

HB 265 -- Redline

Comparison to Original Bill to Enrolled -- Non-nicotine Inhalation Product Amendments

Deletions ~~struck~~ · Insertions underlined

~~HB0265S02 compared Copy with H.B. HB0265 [Omitted text] shows text that was in HB0265 but was omitted in HB0265S02 inserted text shows text that was not in HB0265 but was inserted into HB0265S02~~
~~DISCLAIMER:~~

~~This 265 document Non-nicotine is Inhalation provided Product to Amendments assist GENERAL you SESSION in STATE your OF comparison UTAH of Chief the Sponsor: two bills.~~

~~Sometimes this automated comparison will NOT be completely accurate.~~

~~Therefore, you need to read the actual bills.~~

~~This automatically generated document could contain inaccuracies caused by:~~

~~limitations of the compare program;~~

~~bad input data;~~

~~or other causes.~~

~~Non-nicotine Inhalation Product Amendments GENERAL SESSION STATE OF UTAH Chief Sponsor:~~

~~Thompson Senate Sponsor: Brady Sponsor: -Brammer 3 LONG TITLE General Description:~~

Brady Brammer 3 LONG TITLE General Description:

? requires a non-nicotine inhalation ~~product{, product }~~ and a non-nicotine inhalation ~~substance{, substance and a cannabinoid electronic cigarette }~~ to be registered;

? establishes civil penalties for selling an unregistered non-nicotine inhalation ~~product{, product }~~ or ~~non-non-nicotine nicotine inhalation substance{, substance; or cannabinoid electronic cigarette };~~

? creates the criminal offense of illegal distribution of a ~~{non-nicotine } cannabinoid inhalation product{, product non-nicotine }~~ or a cannabinoid inhalation ~~substance{, substance; or cannabinoid electronic cigarette ;~~

~~and};~~

H-? defines ~~terms{.} terms;~~

B-? includes a clause coordinating this bill and H.B.

385, Specialized Product Sales ~~2~~-Amendments;

and ~~6 HB0265 compared with HB0265S02~~-? makes technical and conforming changes.

~~4-41-102 4-41-102, as last amended by Laws of Utah 2025, Chapter 114 4-41-402 4-41-402, as last amended by Laws of Utah 2023, Chapters 146, 327 26B-7-501 H.B., as last amended by Laws of Utah 2025, Chapter 173 26B-7-505, as last amended by Laws of Utah 2025, Chapter 173 59-14-802, as last amended by Laws of Utah 2020, Chapter 347 59-14-803, as last amended by Laws of Utah 2020, Chapter 347 59-14-804, as last amended by Laws of Utah 2023, Chapter 300 59-14-805, as enacted by Laws of Utah 2020, Chapter 347 59-14-806, as enacted by Laws of Utah 2020, Chapter 347 59-14-809, as enacted by Laws of Utah 2023, Chapter 531 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 531 59-14-810, as last amended by Laws of Utah 2025, Chapter 173 76-9-1101, as renumbered and amended by Laws of Utah 2025, Chapter 173 {76-9-1115, as enacted by Laws of Utah 2025, Chapter 173} ENACTS:~~

26B-7-523 265, Enrolled Copy 26B-7-501, as last amended by Laws of Utah Code 2025, Annotated Chapter 1953 173 76-9-1120 26B-7-505, as last amended by Laws of Utah Code 2025, Annotated Chapter 1953 173 59-14-802, as last amended by Laws of Utah Code 2020, Sections Chapter affected 347 59-14-803, as last amended by Laws of Utah 2020, Chapter 347 59-14-804, as last amended by Laws of Utah 2023, Chapter 300 59-14-805, as enacted by Laws of Utah 2020, Chapter 347 59-14-806, as enacted by Laws of Utah 2020, Chapter 347 59-14-809, as enacted by Laws of Utah 2023, Chapter 531 and last amended by Coordination Clause: Clause, Laws of Utah 2023, Chapter 531 59-14-810, as last amended by Laws of Utah 2025, Chapter 173 76-9-1101, as renumbered and amended by Laws of Utah 2025, Chapter 173 ENACTS:

4-45a-101 26B-7-523, as Code enacted Annotated 1953 76-9-1120, Utah Code Annotated 1953 Utah Code Sections affected by H.B. Coordination Clause:

4-45a-101, as enacted by H.B.

