

ARKANSAS SENATE
90th General Assembly - Regular Session, 2015
Amendment Form

Subtitle of Senate Bill No. 978

TO REGULATE E-CIGARETTES, VAPOR PRODUCTS, AND ALTERNATIVE NICOTINE PRODUCTS; AND
TO AMEND CERTAIN LAWS CONCERNING THE REGULATION OF TOBACCO PRODUCTS.

Amendment No. 1 to Senate Bill No. 978

Amend Senate Bill No. 978 as originally introduced:

Page 1, line 8, delete "E-CIGARETTES, VAPOR PRODUCTS, AND" and substitute
"VAPOR PRODUCTS,"

AND

Page 1, line 9, delete "ALTERNATIVE NICOTINE PRODUCTS;" and substitute
"ALTERNATIVE NICOTINE PRODUCTS, AND E-LIQUID PRODUCTS;"

AND

Page 1, line 10, delete "PRODUCTS; AND" and substitute "PRODUCTS; TO DECLARE
AN EMERGENCY; AND"

AND

Delete the subtitle in its entirety and substitute:

"TO REGULATE VAPOR PRODUCTS, ALTERNATIVE
NICOTINE PRODUCTS, AND E-LIQUID
PRODUCTS; TO AMEND CERTAIN LAWS
CONCERNING THE REGULATION OF TOBACCO
PRODUCTS; AND TO DECLARE AN EMERGENCY."

AND

Delete everything after the enacting clause and substitute the following:
"SECTION 1. Arkansas Code § 26-57-202 is amended to read as follows:
26-57-202. Legislative findings and purpose.

(a) It is recognized, found, and determined by the General Assembly
that:

(1) The Surgeon General has determined that the smoking of
cigarettes is detrimental to the health of the smoker;



(2) The General Assembly had already recognized this hazard many years ago when it enacted § 5-27-227 regulating the sale of tobacco to minors, §§ ~~20-27-701—20-27-703 [repealed]~~ § 20-27-701 et seq. regulating pricing, establishing a policy for public smoking, and this subchapter, to provide for close supervision and control of the sale of cigarettes, and other tobacco products, vapor products, alternative nicotine products, and e-liquid products;

(3) The state has a very valid governmental interest in preserving and promoting the public health and welfare of its citizens; and

(4) It is the responsibility of the General Assembly to enact legislation to protect and further this essential governmental interest.

(b) It is therefore the intent of this subchapter to:

(1) Provide for the close supervision and control of the licensing of persons to sell cigarettes, ~~and other tobacco products, vapor products, alternative nicotine products, and e-liquid products~~ in this state in order to assure that ~~cigarettes and other tobacco~~ when these products are distributed in the state, they are fresh, not contaminated, and are properly taxed, stamped, stored, and distributed only to persons authorized to receive these products; and

(2) Impose licenses, fees, taxes, and restrictions on the privilege of dealing in or otherwise doing business in tobacco products, vapor products, alternative nicotine products, and e-liquid products in order to promote the public health and welfare of the citizens of this state and to protect the revenue collection procedures incorporated within this subchapter.

SECTION 2. Arkansas Code § 26-57-203 is amended to read as follows:
26-57-203. Definitions.

As used in this subchapter:

(1) "Alternative nicotine product" means:

(A) A product that consists of or contains nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means.

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

(i) Cigarette;

(ii) Tobacco product;

(iii) Vapor product;

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

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

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

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

~~(2)~~(3) "Brand family" means the same as defined in § 26-57-1302;

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

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

(a) Open; or

(b) Obtain a toxic or harmful amount of the

substance contained therein within a reasonable time; and

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

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

~~(3)~~(5) "Cigar" means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco, other than any roll of tobacco that is a cigarette;

~~(4)~~(6) "Cigarette" means a cigarette as defined in § 26-57-260 that is subject to federal excise tax;

~~(5)~~(7) "Cigarette inputs" means machinery or other component parts typically used in the manufacture of cigarettes, including without limitation tobacco, whether processed or unprocessed, cigarette papers and tubes, cigarette filters and component parts intended for use in the making of cigarette filters, and machinery typically used in the making of cigarettes;

~~(6)~~(8) "Cigarette rolling machine" means a machine, device, or other type of equipment that is intended to be used or may be used to make rolled tobacco, or a substitute for rolled tobacco, for smoking from other tobacco products, including without limitation roll-your-own tobacco and pipe tobacco;

~~(7)~~(9) "Consumer" means a member of the public at large;

~~(8)~~(10) "Days" means calendar days unless otherwise specified;

~~(9)~~(11) "Dealer's License" means a license for an entity that:

(A) Represents cigarette, ~~or~~ tobacco, vapor product, alternative nicotine product, or e-liquid product manufacturers for the purpose of promoting the manufacturers' products in the State of Arkansas; and

(B) May have manufacturer representative permits issued to its sales representatives;

~~(10)~~(12) "Directory" means:

(A) The directory compiled by the Attorney General under § 26-57-1303, if the reference is to the directory used in Arkansas; or

(B) The directory compiled under the law in another state, if the reference is to another state's directory;

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

~~(11)~~(14) "First sale" means the sale of tobacco products made by a manufacturer to licensed wholesalers and licensed vendors or a licensed retailer;

~~(12)~~(A)(15)(A) "General tobacco products, vapor products, and alternative nicotine products vendor" means a person that:

(i) Operates a vending machine or ~~that~~ uses another mechanical device from which cigarettes, ~~or~~ other tobacco products, or vapor products, alternative nicotine products, and e-liquid products are delivered to the consumer by inserting coins into the machine or device; and

(ii) Purchases tobacco products or vapor products,

alternative nicotine products, and e-liquid products only from licensed wholesalers or licensed retailers.

(B) A general tobacco products, vapor products, and alternative nicotine products vendor may operate licensed vending machines on the general tobacco ~~product~~ products, vapor products, and alternative nicotine products vendor's own premises and on the premises of others as a principal business;

~~(13)~~(16) "Gross sales" means the amount received for tobacco products sold at retail, including both the federal and state taxes of the tobacco products when purchased by a retailer;

~~(14)~~(A)(17)(A) "Importer" means a person that:

(i) ~~That is~~ Is the first person in the United States to which non-tax paid cigarettes, tobacco products, or vapor products, alternative nicotine products, and e-liquid products manufactured in a foreign country are shipped or consigned; or

(ii) ~~That removes~~ Removes cigarettes, tobacco products, or vapor products, alternative nicotine products, and e-liquid products for sale or consumption in the United States from a customs-bonded manufacturing warehouse; ~~or~~

~~(iii) That smuggles or otherwise unlawfully brings cigarettes into the United States.~~

(B) "Importer" includes a sales entity affiliate of the importer;

~~(15)~~(18)(A) "Invoice price" means the price that a wholesaler or retailer of tobacco products, vapor products, alternative nicotine products, or e-liquid products pays to a manufacturer, importer, ~~or distributor, or any other seller to acquire for~~ tobacco products, vapor products, alternative nicotine products, and e-liquid products that the ~~wholesaler or retailer purchaser~~ subsequently sells in the state;.

(B) In the absence of proof by the person possessing the tobacco products, vapor products, alternative nicotine products, or e-liquid products of the price at which the tobacco products, vapor products, alternative nicotine products, or e-liquid products were purchased, "invoice price" shall be the highest price, in the normal course of business and before any discount, at which the manufacturer of the tobacco products, vapor products, alternative nicotine products, or e-liquid products sell the tobacco products, vapor products, alternative nicotine products, or e-liquid products in question;

~~(16)~~(19) "Knowing" means, with respect to a violation or failure, a violation or failure in which the person knowingly engages in conduct without a good faith belief that the conduct is consistent with this subchapter;

~~(17)~~(20) "Licensed" means that the person has received a license or permit from the Director of Arkansas Tobacco Control and is otherwise qualified to do business in this state;

~~(18)~~(A)(21)(A) "Manufacturer" means a person that ~~produces or offers~~ manufactures, fabricates, assembles, or processes a tobacco product, vapor product, alternative nicotine product, or e-liquid product ~~for sale,~~ including without limitation federally licensed importers and distributors that deal in tobacco products, vapor products, alternative nicotine products, or e-liquid products ~~as manufacturers and that are required under this subchapter to sell only to licensed wholesalers or licensed retailers located~~

~~in the state.~~

(B) “Manufacturer” includes a sales entity affiliate of the manufacturer or any other entity representing the manufacturer with regard to the sale of tobacco products, vapor products, alternative nicotine products, or e-liquid products produced by the manufacturer to wholesalers or licensed retailers.

(C) “Manufacturer” specifically includes a person that mixes, compounds, repackages, or resizes e-liquids or vapor products;

~~(19)~~(22) “Nonparticipating manufacturer” means the same as defined in § 26-57-1302;

~~(20)~~(A)(23)(A) “Package” means a pack or other container on which a stamp could be applied consistent with and as required by this subchapter that contains one (1) or more individual cigarettes for sale.

