



# SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

## STATEMENT OF ESTIMATED FISCAL IMPACT

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**Bill Number:** S. 0287 Amended by House Judiciary on April 29, 2025  
**Subject:** Electronic Nicotine Delivery System Regulation  
**Requestor:** House Judiciary  
**RFA Analyst(s):** Vesely and Bryant  
**Impact Date:** May 1, 2025

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### Fiscal Impact Summary

This bill as amended creates provisions regulating the sale of electronic nicotine delivery systems, known as ENDS products. The bill requires ENDS products manufacturers to provide an annual written certification that they meet the bill's requirements to the Attorney General (AG), whose office shall develop and maintain an ENDS directory. The bill makes it unlawful for retailers, wholesalers, or distributors of ENDS products to sell, offer for sale, or distribute unauthorized ENDS products; prohibits retailers from purchasing resale ENDS products from unlicensed entities; prohibits ENDS product manufacturers from offering for sale any ENDS product not on the directory; and makes it unlawful for an ENDS manufacturer to misrepresent or present false information related to an ENDS product. The AG, the State Law Enforcement Division (SLED), the Department of Revenue (DOR), and local authorities are authorized to seize and destroy non-compliant ENDS products possessed by a distributor or retailer at the expense of the manufacturer. The bill also establishes associated penalties and certification fee schedules. The revenue from these penalties and fees must be remitted to the General Fund.

This bill as amended additionally provides that a captive insurance company may apply to the director of the Department of Insurance (DOI) for a license to provide insurance, including without limitation, liquor liability insurance. However, it may not issue eroding or declining insurance coverage in which the occurrence or aggregate limits are reduced by costs or expenses arising from the insurance company's duty to defend a claim. The bill as amended also provides that a person licensed or permitted to sell alcoholic beverages for on-premises consumption may qualify for a liquor liability risk mitigation program to lower the required liability insurance amount if the person and the entity for which the person obtains the license or permit satisfy certain operating conditions, including having all employees who are employed as an alcohol server or a manager on the permitted or licensed premises complete an alcohol server training program. This bill as amended provides for the establishment and implementation of an alcohol server training program. The bill as amended authorizes DOR, in collaboration with the Department of Alcohol and Other Drug Abuse Services (DAODAS) and SLED, to approve the alcohol server training programs offered by providers and provides guidance regarding the curricula. The bill as amended also requires the provider of a program authorized by DOR to pay a fee, in an amount to be determined by the department, not to exceed \$500 per year, to be deposited into the Responsible Alcohol Server Training Fund to assist with the costs associated with the implementation and enforcement of the provisions of the bill. DOR is further required to issue and renew alcohol server certificates for all qualifying applicants free of charge. The bill as

amended also removes conduct involving the use, sale, or possession of alcohol from the list of behaviors to which Section 15-38-15 of the Uniform Contribution Among Tortfeasors Act does not apply.

Additionally, this bill as amended modifies existing provisions related to driving under the influence (DUI) offenses to allow for additional fines or terms of imprisonment in certain circumstances and requires a defendant to participate in a DUI victim impact panel. The bill as amended also creates a new felony offense for second degree DUI that results in moderate bodily injury; requires a person convicted of felony DUI, second degree, to install an Ignition Interlock Device (IID) for one year; and increases the amount of time a person's driver's license, permit, or nonresident operating privilege may be suspended or denied for a DUI violation.

The impact of this bill for DOI and the Office of the AG is pending, contingent on a response from these agencies.

SLED reports that it will need to hire 2 new agents per region (for a total of 8 statewide), as well as 1 supervisor to manage the investigative work for enforcement of ENDS products. Personnel costs for these 9.0 FTEs will be \$984,412, of which \$665,146 is salary and \$319,266 is fringe. Additionally, equipment and operating expenses are expected to be \$245,300 annually, and non-recurring equipment expenses are expected to total \$657,504. Therefore, SLED anticipates an increase in expenses of \$1,887,216 in FY 2025-26 and \$1,229,712 each year thereafter due to this bill. SLED anticipates requesting General Fund appropriations to cover these expenses.

