

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 900
Committee Substitute Favorable 5/23/24
Senate Judiciary Committee Substitute Adopted 6/19/24

Short Title: Certain CIHS Partners/Regulate Tobacco Prod.

(Public)

Sponsors:

Referred to:

April 25, 2024

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE CONTINUED RECOGNITION OF THE WAKE YOUNG MEN'S
3 LEADERSHIP ACADEMY AND THE WAKE YOUNG WOMEN'S LEADERSHIP
4 ACADEMY AS COOPERATIVE INNOVATIVE HIGH SCHOOLS, TO REQUIRE THE
5 STATE BOARD OF EDUCATION TO APPROVE THE SUBSTITUTION OF A NEW
6 PARTNER INSTITUTION OF HIGHER EDUCATION FOR THOSE SCHOOLS, AND TO
7 REGULATE TOBACCO PRODUCTS.

8 The General Assembly of North Carolina enacts:

9
10 **CONTINUED STATUS AS A COOPERATIVE INNOVATIVE HIGH SCHOOL AND**
11 **SUBSTITUTION OF HIGHER EDUCATION PARTNER**

12 **SECTION 1.(a)** For the purposes of this section, the Wake Young Men's Leadership
13 Academy and the Wake Young Women's Leadership Academy are referred to collectively as
14 Academies and are referred to individually as Academy.

15 **SECTION 1.(b)** Notwithstanding the requirements of Part 9 of Article 16 of Chapter
16 115C of the General Statutes for an institution of higher education partner and the written
17 agreements entered into as provided in G.S. 115C-238.53(b) (written agreement), the following
18 shall apply to the Academies for the 2024-2025 and 2025-2026 school years:

- 19 (1) The Academies shall continue to be recognized as cooperative innovative high
20 schools.
21 (2) The Academies shall continue to receive funds as provided in
22 G.S. 115C-238.51A(c).
23 (3) The Academies shall continue operation as provided in G.S. 115C-238.53.
24 (4) The Academies shall continue to provide opportunities for eligible students to
25 earn postsecondary credit while enrolled in high school.

26 **SECTION 1.(c)** Notwithstanding the requirements of G.S. 115C-238.51A, the
27 following shall occur:

- 28 (1) The State Board of Education shall approve one or both applications to
29 substitute the partner institution of higher education from the 2023-2024
30 school year in the written agreements for one or both of the Academies with
31 a new partner institution of higher education no later than the 2025-2026
32 school year if the following occur:
33 a. The Wake County Board of Education and the applicable governing
34 board of the local board of trustees of the partner institution of higher
35 education submit applications for substitution to the State Board of



1 Education for one or both of the Academies. The applications shall
 2 comply with procedural requirements established by the State Board
 3 of Education for the submission of such applications.

4 b. The State Board of Education determines that the partner institution of
 5 higher education complies with the requirements for a partner
 6 institution of higher education under Part 9 of Article 16 of Chapter
 7 115C of the General Statutes.

8 (2) If the applications for the substitution of a partner institution of higher
 9 education in the written agreement for one or both of the Academies is
 10 approved by the State Board of Education in accordance with subdivision (1)
 11 of this subsection, beginning with the first fiscal year for which the approval
 12 is granted, the following shall apply:

13 a. That Academy shall continue to receive the recurring State funds
 14 appropriated for that school as provided in G.S. 115C-238.51A(c).

15 b. Subsection (b) of this section shall cease to apply for that Academy.

16 **SECTION 1.(d)** This section is effective when it becomes law.

17 18 **REGULATE TOBACCO PRODUCTS**

19 **SECTION 2.(a)** G.S. 14-313 reads as rewritten:

20 "**§ 14-313. Youth access to tobacco products, ~~tobacco-derived products~~, alternative nicotine**
 21 **products, vapor products, and cigarette wrapping papers.**

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

23 (1) Alternative nicotine product. – Any noncombustible product that contains
 24 nicotine, whether natural or synthetic, but does not contain tobacco and is
 25 intended for human consumption whether chewed, absorbed, dissolved,
 26 ingested, or by other means. This term does not include a vapor product or any
 27 product regulated by the United States Food and Drug Administration under
 28 Chapter V of the federal Food, Drug, and Cosmetic Act.

