

As Introduced

**136th General Assembly
Regular Session
2025-2026**

H. B. No. 849

Representatives Plummer, Salvo

To amend sections 9.681, 3313.751, 3794.05, 1
5502.01, 5502.13, 5502.14, 5502.99, 5743.01, 2
5743.54, and 5743.61 and to enact sections 3
2935.034, 5502.80, 5502.81, 5502.82, 5502.83, 4
5743.541, 5743.611, 5743.74, and 5743.75 of the 5
Revised Code regarding the regulation, 6
registration, licensure, inspection, and 7
enforcement of electronic smoking, tobacco, 8
nicotine, and vapor products retailers. 9

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

Section 1. That sections 9.681, 3313.751, 3794.05, 10
5502.01, 5502.13, 5502.14, 5502.99, 5743.01, 5743.54, and 11
5743.61 be amended and sections 2935.034, 5502.80, 5502.81, 12
5502.82, 5502.83, 5743.541, 5743.611, 5743.74, and 5743.75 of 13
the Revised Code be enacted to read as follows: 14

Sec. 9.681. (A) As used in this section, "tobacco product" 15
and "alternative nicotine product" have the same meanings as in 16
section 2927.02 of the Revised Code. 17

(B) The regulation of tobacco products and alternative 18
nicotine products is a matter of general statewide concern that 19
requires statewide regulation. The state has adopted a 20

comprehensive plan with respect to all aspects of the giveaway, 21
sale, purchase, distribution, manufacture, use, possession, 22
licensing, taxation, inspection, and marketing of tobacco 23
products and alternative nicotine products. No political 24
subdivision may enact, adopt, renew, maintain, enforce, or 25
continue in existence any charter provision, ordinance, 26
resolution, rule, or other measure that conflicts with or 27
preempts any policy of the state regarding the regulation of 28
tobacco products or alternative nicotine products, including, 29
without limitation, by: 30

(1) Setting or imposing standards, requirements, taxes, 31
fees, assessments, or charges of any kind regarding tobacco 32
products or alternative nicotine products that are the same as 33
or similar to, that conflict with, that are different from, or 34
that are in addition to, any standard, requirement, tax, fee, 35
assessment, or other charge established or authorized by state 36
law; 37

(2) Lowering or raising an age requirement provided for in 38
state law in connection with the giveaway, sale, purchase, 39
distribution, manufacture, use, possession, licensing, taxation, 40
inspection, and marketing of tobacco products or alternative 41
nicotine products; 42

(3) Prohibiting an employee eighteen years of age or older 43
of a manufacturer, producer, distributor, wholesaler, or 44
retailer of tobacco products or alternative nicotine products 45
from selling tobacco products or alternative nicotine products; 46

(4) Prohibiting an employee eighteen years of age or older 47
of a manufacturer, producer, distributor, wholesaler, or 48
retailer of tobacco products or alternative nicotine products 49
from handling tobacco products or alternative nicotine products 50

in sealed containers in connection with manufacturing, storage, 51
warehousing, placement, stocking, bagging, loading, or 52
unloading. 53

(C) In addition to any other relief provided, the court 54
shall award costs and reasonable attorney's fees to any person, 55
group, or entity that prevails in a challenge to an ordinance, 56
resolution, regulation, local law, or other action as being in 57
conflict with this section. 58

(D) The general assembly finds and declares that this 59
section is part of a statewide and comprehensive legislative 60
enactment regulating all aspects of the giveaway, sale, 61
purchase, distribution, manufacture, use, possession, licensing, 62
taxation, inspection, and marketing of tobacco products and 63
alternative nicotine products. The general assembly further 64
finds and declares that the imposition of tobacco product and 65
alternative nicotine product regulation by any political 66
subdivision is a matter of statewide concern and would be 67
inconsistent with that statewide, comprehensive enactment. 68
Therefore, regulation of the giveaway, sale, purchase, 69
distribution, manufacture, use, possession, licensing, taxation, 70
inspection, and marketing of tobacco products and alternative 71
nicotine products is a matter of general statewide concern that 72
requires uniform statewide regulation. By the enactment of this 73
section, it is the intent of the general assembly to preempt 74
political subdivisions from the regulation of tobacco products 75
and alternative nicotine products. 76

(E) This section does not prohibit a political subdivision 77
from levying a tax expressly authorized by state law, including 78
the taxes authorized under Chapters 5739. and 5741. or sections 79
5743.021, 5743.024, 5743.026, 5743.321, 5743.323, 5743.324, 80

5743.511, 5743.521, 5743.621, and 5743.631 of the Revised Code. 81

(F) This section does not prohibit a city, local, exempted 82
village, or joint vocational school district; a STEM school 83
established under Chapter 3326. of the Revised Code; an 84
educational service center; or a community school established 85
under Chapter 3314. of the Revised Code from declaring school 86
property or school facilities to be a nonsmoking place, 87
consistent with section 3794.05 of the Revised Code, or from 88
enacting policies to implement section 3313.751 of the Revised 89
Code. 90

Sec. 2935.034. A peace officer acting within the officer's 91
territorial jurisdiction has the same authority vested in 92
enforcement agents under division (B) of section 5502.14 of the 93
Revised Code. 94

Sec. 3313.751. (A) As used in this section: 95

(1) "School district" means a city, local, exempted 96
village, or joint vocational school district. 97

(2) "Smoke" means to burn any substance containing 98
tobacco, including a lighted cigarette, cigar, or pipe, or to 99
burn a clove cigarette. "Smoke" includes the use of an 100
electronic smoking device or vapor product, as those terms are 101
defined in section 2927.02 of the Revised Code. 102

(3) "Use tobacco" means to chew or maintain any substance 103
containing tobacco, including smokeless tobacco, in the mouth to 104
derive the effects of tobacco, or to use or consume any product, 105
whether smoked, heated, chewed, absorbed, dissolved, inhaled, or 106
ingested by any other means, that is made or derived from 107
tobacco or that contains any form of nicotine. 108

(B) No pupil shall smoke or use tobacco or possess any 109

substance containing tobacco or nicotine in any area under the 110
control of a school district or an educational service center or 111
at any activity supervised by any school operated by a school 112
district or an educational service center. 113

(C) No pupil shall use or possess any substance containing 114
betel nut in any area under the control of a school district or 115
an educational service center or at any activity supervised by 116
any school operated by a school district or an educational 117
service center. 118

(D) The board of education of each school district and the 119
governing board of each educational service center shall adopt a 120
policy providing for the enforcement of division (B) of this 121
section and establishing disciplinary measures for a violation 122
of division (B) of this section. 123

Sec. 3794.05. Declaration of establishment as nonsmoking. 124

(A) Notwithstanding any other provision of this chapter, 125
the owner, manager, operator, or other person in charge or 126
control of an establishment, facility, or outdoor area which 127
does not otherwise qualify as a public place or place of 128
employment may declare such establishment, facility, or outdoor 129
area as a nonsmoking place. 130

(B) Notwithstanding any other provision of this chapter, a 131
city, local, exempted village, or joint vocational school; a 132
STEM school established under Chapter 3326. of the Revised Code; 133
an educational service center; or a community school established 134
under Chapter 3314. of the Revised Code may declare school 135
property or school facilities as a nonsmoking place. 136