The bill will have no expenditure impact for the Administrative Law Court (ALC), DOR, DAODAS, the Department of Motor Vehicles (DMV), or the Department of Public Safety (DPS). The ALC anticipates being able to manage any additional caseload within existing appropriations. DOR anticipates that while the agency anticipates hiring 5.0 FTE at a total cost of \$390,000 for salary and fringe to help manage the additional responsibilities due to this bill, the expense can be managed within existing appropriations. DAODAS indicates this bill may result in an increase in demand for certain services; however, any increase in cost will be managed with Federal Funds. DMV reports that the required changes can be accomplished by assigning duties among existing staff and using existing equipment and supplies. DPS notes the bill requires the department to perform activities that will be conducted within the normal course of agency business.

This bill may result in an increase in the caseload in circuit court and the potential number of incarcerations, which may impact the caseload for Judicial, and the workload of the Commission of Indigent Defense, the Commission on Prosecution Coordination, the Department of Corrections (Corrections), and the Department of Probation, Parole, and Pardon Services (PPP). However, PPP previously indicated on similar legislation that it does not anticipate that there will be a significant increase in the number of participants in the IID program. Judicial anticipates being able to manage any addition to the caseload within existing appropriations. Additionally, the potential increase in expenses for each agency will depend upon the increase in the number of cases and number of incarcerations. These agencies indicate that if this bill as amended results in a significant increase in the workload, then an increase in General Fund

appropriations may be requested. For information, according to corrections in FY 2023-24, the annual total cost per inmate was \$40,429, of which \$36,553 was state funded.

The bill will increase General Fund revenue from the new certification fees for ENDS products. Louisiana's definition of a vapor product is substantially similar to the definition of ENDS products provided in this bill, and the Louisiana Vape Directory provides a list of all certified vape products approved for sale in Louisiana, including those that have a market order, are currently under review by the FDA, or are marketed under a stay order.<sup>1</sup> According to the directory as of April 2025, there are 531 vapor products on the market in Louisiana. Assuming South Carolina's ENDS product market is similar to Louisiana's, this bill will increase General Fund revenue by up to \$1,062,000 in FY 2025-26 for the initial \$2,000 application fee and \$265,500 each year thereafter for the \$500 annual renewal fee. Also, this bill may increase Other Funds and local funds revenue for fines and penalties resulting from violations of the provisions of the ENDS products sections of this bill that may be retained by the state or local agency bringing the action.

This bill as amended may increase Other Funds revenue (Responsible Alcohol Server Training Fund) of DOR by at least \$4,500 per year beginning in FY 2025-26 due to fees collected from approved alcohol server training program providers. The overall amount of this increase in Other Funds revenue will depend upon the amount of the fee charged to program providers, the number of providers approved by the department, and the number of providers that are exempt from paying the provider fee.

This bill as amended may also increase Other Funds revenue of the ALC due to an increase in filing fees collected in court. Currently, a request for a contested case hearing regarding an alcoholic beverage license violation must be accompanied by a non-refundable filing fee of \$150. The amount of the increase will depend upon the number of requests for a contested case hearing filed with the court.

The bill as amended creates a new second degree felony offense for driving under the influence resulting in moderate bodily injury to another person, which is punishable by a fine of not less than \$2,500 nor more than \$5,000 and imprisonment for up to ten years. Pursuant to Section 56-5-2945(D), \$100 of each fine will be placed into a special restricted account to be used by DPS for the Highway Patrol. Currently, penalties are in place for a DUI that results in great bodily injury or death, and DPS receives \$100 of each of those fines. However, the potential number of these offenses is unknown. Therefore, the amount of this revenue is undetermined.

The Revenue and Fiscal Affairs Office (RFA) anticipates this bill may impact the caseload in magistrate or municipal court. However, we anticipate any impact to the caseload that can be managed within existing funds for the local court. Additionally, RFA anticipates that this bill may impact local expenditures due to a potential impact in the local jail population resulting from the newly created felony offense and modified sentencing for existing offenses. However,

<sup>1</sup>Louisiana Office of Alcohol and Tobacco Control, *VAPE Directory & Information*, Retrieved April 30, 2025, <https://atc.louisiana.gov/media/51qow4ja/amended-vape-directory-for-april-2025.xlsx>

as the number of such offenses that might occur in a given year is unknown, the potential impact to the local jail population and local expenditure are undetermined.

As this bill as amended creates new offenses, this may result in an increase of General Fund, Other Funds, and local court fines and fees revenue. However, as the number of such offenses and the resulting fines and fees that might occur in a given year are unknown, the revenue impact is undetermined.

