

By: Representative Lamar

To: Ways and Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 916

1 AN ACT RELATING TO THE SALE OF CIGARETTES AND ELECTRONIC
2 NICOTINE DELIVERY SYSTEMS (EDS) IN MISSISSIPPI; TO DEFINE CERTAIN
3 TERMS; TO REQUIRE EACH CIGARETTE MANUFACTURER WHOSE CIGARETTES ARE
4 SOLD IN MISSISSIPPI TO FILE AN ANNUAL CERTIFICATION WITH THE
5 COMMISSIONER OF REVENUE CONTAINING SPECIFIED INFORMATION ABOUT THE
6 MANUFACTURER AND ITS CIGARETTES; TO REQUIRE THE COMMISSIONER TO
7 MAINTAIN A STATE CIGARETTE DIRECTORY AVAILABLE TO THE PUBLIC ON
8 THE DEPARTMENT OF REVENUE'S WEBSITE; TO PROHIBIT THE SALE OF A
9 MANUFACTURER'S CIGARETTES IF THE MANUFACTURER IS NOT LISTED ON THE
10 DIRECTORY; TO GIVE RETAILERS AND IMPORTERS, DISTRIBUTORS AND
11 WHOLESALEERS AN OPPORTUNITY TO DISPOSE OF THEIR CIGARETTE INVENTORY
12 THAT IS NOT AUTHORIZED TO BE SOLD IN THE DIRECTORY BEFORE THE
13 INVENTORY IS SEIZED; TO ESTABLISH CIVIL PENALTIES FOR RETAILERS
14 AND OTHER ENTITIES SELLING CIGARETTES THAT ARE NOT INCLUDED IN THE
15 DIRECTORY; TO REQUIRE MANUFACTURERS TO HAVE A REGISTERED AGENT IN
16 THE STATE FOR SERVICE OF PROCESS; TO REQUIRE UNANNOUNCED
17 COMPLIANCE CHECKS BY THE DEPARTMENT OF REVENUE; TO AUTHORIZE THE
18 COMMISSIONER OF REVENUE TO PROMULGATE RULES AND REGULATIONS, AND
19 TO USE FEES AND PENALTIES COLLECTED, FOR THE ADMINISTRATION AND
20 ENFORCEMENT OF THIS ACT; TO REQUIRE ANNUAL REPORTS TO THE
21 LEGISLATURE ON THE STATUS OF THE STATE CIGARETTE DIRECTORY AND
22 ENFORCEMENT ACTIVITIES; TO BRING FORWARD SECTION 27-69-53,
23 MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE CONFISCATION OF
24 CIGARETTES NOT HAVING STAMPS AFFIXED TO THE PACKAGE AS REQUIRED
25 UNDER THE TOBACCO TAX LAW, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
26 BRING FORWARD SECTION 27-69-55, MISSISSIPPI CODE OF 1972, WHICH
27 ESTABLISHES PROCEDURES FOR THE SEIZURE OF CERTAIN TOBACCO PRODUCTS
28 UNDER THE TOBACCO TAX LAW, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
29 BRING FORWARD SECTION 27-69-59, MISSISSIPPI CODE OF 1972, WHICH
30 PROVIDES FOR THE SEARCH AND SEIZURE OF ILLEGALLY SOLD TOBACCO
31 PRODUCTS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO REQUIRE EVERY
32 MANUFACTURER OF ENDS PRODUCTS SOLD FOR RETAIL SALE OR TO A
33 CONSUMER IN MISSISSIPPI TO EXECUTE AND DELIVER TO THE COMMISSIONER
34 OF REVENUE A CERTIFICATION THAT THE MANUFACTURER IS COMPLIANT WITH



