

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL DRS45506-DCxfa-3

Short Title: Marijuana and Vapor Products Reform. (Public)

Sponsors: Senator Burgin (Primary Sponsor).

Referred to:

A BILL TO BE ENTITLED

AN ACT DECRIMINALIZING POSSESSION OF FIVE GRAMS OR LESS OF MARIJUANA; CONFORMING THE STATE DEFINITION OF HEMP WITH THE FEDERAL DEFINITION AND PROHIBITING CERTAIN THC AND CANNABIS PRODUCTS; INCREASING THE PENALTIES FOR MANUFACTURING AND SELLING MARIJUANA; RAISING THE AGE TO PURCHASE TOBACCO, VAPOR, AND CONSUMABLE PRODUCTS; INCREASING THE EXCISE TAX ON VAPOR PRODUCTS; INCREASING THE UNAUTHORIZED SUBSTANCE EXCISE TAX ON MARIJUANA; EXPANDING ALCOHOL LAW ENFORCEMENT'S (ALE) SUBJECT MATTER JURISDICTION; MAKING AN APPROPRIATION FOR EVIDENCE STORAGE AND DISPOSAL BY ALE; AND MAKING ADMINISTRATIVE AND ENFORCEMENT CHANGES TO THE VAPOR PRODUCTS DIRECTORY.

The General Assembly of North Carolina enacts:

PART I. THC PRODUCTS PROHIBITED AND POSSESSION OF 5 GRAMS OR LESS OF MARIJUANA DECRIMINALIZED

SECTION 1.1.(a) G.S. 90-94 reads as rewritten:

"§ 90-94. Schedule VI controlled substances.

(a) This schedule includes the controlled substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated. In determining that such substance comes within this schedule, the Commission shall find: no currently accepted medical use in the United States, or a relatively low potential for abuse in terms of risk to public health and potential to produce psychic or physiological dependence liability based upon present medical knowledge, or a need for further and continuing study to develop scientific evidence of its pharmacological effects.

(b) The following controlled substances are included in this schedule:

(1) Marijuana.

(2) Tetrahydrocannabinols, except for tetrahydrocannabinols found in a product with a ~~delta-9 tetrahydrocannabinol concentration~~ total tetrahydrocannabinols (including tetrahydrocannabinolic acid) concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.

(3) Repealed by Session Laws 2017-115, s. 8, effective December 1, 2017, and applicable to offenses committed on or after that date.

...."

SECTION 1.1.(b) G.S. 90-87 reads as rewritten:

"§ 90-87. Definitions.



* D R S 4 5 5 0 6 - D C X F A - 3 *

1 As used in this Article:

2 ...

3 (3b) "Container" means the innermost wrapping, packaging, or vessel in direct
4 contact with a final hemp-derived cannabinoid product in which the final
5 hemp-derived cannabinoid product is enclosed for retail sale to consumers,
6 such as a jar, bottle, bag, box, packet, can, carton, or cartridge.

7 ...

8 (13a) "Hemp" means the plant Cannabis sativa (L.) and any part of that plant,
9 including the seeds thereof and all derivatives, extracts, cannabinoids,
10 isomers, acids, salts, and salts of isomers, whether growing or not, with a
11 delta-9 tetrahydrocannabinol concentration total tetrahydrocannabinols
12 (including tetrahydrocannabinolic acid) concentration of not more than
13 three-tenths of one percent (0.3%) on a dry weight basis. The term excludes
14 all of the following:

15 a. Any viable seeds from a Cannabis sativa L. plant that exceeds a total
16 tetrahydrocannabinols (including tetrahydrocannabinolic acid)
17 three-tenths of one percent (0.3%) on a dry weight basis.

18 b. Any intermediate hemp-derived cannabinoid products containing:

19 1. Cannabinoids that are not capable of being naturally produced
20 by a Cannabis sativa L. plant.

21 2. Cannabinoids that are capable of being naturally produced by
22 a Cannabis sativa L. plant and were synthesized or
23 manufactured outside of the plant.

24 3. More than three-tenths of one percent (0.3%) combined total
25 tetrahydrocannabinols concentration (including
26 tetrahydrocannabinolic acid) and any other cannabinoids that
27 have similar effects (or are marketed to have similar effects)
28 on humans or animals as a tetrahydrocannabinol, as
29 determined by the Secretary of Health and Human Services.

