

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1660: Cigarettes and vape products; require Commissioner of Revenue to establish separate directories to regulate sales of.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

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

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

105 (ii) Tobacco, in any form, that is functional in
106 the product, which, because of its appearance, the type of tobacco
107 used in the filler, or its packaging and labeling, is likely to be
108 offered to, or purchased by, consumers as a cigarette; or

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

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

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

123 (i) Manufactures cigarettes anywhere that the
124 manufacturer intends to be sold in the United States, including

125 cigarettes intended to be sold in the United States through an
126 importer;

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

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

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

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

135 (f) "Directory" means the state cigarette directory
136 created and maintained by the Commissioner of Revenue under
137 Section 3 of this act.

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

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

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

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

153 **SECTION 2.** (1) Before September 1 of each year, beginning
154 in 2024, each cigarette manufacturer whose cigarettes are sold in
155 this state, whether directly or through an importer, wholesaler,
156 distributor, retailer or similar intermediary, shall execute and
157 deliver a certification to the Commissioner of Revenue, on a form
158 and in a manner prescribed by the commissioner, certifying that
159 the manufacturer is in compliance with Sections 1 through 9 of
160 this act. Each certification must include the following
161 information:

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

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

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

174 (d) All other information and materials specifically
175 requested by the commissioner in the course of enforcing this
176 section.

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

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

187 (4) Each annual certification form must be accompanied by a
188 fee in such amount as may be prescribed by the Commissioner of
189 Revenue.

190 (5) A manufacturer required to submit a certification form
191 under this section must notify the commissioner of any material
192 change to the certification form within thirty (30) days of the
193 change. A material change includes, but is not limited to, any
194 order or action by the Food and Drug Administration or any court
195 which affects the ability of the manufacturer's cigarettes to be
196 distributed for commercial distribution or sale in the United
197 States.

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

201 **SECTION 3.** (1) Beginning on October 1, 2024, the
202 commissioner shall maintain and make publicly available on the
203 department's website a state cigarette directory listing all
204 cigarette manufacturers that have provided current and accurate
205 certification forms conforming to the requirements of Section 2 of
206 this act and all brand families that are listed in each
207 manufacturer's certification. The commissioner shall update the
208 directory at least monthly to ensure accuracy. The commissioner
209 shall establish a process to provide retailers, distributors,
210 wholesalers and importers notice of the initial publication of the
211 directory and subsequently, of changes made to the directory in
212 the prior month.

213 (2) Neither a manufacturer nor its brand family may be
214 included or retained in the directory if the commissioner
215 determines that:

216 (a) The manufacturer failed to provide a complete and
217 accurate certification as required by subsection (1) of this
218 section;

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

221 (c) The manufacturer failed to include with its
222 certification the payment required by Section 2(4) of this act;

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

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

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

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

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

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

251 **SECTION 4.** (1) Except as provided in subsections (2) and
252 (3) of this section, beginning October 1, 2024, or on the date
253 that the commissioner first makes the directory available for
254 public inspection on the department's website, whichever is later,
255 cigarettes not included in the directory may not be sold for
256 retail sale in Mississippi, either directly or through an
257 importer, distributor, wholesaler, retailer or similar
258 intermediary.

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

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

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

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

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

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

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

300 (a) A retailer, distributor, wholesaler or importer who
301 sells or offers for sale cigarettes in Mississippi which are not
302 included in the directory is subject to a civil penalty in an
303 amount not more than Five Hundred Dollars (\$500.00) per day for
304 each style of cigarette in a brand family which is offered for
305 sale in violation of Sections 1 through 9 of this act until the
306 offending product is removed from the market or properly listed on
307 the directory;

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

317 (c) For a third violation, whether involving the same
318 or a different style of cigarettes in a brand family, by the same

319 retailer, distributor, wholesaler or importer occurring within a
320 period of twelve (12) months after the initial violation, the
321 civil penalty must be an amount not less than One Thousand Dollars
322 (\$1,000.00) nor more than One Thousand Five Hundred Dollars
323 (\$1,500.00) per day for each style of cigarette in a brand family
324 which is offered for sale in violation of Sections 1 through 9 of
325 this act until the offending product is removed from the market or
326 properly listed on the directory.