THIS ACT; TO DEFINE CERTAIN TERMS RELATING TO THE REGULATION OF
ENDS PRODUCTS; TO REQUIRE THE INFORMATION SUBMITTED BY THE
MANUFACTURER TO BE CONSIDERED CONFIDENTIAL COMMERCIAL OR FINANCIAL
INFORMATION FOR PURPOSES OF THE MISSISSIPPI PUBLIC RECORDS ACT OF
1983; TO REQUIRE THE COMMISSIONER TO MAINTAIN AND MAKE PUBLICLY
AVAILABLE ON THE DEPARTMENT OF REVENUE'S OFFICIAL WEBSITE A
DIRECTORY THAT LISTS ALL ENDS PRODUCT MANUFACTURERS, BRAND NAMES,
CATEGORIES, PRODUCT NAMES AND FLAVORS FOR WHICH CERTIFICATION
FORMS HAVE BEEN SUBMITTED AND APPROVED BY THE COMMISSIONER, AND TO
REQUIRE THE UPDATE OF THE DIRECTORY AT LEAST MONTHLY TO ENSURE
ACCURACY; TO REQUIRE THE COMMISSIONER TO ESTABLISH A PROCESS TO
PROVIDE MANUFACTURERS, LICENSED RETAILERS, DISTRIBUTORS AND
WHOLESALE NOTICES OF THE INITIAL PUBLICATION OF THE DIRECTORY AND
CHANGES MADE TO THE DIRECTORY IN THE PRIOR MONTH; TO PRECLUDE A
MANUFACTURER AND ITS ENDS PRODUCTS FROM BEING INCLUDED OR RETAINED
IN THE DIRECTORY IF THE COMMISSIONER DETERMINES THAT THE
MANUFACTURER FAILED TO PROVIDE A COMPLETE AND ACCURATE
CERTIFICATION AND PROVIDE PAYMENT; TO SUBJECT, AFTER 30 CALENDAR
DAYS FOLLOWING REMOVAL FROM THE DIRECTORY, THE ENDS PRODUCT OF A
MANUFACTURER IDENTIFIED IN THE NOTICE OF REMOVAL TO SEIZURE,
FORFEITURE AND DESTRUCTION, AND TO PROHIBIT THOSE ENDS PRODUCTS
FROM BEING PURCHASED OR SOLD FOR RETAIL SALE OR TO A CONSUMER IN
MISSISSIPPI; TO PROHIBIT THE RETAIL SALE OR SALE TO A CONSUMER IN
MISSISSIPPI OF ENDS PRODUCTS NOT INCLUDED IN THE DIRECTORY AFTER
THE DIRECTORY IS AVAILABLE FOR PUBLIC INSPECTION ON THE
DEPARTMENT'S WEBSITE; TO GIVE EACH RETAILER 60 DAYS AFTER THE
DIRECTORY IS AVAILABLE ON THE DEPARTMENT'S WEBSITE TO EITHER SELL
PRODUCTS THAT ARE IN ITS INVENTORY BUT NOT INCLUDED IN THE
DIRECTORY OR REMOVE THOSE PRODUCTS FROM INVENTORY; TO SUBJECT,
AFTER 60 CALENDAR DAYS FOLLOWING PUBLICATION OF THE DIRECTORY,
ENDS PRODUCTS NOT LISTED IN THE DIRECTORY TO SEIZURE, FORFEITURE
AND DESTRUCTION AND TO PROHIBIT THOSE PRODUCTS FROM BEING
PURCHASED OR SOLD FOR RETAIL SALE OR TO A CONSUMER IN MISSISSIPPI
UNLESS OTHERWISE AUTHORIZED; TO PRESCRIBE CRIMINAL PENALTIES FOR A
MANUFACTURER, RETAILER, DISTRIBUTOR, WHOLESALE OR IMPORTER WHO
SELLS OR OFFERS FOR SALE AN ENDS PRODUCT THAT IS NOT INCLUDED IN
THE DIRECTORY FOR EACH DAY THAT THE INDIVIDUAL ENDS PRODUCT IS
OFFERED FOR SALE IN VIOLATION OF THIS ACT; TO PRESCRIBE INCREASED
PENALTIES FOR SUBSEQUENT OFFENSES; TO AUTHORIZE THE ATTORNEY
GENERAL AND DISTRICT ATTORNEYS TO BRING AN ACTION TO PREVENT A
MANUFACTURER, RETAILER, DISTRIBUTOR, WHOLESALE OR IMPORTER WHO
HAS REPEATEDLY VIOLATED THIS ACT FROM SELLING OR OFFERING TO SELL
AN ENDS PRODUCT NOT INCLUDED IN THE DIRECTORY; TO AUTHORIZE TREBLE
PENALTIES, PLUS ANY OTHER PENALTY PROVIDED BY LAW FOR THE SALE,
POSSESSION OR FURNISHING OF A CONTROLLED SUBSTANCE, IF THE ENDS
PRODUCT CONTAINS ANY CONTROLLED SUBSTANCE THAT CAUSES THE
RECIPIENT TO REQUIRE EMERGENCY MEDICAL CARE; TO AUTHORIZE A CIVIL
PENALTY TO BE ASSESSED AGAINST A MANUFACTURER WHOSE ENDS PRODUCTS
ARE NOT LISTED IN THE DIRECTORY BUT ARE SOLD FOR RETAIL SALE OR TO
A CONSUMER IN MISSISSIPPI FOR EACH ENDS PRODUCT SOLD IN VIOLATION
OF THIS ACT; TO REQUIRE A MANUFACTURER LOCATED OUTSIDE THE UNITED



STATES TO CAUSE EACH OF ITS IMPORTERS OF ANY OF ITS PRODUCTS TO BE SOLD IN MISSISSIPPI TO APPOINT, AND CONTINUALLY ENGAGE WITHOUT INTERRUPTION, THE SERVICES OF AN AGENT IN THE STATE; TO REQUIRE A MANUFACTURER TO PROVIDE WRITTEN NOTICE TO THE COMMISSIONER 30 CALENDAR DAYS BEFORE THE TERMINATION OF THE AUTHORITY OF AN AGENT; TO REQUIRE UNANNOUNCED COMPLIANCE CHECKS BY THE DEPARTMENT OF REVENUE; TO AUTHORIZE THE ATTORNEY GENERAL'S OFFICE TO CONDUCT RANDOM, UNANNOUNCED INSPECTIONS AT LOCATIONS WHERE ENDS PRODUCTS ARE SOLD; TO REQUIRE THE COMMISSIONER TO SUBMIT AN ANNUAL REPORT TO THE LEGISLATURE CONTAINING CERTAIN INFORMATION RELATED TO THE REGISTRY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. As used in Sections 1 through 9 of this act, the following words and phrases have the meanings ascribed in this section unless the context clearly requires otherwise:

(a) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings" and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(b) "Cigarette" means a product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains any of the following:

(i) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(ii) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco



used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(iii) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette.

The term "cigarette" includes roll-your-own tobacco, meaning tobacco which, because of its appearance, type, packaging or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of the term "cigarette," nine one-hundredths (0.09) ounces of roll-your-own tobacco constitute one (1) individual cigarette.

(c) "Cigarette manufacturer" or "manufacturer" means an entity that does any of the following:

(i) Manufactures cigarettes anywhere that the manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer;

(ii) Is the first purchaser anywhere, for resale in the United States, of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(iii) Becomes a successor of an entity described in subparagraph (i) or (ii).



(d) "Commissioner" means the Commissioner of Revenue of the Department of Revenue.

(e) "Department" means the Department of Revenue.

(f) "Directory" means the state cigarette directory created and maintained by the commissioner under Section 3 of this act.

(g) "Distributor" means a person, other than a retailer, who manufactures or produces cigarettes, or who ships, transports or imports cigarettes into this state, or who in any manner acquires or possesses cigarettes and makes a first sale of the cigarettes in the state.

(h) "Importer" means a person, firm, corporation, association or other business entity who imports cigarettes from any state or foreign country for distribution, sale, use or consumption in the state.

