

SENATE BILL No. 227

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-21.5-2-4; IC 7.1-3.5; IC 24-5-0.5-3.

Synopsis: Directory of approved vaping products. Requires manufacturers of alternative nicotine products and vapor products to annually certify their products with the department of state revenue (department). Requires the department to establish and maintain a directory on the department's website of all manufacturers of alternative nicotine products and vapor products. Provides that, if an alternative nicotine product or vapor product is removed from the directory, each retail dealer, distributor, or wholesaler has 21 days from the day the product is removed from the directory to remove the product from its inventory and return the product to the manufacturer for disposal. Provides that, after the 21 day period, the alternative nicotine products or vapor products of a manufacturer identified in the notice of removal are contraband and are subject to seizure, forfeiture, and destruction and may not be purchased or sold in Indiana. Provides the department with certain enforcement authority. Provides that all fees and penalties collected by the department must be used by the department to administer the directory and enforce the requirements associated with the directory. Provides that any alternative nicotine products or vapor products offered for sale in violation of the directory requirements are declared to be contraband and may be seized without a warrant by the department or by any law enforcement agency in Indiana if directed by the commissioner of the department. Provides that a person may not advertise, distribute, market, offer for sale, or sell a vapor product by using, in a trademark of the product or in the product's advertising branding, design, marketing, or packaging, certain terminology that is attractive to minors. Requires the department to
(Continued next page)

Effective: July 1, 2024.

Gaskill, Holdman

January 10, 2024, read first time and referred to Committee on Tax and Fiscal Policy.



Digest Continued

submit an annual report to the general assembly. Provides that a violation of the directory requirements constitutes a deceptive act that may be enforced by the attorney general.



Introduced

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

SENATE BILL No. 227



A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-21.5-2-4, AS AMENDED BY P.L.132-2019,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 4. (a) This article does not apply to any of the
4 following agencies:
5 (1) The governor.
6 (2) The state board of accounts.
7 (3) The state educational institutions.
8 (4) The department of workforce development.
9 (5) The unemployment insurance review board of the department
10 of workforce development.
11 (6) The worker's compensation board of Indiana.
12 (7) The military officers or boards.
13 (8) The Indiana utility regulatory commission.
14 (9) The department of state revenue (excluding an agency action
15 related to the licensure of private employment agencies **or an**



1 **agency action relating to an alternative nicotine product or**
2 **vapor product under IC 7.1-3.5-1).**
3 (10) The department of local government finance.
4 (11) The Indiana board of tax review.
5 (12) The Indiana department of veterans' affairs.
6 (13) The Indiana veterans' affairs commission.
7 (b) This article does not apply to action related to railroad rate and
8 tariff regulation by the Indiana department of transportation.
9 SECTION 2. IC 7.1-3.5 IS ADDED TO THE INDIANA CODE AS
10 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
11 2024]:
12 **ARTICLE 3.5. ALTERNATIVE NICOTINE PRODUCT OR**
13 **VAPOR PRODUCT DIRECTORY**
14 **Chapter 1. Alternative Nicotine Product or Vapor Product**
15 **Directory**
16 **Sec. 1. As used in this chapter, "alternative nicotine product"**
17 **has the meaning set forth in IC 6-7-2-0.2.**
18 **Sec. 2. As used in this chapter, "closed system cartridge" has the**
19 **meaning set forth in IC 6-7-2-0.5.**
20 **Sec. 3. As used in this chapter, "commissioner" means the**
21 **commissioner of the department.**
22 **Sec. 4. As used in this chapter, "consumable material" means**
23 **any liquid solution or other material used in an open system**
24 **container or closed system cartridge that is depleted as the vapor**
25 **product is used.**
26 **Sec. 5. As used in this chapter, "department" means the**
27 **department of state revenue.**
28 **Sec. 6. As used in this chapter, "distributor" means a person**
29 **who:**
30 **(1) sells, barter, exchanges, or distributes alternative nicotine**
31 **products or vapor products in Indiana to retail dealers for the**
32 **purpose of resale;**
33 **(2) purchases alternative nicotine products or vapor products**
34 **directly from manufacturers of alternative nicotine products**
35 **and vapor products; or**
36 **(3) purchases for resale alternative nicotine products or vapor**
37 **products from a wholesaler, jobber, or distributor outside**
38 **Indiana who is not a distributor licensed under IC 6-7-2-8.**
39 **Sec. 7. As used in this chapter, "open system container" has the**
40 **meaning set forth in IC 6-7-4-5.**
41 **Sec. 8. As used in this chapter, "retail dealer" means a person**
42 **engaged in the selling of alternative nicotine products or vapor**



