



PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 185 be amended to read as follows:

- 1 Page 1, line 9, after "structure" delete ",".
- 2 Page 1, line 10, delete "that does not contain sleeping or living
- 3 quarters,".
- 4 Page 1, between lines 13 and 14, begin a new paragraph and insert:
- 5 **"(c) For purposes of subsection (b)(1), a permitted premises may**
- 6 **not include sleeping or living quarters."**
- 7 Page 2, line 5, after "operates" insert **"a wholesale tobacco**
- 8 **business"**.
- 9 Page 3, line 23, delete "or".
- 10 Page 3, line 24, delete "suspended".
- 11 Page 3, delete lines 28 through 42.
- 12 Page 4, delete lines 1 through 33.
- 13 Page 6, line 16, after "An" insert **"e-liquid or"**.
- 14 Page 6, delete lines 28 through 37, begin a new paragraph and
- 15 insert:
- 16 "SECTION 8. IC 7.1-7-1-1, AS AMENDED BY P.L.206-2017,
- 17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2026]: Sec. 1. ~~(a) Except as provided in subsection (b);~~ This
- 19 article applies to the following:
- 20 ~~(†) The commercial~~ manufacturing, bottling, ~~selling,~~ **sale,**
- 21 ~~bartering, or~~ importing, **possession, and use** of e-liquid **and**

- 1           **e-liquid products** in Indiana, **including through a cigarette**  
 2           **vending machine.**
- 3           ~~(2) The sale, possession, and use of e-liquid products in Indiana.~~
- 4           **(b) This article does not apply to a manufacturer of a closed system**  
 5           **vapor product, except as specifically provided in this article:".**
- 6           Page 6, line 42, after "e-liquid" insert "**and e-liquid products**".
- 7           Page 7, line 2, after "e-liquid" insert "**and e-liquid products**".
- 8           Page 7, line 3, strike "conforms" and insert "**conform**".
- 9           Page 7, line 5, after "e-liquid" insert "**and e-liquid products**".
- 10          Page 7, line 5, strike "is" and insert "**are**".
- 11          Page 7, between lines 9 and 10, begin a new paragraph and insert:  
 12          "SECTION 9. IC 7.1-7-2-6.3, AS AMENDED BY P.L.49-2020,  
 13          SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14          JULY 1, 2026]: Sec. 6.3. "Delivery sale" means a sale of an e-liquid,  
 15          **an e-liquid product, or a vapor device** to a purchaser in Indiana in  
 16          which the purchaser submits the order for the sale:
- 17               (1) by telephone;
- 18               (2) over the Internet; or
- 19               (3) through the mail or another delivery system;
- 20          and the e-liquid, **e-liquid product, or vapor device** is shipped through  
 21          a delivery service. "Delivery sale" does not include a sale of an  
 22          e-liquid, **an e-liquid product, or a vapor device** not for personal  
 23          consumption to a person who is a retailer."
- 24          Page 7, line 32, strike "vapor".
- 25          Page 7, line 32, delete "devices." and insert "**e-liquid or e-liquid**  
 26          **products.**".
- 27          Page 7, delete lines 39 through 42, begin a new paragraph and  
 28          insert:  
 29          "SECTION 16. IC 7.1-7-2-12.5 IS ADDED TO THE INDIANA  
 30          CODE AS A NEW SECTION TO READ AS FOLLOWS  
 31          [EFFECTIVE JULY 1, 2026]: **Sec. 12.5. (a) "Foreign adversary**  
 32          **product" means an:**
- 33               **(1) e-liquid;**
- 34               **(2) e-liquid containing an ingredient; or**
- 35               **(3) e-liquid product;**
- 36          **that is manufactured by, sourced from, or otherwise imported**  
 37          **from a nation listed as a foreign adversary in 15 CFR 791.4.**
- 38          **(b) The term does not include the following:**
- 39               **(1) A vapor device, including a part to be utilized in an open**  
 40               **or closed system to convert e-liquid to a vapor for inhalation.**
- 41               **(2) E-liquid or an e-liquid product that is manufactured by,**  
 42               **sourced from, or otherwise imported from a nation listed as**  
 43               **a foreign adversary in 15 CFR 791.4, if the e-liquid or e-liquid**  
 44               **product:**
- 45                       **(A) has been approved or authorized be the federal Food**  
 46                       **and Drug Administration; or**

