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SENATE BILL No. 185

Proposed Changes to introduced printing by AM018502

DIGEST OF PROPOSED AMENDMENT

E-liquids and tobacco products. Adds language requiring a wholesaler to obtain a wholesale tobacco sales certificate. Establishes various requirements for e-liquid products manufactured, distributed, or sold in Indiana. Prohibits the sale or distribution of an e-liquid or an e-liquid containing an ingredient that is manufactured, sourced, or otherwise imported from a foreign adversary. Amends the requirements for an initial and renewal application to manufacture e-liquids. Allows a tobacco manufacturer to offer buydown programs.

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-3-18.5-1, AS AMENDED BY P.L.32-2019,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2026]: Sec. 1. (a) A person may not sell or otherwise
4 distribute in exchange for consideration a tobacco product or electronic
5 cigarette at retail **or wholesale** without a valid tobacco sales certificate
6 issued by the commission.

7 (b) A certificate may be issued only to a person who owns or
8 operates at least one (1) of the following:

9 (1) A premises consisting of a permanent building or structure,
10 **that does not contain sleeping or living quarters**, where the
11 tobacco product or electronic cigarette is sold or distributed.
12 (2) A premises upon which a cigarette vending machine is
13 located.

14 [SECTION 2. IC 7.1-3-18.5-1.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2026]: Sec. 1.5. (a) A person may not sell

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1 **tobacco products or electronic cigarettes at wholesale or**
 2 **participate in the wholesale distribution of tobacco products or**
 3 **electronic cigarettes without a valid wholesale tobacco sales**
 4 **certificate issued by the commission.**

5 **(b) The commission may only issue a wholesale tobacco sales**
 6 **certificate to a person who owns or operates at a premises**
 7 **consisting of a permanent building or structure that is used for the**
 8 **wholesale distribution of tobacco products or electronic cigarettes.**

9 1 SECTION ~~2~~³ [3]. IC 7.1-3-18.5-2, AS AMENDED BY
 10 P.L.107-2024, SECTION 1, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2026]: Sec. 2. (a) A person who desires a
 12 certificate must provide the following to the commission:

13 (1) The applicant's name and mailing address and the address of
 14 the premises for which the certificate is being issued.

15 (2) Except as provided in section 6(c) of this chapter, a fee of
 16 two hundred dollars (\$200).

17 (3) The name under which the applicant transacts or intends to
 18 transact business.

19 (4) The address of the applicant's principal place of business or
 20 headquarters, if any.

21 (5) The statement required under section 2.6 of this chapter.

22 (6) If the applicant is applying for a new certificate under section
 23 3.2 of this chapter, a copy of each of the following:

24 (A) If the new ownership of the business is a business
 25 entity, the articles of incorporation, articles of organization,
 26 or any other formation documents of the business entity.

27 (B) If the new ownership of the business is an individual,
 28 either:

29 (i) the sales or purchase agreement; or

30 (ii) an affidavit signed by the applicant concerning the
 31 sale or purchase, on a form prescribed by the
 32 commission, that includes the name and address of the
 33 seller and purchaser.

34 (C) The certificate held by the previous ownership of the
 35 business.

36 (b) A separate certificate is required for each location where the
 37 tobacco products or electronic cigarettes are sold or distributed. A retail
 38 establishment may not hold more than one (1) active tobacco sales
 39 certificate for a retail location at any time. **The commission shall not**
 40 **issue a certificate to a retail location where a tobacco sales**
 41 **certificate was revoked within one (1) year prior to the date of the**
 42 **application.**



(c) A certificate holder shall conspicuously display the holder's certificate on the holder's premises where the tobacco products or electronic cigarettes are sold or distributed.

(d) Any intentional misstatement or suppression of a material fact in an application filed under this section constitutes grounds for denial of the certificate.

(e) A certificate may be issued only to a person who meets the following requirements:

(1) If the person is an individual, the person must be at least twenty-one (21) years of age.

(2) The person must be authorized to do business in Indiana.

(3) The person has not had an interest in a certificate revoked or suspended by the commission for that business location within the preceding one (1) year.

(f) The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.

SECTION ~~4~~⁴. IC 7.1-3-18.5-2.4, AS ADDED BY P.L.107-2024, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2.4. (a) Subject to available resources, the commission shall not issue a tobacco sales certificate, except as otherwise authorized in this title and subject to the other restrictions contained in this title, to the following persons:

(1) A person who does not have lawful status (as defined in IC 9-13-2-92.3).

(2) A person who has been convicted within five (5) years before the date of application of:

(A) a federal crime having a sentence of at least one (1) year;

(B) a Level 1, Level 2, Level 3, Level 4, or Level 5 felony;
or

(C) a crime in a state other than Indiana having a penalty equal to the penalty for an Indiana Level 1, Level 2, Level 3, Level 4, or Level 5 felony.

However, this subdivision does not apply to a conviction that has been expunged under IC 35-38-9.

(3) A person who does not meet at least one (1) of the following descriptions:

(A) The person owns the premises to which the certificate will be applicable.

(B) The person has a valid lease on the premises:

- (i) at the time of the application for a certificate; and
- (ii) for the duration of the period in which the person

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1 sells or distributes in the manner described in section
 2 1 of this chapter.

3 (C) The person has a franchise agreement with a franchisor:
 4 (i) that owns the premises to which the certificate will
 5 be applicable; or
 6 (ii) that has a bona fide lease on the premises for the
 7 full period for which the certificate is to be issued.