1 products to ultimate consumers.

2 **Sec. 9.** As used in this chapter, "vapor product" means either of
3 the following:

4 (1) A device, such as an electronic cigarette, which employs a
5 mechanical heating element, battery, or electronic circuit,
6 regardless of shape or size, that can be used to produce vapor
7 from consumable material that may or may not be sold with
8 the device.

9 (2) Any open system container or closed system cartridge of
10 a consumable material in a solution or other form that is
11 intended to be used with or in a device described in
12 subdivision (1).

13 **Sec. 10. (a)** On or before July 1, 2024, and each July 1
14 thereafter, each manufacturer of alternative nicotine products and
15 vapor products that are sold in Indiana, whether directly or
16 through a distributor, wholesaler, retail dealer, or similar
17 intermediary or intermediaries shall certify, under penalty of
18 perjury, on a form and in the manner prescribed by the
19 department that the manufacturer agrees to comply with this
20 chapter and that:

21 (1) the manufacturer has received a marketing authorization
22 or similar order for the alternative nicotine product or vapor
23 product from the United States Food and Drug
24 Administration under 21 U.S.C. 387j; or

25 (2) the:

26 (A) alternative nicotine product or vapor product was
27 marketed in the United States as of August 8, 2016;

28 (B) manufacturer submitted a premarket tobacco product
29 application for the alternative nicotine product or vapor
30 product to the United States Food and Drug
31 Administration under 21 U.S.C. 387j on or before
32 September 9, 2020; and

33 (C) application either remains under review by the United
34 States Food and Drug Administration or a final decision on
35 the application has not otherwise taken effect.

36 (b) The manufacturer must separately list each alternative
37 nicotine product and vapor product that is sold in Indiana on the
38 certification form submitted under subsection (a).

39 (c) Each annual certification required by subsection (a) shall be
40 accompanied by:

41 (1) a copy of the marketing authorization or other order for
42 the alternative nicotine product or vapor product issued by



1 the United States Food and Drug Administration under 21
2 U.S.C. 387j, or evidence that the premarket tobacco product
3 application for the alternative nicotine product or vapor
4 product was submitted to the United States Food and Drug
5 Administration and a final authorization or order has not yet
6 taken effect; and

7 (2) an initial payment of two hundred fifty dollars (\$250) for
8 each alternative nicotine product or vapor product reported
9 on the certification form described in subsection (a) for that
10 product and a subsequent payment of two hundred fifty
11 dollars (\$250) annually each year thereafter for each
12 alternative nicotine product or vapor product reported on the
13 certification form submitted under subsection (a).

14 (d) A manufacturer required to submit a certification form
15 under subsection (a) shall notify the commissioner not later than
16 thirty (30) days after the date that any material change to the
17 certification form occurs, including the issuance or denial of a
18 marketing authorization or other order by the United States Food
19 and Drug Administration under 21 U.S.C. 387j, or any other order
20 or action by the United States Food and Drug Administration, that
21 affects the ability of the alternative nicotine product or vapor
22 product to be introduced or delivered into interstate commerce for
23 commercial distribution in the United States.

24 Sec. 11. On or before September 1, 2024, the department shall
25 develop and maintain a directory on the department's website that
26 lists all alternative nicotine product and vapor product
27 manufacturers and alternative nicotine products and vapor
28 products for which certification forms have been submitted. The
29 directory must be updated monthly.

