

HOUSE BILL 2252

By Davis

AN ACT to amend Tennessee Code Annotated, Title 67,  
relative to vapor products.

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

SECTION 1. Tennessee Code Annotated, Section 67-4-1001(26), is amended by adding the language "or open-system vapor product" immediately following the language "tobacco product".

SECTION 2. Tennessee Code Annotated, Section 67-4-1001, is amended by adding the following as new subdivisions:

( ) "Closed-system vapor product":

(A) Means any vapor product that is prefilled with consumable material, sealed by the manufacturer, and not intended to be opened by the consumer;  
and

(B) Includes any cartridge that is prefilled with consumable material and sealed by the manufacturer;

( ) "Consumable material" means any liquid solution or other material containing nicotine that is depleted as a vapor product is used;

( ) "Open-system vapor product":

(A) Means any vapor product containing consumable material that can be opened by the consumer and refilled with consumable material; and

(B) Includes any bottle or other container of consumable material that is intended to be opened by the consumer;

( ) "Vapor product":

(A) Means any noncombustible product containing nicotine or any other substance that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce or emit a visible or non-visible vapor;

(B) Includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product, and any vapor cartridge, any substance used to refill a vapor cartridge, or other container of a solution containing nicotine or any other substance that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product; and

(C) Does not include any product regulated as a drug or device by the United States food and drug administration under Chapter V of the Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.);

SECTION 3. Tennessee Code Annotated, Section 67-4-1002, is amended by deleting the section and substituting instead the following:

Each dealer or distributor of tobacco products or vapor products shall pay to the department, for exclusive state purposes, taxes in addition to all other taxes or fees for the privilege of selling cigarettes, tobacco products, and vapor products in this state.

SECTION 4. Tennessee Code Annotated, Section 67-4-1003, is amended by deleting the section and substituting instead the following:

(a) The tobacco tax and vapor product tax are declared to be a levy on the consumer, and the consumer is liable for the taxes and subject to the incidence of the taxes.

(b) Each distributor shall add the amount of tobacco taxes levied to the price of cigarettes or other tobacco products and the amount of vapor product tax levied on the consumable material in a vapor product, and the distributor may state the amount of the

taxes separately from the price of the cigarettes, other tobacco products, or vapor products on all price display signs, sales, or delivery slips, bills, and statements that advertise or indicate the price of the cigarettes, tobacco products, or vapor products.

(c) This section does not affect the method of collection of cigarette, tobacco, or vapor product taxes.

SECTION 5. Tennessee Code Annotated, Section 67-4-1005, is amended by deleting subsection (b) and substituting instead the following:

(b) The rate on all closed-system vapor products is fifteen cents (15¢) per milliliter of consumable material and a proportionate tax at the like rate on all fractional parts thereof.

(c) The rate on all open-system vapor products is six and six-tenths percent (6.6%) of the wholesale cost price.

(d) This section does not apply to smokeless nicotine products.

SECTION 6. For purposes of promulgating rules and forms, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2024, the public welfare requiring it.