8 (4) A person whose place of business is conducted by a manager
 9 or agent, unless the manager or agent possesses the same
 10 qualifications required for the issuance of a tobacco sales
 11 certificate to the person.

12 (5) A minor.

13 (6) A person non compos mentis.

14 (7) A person who has held a permit or certificate under this title
 15 and who has had that permit or certificate revoked **or**
 16 **suspended**1 within one (1) year prior to the date of application
 17 for a tobacco sales certificate.

18 (8) A person who has made an application for a permit or
 19 certificate of any type under this title which has been denied less
 20 than one (1) year prior to the person's application for a tobacco
 21 sales certificate unless the first application was denied by reason
 22 of a procedural or technical defect.

23 (b) Subsection (a)(5) does not prevent a minor from being a
 24 stockholder in a corporation.

25 SECTION ~~44~~5, IC 7.1-3-18.5-3, AS AMENDED BY
 26 P.L.224-2005, SECTION 11, IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 3. (a) A certificate
 28 issued by the commission under this chapter must contain the following
 29 information:

30 (1) The certificate number.
 31 (2) The certificate holder's name.
 32 (3) The permanent location of the business or vending machine
 33 for which the certificate is issued.
 34 (4) The expiration date of the certificate.

35 (b) A certificate is:

36 (1) valid for **three (3) years one (1) year** after the date of
 37 issuance, unless the commission suspends the certificate; and
 38 (2) nontransferable.

39 SECTION ~~45~~6, IC 7.1-3-18.5-9.2, AS ADDED BY
 40 P.L.107-2024, SECTION 4, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2026]: Sec. 9.2. (a) An employee of a certificate
 42 holder must hold a valid:

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9 (1) either:

(A) in the employee's possession; or

(B) on file with the employee's employer; and

12 (2) upon request, readily available to show to an excise officer
13 or law enforcement;

14 when selling tobacco products.

21 (2) the license, identification card, or copy has otherwise been
22 lost or mislaid;

the employee may, within five (5) days of the employee's inability to show the license, identification card, or copy to the excise officer, produce to the excise officer or to the office of the commission satisfactory evidence of a license or identification card issued to the individual that was valid at the time the individual was unable to show the license, identification card, or copy.

38 SECTION ~~6~~⁷. IC 7.1-5-10-23, AS AMENDED BY
39 P.L.32-2019, SECTION 16, IS AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2026]: Sec. 23. It is a Class C infraction for a
41 permittee, **certificate holder**, or an employee or agent of a permittee
42 or **certificate holder** to recklessly, knowingly, or intentionally sell,

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1 barter, exchange, provide, or furnish another person who is or
 2 reasonably appears to be less than forty (40) years of age an alcoholic
 3 beverage **or tobacco product** for consumption off the licensed
 4 premises without first requiring the person to produce:

- 5 (1) a driver's license;
- 6 (2) an identification card issued under IC 9-24-16-1 or a similar
- 7 card issued under the laws of another state or the federal
- 8 government; or

- 9 (3) a government issued document;

10 bearing the person's photograph and birth date showing that the person
 11 is at least twenty-one (21) years of age.

12 SECTION ~~↔[8]~~ IC 7.~~↔7-5-7~~ [1-7-1-0.5] IS ADDED TO THE
 13 INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2026]: Sec. ~~↔.(a) As used in this section,~~
 15 **"foreign" 0.5. (a) An e-liquid product manufactured, distributed,**
 16 **or sold in Indiana must adhere to all applicable rules and**
 17 **regulations of the federal Food and Drug Administration, including**
 18 **those rules and regulations regarding product safety, labeling, and**
 19 **manufacturing standards.**

20 **(b) Except as otherwise provided in this article, this article**
 21 **does not require a product subject to this article to be specifically**
 22 **approved by the federal Food and Drug Administration if the**
 23 **product satisfies all applicable rules and regulations.**

24 **(c) If a product subject to this article is approved by the**
 25 **federal Food and Drug Administration, the approval constitutes**
 26 **prima facie evidence of compliance with this article.**

27 SECTION 9. IC 7.1-7-1-1, AS AMENDED BY P.L.206-2017,
 28 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2026]: Sec. 1. (a) Except as provided in subsection (b), this
 30 article applies to the following:

31 **(1) The commercial manufacturing, bottling, selling, bartering,**
 32 **or importing of e-liquid in Indiana.**

33 **(2) The sale, possession, and use of e-liquid products in Indiana,**
 34 **including through a cigarette vending machine.**

35 **(b) This article does not apply applies to a manufacturer**
 36 **manufacturers of a both closed and open system vapor product;**
 37 **except as specifically provided in this article. devices manufactured**
 38 **or sold in Indiana.**

39 SECTION 10. IC 7.1-7-1-2, AS AMENDED BY P.L.206-2017,
 40 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2026]: Sec. 2. The purpose of this article is to protect public
 42 health and safety by:

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1 (1) ensuring the safety and security of e-liquid manufactured for
2 sale in Indiana;
3 (2) ensuring that e-liquid manufactured or sold in Indiana
4 conforms to appropriate standards of identity, strength, quality,
5 and purity; and
6 (3) ensuring that e-liquid is not contaminated or adulterated by
7 the inclusion of ingredients or other substances that might pose
8 unreasonable threats to public health and safety; and
9 (4) ensuring dangerous foreign adversary products are not
10 sold or distributed in Indiana.