29 (1a) Consumable product. – Consumable product shall have the same meaning as
 30 provided in G.S. 105-113.4(1k). For purposes of this section, a consumable
 31 product does not contain any tobacco leaf.

32 ~~(1b)~~ Distribute. – To sell, furnish, give, or provide tobacco products, including
 33 tobacco product samples or cigarette wrapping papers, to the ultimate
 34 consumer.

35 (1c) FDA. – Food and Drug Administration.

36 (2) Proof of age. – A drivers license or other photographic identification that
 37 includes the bearer's date of birth that purports to establish that the person is
 38 18 years of age or older.

39 (3) Sample. – A tobacco product distributed to members of the general public at
 40 no cost for the purpose of promoting the product.

41 ~~(3a)~~ ~~Tobacco-derived product.~~ – ~~Any noncombustible product derived from~~
 42 ~~tobacco that contains nicotine and is intended for human consumption,~~
 43 ~~whether chewed, absorbed, dissolved, ingested, or by other means. This term~~
 44 ~~does not include a vapor product or any product regulated by the United States~~
 45 ~~Food and Drug Administration under Chapter V of the federal Food, Drug,~~
 46 ~~and Cosmetic Act.~~

47 (3b) Secretary. – The Secretary of the Department of Revenue.

48 (3c) Timely Filed Premarket Tobacco Product Application. – An application
 49 pursuant to 21 U.S.C. § 387j for a vapor product or consumable product
 50 containing nicotine derived from tobacco marketed in the United States as of

1 August 8, 2016, that was submitted to the United States Food and Drug
2 Administration on or before September 9, 2020, and accepted for filing.

3 (4) Tobacco product. – Any product that contains tobacco and is intended for
4 human consumption. For purposes of this section, the term includes a
5 ~~tobacco-derived product, an alternative nicotine product,~~ vapor product,
6 consumable product, or components of a vapor product.

7 (5) Vapor product. – Any noncombustible product that employs a mechanical
8 heating element, battery, or electronic circuit regardless of shape or size and
9 that can be used to heat ~~a liquid nicotine solution contained in a vapor~~
10 ~~cartridge.~~ a consumable product. The term includes an electronic cigarette,
11 electronic cigar, electronic cigarillo, and electronic pipe. The term does not
12 include any product regulated by the United States Food and Drug
13 Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

14 (b) Sale or distribution to persons under the age of 18 years. – If any person shall
15 distribute, or aid, assist, or abet any other person in distributing tobacco products or cigarette
16 wrapping papers to any person under the age of 18 years, or if any person shall purchase tobacco
17 products or cigarette wrapping papers on behalf of a person under the age of 18 years, the person
18 shall be guilty of a Class 2 misdemeanor; provided, however, that it shall not be unlawful to
19 distribute tobacco products or cigarette wrapping papers to an employee when required in the
20 performance of the employee's duties. Retail distributors of tobacco products shall prominently
21 display near the point of sale a sign in letters at least five-eighths of an inch high which states the
22 following:

23 N.C. LAW STRICTLY PROHIBITS

24 THE PURCHASE OF TOBACCO PRODUCTS, ~~TOBACCO-DERIVED PRODUCTS,~~
25 ALTERNATIVE NICOTINE PRODUCTS, VAPOR PRODUCTS, AND CIGARETTE
26 WRAPPING PAPERS

27 BY PERSONS UNDER THE AGE OF 18.

28 PROOF OF AGE REQUIRED.

29 Failure to post the required sign shall be an infraction punishable by a fine of twenty-five dollars
30 (\$25.00) for the first offense and seventy-five dollars (\$75.00) for each succeeding offense.

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

38 (1) The defendant demanded, was shown, and reasonably relied upon proof of age
39 in the case of a retailer, or any other documentary or written evidence of age
40 in the case of a nonretailer.

