**South Carolina General Assembly**

126th Session, 2025-2026

**S. 287**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Alexander, Hutto, Grooms, Verdin, Davis, Turner, Gambrell, Hembree, Cromer, Kimbrell, Elliott, Zell, Ott, Garrett, Graham and Walker

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Introduced in the Senate on January 29, 2025

Introduced in the House on March 25, 2025

Last Amended on March 19, 2025

Currently residing in the House

Summary: Electronic Nicotine Delivery System Regulation

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/29/2025 Senate Introduced and read first time ([Senate Journal‑page 6](h:\sj\20250129.docx))

1/29/2025 Senate Referred to Committee on **Medical Affairs** ([Senate Journal‑page 6](h:\sj\20250129.docx))

3/11/2025 Senate Committee report: Favorable with amendment **Medical Affairs** ([Senate Journal‑page 16](h:\sj\20250311.docx))

3/12/2025 Scrivener's error corrected

3/19/2025 Senate Committee Amendment Adopted ([Senate Journal‑page 12](h:\sj\20250319.docx))

3/19/2025 Senate Read second time ([Senate Journal‑page 12](h:\sj\20250319.docx))

3/19/2025 Senate Roll call Ayes-38 Nays-2 ([Senate Journal‑page 12](h:\sj\20250319.docx))

3/20/2025 Senate Read third time and sent to House ([Senate Journal‑page 4](h:\sj\20250320.docx))

3/25/2025 House Introduced and read first time ([House Journal‑page 33](h:\hj\20250325.docx))

3/25/2025 House Referred to Committee on **Judiciary** ([House Journal‑page 33](h:\hj\20250325.docx))

4/30/2025 House Committee report: Favorable with amendment **Judiciary**

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**VERSIONS OF THIS BILL**

[01/29/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/287_20250129.docx)

[03/11/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/287_20250311.docx)

[03/12/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/287_20250312.docx)

[03/19/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/287_20250319.docx)

[04/30/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/287_20250430.docx)

Indicates Matter Stricken

Indicates New Matter

Committee Report

April 30, 2025

S. 287

Introduced by Senators Alexander, Hutto, Grooms, Verdin, Davis, Turner, Gambrell, Hembree, Cromer, Kimbrell, Elliott, Zell, Ott, Garrett, Graham and Walker

S. Printed 4/30/25--H.

Read the first time March 25, 2025

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The committee on House Judiciary

To whom was referred a Bill (S. 287) to amend the South Carolina Code of Laws by adding Section 44‑95‑65 so as to provide regulations for the sale of electronic nicotine delivery systems and to provide, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, by striking Section 44-95-65(A)(7) and inserting:

(7) “Packaging” means any receptacle that uses reasonable, commercially available technology that reduces the ability of a minor to access the contents of the receptacle, prevents tampering or contamination, and contains an ENDS product.

Amend the bill further, SECTION 1, by striking Section 44-95-65(D), (E), (F), and (G) and inserting:

(D) The certification form shall prescribe such information as the Attorney General determines, but shall, at a minimum, separately list each brand name, category, product name, and flavor, and both the name of any foreign company or companies physically manufacturing each ENDS product and/or component and the full address of the foreign company or companies at which the ENDS product or component thereof is physically manufactured for each ENDS product that is sold in South Carolina.

(E) The information submitted by the manufacturer pursuant to subsectionsubsections (C) and (D) of this section is exempt from disclosure under Chapter 30, Title 4, the Freedom of Information Act. The Attorney General shall not disclose such information except as required or authorized by law.

(F) Any manufacturer submitting a certification pursuant to subsection (B) shall notify the Attorney General within thirty days of any material change to the certification, including a change to the name, brand style, or packaging, or location of the manufacturing facilities of a certified ENDS product covered under subsection (B)(1) or (2), or the issuance by the FDA of:

(1) a marketing granted order pursuant to 21 U.S.C. Section 387j;

(2) an order revoking a marketing authorization or other order with respect to a manufacturer or an ENDS product; or

(3) any notice of action taken by the FDA affecting the ability of the ENDS product to be introduced or delivered into interstate commerce for commercial distribution.

(G) The Attorney General shall develop and maintain a directory listing all manufacturers of ENDS products that have provided certifications, including all information provided in the certification form as required by subsection (D), that comply with this section and all ENDS products that are listed in those certifications.

Amend the bill further, SECTION 1, by striking Section 44-95-65(M) and inserting:

(M) The Attorney General, the South Carolina Law Enforcement Division (SLED), or the South Carolina Department of Revenue or any state or local law enforcement agency shall have the power to enforce the provisions of this section and to seize and destroy any ENDS products that are not listed on the directory, at the end of the grace periods provided herein, and which are in possession of a distributor or retailer. The cost of seizure and destruction shall be borne by the distributor or retailer from whom the ENDS products are seizedmanufacturer.

Amend the bill further, SECTION 1, by striking Section 44-95-65(N)(1) and inserting:

(N)(1) Except as provided in paragraphsitems (2) and (3) of this subsection, beginning October 1, 2025April 1, 2026, or on the date that the Attorney General first makes the directory available for public inspection on its official website, whichever is later, ENDS products not included in the directory, may not be sold for retail sale in South Carolina, either directly or through an importer, distributor, wholesaler, retailer, or similar intermediary or intermediaries.

