

**ONE HUNDRED NINTH LEGISLATURE - FIRST SESSION - 2025**  
**COMMITTEE STATEMENT**  
**LB9**

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**Hearing Date:** Monday February 24, 2025  
**Committee On:** General Affairs  
**Introducer:** Hughes  
**One Liner:** Change provisions relating to cigarette taxes and the Tobacco Products Tax Act and provide for regulation of products containing nicotine analogues

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**  
**Aye:** 8 Senators Holdcroft, Andersen, Cavanaugh, J., Clouse, DeKay, Quick, Rountree, Storm  
**Nay:**  
**Absent:**  
**Present Not Voting:**

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**Testimony:**

<b>Proponents:</b> Senator Jana Hughes Stacy Alexander Sarah Linden Mark Welsch Daniel Muelleman	<b>Representing:</b> Opening Presenter E-Titan LLC Generation V GASP Group to Alleviate Smoking Pollution Nebraska Attorney General
<b>Opponents:</b>	<b>Representing:</b>
<b>Neutral:</b> Bill Hawkins	<b>Representing:</b> self

\* ADA Accommodation Written Testimony

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**Summary of purpose and/or changes:**

LB 9 amends the definition of alternative nicotine products and electronic nicotine delivery system (ENDS) to include nicotine analogues. The bill also updates provisions and procedures related to the enforcement of the Tobacco Products Tax Act including those related to seizure of product.

**SECTION BY SECTION SUMMARY:**

Section 1: Amends Section 28-1418.01 to add the definition of alternative nicotine products to include nicotine analogues.



- Section 2: Amends Section 59-1523 to allow the Tax Commissioner to suspend or revoke the license of persons or businesses selling tobacco or electronic nicotine delivery systems under Section 6 of this bill.
- Section 3: Amends Section 69-2705 to include packages with a cigarette stamp are subject to the provisions of Section 6 of this bill.
- Section 4: Amends Section 69-2709 to include the license of a cigarette stamping agent can be subject to termination if they are in violation of Section 6 of this bill.
- Section 5: Amends Section 69-2710.01 to require tobacco product manufacturers be subject to Section 6 of this bill.
- Section 6: Creates a new section requiring persons selling cigarettes in Nebraska to file cigarette tax returns and for the Tax Commissioner to review these returns and notify the filer if the returns are incorrect or unpaid. The notification can occur up to three years after either the last day of the calendar month following the period in which the return and tax is due or the date the return was filed, whichever occurs later. If the filer fails to file a return, files a false or fraudulent return, the Tax Commissioner can audit the return and send a notice to the filer up to six years after the return has been filed. These periods of notification can be extended if agreed in writing by the Tax Commissioner and the filer.
- Section 7: Amends Section 77-2604, Requires that all stamping agents, wholesale dealers and retail dealers who purchase cigarettes and files monthly reports with the Tax Commissioner be subject to Section 6 of this bill.
- Section 8: Amends Section 77-2612, Enables the Tax Commissioner to adopt rules and regulations consistent with Section 6 and the ability to enforce Section 6 of this bill.
- Section 9: Amends Section 77-2615.01, Gives the Tax Commissioner the authority to, after notice and a hearing, suspend or revoke the license of any person for violation of Section 6.
- Section 10: Amends Section 77-4001 to included Sections 12, 14, 17, and 19 of this Act into the Tobacco Products Tax Act.
- Section 11: Amends Section 77-4002, to include definitions of Section 12 and 14 of this Act into the Tobacco Products Tax Act.
- Section 12: Amends Section 77-4003.01, to include the definition of alternative nicotine product as the same as defined in 28-1418.01.
- Section 13: Creates a new Section, adding nicotine analogue as part of the consumable material definition in 77-4003.01.
- Section 14: Creates a new Section, establishing penalties for violations of the Tobacco Products Tax Act and the rules and regulations under this act, which may include, after notice and a hearing, the suspension or revocation of their license and/or a \$5,000 penalty. This section also sets forth the ability to appeal the decision of the Tax Commissioner.



Section 15: Amends Section 77-4015, permitting delivery by mail or personal service for the Tax Commissioner to send a deficiency notice. A new subsection two states the notice of deficiency determination must be served or mailed within three years of either the last day of the calendar month following the period for which the amount is proposed to be determined or the date the return was filed. A new subsection three sets the time to issue a notice of deficiency to six years after the last day of the calendar month following the period if there is no return filed, there is a false or fraudulent return, or omitting 25% excess of the amount of tax stated return. A new subsection four allows, prior to the expiration of the time, the Tax Commissioner and the taxpayer may enter into a statute of limitations agreements to extend the time to assess.

Section 16: Creates a new section. Subsection one provides authority to seize any tobacco products that are declared contraband under the Tobacco Products act to the Tax Commissioner, the commissioner's agents or law enforcement when directed by the commissioner without a warrant. Subsection two allows the Tax Commissioner to return the confiscated tobacco products if the Commissioner has reason to believe the owner has not willfully or intentionally evade taxes imposed under Section 77-4008. Subsection three allows any seized products are to be destroyed and the cost is to be paid by the person from which they are confiscated. Subsection four states the Tax Commissioner, agents and employees of the commissioner, and any peace officer of this state, when acting pursuant to this section, shall not in any way be responsible in any court for the seizure or the confiscation of any tobacco products.

Section 17: Sets operative date for this act on January 1, 2026.

Section 18: Repealer

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**Explanation of amendments:**

This amendment contains LB 125. Like LB 9, LB 125 amends current statute to define nicotine analogues and include nicotine analogues in the definition of alternative nicotine products. This amendment also places a twenty percent tax on the wholesale price of alternative nicotine products, which is identical to the current taxation of tobacco products that are not listed specifically in statute.

**SECTION BY SECTION SUMMARY:**

Section 1: Amends 28-1418.01 to include nicotine analogues in the definition of alternative nicotine products, electronic nicotine delivery systems, and devices and products that contain nicotine. Creates a new subsection five, providing a definition of nicotine analogues, a chemical structure substantially similar to nicotine; or an effect on the central nervous system that is substantially similar or greater than the effect on the central nervous system of nicotine.

Section 2: Amends 77-400, the Tobacco Products Tax Act, to include definitions found in sections four and six of this act.

Section 3: Amends 77-4002, Tobacco Products Tax Act definitions, to include definitions found in sections four and six of this act.

Section 4: States that alternative nicotine product as the same meaning as in section 28-1418.01.

Section 5: Amends section 77-4003.01, to include nicotine analogue within the definition of consumable



material that can be depleted as an electric nicotine delivery system.

Section 6: States that nicotine analogue as the same meaning as in section 28-1418.01

Section 7: Amends section 77-4007, including “any alternative nicotine product” to the list of tobacco products.

Section 8: Amends section 77-4007, creating a new subsection “f”, establishing a 20 percent tax on the wholesale price of alternative nicotine products.

Section 9: Sets the effective date of January 1, 2026.

Section 10: Repealer.

Testifiers on LB125:

Proponents:

Senator Jana Hughes , Opening Presenter

Stacy Alexander, E-Titan LLC

Mark Welsch, GASP Group to Alleviate Smoking Pollution

Opponents:

John Murante, Phillip Morris International PMI

Nicole Fox, Platte Institute

Neutral:

Bill Hawkins, self

Committee vote to attach LB125: Yes - 8; No - 0; Absent - 0; Present Not Voting - 0;

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Rick Holdcroft, Chairperson