41 (2) The defendant relied on the electronic system established and operated by the
42 Division of Motor Vehicles pursuant to G.S. 20-37.02.

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

49 (b1) Distribution of tobacco products. – Tobacco products shall not be distributed in
50 vending machines; provided, however, vending machines distributing tobacco products are
51 permitted (i) in any establishment which is open only to persons 18 years of age and older; or (ii)

1 in any establishment if the vending machine is under the continuous control of the owner or
2 licensee of the premises or an employee thereof and can be operated only upon activation by the
3 owner, licensee, or employee prior to each purchase and the vending machine is not accessible
4 to the public when the establishment is closed. The owner, licensee, or employee shall demand
5 proof of age from a prospective purchaser if the person has reasonable grounds to believe that
6 the prospective purchaser is under 18 years of age. Failure to demand proof of age as required by
7 this subsection is a Class 2 misdemeanor if in fact the prospective purchaser is under 18 years of
8 age. Proof that the defendant demanded, was shown, and reasonably relied upon proof of age
9 shall be a defense to any action brought under this subsection. ~~Vending machines distributing~~
10 ~~tobacco products in establishments not meeting the above conditions shall be removed prior to~~
11 ~~December 1, 1997. Vending machines distributing tobacco derived products, vapor products, or~~
12 ~~components of vapor products in establishments not meeting the above conditions shall be~~
13 ~~removed prior to August 1, 2013.~~ Any person distributing tobacco products through vending
14 machines in violation of this subsection shall be guilty of a Class 2 misdemeanor.

15 (b2) Internet distribution of tobacco products. – A person engaged in the distribution of
16 tobacco products through the Internet or other remote sales methods shall perform an age
17 verification through an independent, third-party age verification service that compares
18 information available from public records to the personal information entered by the individual
19 during the ordering process to establish that the individual ordering the tobacco products is 18
20 years of age or older.

21 (c) Purchase by persons under the age of 18 years. – If any person under the age of 18
22 years purchases or accepts receipt, or attempts to purchase or accept receipt, of tobacco products
23 or cigarette wrapping papers, or presents or offers to any person any purported proof of age which
24 is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any
25 tobacco product or cigarette wrapping papers, the person shall be guilty of a Class 2
26 misdemeanor; provided, however, that it shall not be unlawful for an employee to purchase or
27 accept receipt of tobacco products or cigarette wrapping papers when required in the performance
28 of the employee's duties.

29 (d) Sending or assisting a person [less than] 18 years to purchase or receive tobacco
30 products or cigarette wrapping papers. – If any person shall send a person less than 18 years of
31 age to purchase, acquire, receive, or attempt to purchase, acquire, or receive tobacco products or
32 cigarette wrapping papers, or if any person shall aid or abet a person who is less than 18 years of
33 age in purchasing, acquiring, or receiving or attempting to purchase, acquire, or receive tobacco
34 products or cigarette wrapping papers, the person shall be guilty of a Class 2 misdemeanor;
35 provided, however, persons under the age of 18 may be enlisted by police or local sheriffs'
36 departments to test compliance if the testing is under the direct supervision of that law
37 enforcement department and written parental consent is provided; provided further, that the
38 Department of Health and Human Services shall have the authority, pursuant to a written plan
39 prepared by the Secretary of Health and Human Services, to use persons under 18 years of age
40 in annual, random, unannounced inspections, provided that prior written parental consent is given
41 for the involvement of these persons and that the inspections are conducted for the sole purpose
42 of preparing a scientifically and methodologically valid statistical study of the extent of success
43 the State has achieved in reducing the availability of tobacco products to persons under the age
44 of 18, and preparing any report to the extent required by section 1926 of the federal Public Health
45 Service Act (42 USC § 300x-26).