(B) “Package” does not include a container of multiple packages;

~~(21)~~(24) “Participating manufacturer” means the same as defined in § 26-57-1302;

~~(22)~~(25) “Person” means an individual, retailer, wholesaler, manufacturer, firm, association, company, partnership, limited liability company, corporation, joint-stock company, club, agency, syndicate, the State of Arkansas, county, municipal corporation or other political subdivision of the state, receiver, trustee, fiduciary, or trade association;

~~(23)~~(26) “Place of business” means the place where orders are taken or received or where tobacco products, vapor products, alternative nicotine products, or e-liquid products are sold;

~~(24)~~(27) “Purchase” means an acquisition in any manner or by any means for any consideration, including without limitation transporting or receiving product in connection with a purchase;

~~(25)~~(28) “Restricted tobacco products vendor” means a person that is licensed to operate vending machines owned by the person only on the person’s own premises and is otherwise subject to all other restrictions imposed on a general tobacco products vendor;

(29) “Retail exclusive vapor product and alternative nicotine product store” means a retail store that generates ninety percent (90%) or more of its gross revenue from the sale and service of vapor products, alternative nicotine products, or e-liquid products;

~~(26)~~(30) “Retailer” means a person that purchases tobacco products, vapor products, alternative nicotine products, or e-liquid products from licensed wholesalers for the purpose of selling the tobacco products, vapor products, alternative nicotine products, or e-liquid products over the counter at retail to consumers;

~~(27)~~(A)(31)(A) “Sale” or “sell” means a transfer, exchange, or barter in any manner or by any means for any consideration, including distributing or shipping product in connection with a sale.

(B) A sale “in” or “into” a state refers to the state in which the destination point of the product is located in the sale without regard to where title was transferred.

(C) A sale “from” a state refers to the sale of cigarettes that are located in that state to the destination in question without regard to where title was transferred;

~~(28)~~(A)(32)(A) “Sales entity affiliate” means an entity that:

(i) Sells cigarettes or other tobacco products that

the entity acquires directly from a manufacturer or importer; and

(ii) Is affiliated with the manufacturer or importer from which the entity acquires the cigarettes or other tobacco products.

(B) "Sales entity affiliate" includes entities in a relationship in which one (1) entity directly or indirectly through one (1) or more intermediaries controls, is controlled by, or is under common control with the other entity;

~~(29)~~(33) "Salesperson" means the agent or employee of a wholesaler that sells or offers for sale to licensed wholesalers or licensed retailers or that solicits for sale, takes orders for, or in any manner promotes the sale or use of tobacco products, vapor products, alternative nicotine products, or e-liquid products;

~~(30)(A)~~(34)(A) "Stamps" means the Arkansas cigarette stamps denoting the tax on cigarettes.

(B) When affixed to a container of cigarettes, the stamps indicate that the tax has been paid;

~~(31)~~(35) "Tobacco products" means all products containing tobacco for consumption, including without limitation cigarettes, cigars, little cigars, cigarillos, chewing tobacco, smokeless tobacco, snuff, smoking tobacco, including pipe tobacco, and smoking tobacco substitutes;

~~(32)~~(36) "Tobacco products, vapor products, alternative nicotine products, or e-liquid products vending machine" means a vending machine from which tobacco products, vapor products, alternative nicotine products, or e-liquid products are sold;

~~(33)~~(37) "Unstamped cigarettes" means cigarettes that are not contained in a package bearing a stamp permitted under this chapter;

(38) "Vapor product" means an electronic oral device of any size or shape that provides a vapor of nicotine, e-liquid, or any another substance that when used or inhaled simulates smoking, regardless of whether a visible vapor is produced, including without limitation a device that:

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

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

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

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

~~(34)~~(39) "Warehouse" means a place where tobacco products, vapor products, alternative nicotine products, or e-liquid products are stored for another person and to or from which place the tobacco products, vapor products, alternative nicotine products, or e-liquid products, are shipped or delivered upon order by the owner of the tobacco products, vapor products, alternative nicotine products, or e-liquid products, to the warehouse; and

~~(35)~~(40) "Wholesaler" means a person other than a manufacturer or a person owned or operated by a manufacturer that:

(A) Does business within the state ~~and purchases unstamped or untaxed;~~

(B) Purchases cigarettes, ~~or~~ other tobacco products, vapor products, alternative nicotine products, or e-liquid products directly from manufacturers that distribute tobacco products in the state; and any source;

~~(B) Sells to properly licensed cigarette or other tobacco product vendors or retailers~~

(C) Distributes or sells the cigarettes, other tobacco products, vapor products, alternative nicotine products, or e-liquid products to other wholesalers, vendors, or retailers; and

(D) Does not distribute or sell the cigarettes, other tobacco products, vapor products, alternative nicotine products, or e-liquid products at retail to consumers.

SECTION 3. Arkansas Code § 26-57-207 is amended to read as follows:
26-57-207. Privilege to do business.

The business of handling, receiving, possessing, storing, distributing, taking orders for, ~~for~~ soliciting orders of, selling, offering for sale, and dealing in, through sale, barter, or exchange, any cigarettes, ~~or~~ other tobacco products, vapor products, alternative nicotine products, or e-liquid products is declared to be a privilege under the Arkansas Constitution and laws of the State of Arkansas.

SECTION 4. Arkansas Code §§ 26-57-213 – 26-57-216 are amended to read as follows:

26-57-213. Invoices.

(a) The tax shall be set out and identified on each invoice or statement as the “Arkansas Cigarette or Tobacco Products Excise Tax” as a separate billing or item.

(b) Copies of all invoices for the purchase or sale of any tobacco products, vapor products, alternative nicotine products, or e-liquid products shall be retained by each manufacturer, wholesaler, vendor, and retailer for a period of three (3) years subject to examination by the Director of the Department of Finance and Administration and the Director of Arkansas Tobacco Control or their authorized agents upon demand at any time during regular business hours.

(c) Retailers shall:

(1) Maintain or produce copies of at least the last thirty (30) days of tobacco product, vapor product, alternative nicotine product, or e-liquid product invoices; and

(2) Make the invoices available upon demand during normal business hours in the retail store.

(d) Wholesalers, dealers, and manufacturers shall maintain three (3) years of tobacco product, vapor product, alternative nicotine product, or e-liquid product invoices that are available upon demand during normal business hours in the permitted location.

26-57-214. Registration and licensing required prior to doing business.

(a) A person shall not deal with, deliver, or cause to be delivered to a retailer or consumer or otherwise do business in tobacco products, vapor products, alternative nicotine products, or e-liquid products, in this state without having first registered with the Director of Arkansas Tobacco Control and obtained a permit or license for that purpose, except that a person

purchasing an existing permitted retail location may operate under the selling owner's permit for a period not to exceed thirty (30) days from the date of sale to allow the purchasing owner time to secure a permit.

(b) All permits and licenses shall be issued by the director.

(c) A manufacturer, wholesaler, retailer, or general tobacco products, vapor products, or alternative nicotine products vendor, ~~or restricted tobacco products vendor~~ who intends to sell tobacco products, vapor products, alternative nicotine products, or e-liquid products at or from one (1) or more places of business owned, rented, or leased by it shall obtain a separate license for each such place of business.

(d)(1) Any person licensed as a wholesaler shall not operate as a retailer unless a retailer's license is first secured.

(2) Any person licensed as a retailer shall not operate as a wholesaler unless a wholesaler's license is first secured.

(e) Any person who pleads guilty or nolo contendere to or is found guilty of buying, selling, or otherwise doing business in cigarettes, ~~or~~ tobacco products, vapor products, alternative nicotine products, or e-liquid products in this state without first obtaining the appropriate license or permit is guilty of a ~~Class C~~ Class A misdemeanor.

26-57-215. Permits and licenses – Types.

(a)(1) Each person listed in this section, before commencing business, or if already in business, before continuing, shall pay an annual privilege fee and secure a permit or license from the Director of Arkansas Tobacco Control.

(2) However, a person purchasing an existing permitted retail location may operate under the selling owner's permit for a period not to exceed thirty (30) days from the date of sale to allow the purchasing owner time to secure a permit.

(b)(1) In addition to securing a permit or license under subsection (a) of this section, a manufacturer whose products are sold in this state shall register with the Director of the Department of Finance and Administration. A manufacturer whose products are sold in this state is not required to obtain a dealer's license for an employee operating as the manufacturer's sales representative if the manufacturer holds a license or permit under subsection (a) of this section.

(2)(A) Every wholesaler of cigarettes who operates a place of business shall secure a wholesale cigarette permit, ~~and~~ every wholesaler of any vapor products, alternative nicotine products, e-liquid products, or other tobacco products except cigarettes who operates a place of business shall secure a wholesale tobacco, vapor product, and alternative nicotine product permit.

(B) ~~Any~~ A wholesaler doing business in both cigarettes and vapor products, alternative nicotine products, e-liquid products, or other tobacco products shall secure both a wholesale cigarette permit and a wholesale tobacco, vapor product, and alternative nicotine product permit.

