

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1265

By: Hays

7 AS INTRODUCED

8 An Act relating to vapor products; declaring
9 legislative purpose; providing definitions; providing
for manufacturing, labeling, marketing, and safety
requirements; providing for penalties and suspension;
authorizing Attorney General enforcement; creating
the Vapor Products Compliance Fund; repealing 63 O.S.
10 2021, Section 1-229.35, which relates to vapor
product manufacturer attestation, notice of material
11 change, directory of manufacturers, vapor products,
and unlawful acts; providing for codification; and
12 providing an effective date.

13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified

16 in the Oklahoma Statutes as Section 1-229.50 of Title 63, unless
17 there is created a duplication in numbering, reads as follows:

18 The purpose of this act is to protect public health and safety
19 by:

20 1. Ensuring the safety and security of e-liquid and vapor
21 products manufactured for sale in this state;

1 2. Ensuring that e-liquid and vapor products manufactured or
2 sold in this state conforms to appropriate standards related to
3 labeling, marketing, and appearance;

4 3. Ensuring that e-liquid and vapor products are not
5 contaminated by the inclusion of ingredients or other substances
6 that might pose unreasonable threats to public health and safety;
7 and

8 4. Ensuring that e-liquid and vapor products manufactured or
9 sold in this state are not targeted to appeal to minors.

10 SECTION 2. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1-229.51 of Title 63, unless
12 there is created a duplication in numbering, reads as follows:

13 As used in this act:

14 1. "Advertise" means the publication or dissemination of an
15 advertisement;

16 2. "Advertisement" includes any written or verbal statement,
17 illustration, or depiction which is calculated to induce sales of
18 vapor products, including any written, printed, graphic, or other
19 material, billboard, sign, or other outdoor display, public transit
20 card, other periodical literature, publication, or in a radio or
21 television broadcast, or in any other media; except that such term
22 shall not include:

23 a. any label affixed to any e-liquid or vapor product, or
24 any individual covering, carton, or other wrapper of

1 such bottle that constitutes a part of the labeling
2 under provisions of this act,

3 b. any editorial or other reading material in any
4 periodical or publication or newspaper for the
5 publication of which no money or valuable
6 consideration is paid or promised, directly, or
7 indirectly, by any licensee, and which is not written
8 by or at the direction of the licensee;

9 3. "Commission" means the Oklahoma Alcoholic Beverage Laws
10 Enforcement (ABLE) Commission;

11 4. "Distributor" means a person who has a permit that:

12 a. distributes, sells, barters, or exchanges e-liquid or
13 vapor products in this state for the purpose of
14 resale, or

15 b. purchases e-liquid or vapor products directly from a
16 manufacturer or distributor for the purpose of resale
17 in this state;

18 5. "E-liquid" means a solution that:

19 a. contains propylene glycol, vegetable glycerin,
20 nicotine, nicotine salts and flavorings, and

21 b. is intended to be used in a vapor product; and

22 E-liquid does not include cannabis, THC, CBD, or hemp as defined
23 under the laws of this state;

1 6. "Health-related statement" means any statement related to
2 health and includes statements of a curative or therapeutic nature
3 that, expressly or by implication, suggest a relationship between
4 the consumption of e-liquids or vapor products and health benefits,
5 or effects on health;

6 7. "Manufacturer" means a person located inside of this state,
7 including any repacker or relabeler, that is engaged in
8 manufacturing e-liquids or vapor products;

9 8. "Manufacturing" means the process by which an e-liquid or
10 vapor product is fabricated, assembled, packaged or labeled, and is
11 sealed in final packaging intended for consumer use;

12 9. "Market" or "marketing" means any act or process of
13 promoting or selling of vapor products, including, but not limited
14 to, sponsorship of sporting events, point-of-sale advertising, and
15 promotion of products specifically designed to appeal to certain
16 demographics;

17 10 "Minor" means an individual who is less than twenty-one (21)
18 years of age;

19 11. "Packaging" means any receptacle that contains a finished
20 e-liquid or a vapor product;

21 12. "Retailer" means a person, other than a manufacturer or
22 distributor, who in the ordinary course of the person's regular
23 trade or business:

- a. acquires any form of e-liquid or vapor products for the purpose of resale to an end consumer, and
 - b. sells an e-liquid or a vapor product to another person for money or other consideration;

13. "Sale" or "Sell" means to exchange or otherwise furnish any liquid or vapor product to any individual of legal age foretary value;

14. "Social Media or Social Media Platform" means an online forum or application that satisfies each of the following criteria:

- a. allows users to upload content or view the content or activity of other users,
 - b. employs algorithms that analyze user data or information on users to select content for users, and
 - c. has any of the following features:
 - (1) infinite scrolling,
 - (2) push notifications or alerts sent by the online forum, website, or application to inform the user about specific activities or events related to the user's account,
 - (3) displays personal interactive metrics that indicate the number of times other users have clicked a button to indicate their reaction to content or have shared or reposted the content,

- (4) auto-play video or video that begins to play without the user first clicking on the video or play button for that video, or
- (5) live-streaming function that allows a user or advertiser to broadcast live video content in real-time;

15. "Tamper evident package" means a package having at least one (1) indicator or barrier to entry that, if breached or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred; and