1                   **(B) is pending review by the federal Food and Drug**  
2                   **Administration under 21 U.S.C. 387j.**

3                   SECTION 17. IC 7.1-7-2-15, AS AMENDED BY P.L.206-2017,  
4                   SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5                   JULY 1, 2026]: Sec. 15. "Manufacturer" means a person located inside  
6                   or outside Indiana that is engaged in manufacturing:

- 7                   **(1) e-liquid for closed and open system vapor devices; or**
- 8                   **(2) e-liquid products."**

9                   Page 8, delete lines 1 through 9.

10                  Page 8, between lines 14 and 15, begin a new paragraph and insert:

11                  "SECTION 18. IC 7.1-7-2-16, AS AMENDED BY P.L.206-2017,  
12                  SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13                  JULY 1, 2026]: Sec. 16. "Manufacturing" means the process by which  
14                  an:

- 15                  **(1) e-liquid is mixed, bottled, and packaged; and**
- 16                  **(2) e-liquid product is produced and packaged.**

17                  SECTION 19. IC 7.1-7-2-18, AS ADDED BY P.L.176-2015,  
18                  SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19                  JULY 1, 2026]: Sec. 18. "Permit" means a written authorization issued  
20                  by the commission entitling the holder to manufacture, sell, or  
21                  otherwise deal in e-liquid **or e-liquid products**, as provided in this  
22                  article.

23                  SECTION 20. IC 7.1-7-2-21, AS ADDED BY P.L.176-2015,  
24                  SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25                  JULY 1, 2026]: Sec. 21. "Retailer" means a person, other than a  
26                  manufacturer, who in the ordinary course of the person's regular trade  
27                  or business:

- 28                  (1) acquires any form of e-liquid **or e-liquid product** for the  
29                  purpose of resale; and
- 30                  (2) transfers the e-liquid **or e-liquid product** to another person  
31                  for money or other consideration."

32                  Page 9, line 41, after "not" insert "**, to the best of the**  
33                  **manufacturer's knowledge,**".

34                  Page 10, between lines 1 and 2, begin a new line block indented and  
35                  insert:

36                  **"(10) Evidence of the federal Food and Drug Administration**  
37                  **approval, authorization, or application status of each e-liquid**  
38                  **or e-liquid product the manufacturer seeks to sell, source,**  
39                  **import, or manufacture in the manner described under**  
40                  **IC 7.1-7-2-12.5(b)(2)."**

41                  Page 10, between lines 8 and 9, begin a new paragraph and insert:

42                  **"(g) If the federal Food and Drug Administration denies a**  
43                  **manufacturer's application for approval or authorization of an**  
44                  **e-liquid or e-liquid product during the term of a permit issued**  
45                  **under this section, the manufacturer must notify the commission**  
46                  **of the denial and submit a supplemental application for a**

1 **manufacturing permit on a form prescribed by the commission."**  
2 Page 10, line 37, after "not" insert ", **to the best of the**  
3 **manufacturer's knowledge,"**.

4 Page 10, between lines 39 and 40, begin a new line block indented  
5 and insert:

6 **"(9) Evidence of the federal Food and Drug Administration**  
7 **approval, authorization, or application status of each e-liquid**  
8 **or e-liquid product the manufacturer seeks to sell, source,**  
9 **import, or manufacture in the manner described under**  
10 **IC 7.1-7-2-12.5(b)(2)."**

11 Page 10, between lines 41 and 42, begin a new paragraph and insert:

12 **"(d) If the federal Food and Drug Administration denies a**  
13 **manufacturer's application for approval or authorization of an**  
14 **e-liquid or e-liquid product during the term of a permit issued**  
15 **under this section, the manufacturer must notify the commission**  
16 **of the denial and submit a supplemental renewal application for a**  
17 **manufacturing permit on a form prescribed by the commission."**

18 Page 10, delete line 42, begin a new paragraph and insert:

19 "SECTION 23. IC 7.1-7-4-6, AS AMENDED BY P.L.17-2019,  
20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2026]: Sec. 6. (a) As used in this section:

- 22 (1) "adulterated" means a product that:  
23 (A) consists in whole or in part of any filthy, putrid, or  
24 decomposed substance; ~~or~~  
25 (B) is contaminated by any added poisonous or added  
26 deleterious substance that may render the product injurious to  
27 health; ~~and or~~

28 **(C) is a foreign adversary product; and**

- 29 (2) "tamper evident package" means a package having at least one  
30 (1) indicator or barrier to entry that, if breached or missing, can  
31 reasonably be expected to provide visible evidence to consumers  
32 that tampering has occurred.