~~-4-41-102 2.- HB0265 compared with HB0265S02 4-41-102.~~

~~(2)(2)(a)-(a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substances derived from the cannabis plant.~~

~~(i)- a2 naturally- occurring Enrolled chemical Copy substance H.B. that is separated from the cannabis plant by a chemical or mechanical extraction process;~~

265 (i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process;

and (ii) 150 milligrams per package;[and] ~~3 HB0265 compared with HB0265S02~~ (e) unless the product is in an oil based suspension, has a serving size that:

(12) "Industrial hemp producer registration" means a registration that the department issues ~~to a person for H.B. the purpose of processing industrial hemp or an industrial hemp product.~~

~~(13) 265 (a) Enrolled "Industrial Copy hemp to product" a means person a for product the made purpose by of processing industrial hemp plants or an industrial hemp parts product.~~

(13)(a) "Industrial hemp product" means a product made by processing industrial hemp plants or industrial hemp parts.

~~4 HB0265 compared with HB0265S02~~ (17) "Newly identified cannabinoid" means a cannabinoid that:

or ~~(vi) 9(r)-hexahydrocannabinol (HHC), the Enrolled cannabinoid Copy identified H.B. as CAS# 36403-90-4.~~

265 (vi) 9(r)-hexahydrocannabinol (HHC), the cannabinoid identified as CAS# 36403-90-4.

~~(23)(23)(a) (a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.~~

~~5 HB0265 compared with HB0265S02~~ (iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(25) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of ~~delta-9-delta-9-THC, THC,~~ tetrahydrocannabinolic acid, calculated as "total THC = delta-9-THC + (THCA x 0.877)".

(26) "Transportable industrial hemp concentrate" means any amount of a natural ~~cannabinoid in a~~ purified H.B. state that:

265 Enrolled Copy cannabinoid in a purified state that:

4-41-402, 4-41-402 .

~~(3)(3)(a) 6 HB0265 compared with HB0265S02 (a) A person may sell or use a cannabinoid product that is in the list of registered cannabinoid products described in Subsection (2).~~

26B-7-501, 26B-7-501 .

(1) ~~{ "Cannabinoid" "Community electronic location" "cigarette" means the same as that term is defined: in Section 76-9-1101.~~

~~{(2)} "Community location" means the same as that term is defined:~~

and ~~(b) as it relates Enrolled to Copy a H.B. county, in Section 17-50-333.~~

~~{(2)} 265 {(3)} (b) "Electronic cigarette" means the same as that it term relates is to defined a county, in Section 76-9-1101, 17-50-333.~~

~~{(3)} (2) {(4)} "Electronic cigarette cigarette" product" means the same as that term is defined in Section 76-9-1101.~~

~~{(4)} (3) {(5)} "Electronic cigarette substance" product" means the same as that term is defined in Section 76-9-1101.~~

~~{(5)} (4) {(6)} "Electronic cigarette "Employee" substance" means an the employee same of as a that tobacco term retailer, is defined in Section 76-9-1101.~~

~~{(6)} (5) {(7)} "Employee" "Enforcing agency" means the an department, employee or any local health department enforcing the provisions of this a part. tobacco retailer.~~

~~{(7)} (6) {(8)} "Enforcing agency" "General means tobacco the retailer" department, means or any tobacco local retailer health that department is enforcing not the a provisions retail of tobacco this specialty part. business.~~

~~{(8)} (7) {(9)} "General tobacco "Local retailer" health department" means the a same tobacco as retailer that term is defined not in a Section retail 26A-1-102, tobacco specialty business.~~

~~{(9)} (8) {(10)} "Local health "Manufacture" department" includes: means the same as that term is defined in Section 26A-1-102.~~

~~(9) 7 "Manufacture" -includes: HB0265 compared with HB0265S02 (a) to cast, construct, or make electronic cigarettes;~~

(a) to cast, construct, or make electronic cigarettes;

~~(11) {(10)} (10) "Manufacturer sealed electronic cigarette product" means:~~

[(10)] ~~{(12)} {(11)} (11) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette substance that is sold in a container that:~~

or [(b) a prefilled electronic cigarette as that term is defined in Section 76-9-1101.] ~~{(12)} (12).~~

~~{(13)} "Nicotine" means the same as that term is defined in Section 76-9-1101.~~

~~{(13)} (13) {(14)} "Nicotine product" means the same as that term is defined in Section 76-9-1101.~~

~~(15) {(14)} (14) "Non-nicotine inhalation product" means the same as that term is defined in Section 76-9-1101.~~

~~(16) {(15)} (15) "Non-nicotine inhalation substance" means the same as that term is defined in Section 76-~~

9-1101.