(i) "Retailer" means a person, other than a wholesaler, whose business is that of selling merchandise at retail and who sells, or offers for sale, cigarettes to a consumer in this state.

(j) "Wholesaler" means a person, firm, corporation, association or other business entity who sells cigarettes to retailers in this state for the purpose of resale.

SECTION 2. (1) Before September 1 of each year, beginning in 2025, each cigarette manufacturer whose cigarettes are sold in this state, whether directly or through an importer, wholesaler, distributor, retailer or similar intermediary, shall execute and



167 deliver a certification to the commissioner, on a form and in a
168 manner prescribed by the commissioner, certifying that the
169 manufacturer is in compliance with Sections 1 through 9 of this
170 act. Each certification must include the following information:

171 (a) A list of the manufacturer's brand families that
172 are sold in Mississippi, which must be updated by executing and
173 delivering to the commissioner a supplemental certification no
174 later than thirty (30) days before any addition to or modification
175 of the list is to take effect;

176 (b) Verification that the manufacturer possesses all
177 orders required by the United States Food and Drug Administration,
178 which must be current, for the manufacture and sale of the
179 cigarettes included in the manufacturer's brand families;

180 (c) Verification that the manufacturer is registered to
181 do business in this state or has a resident agent for service of
182 process, as required under Section 6 of this act; and

183 (d) All other information and materials specifically
184 requested by the commissioner in the course of enforcing this
185 section.

186 (2) A cigarette manufacturer that is not listed in the
187 directory maintained by the commissioner pursuant to Section 3 of
188 this act must submit an initial certification subject to the same
189 requirements and review process required under this section for
190 annual certifications.



191 (3) If the certification required under subsection (1) of
192 this section is rejected due to incompleteness or incorrectness,
193 the cigarette manufacturer may not submit supplemental
194 documentation to try to cure the rejection but must execute and
195 deliver an entirely new certification to the commissioner.

196 (4) Each annual certification form must be accompanied by a
197 fee in such amount as may be prescribed by the commissioner.

198 (5) A manufacturer required to submit a certification form
199 under this section must notify the commissioner of any material
200 change to the certification form within thirty (30) days of the
201 change. A material change includes, but is not limited to, any
202 order or action by the Food and Drug Administration or any court
203 which affects the ability of the manufacturer's cigarettes to be
204 distributed for commercial distribution or sale in the United
205 States.

206 (6) A manufacturer that falsely represents any information
207 required by a certification form is guilty of a misdemeanor for
208 each false representation.

209 **SECTION 3.** (1) Beginning on October 1, 2025, the
210 commissioner shall maintain and make publicly available on the
211 department's website a state cigarette directory listing all
212 cigarette manufacturers that have provided current and accurate
213 certification forms conforming to the requirements of Section 2 of
214 this act and all brand families that are listed in each
215 manufacturer's certification. The commissioner shall update the



216 directory at least monthly to ensure accuracy. The commissioner
217 shall establish a process to provide retailers, distributors,
218 wholesalers and importers notice of the initial publication of the
219 directory and subsequently, of changes made to the directory in
220 the prior month.

221 (2) Neither a manufacturer nor its brand family may be
222 included or retained in the directory if the commissioner
223 determines that:

224 (a) The manufacturer failed to provide a complete and
225 accurate certification as required by subsection (1) of this
226 section;

227 (b) The manufacturer submitted a certification that
228 does not comply with the requirements of Section 2 of this act;

229 (c) The manufacturer failed to include with its
230 certification the payment required by subsection (4) of Section 2;

231 (d) The manufacturer sold cigarettes in Mississippi
232 required to be certified under Sections 1 through 9 of this act
233 during a period when either the manufacturer or the cigarettes
234 were not certified and listed on the directory; or

235 (e) The information provided by the manufacturer in its
236 certification is determined by the commissioner to contain false
237 information or material misrepresentations or omissions.

238 (3) The commissioner shall provide a manufacturer notice and
239 an opportunity to cure deficiencies before removing a manufacturer
240 or its brand family of cigarettes from the directory.



(4) The commissioner may not remove a manufacturer or its brand family from the directory before the manufacturer has received notice of the intended removal from the commissioner setting forth the reasons for the action. Notice is sufficient and deemed to be immediately received by a manufacturer if the notice is sent either electronically or by facsimile to an electronic mail address or facsimile number, as the case may be, provided by the manufacturer in its most recent certification filed under Section 2 of this act.

(5) Upon receipt of the notice required under subsection (4) of this section, the manufacturer, no later than fifteen (15) business days from the date of service of the notice, must cure the deficiencies or otherwise establish that the manufacturer or its brand family should be included in the directory.

(6) The commissioner shall update the directory as necessary in order to correct mistakes and to add or remove a manufacturer or brand family to keep the directory in conformity with the requirements of Sections 1 through 9 of this act.

SECTION 4. (1) Except as provided in subsections (2) and (3) of this section, beginning October 1, 2025, or on the date that the commissioner first makes the directory available for public inspection on the department's website, whichever is later, cigarettes not included in the directory may not be sold for retail sale in Mississippi, either directly or through an



importer, distributor, wholesaler, retailer or similar intermediary.

(2) (a) Each retailer has sixty (60) days from the date that the commissioner first makes the directory available for inspection on the department's website to either sell cigarettes in the retailer's inventory which are not included in the directory or remove those cigarettes from inventory.

(b) Upon the expiration of the initial sixty (60) days after the first date the directory is available on the department's website, a retailer has thirty (30) days following the date of removal of a manufacturer or its brand family from the directory to either sell the cigarettes in the retailer's inventory on the date of removal from the directory or remove those cigarettes from inventory.

(3) (a) Each importer, distributor or wholesaler has sixty (60) days from the date that the commissioner first makes the directory available for inspection on the department's website to remove those cigarettes intended for sale in the state from its inventory.