(3) Every salesperson of any tobacco product, vapor product, alternative nicotine product, or e-liquid product who contacts a retailer in this state for the purpose of soliciting or taking and processing orders for the sale of tobacco products, vapor products, alternative nicotine products, or e-liquid products or who through contact delivers or causes delivery of any tobacco product, vapor product, alternative nicotine product, or e-liquid

product to a retailer in this state, shall first secure a salesperson's license. Application shall be made by the wholesaler or general tobacco products vendor who is the salesperson's employer. A salesperson's license is not transferable to another employer and must be surrendered to the Director of Arkansas Tobacco Control by the employer upon termination of the salesperson's employment.

(4)(A) Every retailer of cigarettes, other tobacco products, vapor products, alternative nicotine products, or e-liquid products ~~who that~~ operates a place of business shall secure a retail cigarette, tobacco, vapor products, alternative nicotine products, or e-liquid products permit, and every exclusive retailer of ~~any other tobacco products, except cigarettes, vapor products, alternative nicotine products, or e-liquid products~~ ~~who that~~ operates a place of business shall secure a retail ~~tobacco~~ exclusive vapor product and alternative nicotine product store permit. ~~Any retailer doing business in both cigarettes and other tobacco products shall secure both a retail cigarette permit and a retail tobacco permit.~~

(B) ~~Retailers~~ Retail permit holders and dealer license holders may secure temporary permits to operate at picnics, fairs, carnivals, circuses, or any other temporary public gathering for periods not to exceed ten (10) days for a fee of five dollars (\$5.00).

(5) A person engaged in the business of selling, leasing, renting, or otherwise disposing of or dealing with a ~~tobacco product~~ vending machine containing tobacco products, vapor products, alternative nicotine products, or e-liquid products in this state shall secure a ~~General Tobacco Products Vending Permit~~ general tobacco products, vapor products, and alternative nicotine products vending permit.

(6)(A)(i) Every general tobacco products, vapor products, and alternative nicotine products vendor ~~and every restricted tobacco vendor must~~ shall obtain a proper license from the Director of Arkansas Tobacco Control. However, municipal corporations may license and tax the privilege of doing business as a general tobacco products, vapor products, and alternative nicotine products vendor ~~or restricted tobacco vendor~~ in cities where the vendors maintain an established place of business, provided that the machine license tax imposed may not exceed fifty percent (50%) of the amounts levied on the vendors' licenses under this subchapter.

(ii) If a municipality by ordinance licenses or taxes the privilege of doing business as a general tobacco products, vapor products, and alternative nicotine products vendor ~~or restricted tobacco vendor~~, proof that the license is in good standing shall be a mandatory condition for the issuance of a state license required under this section.

(B)(i)(a) In addition, every general tobacco products, vapor products, and alternative nicotine products vendor ~~or restricted tobacco vendor must~~ shall obtain a permit stamp for each machine of any type placed in operation in this state for the purpose of vending any tobacco products, vapor products, alternative nicotine products, or e-liquid products.

(b) This stamp shall be affixed to the machine in a conspicuous location together with a decal or card reciting the name, address, and license number of the vendor operating the machine.

(ii) No stamp will be issued for any machine upon which the state gross receipts or state compensating tax has not been paid, and the Director of ~~the Department of Finance and Administration~~ Arkansas

Tobacco Control shall require proof of payment before the initial issue of a stamp for any ~~tobacco products~~ vending machine containing tobacco products, vapor products, alternative nicotine products, or e-liquid products.

(c)(1) Permits and licenses are issued as follows:

(A) A permit for a sole proprietor is issued in the sole proprietor's name and in the sole proprietor's fictitious business name, if any;

(B)(i) A permit for a partnership or limited liability company is issued in the name of:

(a) The managing partner or managing member;

and

(b) The partnership or limited liability

company.

(ii) ~~The~~ If the managing partner or managing member of a limited liability company ~~may not be~~ is a partnership, limited liability company, or corporation; ~~and, then the permit shall be issued in the name of:~~

(a) The president or chief executive officer;

and

(b) The partnership or limited liability

company.

(C) A permit for a publicly traded or nonpublicly traded corporation is issued in the name of the president or chief executive officer of the corporation and in the name of the corporation.

(2) It is a violation for a permitted entity not to provide written notification to the Director of Arkansas Tobacco Control within thirty (30) days of a change in the following:

(A) The managing partner, limited liability company managing member, or president or chief executive officer of a corporation, partnership, or limited liability company; or

(B) The stockholders effecting twenty-five percent (25%) or more of the total voting shares of a nonpublicly traded corporation.

(d)(1) When an entity transfers a business permitted under this subchapter, the entity to which the business is transferred shall apply for and may be issued a new permit under this subchapter and may operate under the selling owner's permit only for a period not to exceed thirty (30) days from the date of transfer to allow the purchasing owner time to secure a permit.

(2)(A) When a partnership or limited liability company permitted under this subchapter changes, removes, or replaces the managing partner, ~~or~~ managing member, president, or chief executive officer, the existing permit issued under this subchapter is void, and the partnership or limited liability company shall apply for and may be issued a new permit under this subchapter.

(B) However, the partnership or limited liability company may operate under the prior managing partner's or managing member's permit for a period not to exceed thirty (30) days from the date of transfer to allow the purchasing owner time to secure a permit.

(3)(A) When a nonpublicly traded corporation permitted under this subchapter changes, removes, or replaces the president or chief executive officer named on the permit or changes, removes, or replaces a stockholder who owns fifty percent (50%) or more of the total voting shares of the nonpublicly traded corporation's stock, the permit issued under this

subchapter is void, and the nonpublicly traded corporation shall apply for and may be issued a new permit under this subchapter.

(B) However, the nonpublicly traded corporation may operate under the prior permit for a period not to exceed thirty (30) days from the date of removal or change to allow the nonpublicly traded corporation time to secure a new permit.

(4)(A) When a publicly traded corporation permitted under this subchapter changes, removes, or replaces the president or chief executive officer named on the permit or changes, removes, or replaces a stockholder who owns fifty percent (50%) or more of the total voting shares of the publicly traded corporation's stock, the permit issued under this subchapter is void, and the publicly traded corporation shall apply for and may be issued a new permit under this subchapter.

(B) However, the publicly traded corporation may operate under the prior permit for a period of not more than thirty (30) days from the date of removal or change to allow the publicly traded corporation time to secure a new permit.

(e) An entity may apply for and be issued a permit or license under this subchapter in advance of the effective date of the permit or license to facilitate continuity of business operations.

26-57-216. Permits and licenses – Number and location – Background check required.

The Arkansas Tobacco Control Board may determine in its reasonable discretion and in accordance with this subchapter:

(1) The number of licenses to be granted in the state;

(2)(A) The locations thereof.

(B) However, a retail, wholesale, or manufacturer license or permit shall not be issued to a residential address or for an address not zoned appropriately for the business seeking to secure the permit; and

(3)(A) The persons to whom they are to be granted.

(B) However, a license or permit shall not be issued to:

(i) A person who has pleaded guilty or nolo contendere to or been found guilty of a felony; or

(ii) A business owned or operated, in whole or in part, by a person who has pleaded guilty or nolo contendere to or been found guilty of a felony.

(C) Arkansas Tobacco Control shall conduct a criminal justice background check on each permit applicant and application, utilizing its Arkansas Crime Information Center access as a law enforcement agency, in accordance with §§ 12-12-1008 – 12-12-1011.

SECTION 5. Arkansas Code § 26-57-219 is amended to read as follows:

26-57-219. Permits and licenses – Annual privilege tax.

(a) The annual privilege tax or fee for each permit or license authorized by § 26-57-215 is established as follows:

(1) Wholesale Cigarette Permit \$ 500.00

(2) Wholesale Tobacco, Vapor Product, and Alternative Nicotine Product Permit 500.00

(3) General Tobacco Products, Vapor Products, and Alternative Nicotine Products Vending Permit (vendor) 100.00

(4) Tobacco Products, Vapor Products and Alternative Nicotine

| | |
|--|------------------|
| <u>Products</u> Vending Machine License, per machine | 10.00 |
| (5)(A) Retail Cigarette/Tobacco Permit for retailers whose weekly gross cigarette and tobacco sales are less than \$5,000 | 20.00 |
| (B) Retail Cigarette/Tobacco Permit for retailers whose weekly gross cigarette and tobacco sales are between \$5,000 and \$15,000 | 30.00 |
| (C) Retail Cigarette/Tobacco Permit for retailers whose weekly gross cigarette and tobacco sales are in excess of \$15,000 | 50.00 |
| (5) <u>Retail Cigarette, Tobacco, Vapor Product, and Alternative Nicotine Product Permit</u> | 50.00 |
| (6) <u>Retail Exclusive Vapor Product and Alternative Nicotine Product Permit</u> | 100.00 |
| (6)(7) Wholesale Salesperson's License | 25.00 |
| (7)(8) Dealer's License | 25.00 |
| (8)(9) Manufacturer's Representative Fee | 25.00 |
| (9)(10) Manufacturer Cigarette Permit | 500.00 |
| (10)(11)(A) Manufacturer Tobacco, Vapor Product, and Alternative Nicotine Product Permit | 500.00 |

(B) Notwithstanding subdivision (11)(A) of this section, tobacco manufacturers or importers who deal solely in cigars may submit a copy of their current federal tobacco import license or federal tobacco manufacturers license to Arkansas Tobacco Control when applying for a Manufacturer Tobacco, Vapor Product, and Alternative Nicotine Product Permit to receive the permit at no cost.