(C) Smoking shall be prohibited in any place declared 137
nonsmoking under this section where a sign conforming to the 138

requirements of section 3794.06 <u>of the Revised Code</u> is posted.	139
Sec. 5502.01. (A) The department of public safety shall	140
administer and enforce the laws relating to the registration,	141
licensing, sale, and operation of motor vehicles and the laws	142
pertaining to the licensing of drivers of motor vehicles.	143
The department shall compile, analyze, and publish	144
statistics relative to motor vehicle accidents and the causes of	145
them, prepare and conduct educational programs for the purpose	146
of promoting safety in the operation of motor vehicles on the	147
highways, and conduct research and studies for the purpose of	148
promoting safety on the highways of this state.	149
(B) The department shall administer the laws and rules	150
relative to trauma and emergency medical services specified in	151
Chapter 4765. of the Revised Code and any laws and rules	152
relative to medical transportation services specified in Chapter	153
4766. of the Revised Code.	154
(C) The department shall administer and enforce the laws	155
contained in Chapters 4301. and 4303. of the Revised Code and	156
enforce the rules and orders of the liquor control commission	157
pertaining to retail liquor permit holders.	158
(D) The department shall administer the laws governing the	159
state emergency management agency and shall enforce all	160
additional duties and responsibilities as prescribed in the	161
Revised Code related to emergency management services.	162
(E) The department shall conduct investigations pursuant	163
to Chapter 5101. of the Revised Code in support of the duty of	164
the department of job and family services to administer the	165
supplemental nutrition assistance program throughout this state.	166
The department of public safety shall conduct investigations	167

necessary to protect the state's property rights and interests	168
in the supplemental nutrition assistance program.	169
(F) The department of public safety shall enforce	170
compliance with orders and rules of the public utilities	171
commission and applicable laws in accordance with Chapters	172
4905., 4921., and 4923. of the Revised Code regarding commercial	173
motor vehicle transportation safety, economic, and hazardous	174
materials requirements.	175
(G) Notwithstanding Chapter 4117. of the Revised Code, the	176
department of public safety may establish requirements for its	177
enforcement personnel, including its enforcement agents	178
described in section 5502.14 of the Revised Code, that include	179
standards of conduct, work rules and procedures, and criteria	180
for eligibility as law enforcement personnel.	181
(H) The department shall administer, maintain, and operate	182
the Ohio criminal justice network. The Ohio criminal justice	183
network shall be a computer network that supports state and	184
local criminal justice activities. The network shall be an	185
electronic repository for various data, which may include arrest	186
warrants, notices of persons wanted by law enforcement agencies,	187
criminal records, prison inmate records, stolen vehicle records,	188
vehicle operator's licenses, and vehicle registrations and	189
titles.	190
(I) The department shall coordinate all homeland security	191
activities of all state agencies and shall be a liaison between	192
state agencies and local entities for those activities and	193
related purposes.	194
(J) The department shall administer and enforce the laws	195
relative to private investigators and security service providers	196

specified in Chapter 4749. of the Revised Code. 197

(K) The department shall administer criminal justice 198
services in accordance with sections 5502.61 to 5502.66 of the 199
Revised Code. 200

(L) The department shall administer the Ohio school safety 201
and crisis center and the Ohio mobile training team in 202
accordance with sections 5502.70 to 5502.703 of the Revised 203
Code. 204

(M) The department shall coordinate security measures and 205
operations, and may direct the department of administrative 206
services to implement any security measures and operations the 207
department of public safety requires, at the Vern Riffe Center 208
and the James A. Rhodes state office tower. 209

Notwithstanding section 125.28 of the Revised Code, the 210
director of public safety may recover the costs of directing 211
security measures and operations under this division by either 212
issuing intrastate transfer voucher billings to the department 213
of administrative services, which the department shall process 214
to pay for the costs, or, upon the request of the director of 215
administrative services, the director of budget and management 216
may transfer cash in the requested amount from the building 217
management fund created under section 125.28 of the Revised 218
Code. Payments received or cash transfers made under this 219
division for the costs of directing security measures and 220
operations shall be deposited into the state treasury to the 221
credit of the security, investigations, and policing fund 222
created under section 4501.11 of the Revised Code. 223

(N) The department shall assist the division of marijuana 224
control in enforcing Chapter 3796. of the Revised Code, as 225

provided in that chapter. 226

(0) The department, through the investigative unit 227
maintained in accordance with section 5502.13 of the Revised 228
Code, shall administer and enforce section 5502.81 of the 229
Revised Code and shall coordinate enforcement activities with 230
the department of taxation related to inspections of the 231
premises of persons licensed to do business distributing or 232
selling at retail tobacco products, alternative nicotine 233
products, electronic smoking products, and vapor products to 234
determine compliance with Chapter 5743. of the Revised Code. 235

Sec. 5502.13. The department of public safety shall 236
maintain an investigative unit in order to conduct 237
investigations and other enforcement activity authorized by 238
Chapters 3796., 4301., 4303., 5101., 5107., ~~and 5108.~~, 5502., 239
and 5743. and sections 2903.12, 2903.13, 2903.14, 2907.09, 240
2913.46, 2917.11, 2921.13, 2921.31, 2921.32, 2921.33, 2923.12, 241
2923.121, 2925.11, 2925.13, 2927.02, and 4507.30 of the Revised 242
Code. The director of public safety shall appoint the employees 243
of the unit who are necessary, designate the activities to be 244
performed by those employees, and prescribe their titles and 245
duties. 246

Sec. 5502.14. (A) As used in this section, ~~"felony":~~ 247

(1) "Felony" has the same meaning as in section 109.511 of 248
the Revised Code. 249

(2) "Contraband" has the same meaning as in section 250
2901.01 of the Revised Code and includes electronic smoking 251
products designated as contraband under section 5502.81 of the 252
Revised Code. 253

(B) (1) Any person who is employed by the department of 254

public safety and designated by the director of public safety to 255
enforce Title XLIII of the Revised Code and the rules adopted 256
under it, Chapter 3796. of the Revised Code and the rules 257
adopted under that chapter, and the laws and rules regulating 258
the use of supplemental nutrition assistance program benefits 259
shall be known as an enforcement agent. The employment by the 260
department of public safety and the designation by the director 261
of public safety of a person as an enforcement agent shall be 262
subject to division (D) of this section. An enforcement agent 263
has the authority vested in peace officers pursuant to section 264
2935.03 of the Revised Code to keep the peace, to enforce all of 265
the following: 266

(a) All applicable laws and rules on any retail liquor 267
permit premises, or on any other premises of public or private 268
property, where a violation of Title XLIII of the Revised Code 269
or any rule adopted under it is occurring; 270

(b) All applicable laws and rules on persons and premises 271
licensed under Chapter 3796. of the Revised Code and on any 272
other public or private property where a violation of Chapter 273
3796. or any rule adopted under that chapter is occurring; 274

(c) All laws and rules governing the use of supplemental 275
nutrition assistance program benefits, women, infants, and 276
children's coupons, electronically transferred benefits, or any 277
other access device that is used alone or in conjunction with 278
another access device to obtain payments, allotments, benefits, 279
money, goods, or other things of value, or that can be used to 280
initiate a transfer of funds, pursuant to the supplemental 281
nutrition assistance program established under the Food and 282
Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) or any 283
supplemental food program administered by any department of this 284

state pursuant to the "Child Nutrition Act of 1966," 80 Stat. 285
885, 42 U.S.C.A. 1786. Enforcement agents, in enforcing 286
compliance with the laws and rules described in this division, 287
may keep the peace and make arrests for violations of those laws 288
and rules. 289

(2) In addition to the authority conferred by division (B) 290
(1) of this section, an enforcement agent also may execute 291
search warrants and seize and take into custody any contraband,~~—~~ 292
~~as defined in section 2901.01 of the Revised Code,~~ or any 293
property that is otherwise necessary for evidentiary purposes 294
related to any violations of the laws or rules described in 295
division (B) (1) of this section. An enforcement agent may enter 296
public or private premises where activity alleged to violate the 297
laws or rules described in division (B) (1) of this section is 298
occurring. 299

(3) Enforcement agents who are on, immediately adjacent 300
to, or across from retail liquor permit premises or premises 301
licensed under Chapter 3796. of the Revised Code and who are 302
performing investigative duties relating to those premises, 303
enforcement agents who are on premises that are not liquor 304
permit premises or premises licensed under Chapter 3796. of the 305
Revised Code but on which a violation of Title XLIII or Chapter 306
3796. of the Revised Code or any rule adopted under that title 307
or chapter allegedly is occurring, and enforcement agents who 308
view a suspected violation of Title XLIII or Chapter 3796. of 309
the Revised Code, of a rule adopted under that title or chapter, 310
or of another law or rule described in division (B) (1) of this 311
section have the authority to enforce the laws and rules 312
described in division (B) (1) of this section, authority to 313
enforce any section in Title XXIX of the Revised Code or any 314
other section of the Revised Code listed in section 5502.13 of 315

the Revised Code if they witness a violation of the section 316
under any of the circumstances described in this division, and 317
authority to make arrests for violations of the laws and rules 318
described in division (B) (1) of this section and violations of 319
any of those sections. 320