327 (2) A manufacturer whose cigarettes are not listed in the
328 directory and who causes the products that are not listed to be
329 sold for retail sale in Mississippi, whether directly or through
330 an importer, distributor, wholesaler, retailer or similar
331 intermediary, is subject to a civil penalty of Ten Thousand
332 Dollars (\$10,000.00) per day for each style of cigarette in a
333 brand family which is offered for sale in violation of Sections 1
334 through 9 of this act until the offending product is removed from
335 the market or properly listed on the directory.

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

340 **SECTION 6.** (1) As a condition precedent to having its name
341 or its cigarettes listed and retained in the directory maintained
342 by the commissioner pursuant to Section 3 of this act, a
343 manufacturer not registered to do business in the state must

344 appoint and continually engage, without interruption, a registered
345 agent in Mississippi for service of process on whom all process
346 and any action or proceeding arising out of the enforcement of
347 Sections 1 through 9 of this act may be served. The manufacturer
348 shall provide to the commissioner the name, address and telephone
349 number of its agent for service of process and any other
350 information relating to its agent which may be requested by the
351 commissioner.

352 (2) As a condition precedent to having its name or its
353 cigarettes listed and retained in the directory maintained by the
354 commissioner pursuant to Section 3 of this act, a manufacturer
355 located outside of the United States shall cause each of its
356 importers of any of its cigarettes to be sold in Mississippi to
357 appoint and continually engage, without interruption, the services
358 of an agent in the state in accordance with this section. All
359 obligations of a manufacturer imposed by this section with respect
360 to appointment of its agent also apply to importers with respect
361 to appointment of their agents.

362 (3) A manufacturer shall provide written notice to the
363 commissioner no later than thirty (30) calendar days before the
364 termination of the authority of an agent appointed pursuant to
365 subsection (1) or (2) of this section. No less than five (5)
366 calendar days before the termination of an existing agent
367 appointment, a manufacturer shall provide to the commissioner the
368 name, address and telephone number of its newly appointed agent

369 for service of process and any other information relating to the
370 new appointment which may be requested by the commissioner. If an
371 agent terminates an agency appointment, the manufacturer must
372 notify the commissioner of the termination within five (5)
373 calendar days and include proof to the satisfaction of the
374 commissioner of the appointment of a new agent.

375 **SECTION 7.** Each retailer, distributor and wholesaler that
376 sells or distributes cigarettes in this state is subject to no
377 less than two (2) unannounced compliance checks annually by the
378 department for purposes of enforcing Sections 1 through 9 of this
379 act. Unannounced follow-up compliance checks of all noncompliant
380 retailers, distributors and wholesalers must be conducted no later
381 than thirty (30) days after a violation of Sections 1 through 9 of
382 this act. The department shall publish the results of all
383 compliance checks at least annually and make the results available
384 to the public on request.

385 **SECTION 8.** (1) The Commissioner of Revenue, acting through
386 the Department of Revenue, may promulgate rules and regulations
387 necessary to effectuate the purposes of this act.

388 (2) All fees and penalties collected by the commissioner
389 pursuant to Sections 1 through 9 of this act must be used for the
390 administration and enforcement of Sections 1 through 9 of this
391 act.

392 **SECTION 9.** Before January 1, 2025, and annually thereafter,
393 the commissioner shall provide a report to the Legislature on the

394 status of the directory, manufacturers and cigarettes included in
395 the directory, revenue and expenditures related to administration
396 of Sections 1 through 9 of this act, and enforcement activities
397 undertaken pursuant to Sections 1 through 9 of this act.

398 **SECTION 10.** For purposes of this section and Section 11 of
399 this act, the following words and phrases shall have the meanings
400 as defined in this section, unless the context clearly indicates
401 otherwise:

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

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

405 (c) "ENDS product":

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

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

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

416 (d) "FDA" means the United States Food and Drug
417 Administration.