[(14)] ~~(17)((16))~~ (16) "Non-tobacco shisha" means any product that:

~~(a)- does not contain H.B. tobacco or nicotine;~~

265 Enrolled Copy (a) does not contain tobacco or nicotine;

[(15)] ~~(18)((17))~~ (17) "Owner" means a person holding a 20% ownership interest in the business that is required to obtain a permit under this part.

[(16)] ~~(19)((18))~~ (18) "Permit" means a tobacco retail permit issued under Section 26B-7-507.

[(17)] ~~(20)((19))~~ (19) "Place of public access" means any enclosed indoor place of business, commerce, banking, financial service, or other service-related activity, whether publicly or privately owned and whether operated for profit or not, to which persons not employed at the place of public access have general and regular access or which the public uses, including:

~~- 8 - HB0265 compared with HB0265S02- (b) means of transportation or common carrier waiting rooms;~~

~~(j)(i)-(i) any child care facility or program subject to licensure or certification under this title, including those operated in private homes, when any child cared for under that license is present;~~

~~(m)- any facility- rented Enrolled or Copy leased H.B. for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;~~

265 (m) any facility rented or leased for private functions from which the general public is excluded and arrangements for the function are under the control of the function sponsor;

[(18)] ~~(21)((20))~~ (20)(a)-(a) "Proof of age" means:

~~- 9 - HB0265 compared with HB0265S02- (ii) a valid identification that:~~

[(19)] ~~(22)((21))~~ (21) "Publicly owned building or office" means any enclosed indoor place or portion of a place owned, leased, or rented by any state, county, or municipal government, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.

[(20)] ~~(23)((22))~~ (22) "Retail tobacco specialty business" means the same as that term is defined:

~~[(21)]- (24)((23)) 9 "Shisha"- means H.B. any product that:~~

265 Enrolled Copy [(21)] (23) "Shisha" means any product that:

[(22)] ~~(25)((24))~~ (24) "Smoking" means:

~~- 10 - HB0265 compared with HB0265S02- (iii) nicotine;~~

[(23)] ~~(26)((25))~~ (25) "Tax commission license" means a license issued by the State Tax Commission under:

[(24)] ~~(27)((26))~~ (26) "Tobacco product" means:

[(25)] ~~(28)((27))~~ (27) "Tobacco retailer" means a person that is required to obtain a tax commission license.

26B-7-505, 26B-7-505 .

~~(c)- packaging; 10 - Enrolled Copy H.B.~~

265 (c) packaging;

~~- 11 - HB0265 compared with HB0265S02- (c) packaging;~~

~~(3)(3)(a)-(a) A person may not sell an electronic cigarette substance unless the electronic cigarette substance complies with the requirements established by the department under Subsection (1).~~

~~(4)(4)(a)-(a) A local health department may not enact a rule or regulation regarding electronic cigarette substance labeling, nicotine content, packaging, or product quality that is not identical to the requirements established by the department under Subsections (1) and (2).~~

~~(6)(6)(a)-(a) Any nicotine product shall contain the statement described in Subsection (6)(b) if the nicotine product:~~

~~(i)(i)(A)-(A) is not a tobacco product as defined in 21 U.S.C.~~

or (B) is not otherwise required under federal or state law to contain a nicotine ~~warning;- 11 - H.B.~~

265 Enrolled Copy warning;

(b) A statement shall appear on the exterior packaging of a nicotine product described in Subsection

~~(6)(6)(a)-(a) as follows:~~

"This product contains nicotine." ~~- 12 - HB0265 compared with HB0265S02- Section 5.~~

Section 526B-7-523 is enacted to read:

26B-7-523, 26B-7-523 .