(4) The jurisdiction of an enforcement agent under 321
division (B) of this section shall be concurrent with that of 322
the peace officers of the county, township, or municipal 323
corporation in which the violation occurs. 324

(C) Enforcement agents of the department of public safety 325
who are engaged in the enforcement of the laws and rules 326
described in division (B) (1) of this section may carry concealed 327
weapons when conducting undercover investigations pursuant to 328
their authority as law enforcement officers and while acting 329
within the scope of their authority pursuant to this chapter. 330

(D) (1) The department of public safety shall not employ, 331
and the director of public safety shall not designate, a person 332
as an enforcement agent on a permanent basis, on a temporary 333
basis, for a probationary term, or on other than a permanent 334
basis if the person previously has been convicted of or has 335
pleaded guilty to a felony. 336

(2) (a) The department of public safety shall terminate the 337
employment of a person who is designated as an enforcement agent 338
and who does either of the following: 339

(i) Pleads guilty to a felony; 340

(ii) Pleads guilty to a misdemeanor pursuant to a 341
negotiated plea agreement as provided in division (D) of section 342
2929.43 of the Revised Code in which the enforcement agent 343
agrees to surrender the certificate awarded to that agent under 344

section 109.77 of the Revised Code. 345

(b) The department shall suspend the employment of a 346
person who is designated as an enforcement agent if the person 347
is convicted, after trial, of a felony. If the enforcement agent 348
files an appeal from that conviction and the conviction is 349
upheld by the highest court to which the appeal is taken or if 350
no timely appeal is filed, the department shall terminate the 351
employment of that agent. If the enforcement agent files an 352
appeal that results in that agent's acquittal of the felony or 353
conviction of a misdemeanor, or in the dismissal of the felony 354
charge against the agent, the department shall reinstate the 355
agent. An enforcement agent who is reinstated under division (D) 356
(2)(b) of this section shall not receive any back pay unless the 357
conviction of that agent of the felony was reversed on appeal, 358
or the felony charge was dismissed, because the court found 359
insufficient evidence to convict the agent of the felony. 360

(3) Division (D) of this section does not apply regarding 361
an offense that was committed prior to January 1, 1997. 362

(4) The suspension or termination of the employment of a 363
person designated as an enforcement agent under division (D)(2) 364
of this section shall be in accordance with Chapter 119. of the 365
Revised Code. 366

Sec. 5502.80. As used in sections 5502.80 to 5502.89 of 367
the Revised Code: 368

(A) "Contraband" has the same meaning as in section 369
2901.01 of the Revised Code. 370

(B) "Disposable electronic smoking product" means an 371
electronic smoking product that is filled with a solution or 372
other substance containing nicotine before the product is sold, 373

is sealed by the manufacturer and not intended to be opened by 374
the consumer, and is intended to be disposed of after the 375
solution or other substance containing nicotine has been 376
depleted. 377

(C) "Distributor" means any of the following: 378

(1) A person that sells vapor products to a retail dealer; 379

(2) A retail dealer that receives vapor products with 380
respect to which the tax imposed by Chapter 5743. of the Revised 381
Code has not or will not be paid by another person that is a 382
distributor; 383

(3) A secondary manufacturer; 384

(4) A wholesale dealer located in this state that receives 385
vapor products from a manufacturer, or receives vapor products 386
on which the tax imposed by Chapter 5743. of the Revised Code 387
has not been paid; 388

(5) A wholesale dealer located outside this state that 389
sells vapor products to a wholesale dealer in this state. 390

(D) "Electronic smoking product" means any noncombustible 391
product, other than a cigarette or tobacco product, that 392
contains or is designed to use vapor products and employs a 393
heating element, power source, electronic circuit, or other 394
electronic, chemical, or mechanical means, regardless of shape 395
or size, that can be used to produce vapor from the vapor 396
product. "Electronic smoking product" includes a vapor product 397
whether sold with or separately from an electronic smoking 398
product, an electronic cigarette, a disposable electronic 399
smoking product, an open-system electronic smoking product, an 400
electronic cigar, an electronic cigarillo, an electronic pipe, 401
an electronic hookah, a vape pen, a vaporizer, or any similar 402

product or device. "Electronic smoking product" does not include 403
any product regulated as a drug, device, or combination product 404
under Chapter V of the "Federal Food, Drug, and Cosmetic Act," 405
21 U.S.C. 301, et seq. 406

(E) "Investigative unit" means the investigative unit 407
maintained by the department of public safety in accordance with 408
section 5502.13 of the Revised Code. 409

(F) "Nicotine" means any form of the chemical nicotine, 410
including any salt or complex, regardless of whether the 411
chemical is naturally or synthetically derived, and nicotinic 412
alkaloids and nicotine analogues, such as metatine. 413

(G) "Nicotine analogue" means a substance that meets any 414
of the following: 415

(1) Has a chemical structure substantially similar to the 416
chemical structure of nicotine; 417

(2) Has, or is represented to have, an effect on the 418
central nervous system similar to the chemical nicotine; 419

(3) Is manufactured, formulated, sold, distributed, or 420
marketed with the intent to avoid the provisions of this 421
chapter. 422

(H) "Open-system electronic smoking product" means an 423
electronic smoking product that utilizes a nicotine solution in 424
a container that is intended to be refillable or that otherwise 425
makes the nicotine solution accessible to the consumer through 426
customary or reasonably foreseeable handling or use. 427

(I) "Person" includes individuals, firms, partnerships, 428
associations, joint-stock companies, corporations, combinations 429
of individuals of any form, and the state and any of its 430

political subdivisions. 431

(J) "Secondary manufacturer" means any person in this 432
state engaged in the business of repackaging, reconstituting, 433
diluting, or reprocessing a vapor product for resale to 434
consumers. 435

(K) "Retail dealer" includes any person in this state 436
engaged in the business of selling vapor products to ultimate 437
consumers in this state, regardless of quantity, amount, or 438
number of sales. 439

(L) "Sale" includes an exchange, barter, gift, offer for 440
sale, or distribution, and includes transactions in interstate 441
or foreign commerce. 442

(M) "Timely filed premarket tobacco product application" 443
means an application pursuant to 21 U.S.C. 387j for an 444
electronic smoking product or vapor product marketed in the 445
United States as of August 8, 2016, that was submitted to the 446
United States food and drug administration on or before 447
September 9, 2020, and accepted for filing. 448

(N) "Vapor product" means any liquid solution or other 449
substance that contains nicotine and is depleted as it is used 450
in an electronic smoking product, whether sold with or 451
separately from an electronic smoking product. "Vapor product" 452
does not include any solution or substance regulated as a drug, 453
device, or combination product under Chapter V of the "Federal 454
Food, Drug, and Cosmetic Act," 21 U.S.C. 301, et seq. 455

(O) (1) "Wholesale dealer" includes only persons that 456
either: 457

(a) Subject to division (O) (2) (a) of this section, bring 458
in or cause to be brought into this state unstamped cigarettes 459

purchased directly from the manufacturer, producer, or importer 460
of cigarettes for sale in this state; 461

(b) Are engaged in the business of selling cigarettes, 462
tobacco products, or vapor products to others for the purpose of 463
resale. 464

(2) "Wholesale dealer" does not include either of the 465
following: 466

(a) A person that brings in or causes to be brought into 467
this state cigarettes with respect to which no evidence of tax 468
payment is required thereon as provided in section 5743.04 of 469
the Revised Code; 470

(b) A cigarette manufacturer, export warehouse proprietor, 471
or importer with a valid permit under 26 U.S.C. 5713, if that 472
person sells cigarettes in this state only to wholesale dealers 473
holding valid and current licenses under section 5743.15 of the 474
Revised Code or to an export warehouse proprietor or another 475
manufacturer. 476

Sec. 5502.81. (A) Within sixty days after the effective 477
date of this section, and annually thereafter, every 478
manufacturer of electronic smoking products sold at retail in 479
this state or to a person in this state, whether directly or 480
through a distributor, wholesale dealer, retail dealer, or 481
similar intermediary or intermediaries, shall submit all of the 482
following to the investigative unit, in the form and manner 483
prescribed by the department of public safety: 484