418 **SECTION 11.** (1) Before September 1, 2026, and annually
419 thereafter, every manufacturer of an ENDS product that is sold for
420 retail sale in Mississippi, whether directly or through an
421 importer, wholesaler, distributor, retailer, or similar
422 intermediary or intermediaries, shall execute and deliver to the
423 Commissioner of Revenue a certification, under penalty of perjury
424 on a form and in a manner prescribed by the commissioner, that the
425 manufacturer is compliant with this section and that, for each
426 ENDS product sold in Mississippi:

427 (a) The manufacturer has received a marketing granted
428 order for the ENDS product from the FDA pursuant to 21 USC Section
429 387j; or

430 (b) The manufacturer submitted a premarket tobacco
431 product application for the ENDS product to the FDA pursuant to 21
432 USC Section 387j.

433 (2) The certification form shall separately list each brand
434 name, category (e.g., e-liquid, power unit, device, e-liquid
435 cartridge, e-liquid pod, disposable), product name, and flavor for
436 each ENDS product that is sold in Mississippi.

437 (3) Each annual certification form shall be accompanied by:

438 (a) Composition information providing the ingredients
439 and chemical composition of the product, including the
440 concentration or concentration range, as determined by the
441 department; and

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

445 (4) The information submitted by the manufacturer pursuant
446 to subsection (3)(a) of this section is considered confidential,
447 commercial or financial information for purposes of the
448 Mississippi Public Records Act of 1983 (Section 25-61-1, et al).
449 The manufacturer may redact certain confidential, commercial or
450 financial information provided under subsection (3)(a) of this
451 section. The commissioner shall not disclose such information
452 except as required or authorized by law.

453 (5) A manufacturer required to submit a certification form
454 pursuant to this section shall notify the commissioner within
455 thirty (30) calendar days of any material change to the
456 certification form or any other order or action by the FDA or any
457 court that affects the ability of the ENDS product to be
458 introduced or delivered into interstate commerce for commercial
459 distribution in the United States.

460 (6) Beginning on October 1, 2026, the commissioner shall
461 maintain and make publicly available on the Department of
462 Revenue's official website a directory that lists all ENDS product
463 manufacturers, brand names, categories (e.g., e-liquid, e-liquid
464 cartridge, e-liquid pod, disposable), product names, and flavors
465 for which certification forms have been submitted and approved by
466 the commissioner and shall update the directory at least monthly

467 to ensure accuracy. The commissioner shall establish a process to
468 provide licensed retailers, distributors, and wholesalers notice
469 of the initial publication of the directory and changes made to
470 the directory in the prior month.

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

474 (a) The manufacturer failed to provide a complete and
475 accurate certification as required by subsection (1) of this
476 section;

477 (b) The manufacturer submitted a certification that
478 does not comply with the requirements of subsections (2) and (3)
479 of this section;

480 (c) The manufacturer failed to include with its
481 certification the payment required by subsection (3)(b) of this
482 section;

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

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

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

493 (a) The commissioner may not remove the manufacturer or
494 its products from the directory until at least thirty (30)
495 business days after the manufacturer has been given notice of an
496 intended action setting forth the reasons therefor. Notice shall
497 be sufficient and be deemed immediately received by a manufacturer
498 if the notice is sent either electronically or by facsimile to an
499 electronic mail address or facsimile number, as the case may be,
500 provided by the manufacturer in its most recent certification
501 filed under subsections (2) and (3) of this section.

502 (b) The ENDS product manufacturer shall have fifteen
503 (15) business days from the date of service of the notice of the
504 commissioner's intended action to cure the deficiencies or
505 otherwise establish that the ENDS product manufacturer or its
506 products should be included in the directory.

507 (c) Retailers shall have thirty (30) days following the
508 removal of a manufacturer or its products from the directory to
509 sell such products that were in the retailer's inventory as of the
510 date of removal.