11 SECTION 11. IC 7.1-7-2-8 IS REPEALED [EFFECTIVE JULY
12 1, 2026]. Sec. 8. "Distributor" means a person who is licensed under
13 IC 6-7-2-8 that:

14 (1) distributes, sells, barters, or exchanges e-liquid in Indiana to
15 retail dealers for the purpose of resale; or
16 (2) purchases e-liquid directly from a manufacturer for the
17 purpose of resale.

18 SECTION 12. IC 7.1-7-2-10, AS AMENDED BY P.L.206-2017,
19 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2026]: Sec. 10. "E-liquid" means a substance that:

21 (1) may or may not contain nicotine; and
22 (2) is intended to be vaporized and inhaled using a vapor
23 product device.

24 SECTION 13. IC 7.1-7-2-12, AS AMENDED BY P.L.206-2017,
25 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2026]: Sec. 12. "Flavoring" means a food grade additive or
27 synthetic flavoring substance that is used to add flavor and that is not
28 prohibited by the federal Food and Drug Administration as an additive
29 in vapor products: devices.

30 SECTION 14. IC 7.1-7-2-12.3 IS ADDED TO THE INDIANA
31 CODE AS A NEW SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2026]: Sec. 12.3. "Foreign" adversary"
33 means[an individual, business entity, or other entity located in or
34 organized under the laws of a nation governed by] a foreign
35 government listed in 15 CFR 791.4. <

36 ——— (b) A retailer may not sell and a distributor may not distribute
37 an e-liquid that is manufactured in ~~any~~ |

SECTION 15. IC 7.1-7-2-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 12.5. "Foreign adversary product" means:

42 (1) an e-liquid; or



(2) an e-liquid containing an ingredient;
that is manufactured, sourced, or otherwise imported from a
nation governed by a foreign adversary.

SECTION 8 → government listed in 15 CFR 791.4.

SECTION 16, IC 7.1-7-2-15, AS AMENDED BY P.L.206-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 15. "Manufacturer" means a person located inside or outside Indiana that is engaged in manufacturing e-liquid for closed and open system vapor devices.

SECTION 17. IC 7.1-7-2-15.5 IS REPEALED [EFFECTIVE JULY 1, 2026]. Sec. 15.5. "Manufacturer of a closed system vapor product" means a manufacturer of vapor products whose closed system vapor products are for sale in Indiana; but that does not produce open system vapor products that are for sale in Indiana.

SECTION 18. IC 7.1-7-2-23, AS AMENDED BY P.L.206-2017, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 23. "Vapor product" device" means a powered vaporizer that converts e-liquid to a vapor intended for inhalation. The term includes both open and closed system vapor devices.

SECTION 19. IC 7.1-7-2-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 24. "Wholesaler" means a person who has obtained or is required to obtain a wholesale tobacco sales certificate under IC 7.1-3-18.5-1.5 that:

(1) distributes, sells, barter, or exchanges e-liquid in Indiana to retail dealers for the purpose of resale; or

(2) purchases e-liquid directly from a manufacturer for the purpose of resale to resellers.

SECTION 20. IC 7.1-7-3-2, AS AMENDED BY P.L.206-2017, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2. The commission has the following duties and responsibilities:

(1) To require the submission of information necessary to implement this article.

(2) To issue permits.

(3) To charge fees as set forth in this article. The fees charged under this subdivision may not exceed the actual costs incurred by the commission.

(4) To approve or deny a permit application made under IC 7.1-7-4 within sixty (60) days of receiving the application.

SECTION 21, JC 7.1-7-4-1, AS AMENDED BY P.L.49-2020.

SECTION 13. IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2026]: Sec. 1. (a) Not later than January 1, 2027, a
 2 manufacturer of an e-liquid product that is manufactured or sold
 3 in Indiana must obtain a permit under this section.

4 (a) (b) A manufacturer of e-liquid may not mix, bottle, package,
 5 or sell e-liquid to retailers, consumers, or **distributors** **wholesalers** in
 6 Indiana without a permit issued by the commission under this article.

7 (b) An e-liquid manufactured by an e-liquids manufacturer
 8 approved by the commission under this article before July 1, 2017, may
 9 be distributed and sold for retail until the expiration date of the
 10 e-liquid.

11 (c) A manufacturing permit issued by the commission **before July**
 12 **1, 2026, is valid for five (5) years. A manufacturing permit issued by**
 13 **the commission after June 30, 2026, is valid for two (2) years. A**
 14 **manufacturing permit issued by the commission under this article**
 15 **before July 1, 2017, does not expire before July 1, 2020.**

16 (d) An initial application for a manufacturing permit must include
 17 the following:

18 (1) The name, telephone number, and address of the applicant.

19 (2) The name, telephone number, and address of the
 20 manufacturing facility.

21 (3) The name, telephone number, title, and address of the person
 22 responsible for the manufacturing facility.

23 (4) Verification that the facility will comply with applicable
 24 tobacco products good manufacturing practices promulgated
 25 under 21 U.S.C. 387f(e) of the federal Food, Drug, and Cosmetic
 26 Act.

27 (5) Verification that the manufacturer will comply with the
 28 applicable ingredient listing required by 21 U.S.C. 387d(a)(1) of
 29 the federal Food, Drug, and Cosmetic Act.

30 (6) Written consent allowing the state police department to
 31 conduct a state or national criminal history background check on
 32 any person listed on the application.

33 (7) A nonrefundable initial application fee of **one thousand**
 34 **dollars (\$1,000): three thousand dollars (\$3,000).**

35 (8) Verification that the manufacturer will comply with all
 36 other state and federal laws related to e-liquids.