(b)(1) All permits and licenses issued under this subchapter expire on June 30 following the effective date of issuance.

(2)(A) Upon the failure to timely renew a permit or license issued under this subchapter, a late fee of two (2) times the amount of the permit or license fee in question shall be owed in addition to the annual privilege fee for the permit or license.

(B) An expired permit or license that is not renewed before September 1 following the expiration of the permit or license shall not be renewed, and the holder of the expired permit or license shall submit an application for a new permit or license.

(3) A permit or license shall not be issued to the applicant until the late fee and the license or permit fee have been paid.

(c) A permit or license issued under this subchapter shall not be renewed for a permit or license holder who is delinquent more than ninety (90) days on a privilege fee, tax relating to the sale or dispensation of cigarettes or tobacco products, or any other state and local tax due the Director of the Department of Finance and Administration.

(d) A person who is delinquent more than ninety (90) days on a state or local tax may not renew or obtain a permit or license issued under this subchapter except upon certification that the permit or license holder has entered into a repayment agreement with the Department of Finance and Administration and is current on the payments.

(e) A permit or license who has unpaid fines or an unserved permit or license suspension may not transfer, sell, or give cigarette, tobacco, vapor product, alternative nicotine product, or e-liquid product inventory of the business associated with the permit or license to a third party until all

finances are paid in full and all suspensions are completed successfully nor shall any third party be issued a new permit or license for the business location.

SECTION 6. Arkansas Code § 26-57-223 is amended to read as follows:
26-57-223. Permits and licenses – Suspension or revocation.

(a) All permits and licenses issued under this subchapter may be suspended or revoked by the Director of Arkansas Tobacco Control for any violation of this subchapter or the rules pertaining to this subchapter, subject to an appeal hearing at the next regularly scheduled Arkansas Tobacco Control Board meeting.

(b) The director may revoke ~~for one (1) year~~ all permits or licenses to deal in tobacco products, vapor products, alternative nicotine products, or e-liquid products associated with ~~of~~ any person who is convicted of criminally violating this subchapter or the regulations pertaining to this subchapter a second time with the revocation being subject to an appeal to the board.

SECTION 7. Arkansas Code §§ 26-57-226 – 26-57-228 are amended to read as follows:

26-57-226. Penalties.

Any person within the jurisdiction of this state who is not licensed to sell, deliver, or cause to be delivered tobacco products, vapor products, alternative nicotine products, or e-liquid products to consumers who sells, takes orders from, delivers, or causes to be delivered immediately or in the future any tobacco products, vapor products, alternative nicotine products, or e-liquid products to consumers, is guilty of a+

(1) ~~Class C misdemeanor for the first offense; and~~

(2) ~~Class B misdemeanor for each additional offense~~ Class A misdemeanor.

26-57-227. Operation of vending machine without license a public nuisance – Seizure and sale – Redemption.

(a) Any person who engages in the business of owning, operating, or leasing any ~~tobacco product~~ vending machines containing tobacco products, vapor products, alternative nicotine products, or e-liquid products without first obtaining the license described in this subchapter is declared to be maintaining a public nuisance.

(b) Any ~~tobacco product~~ vending machine so operated may be seized and sold by the Director of Arkansas Tobacco Control at public auction upon the order of the Pulaski County Circuit Court.

(c) These machines may be redeemed prior to sale by the owner upon the payment of all taxes or fees due on the machine and all costs and expenses incurred in enforcing this section if the offender pays all taxes, fees, and costs within ten (10) days after seizure of the machines by the director.

26-57-228. Purchases from unregistered, unlicensed dealers unlawful.

(a) It is unlawful for a retailer of tobacco products, vapor products, alternative nicotine products, or e-liquid products to purchase tobacco products, vapor products, alternative nicotine products, or e-liquid products from a person other than a licensed manufacturer, licensed wholesaler, or other licensed retailer.

(b) Any retailer violating the provisions of this subchapter is guilty of a Class B misdemeanor for each purchase defined in subsection (a) of this section.

SECTION 8. Arkansas Code §§ 26-57-230 and 26-57-231 are amended to read as follows:

26-57-230. Common carriers.

(a) Common carriers transporting tobacco products, vapor products, alternative nicotine products, or e-liquid products may be required by the Director of the Department of Finance and Administration or the Director of Arkansas Tobacco Control to give a statement of all consignments of tobacco products, vapor products, alternative nicotine products, or e-liquid products showing date, point of origin, point of delivery, and to whom delivered.

(b) All common carriers shall permit their records relating to shipment or receipt of tobacco products, vapor products, alternative nicotine products, or e-liquid products to be examined by the Director of the Department of Finance and Administration, the Director of Arkansas Tobacco Control, or their agents.

(c) A person who fails or refuses to give the statement, reports, or invoices required by this section or who refuses to permit the Director of the Department of Finance and Administration or the Director of Arkansas Tobacco Control to examine the person's records is guilty of a Class C misdemeanor.

26-57-231. Failure to allow inspection unlawful.

A person required to pay taxes or obtain a permit under this subchapter who fails or refuses to permit the Department of Finance and Administration or Arkansas Tobacco Control to examine or inspect the person's ~~taxable~~ stock of tobacco products, vapor products, alternative nicotine products, e-liquid products, invoice books, papers, and memoranda considered necessary to secure information directly relating to the enforcement of this subchapter is guilty of a+

~~(1) Violation for the first and second offense; and~~

~~(2) Class C misdemeanor for each additional offense~~ Class A misdemeanor.

SECTION 9. Arkansas Code § 26-57-232(a)(2), concerning wholesaler restrictions and criminal violations of wholesalers, is amended to read as follows:

(2) Except as otherwise provided herein, the wholesaler may sell tobacco products, vapor products, alternative nicotine products, or e-liquid products only to persons properly licensed under this subchapter;

SECTION 10. Arkansas Code §§ 26-57-233 and 26-57-234 are amended to read as follows:

26-57-233. Salesperson – Restrictions – Violations.

Every salesperson who sells, offers for sale, takes orders, and solicits for sale any tobacco products, vapor products, alternative nicotine products, or e-liquid products for immediate or future delivery to wholesalers of tobacco products, vapor products, alternative nicotine products, or e-liquid products in this state may do so only under the following restrictions:

(1) The salesperson shall secure a permit from the Director of Arkansas Tobacco Control;

(2) The salesperson may sell to or take orders for tobacco products, vapor products, alternative nicotine products, or e-liquid products from licensed wholesalers, provided that the tobacco products, vapor products, alternative nicotine products, or e-liquid products are consigned or delivered only to ~~registered~~ licensed manufacturers or licensed wholesalers;

(3) The salesperson may sell to or take orders for tobacco products, vapor products, alternative nicotine products, or e-liquid products from licensed retailers, provided that the tobacco, vapor products, alternative nicotine products, or e-liquid products shall be delivered to the retailer only by a licensed wholesaler; and

(4)(A) The wholesaler shall keep complete records of all sales or orders taken for dealers in tobacco products, vapor products, alternative nicotine products, or e-liquid products in this state, copies of all invoices, orders taken, and other instruments as evidence of sales or disposition of tobacco products, vapor products, alternative nicotine products, or e-liquid products.

(B) The wholesaler shall retain the information required under subdivision (4)(A) of this section in a designated place ~~within this state~~ for three (3) years subject to inspection by the Department of Finance and Administration and Arkansas Tobacco Control.

26-57-234. Retailers and vendors – Restrictions – Violations.

(a) Retailers and vendors shall conduct their businesses subject to the following restrictions:

(1) Retailers and vendors not possess, place in their stock, have on their premises, sell, or otherwise dispose of any cigarettes to which stamps denoting the tax due thereon have not been affixed;

(2) Retailers and vendors require that properly cancelled stamps are affixed to all cigarettes purchased or otherwise received or accepted by them before they purchase or otherwise become the owner or possessor of the cigarettes;

(3) Retailers and vendors require from the wholesaler at the time of each purchase or receipt of cigarettes an invoice showing the quantity, kind, and price of the cigarettes and the stamps required to show that the tax has been paid, and date of sale or delivery;

(4)(A) The retailer shall keep records showing the description and date of the receipt of each lot of tobacco products, vapor products, alternative nicotine products, or e-liquid products, from whom purchased, and when received on the premises, or any other requirements prescribed by the Director of the Department of Finance and Administration.

