

AMENDMENTS TO LB184

Introduced by DeKay, 40.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Section 28-1418.01, Revised Statutes Cumulative
4 Supplement, 2024, is amended to read:

5 28-1418.01 For purposes of sections 28-1418 to 28-1429.07 and
6 sections 4 and 5 of this act:

7 (1) Alternative nicotine product means any noncombustible product
8 containing nicotine that is intended for human consumption, whether
9 chewed, absorbed, dissolved, or ingested by any other means. Alternative
10 nicotine product does not include any electronic nicotine delivery
11 system, cigarette, cigar, or other tobacco product, or any product
12 regulated as a drug or device by the United States Food and Drug
13 Administration under Chapter V of the Federal Food, Drug, and Cosmetic
14 Act;

15 (2) Cigarette means any product that contains nicotine, is intended
16 to be burned or heated under ordinary conditions of use, and consists of
17 or contains (a) any roll of tobacco wrapped in paper or in any substance
18 not containing tobacco, (b) tobacco, in any form, that is functional in
19 the product which, because of its appearance, the type of tobacco used in
20 the filler, or its packaging and labeling, is likely to be offered to, or
21 purchased by, consumers as a cigarette, or (c) any roll of tobacco
22 wrapped in any substance containing tobacco which, because of its
23 appearance, the type of tobacco used in the filler, or its packaging and
24 labeling, is likely to be offered to, or purchased by, consumers as a
25 cigarette described in subdivision (2)(a) of this section;

26 (3) Delivery sale means to sell, give, or furnish products (a) by
27 mail or delivery service, (b) through the Internet or a computer network,

1 (c) by telephone, or (d) through any other electronic method;

2 (4)(a) Electronic nicotine delivery system means any product or
3 device containing nicotine, tobacco, or tobacco derivatives that employs
4 a heating element, power source, electronic circuit, or other electronic,
5 chemical, or mechanical means, regardless of shape or size, to simulate
6 smoking by delivering the nicotine, tobacco, or tobacco derivatives in
7 vapor, fog, mist, gas, or aerosol form to a person inhaling from the
8 product or device.

9 (b) Electronic nicotine delivery system includes, but is not limited
10 to, the following:

11 (i) Any substance containing nicotine, tobacco, or tobacco
12 derivatives, whether sold separately or sold in combination with a
13 product or device that is intended to deliver to a person nicotine,
14 tobacco, or tobacco derivatives in vapor, fog, mist, gas, or aerosol
15 form;

16 (ii) Any product or device marketed, manufactured, distributed, or
17 sold as an electronic cigarette, electronic cigar, electronic cigarillo,
18 electronic pipe, electronic hookah, or similar products, names,
19 descriptors, or devices; and

20 (iii) Any component, part, or accessory of such a product or device
21 that is used during operation of the product or device when sold in
22 combination with any substance containing nicotine, tobacco, or tobacco
23 derivatives.

24 (c) Electronic nicotine delivery system does not include the
25 following:

26 (i) An alternative nicotine product, cigarette, cigar, or other
27 tobacco product, or any product regulated as a drug or device by the
28 United States Food and Drug Administration under Chapter V of the Federal
29 Food, Drug, and Cosmetic Act; or

30 (ii) Any component, part, or accessory of such a product or device
31 that is used during operation of the product or device when not sold in

1 combination with any substance containing nicotine, tobacco, or tobacco
2 derivatives;

3 (5) Self-service display means a retail display that contains a
4 tobacco product, a tobacco-derived product, an electronic nicotine
5 delivery system, or an alternative nicotine product and is located in an
6 area openly accessible to a retailer's customers and from which such
7 customers can readily access the product without the assistance of a
8 salesperson. Self-service display does not include a display case that
9 holds tobacco products, tobacco-derived products, electronic nicotine
10 delivery systems, or alternative nicotine products behind locked doors;
11 and

12 (6) Tobacco specialty store means a retail store that (a) derives at
13 least seventy-five percent of its revenue from tobacco products, tobacco-
14 derived products, electronic nicotine delivery systems, or alternative
15 nicotine products and (b) does not permit persons under the age of
16 twenty-one years to enter the premises unless accompanied by a parent or
17 legal guardian.

18 **Sec. 2.** Section 28-1425, Revised Statutes Cumulative Supplement,
19 2024, is amended to read:

20 28-1425 Any licensee who shall sell, give, or furnish in any way to
21 any person under the age of twenty-one years, or who shall willingly
22 allow to be taken from his or her place of business by any person under
23 the age of twenty-one years, any cigars, tobacco, cigarettes, cigarette
24 material, electronic nicotine delivery systems, or alternative nicotine
25 products is guilty of a Class III misdemeanor. Any officer, director, or
26 manager having charge or control, either separately or jointly with
27 others, of the business of any corporation which violates sections
28 28-1419, 28-1420 to 28-1429, and 28-1429.03 to 28-1429.07 and sections 4
29 and 5 of this act, if he or she has knowledge of such violation, shall be
30 subject to the penalties provided in this section. In addition to the
31 penalties provided in this section, such licensee shall be subject to the

1 additional penalty of a revocation and forfeiture of his, her, their, or
2 its license, at the discretion of the court before whom the complaint for
3 violation of such sections may be heard. If such license is revoked and
4 forfeited, all rights under such license shall at once cease and
5 terminate and a new license shall not be issued until the expiration of
6 the period provided for in section 28-1429.