30 c. Any intermediate hemp-derived cannabinoid products that are
31 marketed or sold as a final product or directly to an end consumer for
32 personal or household use.

33 d. Any final hemp-derived cannabinoid products containing:

34 1. Cannabinoids that are not capable of being naturally produced
35 by a Cannabis sativa L. plant.

36 2. Cannabinoids that are capable of being naturally produced by
37 a Cannabis sativa L. plant and were synthesized or
38 manufactured outside of the plant.

39 3. More than 0.4 milligrams combined total per container of total
40 tetrahydrocannabinols (including tetrahydrocannabinolic acid)
41 and any other cannabinoids that have similar effects (or are
42 marketed to have similar effects) on humans or animals as a
43 tetrahydrocannabinol, as determined by the Secretary of Health
44 and Human Services.

45 ...

46 (13c) "Intermediate hemp-derived cannabinoid product" means a hemp-derived
47 cannabinoid product that is not yet in the final form or preparation marketed
48 or intended to be used or consumed by a human or animal, or is a powder,
49 liquid, tablet, oil, or other product form which is intended or marketed to be
50 mixed, dissolved, formulated, or otherwise added to or prepared with or into
51 any other substance prior to administration or consumption.

1 ...
2 (25a) "Secretary of Health and Human Services" means the Secretary of the United
3 States Department of Health and Human Services.

4"

5 SECTION 1.1.(c) G.S. 90-95 reads as rewritten:

6 **"§ 90-95. Violations; penalties.**

7 (a) Except as authorized by this Article, it is unlawful for any ~~person~~ person to do any of
8 the following:

- 9 (1) To manufacture, sell or deliver, or possess with intent to manufacture, sell or
- 10 deliver, a controlled ~~substance;~~ substance.
- 11 (2) To create, sell or deliver, or possess with intent to sell or deliver, a counterfeit
- 12 controlled ~~substance;~~ substance.
- 13 (3) To possess a controlled substance.

14 (b) Except as provided in subsections (h) and (i) of this section, any person who violates
15 G.S. 90-95(a)(1)-subdivision (1) of subsection (a) of this section with respect to:

16 ...
17 (2) A controlled substance classified in Schedule III, ~~IV, V, or VI-IV,~~ or V shall
18 be punished as a Class I felon, except that the sale of a controlled substance
19 classified in Schedule III, ~~IV, V, or VI-IV,~~ or V shall be punished as a Class
20 H felon. ~~The transfer of less than 5 grams of marijuana for no remuneration~~
21 ~~shall not constitute a delivery in violation of G.S. 90-95(a)(1).~~

22 (3) A controlled substance classified in Schedule VI shall be punished as a Class
23 G felon and subject to a fine of no less than ten thousand dollars (\$10,000). If
24 any person is found guilty of violating this subdivision, and the violation arose
25 in furtherance of a business organized under the laws of this State, then the
26 judge shall order the Secretary of State to revoke the business's authority to
27 operate within this State. The transfer of less than 5 grams of marijuana for no
28 remuneration shall not constitute a delivery in violation of subdivision (1) of
29 subsection (a) of this section.

30 (c) Any person who violates ~~G.S. 90-95(a)(2)-subdivision (2) of subsection (a) of this~~
31 ~~section~~ shall be punished as a Class I felon.

32 (d) Except as provided in subsections (h) and (i) of this section, any person who violates
33 G.S. 90-95(a)(3)-subdivision (3) of subsection (a) of this section with respect to:

34 ...
35 (4) A controlled substance classified in Schedule VI ~~shall be guilty of a Class 3~~
36 ~~misdemeanor, but any sentence of imprisonment imposed must be suspended~~
37 ~~and the judge may not require at the time of sentencing that the defendant~~
38 ~~serve a period of imprisonment as a special condition of probation. If shall be~~
39 ~~guilty of a Class 1 misdemeanor if the quantity of the controlled substance~~
40 ~~exceeds one half of an ounce (avoirdupois) 5 grams of marijuana or~~
41 ~~one-twentieth of an ounce (avoirdupois) of the extracted resin of marijuana,~~
42 ~~commonly known as hashish, the violation shall be punishable as a Class 1~~
43 ~~misdemeanor- hashish. If the quantity of the controlled substance exceeds one~~
44 ~~and one-half ounces (avoirdupois) of marijuana, or three-twentieths of an~~
45 ~~ounce (avoirdupois) of the extracted resin of marijuana, commonly known as~~
46 ~~hashish, or if the controlled substance consists of any quantity of synthetic~~
47 ~~tetrahydrocannabinols or tetrahydrocannabinols isolated from the resin of~~
48 ~~marijuana, the violation shall be punishable as a Class I felony.~~