30 Sec. 12. (a) The department shall provide a manufacturer with
31 notice and an opportunity to cure deficiencies before removing a
32 manufacturer or its products from the directory described in
33 section 11 of this chapter.

34 (b) The department may not remove the manufacturer or its
35 product from the directory described in section 11 of this chapter
36 until at least fifteen (15) days after the date that the manufacturer
37 has been given notice of an intended action. Notice shall be
38 sufficient and be considered immediately received by a
39 manufacturer if the notice is sent either electronically or by
40 facsimile to an electronic mail address or facsimile number, as the
41 case may be, provided by the manufacturer in its most recent
42 certification form filed under section 10(a) of this chapter.



1 (c) The manufacturer shall have fifteen (15) business days from
2 the date of service of the notice of the department's intended action
3 under subsection (b) to establish that the manufacturer or its
4 products should be included in the directory.

5 Sec. 13. (a) If an alternative nicotine product or vapor product
6 is removed from the directory described in section 11 of this
7 chapter, each retail dealer, distributor, or wholesaler shall have
8 twenty-one (21) days from the date the product is removed from
9 the directory to remove the product from its inventory and return
10 the product to the manufacturer for disposal.

11 (b) After the twenty-one (21) day period described in subsection
12 (a), the alternative nicotine products or vapor products of a
13 manufacturer identified in the notice of removal are contraband
14 and are subject to seizure, forfeiture, and destruction as provided
15 in section 17(c) of this chapter and may not be purchased or sold
16 in Indiana.

17 Sec. 14. After August 30, 2024, a person may not sell or offer for
18 sale an alternative nicotine product or vapor product in Indiana
19 that is not included in the directory described in section 11 of this
20 chapter, and a manufacturer may not sell to a distributor,
21 wholesaler, retail dealer, or similar intermediary or intermediaries
22 an alternative nicotine product or vapor product in Indiana that is
23 not included in the directory described in section 11 of this chapter.

24 Sec. 15. The following penalties apply to violations of this
25 chapter:

26 (1) A distributor, wholesaler, or retail dealer that sells or
27 offers for sale an alternative nicotine product or vapor
28 product in Indiana that is not included in the directory is
29 subject to a civil penalty of one thousand dollars (\$1,000) per
30 day for each product offered for sale in violation of this
31 chapter until the product is removed from the market or until
32 the product is properly listed on the directory described in
33 section 11 of this chapter.

34 (2) A manufacturer whose alternative nicotine products or
35 vapor products are not listed in the directory and are sold in
36 Indiana to a distributor, wholesaler, retail dealer, or similar
37 intermediary or intermediaries is subject to a civil penalty of
38 five hundred dollars (\$500) per day for each product offered
39 for sale in violation of this chapter until the product is
40 removed from the market or until the product is properly
41 listed on the directory described in section 11 of this chapter.

42 Sec. 16. (a) A person may not advertise, distribute, market, offer



- 1 for sale, or sell a vapor product in either of the following ways:
- 2 (1) By using, in a trademark of the product or in the product's
- 3 advertising branding, design, marketing, or packaging:
- 4 (A) the terms "cake", "candy", "cupcake", "pastry", or
- 5 "pie", or a variation of one (1) or more of those terms; or
- 6 (B) any other term that references a type or brand of cake,
- 7 candy, cupcake, pastry, or pie, including a type or brand of
- 8 cake, candy, cupcake, pastry, or pie that does not include
- 9 the terms "cake", "candy", "cupcake", "pastry", or "pie"
- 10 in its name or any of its slogans.
- 11 (2) By using, in a trademark of the product or in the product's
- 12 advertising, branding, design, marketing, packaging, or trade
- 13 dress, a depiction or signifier of any of the following:
- 14 (A) A food, or a brand of food, marketed to minors,
- 15 including any of the following:
- 16 (i) A cereal.
- 17 (ii) A cookie, ice cream, sherbet, sorbet, or other dessert.
- 18 (iii) A juice box or soft drink.
- 19 (B) A character, personality, or symbol known to appeal to
- 20 minors, including any of the following:
- 21 (i) A celebrity.
- 22 (ii) A character in a comic book, movie, television show,
- 23 or video game.
- 24 (iii) A unicorn or any other mythical creature.
- 25 (C) School supplies primarily used by minors, including
- 26 any of the following:
- 27 (i) Erasers.
- 28 (ii) Highlighters.
- 29 (iii) Ink pens.
- 30 (iv) Pencils.
- 31 (b) A person that violates subsection (a) is subject to a civil
- 32 penalty as follows:
- 33 (1) For a first violation, one hundred dollars (\$100).
- 34 (2) For a second violation, five hundred dollars (\$500).
- 35 (3) For a third or subsequent violation, two thousand five
- 36 hundred dollars (\$2,500).
- 37 (c) Any vapor product advertised, distributed, marketed,
- 38 offered for sale, or sold in violation of subsection (a) is declared to
- 39 be contraband and may be seized by the department or a law
- 40 enforcement agency in coordination with the department, without
- 41 a warrant. The cost of a seizure, forfeiture, and destruction shall
- 42 be borne by the person from whom the product is confiscated.



