

SENATE FLOOR AMENDMENTS

Amendments proposed by Senator Gallot to Engrossed Senate Bill No. 12 by Senator Gallot

1 AMENDMENT NO. 1

2 On page 1, line 2, after "reenact" delete the remainder of the line and delete lines 3 through
3 6 and insert the following:

4 "R.S. 14:91.6(A) and 91.8, R.S. 26:901, 902(1), 905(B), 909(A)(2), 910, 910.1, the
5 introductory paragraph of 911(A) and (A)(1) and (2), the introductory paragraph of
6 917(A) and (C), and 932(6), and R.S. 47:851(C)(2), and to enact R.S. 14:91.6(B)(6)
7 and (7), relative to alternative nicotine products and vapor products; to prohibit the
8 sale or other distribution of alternative nicotine products and vapor pens to persons
9 under the age of eighteen years; to provide relative to definitions; and to provide for
10 related matters."

11 AMENDMENT NO. 2

12 On page 1, line 8, after "Section 1." delete the remainder of the line and insert "R.S.
13 14:91.6(A) and 91.8 are hereby amended and reenacted and R.S. 14:91.6(B)(6)"

14 AMENDMENT NO. 3

15 On page 1, delete lines 10 through 17, and on page 2, delete lines 1 through 15, and insert
16 the following:

17 "§91.6. Unlawful distribution of sample tobacco products, **alternative nicotine**
18 **products, or vapor products** to persons under age eighteen; penalty

19 A. No person shall distribute or cause to be distributed to persons under
20 eighteen years of age a promotional sample of any tobacco product, **alternative**
21 **nicotine product, or vapor product.**

22 B. For purposes of this Section, the following definitions apply:

23 * * *

24 **(6) "Alternative nicotine product" means any non-combustible product**
25 **containing nicotine that is intended for human consumption, whether chewed,**
26 **absorbed, dissolved, or ingested by any other means. "Alternative nicotine**
27 **product" does not include any:**

28 **(a) Tobacco product.**

29 **(b) Vapor product.**

30 **(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).**

31 **(d) Device pursuant to 21 U.S.C. 321(h).**

32 **(e) Combination product described in 21 U.S.C. 353(g).**

33 **(7) "Vapor product" means any non-combustible product containing**
34 **nicotine or other substances that employs a heating element, power source,**
35 **electronic circuit, or other electronic, chemical or mechanical means, regardless**
36 **of shape or size, that can be used to produce vapor from nicotine in a solution**
37 **or other form. "Vapor product" includes any electronic cigarette, electronic**
38 **cigar, electronic cigarillo, electronic pipe, or similar product or device and any**
39 **vapor cartridge or other container of nicotine in a solution or other form that**
40 **is intended to be used with or in an electronic cigarette, electronic cigar,**
41 **electronic cigarillo, electronic pipe, or similar product or device. "Vapor**
42 **product" does not include any:**

43 **(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).**

44 **(b) Device pursuant to 21 U.S.C. 321(h).**

45 **(c) Combination product described in 21 U.S.C. 353(g)."**

1 AMENDMENT NO. 4

2 On page 2, at the end of line 17 and the beginning of line 18, change "**or alternative**
3 **nicotine product**" to "**, alternative nicotine product, or vapor product**"

4 AMENDMENT NO. 5

5 On page 2, line 20, delete "**and Alternative Nicotine Products**"

6 AMENDMENT NO. 6

7 On page 2, line 26, change "**or alternative nicotine products**" to "**, alternative nicotine**
8 **product, or vapor product**"

9 AMENDMENT NO. 7

10 On page 3, at the end of line 2 and the beginning of line 3, change "**or any alternative**
11 **nicotine product**" to "**, alternative nicotine product, or vapor product**"

12 AMENDMENT NO. 8

13 On page 3, at the end of line 4 and the beginning of line 5, change "**or an alternative**
14 **nicotine product**" to "**, alternative nicotine product, or vapor product**"