Amend the bill further, SECTION 1, by striking Section 44-95-65(P)(3) and inserting:

(3) A manufacturer shall provide written notice to the Attorney General thirty calendar days prior to the termination of the authority of an agent appointed pursuant to paragraphsitems (1) and (2) of this subsection. No less than five calendar days prior to the termination of an existing agent appointment, a manufacturer shall provide to the Attorney General 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 Attorney General. In the event an agent terminates an agency appointment, the manufacturer shall notify the Attorney General of the termination within five calendar days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

Amend the bill further, SECTION 1, by striking Section 44-95-65(X)(2) and inserting:

(2) use, in the labeling or design of the product, its packaging, its advertisement, or in its marketing materials, images of or references to children’s toys, cartoons, cartoon characters, superheroes, television shows, video games and movies, or other similar characters or references, that have been commonly used to market products to minors;

Amend the bill further, SECTION 1, by striking Section 44-95-65(Z) and inserting:

(Z) To the extent that 21 USC Section 387(j) is amended, or subsequent regulations or other official federal guidance is issued, changing compliance requirements or standards for an ENDS product to become federally compliant, each manufacturer of an ENDS product that is sold for retail in South Carolina must submit documentation to the Attorney General substantiating compliance with such new federal requirements or standards within thirty days of when compliance with requirement or standard is mandated. Verified compliance with new federal requirements or standards shall be grounds for adding a manufacturer and their ENDS products to the directory established pursuant to subsection (G).

(AA) A retailer must utilize commercially available age verification software to scan a state or federal issued identification in order to verify the purchaser of an ENDS product is eighteen years of age or older.

(BB) All ENDS products sold in this State must have on the packaging up-to-date commercially available labeling that allows a retailer and purchaser to scan the product prior to purchase to determine who manufactured the product, any distributer, wholesaler, person or entity who possessed the product prior to the retailer or consumer, the ingredients contained in the product, documentation attesting to compliance with state and federal laws regarding ENDS products, and the date it was manufactured and where it was manufactured.

(CC) The Attorney General may promulgate regulations for the implementation and enforcement of this section.

Amend the bill further, SECTION 2, by striking the SECTION and inserting:

SECTION 2. (A) The first certification required pursuant to Section 44‑95‑65(B) shall be required by August 1, 2025April 1, 2026.

(B) The directory established pursuant to Section 44‑95‑65(E)(G) shall be operational by October 1, 2025April 1, 2026, or on the date that the Attorney General first makes the directory available, whichever is later. The Attorney General shall notify retailers, wholesalers, and distributors of ENDS products when the directory is operational.

(C) The provisions contained in Section 44‑95‑65(I)(K) and (M)(Q) shall be effective on the date that the directory established pursuant to Section 44‑95‑65(E)(G) is operational.

Amend the bill further, by adding appropriately numbered SECTIONS to read:

SECTION X. Section 38‑90‑20(A) of the S.C. Code is amended to read:

(A) A captive insurance company, when permitted by its articles of incorporation, articles of organization, operating agreement, or charter, may apply to the director for a license to provide any and all insurance, except workers’ compensation insurance written on a direct basis, authorized by this title; including, without limitation, liquor liability insurance; however:

(1) a pure captive insurance company may not insure any risks other than those of its parent, affiliated companies, controlled unaffiliated business, risks assumed from a risk pool for the purpose of risk sharing, or a combination of them;

(2) an association captive insurance company may not insure any risks other than those of the member organizations of its association and their affiliated companies;

(3) an industrial insured captive insurance company may not insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(4) a special purpose captive insurance company may provide insurance or reinsurance, or both, for risks as approved by the director;

(5) a captive insurance company may not provide personal motor vehicle or homeowner’s insurance coverage written on a direct basis;

(6) a captive insurance company may not accept or cede reinsurance except as provided in Section 38‑90‑110.

(7) a captive insurance company may not issue eroding or declining insurance coverage whereby the occurrence or aggregate limits are reduced by costs or expenses arising from the insurance company’s duty to defend a claim.

SECTION X. Section 61‑2‑60 of the S.C. Code is amended by adding:

(9) regulations governing the development, implementation, education, and enforcement of responsible alcohol server training positions.

SECTION X. Section 61‑2‑145 of the S.C. Code is amended to read:

Section 61‑2‑145. (A) In addition to all other requirements, a person licensed or permitted to sell alcoholic beverages for on‑premises consumption, which remains open after five o’clock p.m. to sell alcoholic beverages for on‑premises consumption, is required to maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement for a total coveragewith an annual aggregate limit of at least one million dollars during the period of the biennial permit or license, unless the person licensed or permitted to sell alcoholic beverages qualifies under the terms of a liquor liability risk mitigation program pursuant to subsection (E). Failure to maintain this coverage during the period of the biennial permit or license constitutes grounds for suspension or revocation of the permit or license and is sufficient grounds for the department to seek an emergency revocation order as provided in Sections 12‑60‑1340 and 1‑23‑370(c). An insurance policy issued pursuant to this section must provide for minimum coverage of at least fifty percent of the total aggregate limit, per occurrence, given rise to the claim.

(B) The department shall add this requirement to all applications and renewals for biennial permits or licenses to sell alcoholic beverages for on‑premises consumption, in which the permittees and licensees remain open and sell alcoholic beverages for on‑premises consumption after five o’clock p.m. Each applicant or person renewing its license or permit, to whom this requirement applies, shall provide the department with documentation of a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the required amounts.

(C) Each insurer writing liquor liability insurance policies or general liability insurance policies with a liquor liability endorsement to a person licensed or permitted to sell alcoholic beverages for on‑premises consumption, in which the person so licensed or permitted remains open to sell alcoholic beverages for on‑premises consumption after five o’clock p.m., must notify the department in a manner prescribed by department regulation of the lapse or termination of the liquor liability insurance policy or the general liability insurance policy with a liquor liability endorsement within thirty days of the lapse or termination.

(D) For the purposes of this section, the term “alcoholic beverages” means beer, wine, alcoholic liquors, and alcoholic liquor by the drink as defined in Chapter 4, Title 61, and Chapter 6, Title 61.