511 (d) After thirty (30) calendar days following removal
512 from the directory, the ENDS product of a manufacturer identified
513 in the notice of removal and intended for sale in Mississippi is
514 subject to seizure, forfeiture, and destruction, and may not be

515 purchased or sold for retail sale in Mississippi. The cost of
516 such seizure, forfeiture, and destruction shall be borne by the
517 person from whom the products are confiscated, except that no
518 products may be seized from a consumer who has made a bona fide
519 purchase of such product. The commissioner may store and dispose
520 of the seized products as appropriate, in accordance with federal,
521 state and local laws pertaining to storage and disposal of such
522 products.

523 (9) (a) Except as provided in paragraphs (b) and (c) of
524 this subsection (9), beginning on October 1, 2026, or on the date
525 that the commissioner first makes the directory available for
526 public inspection on the Department of Revenue's official website,
527 whichever is later, ENDS products not included in the directory,
528 shall not be sold for retail sale in Mississippi, either directly
529 or through an importer, distributor, wholesaler, retailer, or
530 similar intermediary or intermediaries.

531 (b) Each retailer shall have sixty (60) days from the
532 date that the commissioner first makes the directory available for
533 inspection on its the department's website to sell products that
534 were in its inventory and not included in the directory or remove
535 those products from inventory.

536 (c) Each distributor or wholesaler shall have sixty
537 (60) days from the date that the commissioner first makes the
538 directory available for inspection on the department's website to

539 remove those products intended for sale in the state from its
540 inventory.

541 (d) After sixty (60) calendar days following
542 publication of the directory, ENDS products not listed in the
543 directory and intended for retail sale in Mississippi are subject
544 to seizure, forfeiture, and destruction, and may not be purchased
545 or sold for retail sale in Mississippi except as provided in
546 subsection (8) of this section. The cost of such seizure,
547 forfeiture, and destruction shall be paid by the person from whom
548 the products are confiscated, except that no products may be
549 seized from a consumer who has made a bona fide purchase of such
550 product. The commissioner may store and dispose of the seized
551 products as appropriate, in accordance with federal, state, and
552 local laws pertaining to storage and disposal of such products.

553 (10) (a) A retailer, distributor, wholesaler, or importer
554 who sells or offers for sale an ENDS product for retail sale in
555 Mississippi that is not included in the directory shall be subject
556 to a civil penalty of not more than Five Hundred Dollars (\$500.00)
557 per day for each individual ENDS product offered for sale in
558 violation of this section until the offending product is removed
559 from the market or until the offending product is properly listed
560 on the directory.

561 (i) For a second violation of this type within a
562 12-month period, the civil penalty shall be at least Seven Hundred

563 Fifty Dollars (\$750.00), but not more than One Thousand Dollars
564 (\$1,000.00), per product per day.

565 (ii) For a third violation of this type within a
566 12-month period after the initial violation, the civil penalty
567 shall be at least One Thousand Dollars (\$1,000.00), but not more
568 than One Thousand Five Hundred Dollars (\$1,500.00), per product
569 per day.

570 (b) A manufacturer whose ENDS products are not listed
571 in the directory and who causes the products that are not listed
572 to be sold for retail sale in Mississippi, whether directly or
573 through an importer, distributor, wholesaler, retailer, or similar
574 intermediary or intermediaries, is subject to a civil penalty of
575 Ten Thousand Dollars (\$10,000.00) per day for each individual ENDS
576 product offered for sale in violation of this section until the
577 offending product is removed from the market or until the
578 offending product is properly listed on the directory. In
579 addition, any manufacturer that falsely represents any information
580 required by a certification form shall be guilty of a misdemeanor
581 for each false representation.

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

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

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

597 (b) A manufacturer located outside of the United States
598 shall, as an additional condition precedent to having its products
599 listed or retained in the directory, cause each of its importers
600 of any of its products to be sold in Mississippi to appoint, and
601 continually engage without interruption, the services of an agent
602 in the state in accordance with the provisions of this section.
603 All obligations of a manufacturer imposed by this section with
604 respect to appointment of its agent shall also apply to the
605 importers with respect to appointment of their agents.