(1) A person may not sell a non-nicotine inhalation ~~product{, product }~~ or a non-nicotine inhalation ~~substance{, substance or cannabinoid electronic cigarette }~~ unless the product is contained in the registry described in Section 59-14-810.

(2) The ~~department~~ department, ~~{and}~~, a local health ~~department~~ department, and the Department of Agriculture and Food shall enforce this section under the procedures of Title 63G, Chapter 4, Administrative Procedures Act, as an informal adjudicative proceeding, including:

and ~~(c)(c)(i)-(i)~~ on a third violation, impose a penalty of \$6,000;

~~(4)(4)(a)-(a)~~ Except when a transfer described in Subsection (5) occurs, a local health department may not issue a permit to:

(b) A person whose permit is revoked under this section may not apply for a new permit for a period of 24 months after the day on which an enforcing agency revokes the permit.

and (b) the new proprietor provides documentation to the local health department that the ~~new-proprietor~~ is acquiring ~~Enrolled the Copy tobacco H.B. retailer in an arm's length transaction from the previous proprietor.~~

~~-265 13 new -proprietor HB0265 is compared acquiring with the HB0265S02 tobacco (6) retailer At in an arm's hearing length for transaction enforcement from under Subsection (2) or (3), evidence of the final previous criminal proprietor. conviction of a person for violating Section 76-9-1115 is prima facie evidence of a violation of this section.~~

(6) At a civil hearing for enforcement under Subsection (2) or (3), evidence of the final criminal conviction of a person for violating Section 76-9-1115 is prima facie evidence of a violation of this section.

~~59-14-802, 59-14-802 .~~

(1) ~~{ "Cannabinoid" "Licensee" electronic means cigarette a means person the that same holds as a that valid term license is to defined sell in an Section electronic 76-9-1101 cigarette product or a nicotine product.~~

~~{(2)}(2)(a) "Licensee" "Manufacturer's sales price" means a the person amount that holds the a manufacturer valid of license an to electronic sell cigarette an substance, a prefilled electronic cigarette cigarette, product an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine product. device charges after subtracting a discount.~~

~~{{(2)}{(3)}} (3) (a) "Manufacturer's sales price" means the amount that the manufacturer of an electronic cigarette substance, a prefilled electronic cigarette, an alternative nicotine product, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device charges after subtracting a discount.~~

~~(4){(3)}(3) "Non-nicotine inhalation product" means the same as that term is defined in Section 76-9-1101.~~

~~(5){(4)}(4) "Non-nicotine inhalation substance" means the same as that term is defined in Section 76-9-1101.~~

~~(6){(5)}(5) "Premarket authorized or pending electronic cigarette product" means the same as that term is defined in Section 76-9-1101.~~

~~59-14-803, 59-14-803 .~~

~~- 14 - HB0265 compared with HB0265S02 - (2) A person that holds a valid H.B. license to sell tobacco products under Section 59-14-301 may, without obtaining a separate license in accordance with this section, sell, offer to sell, or distribute an electronic cigarette product or a nicotine product in this state.~~

265 Enrolled Copy that holds a valid license to sell tobacco products under Section 59-14-301 may, without obtaining a separate license in accordance with this section, sell, offer to sell, or distribute an electronic cigarette product or a nicotine product in this state.

~~(5)(5)(a)-(a) The commission shall require a manufacturer, jobber, distributor, wholesaler, or retailer that is responsible under this part for the collection of tax on an electronic cigarette [substance, a prefilled electronic cigarette] product, an alternative nicotine product, or a nontherapeutic nicotine [device substance, or a prefilled nontherapeutic nicotine device] product to post a bond.~~

~~- 15 - HB0265 compared with HB0265S02 - (6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to Enrolled establish Copy the H.B. additional information described in Subsection (3)(c) that a person shall provide in the application described in Subsection (3).~~

265 Administrative Rulemaking Act, to establish the additional information described in Subsection (3)(c) that a person shall provide in the application described in Subsection (3).

~~59-14-804, 59-14-804 .~~

and] [(ii) a prefilled nontherapeutic nicotine device.] [(c) Beginning on July 1, 2021, a tax is imposed upon an alternative nicotine product.] ~~(2)(2)(a)-(a)~~ The amount of tax imposed under Subsections (1)(a) and (b) is .56 multiplied by the manufacturer's sales price.