(E) A person licensed or permitted to sell alcoholic beverages for on‑premises consumption, which remains open after five o’clock p.m. to sell alcoholic beverages for on‑premises consumption, may qualify for liquor liability risk mitigation. A person qualifies if the person and the entity for which the person obtained the license or permit:

(1) stop serving alcohol by twelve o’clock a.m. A person meeting the requirements of this item may reduce the required annual aggregate limit by one hundred thousand dollars, and an additional one hundred thousand dollars for each hour earlier until six o’clock p.m.;

(2) complete an alcohol server training course pursuant to Title 61, Chapter 3;

(3) have less than forty percent of its total sales deriving from alcohol sales; or

(4) are a nonprofit organization which is exempt from taxation pursuant to Section 501(c) of Title 26 of United States Code, as amended, or the entity is engaging in a single event for which a Beer and Wine Special Event License or Liquor Special Event Permit is obtained.

(5) A person meeting the requirement of item (2) or (3) may reduce the required annual aggregate limit by one hundred thousand dollars each. An entity meeting the requirements of item (4) may reduce the annual aggregate limit by five hundred thousand dollars. A person complying with any combination of items (1)‑(4) must receive the permitted reduction in the required annual aggregate limit for each item the entity complies with provided a person licensed or permitted to sell alcoholic beverages for on‑premises consumption, which remains open after five o’clock p.m. to sell alcoholic beverages for on‑premises consumption, must at all times maintain coverage with an annual aggregate limit of at least two hundred fifty thousand dollars during the period of the biennial permit or license.

(6) Insurers must establish liquor liability mitigation measures and offer premium discounts for compliance therewith that reduce the risk to the general public associated with the service of on‑premises consumption of alcohol.

(F) For purposes of this section, the calculation of total sales shall include sales of alcohol sold for on-premises consumption and all food and nonalcoholic beverages sold on the premises where the alcohol is sold, including food and nonalcoholic beverages sold by third‑party vendors.

SECTION X. Title 61 of the S.C. Code is amended by adding:

CHAPTER 3

Alcohol Server Training

Section 61‑3‑100. For the purposes of this chapter, the following definitions apply:

(1) “Alcohol” means beer, wine, alcoholic liquors, or any other type of alcoholic beverage that contains any amount of alcohol and is used as a beverage for human consumption.

(2) “Alcohol server” means an individual who sells, serves, transfers, or dispenses alcohol for on‑premises consumption at permitted or licensed premises and may include a permittee, licensee, manager, or other employee of a permittee or licensee. “Alcohol server” does not include an individual employed or volunteering on a temporary basis for a one‑time special event, such as a banquet, or at an event that has a temporary permit to sell beer, wine, or alcoholic liquors by the drink and does not include an individual transferring alcohol from one location to another as a distributor, wholesaler, or as otherwise lawfully authorized to transfer alcohol from one location to another by this title; and does not include an individual who cannot lawfully serve or deliver alcohol pursuant to Sections 61‑4‑90(D) and 61‑6‑2200.

(3) “Alcohol server certificate” means an authorization issued by the department for an individual to be employed or engaged as an alcohol server for on‑premises consumption.

(4) “DAODAS” means the South Carolina Department of Alcohol and Other Drug Abuse Services.

(5) “Department” means the South Carolina Department of Revenue.

(6) “Division” means the South Carolina Law Enforcement Division.

(7) “Employee” means a person who is employed by a permittee or a licensee.

(8) “Licensee” means a person issued a license by the department pursuant to Title 61 to sell, serve, transfer, or dispense alcoholic liquors or alcoholic liquor by the drink for on‑premises consumption.

(9) “Manager” means an individual employed by a permittee or licensee who manages, directs, or controls the sale, service, transfer, or dispensing of alcoholic beverages for on‑premises consumption at the permitted or licensed premises.

(10) “Permittee” means a person issued a permit by the department pursuant to Title 61 to sell, serve, transfer, or dispense beer, wine, ale, porter, or other malted beverages for on‑premises consumption.

(11) “Program” means an alcohol server training and education course and examination approved by the department with input from DAODAS and the division that is administered by authorized providers.

(12) “Provider” means an individual, partnership, corporation, or other legal entity authorized by the department that offers and administers a program.

Section 61‑3‑110. (A) An entity may not qualify for the liquor liability mitigation program pursuant to Section 61‑2‑145(E)(2) unless all employees who are employed as an alcohol server or a manager on permitted or licensed premises obtain, within sixty calendar days of employment, an alcohol server certificate pursuant to the provisions of this chapter. If a permittee or licensee functions or is employed as an alcohol server or manager on the permitted or licensed premises, then the permittee or licensee must also complete training on responsible alcohol server training and obtain an alcohol server certificate pursuant to the provisions of this chapter. An alcohol server shall not consume alcohol or be mentally or physically impaired by alcohol, drugs, or controlled substances while serving alcohol.

(B) Each permittee or licensee shall maintain at all times on its permitted or licensed premises copies of the alcohol server certificates of the permittee or licensee, if applicable, and the alcohol server certificates of each manager and each alcohol server then employed by the permittee or licensee. Copies of the alcohol server certificate must be made available, upon request, to the department, the division, or the agents and employees of each. For the purposes of enforcement of the provisions of this chapter, a permittee or licensee must also make available to the department or the division, when requested, the hire date of an alcohol server.

(C) Failure to produce a copy of an alcohol server certificate when an alcohol server has been employed for sixty calendar days subjects the permittee or licensee to noncompliance with Section 61‑2‑145(E).

Section 61‑3‑120. (A)(1) The department, in collaboration with DAODAS and the division, is authorized to approve alcohol server training programs, based on best‑evidence practice standards, offered by providers. A program that has not received approval within sixty days from submission shall be considered denied. A provider may appeal denial pursuant to Section 61‑2‑260 and the South Carolina Administrative Procedures Act.

(2) A provider must provide alcohol server training programs to all applicable individuals free of charge.