(B) The records required under subdivision (a)(4)(A) of this section are subject to inspection by the Department of Finance and Administration and Arkansas Tobacco Control;

(5) The Director of the Department of Finance and Administration may require retailer reports covering receipts and sales of tobacco products monthly or for any other period;

(6) The retailer shall permit the department and Arkansas Tobacco Control or any peace officer acting under their direction to inspect the retailer's stock of merchandise and premises, including any room or

building used in connection with the retailer's business.

(b) Upon a retailer's failure to comply with any part of this section, the Director of Arkansas Tobacco Control may revoke the retailer's permit.

(c) ~~Any~~ A retailer or vendor who fails or refuses to retain in his or her files invoices of tobacco products, vapor products, alternative nicotine products, or e-liquid products, and stamps, or who fails or refuses to furnish the statements and information or make the reports concerning receipts and sales of tobacco products, vapor products, alternative nicotine products, or e-liquid products, as required by this subchapter or prescribed by the Director of the Department of Finance and Administration, or who violates any of the requirements of this section, is guilty of a violation.

SECTION 11. Arkansas Code § 26-57-247(b), concerning the seizure, forfeiture, and disposition of tobacco products and other property, is amended to read as follows:

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

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

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

(3) A retail establishment does not possess a current Arkansas retail cigarette, ~~and~~ tobacco, vapor product, and alternative nicotine product permit or retail exclusive vapor product and alternative nicotine product store permit; or

(4) The tobacco products, vapor products, alternative nicotine products, or e-liquid products have been offered for sale to the public at another location without a current Arkansas retail cigarette, ~~and~~ tobacco, vapor product, and alternative nicotine product permit or retail exclusive vapor product and alternative nicotine product store permit.

SECTION 12. Arkansas Code § 26-57-247(e)(1) and (2), concerning the seizure, forfeiture, and disposition of tobacco products and other property, are amended to read as follows:

(e) The following are subject to forfeiture under this section upon order by a circuit court:

(1) Tobacco products, vapor products, alternative nicotine products, or e-liquid products distributed, dispensed, or acquired in violation of this subchapter;

(2) Raw materials, products, or equipment used or intended for use in manufacturing, compounding, processing, delivering, importing, or exporting a tobacco product, vapor product, alternative nicotine product, or e-liquid product in violation of this subchapter;

SECTION 13. Arkansas Code § 26-57-247(e)(6) and (7), concerning the

seizure, forfeiture, and disposition of tobacco products and other property, are amended to read as follows:

(6)(A) Except as provided in subdivision (e)(6)(B) of this section, a thing of value, including:

(i) ~~Firearms furnished or intended to be furnished in exchange for a~~ purchased from the proceeds of the sale of untaxed tobacco product products, vapor products, alternative nicotine products, or e-liquid products in violation of this subchapter or used in furtherance of a criminal offense as described in § 26-57-245;

(ii) Proceeds or profits traceable to an exchange described in subdivision (e)(6)(A)(i) of this section; and

(iii) Money, negotiable instruments, or security used or intended to be used to facilitate a violation of this subchapter.

(B) Property shall not be forfeited under subdivision (e)(6)(A) of this section to the extent of the interest of an owner by reason of an act or omission established by him or her by a preponderance of the evidence to have been committed or omitted without his or her knowledge or consent;

(7)(A) Money, coins, or currency found in close proximity to a forfeitable tobacco product, vapor product, alternative nicotine product, or e-liquid product or a forfeitable record of an importation of a tobacco product, vapor product, alternative nicotine product, or e-liquid product is presumed to be forfeitable under this section.

(B) The burden of proof is upon a claimant of the money, coins, or currency to rebut the presumption in subdivision (e)(7)(A) of this section by a preponderance of the evidence; and

SECTION 14. Arkansas Code § 26-57-247(f) and (g), concerning the seizure, forfeiture, and disposition of tobacco products and other property, are amended to read as follows:

(f) A tobacco product, vapor product, alternative nicotine product, or e-liquid product that is possessed, transferred, sold, or offered for sale in violation of this subchapter may be seized and immediately forfeited to the state.

(g)(1) Property subject to forfeiture under this subchapter may be seized by a law enforcement agent upon process issued by a circuit court having jurisdiction over the property on petition filed by the prosecuting attorney of the judicial circuit.

(2) Seizure without process may be made if:

(A) The seizure is incident to an arrest or a search under a search warrant or an inspection under ~~an administrative inspection warrant~~ the regulatory authority of Arkansas Tobacco Control;

(B) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this subchapter;

(C) The seizing law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(D) The seizing law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this subchapter.

SECTION 15. Arkansas Code § 26-57-247(1)(1)(A)(iv), concerning an order by a circuit court to seize property, is amended to read as follows:

(iv)(a) An aircraft is forfeited to the office of the Director of Arkansas Tobacco Control and may be used only for tobacco, vapor product, alternative nicotine product, or e-liquid product smuggling interdiction efforts within the discretion of the Director of Arkansas Tobacco Control.

(b) However, if the Director of Arkansas Tobacco Control determines that the aircraft should be sold, ~~the sale shall be conducted under § 5-5-101(e) and (f), and the proceeds shall be deposited into the State Treasury as special revenues to be credited to the Special State Assets Forfeiture Fund~~ the proceeds of the sale shall be distributed as set forth in subdivision (1)(1)(A)(i)(b) of this section;

SECTION 16. Arkansas Code § 26-57-247(1)(1)(A)(vi), concerning an order by a circuit court to seize property, is amended to read as follows:

(vi) A tobacco product, vapor product, alternative nicotine product, or e-liquid product shall be destroyed pursuant to a court order;

SECTION 17. Arkansas Code § 26-57-249 is amended to read as follows:
26-57-249. Destruction of tobacco products upon conviction –
Procedure.

(a) Upon conviction of any person charged with a violation of any tobacco, vapor product, alternative nicotine product, or e-liquid product law or rule which resulted in the seizure of tobacco products, vapor products, alternative nicotine products, or e-liquid products, the court shall issue an order to destroy the tobacco products, vapor products, alternative nicotine products, or e-liquid products confiscated by the Director of Arkansas Tobacco Control or by any state, county, or municipal officer in this state.

(b) Upon a finding of guilty of any person charged with a violation of a state tobacco, vapor product, alternative nicotine product, or e-liquid product law or rule in a proceeding before the Arkansas Tobacco Control Board that resulted in the seizure of tobacco products, vapor products, alternative nicotine products, or e-liquid products, the board shall issue an order to destroy the tobacco products, vapor products, alternative nicotine products, or e-liquid products, confiscated by the director or by any state, county, or municipal officer in this state.

(c) Every court of record in this state shall notify the director of the disposition made of each case in the court as to whether the defendant was convicted or acquitted.

(d) Upon application of the director, the board or the court issuing a destruction order may instead release the tobacco products, vapor products, alternative nicotine products, or e-liquid products to the use and benefit of Arkansas Tobacco Control for suitable law enforcement or training purposes.

SECTION 18. Arkansas Code § 26-57-254 is amended to read as follows:
26-57-254. ~~Health inspections~~ Safety inspections on permitted products – Restrictions on use of e-liquid products and alternative nicotine products.

(a) In order to assure that the citizens of this state receive only tobacco products, vapor products, alternative nicotine products, or e-liquid products ~~which~~ that are fresh and not contaminated, and to ensure the safety

of Arkansas youth, the Director of the Department of Health Arkansas Tobacco Control is authorized under this subchapter to:

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

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

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

(2) As used in this subdivision:

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

(B) "Healthcare facility" means the same as provided in § 20-27-1803(6); and

(C) "School" means:

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

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

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

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

SECTION 19. Arkansas Code § 26-57-255(a)(1) and (2), concerning the creation of the Arkansas Tobacco Control Board, is amended to read as follows:

(1) Two (2) members of the board shall be ~~tobacco products~~ wholesalers of tobacco products, vapor products, alternative nicotine products, or e-liquid products;

(2) Two (2) members of the board shall be ~~tobacco products~~ retailers of tobacco products, vapor products, alternative nicotine products, or e-liquid products; and

SECTION 20. Arkansas Code § 26-57-256(a)(4) and (5), concerning the duties of the Arkansas Tobacco Control Board, are amended to read as follows:

(4)(A) Cooperate with the Revenue Division of the Department of

Finance and Administration in the enforcement of the tax laws affecting the sale of tobacco products in this state and in the enforcement of all other state and local tax laws.

(B) To facilitate efforts to cooperate with the division concerning the enforcement of all other state and local tax laws, the board shall immediately require that the following additional information be provided by all applicants for permit issuance or renewal:

(i) Federal tax identification numbers issued by the Internal Revenue Service;

(ii) Social Security numbers; and

(iii) State sales tax account numbers assigned by the Department of Finance and Administration, if applicable.