37 (9) An affirmation, made under the penalties for perjury,
 38 that the manufacturer will not use any ingredients or
 39 e-liquids in the manufacturer's manufacturing process that
 40 originate in a nation governed by a foreign government listed
 41 in 15 CFR 791.4.

42 (e) The fees collected under subsection (d)(7) shall be deposited



1 in the enforcement and administration fund established under
 2 IC 7.1-4-10.

3 **(f) Except as otherwise provided in this article, an applicant**
 4 **for a permit under this section must adhere to all state and federal**
 5 **laws applicable to e-liquids, including rules and regulations**
 6 **promulgated by the federal Food and Drug Administration.**

7 SECTION 22. IC 7.1-7-4-2, AS AMENDED BY P.L.206-2017,
 8 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2026]: Sec. 2. (a) A manufacturing permit that is renewed by
 10 the commission **before July 1, 2026**, is valid for five (5) years. A
 11 manufacturing permit that is renewed by the commission **after**
 12 **June 30, 2026, is valid for two (2) years.**

13 (b) A renewal application for a manufacturing permit must include
 14 the following:

15 (1) The name, telephone number, and address of the applicant.

16 (2) The name, telephone number, and address of the
 17 manufacturing facility.

18 (3) The name, telephone number, title, and address of the person
 19 responsible for the manufacturing facility.

20 (4) Verification that the facility complies with all tobacco
 21 products good manufacturing practices:

22 (A) set forth in; and

23 (B) promulgated in federal rules under:

24 21 U.S.C. 387f through 21 U.S.C. 387u of the federal Food,
 25 Drug, and Cosmetic Act.

26 (5) Written consent allowing the state police department to
 27 conduct a state or national criminal history background check on
 28 any person listed on the application.

29 (6) A nonrefundable renewal application fee of five hundred
 30 dollars (\$500). one thousand dollars (\$1,000).

31 **(7) Verification that the manufacturer will comply with all**
 32 **other state and federal laws related to e-liquids.**

33 **(8) An affirmation, made under the penalties for perjury,**
 34 **that the manufacturer will not use any ingredients or**
 35 **e-liquids in the manufacturer's manufacturing process that**
 36 **originate in a nation governed by a foreign government listed**
 37 **in 15 CFR 791.4.**

38 (c) The fees collected under subsection (b)(6) shall be deposited
 39 in the enforcement and administration fund established under
 40 IC 7.1-4-10.

41 SECTION 23. IC 7.1-7-4-6, AS AMENDED BY P.L.17-2019,
 42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2026]: Sec. 6. (a) As used in this section:

2 (1) "adulterated" means a product that:

3 (A) consists in whole or in part of any filthy, putrid, or

4 decomposed substance; or

5 (B) is contaminated by any added poisonous or added

6 deleterious substance that may render the product injurious

7 to health; and or

8 (C) is a foreign adversary product (as defined in

9 IC 7.1-7-2-12.5); and

10 (2) "tamper evident package" means a package having at least

11 one (1) indicator or barrier to entry that, if breached or missing,

12 can reasonably be expected to provide visible evidence to

13 consumers that tampering has occurred.

14 (b) A manufacturing facility shall comply with the following

15 requirements:

16 (1) An e-liquid container must use a child proof cap that has the

17 child resistant effectiveness set forth in the federal poison

18 prevention packaging standards, 16 CFR 1700.15(b)(1).

19 (2) An e-liquid container must use a tamper evident package.

20 The tamper evident package feature must be designed to and

21 remain intact when handled in a reasonable manner during the

22 manufacture, distribution, and retail display of the e-liquid

23 container.

24 (3) The label on an e-liquid container must meet the nicotine

25 addictiveness warning statement requirements set forth in 21

26 CFR 1143.3.

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

28 adulterated product to any e-liquid produced for sale in Indiana.

29 (5) The manufacturer must submit to random site visits by the

30 commission.

31 (6) The manufacturer may:

32 (A) own and control both the e-liquid manufacturing

33 process and the bottling process; or

34 (B) subcontract with another manufacturer for the

35 performance of the e-liquid manufacturing service, the

36 bottling services, or both services.