1 (d) The department shall conduct compliance checks in
2 accordance with section 17 of this chapter to ensure a person's
3 compliance with subsection (a).

4 Sec. 17. (a) The department has the authority to enforce
5 compliance with this chapter and may adopt rules under IC 4-22-2
6 that are necessary to administer and enforce the requirements of
7 this chapter.

8 (b) The department may examine the books, papers, and records
9 of any distributor, wholesaler, or retail dealer in Indiana, for the
10 purpose of determining compliance with this chapter. The
11 department may make the inspections and examinations at any
12 time during ordinary business hours, and may inspect the premises
13 and all desks, safes, vaults, and other fixtures and furniture
14 contained in or upon the premises for the purpose of ascertaining
15 whether alternative nicotine products or vapor products are held
16 or possessed in violation of this chapter.

17 (c) Any alternative nicotine products or vapor products offered
18 for sale in violation of this chapter are declared to be contraband
19 and may be seized in the manner prescribed by section 16(c) of this
20 chapter.

21 (d) In an action brought under this section, the department may
22 recover reasonable expenses incurred in investigating and
23 preparing a case, including attorney's fees.

24 (e) An agency action by the department under this chapter is
25 subject to IC 4-21.5.

26 Sec. 18. On or before November 1, 2026, and each November 1
27 thereafter, the department shall submit a report to the general
28 assembly in an electronic format under IC 5-14-6. The report must
29 include the following:

30 (1) The status of the directory and the manufacturers and
31 products included in the directory.

32 (2) Revenue collected and expenditures related to
33 administration of this chapter.

34 (3) Enforcement activities undertaken under section 17 of this
35 chapter.

36 (4) Any information the department determines to be useful
37 to the general assembly relating to the administration of this
38 chapter.

39 Sec. 19. All fees and penalties collected in accordance with this
40 chapter must be used by the department for the administration and
41 enforcement of this chapter.

42 Sec. 20. (a) In addition to other appropriate penalties under this



1 chapter, any violation of the provisions of this chapter constitutes
2 a deceptive act or practice in accordance with IC 24-5-0.5.

3 (b) The attorney general may investigate an act or practice
4 described in subsection (a) and take appropriate action under
5 IC 24-5-0.5-4.

6 Sec. 21. (a) Any nonresident or foreign manufacturer that has
7 not registered to do business in Indiana as a foreign corporation or
8 business entity shall, as a condition of having its alternative
9 nicotine products or vapor products listed or retained in the
10 directory described in section 11 of this chapter, appoint and
11 continually engage without interruption the services of an agent in
12 the United States to act as agent for the service of process upon
13 whom all process, and any action or proceeding against it
14 concerning or arising out of the enforcement of this section, may be
15 served in any manner authorized by law. Service under this section
16 constitutes legal and valid service of process on the manufacturer.
17 The manufacturer shall provide the name, address, telephone
18 number, and proof of the appointment and availability of the agent
19 to, and to the satisfaction of, the department.