(1) Certification that the manufacturer agrees to comply 485
with this chapter; 486

(2) Certification under penalty of perjury, that at least 487
one of the following applies: 488

(a) The manufacturer has received a marketing authorization or similar order for the electronic smoking product from the United States food and drug administration pursuant to 21 U.S.C. 387j. 489
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(b) The manufacturer submitted a timely filed premarket tobacco product application for the electronic smoking product to the United States food and drug administration pursuant to 21 U.S.C. 387j, and the application either remains under review or a final decision on the application is not otherwise in effect. 493
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(c) The United States food and drug administration has issued a rule, guidance, or other formal statement that temporarily exempts the electronic smoking product from federal marketing authorization requirements. 498
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(3) A copy of the marketing authorization described in division (A) (2) (a) of this section, evidence that the timely filed premarket tobacco product application for the electronic smoking product described in division (A) (2) (b) of this section was submitted and either remains pending or is not otherwise in effect, or a document issued by the United States food and drug administration demonstrating that the electronic smoking product is temporarily exempt from federal marketing authorization requirements; 502
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(4) A certification form that separately lists the brand name, product name, and flavor for each electronic smoking product that the manufacturer, directly or indirectly, sells at retail in this state or to a person in this state. 511
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(B) The manufacturer shall submit with the annual certification required by division (A) of this section a filing fee set by rule of the department of public safety. 515
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(C) The information submitted by a manufacturer under 518
division (A) (3) of this section is confidential commercial or 519
financial information for purposes of sections 149.43 to 149.45 520
of the Revised Code. The investigative unit shall not disclose 521
such information except as required or authorized by law. A 522
manufacturer may partially redact information required to be 523
submitted under division (A) (3) of this section upon request and 524
approval by the investigative unit. 525

(D) (1) A manufacturer required to submit a certification 526
under division (A) of this section shall notify the 527
investigative unit within thirty days after any material change 528
to the information required to be provided as part of that 529
certification, including either of the following: 530

(a) Issuance or denial of a marketing authorization or 531
other order by the United States food and drug administration 532
pursuant to 21 U.S.C. 387j; 533

(b) Any other order or action by the United States food 534
and drug administration that affects the ability of the 535
electronic smoking product to be introduced or delivered into 536
interstate commerce for commercial distribution in the United 537
States. 538

(2) A manufacturer is not required to resubmit the 539
certification and documentation described in divisions (A) (2) 540
and (3) of this section based solely on changes to the name, 541
brand style, or packaging of an electronic smoking product. 542

(E) Beginning ninety days after the effective date of this 543
section, the investigative unit shall maintain and make publicly 544
available on the investigative unit's public web site a 545
directory that lists all electronic smoking product 546

manufacturers, brand names, product names, and flavors for which 547
certification forms have been submitted and approved by the 548
investigative unit under this section. The investigative unit 549
shall update the directory at least one time each month. 550

(F) The investigative unit shall not add a manufacturer or 551
electronic smoking product to the directory if the investigative 552
unit determines that any of the following apply: 553

(1) The manufacturer failed to provide a complete and 554
accurate certification as required by division (A) of this 555
section. 556

(2) The manufacturer failed to include with such 557
certification the payment required by division (B) of this 558
section. 559

(3) The manufacturer sold products in this state required 560
to be certified under this section during a period when either 561
the manufacturer or the product had not been certified and 562
listed on the directory. 563

(4) The manufacturer's certification under this section 564
contains false information, material misrepresentations, or 565
omissions. 566

(G) (1) If the investigative unit determines that any of 567
the violations described in divisions (F) (1) to (4) of this 568
section apply to a manufacturer or electronic smoking product 569
that is already listed on the directory, the investigative unit 570
shall provide the manufacturer notice of the violation and an 571
opportunity to cure deficiencies before removing the 572
manufacturer or electronic smoking product from the directory. 573

(2) The investigative unit shall not remove a manufacturer 574
or an electronic smoking product from the directory sooner than 575

thirty days after sending such notice. 576

(3) The investigative unit shall send the notice 577
electronically or by facsimile to an electronic mail address or 578
facsimile number, as the case may be, provided by the 579
manufacturer in the manufacturer's most recent certification 580
filed under this section. 581

(4) The investigative unit shall include in the notice a 582
description of the violation, instructions for how to cure the 583
violation, and an explanation that failure to cure the violation 584
within thirty days could result in removal of the manufacturer 585
or electronic smoking product from the directory. 586

(5) If the manufacturer does not cure the violation within 587
thirty days after notice is sent, the investigative unit shall 588
remove the manufacturer or the electronic smoking product, as 589
applicable, from the directory. 590

(H) An electronic smoking product that is not listed in 591
the directory is contraband, as of the following dates: 592

(1) In the case of an electronic smoking product that is 593
removed from the directory under division (G) of this section, 594
thirty days after the investigative unit publishes an updated 595
directory that includes the product's removal; 596

(2) For all other electronic smoking products, January 1, 597
2027, or on the date that the investigative unit first publishes 598
the directory on the investigative unit's public web site, 599
whichever is later. 600

(I) Subject to division (J) of this section, no person 601
shall sell or offer for retail sale in this state or to a person 602
in this state an electronic smoking product that is not included 603
in the directory. A manufacturer shall not sell, either directly 604

or through a distributor or wholesale dealer, retail dealer, or 605
similar intermediary or intermediaries, an electronic smoking 606
product in this state that is not included in the directory. 607

(J) A retail dealer, distributor, or wholesale dealer 608
shall, before the electronic smoking product is contraband 609
pursuant to division (H) of this section, either sell the 610
product or remove the product from the retail dealer's, 611
distributor's, or wholesale dealer's inventory. After the 612
electronic smoking product is considered contraband, it is 613
subject to seizure, forfeiture, and destruction by the 614
investigative unit. The cost of such seizure, forfeiture, and 615
destruction shall be paid by the person from whom the products 616
are confiscated. The investigative unit may store and dispose of 617
the seized products as appropriate, in accordance with federal, 618
state, and local laws pertaining to storage and disposal of such 619
products, including by contracting with a licensed hazardous 620
waste disposal facility. No electronic smoking products shall be 621
seized under this section from a consumer who makes a bona fide 622
purchase of such product. 623

(K) (1) The investigative unit may impose a civil penalty 624
on a distributor, wholesale dealer, retail dealer, or any other 625
person who sells or offers for retail sale in this state an 626
electronic smoking product that is not included in the 627
directory. The department of public safety shall set the amount 628
of the civil penalty by rule. Each day that the electronic 629
smoking product is sold or offered for retail sale in violation 630
of this section is a separate violation and subject to an 631
additional civil penalty under this division. 632

(2) The investigative unit may impose a civil penalty on 633
an electronic smoking product manufacturer whose electronic 634

smoking products are not listed in the directory and are sold 635
for retail sale in this state or to a person in this state, 636
whether directly or through a distributor or wholesale dealer, 637
retail dealer, or similar intermediary or intermediaries. The 638
department of public safety shall set the amount of the civil 639
penalty by rule. Each day that the electronic smoking product is 640
sold or offered for retail sale in violation of this section is 641
a separate violation and subject to an additional civil penalty 642
under this division. 643

(3) All fees and penalties collected under this section 644
shall be deposited to the electronic smoking products 645
enforcement fund, which is created in the state treasury. All 646
investment earnings of the fund shall be credited to the fund. 647
The investigative unit shall use money in the fund for 648
administration and enforcement of this section. The 649
investigative unit may allocate money in the fund to the 650
department of taxation for the purposes of funding inspections 651
and enforcement actions. 652

(L) To enforce this section, the investigative unit may 653
examine the books, papers, invoices, and other records of any 654
person in possession, control, or occupancy of any premises 655
where electronic smoking products are placed, stored, sold, or 656
offered for sale, as well as the stock of electronic smoking 657
products on the premises. Every person in the possession, 658
control, or occupancy of any premises where such products are 659
placed, sold, or offered for sale shall give the investigative 660
unit the means, facilities, and opportunity for the examinations 661
authorized by this section. 662