33 (b) A manufacturing facility shall comply with the following  
34 requirements:

- 35 (1) An e-liquid container must use a child proof cap that has the  
36 child resistant effectiveness set forth in the federal poison  
37 prevention packaging standards, 16 CFR 1700.15(b)(1).

38 (2) An e-liquid container **or e-liquid product** must use a tamper  
39 evident package. The tamper evident package feature must be  
40 designed to and remain intact when handled in a reasonable  
41 manner during the manufacture, distribution, and retail display of  
42 the e-liquid container **or e-liquid product**.

43 (3) The label on an e-liquid container **or e-liquid product** must  
44 meet the nicotine addictiveness warning statement requirements  
45 set forth in 21 CFR 1143.3.

46 (4) The manufacturer, **wholesaler**, or retailer may not add an

- 1 adulterated product to any e-liquid **or e-liquid product** produced
- 2 for sale in Indiana.
- 3 (5) The manufacturer must submit to random site visits by the
- 4 commission.
- 5 (6) The manufacturer may:
- 6 (A) own and control both the e-liquid **or e-liquid product**
- 7 manufacturing process and the bottling process; or
- 8 (B) subcontract with another manufacturer for the performance
- 9 of the e-liquid **or e-liquid product** manufacturing service, the
- 10 bottling services, or both services.
- 11 However, both the manufacturer performing a service under
- 12 clause (B) and the manufacturer for which the service is
- 13 performed must meet the requirements of this article, **including**
- 14 **obtaining a permit.**
- 15 (7) A manufacturer may use a flavoring, as defined by
- 16 IC 7.1-7-2-12, as an ingredient in an e-liquid **or e-liquid product.**
- 17 (8) The manufacturer or any person listed on the permit
- 18 application may not have been convicted within ten (10) years
- 19 before the date of application of:
- 20 (A) a federal crime having a sentence of at least one (1) year;
- 21 (B) an Indiana Class A, Class B, or Class C felony (for a crime
- 22 committed before July 1, 2014) or a Level 1, Level 2, Level 3,
- 23 Level 4, or Level 5 felony (for a crime committed after June
- 24 30, 2014);
- 25 (C) a crime in a state other than Indiana having a penalty equal
- 26 to the penalty for an Indiana Class A, Class B, or Class C
- 27 felony (for a crime committed before July 1, 2014) or a Level
- 28 1, Level 2, Level 3, Level 4, or Level 5 felony (for a crime
- 29 committed after June 30, 2014);
- 30 (D) an Indiana Class D felony involving a controlled substance
- 31 under IC 35-48-4 (for a crime committed before July 1, 2014)
- 32 or a Level 6 felony involving a controlled substance under
- 33 IC 35-48-4 (for a crime committed after June 30, 2014); or
- 34 (E) a crime in a state other than Indiana similar to a Class D
- 35 felony involving a controlled substance under IC 35-48-4 (for
- 36 a crime committed before July 1, 2014) or a Level 6 felony
- 37 involving a controlled substance under IC 35-48-4 (for a crime
- 38 committed after June 30, 2014)."
- 39 Delete page 11.
- 40 Page 12, delete lines 1 through 26.
- 41 Page 12, line 29, delete "(a) This section does not apply to:".
- 42 Page 12, delete lines 30 through 38.
- 43 Page 12, line 39, delete "(b)" and insert "**(a)**".
- 44 Page 12, run in lines 29 through 39.
- 45 Page 12, line 40, delete "manufacture or source" and insert
- 46 "**manufacture, source, possess, sell, or otherwise distribute**".