20 (b) The manufacturer shall provide notice to the department, in
21 a manner prescribed by the department, not later than thirty (30)
22 days before termination of the authority of an agent and shall
23 further provide proof to the department, in a manner prescribed
24 by the department, of the appointment of a new agent not less than
25 five (5) calendar days before the termination of an existing agent
26 appointment. In the event an agent terminates an appointment, the
27 manufacturer shall notify the department, in a manner prescribed
28 by the department, of the termination within five (5) calendar days
29 and shall include proof to the department, in a manner prescribed
30 by the department, of the appointment of a new agent.

31 (c) Any manufacturer whose alternative nicotine products or
32 vapor products are sold in Indiana and who has not appointed and
33 engaged an agent as required by this section is considered to have
34 appointed the secretary of state as the agent and may be proceeded
35 against in courts of Indiana by service of process upon the
36 secretary of state. However, appointment of the secretary of state
37 as the agent shall not satisfy the condition of having the alternative
38 nicotine products or vapor products of the manufacturer included
39 or retained in the directory described in section 11 of this chapter.

40 SECTION 3. IC 24-5-0.5-3, AS AMENDED BY P.L.34-2022,
41 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2024]: Sec. 3. (a) A supplier may not commit an unfair,



1 abusive, or deceptive act, omission, or practice in connection with a
2 consumer transaction. Such an act, omission, or practice by a supplier
3 is a violation of this chapter whether it occurs before, during, or after
4 the transaction. An act, omission, or practice prohibited by this section
5 includes both implicit and explicit misrepresentations.

6 (b) Without limiting the scope of subsection (a), the following acts,
7 and the following representations as to the subject matter of a
8 consumer transaction, made orally, in writing, or by electronic
9 communication, by a supplier, are deceptive acts:

10 (1) That such subject of a consumer transaction has sponsorship,
11 approval, performance, characteristics, accessories, uses, or
12 benefits it does not have which the supplier knows or should
13 reasonably know it does not have.

14 (2) That such subject of a consumer transaction is of a particular
15 standard, quality, grade, style, or model, if it is not and if the
16 supplier knows or should reasonably know that it is not.

17 (3) That such subject of a consumer transaction is new or unused,
18 if it is not and if the supplier knows or should reasonably know
19 that it is not.

20 (4) That such subject of a consumer transaction will be supplied
21 to the public in greater quantity than the supplier intends or
22 reasonably expects.

23 (5) That replacement or repair constituting the subject of a
24 consumer transaction is needed, if it is not and if the supplier
25 knows or should reasonably know that it is not.

26 (6) That a specific price advantage exists as to such subject of a
27 consumer transaction, if it does not and if the supplier knows or
28 should reasonably know that it does not.

29 (7) That the supplier has a sponsorship, approval, or affiliation in
30 such consumer transaction the supplier does not have, and which
31 the supplier knows or should reasonably know that the supplier
32 does not have.

33 (8) That such consumer transaction involves or does not involve
34 a warranty, a disclaimer of warranties, or other rights, remedies,
35 or obligations, if the representation is false and if the supplier
36 knows or should reasonably know that the representation is false.

37 (9) That the consumer will receive a rebate, discount, or other
38 benefit as an inducement for entering into a sale or lease in return
39 for giving the supplier the names of prospective consumers or
40 otherwise helping the supplier to enter into other consumer
41 transactions, if earning the benefit, rebate, or discount is
42 contingent upon the occurrence of an event subsequent to the time