(C)(i) Each year the board shall provide a list of all applicants for the issuance or renewal of all tobacco, vapor product, alternative nicotine product, or e-liquid product permits and licenses to the Director of the Department of Finance and Administration.

(ii) This list shall contain the identifying information required by subdivision (a)(4)(B) of this section as well as the name of the permittee and the permittee's current business address;

(5)(A) Conduct public hearings when appropriate regarding any permit and license authorized by this subchapter or in violation of this subchapter, the Unfair Cigarette Sales Act, § 4-75-701 et seq., § 5-27-227, or any other federal, state, or local statute, ordinance, rule, or regulation concerning the sale of tobacco products, vapor products, alternative nicotine products, or e-liquid products, to minors or the rules promulgated by the board.

(B)(i) After a notice and hearing held in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., if the board finds a violation of this subchapter, the Unfair Cigarette Sales Act, § 4-75-701 et seq., or the rules promulgated by the board, the board may suspend, revoke, or not renew any or all permits and licenses issued by the board to any person or entity.

(ii) In addition, the board may levy a civil penalty in an amount not to exceed five thousand dollars (\$5,000) for each violation against any person or entity found to be in violation.

(iii) Each day of the violation shall be deemed a separate violation.

(C) In that regard, the board may examine or cause to be examined under oath any witness and the books and records of any licensee, person, or entity; and

SECTION 21. Arkansas Code § 26-57-256(f) – (h), concerning the duties of the Arkansas Tobacco Control Board, are amended to read as follows:

(f) The board ~~shall~~ may consider the following factors when reviewing a possible violation:

(1) The business has adopted and enforced a written policy against selling cigarettes, ~~or~~ tobacco products, vapor products, alternative nicotine products, or e-liquid products to persons less than eighteen (18) years of age;

(2) The business has informed its employees of the applicable laws regarding the sale of cigarettes, ~~and~~ tobacco products, vapor products, alternative nicotine products, or e-liquid products to persons less than

eighteen (18) years of age;

(3) The business required employees to verify the age of cigarette, ~~or~~ tobacco product, vapor product, alternative nicotine product, e-liquid product, or e-liquid customers by way of photographic identification;

(4) The business has established and imposed disciplinary sanctions for noncompliance; and

(5) The appearance of the purchaser of the tobacco in any form, vapor products, alternative nicotine product, or cigarette papers was such that an ordinary prudent person would believe him or her to be of legal age to make the purchase.

(g)(1) A penalty under subsection (d) of this section for a violation of § 5-27-227 shall not be imposed upon a retailer or agent or employee of a retailer who can establish an affirmative defense that before the date of the violation the retailer or agent or employee of the retailer furnishing the tobacco in any form, vapor products, alternative nicotine products, or e-liquid products or cigarette papers reasonably relied upon proof of age that identified the person receiving the tobacco in any form, vapor products, alternative nicotine products, e-liquid products, or cigarette papers as being eighteen (18) years of age or older.

(2) As used in this section, "proof of age" means any document issued by a governmental agency containing a description of the person or the person's photograph, or both, and giving the person's date of birth and includes without limitation a passport, military identification card, or driver's license.

(h) Any cigarettes, ~~or~~ tobacco products, vapor products, alternative nicotine products, or e-liquid products found in the possession of a person less than eighteen (18) years of age may be confiscated.

SECTION 22. Arkansas Code § 26-57-257(1) is amended to read as follows:

(1) The Director of Arkansas Tobacco Control may inspect or cause to be inspected any premises where tobacco products, vapor products, alternative nicotine products, or e-liquid products are manufactured, imported, distributed, stored, or sold.

SECTION 23. Arkansas Code § 26-57-257(r) is amended to read as follows:

(r) The enforcement of state laws relating to the prohibition of the barter or sale of tobacco in any form, vapor products, alternative nicotine products, e-liquid products, or cigarette papers to minors by multiple state agencies shall be coordinated to avoid duplicative inspections of the same retailer by multiple state agencies.

SECTION 24. Arkansas Code § 26-57-257, concerning the duties of the Director of the Arkansas Tobacco Control, is amended to add an additional subsection to read as follows:

(s)(1) Child safety being of paramount concern when dealing with alternative nicotine products and e-liquid products, the Director of Arkansas Tobacco Control may adopt safety and hygiene rules for persons that prepare or mix e-liquid products or alternative nicotine products that include without limitation:

(A) Child-resistant packaging effectiveness standards in accordance with § 26-57-254;

(B) Regulation of the production of custom or “create your own” e-liquids, or alternative nicotine product mixes; and

(C) Workplace safety rules for any location where e-liquids or alternative nicotine products are mixed or prepared, including without limitation:

(i) The availability and requirement for use of hand washing sinks in the preparation area for employee use that have hot and cold water, soap, hand-drying equipment, and a waste collection container;

(ii) Cleanliness and maintenance of e-liquid preparation and mixing equipment;

(iii) Employee use of protective gloves or other items when using e-liquid preparation and mixing equipment;

(iv) Prohibition of food and drink consumption and vapor, cigarette, or tobacco use in any e-liquid preparation or mixing area; and

(v) Prohibition of the presence of any animals in any e-liquid preparation or mixing area.

(2) The rules promulgated under subdivision (s)(1) of this section shall not apply to an e-liquid in a cartridge that is sold, marketed, or intended for use in a vapor product if the cartridge is prefilled and sealed by the manufacturer and is not intended to be opened by the consumer.

SECTION 25. Arkansas Code § 26-57-259 is amended to read as follows:
26-57-259. Nonpreemption.

(a) This act and the rules, ~~regulations~~, and other actions of the Arkansas Tobacco Control Board shall not be construed or interpreted so as to preempt or in any other manner qualify or limit the enactment and enforcement of any federal, state, county, municipal, or other local regulation of the manufacture, sale, storage, or distribution of tobacco products that is more restrictive than this act or the rules and regulations promulgated by the board.

(b) This act and the rules, ~~regulations~~, and other actions of the board shall not be construed or interpreted so as to preempt or otherwise limit any legal or equitable claims or causes of action brought under the common law or any federal or state statutes.

(c) Nothing in this act nor any rule ~~or regulation~~ of the board shall be construed or interpreted so as to require any state, county, municipal, or other local authority to exhaust any administrative remedies through the board, including without limitation the right to seize and forward to the board the state license of any vendor or retailer found to have illegally sold tobacco products, vapor products, alternative nicotine products, or e-liquid products to a person less than eighteen (18) years of age, provided that the vendor or retailer shall be given a hearing before the board at the board's next regularly scheduled meeting.

SECTION 26. Arkansas Code § 26-57-265(b), concerning reports by wholesalers to Arkansas Tobacco Control, is amended to read as follows:

(b) The report required under subsection (a) of this section shall contain the following information for the preceding calendar month's deliveries:

- (1) The name of each retailer or wholesaler;
- (2) The address of each retailer or wholesaler to which the wholesaler delivered cigarettes, cigars, ~~or~~ other tobacco products, vapor products, alternative nicotine products, or e-liquid products;
- (3) The address of each retailer or wholesaler that obtained cigarettes, cigars, ~~or~~ other tobacco products, vapor products, alternative nicotine products, or e-liquid products from the wholesaler at the wholesaler's location;
- (4) The Arkansas permit number of each retailer or wholesaler or the equivalent permit number if the retailer or wholesaler resides outside of the state; and
- (5) The monthly net deliveries made to each retailer or wholesaler, including without limitation:
 - (A) The quantity, units, and brand styles of the cigarettes in stamped and unstamped packages that were delivered to each retailer or wholesaler; ~~and~~
 - (B) The quantity, units, and brand styles of the cigars and other tobacco products delivered to the retailer or wholesaler; ~~and~~
 - (C) The quantity, units, and brand styles of the vapor products, alternative nicotine products, and e-liquid products delivered to the retailer or wholesaler.

SECTION 27. Arkansas Code Title 26, Chapter 57, Subchapter 2, is amended to add additional sections to read as follows:

26-57-266. Enforcement Agents – Selection – Qualifications – Authority.

- (a) Arkansas Tobacco Control is designated as a law enforcement agency.
- (b) The Director of Arkansas Tobacco Control shall assign personnel as agents of Arkansas Tobacco Control to conduct investigations of violations of tobacco laws in this state.
- (c) Personnel assigned as agents of Arkansas Tobacco Control shall:
 - (1) Be considered fulltime law enforcement officers by the Arkansas Commission on Law Enforcement Standards and Training under § 12-9-101 et seq.; and
 - (2) Have statewide law enforcement authority.

26-57-267. Preemption for vapor products, alternative nicotine products, and e-liquid products.

This subchapter and the rules and other actions of the Arkansas Tobacco Control Board shall preempt:

- (1) The enactment and enforcement of any county, municipal, or other local regulation of the manufacture, sale, storage, or distribution of vapor products or alternative nicotine products that is more restrictive than this act or the rules promulgated by the board; and
- (2) Any legal or equitable claims or causes of action brought under the common law or any state statutes.