46 (e) Statewide uniformity. – It is the intent of the General Assembly to prescribe this
47 uniform system for the regulation of tobacco products and cigarette wrapping papers to ensure
48 the eligibility for and receipt of any federal funds or grants that the State now receives or may
49 receive relating to the provisions of this section. To ensure uniformity, no political subdivisions,
50 boards, or agencies of the State nor any county, city, municipality, municipal corporation, town,
51 township, village, nor any department or agency thereof, may enact ordinances, rules or

1 regulations concerning the sale, distribution, display or promotion of (i) tobacco products or
2 cigarette wrapping papers on or after September 1, 1995, ~~or~~ (ii) ~~tobacco-derived products~~
3 alternative nicotine products or vapor products on or after August 1, ~~2013–2013~~, or (iii)
4 alternative nicotine products on or after December 1, 2024. This subsection does not apply to the
5 regulation of vending machines, nor does it prohibit the Secretary of Revenue from adopting
6 rules with respect to the administration of the tobacco products taxes levied under Article 2A of
7 Chapter 105 of the General Statutes.

8 (f) Deferred Prosecution or Conditional Discharge. – Notwithstanding
9 G.S. 15A-1341(a1) or G.S. 15A-1341(a4), any person charged with a misdemeanor under this
10 section shall be qualified for deferred prosecution or a conditional discharge pursuant to Article
11 82 of Chapter 15A of the General Statutes provided the defendant has not previously been placed
12 on probation for a violation of this section and so states under oath.

13 (g) Certification of Vapor Products and Consumable Products. – As required by Part 3 of
14 Article 4 of Chapter 143B of the General Statutes, the Secretary of the Department of Revenue
15 shall certify vapor products and consumable products eligible for retail sale in this State and shall
16 list them on a directory.

17 (h) Fines and Civil Penalties. – The following penalties shall apply to violations of the
18 certification requirements for consumable products and vapor products required by Part 3 of
19 Article 4 of Chapter 143B of the General Statutes.

20 (1) Retailer, distributor, or wholesaler fines. – A retailer, distributor, or
21 wholesaler who offers for sale a consumable product or vapor product
22 intended for ultimate retail sale in this State that is not included in the directory
23 is subject to a warning with a mandatory reinspection of the retailer within 30
24 days of the violation of Part 3 of Article 4 of Chapter 143B of the General
25 Statutes:

26 a. For a second violation of this type within a 12-month period, the fine
27 shall be at least five hundred dollars (\$500.00) but not more than seven
28 hundred fifty dollars (\$750.00) and, if licensed, the licensee's license
29 shall be suspended for 30 days.

30 b. For a third or subsequent violation of this type within a 12-month
31 period, the fine shall be at least one thousand dollars (\$1,000) but not
32 more than one thousand five hundred dollars (\$1,500) and, if licensed,
33 the licensee's license shall be revoked.

34 c. Upon a second or subsequent violation of this type, consumable
35 products or vapor products that are not on the directory as required by
36 G.S. 143B-245.12, and are possessed by a retailer, distributor, or
37 wholesaler, shall be subject to seizure, forfeiture, and destruction. The
38 cost of such seizure, forfeiture, and destruction shall be borne by the
39 person from whom the products are confiscated, except that no
40 products may be seized from a consumer who has made a bona fide
41 purchase of such product. The Secretary may store and dispose of the
42 seized products as appropriate, in accordance with federal, State, and
43 local laws pertaining to storage and disposal of such products.

44 (2) Manufacturer penalties. – A manufacturer whose consumable products or
45 vapor products are not listed in the directory as required by G.S. 143B-245.12,
46 and who causes the products that are not listed to be sold for retail sale in
47 North Carolina, whether directly or through an importer, distributor,
48 wholesaler, retailer, or similar intermediary or intermediaries, is subject to a
49 civil penalty of ten thousand dollars (\$10,000) for each individual product
50 offered for sale in violation of Part 3 of Article 4 of Chapter 143B of the
51 General Statutes until the offending product is removed from the market or

1 until the offending product is properly listed on the directory. In addition, any
2 manufacturer that falsely represents any information required by a
3 certification form shall be guilty of a misdemeanor for each false
4 representation.

5 (b) In an action to enforce this section, the state shall be entitled to recover costs,
6 including the costs of investigation, expert witness fees, and reasonable attorney fees.