## **Explanation of Fiscal Impact**

### **Amended by House Judiciary on April 29, 2025**

#### **State Expenditure**

This bill as amended creates provisions regulating the sale of ENDS products by requiring manufacturers selling such products in South Carolina, either directly or through a third party, to annually execute and deliver to the AG, under penalty of perjury, a written certification containing specific information and documentation. This requirement will go into effect August 1, 2025. Manufacturers must also notify the AG within 30 days of any material change to the certification.

The bill also requires the Office of the AG to operate a directory listing all ENDS manufacturers providing certifications and denoting their respective ENDS products by April 1, 2026, or on the date that it is first made available, whichever is later. This directory must be made publicly available on the agency's website and updated monthly. The bill also establishes the means by which corrections to the directory may be made by a manufacturer, as well as the means by which the AG may remove a manufacturer or its ENDS product(s) from the directory. A determination by the AG to include or to remove from the directory a manufacturer or its ENDS product(s) is subject to review by the Administrative Law Court.

Each ENDS manufacturer must pay a non-refundable fee of \$2,000 to the AG's Office for each ENDS product the first time the manufacturer submits a certification form. Thereafter, the AG must charge the manufacturer an annual renewal fee of \$500 for each ENDS product. Fees received for this purpose, as well as any penalties collected, must be deposited into the General Fund.

Manufacturers who offer for sale any ENDS product not listed in the directory are subject to a fine of \$1,000 per day the product is offered for sale until the unauthorized ENDS product is either removed from the market or properly listed in the directory. Upon notification that there is a material change to the status of an ENDS product requiring it to be removed from the directory, distributors and retailers must remove the product from their respective inventories and return it to the manufacturer for disposal within a prescribed timeframe. The AG, SLED, and DOR are authorized to seize and destroy any non-compliant ENDS products in possession of a distributor or retailer at the expense of the manufacturer. SLED's responsibilities also include performing inspections and conducting hazardous waste disposal among other enforcement activities.

The bill prohibits retailers, wholesalers, or distributors of ENDS products to sell, offer for sale, or distribute ENDS products not listed on the directory. A violation of the latter constitutes an unfair and deceptive trade practice and is punishable as follows:

Sale, Offer of Sale, or Distribution of Unauthorized ENDS Products by Retailer, Wholesaler, or Distributor	
1st Violation	Civil Penalty of $\leq$ \$500
2nd Violation Within 36-Month Period	Civil Penalty of $\geq$ \$750 but $\leq$ \$1,000
3rd Violation Within 36-Month Period	Civil Penalty of $\geq$ \$1,000 but $\leq$ \$1,500
4th or Subsequent Violation Within 36-Month Period	Civil Penalty of $\geq$ \$1,500 but $\leq$ \$3,000

Other violations involving ENDS products are punishable as follows:

Other Violations Involving ENDS Products	
Purchase of resale ENDS products by retailer from unlicensed entities	Fine of \$500 per offense
False representation/misinformation provided by ENDS manufacturer	Misdemeanor for each false representation; fine of \$500 per offense

Further, this bill as amended provides that a captive insurance company may apply to the director of DOI for a license to provide insurance, including without limitation, liquor liability insurance. However, it may not issue eroding or declining insurance coverage in which the occurrence or aggregate limits are reduced by costs or expenses arising from the insurance company's duty to defend a claim. The bill as amended also provides that certain entities licensed or permitted to sell alcoholic beverages for on-premises consumption may qualify for a liquor liability risk mitigation program to lower the required liability insurance amount. An entity may qualify for the program if all employees who are employed as an alcohol server or a manager on the permitted or licensed premises complete responsible alcohol server training and obtain an alcohol server certificate. The business may also qualify for reduced liability insurance if certain operating conditions, such as stopping alcohol sales earlier, are met.

This bill as amended also provides for the establishment and implementation of an alcohol server training program. DOR, in collaboration with DAODAS and SLED, is authorized to approve alcohol server training programs offered by providers. A provider may appeal a denial pursuant to Section 61-2-260 and the South Carolina Administrative Procedures Act. The provider must provide alcohol server training programs to all applicable individuals free of charge, and the curricula of each program must include certain subjects as specified in the bill. Online training programs must also satisfy certain criteria. DOR, in collaboration with DAODAS and SLED, may suspend or revoke the authorization of a provider that the department determines has violated the provisions of the bill.