(B) The curricula of each program must include the following subjects:

(1) state laws and regulations pertaining to:

(a) the sale and service of alcoholic beverages;

(b) the permitting and licensing of sellers of alcoholic beverages;

(c) impaired driving or driving under the influence of alcohol or drugs;

(d) liquor liability issues;

(e) the carrying of concealed weapons by authorized permit holders into businesses selling and serving alcoholic beverages; and

(f) life consequences, such as the loss of education scholarships, to minors relating to the unlawful use, transfer, or sale of alcoholic beverages;

(2) the effect that alcohol has on the body and human behavior including, but not limited to, its effect on an individual’s ability to operate a motor vehicle when intoxicated;

(3) information on blood alcohol concentration and factors that change or alter blood alcohol concentration;

(4) the effect that alcohol has on an individual when taken in combination with commonly used prescription or nonprescription drugs or with illegal drugs;

(5) information on recognizing the signs of intoxication and methods for preventing intoxication;

(6) methods of recognizing problem drinkers and techniques for intervening with and refusing to serve problem drinkers;

(7) methods of identifying and refusing to serve or sell alcoholic beverages to individuals under twenty‑one years of age and intoxicated individuals;

(8) methods for properly and effectively checking the identification of an individual, for identifying illegal identification, and for handling situations involving individuals who have provided illegal identification;

(9) South Carolina law enforcement information; and

(10) other topics related to alcohol server education and training designated by the department, in collaboration with DAODAS and the division, to be included.

(C) The department shall approve only online‑designed training programs that meet each of the following criteria:

(1) a program must cover the content specified in subsection (B);

(2) the content in a program must clearly identify and focus on the knowledge, skills, and abilities needed to responsibly serve alcoholic beverages and must be developed using best practices in instructional design and exam development to ensure that the program is fair and legally defensible;

(3) a program shall be offered online;

(4) online training must be at least four hours, be available in English and Spanish, and include a test;

(5) online or computer‑based training programs must use linear navigation that requires the completion of a module before the course proceeds to the next module, with no content omitted; be interactive; have audio for content; and include a test;

(6) training and testing must be conducted online. All tests must be monitored by an online proctor. A passing grade for a test, as provided by the program, is required; and

(7) training certificates are issued by the provider only after training is complete and a test has been passed successfully.

Within ten business days after a training is completed, each provider must give to the department a report of all individuals who have successfully completed the training and testing. The provider must also maintain these records for at least five years following the end of the training program for purposes of verifying certification validity by the department or the division.

(D) The department, in collaboration with DAODAS and the division, may suspend or revoke the authorization of a provider that the department determines has violated the provisions of this chapter. If a provider’s authorization is suspended or revoked, then that provider must cease operations in this State immediately and refund any money paid to it by individuals enrolled in that provider’s program at the time of the suspension or revocation.

Section 61‑3‑130. (A) The provider of a program that is authorized by the department must pay a fee, in an amount to be determined by the department, not to exceed five hundred dollars per year, renewable each year. State agency providers are exempt from payment. Each fee shall be deposited into the Responsible Alcohol Server Training Fund to assist with the costs associated with implementation and enforcement of the provisions of this chapter.

(B) The Responsible Alcohol Server Training Fund is a revolving fund, and no funds deposited therein shall revert to the general fund of the state treasury.

(C) On or before the second Tuesday of each year, the department, with the assistance of the division, must make a report of all income and expenditures made from the Responsible Alcohol Server Training Fund as of December thirty‑first of the previous year. A copy of the report shall be given to the Governor, the Speaker of the House of Representatives, and the President of the Senate; posted on the websites of the department and the division; and recorded in the journals of each body of the General Assembly at the beginning of each legislative year.

Section 61‑3‑140. (A)(1) The department must issue an alcohol server certificate to each applicant who completes an approved program or a recertification program and who provides other information as may be required by the department in an application form that is available on the department’s website. A person must apply for an alcohol server certificate within six months of completing a program. The department, if circumstances warrant the issuance of a temporary alcohol server certificate, may issue a temporary alcohol server certificate that is valid for a period of no more than thirty calendar days.

(2) The department, in collaboration with DAODAS and the division, may issue an alcohol server certificate to an individual from outside of the State who applies for an alcohol server certificate if the individual has an alcohol server certificate from a nationally recognized or comparable, state‑recognized alcohol server certification program that the department, DAODAS, and the division find meets or exceeds the programs offered in this State.

(B) Alcohol server certificates shall not be issued to graduates of programs that are not approved by the department.

(C) An alcohol server certificate is the property of the individual to whom it is issued and is transferrable among employers.

(D) Alcohol server certificates are valid for a period of five years from the date that the alcohol server certificate was issued. After the five‑year period, a new or recertified alcohol server certificate must be obtained pursuant to the provisions of this chapter.

(E) Upon expiration of an alcohol server certificate, the individual to whom the alcohol server certificate was issued may obtain recertification in accordance with regulations promulgated by the department and approved by the General Assembly.

(F) The department must issue and renew alcohol server certificates for all qualifying applicants free of charge.

(G) An applicant must be deemed to be a qualifying applicant for the purpose of alcohol server certificate issuance and renewal if they have successfully completed all training and testing requirements as found in Section 61‑3‑120.

Section 61‑3‑150. As a requirement for application or renewal of a permit or license for on‑premises consumption under Chapter 4, Title 61 or Chapter 6, Title 61, a permittee or licensee for on‑premises consumption seeking to utilize Section 61‑2‑145(E) must submit to the department proof that the permittee or licensee, if applicable, and each manager and alcohol server employed by the permittee or licensee during the upcoming or prior permit or license period have or have held valid alcohol server certificates at all times that alcoholic beverages were sold, served, or dispensed.

Section 61‑3‑160. The division and the department are responsible for enforcement of the provisions of this chapter. The department is responsible for bringing administrative actions for violations of the provisions of this chapter or related regulations, and those actions shall proceed according to the provisions of Section 61‑2‑260 and the South Carolina Administrative Procedures Act.