(b) Upon the expiration of the initial sixty (60) days after the first date the directory is available on the department's website, an importer, distributor or wholesaler has thirty (30) days following the date of removal of a manufacturer or its brand family from the directory to remove those cigarettes intended for sale in the state from its inventory.



(4) Cigarettes that must be sold or removed from inventory under subsections (2) and (3) of this section because those cigarettes are not included in, or are removed from, the directory may not be purchased or sold for retail sale in Mississippi, either directly or through an importer, distributor, wholesaler, retailer or similar intermediary, and are subject to seizure, forfeiture and destruction. The cost of the seizure, forfeiture and destruction must be borne by the person from whom the cigarettes are confiscated. The commissioner may store and dispose of the seized cigarettes as appropriate in accordance with applicable federal, state and local laws pertaining to storage and disposal of such products.

(5) Cigarettes in the possession of a consumer who has made a bona fide purchase of the cigarettes subject to being seized under this section may not be seized.

SECTION 5. (1) In addition to the seizure and destruction of cigarettes being made available for sale in violation of Section 4 of this act, the following penalties apply:

(a) A retailer, distributor, wholesaler or importer who sells or offers for sale cigarettes in Mississippi which are not included in the directory is subject to a civil penalty in an amount not more than Five Hundred Dollars (\$500.00) per day for each style of cigarette in a brand family which is offered for sale in violation of Sections 1 through 9 of this act until the



offending product is removed from the market or properly listed on the directory.

(b) For a second violation, whether involving the same or a different style of cigarettes in a brand family, by the same retailer, distributor, wholesaler or importer occurring within a period of twelve (12) months, the civil penalty must be an amount not less than Seven Hundred Fifty Dollars (\$750.00) nor more than One Thousand Dollars (\$1,000.00) per day for each style of cigarette in a brand family which is offered for sale in violation of Sections 1 through 9 of this act until the offending product is removed from the market or properly listed on the directory.

(c) For a third violation, whether involving the same or a different style of cigarettes in a brand family, by the same retailer, distributor, wholesaler or importer occurring within a period of twelve (12) months after the initial violation, the civil penalty must be an amount not less than One Thousand Dollars (\$1,000.00) nor more than One Thousand Five Hundred Dollars (\$1,500.00) per day for each style of cigarette in a brand family which is offered for sale in violation of Sections 1 through 9 of this act until the offending product is removed from the market or properly listed on the directory.

(2) A manufacturer whose cigarettes are not listed in the directory and who causes the products that are not listed to be sold for retail sale in Mississippi, whether directly or through an importer, distributor, wholesaler, retailer or similar



intermediary, is subject to a civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each style of cigarette in a brand family which is offered for sale in violation of Sections 1 through 9 of this act until the offending product is removed from the market or properly listed on the directory.

(3) In an action to enforce Sections 1 through 9 of this act, the state is entitled to recover costs, including the costs of investigation, expert witness fees and reasonable attorney fees.

SECTION 6. (1) As a condition precedent to having its name or its cigarettes listed and retained in the directory maintained by the commissioner pursuant to Section 3 of this act, a manufacturer not registered to do business in the state must appoint and continually engage, without interruption, a registered agent in Mississippi for service of process on whom all process and any action or proceeding arising out of the enforcement of Sections 1 through 9 of this act may be served. The manufacturer shall provide to the commissioner the name, address and telephone number of its agent for service of process and any other information relating to its agent which may be requested by the commissioner.

(2) As a condition precedent to having its name or its cigarettes listed and retained in the directory maintained by the commissioner pursuant to Section 3 of this act, a manufacturer located outside of the United States shall cause each of its



importers of any of its cigarettes to be sold in Mississippi to appoint and continually engage, without interruption, the services of an agent in the state in accordance with this section. All obligations of a manufacturer imposed by this section with respect to appointment of its agent also apply to importers with respect to appointment of their agents.

(3) A manufacturer shall provide written notice to the commissioner no later than thirty (30) calendar days before the termination of the authority of an agent appointed pursuant to subsection (1) or (2) of this section. No less than five (5) calendar days before the termination of an existing agent appointment, a manufacturer shall provide to the commissioner the name, address and telephone number of its newly appointed agent for service of process and any other information relating to the new appointment which may be requested by the commissioner. If an agent terminates an agency appointment, the manufacturer must notify the commissioner of the termination within five (5) calendar days and include proof to the satisfaction of the commissioner of the appointment of a new agent.

SECTION 7. Each retailer, distributor and wholesaler that sells or distributes cigarettes in this state is subject to no less than two (2) unannounced compliance checks annually by the department for purposes of enforcing Sections 1 through 9 of this act. Unannounced follow-up compliance checks of all noncompliant retailers, distributors and wholesalers must be conducted no later



389 than thirty (30) days after a violation of Sections 1 through 9 of
390 this act. The department shall publish the results of all
391 compliance checks at least annually and make the results available
392 to the public on request.

393 **SECTION 8.** (1) The commissioner, acting through the
394 department, may promulgate rules and regulations necessary to
395 effectuate the purposes of this act.

396 (2) All fees and penalties collected by the commissioner
397 pursuant to Sections 1 through 9 of this act must be used for the
398 administration and enforcement of Sections 1 through 9 of this
399 act.

400 **SECTION 9.** Before January 1, 2026, and annually thereafter,
401 the commissioner shall provide a report to the Legislature on the
402 status of the directory, manufacturers and cigarettes included in
403 the directory, revenue and expenditures related to administration
404 of Sections 1 through 9 of this act, and enforcement activities
405 undertaken pursuant to Sections 1 through 9 of this act.