~~(b)(b)(i)-(i)~~ The tax under Subsection (1)(c) on an alternative nicotine product is imposed:

~~- 16 - HB0265 compared with HB0265S02 - (3) If a product is sold in the same package as a product that is taxed under Subsection (1), the tax described in Subsection (2) shall apply to the wholesale manufacturer's sale price of the entire packaged product.~~

~~(4)-(a) 15 A- manufacturer, H.B. jobber, distributor, wholesaler, retailer, consumer, or user shall pay the tax levied under Subsection (1) at the time that an electronic cigarette [substance, a prefilled electronic cigarette] product, an alternative nicotine product, or a nontherapeutic nicotine [device~~

~~substance, or a prefilled nontherapeutic nicotine device] product is first received in the state.~~
265 Enrolled Copy (4)(a) A manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall pay the tax levied under Subsection (1) at the time that an electronic cigarette [substance, a prefilled electronic cigarette] product, an alternative nicotine product, or a nontherapeutic nicotine [device substance, or a prefilled nontherapeutic nicotine device] product is first received in the state.

~~(5)(5)(a)-(a)~~ The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user shall remit the taxes collected in accordance with this section to the commission.

~~59-14-805, 59-14-805 .~~

~~(1)(1)(a) (a)~~ The manufacturer, jobber, distributor, wholesaler, retailer, consumer, or user that collects the tax imposed on an electronic cigarette [substance, a prefilled electronic cigarette] product, an alternative nicotine product, or a nontherapeutic nicotine [device] device substance, or a prefilled nontherapeutic nicotine device] product shall remit to the commission, in an electronic format approved by the commission:

~~17 HB0265 compared with HB0265S02-~~(b) The tax collected and the return are due on or before the last day of April, July, October, and January.

~~(2)(2)(a)-(a)~~ A manufacturer, jobber, distributor, wholesaler, retailer, or any other person selling an electronic cigarette [substance, a prefilled electronic cigarette] product, an alternative nicotine product, or a nontherapeutic nicotine [device substance, or a prefilled nontherapeutic nicotine device] product to a person other than the ultimate consumer shall furnish the purchaser with an itemized invoice showing:

~~(iii)- the 16 date- of Enrolled sale; Copy H.B.~~

265 (iii) the date of sale;

~~(3)(3)(a) (a)~~ A consumer that purchases an untaxed electronic cigarette [substance, prefilled electronic cigarette] product, alternative nicotine product, or a nontherapeutic nicotine [device] device substance, or prefilled nontherapeutic nicotine device] product for use or other consumption shall:

(b) The consumer shall file the statement described in Subsection (3)(a)(i) and pay the tax due on or before the last day of the month immediately following the month during which the consumer purchased an untaxed electronic cigarette [substance, prefilled electronic cigarette] product, alternative nicotine device[device [substance] substance] product, or a nontherapeutic nicotine product[, or prefilled nontherapeutic nicotine device].

~~18 HB0265 compared with HB0265S02-~~(c) A consumer shall maintain records necessary to determine the amount of tax the consumer is liable to pay under this part for a period of three years following the date on which the statement required by this section was filed.

(6) An overpayment of a tax imposed by this part shall accrue interest at the rate and in the manner ~~prescribed 17 in- Section H.B. 59-1-402-~~

265 Enrolled Copy manner prescribed in Section 59-1-402.

~~59-14-806, 59-14-806 .~~

(b) signs an affidavit that the electronic cigarette [substance, the prefilled electronic cigarette] product, the alternative nicotine product, or the nontherapeutic nicotine [device] device substance, or the prefilled nontherapeutic nicotine device] product was sold and shipped to a regular dealer in those articles in another state;

(c) furnishes, from the purchaser, a written acknowledgment that the purchaser has received the electronic cigarette [substance, the prefilled electronic cigarette] product, the alternative nicotine ~~10 HB0265 compared with HB0265S02-~~ product, or the nontherapeutic nicotine [device substance, or the prefilled nontherapeutic nicotine device] product;