49 ...
50 (h) Notwithstanding any other provision of law, the following provisions apply except as
51 otherwise provided in this Article:

- 1 (1) Any person who sells, manufactures, delivers, transports, or possesses in
 2 excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony
 3 which felony shall be known as "trafficking in marijuana" and if the quantity
 4 of such substance involved:
- 5 a. Is in excess of 10 pounds, but less than 50 pounds, such person shall
 6 be punished as a Class ~~H-G~~ felon and shall be sentenced to a minimum
 7 term of 25 months and a maximum term of 39 months in the State's
 8 prison and shall be fined not less than ~~five-fifteen~~ thousand dollars
 9 ~~(\$5,000);(\$15,000)~~.
 - 10 b. Is 50 pounds or more, but less than 2,000 pounds, such person shall be
 11 punished as a Class G felon and shall be sentenced to a minimum term
 12 of 35 months and a maximum term of 51 months in the State's prison
 13 and shall be fined not less than twenty-five thousand dollars
 14 ~~(\$25,000);(\$25,000)~~.
 - 15 c. Is 2,000 pounds or more, but less than 10,000 pounds, such person
 16 shall be punished as a Class F felon and shall be sentenced to a
 17 minimum term of 70 months and a maximum term of 93 months in the
 18 State's prison and shall be fined not less than fifty thousand dollars
 19 ~~(\$50,000);(\$50,000)~~.
 - 20 d. Is 10,000 pounds or more, such person shall be punished as a Class D
 21 felon and shall be sentenced to a minimum term of 175 months and a
 22 maximum term of 222 months in the State's prison and shall be fined
 23 not less than two hundred thousand dollars (\$200,000).
- 24 (1a) For the purpose of this subsection, a "dosage unit" shall consist of 3 grams of
 25 synthetic cannabinoid or any mixture containing such substance. Any person
 26 who sells, manufactures, delivers, transports, or possesses in excess of 50
 27 dosage units of a synthetic cannabinoid or any mixture containing such
 28 substance, shall be guilty of a felony, which felony shall be known as
 29 "trafficking in synthetic cannabinoids," and if the quantity of such substance
 30 involved:
- 31 a. Is in excess of 50 dosage units, but less than 250 dosage units, such
 32 person shall be punished as a Class ~~H-G~~ felon and shall be sentenced
 33 to a minimum term of 25 months and a maximum term of 39 months
 34 in the State's prison and shall be fined not less than ~~five-fifteen~~
 35 thousand dollars ~~(\$5,000);(\$15,000)~~.
 - 36 b. Is 250 dosage units or more, but less than 1250 dosage units, such
 37 person shall be punished as a Class G felon and shall be sentenced to
 38 a minimum term of 35 months and a maximum term of 51 months in
 39 the State's prison and shall be fined not less than twenty-five thousand
 40 dollars ~~(\$25,000);(\$25,000)~~.
 - 41 c. Is 1250 dosage units or more, but less than 3750 dosage units, such
 42 person shall be punished as a Class F felon and shall be sentenced to a
 43 minimum term of 70 months and a maximum term of 93 months in the
 44 State's prison and shall be fined not less than fifty thousand dollars
 45 ~~(\$50,000);(\$50,000)~~.
 - 46 d. Is 3750 dosage units or more, such person shall be punished as a Class
 47 D felon and shall be sentenced to a minimum term of 175 months and
 48 a maximum term of 222 months in the State's prison and shall be fined
 49 not less than two hundred thousand dollars (\$200,000).
- 50"

1 **SECTION 1.1.(d)** This Part becomes effective December 1, 2026, and applies to
2 offenses committed on or after that date.