SECTION 28. Arkansas Code § 19-6-301, concerning the enumeration of special revenues, is amended to add an additional subdivision to read as follows:

- (253) All permit and license fees received by Arkansas Tobacco Control

under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.

SECTION 29. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended to add an additional section to read as follows:

19-6-829. Arkansas Tobacco Control Revenue Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of the State, the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Tobacco Control Revenue Fund".

(b)(1) All permit and license fees received by Arkansas Tobacco Control under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., shall be deposited into the State Treasury as special revenues to the credit of the fund.

(2) The fund shall also consist of any other revenues authorized by law.

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

(2) Expenditures of moneys in the fund are subject to the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq., the Arkansas Procurement Law, § 19-11-201 et seq., and other applicable fiscal laws.

(3) The receipts and disbursements of Arkansas Tobacco Control shall be audited annually by the Division of Legislative Audit.

SECTION 30. Arkansas Code § 5-27-227 is amended to read as follows:

5-27-227. Providing minors with tobacco products, vapor products, alternative nicotine products, e-liquid products, and cigarette papers – Purchase, use, or possession prohibited – Self-service displays prohibited – Placement of tobacco vending machines.

(a)(1) It is unlawful for any person to give, barter, or sell to a minor:

(A) Tobacco in any form; ~~or~~

(B) ~~A cigarette~~ Cigarette paper; or

(C) A vapor product, alternative nicotine product, e-liquid product, or any component of a vapor product, alternative nicotine product, or e-liquid product.

(2) A ~~Except as provided in subdivision (a)(3) of this section,~~ a person who pleads guilty or nolo contendere to or is found guilty of violating subdivision (a)(1) of this section is guilty of a violation ~~and is subject to a fine not to exceed one hundred dollars (\$100) per violation~~ Class A misdemeanor.

(3) An employee or owner of an ~~Arkansas Retail Cigarette,~~ and ~~Tobacco permit holder~~ a retail location permitted under § 26-57-215 who violates subdivision (a)(1) of this section while inside the retail location upon conviction is subject to a fine not to exceed one hundred dollars (\$100) per violation.

(b)(1) It is unlawful for a minor to:

(A) Use or possess or to purchase, or attempt to purchase:

(i) Tobacco in any form; ~~or~~

(ii) Cigarette papers; or

(iii) A vapor product, alternative nicotine product, e-liquid product, or any component of a vapor product, alternative nicotine product, or e-liquid product; or

(B) For the purpose of obtaining or attempting to obtain tobacco in any form, a vapor product, alternative nicotine product, e-liquid product, any component of a vapor product, alternative nicotine product, or e-liquid product, or cigarette papers, falsely represent himself or herself to be eighteen (18) years of age or older by displaying proof of age that is false, fraudulent, or not actually proof of the minor's age.

(2) Any cigarettes, tobacco products, or cigarette papers found in the possession of a minor may be confiscated and destroyed by a law enforcement officer.

(c)(1) It is not an offense under subsection (b) of this section if:

(A) The minor was acting at the direction of an authorized agent of ~~the~~ Arkansas Tobacco Control Board to enforce or ensure compliance with laws relating to the prohibition of the sale of tobacco in any form, a vapor product, alternative nicotine product, e-liquid product, any component of a vapor product, alternative nicotine product, or e-liquid product, or cigarette papers to minors;

(B) The minor was acting at the direction of an authorized agent of the Division of Behavioral Health Services to compile statistical data relating to the sale of tobacco in any form, a vapor product, alternative nicotine product, e-liquid product, any component of a vapor product, alternative nicotine product, or e-liquid product, or cigarette papers to minors;

(C) The minor was acting at the request of an Arkansas Retail Cigarette, ~~and~~ Tobacco, Vapor Product, and Alternative Nicotine Product permit holder or a retail exclusive vapor product and alternative nicotine product store permit holder to assist the permit holder by performing a check on the permit holder's own retail business to see if the permit holder's employees would sell tobacco, a vapor product, alternative nicotine product, e-liquid product, any component of a vapor product, alternative nicotine product, or e-liquid product, or cigarette papers to the minor; or

(D) The minor was acting as an agent of a retail permit holder within the scope of employment.

(2) A minor performing activities under subdivision (c)(1) of this section shall:

(A) Display the appearance of a minor;

(B) Have the written consent of the minor's parent or guardian to perform the activity on file with the agency utilizing the minor; and

(C)(i) Present a true and correct identification if asked.

(ii) Any failure on the part of a minor to provide true and correct identification upon request is a defense to any action under this section or a civil action under § 26-57-256.

(d) Any person who sells tobacco in any form, a vapor product, alternative nicotine product, e-liquid product, any component thereof, or a cigarette paper has the right to deny the sale of any tobacco in any form, a vapor product, alternative nicotine product, e-liquid product, any component of a vapor product, alternative nicotine product, or e-liquid product, or a cigarette paper to any person.

(e) It is unlawful for any person who has been issued a permit or a license under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., to fail to display in a conspicuous place or on each vending machine a sign indicating that the sale of tobacco products, vapor products, alternative nicotine products, e-liquid products, or any component of a vapor product, alternative nicotine product, or e-liquid product to or purchase or possession of tobacco products by a minor is prohibited by law.

(f) It is unlawful for any manufacturer whose tobacco product, vapor product, alternative nicotine product, e-liquid product, or any component of a vapor product, alternative nicotine product, or e-liquid product is distributed in this state and any person who has been issued a permit or license under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., to distribute a free sample of any tobacco product, vapor product, alternative nicotine product, e-liquid product, or any component of a vapor product, alternative nicotine product, or e-liquid product or coupon that entitles the holder of the coupon to any free sample of any tobacco product, vapor product, alternative nicotine product, e-liquid product, or any component of a vapor product, alternative nicotine product, or e-liquid product:

(1) In or on any public street or sidewalk within five hundred feet (500') of any playground, public school, or other facility when the playground, public school, or other facility is being used primarily by minors for recreational, educational, or other purposes; or

(2) To any minor.

(g)(1)(A) It is unlawful for any person that has been issued a permit or license under the Arkansas Tobacco Products Act of 1977, § 26-57-201 et seq., to sell or distribute a cigarette product, vapor product, alternative nicotine product, e-liquid product, or any component of a vapor product, alternative nicotine product, or e-liquid product through a self-service display.

(B) Subdivision (g)(1)(A) of this section does not apply to a:

(i) Vending machine that complies with subdivision (h)(1)(A) of this section; ~~or~~

(ii) Retail tobacco store; or

(iii) Retail exclusive vapor product or alternative nicotine product store.

(2) As used in subdivision (g)(1) of this section:

(A) "Retail exclusive vapor product or alternative nicotine product store" means the same as defined in § 26-57-203;

(B) "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products, other than vapor products, alternative nicotine products, e-liquid products, and accessories, and in which the sale of other products is merely incidental; and

(C) "Self-service display" means a display:

(i) That contains a cigarette product, vapor product, alternative nicotine product, e-liquid product, or any component of a vapor product, alternative nicotine product, or e-liquid product;

(ii) That is located in an area where customers are permitted; and

(iii) In which the cigarette product, vapor product, alternative nicotine product, e-liquid product, or any component of a vapor

product, alternative nicotine product, or e-liquid product is readily accessible to a customer without the assistance of a salesperson.

(h)(1)(A) Except as provided in subdivision (h)(2) of this section, it is unlawful for any person who owns or leases a tobacco, vapor product, alternative nicotine product, or e-liquid product vending machine to place a tobacco, vapor product, alternative nicotine product, or e-liquid product vending machine in a public place.

(B) As used in subdivision (h)(1)(A) of this section, "public place" means a publicly or privately owned place to which the public or a substantial number of people have access.

(2) A tobacco, vapor product, alternative nicotine product, or e-liquid product vending machine may be placed in a:

(A) Restricted area within a factory, business, office, or other structure to which a member of the general public is not given access;

(B) Permitted premises that has a permit for the sale or dispensing of an alcoholic beverage for on-premises consumption that restricts entry to a person twenty-one (21) years of age or older; or

(C) Place where the tobacco, vapor product, alternative nicotine product, or e-liquid product vending machine is under the supervision of the owner or an employee of the owner.

(i) Any retail permit holder or license holder who violates any provision in this section is deemed guilty of a violation and subject to penalties under § 26-57-256.

(j)(1) A notice of alleged violation of this section shall be given to the holder of a retail permit or license or an agent of the holder within ten (10) days of the alleged violation.

(2)(A) The notice shall contain the date and time of the alleged violation.

(B)(i) The notice shall also include either the name of the person making the alleged sale or information reasonably necessary to determine the location in the store that allegedly made the sale.

(ii) When appropriate, information under subdivision (j)(2)(B)(i) of this section should include, but not be limited to, the:

(a) Cash register number;

(b) Physical location of the sale in the store; and

(c) If possible, the lane or aisle number.

