



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5069

Introduced 2/8/2024, by Rep. Robert "Bob" Rita

#### SYNOPSIS AS INTRODUCED:

410 ILCS 86/15  
410 ILCS 86/15a new  
410 ILCS 86/35

Amends the Preventing Youth Vaping Act. Provides that any distributor, secondary distributor, or retailer who sells, offers for sale, or distributes electronic cigarettes shall (i) obtain certification by the manufacturer stating that the electronic cigarettes are not adulterated; (ii) not sell, offer for sale, or distribute any electronic cigarettes for which it has not obtained a certification; (iii) maintain, for at least 2 years, a copy of any certification provided to it by a manufacturer; and (iv) produce a copy of any certification provided by a manufacturer upon request by the Department of Revenue, the Attorney General, or any entity with enforcement authority under the Act. Provides that no manufacturer of electronic cigarettes shall provide any false or misleading statement in any certification.

LRB103 37696 CES 67823 b

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Preventing Youth Vaping Act is amended by  
5 changing Sections 15 and 35 and by adding Section 15a as  
6 follows:

7 (410 ILCS 86/15)

8 Sec. 15. Prohibitions.

9 (a) It is unlawful for a person to do any of the following:

10 (1) To sell or distribute in this State; to acquire,  
11 hold, own, possess, or transport, for sale or distribution  
12 in this State; or to import, or cause to be imported into  
13 this State for sale or distribution in this State:

14 (A) any electronic cigarette with packaging that:

15 (i) bears any statement, label, stamp,  
16 sticker, or notice indicating that the  
17 manufacturer did not intend the electronic  
18 cigarette to be sold, distributed, or used in the  
19 United States, including, but not limited to,  
20 labels stating "For Export Only", "U.S. Tax  
21 Exempt", "For Use Outside U.S.", or similar  
22 wording; or

23 (ii) does not comply with:

1 (I) all requirements imposed by or  
2 pursuant to federal law regarding warnings and  
3 other information on packages of electronic  
4 cigarettes manufactured, packaged, or imported  
5 for sale, distribution, or use in the United  
6 States; and

7 (II) all federal trademark and copyright  
8 laws; and

9 (B) any electronic cigarette that the person  
10 otherwise knows or has reason to know the manufacturer  
11 did not intend to be sold, distributed, or used in the  
12 United States.

13 (2) To alter the packaging of an electronic cigarette,  
14 prior to sale or distribution to the ultimate consumer, so  
15 as to remove, conceal, or obscure any statement, label,  
16 stamp, sticker, or notice required under this Section or  
17 federal law.

18 (3) To affix any stamp required under this Act to the  
19 packaging of any electronic cigarettes described in  
20 subparagraph (A) of paragraph (1) or altered in violation  
21 of subparagraph (A) of paragraph (1).

22 (4) To adulterate an electronic cigarette for sale in  
23 this State. An electronic cigarette is adulterated if:

24 (A) it consists in whole or in part of any filthy,  
25 putrid, or decomposed substance, or is otherwise  
26 contaminated by any added poisonous or deleterious

1 substance that may render the product injurious to  
2 health;

3 (B) it is held or packaged in containers composed,  
4 in whole or in part, of any poisonous or deleterious  
5 substance that may render the contents injurious to  
6 health; or

7 (C) it is required by 21 U.S.C. 387j(a) to have  
8 premarket review and does not have an order in effect  
9 under 21 U.S.C. 387j(c)(1)(A)(i) or is in violation of  
10 an order under 21 U.S.C. 387j(c)(1)(A).

11 Electronic cigarettes first sold prior to August 8, 2016  
12 and for which a pending premarket tobacco product application  
13 was submitted to the U.S. Food and Drug Administration by  
14 September 9, 2020 shall not be deemed to be adulterated under  
15 subparagraph (C) of paragraph (4) of this subsection.

16 (b) A distributor, secondary distributor, retailer, or  
17 person who violates this Section shall be guilty of a Class 4  
18 felony.

19 (c) Any violation of this Act shall be reported to the  
20 Department of Revenue within 7 business days.

21 (Source: P.A. 102-575, eff. 1-1-22.)

22 (410 ILCS 86/15a new)

23 Sec. 15a. Certifications.

24 (a) Any distributor, secondary distributor, or retailer  
25 who sells, offers for sale, or distributes electronic

1 cigarettes in this State shall:

2 (1) obtain, upon purchase of any electronic cigarettes  
3 for sale or distribution in this State, a certification by  
4 the manufacturer of the electronic cigarettes stating that  
5 the electronic cigarettes are not adulterated as that term  
6 is used in paragraph (4) of Section 15, and, for purposes  
7 of determining compliance with subparagraph (C) of  
8 paragraph (4), the certification shall include the date on  
9 which the electronic cigarette's pending premarket tobacco  
10 product application was submitted to the United States  
11 Food and Drug Administration or the date on which the  
12 electronic cigarette received a marketing granted order  
13 from the United States Food and Drug Administration;

14 (2) not sell, offer for sale, or distribute any  
15 electronic cigarettes in this State for which it has not  
16 obtained the certification described in paragraph (1);

17 (3) maintain, for at least 2 years, a copy of any  
18 certification provided to it by a manufacturer under  
19 paragraph (1); and

20 (4) produce a copy of any certification provided to it  
21 by a manufacturer under paragraph (1) upon request by the  
22 Department of Revenue, the Attorney General, or any entity  
23 with enforcement authority under subsection (b) of Section  
24 10 of this Act.

25 (b) No manufacturer of electronic cigarettes shall  
26 provide any false or misleading statement in any certification

1 provided to a distributor, secondary distributor, or retailer  
2 under paragraph (1).

3 (410 ILCS 86/35)

4 Sec. 35. Violations.

5 (a) Upon a finding that a distributor, secondary  
6 distributor, retailer, or person has committed any of the  
7 conduct prohibited under this Act or any rule adopted under  
8 this Act, knowing or having reason to know that he or she has  
9 done so, the Department of Revenue may: revoke or suspend the  
10 license or licenses of the distributor, secondary distributor,  
11 retailer, or person pursuant to the procedures set forth in  
12 the Cigarette Tax Act, Cigarette Use Tax Act, or the Tobacco  
13 Products Tax Act of 1995; and impose on the distributor,  
14 secondary distributor, retailer, or person a civil penalty in  
15 an amount not to exceed the greater of 500% of the retail value  
16 of the electronic cigarettes involved or \$10,000.

17 (b) Electronic cigarettes that are acquired in, held in,  
18 owned in, possessed in, transported within, imported into, or  
19 sold or distributed across this State in violation of this Act  
20 shall be deemed contraband under this Act and are subject to  
21 seizure and forfeiture as provided in subsection (g) of  
22 Section 1 of the Prevention of Tobacco Use by Persons under 21  
23 Years of Age and Sale and Distribution of Tobacco Products  
24 Act, and all such electronic cigarettes seized and forfeited  
25 shall be destroyed or maintained and used in an undercover

1 capacity. Such electronic cigarettes shall be deemed  
2 contraband whether the violation of this Act is knowing or  
3 otherwise.

4 (c) The Attorney General may enforce violations of Section  
5 15, 15a, or 25 of this Act as an unlawful practice under the  
6 Consumer Fraud and Deceptive Business Practices Act.

7 (Source: P.A. 102-575, eff. 1-1-22.)