

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

State of Arkansas
94th General Assembly
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As Engrossed: H4/3/23
A Bill

HOUSE BILL 1725

By: Representative L. Johnson
By: Senators J. Petty, J. Boyd

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS TOBACCO PRODUCTS TAX ACT OF 1977; TO INFORM THE PUBLIC OF HEALTH RISKS CAUSED BY VAPOR PRODUCTS, E-LIQUID PRODUCTS, AND ALTERNATIVE NICOTINE PRODUCTS; TO PREVENT CONTAMINATION, ADULTERATION, OR INCLUSION OF INGREDIENTS OR OTHER SUBSTANCES IN VAPOR PRODUCTS, E-LIQUID PRODUCTS, OR ALTERNATIVE NICOTINE PRODUCTS THAT MIGHT CAUSE HARM TO PUBLIC HEALTH AND SAFETY; TO ENSURE THE SAFETY OF ARKANSAS YOUTH; AND FOR OTHER PURPOSES.

Subtitle

TO INFORM THE PUBLIC OF HEALTH RISKS CAUSED BY VAPOR PRODUCTS, E-LIQUID PRODUCTS, AND ALTERNATIVE NICOTINE PRODUCTS; AND TO ENSURE THE SAFETY OF ARKANSAS YOUTH.

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

SECTION 1. Arkansas Code 19-6-831(b)(2), concerning the creation of the Arkansas Tobacco Control Revenue Fund, is amended to read as follows:

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



SECTION 2. Arkansas Code 19-6-831(c)(1), concerning the creation of the Arkansas Tobacco Control Revenue Fund, is amended to read as follows:

(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, § 20-65-201 et seq., the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., and the Unfair Cigarette Sales Act, § 4-75-701 et seq.

SECTION 3. Arkansas Code Title 20, is amended to add an additional chapter to read as follows:

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

Subchapter 1 – General Provisions

20-65-101. Definitions.

As used in this chapter, unless otherwise specified in this chapter:

(1)(A) “Alternative nicotine product” means a product that consists of or contains nicotine from any source 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) Tobacco product;

(ii) Vapor product;

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

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

(v) 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;

(3) “Brand family” means all styles of vapor products, alternative nicotine products, and e-liquid products sold under the same trademark and differentiated from another style by means of additional modifiers or descriptors, and includes any brand name alone or in conjunction

with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to or identifiable with a previously known brand of vapor products, alternative nicotine product, or e-liquid products;

(4) "Childcare facility" means the same as provided in § 20-78-202(2);

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

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

(a) Open; or

(b) Obtain a toxic or harmful amount of the substance contained in the packaging 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;

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

(7)(A) "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.

(B) "E-liquid container" 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;

(8) "E-liquid" and "e-liquid product" means a liquid product, which may or may not contain nicotine, that is 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;

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

(10)(A) "Manufacturer" means a person that manufactures, fabricates, assembles, or processes a tobacco product or manufactures or fabricates a vapor product, alternative nicotine product, or e-liquid

product, including without limitation federally licensed importers and federally licensed distributors that deal in tobacco products, vapor products, alternative nicotine products, or e-liquid products.

(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 permitted retailers.

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

(11) “School” means:

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

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

(12) “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; and

(13) “Vapor product” means an electronic oral device of any size or shape that contains a vapor of nicotine, e-liquid, or any other 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, e-liquid, 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.

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

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

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

(2) In addition to any authorization or remedy under law, require any tobacco products, vapor products, alternative nicotine products, or e-liquid containers found to be contaminated, adulterated, 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 for destruction or disposal;

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

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

(b) All alternative nicotine products and e-liquid containers sold at retail in this state shall satisfy the child-resistant packaging effectiveness standards described in § 20-65-101 and the requirements of the Federal Nicotine Poisoning Prevention Act, Public Law No. 114-116 (2016), 15 U.S.C. § 1472a.

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

It is a violation of this chapter 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, childcare facility, or healthcare facility.

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

A person shall not advertise, market, or offer for sale in this state

any tobacco products, vapor products, alternative nicotine products, e-liquid products, or e-liquid containers by using, in the labeling or design of the product, its packaging, or in its advertising or marketing materials, trade dress, trademarks, branding, or other related imagery that:

(1) Imitates or replicates those of food brands or other related products that are commonly marketed to children or minors, including, but not limited to, breakfast cereal, cookies, juice drinks, soft drinks, frozen drinks, ice creams, sorbets, sherbets, and frozen pops;

(2) Depicts or signifies characters or symbols that are known to a reasonable person to appeal primarily to or are commonly associated with children or minors, including, but not limited to, superheroes, cartoons or cartoon characters, including anime characters, comic book characters, video game characters, television show characters, movie characters, mythical creatures, unicorns, or that otherwise incorporates related imagery or scenery; or

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

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

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

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

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

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

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

Subchapter 2 – Manufacturer Directory for Vapor Products, Alternative Nicotine Products, or E-liquid Products

20-65-201. Definitions.