(M) The investigative unit shall annually conduct 663
unannounced compliance checks for each distributor, wholesale 664

dealer, and retail dealer that sells or distributes electronic 665
smoking products in this state for the purposes of enforcing 666
this section. In addition, the investigative unit shall conduct 667
an unannounced follow-up compliance check of any distributor, 668
wholesale dealer, or retail dealer after the investigative unit 669
determines that the distributor, wholesale dealer, or retail 670
dealer has violated this section. The investigative unit shall 671
publish the results of all compliance checks and follow-up 672
compliance checks at least annually and shall make the results 673
available to the public on request. 674

(N) (1) As used in division (N) of this section 675
"nonresident or foreign manufacturer" means a person that 676
manufactures or sells electronic smoking products that is not a 677
resident of this state; incorporated, formed, or organized under 678
the laws of this state; or licensed, registered, or certified to 679
transact business in the state under Title XVII of the Revised 680
Code. 681

(2) A nonresident or foreign manufacturer, as a condition 682
precedent to inclusion and retention of the manufacturer and the 683
manufacturer's electronic smoking products in the directory 684
developed and published under this section, shall do all of the 685
following: 686

(a) Appoint and continually engage without interruption 687
the services of an agent in this state to act as agent for the 688
service, in any manner authorized by law, of all process 689
pertaining to any action or proceeding in the courts of this 690
state against the manufacturer concerning or arising out of the 691
enforcement of this section; 692

(b) Agree that service on the manufacturer's agent 693
constitutes legal and valid service of process on the 694

manufacturer; 695

(c) Provide the investigative unit with proof, to the 696
satisfaction of the department of public safety, of the 697
appointment of, and notice of the name, address, telephone 698
number, and availability of, the manufacturer's agent; 699

(d) Provide notice to the investigative unit thirty days 700
prior to terminating the agent and provide proof, to the 701
satisfaction of the department of public safety, of the 702
appointment of a new agent not less than five days prior to the 703
termination; 704

(e) Provide notice to the investigative unit within five 705
days after the agent terminates the appointment and include 706
proof, to the satisfaction of the department of public safety, 707
of the appointment of a new agent. 708

(3) (a) Any nonresident or foreign manufacturer whose 709
electronic smoking products are sold in the state or to a person 710
in this state and who has not appointed and continually engaged 711
an agent in accordance with division (N) (2) of this section is 712
deemed to have appointed the secretary of state as the 713
manufacturer's agent and may be proceeded against in any action 714
or proceeding arising under this section by service of process 715
on the secretary of state. 716

(b) The deemed appointment of the secretary of state as a 717
manufacturer's agent does not satisfy the condition precedent in 718
division (N) (2) of this section to be included or retained in 719
the directory. 720

(4) (a) A nonresident or foreign manufacturer, as a 721
condition precedent to inclusion and retention of the 722
manufacturer and the manufacturer's electronic smoking products 723

in the directory developed and published under this section, 724
shall obtain and maintain in effect at all times a surety bond 725
issued by a surety company or insurance company authorized to do 726
business in this state. 727

(b) The bond shall be in the amount of twenty-five 728
thousand dollars in favor of the department of public safety. 729
The bond shall be conditioned upon the performance by the 730
nonresident or foreign manufacturer of all requirements and 731
obligations imposed by this section. A surety on a 732
manufacturer's bond is liable up to the amount of the bond, and 733
the department of public safety may execute on such surety bond 734
for the payment of fines and penalties imposed on the 735
manufacturer under this section and for the costs of seizure and 736
destruction of products sold in violation of this section. If 737
the department executes on the surety bond, the department may 738
require the manufacturer to provide an additional bond as a 739
condition precedent for retaining the manufacturer and the 740
manufacturer's electronic smoking products in the directory. 741

(c) A surety on a bond furnished by a manufacturer as 742
provided in this section shall be released and discharged from 743
liability to the department sixty days after a written request 744
to the investigative unit. This division shall not be construed 745
to relieve, release, or discharge the surety from liability 746
already accrued or which accrues before the expiration of the 747
sixty-day period. The investigative unit shall, upon receiving 748
any such request, notify the manufacturer that furnished the 749
bond. Unless the manufacturer, on or before the expiration of 750
the sixty-day period, files with the investigative unit a new 751
bond, with the surety approved by and acceptable to the 752
investigative unit, the investigative unit shall remove the 753
manufacturer and the manufacturer's electronic smoking products 754

from the directory. 755

(O) A determination by the investigative unit to not 756
include or to remove from the directory a manufacturer or an 757
electronic smoking product is subject to review by filing a 758
civil action for prospective declaratory or injunctive relief. 759

(P) The department of public safety may promulgate rules 760
necessary to effect the purposes of this section. 761

(Q) Starting six months after the effective date of this 762
section, and every six months thereafter, the investigative unit 763
shall provide a report to the general assembly regarding the 764
status of the directory, manufacturers and products included in 765
the directory, revenue and expenditures related to 766
administration of this section, and enforcement activities 767
undertaken pursuant to this section. 768

(R) Any violation of this section is an unfair or 769
deceptive act or practice in violation of section 1345.02 of the 770
Revised Code. 771

Sec. 5502.82. (A) (1) The investigative unit shall conduct 772
inspections of the premises of persons licensed to do business 773
distributing or selling at retail tobacco products, alternative 774
nicotine products, electronic smoking products, and vapor 775
products to determine compliance with section 5502.81 and 776
Chapter 5743. of the Revised Code, and the rules adopted 777
thereunder, pertaining to distributor license and retail license 778
holders. 779

(2) Except as otherwise provided in this section, those 780
inspections shall be conducted only during those hours in which 781
the license holder is open for business and only by authorized 782
enforcement agents of the investigative unit or by any peace 783

officer, as defined in section 2935.01 of the Revised Code. 784
Inspections may be conducted at other hours only to determine 785
compliance with laws or department of taxation rules that 786
regulate the hours of sale of tobacco products, alternative 787
nicotine products, electronic smoking products, and vapor 788
products. Any inspection conducted pursuant to this section is 789
subject to all of the following requirements: 790

(a) No property shall be confiscated other than 791
contraband, as defined in section 2901.01 of the Revised Code 792
and including electronic smoking products designated as 793
contraband under section 5502.81 of the Revised Code, tobacco 794
products, alternative nicotine products, electronic smoking 795
products, and vapor products being offered for sale without the 796
required license, or property that is otherwise necessary for 797
evidentiary purposes. 798

(b) A complete inventory of all property confiscated from 799
the premises shall be given to the license holder or the license 800
holder's agent or employee by the confiscating enforcement agent 801
or peace officer at the conclusion of the inspection. At that 802
time, the inventory shall be signed by the confiscating 803
enforcement agent or peace officer, and the enforcement agent or 804
peace officer shall give the license holder or the license 805
holder's agent or employee the opportunity to sign the 806
inventory. 807

(c) Inspections conducted pursuant to this section shall 808
be conducted in a reasonable manner. A finding by any court of 809
competent jurisdiction that the inspection was not conducted in 810
a reasonable manner in accordance with this section or, as 811
applicable, any rules promulgated by the department of taxation 812
or department of public safety, may be considered grounds for 813

suppression of evidence. A finding that the inspection was not 814
conducted in a reasonable manner in accordance with this section 815
or, as applicable, any rules promulgated by the department of 816
taxation or department of public safety, may be considered 817
grounds for dismissal of the case. 818

(B) If any court of competent jurisdiction finds that 819
property confiscated as the result of an inspection is not 820
necessary for evidentiary purposes and is not contraband or was 821
not offered for sale in violation of license requirements, the 822
court shall order the immediate return of the confiscated 823
property, if such property is not otherwise subject to 824
forfeiture, to the license holder. The return of this property 825
is not grounds for dismissal of the case. The commission may 826
order the return of confiscated property if no criminal 827
prosecution is pending or anticipated. 828

Sec. 5502.83. (A) No person shall negligently sell in this 829
state an electronic smoking product that is accompanied by, 830
uses, or has advertising, labeling, packaging, trade dress, 831
trademarks, branding, or design of the product that does any of 832
the following: 833

(1) Depicts a cartoon or cartoon-like character that 834
mimics a character primarily aimed at entertaining minors; 835