3
4 **PART II. STRICT LIABILITY FOR SALES OF VAPOR PRODUCTS AND**
5 **MARIJUANA**

6 **SECTION 2.1.(a)** G.S. 99B-1.1 reads as rewritten:

7 "**§ 99B-1.1. Strict liability.**

8 (a) ~~There~~ Except as provided in subsections (b) and (c) of this section, there shall be no
9 strict liability in tort in product liability actions.

10 (b) The manufacturer or seller of a vapor product or consumable product, as defined in
11 G.S. 14-313, shall be strictly liable in tort in a product liability action.

12 (c) The manufacturer or seller of marijuana, as defined in G.S. 90-87, shall be strictly
13 liable in tort in a product liability action."

14 **SECTION 2.1.(b)** G.S. 99B-2 reads as rewritten:

15 "**§ 99B-2. Seller's opportunity to inspect; privity requirements for warranty claims.**

16 (a) No product liability action, except an action for breach of express ~~warranty, warranty~~
17 ~~or a product liability action pursuant to G.S. 99B-1.1(b) or (c),~~ shall be commenced or maintained
18 against any seller when the product was acquired and sold by the seller in a sealed container or
19 when the product was acquired and sold by the seller under circumstances in which the seller
20 was afforded no reasonable opportunity to inspect the product in such a manner that would have
21 or should have, in the exercise of reasonable care, revealed the existence of the condition
22 complained of, unless the seller damaged or mishandled the product while in his possession;
23 provided, that the provisions of this section shall not apply if the manufacturer of the product is
24 not subject to the jurisdiction of the courts of this State or if such manufacturer has been judicially
25 declared insolvent.

26 "

27 **SECTION 2.1.(c)** This Part becomes effective October 1, 2026, and applies to causes
28 of action arising on or after that date.

29
30 **PART III. YOUTH ACCESS TO TOBACCO PRODUCTS AND VAPOR PRODUCTS**

31 **SECTION 3.1.(a)** G.S. 14-313 reads as rewritten:

32 "**§ 14-313. Youth access to tobacco products, alternative nicotine products, ~~vapor products,~~**
33 **and cigarette wrapping papers.**

34 (a) Definitions. – The following definitions apply in this section:

35 ...

36 (1a) Consumable product. – Consumable product shall have the same meaning as
37 provided in G.S. 105-113.4(1k). For purposes of this section, a consumable
38 product does not contain any tobacco leaf.

39 ...

40 (3c) Smart vapor products. – Vapor products that have designs and functionalities
41 that resemble smart technology, including phones and gaming devices.

42 (3d) Timely Filed Premarket Tobacco Product Application. – An application
43 pursuant to 21 U.S.C. § 387j for a vapor product or consumable product
44 containing nicotine derived from tobacco marketed in the United States as of
45 August 8, 2016, that was submitted to the United States Food and Drug
46 Administration on or before September 9, 2020, and accepted for filing.

47 (4) Tobacco product. – Any product that contains tobacco and is intended for
48 human consumption. For purposes of this section, the term includes an
49 alternative nicotine ~~product, vapor product, consumable product, or~~
50 ~~components of a vapor product.~~

(5) Vapor product. – Any noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a consumable product. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, and electronic pipe. The term also includes smart vapor products. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

(b) Sale or Distribution to Persons Under the Age of ~~18-21~~ Years. – ~~If any person shall distribute,~~ It shall be unlawful for any person to do any of the following:

(1) Distribute, or aid, assist, or abet any other person in distributing tobacco products or cigarette wrapping papers to any person under the age of ~~18-21~~ years, or if for any person shall to purchase tobacco products or cigarette wrapping papers on behalf of a person under the age of ~~18~~ years, the person shall be guilty of a Class 2 misdemeanor; provided, however, that it ~~21~~ years. Any person who violates this subdivision shall be guilty of a Class 2 misdemeanor. It shall not be unlawful to distribute tobacco products or cigarette wrapping papers to an employee when required in the performance of the employee's duties.

(2) Distribute, or aid, assist, or abet any other person in distributing vapor products or consumable products, as those terms are defined in G.S. 105-113.4, to any person under the age of 21 years, or for any person to purchase vapor products or consumable products on behalf of a person under the age of 21 years. Any person who violates this subdivision shall be guilty of a Class G felony. It shall not be unlawful to distribute vapor products or consumable products to an employee when required in the performance of the employee's duties.