As used in this subchapter:

(1) “Alternative nicotine product” has the same meaning as in § 20-65-101(1);

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

(3) “Vapor product” means an electronic oral device of any size or shape that contains a vapor of nicotine or e-liquid 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 from any source or e-liquid 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 containing nicotine from any source, e-cigar containing nicotine from any source, e-pipe containing nicotine from any source, or any other vapor 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.

20-65-202. Establishment.

(a) The Director of Arkansas Tobacco Control shall develop and maintain a directory listing all manufacturers that have provided certifications that comply with this subchapter and each vapor product,

alternative nicotine product, and e-liquid product that is listed in those certifications.

(b) The director shall:

(1) Make the directory available for public inspection on Arkansas Tobacco Control's website by July 1, 2024; and

(2) Update the directory as necessary in order to correct mistakes and to add or remove manufacturers or a vapor product, alternative nicotine product, or e-liquid product consistent with the requirements of this section on a monthly basis.

(c) A person or entity is deemed to have received notice that a vapor product, alternative nicotine product, or e-liquid product of a manufacturer is not included in the directory maintained by Arkansas Tobacco Control under this section at the time Arkansas Tobacco Control's website fails to list any vapor product, alternative nicotine product, or e-liquid product in the directory or at the time the director removes the vapor product, alternative nicotine product, or e-liquid product from the directory.

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

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

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

(3) If after fifteen (15) days from the date of service of the notice of the director's intended action the manufacturer of vapor product, alternative nicotine product, or e-liquid product remains in noncompliance, and the manufacturer has not requested a hearing before the Arkansas Tobacco Control Board within fifteen (15) days of notice of the director's intended

action, the manufacturer and its vapor product, alternative nicotine product, or e-liquid product shall be removed from the directory.

(4) Every manufacturer shall provide and update as necessary an email address to the Director of Arkansas Tobacco Control for the purpose of receiving any notifications as may be required by this subchapter.

(e)(1) Beginning June 1, 2024, a vapor product, alternative nicotine product, or e-liquid product shall not be offered for sale in this state or sold to a person located in this state unless the manufacturer certifies before that date on a form prescribed by the director, under penalty of perjury, either:

(A) The vapor product, alternative nicotine product, or e-liquid product was on the market in the United States as of August 8, 2016, and the manufacturer has applied for a marketing order under 21 U.S.C. § 387j for the vapor product, alternative nicotine product, or e-liquid product, whichever is applicable, by submitting a premarket tobacco product application on or before September 9, 2020, if the product contains tobacco-derived nicotine, or May 14, 2022, if the product contains nontobacco-derived nicotine, to the United States Food and Drug Administration, and either:

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

(ii) The United States Food and Drug Administration has issued a no marketing order for the vapor product, alternative nicotine product, or e-liquid product, whichever is applicable, but the United States Food and Drug Administration or a federal court has issued a stay order or injunction during the pendency of the manufacturer's appeal of the no marketing order; or

(iii) The United States Food and Drug Administration has not issued a marketing order or denial order for the vapor product, alternative nicotine product, or e-liquid product, but the manufacturer has amended, supplemented, or refiled the premarket tobacco application for the vapor product, alternative nicotine product, or e-liquid product to address written recommended corrections from the United States Food and Drug Administration within six (6) months from the date the manufacturer received the written recommended corrections from the United States Food and Drug Administration; or

(B) The manufacturer has received a marketing order or other authorization under 21 U.S.C. § 387j for the vapor product, alternative nicotine product, or e-liquid product from the United States Food and Drug Administration.

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

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

(B) Marketing order or other authorization issued under 21 U.S.C. § 387j; and

(C) If applicable under subdivision (e)(1)(A)(iii) of this section, the written recommended corrections from the United States Food and Drug Administration with dates of receipt.

20-65-203. Material change to certification.

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

(1) A market order or other authorization issued under 21 U.S.C. § 387j;

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

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

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

(5) Evidence that the United States Food and Drug Administration has provided the manufacturer with written recommended corrections or requests for amendments, supplemental documentation, or refiling of the premarket tobacco application for the vapor product, alternative nicotine

product, or e-liquid product.