7 **Sec. 3.** Section 28-1429, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 28-1429 (1) If a license issued under sections 28-1420 to 28-1429 is
10 revoked and forfeited as provided in section 28-1425 or section 4 of this
11 act for a violation of section 28-1429.04, ~~or~~ 28-1429.05, or section 4 of
12 this act, no new license shall be issued to such licensee until the
13 expiration of five years after the date of such revocation and
14 forfeiture.

15 (2) If a license issued under sections 28-1420 to 28-1429 is revoked
16 and forfeited as provided in section 28-1425 for any other violation of
17 sections 28-1418 to 28-1429.03, 28-1429.06, and 28-1429.07 and section 5
18 of this act, no new license shall be issued to such licensee until the
19 expiration of one year after the date of such revocation and forfeiture
20 except as otherwise provided in section 28-1423.

21 **Sec. 4.** (1) No tobacco specialty store shall sell, including by
22 delivery sale, offer for sale, give, furnish, or distribute to any
23 consumer in this state any object containing nitrous oxide in any form or
24 willingly allow such an object to be taken from such store by any person.
25 A person holding a license for a tobacco specialty store under sections
26 28-1420 to 28-1429 who violates this subsection shall:

27 (a) Be guilty of a Class II misdemeanor for the first offense;

28 (b) Be guilty of a Class I misdemeanor for any second or subsequent
29 offense; and

30 (c) Be subject to the additional penalty of revocation and
31 forfeiture of such license, at the discretion of the court before whom

1 the complaint for a violation of this subsection may be heard. If such
2 license is revoked and forfeited, all rights under such license shall at
3 once cease and terminate and a new license shall not be issued until the
4 expiration of the period provided for in section 28-1429.

5 (2) All objects containing nitrous oxide that are sold, offered for
6 sale, given, or furnished in violation of this section are subject to
7 seizure, forfeiture, and destruction. The cost of such seizure,
8 forfeiture, and destruction shall be borne by the person from whom the
9 objects are seized.

10 (3) Any common carrier that knowingly transports any object
11 containing nitrous oxide in any form for a person who is in violation of
12 subsection (1) of this section is guilty of a Class I misdemeanor.

13 (4) In addition to any other penalty, a violation of this section
14 shall constitute a deceptive trade practice under the Uniform Deceptive
15 Trade Practices Act and shall be subject to any remedies or penalties
16 available for a violation of such act.

17 (5) This section does not apply to the following:

18 (a) The shipment of an object containing nitrous oxide to a foreign
19 trade zone that is established under 19 U.S.C. 81a et seq., and that is
20 located in this state if the products are from outside of this country,
21 were ordered by a distributor in another state, and are not distributed
22 in this state; or

23 (b) A government employee who is acting in the course of the
24 employee's official duties.

25 **Sec. 5.** (1) A person shall not sell, offer for sale, or distribute
26 an object that is specifically designed for inhaling nitrous oxide for
27 recreational purposes or that the person knows will be used to inhale
28 nitrous oxide for recreational purposes.

29 (2) Any person who violates subsection (1) of this section shall:

30 (a) For the first offense, be guilty of a Class III misdemeanor; and

31 (b) For the second and all subsequent offenses, be guilty of a Class

1 II misdemeanor.

2 (3) All objects containing nitrous oxide that are sold, offered for
3 sale, given, or furnished in violation of this section are subject to
4 seizure, forfeiture, and destruction. The cost of such seizure,
5 forfeiture, and destruction shall be borne by the person from whom the
6 objects are seized.

7 **Sec. 6.** Section 59-1523, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 59-1523 (1) The cigarette tax division of the Tax Commissioner may,
10 after notice and hearing, revoke or suspend for any violation of section
11 59-1520 the:

12 (a) License or licenses of any person licensed under sections
13 28-1418 to 28-1429.07 and sections 4 and 5 of this act or sections
14 77-2601 to 77-2622; or

15 (b) License or certification of any person licensed or certified
16 under the Tobacco Products Tax Act.

17 (2) Cigarettes that are acquired, held, owned, possessed,
18 transported, sold, or distributed in or imported into this state in
19 violation of section 59-1520 are declared to be contraband goods and are
20 subject to seizure and forfeiture. Any cigarettes so seized and forfeited
21 shall be destroyed. Such cigarettes shall be declared to be contraband
22 goods whether the violation of section 59-1520 is knowing or otherwise.

23 **Sec. 7.** Original sections 28-1418.01, 28-1425, 28-1429, and
24 59-1523, Revised Statutes Cumulative Supplement, 2024, are repealed.