(b1) Retail distributors of tobacco ~~products~~ products, vapor products, and consumable products shall prominently display near the point of sale a sign in letters at least five-eighths of an inch high which states the following:

N.C. LAW STRICTLY PROHIBITS
 THE PURCHASE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS,
 VAPOR PRODUCTS, CONSUMABLE PRODUCTS, AND CIGARETTE WRAPPING
 PAPERS
 BY PERSONS UNDER THE AGE OF ~~18-21~~.
 PROOF OF AGE REQUIRED.

Failure to post the required sign shall be an infraction punishable by a fine of twenty-five dollars (\$25.00) for the first offense and seventy-five dollars (\$75.00) for each succeeding offense.

A person engaged in the sale of tobacco ~~products or products,~~ cigarette wrapping papers, papers, vapor products, or consumable products shall demand proof of age from a prospective purchaser if the person has reasonable grounds to believe that the prospective purchaser is under ~~18-21~~ years of age. Failure to demand proof of age as required by this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under ~~18-21~~ years of age. Retail distributors of tobacco ~~products or products,~~ cigarette wrapping papers, papers, vapor products, or consumable products, shall train their sales employees in the requirements of this law. Proof of any of the following shall be a defense to any action brought under this subsection:

- (1) The defendant demanded, was shown, and reasonably relied upon proof of age in the case of a retailer, or any other documentary or written evidence of age in the case of a nonretailer.
- (2) The defendant relied on the electronic system established and operated by the Division of Motor Vehicles pursuant to G.S. 20-37.02.

1 (3) The defendant relied on a biometric identification system that demonstrated
2 (i) the purchaser's age to be at least the required age for the purchase and (ii)
3 the purchaser had previously registered with the seller or seller's agent a
4 drivers license, a special identification card issued under G.S. 20-37.7, a
5 military identification card, or a passport showing the purchaser's date of birth
6 and bearing a physical description of the person named on the card.

7 ~~(b1)~~(b2) Distribution of Tobacco Products, Vapor Products, and Consumable Products. –
8 Tobacco ~~products~~ products, vapor products, and consumable products shall not be distributed in
9 vending machines; provided, however, vending machines distributing ~~tobacco~~ those products are
10 permitted (i) in any establishment which is open only to persons 18-21 years of age and older; or
11 (ii) in any establishment if the vending machine is under the continuous control of the owner or
12 licensee of the premises or an employee thereof and can be operated only upon activation by the
13 owner, licensee, or employee prior to each purchase and the vending machine is not accessible
14 to the public when the establishment is closed. The owner, licensee, or employee shall demand
15 proof of age from a prospective purchaser if the person has reasonable grounds to believe that
16 the prospective purchaser is under 18-21 years of age. Failure to demand proof of age as required
17 by this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18-21
18 years of age. Proof that the defendant demanded, was shown, and reasonably relied upon proof
19 of age shall be a defense to any action brought under this subsection. Any person distributing
20 tobacco ~~products~~ products, vapor products, or consumable products through vending machines
21 in violation of this subsection shall be guilty of a Class 2 misdemeanor.

22 ~~(b2)~~(b3) Internet Distribution of Tobacco Products, Vapor Products, and Consumable
23 Products. – A person engaged in the distribution of tobacco products, vapor products, or
24 consumable products through the internet or other remote sales methods shall perform an age
25 verification through an independent, third-party age verification service that compares
26 information available from public records to the personal information entered by the individual
27 during the ordering process to establish that the individual ordering the ~~tobacco~~ products is 18
28 21 years of age or older.

29 (c) Purchase By Persons Under the Age of 18-21 Years. – If any person under the age of
30 18-21 years purchases or accepts receipt, or attempts to purchase or accept receipt, of tobacco
31 ~~products~~ products, vapor products, consumable products, or cigarette wrapping papers, or
32 presents or offers to any person any purported proof of age which is false, fraudulent, or not
33 actually his or her own, for the purpose of purchasing or receiving any tobacco ~~product~~ product,
34 vapor product, consumable product, or cigarette wrapping papers, the person shall be guilty of a
35 Class 2 misdemeanor; provided, however, that it shall not be unlawful for an employee to
36 purchase or accept receipt of tobacco ~~products~~ products, vapor products, consumable products,
37 or cigarette wrapping papers when required in the performance of the employee's duties.