~~59-14-809, 59-14-809 .~~

~~(b)- options 18 for- long-term Enrolled funding Copy of H.B.- increased enforcement of the tax imposed by this part;~~

265 (b) options for long-term funding of increased enforcement of the tax imposed by this part;

~~59-14-810, 59-14-810 .~~

~~20 HB0265 compared with HB0265S02-~~(1) Beginning on August 1, 2024, every manufacturer of an electronic cigarette product that is sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, shall certify under penalty of perjury on a form and in the manner prescribed by the commission, that[:] the manufacturer agrees to comply with this section and:

(b) for an electronic cigarette product that is a non-nicotine inhalation product, that the product is approved for sale in interstate commerce by the United States Food and Drug

~~Administration; or Administration; (c) for an electronic cigarette product that is a non-nicotine inhalation substance, that the product is a premarket authorized or pending electronic cigarette product[;~~

~~or~~ or ~~-(c) for an electronic cigarette product that is a non-nicotine inhalation substance, that the product is a premarket authorized or pending electronic cigarette product.~~

~~(2) ~~for~~ 19 an electronic H.B. cigarette product that is a cannabinoid electronic cigarette, that the product is registered with the Utah Department of Agriculture and Food in accordance with Section 4-41-104 and not subject to the premarket tobacco authorization process overseen by the United States Food and Drug Administration under 21 U.S.C.~~

Sec. 265 Enrolled Copy (2) When submitting the certification a manufacturer shall submit a form that separately lists each electronic cigarette product that is sold in this state.

~~387j(c)(1)(A)(i)-(3)(a) ~~Each~~ When submitting the certification a form manufacturer shall submit include: a form that separately lists each electronic cigarette product that is sold in this state.~~

~~(3) (a) Each certification form shall include:~~

~~21 HB0265 compared with HB0265S02~~ (iii) for an electronic cigarette product that is a non-nicotine inhalation product, evidence that the product is approved for sale in interstate commerce by the United States Food and Drug Administration;

or (B) evidence that the premarket tobacco product application for the electronic cigarette product ~~for nicotine product~~ was submitted to the United States Food and Drug Administration before September 9, 2020, and a final authorization or order has not yet taken effect;

[(iii)] (v) ~~for an electronic cigarette that is a cannabinoid electronic cigarette, evidence that the product is registered with the Utah Department of Agriculture and Food in accordance with under Section 4-41-104;~~ [(iii)] (vi) a nonrefundable \$1,000 fee for an electronic cigarette product that is being added to the registry in the first instance;

and [(iv)] ~~(vii)~~[(vi)](vi) information described in Subsection (10) if applicable.

(i) the issuance or denial of a marketing authorization or other order by the United ~~States Food~~ 20 and Drug Enrolled Administration Copy under H.B. 21 U.S.C.

265 States Food and Drug Administration under 21 U.S.C.

and ~~22 HB0265 compared with HB0265S02~~ (iii) pay a \$250 nonrefundable fee for each electronic cigarette product on the registry that is manufactured by the manufacturer.

~~(4)(4)(a) (a)~~ The Department of Health and Human Services shall review materials described in Subsection (3)(a) and notify the commission regarding whether an electronic cigarette product should be included in the registry.

~~(5)(5)(a) (a)~~ If the Department of Health and Human Services obtains information that an electronic cigarette product should not be listed in the registry, the Department of Health and Human Services shall provide the manufacturer notice and an opportunity to cure deficiencies before notifying the commission to remove the manufacturer or ~~products from 21 the registry H.B.~~

265 Enrolled Copy products from the registry.

or ~~23 HB0265 compared with HB0265S02~~ (iii) to comply with Subsection (10).

~~(6)(6)(a) (a)~~ If a product is removed from the registry, each retailer, distributor, and wholesaler shall have 30 days from the day on which the product is removed from the registry to remove the product from any inventory and return the product to the manufacturer for disposal.

~~(7)(7)(a) (a)~~ Beginning on January 1, 2025, a person may not sell or offer for retail sale an electronic cigarette product in this state that is not included in the registry.