SECTION X. Section 61‑6‑2220 of the S.C. Code is amended to read:

Section 61‑6‑2220. A person or establishment licensed to sell alcoholic liquors or liquor by the drink pursuant to this article may not knowingly sell these beverages to persons in an intoxicated condition; these sales are considered violations of the provisions thereof and subject to the penalties contained herein.

SECTION X. Section 15-38-15(F) of the S.C. Code is amended to read:

(F) This section does not apply to a defendant whose conduct is determined to be wilful, wanton, reckless, grossly negligent, or intentional or conduct involving the use, sale, or possession of alcohol or the illegal or illicit use, sale, or possession of drugs.

SECTION X. Section 56-5-2930 (C) and (H) of the S.C. Code is amended to read:

(C) The fine for a first offense must not be suspended. The court is prohibited from suspending a monetary fine below that of the next preceding minimum monetary fine. If the trier of fact determines that the person convicted under the provisions of this section did any act forbidden by law or neglected any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately caused a collision that occurred while the person was driving in violation of this section, the court may impose an additional sentence of a fine of not more than four hundred dollars or an additional period of imprisonment of not more than thirty days. However, in lieu of the thirty-day imprisonment, the court may provide for forty-eight hours of public service employment. The public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions the court considers proper. Notwithstanding the provisions of Sections 23-3-540, 22-3-550, and 14-25-65, this additional sentence may be imposed by the magistrate or municipal court for any offense for which the court would otherwise have jurisdiction.

(H) A person convicted of violating this section, whether for a first offense or subsequent offense, must enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services and participate in and complete a DUI victim impact panel operated by an IRS-classified 501(c)(3) nonprofit organization, which may include online victim impact panels. The maximum fee for enrollment in the DUI victim impact panel shall not exceed seventy‑five dollars. An assessment of the extent and nature of the alcohol and drug abuse problem of the applicant must be prepared and a plan of education or treatment, or both, must be developed for the applicant. The Alcohol and Drug Safety Action Program shall determine if the applicant successfully has completed the services. The applicant must attend the first Alcohol and Drug Safety Action Program available after the date of enrollment. The Department of Alcohol and Other Drug Abuse Services shall determine the cost of services provided by each certified Alcohol and Drug Safety Action Program. Each applicant shall bear the cost of services recommended in the applicant's plan of education or treatment. The cost may not exceed five hundred dollars for education services, two thousand dollars for treatment services, and two thousand five hundred dollars in total for all services. An applicant may not be denied services due to an inability to pay. Inability to pay for services may not be used as a factor in determining if the applicant has successfully completed services. An applicant who is unable to pay for services shall perform fifty hours of community service as arranged by the Alcohol and Drug Safety Action Program, which may use the completion of this community service as a factor in determining if the applicant successfully has completed services. The court must be notified whether an offender failed to enroll in a certified program within thirty days or failed to participate in the plan of education or treatment. The court may hold the individual in contempt of court if the individual cannot show cause as to why no enrollment occurred within the mandated thirty days or why no progress has been made on the plan of education or treatment.

SECTION X. Section 56-5-2933 (C) and (H) of the S.C. Code is amended to read:

(C) The fine for a first offense must not be suspended. The court is prohibited from suspending a monetary fine below that of the next preceding minimum monetary fine. If the trier of fact determines that the person convicted under the provisions of this section did any act forbidden by law or neglected any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately caused a collision that occurred while the person was driving in violation of this section, the court may impose an additional sentence of a fine of not more than four hundred dollars or an additional period of imprisonment of not more than thirty days. However, in lieu of the thirty-day imprisonment, the court may provide for forty-eight hours of public service employment. The public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions the court considers proper. Notwithstanding the provisions of Sections 23-3-540, 22-3-550, and 14-25-65, this additional sentence may be imposed by the magistrate or municipal court for any offense for which the court would otherwise have jurisdiction.

(H) A person convicted of violating this section, whether for a first offense or subsequent offense, must enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services and participate and complete a DUI victim impact panel operated by an IRS-classified 501(c)(3) nonprofit organization which may include online victim impact panels. The maximum fee for enrollment in the DUI victim impact panel shall not exceed seventy‑five dollars. An assessment of the extent and nature of the alcohol and drug abuse problem of the applicant must be prepared and a plan of education or treatment, or both, must be developed for the applicant. The Alcohol and Drug Safety Action Program shall determine if the applicant successfully has completed the services. The applicant must attend the first Alcohol and Drug Safety Action Program available after the date of enrollment. The Department of Alcohol and Other Drug Abuse Services shall determine the cost of services provided by each certified Alcohol and Drug Safety Action Program. Each applicant shall bear the cost of services recommended in the applicant's plan of education or treatment. The cost may not exceed five hundred dollars for education services, two thousand dollars for treatment services, and two thousand five hundred dollars in total for all services. An applicant may not be denied services due to an inability to pay. Inability to pay for services may not be used as a factor in determining if the applicant successfully has completed services. An applicant who is unable to pay for services shall perform fifty hours of community service as arranged by the Alcohol and Drug Safety Action Program, which may use the completion of this community service as a factor in determining if the applicant successfully has completed services. The court must be notified whether an offender failed to enroll in a certified program within thirty days or failed to participate in the plan of education or treatment. The court may hold the individual in contempt of court if the individual cannot show cause as to why no enrollment occurred within the mandated thirty days or why no progress has been made on the plan of education or treatment.

SECTION X. Section 56-5-2945 of the S.C. Code is amended to read:

Section 56-5-2945. (A) A person who, while under the influence of alcohol, drugs, or the combination of alcohol and drugs, drives a motor vehicle and when driving a motor vehicle does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle which act or neglect proximately causes moderate bodily injury to another person is guilty of the offense of felony driving under the influence, second degree, and, upon conviction, must be punished by a mandatory fine of not less than twenty-five hundred dollars nor more than five thousand dollars and imprisoned up to ten years.