37 However, both the manufacturer performing a service under

38 clause (B) and the manufacturer for which the service is

39 performed must meet the requirements of this article, including

40 obtaining a permit. A manufacturer may not be located in or

41 source any ingredient or substance used in an e-liquid

42 product from a nation governed by a foreign government



1 **listed in 15 CFR 791.4.**

2 **(7) A manufacturer may use a flavoring, as defined by**

3 **IC 7.1-7-2-12, as an ingredient in an e-liquid.**

4 **(8) The manufacturer or any person listed on the permit**

5 **application may not have been convicted within ten (10) years**

6 **before the date of application of:**

7 **(A) a federal crime having a sentence of at least one (1)**

8 **year;**

9 **(B) an Indiana Class A, Class B, or Class C felony (for a**

10 **crime committed before July 1, 2014) or a Level 1, Level 2,**

11 **Level 3, Level 4, or Level 5 felony (for a crime committed**

12 **after June 30, 2014);**

13 **(C) a crime in a state other than Indiana having a penalty**

14 **equal to the penalty for an Indiana Class A, Class B, or**

15 **Class C felony (for a crime committed before July 1, 2014)**

16 **or a Level 1, Level 2, Level 3, Level 4, or Level 5 felony**

17 **(for a crime committed after June 30, 2014);**

18 **(D) an Indiana Class D felony involving a controlled**

19 **substance under IC 35-48-4 (for a crime committed before**

20 **July 1, 2014) or a Level 6 felony involving a controlled**

21 **substance under IC 35-48-4 (for a crime committed after**

22 **June 30, 2014); or**

23 **(E) a crime in a state other than Indiana similar to a Class D**

24 **felony involving a controlled substance under IC 35-48-4**

25 **(for a crime committed before July 1, 2014) or a Level 6**

26 **felony involving a controlled substance under IC 35-48-4**

27 **(for a crime committed after June 30, 2014).**

28 **SECTION 24. IC 7.1-7-4-8 IS ADDED TO THE INDIANA CODE**

29 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**

30 **1, 2026]: Sec. 8. (a) This section does not apply to:**

31 **(1) a vapor device (as defined in IC 7.1-7-2-23), including:**

32 **(A) a part to be utilized in an open or closed system to**

33 **convert e-liquid to a vapor for inhalation; or**

34 **(B) an e-liquid product that includes a vapor device**

35 **sourced from or manufactured by a foreign adversary;**

36 **and**

37 **(2) an e-liquid product that is manufactured by or sourced**

38 **from a foreign adversary, if the e-liquid product has been**

39 **specifically approved for distribution and sale in the United**

40 **States by the federal Food and Drug Administration.**

41 **(b) A manufacturer of e-liquid that is permitted or required to**

42 **be permitted under this chapter may not manufacture or source a**



1 foreign adversary product.

2 (c) A retailer that holds or is required to hold a tobacco sales

3 certificate under IC 7.1-3-18.5-1 may not possess, sell, or otherwise

4 distribute a foreign adversary product.

5 (d) A wholesaler that holds or is required to hold a wholesale

6 tobacco sales certificate under IC 7.1-3-18.5-1.5 may not possess,

7 sell, or otherwise distribute a foreign adversary product.

8 SECTION 25. IC 7.1-7-5-1.1, AS AMENDED BY P.L.220-2023,

9 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

10 JULY 1, 2026]: Sec. 1.1. (a) A retailer must have a valid sales

11 certificate issued by the commission in accordance with

12 IC 7.1-3-18.5-1 that contains a separate box to check for identifying a

13 retailer that sells e-liquids.

14 (b) A retailer may purchase e-liquid only from an Indiana e-liquid

15 manufacturing permit holder or an Indiana distributor wholesaler

16 permit holder.

17 (c) A retailer shall retain all invoices for e-liquid that the retailer

18 purchases for two (2) years.

19 (d) A retailer shall not allow the self-service sale for individuals

20 purchasing an e-liquid.

21 (e) A retailer may not sell an e-liquid that contains more than

22 seventy-five (75) milligrams per milliliter of nicotine.

23 (f) A manufacturer must have an e-liquid manufacturing permit

24 issued under IC 7.1-7-4.

25 (g) A distributor wholesaler that does not have a valid e-liquid

26 manufacturing permit issued under IC 7.1-7-4 must have a valid

27 distributor's license wholesale tobacco sales certificate issued under

28 IC 6-7-2-8. IC 7.1-3-18.5-1.5.

29 (h) A distributor wholesaler shall purchase and distribute e-liquid

30 from an:

31 (1) Indiana e-liquid manufacturer that has a valid e-liquid

32 manufacturing permit under IC 7.1-7-4; or

33 (2) Indiana e-liquid distributor wholesaler that has a valid:

34 (A) e-liquid manufacturing permit issued under IC 7.1-7-4;

35 or

36 (B) distributor's license wholesale tobacco sales certificate

37 under IC 6-7-2-8. IC 7.1-3-18.5-1.5.

38 (i) A distributor wholesaler shall retain all invoices to a retailer or

39 from a manufacturer for at least two (2) years.

40 (j) A manufacturer, distributor, wholesaler, or retailer may not

41 market e-liquid as a modified risk tobacco product, as defined by

42 IC 7.1-7-2-17.5, that has not been designated as a modified risk



1 tobacco product by the federal Food and Drug 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 may not
 20 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 devices sold in Indiana has been filed with the federal
 25 Food and Drug Administration.

26 SECTION 26. IC 7.1-7-5-2, AS ADDED BY P.L.176-2015,
 27 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2026]: Sec. 2. (a) A manufacturer of e-liquid may file a
 29 request with the **Indiana department of health** for approval of an
 30 ingredient to be allowed in the composition of e-liquid.

31 (b) The **Indiana department of health** may approve the request
 32 filed under subsection (a) if the department determines that the
 33 ingredient will not pose an unreasonable threat to public health and
 34 safety.

35 SECTION 27. IC 7.1-7-6-1, AS AMENDED BY P.L.206-2017,
 36 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2026]: Sec. 1. (a) If a manufacturer, distributor, wholesaler,
 38 or retailer violates any provision of this article, the manufacturer,
 39 distributor, wholesaler, or retailer may be reprimanded, assessed a
 40 civil penalty, or have the manufacturer's permit, distributor's license,
 41 wholesaler's tobacco sales certificate, or retailer's tobacco sales
 42 certificate suspended by the commission.



23 SECTION 28. IC 24-3-2-2, AS AMENDED BY P.L.217-2017,
24 SECTION 154, IS AMENDED TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2026]: Sec. 2. Unless the context in this chapter
26 requires otherwise, the term:



1 is disclosed by the context.

2 (c) "Distributor" shall mean and include every person who sells,
 3 barters, exchanges, or distributes cigarettes in the state of Indiana to
 4 retail dealers for the purpose of resale, or who purchases for resale
 5 cigarettes from a manufacturer of cigarettes or from a wholesaler,
 6 jobber, or distributor outside the state of Indiana who is not a
 7 distributor holding a registration certificate issued under the provisions
 8 of IC 6-7-1.

