



2023-2024 General Assembly

HOUSE BILL 900: Certain CIHS Partners/Regulate Tobacco Products, Sec. 2: Regulate Tobacco Products

Committee:
Introduced by:
Analysis of: Sec. 2 of S.L. 2024-31

Date: August 23, 2024
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Staff Attorney

OVERVIEW: *Section 2 of S.L. 2024-31 creates a new regulatory system for the certification of consumable products and vapor products, including the creation of a public directory of these certified products, and provides enforcement mechanisms for violations of this new regulatory system.*

Section 2 of S.L. 2024-31 becomes effective December 1, 2024.

CURRENT LAW AND BILL ANALYSIS:

G.S. 14-313 contains the laws regulating the sale of tobacco products. Under current law, vapor products are not required to be listed on any state registry.

Section 2.(a) of the act modifies G.S. 14-313 to provide for fines and civil penalties for the sale or distribution of a "consumable product" or "vapor product" that is not listed on the newly created registry. The creation of this registry is addressed by section 2.(b) of the act.

"Consumable product" is defined as follows: "Any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used." A consumable product does not contain any tobacco leaf.

"Vapor product" is defined as follows: "Any noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a consumable product. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, and electronic pipe. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act."

A retailer, distributor, or wholesaler is subject to the following fines and civil penalties for the sale of a consumable product or vapor product that is not listed on the approved registry:

- For a first violation → subject to a warning with a mandatory reinspection.
- For a second violation within a 12-month period → a fine between \$500 and \$750, and a 30-day license suspension if the party is licensed.
- For a third violation within a 12-month period → a fine between \$1,000 and \$1,500, and a license revocation if the party is licensed.
- Additionally, for any second or subsequent violation → consumable products and vapor products not on the registry are subject to seizure and forfeiture.

A manufacturer whose consumable products or vapor products are not listed on the directory and who causes these products to be sold in North Carolina is subject to the following penalties:

- A fine of \$10,000 for each individual product offered for sale.
- A misdemeanor for each false representation made on a registration certification form.

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Section 2.(b) of the act enacts a new part in Article 4 of Chapter 143B of the General Statutes, titled: "Certification and Directory of Vapor Products and Consumable Products." This new part creates a new regulatory system that requires manufacturers to seek certification for consumable products and vapor products with the Department of Revenue before those products can be sold in North Carolina. Manufacturers are required to complete a certification form demonstrating that the manufacturer has complied with the applicable federal law related to the product and pay the required fees. The new article also creates a new public directory available online which will list the certified consumable products and vapor products that have been certified for sale in North Carolina by the Department of Revenue. Beginning on the earlier of either May 1, 2025, or the date that the Department of Revenue first publishes the directory online, only consumable products and vapor products listed on the registry are authorized for sale in North Carolina, with a 60-day grace period for compliance.

EFFECTIVE DATE: Section 2 of S.L. 2024-31 becomes effective December 1, 2024.