- 1 the consumer agrees to the purchase or lease.
 2 (10) That the supplier is able to deliver or complete the subject of
 3 the consumer transaction within a stated period of time, when the
 4 supplier knows or should reasonably know the supplier could not.
 5 If no time period has been stated by the supplier, there is a
 6 presumption that the supplier has represented that the supplier
 7 will deliver or complete the subject of the consumer transaction
 8 within a reasonable time, according to the course of dealing or the
 9 usage of the trade.
 10 (11) That the consumer will be able to purchase the subject of the
 11 consumer transaction as advertised by the supplier, if the supplier
 12 does not intend to sell it.
 13 (12) That the replacement or repair constituting the subject of a
 14 consumer transaction can be made by the supplier for the estimate
 15 the supplier gives a customer for the replacement or repair, if the
 16 specified work is completed and:
 17 (A) the cost exceeds the estimate by an amount equal to or
 18 greater than ten percent (10%) of the estimate;
 19 (B) the supplier did not obtain written permission from the
 20 customer to authorize the supplier to complete the work even
 21 if the cost would exceed the amounts specified in clause (A);
 22 (C) the total cost for services and parts for a single transaction
 23 is more than seven hundred fifty dollars (\$750); and
 24 (D) the supplier knew or reasonably should have known that
 25 the cost would exceed the estimate in the amounts specified in
 26 clause (A).
 27 (13) That the replacement or repair constituting the subject of a
 28 consumer transaction is needed, and that the supplier disposes of
 29 the part repaired or replaced earlier than seventy-two (72) hours
 30 after both:
 31 (A) the customer has been notified that the work has been
 32 completed; and
 33 (B) the part repaired or replaced has been made available for
 34 examination upon the request of the customer.
 35 (14) Engaging in the replacement or repair of the subject of a
 36 consumer transaction if the consumer has not authorized the
 37 replacement or repair, and if the supplier knows or should
 38 reasonably know that it is not authorized.
 39 (15) The act of misrepresenting the geographic location of the
 40 supplier by listing an alternate business name or an assumed
 41 business name (as described in IC 23-0.5-3-4) in a local telephone
 42 directory if:



- 1 (A) the name misrepresents the supplier's geographic location;
 2 (B) the listing fails to identify the locality and state of the
 3 supplier's business;
 4 (C) calls to the local telephone number are routinely forwarded
 5 or otherwise transferred to a supplier's business location that
 6 is outside the calling area covered by the local telephone
 7 directory; and
 8 (D) the supplier's business location is located in a county that
 9 is not contiguous to a county in the calling area covered by the
 10 local telephone directory.
- 11 (16) The act of listing an alternate business name or assumed
 12 business name (as described in IC 23-0.5-3-4) in a directory
 13 assistance data base if:
 14 (A) the name misrepresents the supplier's geographic location;
 15 (B) calls to the local telephone number are routinely forwarded
 16 or otherwise transferred to a supplier's business location that
 17 is outside the local calling area; and
 18 (C) the supplier's business location is located in a county that
 19 is not contiguous to a county in the local calling area.
- 20 (17) The violation by a supplier of IC 24-3-4 concerning
 21 cigarettes for import or export.
- 22 (18) The act of a supplier in knowingly selling or reselling a
 23 product to a consumer if the product has been recalled, whether
 24 by the order of a court or a regulatory body, or voluntarily by the
 25 manufacturer, distributor, or retailer, unless the product has been
 26 repaired or modified to correct the defect that was the subject of
 27 the recall.
- 28 (19) The violation by a supplier of 47 U.S.C. 227, including any
 29 rules or regulations issued under 47 U.S.C. 227.
- 30 (20) The violation by a supplier of the federal Fair Debt
 31 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
 32 rules or regulations issued under the federal Fair Debt Collection
 33 Practices Act (15 U.S.C. 1692 et seq.).
- 34 (21) A violation of IC 24-5-7 (concerning health spa services), as
 35 set forth in IC 24-5-7-17.
- 36 (22) A violation of IC 24-5-8 (concerning business opportunity
 37 transactions), as set forth in IC 24-5-8-20.
- 38 (23) A violation of IC 24-5-10 (concerning home consumer
 39 transactions), as set forth in IC 24-5-10-18.
- 40 (24) A violation of IC 24-5-11 (concerning real property
 41 improvement contracts), as set forth in IC 24-5-11-14.
- 42 (25) A violation of IC 24-5-12 (concerning telephone