406 **SECTION 10.** Section 27-69-53, Mississippi Code of 1972, is
407 brought forward as follows:

408 27-69-53. Any cigarettes found at any point within this
409 state, in the possession of a dealer or any person for a period of
410 time longer than specified by Section 27-69-27 and not having
411 affixed to the package, the stamps as required, and any tobacco
412 subject to the tax found in the possession of any wholesaler,
413 distributor or dealer required by this chapter to obtain a permit,



414 who has not procured a permit, or whose permit has been revoked
415 and not reinstated, are hereby declared to be contraband goods,
416 and the same may be seized by the commissioner, or his agents, or
417 employees, or by any peace officer of this state, when directed by
418 the commissioner so to do, without a warrant, and the said goods
419 shall be offered by the commissioner for sale at public auction to
420 the highest bidder after due advertisement, but the commissioner
421 before delivering any of said goods so seized shall require the
422 purchaser to affix the proper amount of stamps to the cigarettes
423 or pay the excise tax on other tobacco as required by this
424 chapter. The proceeds of sale for any goods sold shall be paid to
425 the State Treasurer by the commissioner as are other funds
426 collected. Provided, that the cost of confiscation and sale shall
427 be paid out of the proceeds derived from such sale before making
428 remittance to the State Treasurer. The time limit herein
429 specified for affixing said stamps shall not apply to any person
430 who, within said time limits, shall offer for sale, either at
431 wholesale or retail, any cigarettes, and all cigarettes when
432 offered for sale either at wholesale or retail without the stamps
433 having been first affixed, shall be subject to confiscation.
434 Provided further, that any vehicle, not a common carrier, which
435 may be used in transporting for the purpose of sale any unstamped
436 cigarettes, shall likewise be subject to confiscation and sale in
437 the same manner as above provided.



438 The seizure, forfeiture and sale of contraband goods under
439 this section and Section 27-69-55 is supplemental and in addition
440 to the seizure, forfeiture and sale of contraband tobacco provided
441 for in Section 27-69-56. Where a basis exists under both this
442 section and Section 27-69-55 and under Section 27-69-56 for the
443 seizure, forfeiture and sale of the same contraband goods, such
444 actions can proceed simultaneously. Where such simultaneous
445 seizure, forfeiture and sale is undertaken and there is a conflict
446 between the procedures contained in this section and Section
447 27-69-55 and those contained in Section 27-69-56, the procedures
448 contained in Section 27-69-56 shall control and be followed.

449 **SECTION 11.** Section 27-69-55, Mississippi Code of 1972, is
450 brought forward as follows:

451 27-69-55. In all cases of seizures of any tobacco, or other
452 property hereafter made as being subject to forfeiture under the
453 provisions of this chapter, which in the opinion of the officer or
454 person making the seizure, is of the appraised value of
455 Twenty-five Dollars (\$25.00) or more, the said officer or person
456 shall proceed as follows:

457 First: He shall cause a list containing a particular
458 description of the tobacco or other property seized to be prepared
459 in duplicate, and an appraisalment thereof to be made by three (3)
460 sworn appraisers to be selected by him, who shall be respectable
461 and disinterested citizens of this state, residing within the
462 county wherein the seizure was made. Said list and appraisalment



shall be properly attested by said officer, or person, and the said appraisers, for which service each of said appraisers shall be allowed the sum of One Dollar (\$1.00) per day for not exceeding two (2) days, to be paid as other costs.

Second: If the said tobacco, or other property seized, is believed by the officer making the seizure to be of less value than Twenty-five Dollars (\$25.00), no appraisement shall be made.

Third: The officer or person making the seizure shall proceed to give notice thereof for five (5) days, in writing, at three (3) places in the county where the seizure is made. One (1) of the notices shall be posted at the county courthouse; another at the place where the goods were seized; and the other at some public place. The notice shall describe the property seized, and state the time and place and cause of seizure, and give the name and place of residence, if known, of the person from whom the property was seized, and shall require any person claiming it to appear and make such claims in writing, within five (5) days from the date of the first posting of such notice. Such officer or person making the seizure shall also deliver to the person from whom the property was seized, and also to the owner, if known, a copy of said notice.

Fourth: Any person claiming the said property so seized as contraband within the time specified in the notice, may file with the commissioner a claim, in writing, stating his interest in the property seized, and may execute a bond to the State of



Mississippi in a penal sum equal to double the value of said property so seized, but in no case shall said bond be less than the sum of One Hundred Dollars (\$100.00), with securities to be approved by the clerk of the circuit court in the county in which the property is seized, conditioned that in the case of condemnation of the property so seized, the obligor shall pay to the State of Mississippi the full value of the property so seized, and all costs and expenses of the proceedings to obtain such condemnation, including a reasonable attorney's fee. And upon the delivery of such bond to the commissioner, he shall transmit the same with the duplicate list or description of the property seized to the county attorney of the county, or the district attorney of the district in which such seizure was made, and the said county attorney, or district attorney, as the case may be, shall prosecute the case to secure the forfeiture of said property in the court having jurisdiction. Upon the filing of the bond aforesaid, the said property shall be delivered to the claimant pending the outcome of the case, provided he shall at once affix the required stamps on cigarettes or pay the tax due on other tobacco products.

Fifth: If no claim is interposed, and no bond given within the time above specified, such property shall be forfeited without further proceedings, and the same shall be sold as herein provided, and the proceeds of the sale, when received by the commissioner, shall be paid into the State Treasury as are other



funds collected, provided, that in seizures of property of less value than Twenty-five Dollars (\$25.00), the same may be advertised with other quantities at Jackson by the commissioner and disposed of as hereinabove provided.

Sixth: In proceedings to secure a confiscation of the property hereinbefore mentioned, where the value of the goods seized at one time does not exceed the amount provided in Section 9-11-9, the justice court judge of the county where the property is seized shall have jurisdiction to try the cause. Where the value of the property seized at one time is in excess of the amount provided in Section 9-11-9, then the circuit court of the county where the property is seized shall have jurisdiction to try the cause; provided, that in counties having a county court, the county court shall have jurisdiction concurrent with the circuit court, and with the justice court where the value of the property seized does not exceed One Thousand Dollars (\$1,000.00).