9 (d) "Retailer" shall mean every person, other than a distributor,
 10 who purchases, sells, offers for sale, or distributes cigarettes to
 11 consumers or to any person for any purpose other than resale,
 12 irrespective of quantity or amount or the number of sales.

13 (e) "Sell at retail", "sale at retail", and "retail sales" shall mean and
 14 include any transfer of title to cigarettes for a valuable consideration
 15 made in the ordinary course of trade or usual conduct of the seller's
 16 business to the purchaser for consummation or use.

17 (f) "Sell at wholesale", "sale at wholesale", and "wholesale sales"
 18 shall mean and include any transfer of title to cigarettes for a valuable
 19 consideration made in the ordinary course of trade or usual conduct of
 20 a distributor's business.

21 (g) "Basic cost of cigarettes" shall mean the invoice cost of
 22 cigarettes to the retailer or distributor, as the case may be, or the
 23 replacement cost of cigarettes to the retailer or distributor, as the case
 24 may be, within thirty (30) days prior to the date of sale, in the quantity
 25 last purchased, whichever is the lower, less all trade discounts and
 26 customary discounts for cash, plus the cost at full face value of any
 27 stamps which may be required by IC 6-7-1, if not included by the
 28 manufacturer in his selling price to the distributor.

29 (h) "Department" shall mean the alcohol and tobacco commission
 30 or its duly authorized assistants and employees.

31 (i) "Cost to the retailer" shall mean the basic cost of cigarettes to
 32 the retailer, plus the cost of doing business by the retailer as evidenced
 33 by the standards and methods of accounting regularly employed by him
 34 in his allocation of overhead costs and expenses paid or incurred and
 35 must include without limitation labor (including salaries of executives
 36 and officers), rent, depreciation, selling costs, maintenance of
 37 equipment, delivery costs, all types of licenses, taxes, insurance, and
 38 advertising; however, any retailer who, in connection with the retailer's
 39 purchase, receives not only the discounts ordinarily allowed upon
 40 purchases by a retailer, but also, in whole or in part, discounts
 41 ordinarily allowed on purchases by a distributor shall, in determining
 42 costs to the retailer pursuant to this section, add the cost to the



1 distributor, as defined in paragraph (j), to the basic cost of cigarettes to
 2 said retailer as well as the cost of doing business by the retailer. In the
 3 absence of proof of a lesser or higher cost of doing business:

4 (1) by the retailer making the sale, the cost of doing business by
 5 the retailer shall be presumed to be the following percent of the
 6 basic cost of cigarettes to the retailer:

- 7 (A) Until January 1, 2018, twelve percent (12%).
- 8 (B) During 2018, twelve and twenty-five hundredths
percent (12.25%).
- 9 (C) During 2019, twelve and five tenths percent (12.5%).
- 10 (D) During 2020, twelve and seventy-five hundredths
percent (12.75%).
- 11 (E) During 2021, thirteen percent (13%).
- 12 (F) During 2022, thirteen and twenty-five hundredths
percent (13.25%).
- 13 (G) During 2023, thirteen and five tenths percent (13.5%).
- 14 (H) During 2024, thirteen and seventy-five hundredths
percent (13.75%).
- 15 (I) After 2024, fourteen percent (14%).

16 (2) by the retailer, who in connection with the retailer's purchase
 17 receives not only the discounts ordinarily allowed upon
 18 purchases by a retailer, but also, in whole or in part, the
 19 discounts ordinarily allowed upon purchases by a distributor,
 20 shall be presumed to be the following percent of the sum of the
 21 basic cost of cigarettes plus the cost of doing business by the
 22 distributor:

- 23 (A) Until January 1, 2018, twelve percent (12%).
- 24 (B) During 2018, twelve and twenty-five hundredths
percent (12.25%).
- 25 (C) During 2019, twelve and five tenths percent (12.5%).
- 26 (D) During 2020, twelve and seventy-five hundredths
percent (12.75%).
- 27 (E) During 2021, thirteen percent (13%).
- 28 (F) During 2022, thirteen and twenty-five hundredths
percent (13.25%).
- 29 (G) During 2023, thirteen and five tenths percent (13.5%).
- 30 (H) During 2024, thirteen and seventy-five hundredths
percent (13.75%).
- 31 (I) After 2024, fourteen percent (14%).

32 (j) "Cost to the distributor" shall mean the basic cost of cigarettes
 33 to the distributor, plus the cost of doing business by the distributor as
 34 evidenced by the standards and methods of accounting regularly



1 employed by him in his allocation of overhead costs and expenses, paid
 2 or incurred, and must include without limitation labor costs (including
 3 salaries of executives and officers), rent, depreciation, selling costs,
 4 maintenance of equipment, delivery costs, all types of licenses, taxes,
 5 insurance, and advertising. In the absence of proof of a lesser or higher
 6 cost of doing business by the distributor making the sale, the cost of
 7 doing business by the wholesaler shall be presumed to be four percent
 8 (4%) of the basic cost of cigarettes to the distributor, plus cartage to the
 9 retail outlet, if performed or paid for by the distributor, which cartage
 10 cost, in the absence of proof of a lesser or higher cost, shall be deemed
 11 to be one-half of one percent (0.5%) of the basic cost of cigarettes to
 12 the distributor.

13 (k) "Registration certificate" refers to the registration certificate
 14 issued to cigarette distributors by the department of state revenue under
 15 IC 6-7-1-16.