- 1 solicitations), as set forth in IC 24-5-12-23.
 2 (26) A violation of IC 24-5-13.5 (concerning buyback motor
 3 vehicles), as set forth in IC 24-5-13.5-14.
 4 (27) A violation of IC 24-5-14 (concerning automatic
 5 dialing-announcing devices), as set forth in IC 24-5-14-13.
 6 (28) A violation of IC 24-5-15 (concerning credit services
 7 organizations), as set forth in IC 24-5-15-11.
 8 (29) A violation of IC 24-5-16 (concerning unlawful motor
 9 vehicle subleasing), as set forth in IC 24-5-16-18.
 10 (30) A violation of IC 24-5-17 (concerning environmental
 11 marketing claims), as set forth in IC 24-5-17-14.
 12 (31) A violation of IC 24-5-19 (concerning deceptive commercial
 13 solicitation), as set forth in IC 24-5-19-11.
 14 (32) A violation of IC 24-5-21 (concerning prescription drug
 15 discount cards), as set forth in IC 24-5-21-7.
 16 (33) A violation of IC 24-5-23.5-7 (concerning real estate
 17 appraisals), as set forth in IC 24-5-23.5-9.
 18 (34) A violation of IC 24-5-26 (concerning identity theft), as set
 19 forth in IC 24-5-26-3.
 20 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
 21 as set forth in IC 24-5.5-6-1.
 22 (36) A violation of IC 24-8 (concerning promotional gifts and
 23 contests), as set forth in IC 24-8-6-3.
 24 (37) A violation of IC 21-18.5-6 (concerning representations
 25 made by a postsecondary credit bearing proprietary educational
 26 institution), as set forth in IC 21-18.5-6-22.5.
 27 (38) A violation of IC 24-5-15.5 (concerning collection actions of
 28 a plaintiff debt buyer), as set forth in IC 24-5-15.5-6.
 29 (39) A violation of IC 24-14 (concerning towing services), as set
 30 forth in IC 24-14-10-1.
 31 (40) A violation of IC 24-5-14.5 (concerning misleading or
 32 inaccurate caller identification information), as set forth in
 33 IC 24-5-14.5-12.
 34 (41) A violation of IC 24-5-27 (concerning intrastate inmate
 35 calling services), as set forth in IC 24-5-27-27.
 36 **(42) A violation of IC 7.1-3.5-1 (concerning an alternative**
 37 **nicotine product or vapor product), as set forth in**
 38 **IC 7.1-3.5-1-20.**
 39 (c) Any representations on or within a product or its packaging or
 40 in advertising or promotional materials which would constitute a
 41 deceptive act shall be the deceptive act both of the supplier who places
 42 such representation thereon or therein, or who authored such materials,



1 and such other suppliers who shall state orally or in writing that such
2 representation is true if such other supplier shall know or have reason
3 to know that such representation was false.

4 (d) If a supplier shows by a preponderance of the evidence that an
5 act resulted from a bona fide error notwithstanding the maintenance of
6 procedures reasonably adopted to avoid the error, such act shall not be
7 deceptive within the meaning of this chapter.

8 (e) It shall be a defense to any action brought under this chapter that
9 the representation constituting an alleged deceptive act was one made
10 in good faith by the supplier without knowledge of its falsity and in
11 reliance upon the oral or written representations of the manufacturer,
12 the person from whom the supplier acquired the product, any testing
13 organization, or any other person provided that the source thereof is
14 disclosed to the consumer.

15 (f) For purposes of subsection (b)(12), a supplier that provides
16 estimates before performing repair or replacement work for a customer
17 shall give the customer a written estimate itemizing as closely as
18 possible the price for labor and parts necessary for the specific job
19 before commencing the work.

20 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
21 company or other provider of a telephone directory or directory
22 assistance service or its officer or agent is immune from liability for
23 publishing the listing of an alternate business name or assumed
24 business name of a supplier in its directory or directory assistance data
25 base unless the telephone company or other provider of a telephone
26 directory or directory assistance service is the same person as the
27 supplier who has committed the deceptive act.

28 (h) For purposes of subsection (b)(18), it is an affirmative defense
29 to any action brought under this chapter that the product has been
30 altered by a person other than the defendant to render the product
31 completely incapable of serving its original purpose.