The proceedings against property seized according to the provisions of this chapter shall be considered a proceeding in rem unless otherwise herein provided.

Within ten (10) days after filing the bond provided for in paragraph fourth hereof, the claimant shall file a petition in the court having jurisdiction of said cause, which shall stand for a declaration, and the commissioner, or other party authorized to prosecute the confiscation of said property, shall plead to it as if it were an ordinary action at law, and the same rules of



pleading and proceeding applicable to actions in the circuit court shall be observed in this action, and all issues made by the pleadings shall be tried and disposed of as other actions in the circuit court, and the judgment of the circuit court shall be framed to meet the circumstances of the case and the cost shall be adjudged as in other actions; provided, however, neither the state, nor the commissioner, nor any other person representing the state, shall be liable for the cost in the event the court shall not confiscate the property in controversy.

The seizure, forfeiture and sale of contraband goods under this section and Section 27-69-53 is supplemental and in addition to the seizure, forfeiture and sale of contraband tobacco provided for in Section 27-69-56. Where a basis exists under both this section and Section 27-69-53 and under Section 27-69-56 for the seizure, forfeiture and sale of the same contraband goods, such actions can proceed simultaneously. Where such simultaneous seizure, forfeiture and sale is undertaken and there is a conflict between the procedures contained in this section and Section 27-69-53 and those contained in Section 27-69-56, the procedures contained in Section 27-69-56 shall control and be followed.

SECTION 12. Section 27-69-59, Mississippi Code of 1972, is brought forward as follows:

27-69-59. When the commissioner has good reason to believe that tobacco is being kept, sold, offered for sale, or given away in violation of this chapter, or regulations issued under



563 authority hereof, he may make affidavit of such fact, describing
564 the place or thing to be searched, before any justice of the
565 peace, mayor of any city, town or village, or county or circuit
566 judge of any county in this state, and such justice of the peace,
567 mayor or county or circuit judge shall issue a search warrant
568 directed to the sheriff or any constable or any police officer in
569 any city, town or village, commanding him to proceed in the day
570 time, or in the night time, to enter by breaking, if necessary,
571 and to diligently search any building, room in a building,
572 outhouses, place, wagon, cart, buggy, motorcycle, motor truck,
573 automobile, water or air craft, or other vehicle as may be
574 designated in the affidavit and search warrant, and to seize such
575 tobacco so possessed and to hold the same until disposed of by
576 law, and to arrest the person or persons in possession or control
577 of the same.

578 Such writ shall be returnable instanter, or on a day to be
579 stated, and a copy shall be served on the owner or person in
580 possession, if such person be present or readily found.

581 If upon hearing, or the return of such search warrant, it
582 shall appear that any tobacco unlawfully possessed were seized,
583 the same shall be declared forfeited to this state, and shall be
584 sold as provided in Section 27-69-55 of this chapter.

585 **SECTION 13.** For purposes of this section and Section 14 of
586 this act, the following words and phrases have the meanings



ascribed in this section unless the context clearly indicates otherwise:

(a) "Commissioner" means the Commissioner of Revenue of the Department of Revenue.

(b) "Department" means the Department of Revenue.

(c) "ENDS product":

(i) Means any noncombustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from nicotine in a solution;

(ii) Includes a consumable nicotine liquid solution suitable for use in an ENDS product, whether sold with the product or separately; and

(iii) Does not include any product regulated as a drug or device under Chapter V of the Federal Food, Drug, and Cosmetic Act (21 USC Section 351 et seq.).

(d) "Timely filed premarket tobacco product application" means an application pursuant to 21 USC Section 387j for an ENDS product containing nicotine derived from tobacco marketed in the United States as of August 8, 2016, that was submitted to the United States Food and Drug Administration on or before September 9, 2020, and accepted for filing.

(e) "FDA" means the United States Food and Drug Administration.



SECTION 14.

(1) Before September 1, 2025, and annually thereafter, every manufacturer of an ENDS product that is sold for retail sale or to a consumer in Mississippi, whether directly or through an importer, wholesaler, distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver to the commissioner a certification, under penalty of perjury on a form and in a manner prescribed by the commissioner, that the manufacturer is compliant with this section and that for each ENDS product sold in Mississippi:

(a) The manufacturer has received a marketing granted order for the ENDS product from the FDA pursuant to 21 USC Section 387j;

(b) The manufacturer submitted a timely filed premarket tobacco product application for the ENDS product to the FDA pursuant to 21 USC Section 387j, and the application either remains under review by the FDA or has received a denial order that has been and remains stayed by the FDA or court order, rescinded by the FDA, or vacated by a court; or

(c) The manufacturer is not required to submit an additional marketing granted order or premarket tobacco product application for the ENDS product because the ENDS product merely reflects changes to the name, brand style or packaging of an ENDS product that is covered under paragraph (a) or (b) of this subsection.



635 (2) The certification form must separately list each brand
636 name, category (e.g., e-liquid, power unit, device, e-liquid
637 cartridge, e-liquid pod, disposable), product name, and flavor for
638 each ENDS product that is sold in Mississippi.

639 (3) Each annual certification form must be accompanied by:

640 (a) A copy of:

641 (i) The marketing granted order issued by the FDA
642 pursuant to 21 USC Section 387j;

643 (ii) A copy of the acceptance letter issued by the
644 FDA pursuant to 21 USC Section 387j for a timely filed premarket
645 tobacco product application; or

646 (iii) A document issued by FDA or by a court
647 confirming that the premarket tobacco product application has
648 received a denial order that has been and remains stayed by FDA or
649 court order, rescinded by FDA, or vacated by a court; and

650 (b) A payment of Five Hundred Dollars (\$500.00) for
651 each ENDS product each time a manufacturer submits an annual
652 certification form for that ENDS product.

