

HB 2211 -- IMPORTING VAPING PRODUCTS

SPONSOR: Roberts

This bill requires that on or before January 1, 2025, and annually thereafter, every manufacturer of vapor products sold in this state shall certify that the manufacturer agrees to comply with the requirements specified in the bill. The manufacturer must also certify that they have received a marketing authorization for the vapor product from the United States Food and Drug Administration (FDA), the vapor product was marketed in the United States as of August 8, 2016, the manufacturer submitted a premarket tobacco product application for the vapor product to the FDA on or before September 9, 2020, and the application remains under review or a final decision on the application has not taken effect. A manufacturer shall submit a certification form that lists each vapor product sold in the state.

Each annual certification form shall be accompanied by a copy of the marketing authorization or other order for the vapor product issued by the FDA or evidence of submission of the premarket tobacco product application, and a payment of \$200 for each vapor product the first time a manufacturer submits a certification form for the product and \$200 annually thereafter for each vapor product. A manufacturer is required to notify the Director within 30 days of any material change to the certification form.

On or before June 1, 2025, the Director of the Department of Revenue shall maintain and make publicly available a directory that lists all vapor product manufacturers and vapor products for which certification forms have been submitted. A manufacturer must be provided notice and given 15 days to correct any deficiencies before the manufacturer or product can be removed from the directory. If a product is removed from the directory, each retailer, distributor, and wholesaler shall have 21 days, from the day the product is removed from the directory, to remove the product from its inventory.

Beginning June 1, 2025, or on the date the Director first makes the directory publicly available, only a vapor product that is included in the directory may be sold.

A wholesaler, distributor, or retailer of vapor products who violates this provision shall receive the following penalties:

(1) For a first violation, a civil penalty of \$500 per day for each product until the offending product is removed from the market or is properly listed in the directory;

(2) For a second violation within a 12 month period, suspension of the licensee's license for at least 14 days;

(3) For a third violation within a 12 month period, suspension of the licensee's license for at least 60 days;

(4) For a fourth and subsequent violation within a 12 month period, suspension of the licensee's license for at least 1 year; and

A manufacturer of vapor products whose products are not listed in the directory and are sold in this state is subject to a civil penalty of \$500 per day for each product in violation until the offending product is removed from the market or properly listed in the directory. Any manufacturer of vapor products that falsely represents any of the information required by this bill shall be guilty of a class C misdemeanor for each false representation and a repeated violation shall constitute an unfair trade practice under Sections 375.930 RSMo to Section 375.948 RSMo.

The Director or Attorney General may examine the records of any distributor, wholesaler, or retailer to determine compliance. The Director or Attorney General may make inspections at any time during normal business hours, and may inspect the premises to ascertain whether non compliant vapor products are present. Unannounced follow-up inspections of all non compliant distributors, wholesalers, and retailers are required within 30 days of any violation. Results of such inspections shall be made available to the public upon request. The director shall disclose any compliance related information that is requested by the Attorney General.

Any vapor products that are in violation are considered contraband goods and may be seized without a warrant. The cost of such seizure and resulting destruction of offending vapor products will be paid by the person from whom the products are confiscated.

Any nonresident manufacturer of vapor products that is not registered to do business in the state shall appoint an agent to receive any service of process resulting from any proceeding against the nonresident manufacturer to be included in the directory. The manufacturer shall notify the department of any appointment or termination of an agent, as specified in the bill.

Any manufacturer who has not appointed an agent shall be deemed to have appointed the Secretary of State as its agent for service of process. The appointment of the Secretary of State for this service shall not satisfy inclusion or retention within the directory.

On or before December 31, 2025, and annually thereafter, the Director shall provide a report to the General Assembly regarding the directory.