38 (d) Sending or Assisting a Person [Less Than] 18-21 Years to Purchase or Receive
39 Tobacco Products, Vapor Products, Consumable Products, or Cigarette Wrapping
40 Papers. – If any person shall send a person less than 18-21 years of age to purchase, acquire,
41 receive, or attempt to purchase, acquire, or receive tobacco ~~products~~ products, vapor products,
42 consumable products, or cigarette wrapping papers, or if any person shall aid or abet a person
43 who is less than 18-21 years of age in purchasing, acquiring, or receiving or attempting to
44 purchase, acquire, or receive tobacco ~~products~~ products, vapor products, consumable products,
45 or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor; provided,
46 however, persons under the age of 18-21 may be enlisted by police or local sheriffs' departments
47 to test compliance if the testing is under the direct supervision of that law enforcement
48 department and written parental consent is provided; provided further, that the Department of
49 Health and Human Services shall have the authority, pursuant to a written plan prepared by the
50 Secretary of Health and Human Services, to use persons under 18-21 years of age in annual,
51 random, unannounced inspections, provided that prior written parental consent is given for the

1 involvement of these persons and that the inspections are conducted for the sole purpose of
 2 preparing a scientifically and methodologically valid statistical study of the extent of success the
 3 State has achieved in reducing the availability of tobacco products, vapor products, and
 4 consumable products to persons under the age of ~~18, 21,~~ and preparing any report to the extent
 5 required by section 1926 of the federal Public Health Service Act (42 USC § 300x-26).

6 (e) Statewide Uniformity. – It is the intent of the General Assembly to prescribe this
 7 uniform system for the regulation of tobacco ~~products~~products, vapor products, consumable
 8 products, and cigarette wrapping papers to ensure the eligibility for and receipt of any federal
 9 funds or grants that the State now receives or may receive relating to the provisions of this
 10 section. To ensure uniformity, no political subdivisions, boards, or agencies of the State nor any
 11 county, city, municipality, municipal corporation, town, township, village, nor any department
 12 or agency thereof, may enact ordinances, rules or regulations concerning the sale, distribution,
 13 display or promotion of (i) tobacco products or cigarette wrapping papers on or after September
 14 1, 1995, (ii) alternative nicotine products or vapor products on or after August 1, 2013, or (iii)
 15 alternative nicotine products on or after December 1, 2024. This subsection does not apply to the
 16 regulation of vending machines, nor does it prohibit the Secretary of Revenue from adopting
 17 rules with respect to the administration of the tobacco products taxes levied under Article 2A of
 18 Chapter 105 of the General Statutes.

19 (f) Deferred Prosecution or Conditional Discharge. – Notwithstanding
 20 G.S. 15A-1341(a1) or G.S. 15A-1341(a4), any person charged with a misdemeanor under this
 21 section shall be qualified for deferred prosecution or a conditional discharge pursuant to Article
 22 82 of Chapter 15A of the General Statutes provided the defendant has not previously been placed
 23 on probation for a violation of this section and so states under oath.

24"

25 **SECTION 3.1.(b)** This Part becomes effective December 1, 2026, and applies to
 26 offenses committed on or after that date.

27
 28 **PART IV. TAX LAW CONFORMING CHANGES, INCREASE EXCISE TAX ON**
 29 **VAPOR PRODUCTS, AND INCREASE EXCISE TAX ON MARIJUANA**

30 **SECTION 4.1.(a)** G.S. 105-113.4 reads as rewritten:

31 **"§ 105-113.4. Definitions.**

32 The following definitions apply in this Article:

33 ...

34 (10b) Smart vapor products. – Vapor products that have designs and functionalities
 35 that resemble smart technology, including phones and gaming devices.

36 (10c) Smokeless tobacco. – Any finely cut, ground, powdered, or leaf tobacco, or
 37 other product containing tobacco, that is intended to be placed in the oral or
 38 nasal cavity or otherwise consumed without being combusted.

39 ...

