contingency in Acts 2023, No. 629, § 17, is met, concerning the creation of  
32 the Arkansas Tobacco Control Board, are amended to read as follows:

33 (3)(A) Conduct public hearings when appropriate regarding a  
34 permit authorized under this subchapter or in violation of this subchapter,  
35 the Unfair Cigarette Sales Act, § 4-75-701 et seq., § 5-27-227, § 20-65-101  
36 et seq., or any other federal, state, or local statute, ordinance, rule, or

1 regulation concerning the sale of tobacco products, vapor products,  
2 alternative nicotine products, or e-liquid products to minors or the rules  
3 promulgated by Arkansas Tobacco Control.

4 (B) After notice and hearing held in accordance with the  
5 Arkansas Administrative Procedure Act, § 25-15-201 et seq., if the board  
6 finds a violation of this subchapter, the Unfair Cigarette Sales Act, § 4-75-  
7 701 et seq., § 20-65-101 et seq., or the rules promulgated by Arkansas  
8 Tobacco Control, the board may suspend or revoke any or all permits issued by  
9 the director to any person.

10 (C)(i) The board may levy a civil penalty in an amount not  
11 to exceed five thousand dollars (\$5,000) for each violation against a person  
12 found to be in violation of this subchapter, the Unfair Cigarette Sales Act,  
13 § 4-75-701 et seq., § 20-65-101 et seq., or the rules promulgated by Arkansas  
14 Tobacco Control.

15 (ii) The board shall levy a civil penalty in  
16 accordance with the guidelines set out in § 20-65-204 for a violation of §  
17 20-65-204.

18  
19 SECTION 11. Arkansas Code 26-57-255(g)(3)(A)-(C), effective when the  
20 contingency in Acts 2023, No. 629, § 17, is met, concerning the creation of  
21 the Arkansas Tobacco Control Board, are amended to read as follows:

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

29 (B) After notice and hearing held in accordance with the  
30 Arkansas Administrative Procedure Act, § 25-15-201 et seq., if the board  
31 finds a violation of this subchapter, the Unfair Cigarette Sales Act, § 4-75-  
32 701 et seq., § 20-56-401 et seq., § 20-65-101 et seq., or the rules  
33 promulgated by Arkansas Tobacco Control, the board may suspend or revoke any  
34 or all permits issued by the director to any person.

35 (C)(i) The board may levy a civil penalty in an amount not  
36 to exceed five thousand dollars (\$5,000) for each violation against a person

1 found to be in violation of this subchapter, the Unfair Cigarette Sales Act,  
2 § 4-75-701 et seq., § 20-56-401 et seq., § 20-65-101 et seq., or the rules  
3 promulgated by Arkansas Tobacco Control.

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

7  
8 SECTION 12. Arkansas Code 26-57-256(a), effective until the  
9 contingency in Acts 2023, No. 629, § 17, is met, concerning the powers of  
10 Arkansas Tobacco Control, is amended to add an additional subdivision to read  
11 as follows:

12 (7) Develop and maintain a directory as described under § 20-65-  
13 202.

14  
15 SECTION 13. Arkansas Code 26-57-256(a), effective when the contingency  
16 in Acts 2023, No. 629, § 17, is met, concerning the powers of Arkansas  
17 Tobacco Control, is amended to add an additional subdivision to read as  
18 follows:

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

21  
22 /s/J. Dismang  
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