- 1 Page 12, line 42, delete "(c)" and insert "**(b)**".
- 2 Page 13, line 3, delete "(d)" and insert "**(c)**".
- 3 Page 13, delete lines 6 through 42, begin a new paragraph and
- 4 insert:
- 5 "SECTION 27. IC 7.1-7-5.5-1, AS AMENDED BY P.L.49-2020,
- 6 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2026]: Sec. 1. A retailer may not make a delivery sale of
- 8 e-liquid, **an e-liquid product, or a vapor device** to an individual who
- 9 does not meet the minimum age requirement as set forth in
- 10 IC 7.1-7-6-5.
- 11 SECTION 28. IC 7.1-7-5-1.1, AS AMENDED BY P.L.220-2023,
- 12 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2026]: Sec. 1.1. (a) A retailer must have a valid sales
- 14 certificate issued by the commission in accordance with
- 15 IC 7.1-3-18.5-1 that contains a separate box to check for identifying a
- 16 retailer that sells e-liquids **or e-liquid products**.
- 17 (b) A retailer may purchase e-liquid **or an e-liquid product** only
- 18 from an Indiana ~~e-liquid~~ manufacturing permit holder or an Indiana
- 19 ~~distributor~~ **wholesaler** permit holder.
- 20 (c) A retailer shall retain all invoices for e-liquid **and e-liquid**
- 21 **products** that the retailer purchases for two (2) years.
- 22 (d) A retailer shall not allow the self-service sale for individuals
- 23 purchasing an e-liquid **or e-liquid product**.
- 24 (e) A retailer may not sell an e-liquid **or e-liquid product** that
- 25 contains more than seventy-five (75) milligrams per milliliter of
- 26 nicotine.
- 27 (f) A manufacturer must have ~~an e-liquid~~ a manufacturing permit
- 28 issued under IC 7.1-7-4.
- 29 (g) A ~~distributor wholesaler~~ that does not have a valid ~~e-liquid~~
- 30 manufacturing permit issued under IC 7.1-7-4 must have a valid
- 31 ~~distributor's license~~ **wholesale tobacco sales certificate** issued under
- 32 ~~IC 6-7-2-8~~; **IC 7.1-3-18.5-1.5**.
- 33 (h) A ~~distributor wholesaler~~ shall purchase and distribute e-liquid
- 34 **or e-liquid products** from an:
- 35 (1) Indiana ~~e-liquid~~ manufacturer that has a valid ~~e-liquid~~
- 36 manufacturing permit under IC 7.1-7-4; or
- 37 (2) Indiana ~~e-liquid distributor wholesaler~~ that has a valid:
- 38 (A) ~~e-liquid~~ manufacturing permit issued under IC 7.1-7-4; or
- 39 (B) ~~distributor's license~~ **wholesale tobacco sales certificate**
- 40 under ~~IC 6-7-2-8~~; **IC 7.1-3-18.5-1.5**.
- 41 (i) A ~~distributor wholesaler~~ shall retain all invoices to a retailer or
- 42 from a manufacturer for at least two (2) years.
- 43 (j) A manufacturer, ~~distributor~~, **wholesaler**, or retailer may not
- 44 market e-liquid **or an e-liquid product** as a modified risk tobacco
- 45 product, as defined by IC 7.1-7-2-17.5, that has not been designated as
- 46 a modified risk tobacco product by the federal Food and Drug

1 Administration.

2 (k) Except as provided in subsection (m), a manufacturer ~~including~~  
3 ~~a manufacturer of a closed system vapor product,~~ **permitted or**  
4 **required to be permitted under IC 7.1-7-4** shall annually submit a  
5 report to the commission setting forth:

6 (1) each new product that the manufacturer is producing and is  
7 sold in Indiana with a list of the contents and ingredients by  
8 volume; and

9 (2) whether the manufacturer has stopped producing products  
10 previously produced and sold in Indiana.

11 A report under this subsection is confidential, and the commission may  
12 not disclose it to another person.

13 (l) A manufacturer **permitted or required to be permitted under**  
14 **IC 7.1-7-4** shall annually submit a report to the commission setting  
15 forth:

16 (1) the milligrams per milliliter of nicotine in each product the  
17 manufacturer produces; and

18 (2) the milliliters of each product sold that current year.

19 A report under this subsection is confidential, and the ~~ATC~~  
20 **commission** may not disclose it to another person.