(2) Includes an image of a celebrity or a character in a 836
comic book, movie, television show, or video game, or a mythical 837
creature; 838

(3) Imitates or mimics trademarks or trade dress of 839
products that are or have been primarily marketed to minors; 840

(4) Includes a symbol that is primarily used to market 841
products to minors; 842

(5) Imitates, mimics, or replicates the design of a 843
product that is not a vapor product, including all the 844
following: 845

(a) School supplies commonly used by minors, including an 846
eraser, highlighter, pen, pencil, or backpack; 847

(b) A smart phone, smart watch, smart phone case, smart 848
watch case, headphones, or ear buds; 849

(c) A cosmetic product, including lipstick; 850

(d) A toy; 851

(6) Has entertainment features, such as the ability to 852
play games, play music or other audio, display photos or video, 853
or any similar electronic entertainment features. 854

(B) A person who violates this section is guilty of a 855
misdemeanor of the third degree and shall only be fined five 856
hundred dollars. 857

Sec. 5502.99. (A) Whoever violates division (A) of section 858
5502.37 of the Revised Code shall be fined fifty dollars or 859
imprisoned for not less than sixty days, or both. 860

(B) Whoever violates division (B) of section 5502.37 of 861
the Revised Code shall be fined not less than five thousand nor 862
more than ten thousand dollars, or imprisoned for not less than 863
one nor more than five years, or both. 864

(C) Whoever violates division (C) or (D) of section 865
5502.37 of the Revised Code shall be fined not less than two 866
thousand nor more than five thousand dollars, or imprisoned for 867
not less than one nor more than five years, or both. 868

(D) Except as provided in divisions (A), (B), and (C) of 869

this section and unless another penalty is provided by the laws 870
of this state, whoever violates sections 5502.21 to 5502.37 of 871
the Revised Code, or any other law enacted, adopted, or issued 872
pursuant to those sections, shall be fined not more than fifty 873
dollars or imprisoned for not more than sixty days, or both. 874

(E) Whoever knowingly presents false information in a 875
certification required under division (A) of section 5502.81 of 876
the Revised Code is guilty of a misdemeanor of the fourth degree 877
for each such false representation. 878

Sec. 5743.01. As used in this chapter: 879

(A) "Person" includes individuals, firms, partnerships, 880
associations, joint-stock companies, corporations, combinations 881
of individuals of any form, and the state and any of its 882
political subdivisions. 883

(B) "Wholesale dealer" includes only those persons: 884

(1) Who bring in or cause to be brought into this state 885
unstamped cigarettes purchased directly from the manufacturer, 886
producer, or importer of cigarettes for sale in this state but 887
does not include persons who bring in or cause to be brought 888
into this state cigarettes with respect to which no evidence of 889
tax payment is required thereon as provided in section 5743.04 890
of the Revised Code; or 891

(2) Who are engaged in the business of selling cigarettes, 892
tobacco products, or vapor products to others for the purpose of 893
resale. 894

"Wholesale dealer" does not include any cigarette 895
manufacturer, export warehouse proprietor, or importer with a 896
valid permit under 26 U.S.C. 5713 if that person sells 897
cigarettes in this state only to wholesale dealers holding valid 898

and current licenses under section 5743.15 of the Revised Code	899
or to an export warehouse proprietor or another manufacturer.	900
(C) "Retail dealer" includes:	901
(1) In reference to dealers in cigarettes, every person	902
other than a wholesale dealer engaged in the business of selling	903
cigarettes in this state, regardless of whether the person is	904
located in this state or elsewhere, and regardless of quantity,	905
amount, or number of sales;	906
(2) In reference to dealers in tobacco products, any	907
person in this state engaged in the business of selling tobacco	908
products to ultimate consumers in this state, regardless of	909
quantity, amount, or number of sales;	910
(3) In reference to dealers in vapor products, any person	911
in this state engaged in the business of selling vapor products	912
to ultimate consumers in this state, regardless of quantity,	913
amount, or number of sales.	914
(D) "Sale" includes exchange, barter, gift, offer for	915
sale, and distribution, and includes transactions in interstate	916
or foreign commerce.	917
(E) "Cigarettes" includes any roll for smoking made wholly	918
or in part of tobacco, irrespective of size or shape, and	919
whether or not such tobacco is flavored, adulterated, or mixed	920
with any other ingredient, the wrapper or cover of which is made	921
of paper, reconstituted cigarette tobacco, homogenized cigarette	922
tobacco, cigarette tobacco sheet, or any similar materials other	923
than cigar tobacco.	924
(F) "Package" means the individual package, box, or other	925
container in or from which retail sales of cigarettes are	926
normally made or intended to be made.	927

(G) "Storage" includes any keeping or retention of 928
cigarettes, tobacco products, or vapor products for use or 929
consumption in this state. 930

(H) "Use" includes the exercise of any right or power 931
incidental to the ownership of cigarettes, tobacco products, or 932
vapor products. 933

(I) "Tobacco product" or "other tobacco product" means any 934
product made from tobacco, other than cigarettes, that is made 935
for smoking or chewing, or both, and snuff. 936

(J) "Wholesale price" means the invoice price, including 937
all federal excise taxes, at which the manufacturer of the 938
tobacco product sells the tobacco product to unaffiliated 939
distributors, excluding any discounts based on the method of 940
payment of the invoice or on time of payment of the invoice. If 941
the taxpayer buys from other than a manufacturer, "wholesale 942
price" means the invoice price, including all federal excise 943
taxes and excluding any discounts based on the method of payment 944
of the invoice or on time of payment of the invoice. 945

(K) "Distributor" means: 946

(1) Any manufacturer who sells, barter, exchanges, or 947
distributes tobacco products to a retail dealer in the state, 948
except when selling to a retail dealer that has filed with the 949
manufacturer a signed statement agreeing to pay and be liable 950
for the tax imposed by section 5743.51 of the Revised Code; 951

(2) Any wholesale dealer located in the state who receives 952
tobacco products from a manufacturer, or who receives tobacco 953
products on which the tax imposed by this chapter has not been 954
paid; 955

(3) Any wholesale dealer located outside the state who 956

sells, barters, exchanges, or distributes tobacco products to a 957
wholesale or retail dealer in the state; or 958

(4) Any retail dealer who receives tobacco products on 959
which the tax has not or will not be paid by another 960
distributor, including a retail dealer that has filed a signed 961
statement with a manufacturer in which the retail dealer agrees 962
to pay and be liable for the tax that would otherwise be imposed 963
on the manufacturer by section 5743.51 of the Revised Code. 964

(L) "Taxpayer" means any person liable for the tax imposed 965
by section 5743.51, 5743.62, or 5743.63 of the Revised Code. 966

(M) "Seller" means any person located outside this state 967
engaged in the business of selling tobacco products or vapor 968
products to consumers for storage, use, or other consumption in 969
this state. 970

(N) "Manufacturer" means any person who manufactures and 971
sells cigarettes, tobacco products, or vapor products. 972

(O) "Importer" means any person that is authorized, under 973
a valid permit issued under Section 5713 of the Internal Revenue 974
Code, to import finished cigarettes into the United States, 975
either directly or indirectly. 976

(P) "Little cigar" means any roll for smoking, other than 977
cigarettes, made wholly or in part of tobacco that uses an 978
integrated cellulose acetate filter or other filter and is 979
wrapped in any substance containing tobacco, other than natural 980
leaf tobacco. 981

(Q) "Premium cigar" means any roll for smoking, other than 982
cigarettes and little cigars, that is made wholly or in part of 983
tobacco and that has all of the following characteristics: 984

(1) The binder and wrapper of the roll consist entirely of leaf tobacco. 985
986

(2) The roll contains no filter or tip, nor any mouthpiece consisting of a material other than tobacco. 987
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(3) The weight of one thousand such rolls is at least six pounds. 989
990

