

2019 Regular Session

HOUSE BILL NO. 244

BY REPRESENTATIVE PIERRE AND SENATOR CARTER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ALCOHOLIC BEVERAGES: Provides relative to vapor products and alternative nicotine products

1 AN ACT

2 To amend and reenact R.S. 26:901(34), 906(A), and 911(B)(1) and (2) and to enact R.S.
3 26:901(35), 911(D), and 925, relative to the office of alcohol and tobacco control;
4 to provide relative to vapor products and alternative nicotine products; to amend the
5 definition of "wholesale dealer"; to provide for the regulation of such products; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 26:901(34), 906(A), and 911(B)(1) and (2) are hereby amended and
9 reenacted and R.S. 26:901(35), 911(D), and 925 are hereby enacted to read as follows:

10 §901. Definitions

11 As used in this Chapter, the following terms have the meaning ascribed to
12 them in this Section, unless the context clearly indicates otherwise:

13 * * *

14 (34) "Wholesale dealer" means a dealer whose principal business is that of
15 a wholesaler, who sells cigarettes, cigars, ~~or other tobacco products,~~ vapor products,
16 or alternative nicotine products to retail dealers for the purpose of resale, who is a
17 bona fide wholesaler, and fifty percent of whose total tobacco, vapor, and alternative
18 nicotine sales are to retail stores other than its own or those of its subsidiaries or
19 parent companies within Louisiana. Wholesale dealer shall include any person in the
20 state who acquires cigarettes solely for the purpose of resale in vending machines,
21 provided such person services fifty or more cigarette vending machines in Louisiana

1 other than his own, and a Louisiana dealer who was affixing cigarette and tobacco
2 stamps as of January 1, 1974. If any person is engaged in the business of making
3 sales at both wholesale and retail, "wholesaler" shall apply only to the wholesale
4 portion of the business.

5 (35) "E-liquid" means a substance that does not include cannabis or CBD as
6 defined under the laws of this state and the laws of the United States and which
7 meets all of the following criteria:

8 (a) May or may not contain nicotine.

9 (b) Is intended to be vaporized and inhaled using a vapor product.

10 (c) Is a legal substance under the laws of this state and the laws of the United
11 States.

12 * * *

13 §906. General requirements

14 A. Every person who sells or is about to engage in the business of selling at
15 retail, at wholesale, or by vending machine, or is about to engage in the business of
16 receiving unstamped and/or non-tax paid ~~cigarettes, cigars, or other~~ tobacco
17 products, vapor products, or alternative nicotine products or who is engaged in the
18 business of receiving stamped cigarettes at wholesale or any or all of the articles
19 taxed in accordance with Title 47 of the Louisiana Revised Statutes of 1950, shall
20 first apply to and obtain from the office a permit for each place of business and each
21 vending machine.

22 * * *

23 §911. Acts prohibited

24 * * *

25 B.(1)(a) No retail dealer shall purchase tobacco products for resale except
26 from a wholesale dealer operating with a valid unsuspended wholesale dealer permit,
27 except as provided for in this Chapter.

28 (b) No vapor retail dealer shall purchase alternative nicotine products or
29 vapor products for resale except from a manufacturer of those products or a

1 wholesale dealer operating with a valid unsuspended Louisiana wholesale dealer
2 permit, except as provided for in this Chapter.

3 (2) No wholesale dealer shall sell tobacco products, alternative nicotine
4 products, or vapor products for resale except to a retail dealer operating with either
5 a valid registration certificate or a valid unsuspended permit.

6 * * *

7 D. Manufacturers of vapor products shall not sell vapor products in this state
8 without authorization from the office of alcohol and tobacco control pursuant to rules
9 promulgated by the commissioner of the office of alcohol and tobacco control. The
10 request for authorization shall include:

- 11 (1) The name, telephone number, and address of the applicant.
- 12 (2) The name, telephone number, and address of the manufacturing facility.
- 13 (3) The name, telephone number, title, and address of the person responsible
14 for the manufacturing facility.
- 15 (4) Verification that the facility will comply with applicable tobacco
16 products good manufacturing practices pursuant to 21 U.S.C. 387f(e) of the Federal
17 Food, Drug, and Cosmetic Act.
- 18 (5) Verification that the manufacturer will comply with the applicable
19 ingredient listing required by 21 U.S.C. 387d(a)(1) of the Federal Food, Drug, and
20 Cosmetic Act.

21 * * *

22 §925. Additional Requirements

23 To the extent that they do not conflict, the provisions of this Chapter that
24 provide for the regulation of tobacco products shall also apply to vapor products and
25 alternative nicotine products. Such provisions shall include but are not limited to
26 provisions governing the responsible vendor program, server liability, and the sale
27 of all such products.

28 Section 2. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 3 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 244 Reengrossed

2019 Regular Session

Pierre

Abstract: Provides relative to the regulation of vapor products and alternative nicotine products.

Present law defines "wholesale dealer" as including a dealer who sells cigarettes, cigars, or other tobacco products for resale.

Proposed law retains present law and adds dealers who sell vapor products or alternative nicotine products to the definition of "wholesale dealer".

Present law requires a permit from the office of alcohol and tobacco control to sell at retail cigarettes, cigars, and other tobacco products.

Proposed law retains present law and also requires a permit to sell vapor products and alternative nicotine products.

Present law prohibits retail dealers from purchasing tobacco products for resale except from a wholesale dealer who has a valid ATC permit.

Proposed law retains present law and also makes it applicable to retail dealers selling vapor products or alternative nicotine products.

Proposed law applies other present law regulations applicable to tobacco products to vapor products and alternative nicotine products.

Proposed law restricts manufacturers of vapor products from selling vapor products in this state without authorization from the office of alcohol and tobacco control and provides the specific information required to be included in the request for authorization.

Proposed law adds a definition of "e-liquid".

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 26:901(34), 906(A), and 911(B)(1) and (2); Adds R.S. 26:901(35), 911(D) and 925)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Make technical changes.
2. Add definition of e-liquid.

3. Add a requirement for vapor retail dealers to purchase only from a wholesale dealer operating with a valid unsuspended Louisiana wholesale dealer permit.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Add provision that manufacturers of vapor products shall not sell vapor products in this state without authorization from the office of alcohol and tobacco control.