This bill as amended also requires the provider of a program authorized by DOR to pay a fee, in an amount to be determined by the department, not to exceed \$500 per year, to be deposited into

the Responsible Alcohol Server Training Fund to assist with the costs associated with implementation and enforcement of the provisions of the bill. State agency providers are exempt from payment. Each year, DOR, with the assistance of SLED, must make a report of all income and expenditures made from the fund the previous year. A copy of the report must be given to the Governor, the Speaker of the House of Representatives, and the President of the Senate, posted on the websites of DOR and SLED, and recorded in the journals of each body of the General Assembly at the beginning of each legislative year. The bill as amended also requires DOR to issue and renew alcohol server certificates to each applicant who completes an approved program or a recertification program. Alcohol server certificates are valid for a period of five years from the date the certificate is issued.

As a requirement for application or renewal of a permit or license for on-premises consumption, a permittee or licensee for on-premises consumption seeking to qualify for the liquor liability risk mitigation program must submit to DOR 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. DOR and SLED are responsible for enforcing the provisions of this bill. DOR is also responsible for bringing administrative actions for violations of the provisions of the bill or related regulations, and those actions shall proceed according to the provisions of Section 61-2-260 and the South Carolina Administrative Procedures Act. The bill as amended also removes conduct involving the use, sale, or possession of alcohol from the list of behaviors to which Section 15-38-15 of the Uniform Contribution Among Tortfeasors Act does not apply.

Additionally, this bill as amended modifies the existing first offense penalties for a DUI to allow both fines and terms of imprisonment to be assessed for a conviction. If the DUI offense causes a collision which is determined to be a result of the convicted person committing an act forbidden by the law or neglecting a duty imposed by law in the driving of a motor vehicle, the court may impose an additional sentence of a fine of not more than \$400 or an additional period of imprisonment of not more than 30 days. In lieu of the 30-day imprisonment, the court may provide for 48 hours of public service employment. This additional sentence may be imposed by the magistrate or municipal court for any offense for which the court would otherwise have jurisdiction. The defendant must also participate in a DUI victim impact panel, the cost of which may not exceed \$75. The bill as amended also creates a new second degree felony offense for driving under the influence resulting in moderate bodily injury to another person, which is punishable by a fine of not less than \$2,500 nor more than \$5,000 and imprisonment for up to ten years. An individual convicted for a second-degree felony DUI must install an IID for one year. Lastly, the bill as amended increases the amount of time a person's driver's license, permit, or nonresident operating privilege may be suspended or denied for DUI violations.

The expenditure impact of this bill on DOI and the Office of the AG is pending, contingent upon a response from these agencies.

SLED reports that it will need to hire 2 new agents per region (for a total of 8 statewide), as well as 1 supervisor to manage the investigative work for enforcement of ENDS products. Personnel

costs for these 9.0 FTEs will be \$984,412, of which \$665,146 is salary and \$319,266 is fringe. Additionally, equipment and operating expenses are expected to be \$245,300 annually, and non-recurring equipment expenses are expected to total \$657,504. Therefore, SLED anticipates an increase in expenses of \$1,887,216 in FY 2025-26 and \$1,229,712 each year thereafter due to this bill. SLED anticipates requesting General Fund appropriations to cover these expenses.

The bill will have no expenditure impact for the ALC, DAODAS, DOR, DMV, DPS. The ALC anticipates being able to manage any additional caseload within existing appropriations. DAODAS reports that it currently approves alcohol retailer and server education programs in South Carolina, including the Palmetto Retailers Education Program (PREP). PREP is delivered through a community-based system of county alcohol and drug abuse authorities. DAODAS provides these county alcohol and drug abuse authorities with resources to facilitate these trainings, including but not limited to training manuals, state affiliated trainers, marketing materials, certificates, and personnel funding. DAODAS spends approximately \$10,000 annually on the federal Substance Abuse Prevention and Treatment Block Grant (SAPT) for these purposes. Based upon available information, this bill may result in an increase in demand for these programs. However, any increase in costs as a result of increased demand will be managed within Federal Funds of DAODAS. DOR anticipates that while the agency anticipates hiring 5.0 FTE at a total cost of \$390,000 for salary and fringe to help manage the additional responsibilities due to this bill, the expense can be managed within existing appropriations. DMV reports that the required changes can be accomplished by assigning duties among existing staff and using existing equipment and supplies. DPS notes the bill requires the department to perform activities that will be conducted within the normal course of agency business.