~~(8)(8)(a) (a)~~ A wholesaler, distributor, or retailer who sells or offers for retail sale an electronic cigarette product in this state that is not included in the registry shall be subject to a civil penalty of:

(c) A manufacturer whose electronic cigarette products are not listed in the registry and ~~are sold 22 in this Enrolled state, Copy whether H.B. directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil penalty of:~~

265 are sold in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil penalty of:

~~24 HB0265 compared with HB0265S02~~ (d) A manufacturer that falsely represents any information required by a certification form described in this section shall be guilty of a class C misdemeanor for each false representation.

~~(9)(9)(a) (a)~~ To assist in ensuring compliance and enforcement of this section and Section 26A-1-131, the commission shall disclose to the following entities, upon request, any information obtained under this section:

~~(10)(10)(a) [(i)] (a) [(i)]~~ The commission may not list a nonresident manufacturer of an electronic cigarette product in the registry unless:

~~(c)(c)(i) (i)~~ A nonresident manufacturer shall provide notice to the commission 30 days before the termination of the authority of an agent and shall further provide proof to the satisfaction of the commission of the appointment of a new agent no less than five calendar days prior to the termination of

an existing agent appointment.

~~25~~ HB0265 compared with HB0265S02 (ii) In the event an agent terminates an agency appointment, the manufacturer shall notify the commission of the termination within five calendar days and shall include proof to the H.B. satisfaction of the commission of the appointment of a new agent.

265 Enrolled Copy include proof to the satisfaction of the commission of the appointment of a new agent.
76-9-1101, 76-9-1101.

~~(1)(1)(a)-(a)~~ "Alternative nicotine product" means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a tobacco product, that:

~~26~~ HB0265 compared with HB0265S02 (c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.

~~{{(2)}(2) "Cannabinoid Cigar" electronic means cigarette a means product an that electronic contains cigarette nicotine, product is that:} intended {{(a)} to is be also burned a under cannabinoid ordinary product, conditions as of defined use, and consists of any roll of tobacco wrapped in Section leaf 4-41-102; tobacco, or in any - 24 - Enrolled Copy H.B.~~

~~and} 265 {{(b)} does not contain nicotine.} {{(2)}(3)} "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette.~~

~~{{(3)}(3)-(4)} "Cigarette" means a product that contains nicotine, is intended to be heated or burned under ordinary conditions of use, and consists of:~~

~~{{(4)}(4)(a)-(5)} (a) "Electronic cigarette" means:~~

(ii) a component of the device described in Subsection ~~{{(4)}(a)(i)}(4)(a)(i);-(5)(a)(i)};~~

or (iii) an accessory sold in the same package as the device described in Subsection

~~{{(4)}(a)(i)}(4)(a)(i).-(5)(a)(i)}.~~

or (D) any other product name or descriptor, if the function of the product meets the definition of Subsection ~~{{(4)}(a)}(4)(a).-(5)(a)}.~~

~~27~~ HB0265 compared with HB0265S02 (c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26B-4-201.

~~{{(5)}(5)(a)-(6)} (a) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.~~

(b) "Electronic cigarette product" includes a non-nicotine inhalation ~~product{, product } and a non-nicotine inhalation substance{, substance. and a cannabinoid electronic cigarette}.~~

~~{{(6)}(6)-(7)} "Electronic cigarette substance" means any substance[, including liquid containing nicotine,] containing nicotine that is{ } containing nicotine that is } used used or intended for use in an electronic cigarette.~~

~~{{(7)}(7)(a)-(8)} (a) "Flavored electronic cigarette product" means an electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product.~~

~~(b)- "Flavored 25 electronic cigarette H.B. product" includes an electronic cigarette product that is labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice, or mint.~~

265 Enrolled Copy (b) "Flavored electronic cigarette product" includes an electronic cigarette product that is labeled as, or has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice, or mint.