(B) A person who, while under the influence of alcohol, drugs, or the combination of alcohol and drugs, drives a motor vehicle and when driving a motor vehicle does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to another person, is guilty of the offense of felony driving under the influence, first degree, and, upon conviction, must be punished:

(1) by a mandatory fine of not less than five thousand one hundred dollars nor more than ten thousand one hundred dollars and mandatory imprisonment for not less than thirty days nor more than fifteen years when great bodily injury results;

(2) by a mandatory fine of not less than ten thousand one hundred dollars nor more than twenty-five thousand one hundred dollars and mandatory imprisonment for not less than one year nor more than twenty-five years when death results.

(C) A part of the mandatory sentences required to be imposed by this section must not be suspended, and probation must not be granted for any portion.

(B)(D) As used in this section, “great bodily injury” means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. As used in this section, “moderate bodily injury” means physical injury that involves prolonged loss of consciousness, or that causes temporary or moderate disfigurement or temporary loss of the function of a bodily member or organ, or injury that requires medical treatment when the treatment requires the use of regional or general anesthesia or injury that results in a fracture or dislocation. Moderate bodily injury does not include a one‑time treatment and subsequent observation of scratches, cuts, abrasions, bruises, burns, splinters, or any other injuries that do not ordinarily require extensive medical care.

(C)(1)(E)(1) The Department of Motor Vehicles shall suspend the driver's license of a person who is convicted pursuant to this section. For suspension purposes of this section, convictions arising out of a single incident must run concurrently.

(2) After the person is released from prison, the person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for:

(a) three years when great bodily injury results and five years when a death occurs; or

(b) one year when the conviction was for felony driving under the influence, second degree.

(D)(F) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol.

SECTION X. Section 56-5-2951(I) of the S.C. Code is amended to read:

(I)(1) Except as provided in item (3), the period of a driver's license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, an arrested person who has no previous convictions for violating Section 56-5-2930, 56-5-2933, or 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs within the ten years preceding a violation of this section, and who has had no previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990, within the ten years preceding a violation of this section is:

(a) six months for a person who refuses to submit to a test pursuant to Section 56-5-2950; or

(b) one monththree months for a person who takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more.

(2) The period of a driver's license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, a person who has been convicted previously for violating Section 56-5-2930, 56-5-2933, or 56-5-2945, or another law of this State or another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or another drug within the ten years preceding a violation of this section, or who has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990, within the ten years preceding a violation of this section is:

(a) for a second offense, nine monthsone year if the person refuses to submit to a test pursuant to Section 56-5-2950, or two six months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more;

(b) for a third offense, twelve eighteen months if the person refuses to submit to a test pursuant to Section 56-5-2950, or three nine months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more; and

(c) for a fourth or subsequent offense, fifteen monthstwo years if the person refuses to submit to a test pursuant to Section 56-5-2950, or four monthsone year if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more.

(3)(a) In lieu of serving the remainder of a suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension or denial of the issuance of a license or permit, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle equal to the length of time remaining on the person's suspension or denial of the issuance of a license or permit. If the length of time remaining is less than three months, the ignition interlock device is required to be affixed to the motor vehicle for three months.

(b) The person must receive credit for the number of days the person maintained an ignition interlock restriction on the temporary alcohol license.

(c) Once a person has enrolled in the Ignition Interlock Device Program and obtained an ignition interlock restricted license, the person is subject to Section 56-5-2941 and cannot subsequently choose to serve the suspension.

SECTION X. The South Carolina Department of Insurance must publish an annual report summarizing liquor liability insurance rate trends, including the number and amount of premium increases, the reasons cited for the increases, and any regulatory actions taken. The annual report must be sent to the Chairman of the House of Representatives Judiciary Committee and Chairman of the Senate Judiciary Committee by January thirtieth of each year.

SECTION X. Section 16-17-501(3) of the S.C. Code is amended to read:

(3) “Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance, including e-liquid, to the person inhaling from the device including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. “Electronic smoking device” includes any component, part, or accessory of the device, and also includes any substance intended to be aerosolized or vaporized during the use of the device whether or not the substance includes nicotine. “Electronic smoking device” also includes any ENDS product, as defined by Section 44-95-65. “Electronic smoking device” does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

SECTION X. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Renumber sections to conform.

Amend title to conform.

W. NEWTON for Committee.

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 44‑95‑65 SO AS TO PROVIDE REGULATIONS FOR THE SALE OF ELECTRONIC NICOTINE DELIVERY SYSTEMS AND TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS SECTION; AND TO PROVIDE A TIMELINE FOR THE REQUIRED DEALER CERTIFICATION, DIRECTORY PUBLICATION, AND EFFECTIVE DATE OF CERTAIN PROVISIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 95, Title 44 of the S.C. Code is amended by adding:

Section 44‑95‑65. (A) As used in this section:

(1) “Advertise” means the publication or dissemination of an advertisement.

(2) “Advertisement” includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of ENDS products, including any written, printed, graphic, or other material, billboard sign, or other outdoor display, public transit card, other periodical literature, publication, material in a radio or television broadcast, or material in any other media.

(3) “ENDS product” means an electronic nicotine delivery system intended for eventual retail sale in this State that is a non‑combustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size to produce vapor from nicotine in a solution. ENDS product includes a consumable nicotine liquid solution suitable for use in an electronic nicotine delivery system, whether sold with the ENDS product or separately, but does not include any product regulated as a drug or device under Chapter V of the federal Food, Drug, and Cosmetic Act.

(4) “FDA” means the United States Food and Drug Administration.

(5) “Marketing” means any act or process of promoting or selling of ENDS products including, but not limited to, sponsorship of sporting events and promotion of products specifically designed to appeal to certain demographics.

(6) “Minor” means an individual under the age of eighteen years of age.

(7) “Packaging” means any receptacle that contains an ENDS product.