20-65-204. Fees – Violations.

(a)(1) Each certifying manufacturer shall pay an initial fee of one thousand dollars (\$1,000) for each brand family of vapor products, alternative nicotine products, or e-liquid products to offset the costs incurred by Arkansas Tobacco Control for processing the certifications and operating the directory under § 20-65-202.

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

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

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

(2) Beginning on and after July 1, 2024, or on the date that Arkansas Tobacco Control first makes the directory available for public inspection on its website as provided in § 20-65-202, whichever is later, a manufacturer who offers for sale a vapor product, alternative nicotine product, or e-liquid product that is not listed on the directory is subject to a civil penalty of one thousand dollars (\$1,000) daily for each vapor product, alternative nicotine product, or e-liquid product offered for sale in violation of § 20-65-202 until the vapor product, alternative nicotine product, or e-liquid product is removed from the market or properly listed on the directory.

(3) In addition to any penalty prescribed by law, a corporation,

partnership, sole proprietor, limited partnership, or association engaged in the manufacture of vapor products, alternative nicotine products, or e-liquid products that knowingly makes a false certification under this subchapter is subject to a civil penalty of not less than seventy-five thousand dollars (\$75,000) but not more than two hundred fifty thousand dollars (\$250,000) for each false certification.

(4) Beginning on July 1, 2024, or on the date that the Arkansas Tobacco Control first makes the directory available for public inspection on its website as provided in this subchapter, whichever is later, it is unlawful for any person or entity to sell, offer, or possess in this state, or import for personal consumption in this state, vapor products, alternative nicotine products, or e-liquid products that the person or entity knows is not included in the directory maintained by the director under this subchapter.

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

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

(7) If a vapor product, alternative nicotine product, or e-liquid product or a manufacturer of a vapor product, alternative nicotine product, or e-liquid product is removed from the directory established and maintained by the director under § 20-65-201, each retailer shall have one hundred twenty (120) days from the date any vapor product, alternative nicotine product, or e-liquid product is removed from the directory to remove any vapor product, alternative nicotine product, or e-liquid product from the

retailer's inventory and permitted location.

(c)(1) In addition to the other fines and forfeitures, a person who violates § 20-65-202 may be subject to a penalty for vapor products, alternative nicotine products, or e-liquid products held, sold, or offered for sale and confiscated by Arkansas Tobacco Control under state law in the amount of:

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

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

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

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

SECTION 4. Arkansas Code § 26-57-203(4), concerning the definition of "child-resistant packaging" within the Arkansas Tobacco Products Tax Act of 1977, is repealed to be codified in a more appropriate section.

~~(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;~~

SECTION 5. Arkansas Code 26-57-247(b), concerning 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, 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 Secretary 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 permit;

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

(5) Tobacco products, vapor products, alternative nicotine products, or e-liquid products are possessed, sold, or offered for sale in violation of Title 20, Chapter 65.

SECTION 6. Arkansas Code § 26-57-254 is repealed to be codified in a more appropriate section.

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

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

~~(1) Inspect or cause to be inspected any tobacco product, vapor~~

~~product, alternative nicotine product, or e-liquid container in places of storage or distribution authorized under this subchapter; and~~

~~(2) Require any 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 health care facility.~~

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

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

~~(B) "Health care 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 school-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 July 22, 2015, 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 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 7. Arkansas Code 26-57-255(g)(3)(A), concerning the creation of the Arkansas Tobacco Control Board, is amended to read as follows:

(A) Conduct public hearings when appropriate regarding a permit authorized under this subchapter or in violation of this subchapter, the Unfair Cigarette Sales Act, § 4-75-701 et seq., § 5-27-227, Title 20, Chapter 65, 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 Arkansas Tobacco Control.

SECTION 8. Arkansas Code 26-57-255(g)(3)(B), concerning the creation of the Arkansas Tobacco Control Board, is amended to read as follows:

(B) After 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., Title 20, Chapter 65, or the rules promulgated by Arkansas Tobacco Control, the board may suspend or revoke any or all permits issued by the director to any person.

SECTION 9. Arkansas Code 26-57-255(g)(3)(C), concerning the creation of the Arkansas Tobacco Control Board, is amended to read as follows:

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

SECTION 10. Arkansas Code 26-57-256(a), concerning the powers of Arkansas Tobacco Control, is amended to add an additional subdivision to read as follows:

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

(B) Arkansas Tobacco Control shall impose a civil penalty set under § 20-65-204 for a violation of § 20-65-201 et seq.

/s/L. Johnson