16. "Vapor Product" means an electronic device that converts e-liquid to a vapor intended for inhalation that may or may not contain e-liquid.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-229.52 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Manufacturers, distributors, and retailers shall comply with the following requirements:

1. An e-liquid bottle must use a child proof cap that has the child resistant effectiveness set forth in the federal poison prevention packaging standards, 16 CFR 1700.15(b)(1);

2. An e-liquid bottle or a vapor product that contains e-liquid must use a tamper evident package. The tamper evident package feature must be designed to remain intact when handled in a

1 reasonable manner during the manufacture, distribution, and retail
2 display of the e-liquid bottle;

3 3. The label on an e-liquid bottle must meet the nicotine
4 addictiveness warning statement requirements set forth in 21 CFR
5 1143.3; and

6 4. The package containing the e-liquid bottle or vapor product
7 must contain the name of the manufacturer or distributor along with
8 the address of the manufacturer or distributor firmly affixed to or
9 printed on the package for tracking purposes. A scannable bar code
10 or QR code located on the package may meet this requirement.

11 B. A manufacturer, distributor, or retailer of e-liquids or
12 vapor products shall not sell or offer for sale any e-liquid or
13 vapor product that:

14 1. Uses, in the labeling of the product, or its packaging, or
15 in its marketing materials:

16 a. the terms "candy", "candies", or variants in spelling
17 such as "kandy" or "kandeez", (with the exception of
18 use in the name of a licensee, including the
19 licensee's doing business as name),

20 b. the terms "bubble gum", "cotton candy", "gummy bear",
21 "gummy worm", "lollipop", or other variants of these
22 words (with the exception of use in the name of a
23 licensee, including the licensee's doing business as
24 name), and

1 c. any other terms or phrases which the Commission has,
2 by regulation, determined has a disproportionate
3 appeal to minors, provided that such regulation shall
4 not apply to terms relating to the name of a type of
5 fruit, such as the term "apple"; the term "mint" or
6 terms that relate to a type of mint, such as the term
7 "spearmint"; the terms "menthol" or "ice"; or a term
8 containing the word "tobacco," such as the term "sweet
9 tobacco."

10 2. Uses, in the labeling or design of the product, or its
11 packaging, or in its marketing materials, images of or references to
12 cartoons, cartoon characters, superheroes, television shows, video
13 games, and movies, or other similar characters or references, that
14 have been primarily used to market products to minors;

15 3. Uses, in the labeling or design of the product, or its
16 packaging, or in its marketing materials, trade dress, trademarks,
17 or other related imagery that imitate or replicate trade dress,
18 trademarks, or other imagery of food brands or products that have
19 been primarily marketed to minors such as brands of breakfast
20 cereals, cookies, juice drinks, soft drinks, ice creams, and frozen
21 pops; and

22 4. Uses, in the labeling or design of the product, or its
23 packaging, or in its marketing materials, trade dress, trademarks,
24

1 or other related imagery that imitate or replicate trade dress,
2 trademarks, or other imagery of school supplies.

3 C. A manufacturer, distributor or retailer of e-liquids or
4 vapor products shall not advertise or market any vapor product
5 except in the following manner:

6 1. Advertisements may not be materially false or untrue and any
7 statement contained therein must be consistent with the e-liquid's
8 or vapor product's labeling;

9 2. Advertisements may not contain any health or therapeutic
10 claims;

11 3. Advertisements on billboard signs must not be within one
12 thousand (1,000) feet of a primary or secondary school, playground,
13 or youth center; and

14 4. Advertisements for e-liquids or vapor products shall be
15 prohibited on social media as defined in this act unless the
16 recipient of the content has been age verified by a verified age
17 gating process.

18 SECTION 4. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1-229.53 of Title 63, unless
20 there is created a duplication in numbering, reads as follows:

21 A. The Commission may assess a civil penalty against a
22 manufacturer, distributor, or retailer for a violation of this act
23 in an amount that does not exceed Five Thousand Dollars (\$5,000.00).

1 A civil penalty may be assessed in addition to other penalties
2 allowed under this act.

3 B. The Attorney General is authorized to investigate and
4 enforce violations of subsection B in section 3 of this act. Upon
5 determining that a manufacturer, distributor, or retailer has
6 violated any provision of subsection B in section 3 of this act, the
7 Attorney General shall bring a civil action in any court of
8 competent jurisdiction to:

9 1. Seek injunctive relief restraining or enjoining any
10 manufacturer, distributor, or retailer from continuing to engage in
11 activities that violate subsection B in section 3 of this act;

12 2. Recover civil penalties of up to Ten Thousand Dollars
13 (\$10,000.00) per violation; or

14 3. Obtain appropriate relief to protect the public interest.

15 C. Civil penalties collected under this act must be deposited
16 in the Vapor Products Compliance Fund.

17 SECTION 5. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 1-229.54 of Title 63, unless
19 there is created a duplication in numbering, reads as follows:

20 A. The Vapor Products Compliance Fund is hereby created as a
21 special fund under state law.

22 B. The Vapor Products Compliance Fund shall be utilized by the
23 Commission for enforcement of this act.

1 SECTION 6. REPEALER 63 O.S. 2021, Section 1-229.35, is
2 hereby repealed.

3 SECTION 7. This act shall become effective November 1, 2025.

4

5 60-1-11353 TJ 12/28/24

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24