~~{{(9)}(8)-(9)} "Nicotine" means:~~

~~{{(9)}(9)-(10)} "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.~~

~~(11)(10)(10)(a)-(a) "Non-nicotine inhalation product" means a product that:~~

~~28~~ HB0265 compared with HB0265S02 (iii) is designed specifically to be used with an electronic cigarette to produce an aerosol or vapor of the substance described in Subsection ~~{{(11)}(a)(ii)}(10)(a)(ii);~~

~~(12)(11)(11) "Non-nicotine inhalation substance" means any substance not containing nicotine or a cannabinoid that is used or intended for use in an electronic cigarette.~~

[10] ~~(13)(12)(12)(a)-(a) "Nontherapeutic nicotine device" means a device that:~~

(b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a ~~nontherapeutic-nicotine 26 nasal spray, Enrolled Copy H.B.~~

~~{{(11)} 265 (14)(13) nontherapeutic "Nontherapeutic-nicotine device nasal substance" spray. means a substance that:~~

[11] (13) "Nontherapeutic nicotine device substance" means a substance that:

[(12)] ~~(15)~~~~((14))~~(14) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

[(13)] ~~(16)~~~~((15))~~(15) "Place of business" includes:

~~29~~ ~~HB0265 compared with HB0265S02~~ (c) a factory;

[(14)] ~~(17)~~~~((16))~~(16) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an electronic cigarette substance.

[(15)] ~~(18)~~~~((17))~~(17) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.

~~((16))- (19)((18))27 "Premarket_ authorizedH.B._or pending electronic cigarette product" means an electronic cigarette product that:~~

~~(a)265 (i)Enrolled hasCopy been[(16)] approved(18) by"Premarket anauthorized orderor grantingpending aelectronic premarketcigarette tobaccoproduct" productmeans applicationan of the electronic cigarette product bythat: the United States Food and Drug Administration under 21 U.S.C.~~

~~(a)(i) has been approved by an order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C.~~

~~387j(c)387j(c)(1)(A)(i);-(1)(A)(i);~~

or ~~((ii)(ii)(A)-(A))~~ was marketed in the United States on or before August 8, 2016;

~~30~~ ~~HB0265 compared with HB0265S02~~ (B) the manufacturer submitted a premarket tobacco product application for the electronic cigarette product to the United States Food and Drug Administration under 21 U.S.C.

and (C) has an application described in Subsection [(16)(a)(ii)] ~~((19)(a)(ii))~~ (18)(a)(ii) that either remains under review by the United States Food and Drug Administration or a final decision on the application has not taken effect;

[(17)] ~~(20)~~~~((19))~~(19) "Retail tobacco specialty business" means the same as that term is defined in Section 26B-7-501.

[(18)] ~~(21)~~~~((20))~~(20) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

[(19)] ~~(22)~~~~((21))~~(21)(a)-(a) "Tobacco paraphernalia" means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repack, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette substance, or a nontherapeutic nicotine device substance into the human body.

~~((viii))- electric28 pipes;- Enrolled Copy H.B.~~

~~265 (viii) electric pipes;~~

~~31~~ ~~HB0265 compared with HB0265S02~~ (xi) bongs;

[(20)] ~~(23)~~~~((22))~~(22) "Tobacco product" means:

[(21)] ~~(24)~~~~((23))~~(23) "Tobacco retailer" means:

~~{Section 7.~~

~~Section 76-9-1115 is amended to read:~~

~~} 76-9-1115.~~

~~Illegal distribution of an electronic cigarette product without federal authorization.~~

~~(1) Terms defined in Sections 76-1-101.5 and 76-9-1101 apply to this section.~~

~~(2) An actor commits illegal distribution of an electronic cigarette product without federal authorization if the actor gives, distributes, sells, offers for sale, or furnishes to any person an electronic cigarette product that is not [a premarket authorized or pending electronic cigarette product.] on the electronic cigarette product registry created in Section 59-14-810.~~

~~(3) A violation of Subsection (2) is:~~

~~(a) a class C misdemeanor on the first offense;~~

~~or (b) a class B misdemeanor on a subsequent offense.~~

Section ~~14~~76-9-1120 is enacted to read:

~~76-9-1120.76-9-1120 .~~

~~32~~ ~~HB0265 compared with HB0265S02~~ (c) "Compensatory service" means service or unpaid work performed by an employee, in lieu of the payment of a fine or imprisonment.

and ~~((ii))- subject29 to:- H.B.~~

~~265 Enrolled Copy (ii) subject to:~~

~~Effective date.~~

This bill takes effect on ~~{May 6, }~~July 1, 2026.

~~33~~ ~~HB0265 compared with HB0265S02~~ (i) a cannabinoid product, as defined in Section 4-41-102;

~~2-25-26 12:40 PM- 3430 -~~