(B) Every manufacturer of ENDS products that are sold in this State, whether directly or through a distributor, retailer, or similar intermediary, shall annually execute and deliver under penalty of perjury to the Attorney General on a form prescribed by the Attorney General a certification verifying either:

(1) the ENDS product was on the market in the United States as of August 8, 2016, and the manufacturer has applied for a marketing order pursuant to 21 U.S.C. Section 387j for the ENDS product by submitting a premarket tobacco product application on or before September 9, 2020, to the FDA and either the premarket tobacco product application for the product remains under review by the FDA or the FDA has issued a marketing denial order for the product from the FDA but the agency or a federal court has issued a stay order or injunction; or

(2) the manufacturer has received a marketing granted order pursuant to 21 U.S.C. Section 387j for the product from the FDA.

(C) In addition to the requirements in subsection (B) of this section, each manufacturer shall provide a copy of the acceptance letter issued by the FDA pursuant to 21 U.S.C. Section 387j for a timely filed premarket tobacco application, a copy of the marketing granted order issued pursuant to 21 U.S.C. Section 387j, or a document issued by the FDA or by a court confirming that the premarket tobacco product application received a denial order that has been and remains stayed by the FDA or court order, rescinded by the FDA, or vacated by a court.

(D) The certification form shall prescribe such information as the Attorney General determines, but shall, at a minimum, separately list each brand name, category, product name, and flavor for each ENDS product that is sold in South Carolina.

(E) The information submitted by the manufacturer pursuant to subsection (C) of this section is exempt from disclosure under Chapter 30, Title 4, the Freedom of Information Act. The Attorney General shall not disclose such information except as required or authorized by law.

(F) Any manufacturer submitting a certification pursuant to subsection (B) shall notify the Attorney General within thirty days of any material change to the certification, including a change to the name, brand style, or packaging of a certified ENDS product covered under subsection (B)(1) or (2), or the issuance by the FDA of:

(1) a marketing granted order pursuant to 21 U.S.C. Section 387j;

(2) an order revoking a marketing authorization or other order with respect to a manufacturer or an ENDS product; or

(3) any notice of action taken by the FDA affecting the ability of the ENDS product to be introduced or delivered into interstate commerce for commercial distribution.

(G) The Attorney General shall develop and maintain a directory listing all manufacturers of ENDS products that have provided certifications that comply with this section and all ENDS products that are listed in those certifications.

(H) The Attorney General shall:

(1) make the directory available for public inspection on its website;

(2) update the directory as necessary to correct mistakes and to add or remove manufacturers of ENDS products manufactured by those manufacturers on a monthly basis; and

(3) send monthly notifications to each wholesaler, retailer, or manufacturer of ENDS products that have registered with the Attorney General by electronic communication containing a list of all changes that have been made to the directory in the previous month. In lieu of sending monthly notifications, the Attorney General may make the information available in a prominent place on the Attorney General's public website.

(I) The Attorney General shall provide manufacturers of ENDS products notice and an opportunity to cure deficiencies before removing manufacturers or ENDS products from the directory.

(1) The Attorney General may not remove the manufacturer or its ENDS products from the directory until at least fourteen days after the manufacturer has been given notice of an intended action. Notice shall be sufficient and be deemed immediately received by a manufacturer if the notice is sent electronically to an electronic mail address provided by the manufacturer in its most recent certification filed under subsection (B).

(2) The manufacturer of an ENDS product shall have fourteen business days from the date of service of the notice of the Attorney General’s intended action to establish that the manufacturer or its ENDS products should be included in the directory.

(3) A determination by the Attorney General to not include or to remove from the directory a manufacturer or a manufacturer’s ENDS product shall be subject to review in the manner provided by Article 3, Chapter 23 of Title 1.

(J) A non‑refundable fee of two thousand dollars for each ENDS product shall be paid the first time a manufacturer submits a certification form to offset the costs incurred by the Attorney General for processing the certifications and operating the directory. The Attorney General shall thereafter collect an annual renewal fee of five hundred dollars for each ENDS product to offset the costs associated with maintaining the directory and satisfying the requirements of this section. The fees received under this subsection by the Attorney General shall be deposited into the general fund of the State.

(K) A manufacturer of an ENDS product who offers an ENDS product not listed on the directory for sale is subject to a one‑thousand‑dollar-daily fine for each product offered for sale in violation of this section until the offending ENDS product is removed from the market or until the offending ENDS product is properly listed on the directory.

(L) If there is a material change to the status of an ENDS product requiring it to be removed from the directory, then each distributor shall have twenty‑one days, and each retailer shall have forty‑two days from the day the ENDS product is removed from the directory, to remove the ENDS product from its inventory and return the ENDS product to the ENDS product’s manufacturer for disposal.

(M) The Attorney General, the South Carolina Law Enforcement Division (SLED), or the South Carolina Department of Revenue or any state or local law enforcement agency shall have the power to enforce the provisions of this section and to seize and destroy any ENDS products that are not listed on the directory, at the end of the grace periods provided herein, and which are in possession of a distributor or retailer. The cost of seizure and destruction shall be borne by the distributor or retailer from whom the ENDS products are seized.

(N)(1) Except as provided in paragraphs (2) and (3) of this subsection, beginning October 1, 2025, or on the date that the Attorney General first makes the directory available for public inspection on its official website, whichever is later, ENDS products not included in the directory, may not be sold for retail sale in South Carolina, either directly or through an importer, distributor, wholesaler, retailer, or similar intermediary or intermediaries.

(2) Each retailer shall have sixty calendar days from the date that the Attorney General first makes the directory available for inspection on its public website to sell ENDS products that were in its inventory and not included in the directory or remove those ENDS products from inventory.

(3) Each distributor or wholesaler shall have sixty calendar days from the date that the Attorney General first makes the directory available for inspection on its public website to remove those ENDS products intended for sale in the State from its inventory.