7 (c) A repeated violation of the requirements of Part 3 of Article 4 of Chapter 143B of the
8 General Statutes shall constitute a deceptive trade practice under Chapter 75 of the General
9 Statutes."

10 **SECTION 2.(b)** Article 4 of Chapter 143B of the General Statutes is amended by
11 adding a new Part to read:

12 "Part 3. Certification and Directory of Vapor Products and Consumable Products.

13 **"§ 143B-245.10. Definitions.**

14 The following definitions apply throughout this Part:

15 (1) Alternative nicotine product. – As defined in G.S. 14-313(a)(1).

16 (2) Consumable product. – As defined in G.S. 14-313(a)(1a).

17 (3) Distribute. – As defined in G.S. 14-313(a)(1b).

18 (4) FDA. – As defined in G.S. 14-313(a)(1c).

19 (5) Secretary. – The Secretary of the Department of Revenue.

20 (6) Timely Filed Premarket Tobacco Product Application. – As defined in
21 G.S. 14-313(a)(3c).

22 (7) Tobacco product. – As defined in G.S. 14-313(a)(4).

23 (8) Vapor product. – As defined in G.S. 14-313(a)(5).

24 **"§ 143B-245.11. Certification process.**

25 (a) Certification. – Beginning March 1, 2025, and annually thereafter, every
26 manufacturer of vapor products and consumable products sold for retail sale in this State, whether
27 directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute
28 and deliver on a form prescribed by the Secretary, a certification to the Secretary under penalty
29 of perjury, of the following:

30 (1) The manufacturer received an order granted pursuant to 21 U.S.C. § 387j(c)
31 (marketing granted order) for the vapor product or consumable product from
32 the FDA.

33 (2) The manufacturer submitted a Timely Filed Premarket Tobacco Product
34 Application as defined in G.S. 14-313(a)(3c) for the vapor product or
35 consumable product; and the application either remains under review by the
36 FDA or has received a denial order that has been and remains stayed by the
37 FDA or court order, rescinded by the FDA, or vacated by a court.

38 (3) The manufacturer is exempt from the requirements of subdivision (1) or (2)
39 of this subsection because the vapor product or consumable product only
40 reflects changes to the name, brand style, or packaging of a vapor product or
41 consumable product.

42 (b) Requirements for Manufacturers; Fees. – In addition to the requirements contained in
43 subsection (a) of this section, each manufacturer shall provide to the Secretary the following:

44 (1) For each vapor product and consumable product offered by the manufacturer,
45 a copy of (i) the marketing granted order issued by the FDA pursuant to 21
46 U.S.C. § 387j; (ii) a copy of the acceptance letter issued by the FDA pursuant
47 to 21 U.S.C. § 387j for a Timely Filed Premarket Tobacco Product
48 Application; or (iii) a document issued by the FDA or by a court confirming
49 that the premarket tobacco product application has received a denial order that
50 is not yet in effect; and

1 (2) An initial fee of two thousand dollars (\$2,000) to offset the costs incurred by
2 the Department of Revenue for processing the certifications and operating the
3 directory and an annual renewal fee of five hundred dollars (\$500.00) each
4 year on March 1 to offset the costs associated with maintaining the directory
5 and satisfying the requirements of this section for each consumable product
6 or vapor product to be listed in the directory.

7 (c) Certification Form. – The certification form shall separately list each brand name,
8 category (e.g., e-liquid, power unit, device, e-liquid cartridge, e-liquid pod, disposable), product
9 name, and flavor for each consumable product or vapor product that is sold in this State.

10 (d) Confidentiality. – The information submitted by the manufacturer pursuant to
11 subsections (a) and (b) of this section shall be considered confidential commercial or financial
12 information for purposes of G.S. 132-1.2. The manufacturer may redact certain confidential
13 commercial or financial information provided under subsection (a) of this section. The Secretary
14 shall not disclose such information except as required or authorized by law.