(R) "Maximum tax amount" means fifty cents plus the tax adjustment factor computed under this division. 991
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In April of each year beginning in 2018, the tax commissioner shall compute a tax adjustment factor by multiplying fifty cents by the cumulative percentage increase in the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor from January 1, 2017, to the last day of December of the preceding year and rounding the resulting product to the nearest one cent; provided, that the tax adjustment factor for any year shall not be less than that for the immediately preceding year. The maximum tax amount resulting from the computation of the tax adjustment factor applies on and after the ensuing first day of July through the thirtieth day of June thereafter. 993
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(S) "Secondary manufacturer" means any person in this state engaged in the business of repackaging, reconstituting, diluting, or reprocessing a vapor product for resale to consumers. 1006
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(T) "Vapor product" means any liquid solution or other substance that (1) contains nicotine and (2) is depleted as it is used in an electronic smoking product. "Vapor product" does not include any solution or substance regulated as a drug, 1010
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device, or combination product under Chapter V of the "Federal Food, Drug, and Cosmetic Act," 21 U.S.C. 301, et seq. 1014
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(U) "Electronic smoking product" means any noncombustible product, other than a cigarette or tobacco product, that (1) contains or is designed to use vapor products and (2) employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from the vapor product. "Electronic smoking product" includes, but is not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, vaporizer, or similar product or device, but does not include any product regulated as a drug, device, or combination product under Chapter V of the "Federal Food, Drug, and Cosmetic Act," 21 U.S.C. 301, et seq. 1016
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(V) "Vapor distributor" means any person that: 1029

(1) Sells vapor products to a retail dealer; 1030

(2) Is a retail dealer that receives vapor products with respect to which the tax imposed by this chapter has not or will not be paid by another person that is a vapor distributor; 1031
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(3) Is a secondary manufacturer; 1034

(4) Is a wholesale dealer located in this state that receives vapor products from a manufacturer, or receives vapor products on which the tax imposed by this chapter has not been paid; 1035
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(5) Is a wholesale dealer located outside this state that sells vapor products to a wholesale dealer in this state. 1039
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(W) "Vapor volume" means one of the following, as 1041

applicable: 1042

(1) If a vapor product is sold in liquid form, one-tenth 1043
of one milliliter of vapor product; 1044

(2) If the vapor product is sold in a nonliquid form, one- 1045
tenth of one gram of vapor product. 1046

(X) "Alternative nicotine product" means any 1047
noncombustible product containing nicotine that is intended for 1048
human consumption, whether chewed, absorbed, dissolved, or 1049
ingested by any other means. "Alternative nicotine product" does 1050
not include a cigarette, tobacco product, electronic smoking 1051
product, vapor product, or any product regulated as a drug, 1052
device, or combination product under Chapter V of the "Federal 1053
Food, Drug, and Cosmetic Act," 21 U.S.C. 301, et seq. 1054

Sec. 5743.54. (A) Each distributor of tobacco products and 1055
each vapor distributor of vapor products shall maintain complete 1056
and accurate records of all purchases and sales of tobacco 1057
products or vapor products, and shall procure and retain all 1058
invoices, bills of lading, and other documents relating to the 1059
purchases and sales of those products. The distributor or vapor 1060
distributor shall keep open records and documents during 1061
business hours for the inspection of the tax commissioner, and 1062
shall preserve them for a period of three years from the date 1063
the return was due or was filed, whichever is later, unless the 1064
commissioner, in writing, consents to their destruction within 1065
that period, or orders that they be kept for a longer period of 1066
time. 1067

(B) (1) Each distributor of tobacco products and each vapor 1068
distributor of vapor products subject to the tax levied by 1069
section 5743.51 or 5743.511 of the Revised Code shall mark on 1070

the invoices of tobacco products or vapor products sold that the 1071
tax levied by that section has been paid and shall indicate the 1072
distributor's or vapor distributor's account number as assigned 1073
by the commissioner and the brand and product name of each 1074
product sold. 1075

(2) Each vapor distributor subject to the tax imposed by 1076
section 5743.51 of the Revised Code shall mark on all invoices 1077
the total weight of the vapor product, rounded to the nearest 1078
one-tenth of one gram, if the vapor product is not sold in 1079
liquid form. If the vapor product is sold in liquid form, the 1080
invoice shall instead indicate the total volume of the vapor 1081
product, rounded to the nearest one-tenth of one milliliter. 1082

(C) No person shall make a false entry upon any invoice or 1083
record upon which an entry is required by this section and no 1084
person shall present any false entry for the inspection of the 1085
commissioner with the intent to evade the tax levied under 1086
section 5743.51, 5743.511, 5743.62, 5743.621, 5743.63, or 1087
5743.631 of the Revised Code. 1088

Sec. 5743.541. Each retail dealer of tobacco products and 1089
vapor products not subject to section 5747.54 of the Revised 1090
Code and each person that sells alternative nicotine products or 1091
electronic smoking products at retail shall maintain complete 1092
and accurate records of all purchases and sales of those 1093
products and shall procure and retain all invoices, bills of 1094
lading, and other documents relating to the purchases and sales 1095
of those products. The person shall keep open records and 1096
documents during business hours for the inspection of the tax 1097
commissioner and shall preserve them for a period of three years 1098
from the date the return was due or was filed, whichever is 1099
later, unless the commissioner, in writing, consents to their 1100

destruction within that period or orders that they be kept for a 1101
longer period of time. 1102

No person shall make a false entry upon any invoice or 1103
record upon which an entry is required by this section, and no 1104
person shall present any false entry for the inspection of the 1105
commissioner with the intent to evade the tax levied under 1106
section 5743.51, 5743.62, or 5743.63 of the Revised Code. 1107

Sec. 5743.61. (A) (1) No distributor or vapor distributor 1108
shall engage in the business of distributing tobacco products, 1109
vapor products, or both within this state without having a 1110
license issued by the department of taxation to engage in that 1111
business. 1112

(2) On the dissolution of a partnership by death, the 1113
surviving partner may operate under the license of the 1114
partnership until the expiration of the license, and the heirs 1115
or legal representatives of deceased persons, and receivers and 1116
trustees in bankruptcy appointed by any competent authority, may 1117
operate under the license of the person succeeded in possession 1118
by the heir, representative, receiver, or trustee in bankruptcy 1119
if the partner or successor notifies the department of taxation 1120
of the dissolution or succession within thirty days after the 1121
dissolution or succession. 1122

(B) (1) Each applicant for a license described by division 1123
(A) (1) of this section, annually, on or before the first day of 1124
February, shall make and deliver to the tax commissioner, upon a 1125
form furnished by the commissioner for that purpose, a statement 1126
showing the name of the applicant, each physical place from 1127
which the applicant distributes to distributors, vapor 1128
distributors, retail dealers, or wholesale dealers, and any 1129
other information the commissioner considers necessary for the 1130

administration of sections 5743.51 to 5743.66 of the Revised Code. 1131
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(2) At the time of making the application for a license to engage either in the business of distributing tobacco products or in the business of distributing both tobacco products and vapor products, the applicant shall pay an application fee of one thousand dollars for each place listed on the application where the applicant proposes to carry on that business. The application fee for a license to engage solely in the business of distributing vapor products shall be one hundred twenty-five dollars for each place listed on the application where the applicant proposes to carry on that business. The fee charged for the application shall accompany the application and shall be made payable to the treasurer of state ~~for deposit into the cigarette tax enforcement fund.~~ 1133
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(3) Upon receipt of the application and payment of any licensing fee required by this section, the commissioner shall verify that the applicant has filed all returns, submitted all information, and paid all outstanding taxes, charges, or fees as required for any taxes, charges, or fees administered by the commissioner, to the extent the commissioner is aware of the returns, information, taxes, charges, or fees at the time of the application. Upon approval, the commissioner shall issue to the applicant a license for each place of distribution designated in the application authorizing the applicant to engage in business at that location for one year commencing on the first day of February. For licenses issued after the first day of February, the license application fee shall be reduced proportionately by the remainder of the twelve-month period for which the license is issued, except that the application fee required to be paid under this section shall be not less than two hundred dollars. 1146
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If the original license is lost, destroyed, or defaced, a 1162
duplicate license may be obtained from the commissioner upon 1163
payment of a license replacement fee of twenty-five dollars. 1164

(C) The holder of a tobacco or vapor products license_ 1165
issued under this section may transfer the license to a place of 1166
business on condition that the licensee's ownership and business 1167
structure remains unchanged and the licensee applies to the 1168
commissioner for the transfer on a form issued by the 1169
commissioner, and pays a transfer fee of twenty-five dollars. 1170