606 (c) A manufacturer shall provide written notice to the
607 commissioner thirty (30) calendar days prior to the termination of
608 the authority of an agent appointed under paragraphs (a) and (b)
609 of this subsection (11). No less than five (5) calendar days
610 prior to the termination of an existing agent appointment, a
611 manufacturer shall provide to the commissioner the name, address

612 and telephone number of its newly appointed agent for service of
613 process and shall provide any other information relating to the
614 new appointment as may be requested by the commissioner. In the
615 event an agent terminates an agency appointment, the manufacturer
616 shall notify the commissioner of the termination within five (5)
617 calendar days and shall include proof to the satisfaction of the
618 commissioner of the appointment of a new agent.

619 (12) Each retailer, distributor, and wholesaler that sells
620 or distributes electronic nicotine delivery systems or nicotine
621 liquids in this state may be subject to at least two (2)
622 unannounced compliance checks annually by the department for
623 purposes of enforcing this section. Unannounced follow-up
624 compliance checks of all noncompliant retailers, distributors, and
625 wholesalers shall be conducted within thirty (30) days after any
626 violation of this article. The department shall publish the
627 results of all compliance checks annually and shall make the
628 results available to the public upon request.

629 (13) The commissioner may promulgate rules necessary to
630 effect the purposes of this section.

631 (14) All fees and penalties collected by the commissioner
632 pursuant to this section shall be used for administration and
633 enforcement of this section.

634 (15) Before January 1, 2027, and annually thereafter, the
635 commissioner shall provide a report to the Legislature regarding
636 the status of the directory, manufacturers and products included

637 in the directory, revenue and expenditures related to
638 administration of this section, and enforcement activities
639 undertaken pursuant to this section of this act.

640 **SECTION 12.** Sections 1 through 11 of this act shall stand
641 repealed on July 1, 2026.

642 **SECTION 13.** This act shall take effect and be in force from
643 and after July 1, 2024.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT RELATING TO THE SALE OF CIGARETTES IN MISSISSIPPI; TO
2 DEFINE CERTAIN TERMS; TO REQUIRE EACH CIGARETTE MANUFACTURER WHOSE
3 CIGARETTES ARE SOLD IN MISSISSIPPI TO FILE AN ANNUAL CERTIFICATION
4 WITH THE COMMISSIONER OF REVENUE CONTAINING SPECIFIED INFORMATION
5 ABOUT THE MANUFACTURER AND ITS CIGARETTES; TO REQUIRE THE
6 COMMISSIONER TO MAINTAIN A STATE CIGARETTE DIRECTORY AVAILABLE TO
7 THE PUBLIC ON THE DEPARTMENT OF REVENUE'S WEBSITE; TO PROHIBIT THE
8 SALE OF A MANUFACTURER'S CIGARETTES IF THE MANUFACTURER IS NOT
9 LISTED ON THE DIRECTORY; TO GIVE RETAILERS AND IMPORTERS,
10 DISTRIBUTORS AND WHOLESALERS AN OPPORTUNITY TO DISPOSE OF THEIR
11 CIGARETTE INVENTORY THAT IS NOT AUTHORIZED TO BE SOLD IN THE
12 DIRECTORY BEFORE THE INVENTORY IS SEIZED; TO ESTABLISH CIVIL
13 PENALTIES FOR RETAILERS AND OTHER ENTITIES SELLING CIGARETTES THAT
14 ARE NOT INCLUDED IN THE DIRECTORY; TO REQUIRE MANUFACTURERS TO
15 HAVE A REGISTERED AGENT IN THE STATE FOR SERVICE OF PROCESS; TO
16 REQUIRE UNANNOUNCED COMPLIANCE CHECKS BY THE DEPARTMENT OF
17 REVENUE; TO AUTHORIZE THE COMMISSIONER OF REVENUE TO PROMULGATE
18 RULES AND REGULATIONS, AND TO USE FEES AND PENALTIES COLLECTED,
19 FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ACT; TO REQUIRE
20 ANNUAL REPORTS TO THE LEGISLATURE ON THE STATUS OF THE STATE
21 CIGARETTE DIRECTORY AND ENFORCEMENT ACTIVITIES; TO PROVIDE THAT NO
22 LATER THAN SEPTEMBER 1, 2026, EVERY MANUFACTURER OF AN ENDS
23 PRODUCT THAT IS SOLD FOR RETAIL SALE IN MISSISSIPPI SHALL EXECUTE
24 AND DELIVER TO THE COMMISSIONER OF REVENUE A CERTIFICATION THAT
25 THE MANUFACTURER IS COMPLIANT WITH THIS ACT; TO DEFINE CERTAIN
26 TERMS; TO PROVIDE THAT THE INFORMATION SUBMITTED BY THE
27 MANUFACTURER IS CONSIDERED CONFIDENTIAL, COMMERCIAL, OR FINANCIAL
28 INFORMATION FOR PURPOSES OF THE MISSISSIPPI PUBLIC RECORDS ACT OF
29 1983; TO PROVIDE THAT BEGINNING ON OCTOBER 1, 2026, THE
30 COMMISSIONER SHALL MAINTAIN AND MAKE PUBLICLY AVAILABLE ON THE