16 **(l) "Buydown" means any payment or compensation given by**
 17 **a cigarette manufacturer to a cigarette distributor or retailer to**
 18 **promote the sale of cigarettes and for which the manufacturer**
 19 **requires that either:**

20 **(1) the distributor pass the resulting price reduction on to the**
 21 **retailer; or**
 22 **(2) the retailer pass the resulting price reduction on to the**
 23 **consumer.**

24 SECTION 29. IC 24-3-2-9 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 9. (a) In determining
 26 cost to the retailer and cost to the distributor, the court or the
 27 department, as the case may be, shall receive and consider as bearing
 28 on the bona fides of such cost evidence tending to show that any person
 29 complained against under any of the provisions of this chapter
 30 purchased cigarettes with respect to the sale of which complaint is
 31 made at a fictitious price, or upon terms, or in such manner, or under
 32 such invoices, as to conceal the true cost, discounts, or terms of
 33 purchase, and shall also receive and consider as bearing on the bona
 34 fides of such cost evidence of the normal, customary, and prevailing
 35 terms and discounts in connection with other sales of a similar nature
 36 in the trade area or state.

37 **(b) Merchandise given gratis or payment made to a retailer or**
 38 **distributor for display, or advertising, or promotion purposes, or**
 39 **otherwise shall not be considered in determining the cost of cigarettes**
 40 **to the retailer or distributor.**

41 **(c) A buydown must be considered in determining the cost to**
 42 **the retailer or the cost to the distributor, as applicable, provided**



1 **that the sum of any buydown and consideration paid by the**
 2 **purchaser is not below the cost to the retailer or distributor.**

3 **SECTION 30]** IC 35-45-6-1, AS AMENDED BY P.L.186-2025,
 4 SECTION 240, IS AMENDED TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) The definitions in this section
 6 apply throughout this chapter.

7 (b) "Documentary material" means any document, drawing,
 8 photograph, recording, or other tangible item containing compiled data
 9 from which information can be either obtained or translated into a
 10 usable form.

11 (c) "Enterprise" means:

12 (1) a sole proprietorship, corporation, limited liability company,
 13 partnership, business trust, or governmental entity; or

14 (2) a union, an association, or a group, whether a legal entity or
 15 merely associated in fact.

16 (d) "Pattern of racketeering activity" means engaging in at least
 17 two (2) incidents of racketeering activity that have the same or similar
 18 intent, result, accomplice, victim, or method of commission, or that are
 19 otherwise interrelated by distinguishing characteristics that are not
 20 isolated incidents. However, the incidents are a pattern of racketeering
 21 activity only if at least one (1) of the incidents occurred after August
 22 31, 1980, and if the last of the incidents occurred within five (5) years
 23 after a prior incident of racketeering activity.

24 (e) "Racketeering activity" means to commit, to attempt to commit,
 25 to conspire to commit a violation of, or aiding and abetting in a
 26 violation of any of the following:

27 (1) A provision of IC 23-19, or of a rule or order issued under
 28 IC 23-19.

29 (2) A violation of IC 35-45-9.

30 (3) A violation of IC 35-47.

31 (4) A violation of IC 35-49-3.

32 (5) Murder (IC35-42-1-1).

33 (6) Battery as a Class C felony before July 1, 2014, or a Level 5
 34 felony after June 30, 2014 (IC35-42-2-1).

35 (7) Kidnapping (IC35-42-3-2).

36 (8) Human and sexual trafficking crimes (IC35-42-3.5).

37 (9) Child exploitation (IC35-42-4-4).

38 (10) Robbery (IC35-42-5-1).

39 (11) Carjacking (IC35-42-5-2) (before its repeal).

40 (12) Arson (IC35-43-1-1).

41 (13) Burglary (IC35-43-2-1).

42 (14) Theft (IC35-43-4-2).



1 (15) Receiving stolen property (IC []35-43-4-2) (before its
2 amendment on July 1, 2018).
3 (16) Forgery (IC []35-43-5-2).
4 (17) An offense under IC 35-43-5.
5 (18) Bribery (IC []35-44.1-1-2).
6 (19) Official misconduct (IC []35-44.1-1-1).
7 (20) Conflict of interest (IC []35-44.1-1-4).
8 (21) Perjury (IC []35-44.1-2-1).
9 (22) Obstruction of justice (IC []35-44.1-2-2).
10 (23) Intimidation (IC []35-45-2-1).
11 (24) Promoting prostitution (IC []35-45-4-4).
12 (25) Professional gambling (IC []35-45-5-3).
13 (26) Maintaining a professional gambling site
14 (IC []35-45-5-3.5(b)).
15 (27) Promoting professional gambling (IC []35-45-5-4).
16 (28) Dealing in or manufacturing cocaine or a narcotic drug
17 (IC []35-48-4-1).
18 (29) Dealing in methamphetamine (IC []35-48-4-1.1).
19 (30) Manufacturing methamphetamine (IC []35-48-4-1.2).
20 (31) Dealing in a schedule I, II, or III controlled substance
21 (IC []35-48-4-2).
22 (32) Dealing in a schedule IV controlled substance
23 (IC []35-48-4-3).
24 (33) Dealing in a schedule V controlled substance
25 (IC []35-48-4-4).
26 (34) Dealing in marijuana, hash oil, hashish, or salvia
27 (IC []35-48-4-10).
28 (35) Money laundering (IC []35-45-15-5).
29 (36) A violation of IC 35-47.5-5.
30 (37) A violation of any of the following:
31 (A) IC 23-14-48-9.
32 (B) IC 30-2-9-7(b).
33 (C) IC 30-2-10-9(b).
34 (D) IC 30-2-13-38(f).
35 (38) Practice of law by a person who is not an attorney
36 (IC []33-43-2-1).
37 (39) An offense listed in IC 35-48-4 involving the manufacture
38 or sale of a synthetic drug (as defined in IC 35-31.5-2-321), a
39 synthetic drug lookalike substance (as defined in
40 IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under
41 IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled
42 substance analog (as defined in IC 35-48-1.1-8), or a substance



1 represented to be a controlled substance (as described in
2 IC 35-48-4-4.6).