(D) If a distributor or vapor distributor fails to file 1171
forms as required under Chapter 1346. or section 5743.52 of the 1172
Revised Code or pay the tax due for two consecutive periods or 1173
three periods during any twelve-month period, the commissioner 1174
may suspend the license issued to the distributor or vapor 1175
distributor under this section. The suspension is effective ten 1176
days after the commissioner notifies the distributor or vapor 1177
distributor of the suspension in writing in the manner provided 1178
in section 5703.37 of the Revised Code. The commissioner shall 1179
lift the suspension when the distributor or vapor distributor 1180
files the delinquent forms and pays the tax due, including any 1181
penalties, interest, and additional charges. The commissioner 1182
may refuse to issue the annual renewal of the license required 1183
by this section and may refuse to issue a new license for a 1184
location of the distributor until all delinquent forms are filed 1185
and outstanding taxes are paid. This division does not apply to 1186
any unpaid or underpaid tax liability that is the subject of a 1187
petition or appeal filed pursuant to section 5743.56, 5717.02, 1188
or 5717.04 of the Revised Code. 1189

(E) (1) The tax commissioner may impose a penalty of up to 1190
one thousand dollars on any person found to be engaging in the 1191

business of distributing tobacco products or vapor products 1192
without a license as required by this section. 1193

(2) Any person engaging in the business of distributing 1194
tobacco products or vapor products without a license as required 1195
by this section shall comply with divisions (B) (1) and (2) of 1196
this section within ten days after being notified of the 1197
requirement to do so. Failure to comply with division (E) (2) of 1198
this section subjects a person to penalties imposed under 1199
section 5743.99 of the Revised Code. 1200

(F) The nicotine products licensing enforcement fund is 1201
created in the state treasury. License and license replacement 1202
and transfer fees collected pursuant to this section and section 1203
5743.611 of the Revised Code and penalties assessed pursuant to 1204
division (E) of this section and division (D) of section 1205
5743.611 of the Revised Code shall be credited to the fund. The 1206
fund shall be used by the department of taxation for the purpose 1207
of administering and enforcing this chapter. 1208

(G) The tax commissioner may adopt rules necessary to 1209
administer this section. 1210

Sec. 5743.611. (A) No person shall engage in the business 1211
of selling at retail tobacco products, alternative nicotine 1212
products, electronic smoking products, or vapor products within 1213
this state without having a license issued by the department of 1214
taxation to engage in that business under this section. 1215

(B) (1) Each applicant for a license under this section, 1216
annually, on or before the first day of February, shall make and 1217
deliver to the tax commissioner, upon a form furnished by the 1218
commissioner for that purpose, a statement showing the name of 1219
the applicant, each physical place from which the applicant 1220

engages in the retail sale of tobacco products, alternative 1221
nicotine products, electronic smoking products, and vapor 1222
products, and any other information the commissioner considers 1223
necessary for the administration of sections 5743.51 to 5743.66 1224
of the Revised Code. 1225

(2) At the time of making the application required by 1226
division (B)(1) of this section, the applicant shall pay an 1227
application fee in the sum of one hundred twenty-five dollars 1228
for each physical place where the person proposes to carry on 1229
the business for which the license is required. Each place of 1230
business shall be deemed such space, under lease or license to, 1231
or under the control of, or under the supervision of the 1232
applicant, as is contained in one or more contiguous, adjacent, 1233
or adjoining buildings constituting a place of business operated 1234
by, or under the control of, one person, or under one roof and 1235
connected by doors, halls, stairways, or elevators, which space 1236
may contain any number of points at which tobacco products, 1237
alternative nicotine products, electronic smoking products, or 1238
vapor products are offered for sale, provided that each 1239
additional point at which tobacco products, alternative nicotine 1240
products, electronic smoking products, or vapor products are 1241
offered for sale shall be listed in the application. 1242

(3) At the time of making the application required by 1243
division (B)(1) of this section, the applicant shall affirm that 1244
the applicant will comply with all federal and state laws 1245
applicable to the sale of tobacco products, alternative nicotine 1246
products, electronic smoking products, or vapor products. 1247

(4) Upon receipt of the application and payment of any 1248
licensing fee required by division (B) of this section, the 1249
commissioner shall verify that the applicant has filed all 1250

returns, submitted all information, and paid all outstanding 1251
taxes, charges, or fees as required for any taxes, charges, or 1252
fees administered by the commissioner, to the extent the 1253
commissioner is aware of the returns, information, taxes, 1254
charges, or fees at the time of the application. Upon approval, 1255
the commissioner shall issue to the applicant a license for each 1256
place of retail sale designated in the application authorizing 1257
the applicant to engage in business at that location for one 1258
year commencing on the first day of February. For licenses 1259
issued after the first day of February, the license application 1260
fee shall be reduced proportionately by the remainder of the 1261
twelve-month period for which the license is issued, except that 1262
the application fee required to be paid under this section shall 1263
be not less than twenty-five dollars. If the original license is 1264
lost, destroyed, or defaced, a duplicate license may be obtained 1265
from the commissioner upon payment of a license replacement fee 1266
of twenty-five dollars. 1267

(C) The holder of a license issued under this section may 1268
transfer the license to a place of business on the conditions 1269
that the licensee's ownership and business structure remains 1270
unchanged, the licensee applies to the commissioner for the 1271
transfer on a form issued by the commissioner, and the licensee 1272
pays to the commissioner a transfer fee of twenty-five dollars. 1273

On the dissolution of a partnership by death, the 1274
surviving partner may operate under the license issued to the 1275
partnership under this section until the expiration of the 1276
license, and the heirs or legal representatives of deceased 1277
persons, and receivers and trustees in bankruptcy appointed by 1278
any competent authority, may operate under the license of the 1279
person succeeded in possession by the heir, representative, 1280
receiver, or trustee in bankruptcy if the partner or successor 1281

notifies the department of taxation of the dissolution or 1282
succession within thirty days after the dissolution or 1283
succession. 1284

(D) (1) The tax commissioner may impose a penalty of up to 1285
one thousand dollars on any person found to be engaging in the 1286
business of selling at retail tobacco products, alternative 1287
nicotine products, electronic smoking products, or vapor 1288
products without holding a license as required by this section. 1289

(2) Any person engaging in the business of selling at 1290
retail tobacco products, alternative nicotine products, 1291
electronic smoking products, or vapor products without a license 1292
as required by this section shall comply with divisions (B) (1) 1293
to (3) of this section within ten days after being notified of 1294
the requirement to do so. Failure to comply with division (D) (2) 1295
of this section subjects a person to penalties imposed under 1296
section 5743.99 of the Revised Code. 1297

(E) The tax commissioner may adopt rules necessary to 1298
administer this section. 1299

Sec. 5743.74. Persons holding a license under section 1300
5743.61 or 5743.611 of the Revised Code may offer for sale and 1301
sell tobacco products, alternative nicotine products, electronic 1302
smoking products, or vapor products that are legal to market in 1303
the United States pursuant to the "Family Smoking Prevention and 1304
Tobacco Control Act," 21 U.S.C. 387 et seq., and regulations 1305
adopted pursuant to that law, provided the products satisfy 1306
other applicable requirements imposed by this chapter. 1307

Sec. 5743.75. The department of public safety may inspect 1308
the premises of any person engaged in the business of 1309
distributing or selling at retail tobacco products, alternative 1310

nicotine products, electronic smoking products, or vapor 1311
products, regardless of whether the person holds a license under 1312
section 5743.61 or 5743.611 of the Revised Code. 1313

The department of taxation and department of public safety 1314
shall coordinate any inspection activities on such persons and 1315
shall share information regarding the results of inspections. 1316

The department of taxation or department of public safety, 1317
in consultation with each other, may adopt rules necessary to 1318
administer this section. 1319

Section 2. That existing sections 9.681, 3313.751, 1320
3794.05, 5502.01, 5502.13, 5502.14, 5502.99, 5743.01, 5743.54, 1321
and 5743.61 of the Revised Code are hereby repealed. 1322