31 DEPARTMENT OF REVENUE'S OFFICIAL WEBSITE A DIRECTORY THAT LISTS
32 ALL ENDS PRODUCT MANUFACTURERS, BRAND NAMES, CATEGORIES, PRODUCT
33 NAMES, AND FLAVORS FOR WHICH CERTIFICATION FORMS HAVE BEEN
34 SUBMITTED AND APPROVED BY THE COMMISSIONER AND SHALL REQUIRE THE
35 UPDATE OF THE DIRECTORY AT LEAST MONTHLY TO ENSURE ACCURACY; TO
36 REQUIRE THE COMMISSIONER TO ESTABLISH A PROCESS TO PROVIDE
37 LICENSED RETAILERS, DISTRIBUTORS, AND WHOLESALERS NOTICE OF THE
38 INITIAL PUBLICATION OF THE DIRECTORY AND CHANGES MADE TO THE
39 DIRECTORY IN THE PRIOR MONTH; TO PROVIDE THAT NEITHER A
40 MANUFACTURER NOR ITS ENDS PRODUCTS SHALL BE INCLUDED OR RETAINED
41 IN THE DIRECTORY IF THE COMMISSIONER DETERMINES THAT THE
42 MANUFACTURER FAILED TO PROVIDE A COMPLETE AND ACCURATE
43 CERTIFICATION AND PROVIDE PAYMENT; TO PROVIDE THAT AFTER 30
44 CALENDAR DAYS FOLLOWING REMOVAL FROM THE DIRECTORY, THE ENDS
45 PRODUCT OF A MANUFACTURER IDENTIFIED IN THE NOTICE OF REMOVAL AND
46 INTENDED FOR SALE IN MISSISSIPPI ARE SUBJECT TO SEIZURE,
47 FORFEITURE, AND DESTRUCTION, AND SHALL NOT BE PURCHASED OR SOLD
48 FOR RETAIL SALE IN MISSISSIPPI; BEGINNING ON OCTOBER 1, 2026, OR
49 ON THE DATE THAT THE COMMISSIONER FIRST MAKES THE DIRECTORY
50 AVAILABLE FOR PUBLIC INSPECTION ON THE DEPARTMENT OF REVENUE'S
51 WEBSITE, WHICHEVER IS LATER, ENDS PRODUCTS NOT INCLUDED IN THE
52 DIRECTORY, SHALL NOT BE SOLD FOR RETAIL SALE IN MISSISSIPPI,
53 EITHER DIRECTLY OR THROUGH AN IMPORTER, DISTRIBUTOR, WHOLESALER,
54 RETAILER, OR SIMILAR INTERMEDIARY OR INTERMEDIARIES; TO PROVIDE
55 THAT EACH RETAILER SHALL HAVE 60 DAYS FROM THE DATE THAT THE
56 COMMISSIONER FIRST MAKES THE DIRECTORY AVAILABLE FOR INSPECTION ON
57 THE DEPARTMENT'S WEBSITE TO SELL PRODUCTS THAT WERE IN ITS
58 INVENTORY AND NOT INCLUDED IN THE DIRECTORY OR REMOVE THOSE
59 PRODUCTS FROM INVENTORY; TO PROVIDE THAT AFTER 60 CALENDAR DAYS
60 FOLLOWING PUBLICATION OF THE DIRECTORY, ENDS PRODUCTS NOT LISTED