40 (13a) Vapor product. – Any nonlighted, noncombustible product that employs a
 41 mechanical heating element, battery, or electronic circuit regardless of shape
 42 or size and that can be used to produce vapor from nicotine, however derived,
 43 in a solution. The term includes any vapor cartridge or other container of
 44 nicotine in a solution or other form that is intended to be used with or in an
 45 electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or
 46 similar product or device. The term also includes smart vapor products. The
 47 term does not include any product regulated by the United States Food and
 48 Drug Administration under Chapter V of the federal Food, Drug, and
 49 Cosmetic Act.

50"

51 **SECTION 4.1.(b)** G.S. 105-113.4F reads as rewritten:

1 **"§ 105-113.4F. Delivery sales of certain tobacco products; age verification.**

2 (a) Scope. – This section applies to delivery sales. For purposes of this section, the term
3 "tobacco product" means cigarettes, smokeless tobacco, or vapor products.

4 (b) Delivery Seller Requirements. – A delivery seller must do all of the following with
5 respect to a delivery sale:

6 (1) Obtain a license from the Secretary as required by this Article before
7 accepting an order.

8 (2) Comply with the age verification requirements in
9 G.S. 14-313(b2)-G.S. 14-313(b3).

10"

11 **SECTION 4.1.(c)** G.S. 105-113.36A reads as rewritten:

12 **"§ 105-113.36A. Tax rates; liability for tax.**

13 (a) Tax Imposed. – An excise tax is levied on the sale, use, consumption, handling, or
14 distribution of tobacco products at the following rates:

15 (1) On vapor products, the rate of five ten cents (5¢)-(10¢) per fluid milliliter of
16 consumable product. All invoices for vapor products issued by manufacturers
17 must state the amount of consumable product in milliliters.

18 ...

19 (g) Use of Tax Proceeds. – The Secretary must credit the net proceeds of the tax collected
20 under subdivision (1) of subsection (a) of this section as follows:

21 (1) An amount equal to fifty percent (50%) to the Division of Social Services of
22 the Department of Health and Human Services to be used in foster care
23 programs.

24 (2) An amount equal to fifty percent (50%) to the Division of Public Health of the
25 Department of Health and Human Services to provide public education
26 throughout the State on the health risks associated with vapor products."

27 **SECTION 4.1.(d)** G.S. 105-113.107 reads as rewritten:

28 **"§ 105-113.107. Excise tax on unauthorized substances.**

29 (a) Controlled Substances. – An excise tax is levied on controlled substances possessed,
30 either actually or constructively, by dealers at the following rates:

31 (1) At the rate of forty cents (40¢)-one dollar and fifty cents (\$1.50) for each gram,
32 or fraction thereof, of harvested marijuana stems and stalks that have been
33 separated from and are not mixed with any other parts of the marijuana plant.

34 (1a) At the rate of three dollars and fifty cents (\$3.50)-thirteen dollars and thirteen
35 cents (\$13.13) for each gram, or fraction thereof, of marijuana, other than
36 separated stems and stalks taxed under subdivision (1) of this [sub]section, or
37 synthetic cannabinoids.

38"

39 **SECTION 4.1.(e)** This Part becomes effective for taxable years beginning on or after
40 January 1, 2027.

41
42 **PART V. ALCOHOL LAW ENFORCEMENT SUBJECT MATTER JURISDICTION**
43 **AND APPROPRIATIONS**

44 **SECTION 5.1.(a)** G.S. 18B-500 reads as rewritten:

45 **"§ 18B-500. Alcohol law-enforcement agents.**

46 ...

47 (b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an
48 alcohol law-enforcement agent shall have authority to arrest and take other investigatory and
49 enforcement actions for any criminal offense:

50 (1) Occurring, encountered, or otherwise discovered on the premises of, or
51 elsewhere when the conduct relates to, a location under application for or

holding a permit issued by the North Carolina Alcoholic Beverage Control Commission or the North Carolina Education Lottery Commission.

- (2) Encountered or otherwise discovered while investigating or enforcing matters for the North Carolina Alcoholic Beverage Control Commission or the North Carolina Education Lottery Commission or encountered or otherwise discovered while investigating or enforcing the provisions of this Chapter, Chapter 18C of the General Statutes, G.S. 14-313, Article 5 of Chapter 90 of the General Statutes, Part 3 of Article 4 of Chapter 143B of the General Statutes, or Parts 1 and 2 of Article 37 of Chapter 14 of the General Statutes.
- (3) Encountered or otherwise discovered while carrying out any duty or function assigned to the Division by law.
- (4) Occurring in an agent's presence.
- (5) When assisting another law enforcement agency.