(4) After sixty calendar days following publication of the directory, ENDS products not listed in the directory and intended for retail sale in South Carolina are subject to seizure, forfeiture, and destruction, and may not be purchased or sold for retail sale in the South Carolina. The cost of such seizure, forfeiture, and destruction shall be borne by the distributor or retailer from whom the ENDS products are confiscated, except that no ENDS products may be seized from a consumer who has made a bona fide purchase of such ENDS product. SLED or local law enforcement may store and dispose of the seized ENDS products as appropriate, in accordance with federal, state, and local laws pertaining to storage and disposal of such ENDS products.

(O) No retailer shall purchase ENDS products for resale except from a person licensed pursuant to Section 12‑21‑660. If one retailer owns more than a single retail outlet, then products lawfully purchased pursuant to this subsection may be transferred from one of the retailer’s locations to another of the retailer’s locations if the original purchasing location closes.

(P)(1) A manufacturer not registered to do business in the State shall, as a condition precedent to having its name or its ENDS products listed and retained in the directory, 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. The manufacturer shall provide to the Attorney General 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 Attorney General.

(2) A manufacturer located outside of the United States shall, as an additional condition precedent to having its ENDS products listed or retained in the directory, cause each of its importers of any of its ENDS products to be sold in South Carolina to appoint and continually engage without interruption the services of an agent in the State in accordance with the provisions of this section. All obligations of a manufacturer imposed by this section with respect to appointment of its agent shall also apply to the importers with respect to appointment of their agents.

(3) A manufacturer shall provide written notice to the Attorney General thirty calendar days prior to the termination of the authority of an agent appointed pursuant to paragraphs (1) and (2) of this subsection. No less than five calendar days prior to the termination of an existing agent appointment, a manufacturer shall provide to the Attorney General 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 Attorney General. In the event an agent terminates an agency appointment, the manufacturer shall notify the Attorney General of the termination within five calendar days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

(Q) No importer, retailer, wholesaler, or distributor of ENDS products may sell, offer for sale, or otherwise distribute an ENDS product not listed on the directory.

(R)(1) If an importer, retailer, wholesaler, or distributor violates subsections (Q), (X), or (Y), then the importer, retailer, wholesaler, or distributor is subject to a civil penalty of:

(a) not more than five hundred dollars for a first violation;

(b) at least seven hundred fifty dollars but not more than one thousand dollars for a second violation within a thirty‑six‑month period;

(c) at least one thousand dollars but not more than one thousand five hundred dollars for a third violation within a thirty‑six‑month period; or

(d) at least one thousand five hundred dollars but not more than three thousand dollars for a fourth or any subsequent violation within a thirty‑six‑month period.

(2) Fines or penalties resulting from violations of this act shall be retained by the state or local agency bringing the action.

(S) Any manufacturer of ENDS products that falsely represents any of the information required by subsection (B) or (C) shall be guilty of a misdemeanor for each false representation.

(T) Any other violation of this section shall result in a fine of five hundred dollars per offense.

(U) In any action brought by the Attorney General to enforce this section, the Attorney General shall be entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney’s fees.

(V) A person who violates the provisions of subsection (Q) engages in an unfair and deceptive trade practice in violation of Title 39, Chapter 5.

(W) Each retailer, wholesaler, and distributor may be subject to unannounced compliance checks for purposes of enforcing this section. Unannounced follow‑up compliance checks of all noncompliant retailers, wholesalers, and distributors are required within sixty days after any violation of this section. The results of all compliance checks and enforcement actions shall be reported to the Attorney General. The Attorney General shall make the results of all compliance checks available to the public on request.

(X) No manufacturer, distributor, or retailer of ENDS products may sell, offer for sale, advertise, or otherwise distribute ENDS products that:

(1) use, in the labeling of the product, its packaging, its advertisement, or in its marketing materials:

(a) the terms “candy,” “candies,” or variants in spelling;

(b) the terms “bubble gum,” “cotton candy,” “gummy bear,” “lollipop,” or other variants of these words;

(c) the terms “cake,” “cupcake,” “pie,” or any other variation of these words; or

(d) the terms “ice cream,” “sherbert,” “popsicle,” “bomb pop,” or any other variation of these words;

(2) use, in the labeling or design of the product, its packaging, its advertisement, or in its marketing materials, images of or references to cartoons, cartoon characters, superheroes, television shows, video games and movies, or other similar characters or references, that have been commonly used to market products to minors;

(3) use, in the labeling or design of the product, its packaging, its advertisement, or in its marketing materials, trade dress, trademarks, or other related imagery that imitate or replicate trade dress, trademarks, or other imagery of food brands or products that have been commonly marketed to minors; and

(4) use, in the labeling or design of the product, or its packaging, or its marketing materials, trade dress, trademarks, or other related imagery that imitate or replicate trade dress, trademarks, or other imagery of school supplies.

(Y) A manufacturer, distributor, or retailer of ENDS products shall not advertise or market any ENDS except in the following manner:

(1) any advertisement placed in or on broadcast or cable television, radio, off-premises print, and digital communications, shall only be made where at least eighty‑five percent of the intended audience is reasonably expected to be eighteen years of age or older, as determined by reliable, up‑to‑date audience composition demographic data or event organizer restrictions;

(2) advertisements may not be materially false or untrue and any statement contained therein must be consistent with the ENDS product’s labeling; and

(3) advertisements may not contain any health or therapeutic claims.

(Z) The Attorney General may promulgate regulations for the implementation and enforcement of this section.

SECTION 2. (A) The first certification required pursuant to Section 44‑95‑65(B) shall be required by August 1, 2025.

(B) The directory established pursuant to Section 44‑95‑65(E) shall be operational by October 1, 2025, or on the date that the Attorney General first makes the directory available, whichever is later. The Attorney General shall notify retailers, wholesalers, and distributors of ENDS products when the directory is operational.

(C) The provisions contained in Section 44‑95‑65(I) and (M) shall be effective on the date that the directory established pursuant to Section 44‑95‑65(E) is operational.

SECTION 3. This act takes effect upon approval by the Governor.

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