653 (4) The information submitted by the manufacturer pursuant
654 to subsection (3)(a) of this section is considered confidential
655 commercial or financial information for purposes of the
656 Mississippi Public Records Act of 1983 (Sections 25-61-1 through
657 25-61-19). The manufacturer may redact certain confidential
658 commercial or financial information provided under subsection



(3)(a) of this section. The commissioner shall not disclose such information except as required or authorized by law.

(5) A manufacturer required to submit a certification form pursuant to this section shall notify the commissioner within thirty (30) calendar days of any material change to the certification form, including the issuance or denial of a marketing authorization or other order by the FDA pursuant to 21 USC Section 387j, or any other order or action by the FDA or any court that affects the ability of the ENDS product to be introduced or delivered into interstate commerce for commercial distribution in the United States.

(6) Beginning on October 1, 2025, the commissioner shall maintain and make publicly available on the department official website a directory that lists all ENDS product manufacturers, brand names, categories (e.g., e-liquid, e-liquid cartridge, e-liquid pod, disposable), product names, and flavors for which certification forms have been submitted and approved by the commissioner. The commissioner shall update the directory at least monthly to ensure accuracy. The commissioner shall establish a process to provide manufacturers, licensed retailers, distributors, and wholesalers notice of the initial publication of the directory and changes made to the directory in the prior month.



(7) Neither a manufacturer nor its ENDS products may be included or retained in the directory if the commissioner determines that any of the following apply:

(a) The manufacturer failed to provide a complete and accurate certification as required by subsection (1);

(b) The manufacturer submitted a certification that does not comply with the requirements of subsection (2) and (3);

(c) The manufacturer failed to include with its certification the payment required by subsection (3) (b);

(d) The manufacturer sold ENDS products in Mississippi required to be certified under this section during a period when either the manufacturer or the ENDS product had not been certified and listed on the directory; or

(e) The information provided by the manufacturer in its certification is determined by the commissioner to contain false information or contains material misrepresentations or omissions.

(8) The commissioner shall provide manufacturers notice and an opportunity to cure deficiencies before removing manufacturers or ENDS products from the directory.

(a) The commissioner may not remove the manufacturer or its ENDS products from the directory until at least thirty (30) business days after the manufacturer has been given notice of an intended action setting forth the reasons therefor. Notice is sufficient and deemed immediately received by a manufacturer if the notice is sent either electronically or by facsimile to an



707 electronic mail address or facsimile number, as the case may be,
708 provided by the manufacturer in its most recent certification
709 filed under subsections (2) and (3) of this section.

710 (b) The ENDS product manufacturer has fifteen (15)
711 business days from the date of service of the notice of the
712 commissioner's intended action to cure the deficiencies or
713 otherwise establish that the ENDS product manufacturer or its
714 products should be included in the directory.

715 (c) Retailers have thirty (30) days following the
716 removal of a manufacturer or its ENDS products from the directory
717 to sell such ENDS products that were in the retailer's inventory
718 as of the date of removal.

719 (d) After thirty (30) calendar days following removal
720 from the directory, the ENDS product of a manufacturer identified
721 in the notice of removal and intended for retail sale or to a
722 consumer in Mississippi is subject to seizure, forfeiture and
723 destruction by the department, the Attorney General's office or
724 any law enforcement agency in the State of Mississippi, and may
725 not be purchased or sold for retail sale or to a consumer in
726 Mississippi. The cost of such seizure, forfeiture and destruction
727 must be borne by the person from whom the ENDS products are
728 confiscated, except that no ENDS products may be seized from a
729 consumer who has made a bona fide purchase of the ENDS product.
730 The department, Attorney General's office or other law enforcement
731 agency, as the case may be, may store and dispose of the seized



ENDS products as appropriate, in accordance with federal, state and local laws pertaining to storage and disposal of ENDS products.

(9) (a) Except as provided in paragraphs (b) and (c) of this subsection, beginning on October 1, 2025, or on the date that the commissioner first makes the directory available for public inspection on the department's official website, whichever is later, ENDS products not included in the directory may not be sold for retail sale in Mississippi, either directly or through an importer, distributor, wholesaler, retailer or similar intermediary or intermediaries.

(b) Each retailer has sixty (60) days from the date that the commissioner first makes the directory available for inspection on the department's website to either sell ENDS products that were in its inventory and not included in the directory or remove those ENDS products from inventory.

(c) Each distributor or wholesaler has sixty (60) days from the date that the commissioner first makes the directory available for inspection on the department's website to remove those ENDS products intended for sale in the state from its inventory.

(d) After sixty (60) calendar days following publication of the directory, ENDS products not listed in the directory and intended for retail sale in Mississippi are subject to seizure, forfeiture and destruction by the department, Attorney



General's office or any law enforcement agency in the state, and may not be purchased or sold for retail sale or to a consumer in Mississippi except as provided in subsection (8) of this section. The cost of such seizure, forfeiture and destruction must be paid by the person from whom the ENDS products are confiscated, except that no ENDS products may be seized from a consumer who has made a bona fide purchase of the ENDS product. The department, Attorney General's office or other law enforcement agency, as the case may be, may store and dispose of the seized ENDS products as appropriate, in accordance with federal, state and local laws pertaining to storage and disposal of ENDS products.

(10) (a) A manufacturer, retailer, distributor, wholesaler, or importer who sells or offers for sale an ENDS product for retail sale or to a consumer in Mississippi that is not included in the directory is subject to a criminal penalty imposed by the Attorney General's office or a circuit court. Each violation of this subsection is a separate offense. A violation of this subsection is punishable as follows:

(i) For each individual ENDS product offered for sale in violation of this section until the offending product is removed from the market or until the offending product is properly listed on the directory, the penalty must be not more than Five Hundred Dollars (\$500.00) per ENDS product per day.

(ii) For a second violation of this type within a twelve-month period, the penalty must be at least Seven Hundred



Fifty Dollars (\$750.00), but not more than One Thousand Dollars (\$1,000.00), per ENDS product per day.

