

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

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S2/25/25 S3/17/25

A Bill

SENATE BILL 252

By: Senator J. Dismang

By: Representatives Wardlaw, K. Brown

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 AND E-LIQUID PRODUCTS; TO PREVENT CONTAMINATION, ADULTERATION, OR INCLUSION OF INGREDIENTS OR OTHER SUBSTANCES IN VAPOR PRODUCTS OR E-LIQUID 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 AND E-LIQUID
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), effective until the contingency in Acts 2023, No. 629, § 17, is met, 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(b)(2), effective when the contingency in Acts 2023, No. 629, § 17, is met, 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 3. Arkansas Code 19-6-831(c)(1), effective until the contingency in Acts 2023, No. 629, § 17, is met, 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, § 20-65-101 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 4. Arkansas Code 19-6-831(c)(1), effective when the contingency in Acts 2023, No. 629, § 17, is met, 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, § 20-65-101 et seq., the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq., § 20-56-401 et seq., and the Unfair Cigarette Sales Act, § 4-75-701 et seq.

SECTION 5. 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:

(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 following 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 to, 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;

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

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

(7) "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;

(8)(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;

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

(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 a federally licensed importer and a federally licensed distributor that deals 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 school, 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) 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 products, 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-liquids sold at retail in this state shall be sold in child-resistant packaging.

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 container.

A person may 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 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 without limitation breakfast cereals, 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 without limitation superheroes, cartoons or cartoon characters, anime characters, comic book characters, video game characters, television show characters, movie characters, mythical creatures, or 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 candies, 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 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 in § 20-65-202.

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

20-65-201. Definitions.

As used in this subchapter:

(1)(A) “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.

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

(2)(A) “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:

(i) 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;

(ii) 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; and

(iii) 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.

(B) “Vapor product” does not include:

(i) A device that:

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

(ii) 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 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 November 1, 2025; and

(2) Update the directory to correct mistakes and add or remove
manufacturers of a vapor 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 as required
under subsection (d) of this section that a vapor 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 or e-liquid product in the directory
or at the time the director removes the vapor product or e-liquid product
from the directory.

(d)(1)(A) The director may not remove the manufacturer or its vapor
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 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 or e-liquid product manufacturer or its vapor 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 the vapor product or e-liquid products 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 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 for the purpose of receiving any notifications required by this subchapter.

(e)(1) Beginning September 1, 2025, a vapor 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, that:

(A) The vapor 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 or e-liquid product, whichever is applicable, by submitting a premarket tobacco product application on or before September 9, 2020, 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; or

(ii) The United States Food and Drug Administration has issued a marketing denial order for the vapor 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 marketing denial order;

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

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

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

(2) In addition to the requirements in subdivision (e)(1) 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) Document issued by the United States Food and Drug Administration or by a court confirming that the premarket tobacco product application has received a marketing denial order that has been and remains stayed by the United States Food and Drug Administration or court order, rescinded by the United States Food and Drug Administration, or vacated by a court; or

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

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

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

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

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 marketing granted order issued under 21 U.S.C. § 387j;

(2) An order requiring a manufacturer to remove a vapor 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 or e-

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

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

20-65-204. Fees – Violations.

(a)(1) Each certifying manufacturer shall pay an initial fee of five hundred dollars (\$500) for each brand family of vapor 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 two hundred fifty dollars (\$250) for each brand family of vapor 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 or e-liquid product from the federal premarket tobacco application requirements, the vapor 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 or e-liquid product is compliant with the federal rule, guidance, or other formal statement, as applicable.

(2) On and after November 1, 2025, 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 or e-liquid product that is not listed on the directory is subject to a civil penalty of one thousand dollars (\$1,000) for each vapor product or e-liquid product offered for sale in violation of § 20-65-202 until the vapor 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 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) A repeated violation of this section shall constitute a deceptive trade practice under § 4-88-101 et seq.

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

(6) A person or entity is deemed to have received notice that a manufacturer is not included in the directory maintained by Arkansas Tobacco Control 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.

(7) If a vapor product or e-liquid product or a manufacturer of a vapor 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 the vapor product or e-liquid product is removed from the directory to remove any vapor 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 or e-liquid product.

(8) If a vapor product or e-liquid product or a manufacturer of a vapor product or e-liquid product is removed from the directory established and maintained by the director under § 20-65-202, each retailer shall have one hundred twenty (120) days from the date any vapor product or e-liquid product is removed from the directory to sell or remove the vapor 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 this section may be subject to a penalty for vapor products or e-liquid products held, sold, or offered for sale and confiscated by Arkansas

Tobacco Control in the amount of:

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

(B) Fifty dollars (\$50.00) for each individual vapor product or e-liquid product in excess of twenty (20) individual vapor 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 having jurisdiction in this state.

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

20-65-205. Enforcement.

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 6. 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 location more suitable to the subject matter.

~~(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 7. Arkansas Code 26-57-247(b), effective until the contingency in Acts 2023, No. 629, § 17, is met, 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, 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 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 § 20-65-101 et seq.

SECTION 8. Arkansas Code 26-57-247(b), effective when the contingency in Acts 2023, No. 629, § 17, is met, 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, vapor products, alternative nicotine products, e-liquid products, or hemp-derived products found in the possession of a person dealing in, or a consumer of, tobacco products, vapor products, alternative nicotine products, e-liquid products, or hemp-derived 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;

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

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

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

~~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, childcare facility, or healthcare facility.~~

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

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

(3)(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, § 20-65-101 et seq., 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.

(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., § 20-65-101 et seq., 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.

(C)(i) 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., § 20-65-101 et seq., or the rules promulgated by Arkansas Tobacco Control.

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

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

(3)(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, § 20-56-401 et seq., § 20-65-101 et seq., or any other federal, state, or local statute, ordinance, rule, or regulation concerning the sale of tobacco products, vapor products, alternative nicotine products, e-liquid products, or hemp-derived products to minors or the rules promulgated by Arkansas Tobacco Control.

(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., § 20-56-401 et seq., § 20-65-101 et seq., 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.

(C)(i) 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., § 20-56-401 et seq., § 20-65-101 et seq., or the rules promulgated by Arkansas Tobacco Control.

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

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

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

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

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

/s/J. Dismang