...."

SECTION 5.1.(b) There is appropriated from the General Fund to the Alcohol Law Enforcement Division of the Department of Public Safety the sum of seven hundred fifty thousand dollars (\$750,000) in recurring funds for the 2026-2027 fiscal year for the purpose of evidence storage and disposal.

SECTION 5.1.(c) There is appropriated from the General Fund to the Alcohol Law Enforcement Division of the Department of Public Safety the sum of two million five hundred thousand dollars (\$2,500,000) in recurring funds for the 2026-2027 fiscal year for the purpose of hiring up to 37 full-time employees.

SECTION 5.1.(d) Subsections (b) and (c) of this section become effective July 1, 2026. The remainder of this section is effective when it becomes law.

PART VI. ADMINISTRATIVE CHANGES TO THE VAPOR PRODUCTS DIRECTORY

SECTION 6.1.(a) If Senate Bill 595 of the 2026 Regular Session of the 2025 General Assembly becomes law, then G.S. 143B-245.10, as amended by Part IX of Senate Bill 595 of the 2026 Regular Session of the 2025 General Assembly, reads as rewritten:

"§ 143B-245.10. Definitions.

The following definitions apply throughout this Part:

- (1) ALE Division. – As defined in G.S. 18B-101.
- (1a) Alternative nicotine product. – As defined in G.S. 14-313(a)(1).
- (2) Consumable product. – As defined in G.S. 14-313(a)(1a).
- (3) Distribute. – As defined in G.S. 14-313(a)(1b).
- (4) FDA. – As defined in G.S. 14-313(a)(1c).
- (5) Secretary. – The Secretary of the Department of Revenue.
- (6) Timely Filed Premarket Tobacco Product Application. – As defined in ~~G.S. 14-313(a)(3e).~~G.S. 14-313(a)(3d).
- (7) Tobacco product. – As defined in G.S. 14-313(a)(4).
- (8) Vapor product. – As defined in G.S. 14-313(a)(5)."

SECTION 6.1.(b) If Senate Bill 595 of the 2026 Regular Session of the 2025 General Assembly becomes law, then G.S. 143B-245.15, as amended by Part IX of Senate Bill 595 of the 2026 Regular Session of the 2025 General Assembly, reads as rewritten:

"§ 143B-245.15. Compliance.

(a) ~~Unannounced Compliance Check.~~Inspection. – Each retailer, distributor, and wholesaler that sells or distributes consumable products or vapor products in this State shall be subject to ~~unannounced compliance checks~~investigation and unannounced inspection by the ALE Division for ~~purposes~~the purposes of enforcing this Part. ~~Unannounced follow-up compliance checks of all noncompliant retailers, distributors, and wholesalers shall be conducted~~

1 ~~within 30 days after any violation of this Part.~~ The following provisions apply with respect to
2 this section:

- 3 (1) Any person who observes a violation described in G.S. 143B-245.13 may alert
4 the ALE Division of the violation, and the ALE Division ~~shall cause an~~
5 ~~unannounced compliance check to occur with respect to the person alleged to~~
6 ~~be in violation.~~ may investigate the alleged violation and, if necessary, conduct
7 an unannounced inspection.
- 8 (2) The ALE Division shall ~~publish the results of all compliance checks at least~~
9 ~~annually~~ maintain records of all inspections and shall make the results
10 available to the public on request.
- 11 (3) The ALE Division shall report to the Secretary any violation of this Chapter
12 for which civil penalties are authorized and regardless of whether criminal
13 charges have been filed.
- 14 (4) Any products identified for sale that are not on the registry in compliance with
15 the provisions of this Chapter may be subject to seizure, forfeiture, and
16 destruction in accordance with G.S. 14-313(h)(1)c.

17"

18 **SECTION 6.1.(c)** This Part is effective when it becomes law.

19
20 **PART VII. EFFECTIVE DATE**

21 **SECTION 7.1.** Except as otherwise provided, this act is effective when it becomes
22 law.