3 (40) Dealing in a controlled substance resulting in death
4 (IC) 35-42-1-1.5).

5 (41) Organized retail theft (IC 35-43-4-2.2).

6 (42) Sale of alcohol without a permit (IC17.1-5-10-5).

7 SECTION ~~31~~³¹. IC 35-46-1-10.2, AS AMENDED BY
8 P.L.163-2025, SECTION 63, IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 10.2. (a) A person may
10 not be charged with a violation under this section and a violation under
11 IC 7.1-7-6-5.

12 (b) A retail establishment that sells or distributes a tobacco
13 product to a person less than twenty-one (21) years of age commits a
14 Class C infraction. For a sale to take place under this section, the buyer
15 must pay the retail establishment for the tobacco product.

16 (c) Notwithstanding IC 34-28-5-4(c), a civil judgment for an
17 infraction committed under this section must be imposed as follows:

18 (1) If the retail establishment at that specific business location
19 has not been issued a citation or summons for a violation of this
20 section in the previous one (1) year, a civil penalty of up to four
21 hundred dollars (\$400).

22 (2) If the retail establishment at that specific business location
23 has had one (1) citation or summons issued for a violation of this
24 section in the previous one (1) year, a civil penalty of up to eight
25 hundred dollars (\$800).

26 (3) If the retail establishment at that specific business location
27 has had two (2) citations or summonses issued for a violation of
28 this section in the previous one (1) year, a civil penalty of up to
29 one thousand four hundred dollars (\$1,400).

30 (4) If the retail establishment at that specific business location
31 has had three (3) or more citations or summonses issued for a
32 violation of this section in the previous one (1) year, a civil
33 penalty of up to two thousand dollars (\$2,000).

34 A retail establishment may not be issued a citation or summons for a
35 violation of this section more than once every twenty-four (24) hours
36 for each specific business location.

37 (d) It is not a defense that the person to whom the tobacco product
38 was sold or distributed did not smoke, chew, inhale, or otherwise
39 consume the tobacco product.

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4 (2) The buyer or recipient produced a photographic identification
5 card issued under IC 9-24-16-1 or a similar card issued under the
6 laws of another state or the federal government showing that the
7 purchaser or recipient was of legal age to make the purchase.

- 15 (1) Agriculture.
- 16 (2) Processing.
- 17 (3) Transporting
- 18 (4) Wholesaling
- 19 (5) Retailing.

20 (g) As used in this section, "distribute" means to give a tobacco
21 product to another person as a means of promoting, advertising, or
22 marketing the tobacco product to the general public.

33 (j) A person who violates subsection (b) at least ~~six (6)~~ three (3) **I**
34 1 times in any one (1) year commits habitual illegal sale of tobacco, a
35 Class B infraction.

36 SECTION ~~40~~32. IC 35-46-1-11.7, AS AMENDED BY
37 P.L.163-2025, SECTION 66, IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 11.7. (a) A retail
39 establishment in which tobacco products account for at least eighty-five
40 percent (85%) of the retail establishment's gross sales may not allow an
41 individual who is less than twenty-one (21) years of age to enter the
42 retail establishment.

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(b) An individual who is less than twenty-one (21) years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment the following:

(1) A sign in boldface type that states "NOTICE: It is unlawful for a person less than 21 years old to enter this store.".

(2) A sign printed in letters and numbers at least one-half (1/2) inch high that displays a toll free phone number for assistance to callers in quitting smoking, as determined by the Indiana department of health.

(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the person has not been cited for a violation of this section in the previous one (1) year, a civil penalty of up to four hundred dollars (\$400).

(2) If the person has had one (1) violation in the previous one (1) year, a civil penalty of up to eight hundred dollars (\$800).

(3) If the person has had two (2) violations in the previous one (1) year, a civil penalty of up to one thousand four hundred dollars (\$1,400).

(4) If the person has had three (3) or more violations in the previous one (1) year, a civil penalty of up to two thousand dollars (\$2,000).

A person may not be cited more than once every twenty-four (24) hours.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the Richard D. Doyle tobacco education and enforcement fund established under IC 7.1-6-2-6.

(f) A person who violates subsection (a) at least ~~six (6)~~ three (3) ~~1~~ times in any one (1) year period commits habitual illegal entrance by a minor, a Class B infraction.

SECTION ~~44~~33. IC 35-46-6-3, AS AMENDED BY P.L.163-2025, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 3. (a) A person who knowingly or intentionally uses or distributes nitrous oxide with intent to cause a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses of another person, unless the nitrous oxide is to be used for medical purposes, commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

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6 (c) The prohibition on the sale, **use, or distribution** of flavored
7 nitrous oxide in subsection (b) does not apply to:

8 (1) a retail or wholesale restaurant supply company that sells or
9 distributes flavored nitrous oxide to a person for use in food and
10 beverage preparation or other culinary purposes; or

11 (2) a person that uses flavored nitrous oxide in food and
12 beverage recipes or for other legitimate culinary purposes; **or**

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