61 IN THE DIRECTORY AND INTENDED FOR RETAIL SALE IN MISSISSIPPI ARE
62 SUBJECT TO SEIZURE, FORFEITURE, AND DESTRUCTION, AND MAY NOT BE
63 PURCHASED OR SOLD FOR RETAIL SALE IN MISSISSIPPI EXCEPT AS
64 OTHERWISE PROVIDED; TO PROVIDE THAT A RETAILER, DISTRIBUTOR,
65 WHOLESALER, OR IMPORTER WHO SELLS OR OFFERS FOR SALE AN ENDS
66 PRODUCT FOR RETAIL SALE IN MISSISSIPPI THAT IS NOT INCLUDED IN THE
67 DIRECTORY SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN
68 FIVE HUNDRED DOLLARS FOR EACH INDIVIDUAL ENDS PRODUCT OFFERED FOR
69 SALE IN VIOLATION OF THIS ACT; TO PROVIDE THAT A MANUFACTURER
70 WHOSE ENDS PRODUCTS ARE NOT LISTED IN THE DIRECTORY AND WHO CAUSES
71 THE PRODUCTS THAT ARE NOT LISTED TO BE SOLD FOR RETAIL SALE IN
72 MISSISSIPPI, IS SUBJECT TO A CIVIL PENALTY OF \$10,000.00 FOR EACH
73 INDIVIDUAL ENDS PRODUCT OFFERED FOR SALE IN VIOLATION OF THIS ACT;
74 TO REQUIRE A MANUFACTURER LOCATED OUTSIDE OF THE UNITED STATES TO
75 CAUSE EACH OF ITS IMPORTERS OF ANY OF ITS PRODUCTS TO BE SOLD IN
76 MISSISSIPPI TO APPOINT, AND CONTINUALLY ENGAGE WITHOUT
77 INTERRUPTION, THE SERVICES OF AN AGENT IN THE STATE; TO REQUIRE A
78 MANUFACTURER TO PROVIDE WRITTEN NOTICE TO THE COMMISSIONER 30
79 CALENDAR DAYS PRIOR TO THE TERMINATION OF THE AUTHORITY OF AN
80 AGENT; TO PROVIDE THAT EACH RETAILER, DISTRIBUTOR, AND WHOLESALER

81 THAT SELLS OR DISTRIBUTES ELECTRONIC NICOTINE DELIVERY SYSTEMS OR
82 NICOTINE LIQUIDS IN THIS STATE MAY BE SUBJECT TO AT LEAST TWO
83 UNANNOUNCED COMPLIANCE CHECKS; TO PROVIDE THAT BEGINNING ON
84 JANUARY 31, 2027, AND ANNUALLY THEREAFTER, THE COMMISSIONER SHALL
85 PROVIDE A REPORT TO THE LEGISLATURE THAT CONTAINS CERTAIN
86 INFORMATION RELATED TO THE REGISTRY; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

CONFEREES FOR THE SENATE

(NOT SIGNED)

Lamar

X (SIGNED)

Bryan

X (SIGNED)

Steverson

X (SIGNED)

Parker

X (SIGNED)

Yancey

X (SIGNED)

Harkins