(iii) For a third violation of this type within a twelve-month period after the initial violation, the penalty must be at least One Thousand Dollars (\$1,000.00), but not more than One Thousand Five Hundred Dollars (\$1,500.00), per ENDS product per day.

(iv) For any subsequent violation, the Attorney General or district attorney may bring an action in the appropriate court to prevent a manufacturer, retailer, distributor, wholesaler or importer from selling or offering to sell an ENDS product that is not included in the directory.

(v) If the ENDS product contains any controlled substance, including, but not limited to, fentanyl, which causes the recipient of the ENDS product to require emergency medical care as a result of using the ENDS product, then the applicable penalty described in this paragraph must be trebled, and any other penalty provided by law for the sale, possession or furnishing of a controlled substance also must be assessed.

(b) Additionally, a manufacturer whose ENDS products are not listed in the directory and who causes the ENDS products that are not listed to be sold for retail sale in Mississippi, whether directly or through an importer, distributor, wholesaler, retailer, or similar intermediary or intermediaries, is subject to a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00)



per day for each individual ENDS product offered for sale in violation of this section until the offending ENDS product is removed from the market or until the offending ENDS product is properly listed on the directory. In addition, any manufacturer that falsely represents any information required by a certification form is guilty of a misdemeanor for each false representation.

(c) In an action to enforce this section, the state is entitled to recover costs, including the costs of investigation, expert witness fees and reasonable attorney fees.

(d) A repeated violation of this section constitutes a deceptive trade practice under Section 75-24-5.

(11) (a) A manufacturer not registered to do business in the state, as a condition precedent to having its name or its ENDS products listed and retained in the directory, shall appoint and continually engage without interruption a registered agent in Mississippi for service of process on whom all process and any action or proceeding arising out of the enforcement of this section may be served. The manufacturer shall provide to the commissioner the name, address and telephone number of its agent for service of process and any other information relating to its agent that may be requested by the commissioner.

(b) A manufacturer located outside the United States, as an additional condition precedent to having its ENDS products listed or retained in the directory, shall cause each of its



importers of any of its ENDS products to be sold in Mississippi to appoint, and continually engage without interruption, the services of an agent in the state in accordance with the provisions of this section. All obligations of a manufacturer imposed by this section with respect to appointment of its agent also shall apply to the importers with respect to appointment of their agents.

(c) A manufacturer shall provide written notice to the commissioner thirty (30) calendar days before the termination of the authority of an agent appointed under paragraphs (a) and (b) of this subsection. No less than five (5) calendar days before the termination of an existing agent appointment, a manufacturer shall provide to the commissioner the name, address and telephone number of its newly appointed agent for service of process and any other information relating to the new appointment that may be requested by the commissioner. In the event an agent terminates an agency appointment, the manufacturer shall notify the commissioner of the termination within five (5) calendar days and include proof to the satisfaction of the commissioner of the appointment of a new agent.

(12) (a) A nonresident or foreign manufacturer that has not registered to do business in the state as a foreign corporation or business entity, as a condition precedent to having its name or its ENDS products listed and retained in the directory, must submit to the commissioner a surety bond or other cash security payable to the State of Mississippi in the amount of Twenty-five



Thousand Dollars (\$25,000.00). The bond must be posted by a corporate surety located within the United States.

(b) The bond must be conditioned on the performance by the manufacturer of all requirements and obligations imposed by this section. A surety on a manufacturer's bond is liable up to the amount of the bond, and the state may execute on the surety bond for the payment of fines and penalties imposed on the manufacturer under this section and for the costs of seizure and destruction of ENDS products sold in violation of this section. If the state executes on the surety bond, the state may require the manufacturer to provide an additional bond as a condition precedent for retaining the manufacturer or its ENDS products in the directory.

(c) A surety on a bond furnished by a manufacturer as required in this section must be released and discharged from liability to the state accruing on the bond after the expiration of sixty (60) days from the date upon which the surety lodges with the commissioner a written request to be released and discharged; however, the surety is not relieved, released or discharged from liability already accrued or which shall accrue before the expiration of the sixty-day period. Upon receiving a surety's request to be released and discharged, the commissioner shall notify the manufacturer that furnished the bond. Unless the manufacturer, on or before the expiration of the sixty-day period, files with the commissioner a new bond with a surety approved by



and acceptable to the commissioner, the commissioner shall remove the manufacturer and its ENDS products from the directory.

(13) Each retailer, distributor and wholesaler that sells or distributes ENDS products in this state or to a consumer in this state is subject to at least two (2) unannounced compliance checks annually by the department for purposes of enforcing this section. Unannounced follow-up compliance checks of all noncompliant retailers, distributors and wholesalers must be conducted within thirty (30) days after violation of this section. The department shall publish the results of all compliance checks annually and shall make the results available to the public upon request. This section does not affect the authority of the Attorney General's office under Section 97-32-21 to ensure compliance with the Mississippi Juvenile Tobacco Access Prevention Act of 1997 by conducting random, unannounced inspection checks where alternative nicotine products, tobacco or tobacco products are sold or distributed. The Attorney General's office also has the authority to conduct random, unannounced inspections at locations where ENDS products are sold to ensure compliance with this section.

(14) The commissioner may promulgate rules necessary to effectuate the purposes of this section. Before January 1, 2026, the department shall promulgate rules and regulations and implement a permitting process for retailers, wholesalers and distributors of ENDS products in Mississippi.



906 (15) All fees and penalties collected by the commissioner
907 pursuant to this section must be used for administration and
908 enforcement of this section.

909 (16) Before January 1, 2026, and annually thereafter, the
910 commissioner shall provide a report to the Legislature regarding
911 the status of the directory, manufacturers and ENDS products
912 included in the directory, revenue and expenditures related to
913 administration of this section, and enforcement activities
914 undertaken pursuant to this section of this act.

915 **SECTION 15.** This act shall take effect and be in force from
916 and after July 1, 2025.