(k) Notwithstanding the provisions of subsection (i) of this section, the court shall consider the following factors when reviewing a possible violation:

(1) The business has adopted and enforced a written policy against selling cigarettes, ~~or~~ tobacco products, vapor products, alternative nicotine products, or e-liquid products to minors;

(2) The business has informed its employees of the applicable laws regarding the sale of cigarettes, ~~and~~ tobacco products, vapor products, alternative nicotine products, and e-liquid products to minors;

(3) The business has required employees to verify the age of a cigarette, ~~or~~ tobacco product, vapor product, alternative nicotine product, or e-liquid product customer by way of photographic identification;

(4) The business has established and imposed disciplinary sanctions for noncompliance; and

(5) That the appearance of the purchaser of the tobacco in any

form, vapor product, alternative nicotine product, e-liquid product, or cigarette papers was such that an ordinary prudent person would believe him or her to be of legal age to make the purchase.

(1) A person convicted of violating any provision of this section whose permit or license to distribute or sell a tobacco product, vapor product, alternative nicotine product, or e-liquid product is suspended or revoked upon conviction shall surrender to the court any permit or license to distribute or sell a tobacco product, and the court shall transmit the permit or license to distribute or sell a tobacco product, vapor product, alternative nicotine product, or e-liquid product to the Director of the Department of Finance and Administration and instruct the Director of Arkansas Tobacco Control:

(1) To suspend or revoke the person's permit or license to distribute or sell a tobacco product, vapor product, alternative nicotine product, or e-liquid product and to not renew the permit or license; and

(2) Not to issue any new permit or license to that person for the period of time determined by the court in accordance with this section.

SECTION 31. Arkansas Code § 4-16-101 is repealed.

~~4-16-101. Providing alternative nicotine products to minors prohibited — Procedures.~~

~~(a) As used in this section:~~

~~(1)(A) "Alternative nicotine product" means:~~

~~(i) An electronic cigarette; or~~

~~(ii) Any other product that consists of or contains nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any other means.~~

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

~~(i) Cigarette as defined in § 20-27-2103 or other tobacco product as defined in § 20-27-705;~~

~~(ii) Product that is a drug under 21 U.S.C. § 321(g)(1);~~

~~(iii) Product that is a device under 21 U.S.C. § 321(h); or~~

~~(iv) Combination product described in 21 U.S.C. § 353(g); and~~

~~(2)(A) "Electronic cigarette" means an electronic product or device that produces a vapor that delivers nicotine or another substance to the person inhaling from the device to simulate smoking, and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo, or electronic pipe.~~

~~(B) "Electronic cigarette" does not include a:~~

~~(i) Cigarette as defined in § 20-27-2103 or other tobacco product;~~

~~(ii) Product that is a drug under 21 U.S.C. § 321(g)(1);~~

~~(iii) Product that is a device under 21 U.S.C. § 321(h); or~~

~~(iv) Combination product described in 21 U.S.C. § 353(g).~~

~~(b) A person shall not sell, offer for sale, give, or furnish any alternative nicotine product, or a cartridge or component of an alternative~~

~~nicotine product, to an individual under eighteen (18) years of age either directly or indirectly by an agent or employee or by a vending machine owned by the person or located in the person's establishment.~~

~~(c) Before selling, offering for sale, giving, or furnishing an alternative nicotine product or a cartridge or component of an alternative nicotine product to an individual, the person shall verify that the individual is at least eighteen (18) years of age by:~~

~~(1) Examining from an individual that appears to be under twenty seven (27) years of age a government issued photographic identification card that establishes the individual is at least eighteen (18) years of age; or~~

~~(2) For sales made through the Internet or another remote sales method, performing an age verification through an independent, third party age verification service that compares information available from public records to the personal information entered by the individual during the ordering process that establishes that the individual is eighteen (18) years of age or older.~~

SECTION 32. Arkansas Code § 4-75-714 is repealed.

~~4-75-714. Enforcement Agents—Selection—Qualifications—Authority.~~

~~(a) Arkansas Tobacco Control is designated as a law enforcement agency.~~

~~(b) The Director of Arkansas Tobacco Control shall assign personnel as agents of Arkansas Tobacco Control to conduct investigations of violations of tobacco laws in this state.~~

~~(c) Personnel assigned as agents of Arkansas Tobacco Control shall:~~

~~(1) Be considered a law enforcement officer by the Arkansas Commission on Law Enforcement Standards and Training under § 12-9-101 et seq.; and~~

~~(2) Have statewide law enforcement authority.~~

SECTION 33. Arkansas Code § 5-27-233 is repealed.

~~5-27-233. Providing minors with e-cigarettes and e-cigarette products prohibited—Purchase, use, or possession prohibited—Self service displays and vending machines prohibited.~~

~~(a) As used in this section:~~

~~(1) "E cigarette" means an electronic oral device that provides a vapor of nicotine or another substance that, when used or inhaled, simulates smoking, including without limitation a device that:~~

~~(A) Is composed of a heating element, battery, electronic circuit, or a combination of heating element, battery, or electronic circuit;~~

~~(B) Works in combination with a liquid nicotine delivery device composed either, in whole or in part, of pure nicotine and manufactured for use with e-cigarettes; and~~

~~(C) Is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other product name or descriptor; and~~

~~(2) "Self service display or vending machine" means a display or vending machine:~~

~~(A) That contains e-cigarettes or e-cigarette products;~~

~~(B) That is located in an area where customers are permitted; and~~

~~(C) In which e cigarettes or e cigarette products are readily accessible to a customer without the assistance of a salesperson.~~

~~(b)(1) It is unlawful for a person or business to give, barter, or sell to a minor:~~

~~(A) An e cigarette; or~~

~~(B) An e cigarette product.~~

~~(2) A business owner who pleads guilty or nolo contendere to or is found guilty of violating subdivision (b)(1) of this section is guilty of a violation and is subject to a fine not to exceed one hundred dollars (\$100) per violation.~~

~~(3) An employee of a business who violates subdivision (b)(1) of this section is subject to a fine not to exceed one hundred dollars (\$100) per violation.~~

~~(c)(1) It is unlawful for a minor to:~~

~~(A) Use or possess or to purchase or attempt to purchase:~~

~~(i) An e cigarette; or~~

~~(ii) An e cigarette product; or~~

~~(B) For the purpose of obtaining or attempting to obtain e cigarettes or e cigarette products, falsely represent himself or herself to be eighteen (18) years of age or older by displaying proof of age that is false, fraudulent, or not actually proof of the minor's age.~~

~~(2) An e cigarette or e cigarette product found in the possession of a minor may be confiscated and destroyed by a law enforcement officer.~~

~~(d) It is not an offense under subsection (c) of this section if the minor was acting as an agent of a business within the scope of employment.~~

~~(e) A person or business that sells e cigarettes or e cigarette products has the right to deny the sale of e cigarettes or e cigarette products to any person.~~

~~(f) It is unlawful for a business to fail to display in a conspicuous place or on each vending machine a sign indicating that the sale of e cigarettes or e cigarette products to or purchase or possession of e cigarettes or e cigarette products by a minor is prohibited by law.~~

~~(g) It is unlawful for a manufacturer to distribute a free sample of an e cigarette or e cigarette product or a coupon that entitles the holder of the coupon to a free sample of an e cigarette or e cigarette product:~~

~~(1) In or on a public street or sidewalk within five hundred feet (500') of a playground, public school, or other facility when the playground, public school, or other facility is being used primarily by minors for recreational, educational, or other purposes; or~~

~~(2) To a minor.~~

~~(h) It is unlawful for a person or business to sell or distribute e cigarettes or e cigarette products through a self-service display or vending machine that is accessible to minors.~~

~~(i) A court shall consider the following factors when reviewing a possible violation of this section:~~

~~(1) The business has adopted and enforced a written policy against selling e cigarettes or e cigarette products to minors;~~

~~(2) The business has informed its employees of the applicable laws regarding the sale of e cigarettes or e cigarette products to minors;~~

~~(3) The business has required employees to verify the age of an e cigarette or e cigarette products customer by way of photographic~~

identification;

~~(4) The business has established and imposed disciplinary sanctions for noncompliance; and~~

~~(5) That the appearance of the purchaser of the e cigarettes or e cigarette products was such that an ordinary prudent person would believe him or her to be of legal age to make the purchase.~~

SECTION 34. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the state must be able to plan and give effective notice for the new comprehensive permits created by this act; that it is essential to the operation of Arkansas Tobacco Control and the tobacco, vapor product, and alternative nicotine product industry that this act be effective on the renewal date for permits issued by Arkansas Tobacco Control to ensure proper funding for the enforcement of the new regulations and requirements of this act; that a delay in the effectiveness of this act after the renewal date of permits and regulations issued by Arkansas Tobacco Control may cause irreparable harm upon the proper administration and provision of essential governmental programs; and that this act is necessary to ensure that the industry and the citizens of Arkansas are provided guidance regarding permits for vapor products and alternative nicotine products. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on May 1, 2015."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator E. Williams

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Secretary