This bill may result in an increase in the caseload in circuit court and the potential number of incarcerations, which may impact the caseload for Judicial, and the workload of the Commission of Indigent Defense, the Commission on Prosecution Coordination, Corrections, and PPP. However, PPP previously indicated on similar legislation that it does not anticipate that there will be a significant increase in the number of participants in the IID program. Judicial anticipates being able to manage any addition to the caseload within existing appropriations. Additionally, the potential increase in expenses for each agency will depend upon the increase in the number of cases and number of incarcerations. These agencies indicate that if this bill as amended results in a significant increase in the workload, then an increase in General Fund appropriations may be requested. For information, according to corrections in FY 2023-24, the annual total cost per inmate was \$40,429, of which \$36,553 was state funded.

### **State Revenue**

This bill establishes an initial certification fee of \$2,000 for each ENDS product for which a manufacturer submits a certification form and a \$500 annual renewal fee. This revenue will be deposited in the General Fund. Louisiana's definition of a vapor product is substantially similar to the definition of ENDS products provided in this bill, and the Louisiana Vape Directory provides a list of all certified vape products approved for sale in Louisiana, including those that have a market order, currently under review by the FDA, or are marketed under a stay order. According to the directory as of April 2025, there are 531 vapor products on the market in Louisiana. Assuming South Carolina's ENDS product market is similar to Louisiana's, this bill

will increase General Fund revenue by up to \$1,062,000 in FY 2025-26 for the initial \$2,000 application fee and \$265,500 each year thereafter for the \$500 annual renewal fee.

Further, this bill specifies that fines and penalties resulting from a violation of the provisions of the ENDS products Act will be retained by the state or local agency bringing the action. This bill may increase Other Funds revenue, depending upon the fines and penalties paid due to an action brought by a state agency.

Further, this bill as amended allows DOR to charge providers of alcohol server training programs an annual fee not to exceed \$500. We assume that DOR will charge the full \$500 fee for all providers except state agencies, which are exempt from the provider fee. Based upon information published by DOR, there are currently ten approved providers for alcohol server training programs, with only one provider, DAODAS, being a state agency. In addition, DAODAS developed an alcohol server education curriculum known as PREP, which is delivered through county providers. It is unclear whether county providers will be subject to the provider fee. DAODAS previously indicated that the PREP curriculum is delivered through county providers. If the county providers are exempt from paying the \$500 provider fee, this section of the bill will increase Other Funds revenue by \$4,500 annually beginning in FY 2025-26 for the nine private sector providers. The overall amount of this increase in Other Funds revenue will depend upon the amount of the fee charged to program providers, the number of providers approved by the department, as well as the number of providers that are exempt from paying the provider fee.

This bill as amended may also increase ALC Other Funds revenue due to an increase in filing fees collected in court. Currently, a request for a contested case hearing regarding an alcoholic beverage license violation must be accompanied by a non-refundable filing fee of \$150. However, the amount of the increase will depend upon the number of requests for a contested case hearing filed with the court

The bill as amended creates a new second degree felony offense for driving under the influence resulting in moderate bodily injury to another person, which is punishable by a fine of not less than \$2,500 nor more than \$5,000 and imprisonment for up to ten years. Pursuant to Section 56-5-2945(D), \$100 of each fine will be placed into a special restricted account to be used by DPS for the Highway Patrol. Currently, penalties are in place for a DUI that results in great bodily injury or death, and DPS receives \$100 of each of those fines. The increase in Other Funds revenue will depend upon the number of these offenses.

This bill may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an increase to General Fund and Other Funds revenue due to the increase in fines and fees collections in court.

### **Local Expenditure**

This bill specifies that local law enforcement agencies have the authority to enforce the provisions of this bill. We anticipate this bill may have a local expenditure impact, depending upon local law enforcement's workload for enforcement of this bill.

Further, RFA anticipates this bill may impact the caseload in magistrate or municipal court. However, we anticipate any impact to the caseload can be managed within existing funds for the local court. Additionally, RFA anticipates that this bill may impact local expenditures due to a potential impact in the local jail population resulting from the newly created felony offense and modified sentencing for existing offenses. However, as the number of such offenses that might occur in a given year is unknown, the potential impact to the local jail population and local expenditure are undetermined.

### **Local Revenue**

This bill specifies that fines and penalties resulting from a violation of these provisions of the ENDS products Act will be retained by the state or local agency bringing the action. This bill may increase local revenue, depending upon the fines and penalties paid due to an action brought by a local agency. Additionally, this bill may increase local revenue due to the increase in fines and fees for the new offenses brought in court. However, as the number of such offenses that might occur in a given year is unknown, the revenue impact is undetermined.



Frank A. Rainwater, Executive Director