15 (e) Notification of Material Changes to the Certification. – Any manufacturer submitting
16 a certification pursuant to subsections (a) and (b) of this section shall notify the Secretary as soon
17 as practicable but not later than 30 days of any material change to the certification, including the
18 issuance or denial of a marketing authorization or other order by the FDA pursuant to 21 U.S.C.
19 § 387j, or any other order or action by the FDA or any court that affects the ability of the
20 consumable product or vapor product to be introduced or delivered into interstate commerce for
21 commercial distribution in the United States.

22 **"§ 143B-245.12. Public directory.**

23 (a) Development and Maintenance of Directory. – Beginning on May 1, 2025, the
24 Secretary shall develop, maintain, and make publicly available on the Secretary's public website
25 a directory listing all manufacturers of consumable products or vapor products that have provided
26 certifications that comply with G.S. 143B-245.11(a) and (b) and all product names, brand names,
27 categories (e.g., e-liquid, e-liquid cartridge, e-liquid pod, disposable), and flavors for which
28 certifications have been submitted and approved by the Secretary. The Secretary shall update the
29 directory at least monthly to ensure accuracy. The Secretary shall establish a process to provide
30 licensed retailers, distributors, and wholesalers notice of the initial publication of the directory
31 and changes made to the directory in the prior month.

32 (b) Exclusion from the Directory. – No manufacturer or the manufacturer's consumable
33 products or vapor products shall be included or retained in the directory if the Secretary
34 determines that any of the following apply:

35 (1) The manufacturer failed to provide a complete and accurate certification as
36 required by G.S. 143B-245.11(a) and (b).

37 (2) The manufacturer submitted a certification that does not comply with the
38 requirements of G.S. 143B-245.11(c).

39 (3) The manufacturer failed to include with its certification the payment required
40 by G.S. 143B-245.11(b).

41 (4) The manufacturer sold products in North Carolina required to be certified
42 under this Part during a period when either the manufacturer or the product
43 had not been certified and listed on the directory.

44 (5) The information provided by the manufacturer in its certification is
45 determined by the Secretary to contain false information or contains material
46 misrepresentations or omissions.

47 (c) Removal from the Directory. – The Secretary shall provide the manufacturer notice
48 and an opportunity to cure deficiencies before removing the manufacturer or products from the
49 directory.

50 (1) The Secretary may not remove the manufacturer or its products from the
51 directory until at least 30 days after the manufacturer has been given notice of

1 an intended action. Notice shall be sufficient and be deemed immediately
2 received by a manufacturer if the notice is sent either electronically or by
3 facsimile to an electronic mail address or facsimile number, as the case may
4 be, provided by the manufacturer in its most recent certification filed under
5 G.S. 143B-245.11(a).

6 (2) The manufacturer shall have 15 business days from the date of service of the
7 notice of the Secretary's intended action to establish that the manufacturer of
8 consumable products or vapor products should be included in the directory.

9 (3) Retailers shall have 30 days following the removal of a manufacturer or its
10 products from the directory to sell such products that were in the retailer's
11 inventory as of the date of removal.

12 (4) After 30 days following removal from the directory, the consumable product
13 or vapor product of a manufacturer identified in the notice of removal and
14 intended for retail sale in North Carolina may not be purchased or sold for
15 retail sale in North Carolina.

16 (5) A determination by the Secretary to not include or to remove from the
17 directory a manufacturer or a manufacturer's product shall be subject to review
18 by the filing of a civil action for prospective declaratory or injunctive relief.

19 **"§ 143B-245.13. Retail sale of consumable products and vapor products.**

20 (a) Products Prohibited from Retail Sale. – Except as provided in subdivisions (1) and
21 (2) of this subsection, beginning May 1, 2025, or on the date that the Department of Revenue
22 first makes the directory available for public inspection on its public website as provided in
23 G.S. 143B-245.12(a), whichever is later, consumable products or vapor products not included in
24 the directory may not be sold for retail sale in North Carolina, either directly or through an
25 importer, distributor, wholesaler, retailer, or similar intermediary or intermediaries.

26 (1) Each retailer shall have 60 days from the date that the Secretary first makes
27 the directory available for inspection on its public website to sell products that
28 were in its inventory and not included in the directory or remove those
29 products from inventory and return them to the distributor or wholesaler from
30 whom the products were purchased for a refund.