21 (m) A manufacturer is not required to submit a report described in  
22 subsection (k) if the manufacturer submits to the commission a  
23 certification, by October 1 of each year, that each of the manufacturer's  
24 ~~vapor products~~ **e-liquid or e-liquid products** sold in Indiana ~~has have~~  
25 been filed with the federal Food and Drug Administration.".

26 Page 14, delete lines 1 through 22.

27 Page 14, between lines 30 and 31, begin a new paragraph and insert:

28 "SECTION 30. IC 7.1-7-5.5-2, AS AMENDED BY P.L.49-2020,  
29 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2026]: Sec. 2. A retailer may not ship an e-liquid, **an e-liquid**  
31 **product, or a vapor device** without first making a good faith effort to  
32 verify the age of the purchaser of the e-liquid, **e-liquid product, or**  
33 **vapor device** as set forth in IC 7.1-7-6-6.

34 SECTION 31. IC 7.1-7-5.5-3, AS AMENDED BY P.L.49-2020,  
35 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2026]: Sec. 3. (a) Before an e-liquid **or e-liquid product** is  
37 shipped in a delivery sale, a retailer must be fully paid for the purchase  
38 and shall accept payment from the purchaser:

39 (1) by a check drawn on an account in the purchaser's name;

40 (2) by a credit card issued in the purchaser's name; or

41 (3) by a debit card issued in the purchaser's name.

42 (b) A retailer may ship an e-liquid **or e-liquid product** only to a  
43 purchaser.

44 SECTION 33. IC 7.1-7-5.5-5, AS AMENDED BY P.L.49-2020,  
45 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
46 JULY 1, 2026]: Sec. 5. A retailer who ships an e-liquid, **an e-liquid**

1 **product, or a vapor device** from a delivery sale order shall include as  
 2 part of the shipping documents a document with the following  
 3 statement: "E-LIQUIDS: Indiana law prohibits the sale of this product  
 4 to a person who is less than 21 years of age.".

5 Page 14, line 42, reset in roman "sole".

6 Page 14, line 42, delete "dual".

7 Page 15, line 1, after "Administration" insert ".".

8 Page 15, line 1, delete "and the commission and may".

9 Page 15, delete line 2.

10 Page 15, line 3, delete "Administration and the commission.".

11 Page 15, line 7, after "article" insert ". **The commission shall**  
 12 **revoke the permit, tobacco sales certificate, or wholesaler tobacco**  
 13 **sales certificate of a manufacturer, wholesaler, or retailer that**  
 14 **violates the federal Food, Drug, and Cosmetic Act or a federal rule**  
 15 **promulgated under the federal Food, Drug, and Cosmetic Act.".**

16 Page 15, delete lines 8 through 10.

17 Page 15, delete lines 16 through 18, begin a new paragraph and  
 18 insert:

19 "SECTION 35. IC 7.1-7-6-2.1, AS ADDED BY P.L.49-2020,  
 20 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2026]: Sec. 2.1. A person who sells or distributes an e-liquid,  
 22 **an e-liquid product, or a vapor device** to a person less than  
 23 twenty-one (21) years of age may be in violation of IC 35-46-1.

24 SECTION 36. IC 7.1-7-6-5, AS AMENDED BY P.L.49-2020,  
 25 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2026]: Sec. 5. A person who knowingly or intentionally makes  
 27 a delivery sale of an e-liquid, **e-liquid product, or a vapor device** to  
 28 an individual who is less than twenty-one (21) years of age commits a  
 29 Class C infraction.

30 SECTION 37. IC 7.1-7-6-6, AS AMENDED BY P.L.49-2020,  
 31 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2026]: Sec. 6. (a) As used in this section, "good faith effort to  
 33 verify the age of the purchaser of the e-liquid, **e-liquid product, or**  
 34 **vapor device"** means:

35 (1) verifying the age of the purchaser in a commercially available  
 36 database; or

37 (2) obtaining a photocopy of a government issued identification;  
 38 that indicates the birth date or age of the purchaser.

39 (b) A person who knowingly or intentionally ships an e-liquid, **an**  
 40 **e-liquid product, or a vapor device** without first making a good faith

- 1 effort to verify the age of the purchaser of the e-liquid, **e-liquid**
- 2 **product, or vapor device** commits a Class C infraction.".
- 3 Renumber all SECTIONS consecutively.  
(Reference is to ESB 185 as printed February 12, 2026.)

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Representative Manning