31 (2) Each distributor or wholesaler shall have 60 days from the date that the
32 Secretary first makes the directory available for inspection on its public
33 website to remove those products intended for ultimate retail sale in the State
34 from its inventory.

35 (3) After 60 calendar days following publication of the directory, consumable
36 products or vapor products not listed in the directory and intended for retail
37 sale in North Carolina may not be purchased or sold for retail sale in North
38 Carolina except as provided in G.S. 143B-245.12(c).

39 **"§ 143B-245.14. Agent for service of process.**

40 (a) Registered Agent. – The following conditions apply:

41 (1) A manufacturer not registered to do business in the State shall, as a condition
42 precedent to having its name or its products listed and retained in the directory,
43 appoint and continually engage without interruption a registered agent in this
44 State for service of process on whom all process and any action or proceeding
45 arising out of the enforcement of this Part or G.S. 14-313(g) and (h) may be
46 served. The manufacturer shall provide to the Secretary the name, address,
47 and telephone number of its agent for service of process and shall provide any
48 other information relating to its agent as may be requested by the Secretary.

49 (2) A manufacturer located outside of the United States shall, as an additional
50 condition precedent to having its products listed or retained in the directory,
51 cause each of its importers of any of its products to be sold in the State to

1 appoint, and continually engage without interruption, the services of an agent
2 in the State in accordance with the provisions of this section. All obligations
3 of a manufacturer imposed by this section with respect to appointment of its
4 agent shall also apply to the importers with respect to appointment of their
5 agents.

6 (3) A manufacturer shall provide written notice to the Secretary 30 calendar days
7 prior to the termination of the authority of an agent appointed pursuant to
8 subdivisions (1) and (2) of this subsection. No less than five calendar days
9 prior to the termination of an existing agent appointment, a manufacturer shall
10 provide to the Secretary the name, address, and telephone number of its newly
11 appointed agent for service of process and shall provide any other information
12 relating to the new appointment as may be requested by the Secretary. In the
13 event an agent terminates an agency appointment, the manufacturer shall
14 notify the division of the termination within five calendar days and shall
15 include proof to the satisfaction of the division of the appointment of a new
16 agent.

17 **"§ 143B-245.15. Compliance.**

18 (a) Unannounced Compliance Check. – Each retailer, distributor, and wholesaler that
19 sells or distributes consumable products or vapor products in this State shall be subject to
20 unannounced compliance checks by the Secretary or its designee, which may include State and
21 local law enforcement officials, for purposes of enforcing this Part. Unannounced follow-up
22 compliance checks of all noncompliant retailers, distributors, and wholesalers shall be conducted
23 within 30 days after any violation of this Part.

24 (1) Any person who observes a violation described in G.S. 143B-245.13 may alert
25 the Secretary of such violation, and the Secretary shall cause an unannounced
26 compliance check to occur with respect to the person alleged to be in violation.

27 (2) The Secretary shall publish the results of all compliance checks at least
28 annually and shall make the results available to the public on request.

29 **"§ 143B-245.16. Rules; use of fees; report.**

30 (a) Rules. – The Secretary shall adopt rules for the implementation and enforcement of
31 this Part.

32 (b) Use of Fees and Penalties. – The fees received under this Part and the penalties
33 collected under G.S. 14-313(h) by the Department of Revenue shall be used by the Department
34 of Revenue exclusively for processing the certifications, operating and maintaining the directory,
35 and enforcement of this Part.

36 (c) Report. – Beginning on January 31, 2026, and annually thereafter, the Secretary shall
37 provide a report to the legislature regarding the status of the directory, manufacturers and
38 products included in the directory, revenue and expenditures related to administration of this
39 section, and enforcement activities undertaken pursuant to this section, including the number of
40 stores that have been inspected and the results from such inspections."

41 **SECTION 2.(c)** This section becomes effective December 1, 2024.

42
43 **EFFECTIVE DATE**

44 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
45 law.