15 AMENDMENT NO. 9

16 On page 3, line 8, change "**OR ALTERNATIVE NICOTINE PRODUCT**" to
17 "**PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS**"

18 AMENDMENT NO. 10

19 On page 3, line 11, change "**or any alternative nicotine product**" to "**, alternative nicotine**
20 **product, or vapor product**"

21 AMENDMENT NO. 11

22 On page 3, line 14, change "**OR ALTERNATIVE NICOTINE PRODUCT**" to
23 "**PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS**"

24 AMENDMENT NO. 12

25 On page 3, at the end of line 15, delete ", or words of similar meaning"

26 AMENDMENT NO. 13

27 On page 3, line 17, change "**or any alternative nicotine product**" to "**, alternative nicotine**
28 **product, or vapor product**"

29 AMENDMENT NO. 14

30 On page 3, line 19, change "**or any alternative nicotine product**" to "**, alternative nicotine**
31 **product, or vapor product**"

32 AMENDMENT NO. 15

33 On page 3, line 21, change "**or any alternative nicotine product**" to "**, alternative nicotine**
34 **product, or vapor product**"

1 AMENDMENT NO. 16

2 On page 3, line 26, change "**or the alternative nicotine product**" to "**, alternative nicotine**
3 **product, or vapor product**"

4 AMENDMENT NO. 17

5 On page 4, delete lines 16 through 29, and on page 5, delete lines 1 through 4, and insert the
6 following:

7 **"(6) "Alternative nicotine product" means any non-combustible product**
8 **containing nicotine that is intended for human consumption, whether chewed,**
9 **absorbed, dissolved, or ingested by any other means. "Alternative nicotine**
10 **product" does not include any:**

11 **(a) Tobacco product.**

12 **(b) Vapor product.**

13 **(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).**

14 **(d) Device pursuant to 21 U.S.C. 321(h).**

15 **(e) Combination product described in 21 U.S.C. 353(g).**

16 **(7) "Vapor product" means any non-combustible product containing**
17 **nicotine or other substances that employs a heating element, power source,**
18 **electronic circuit, or other electronic, chemical or mechanical means, regardless**
19 **of shape or size, that can be used to produce vapor from nicotine in a solution**
20 **or other form. "Vapor product" includes any electronic cigarette, electronic**
21 **cigar, electronic cigarillo, electronic pipe, or similar product or device and any**
22 **vapor cartridge or other container of nicotine in a solution or other form that**
23 **is intended to be used with or in an electronic cigarette, electronic cigar,**
24 **electronic cigarillo, electronic pipe, or similar product or device. "Vapor**
25 **product" does not include any:**

26 **(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).**

27 **(b) Device pursuant to 21 U.S.C. 321(h).**

28 **(c) Combination product described in 21 U.S.C. 353(g)."**

29 AMENDMENT NO. 18

30 On page 5, line 6, change "**or alternative nicotine products**" to "**, alternative nicotine**
31 **products, or vapor products**"

32 AMENDMENT NO. 19

33 On page 5, line 12, change "**or alternative nicotine products**" to "**, alternative nicotine**
34 **products, or vapor products**"

35 AMENDMENT NO. 20

36 On page 5, line 27, after "Section 2." delete the remainder of the line and delete line 28 and
37 insert the following:

38 "R.S. 26:901, 902(1), 905(B), 909(A)(2), 910, 910.1, the introductory paragraph of
39 911(A) and (A)(1) and (2), the introductory paragraph of 917(A) and (C), and 932(6) are
40 hereby amended and reenacted to read as follows:"

41 AMENDMENT NO. 21

42 On page 6, delete lines 1 through 21 and insert the following:

43 "As used in this Chapter, the following terms have the meaning ascribed to
44 them in this Section, unless the context clearly indicates otherwise:

45 (1) **"Alternative nicotine product" means any non-combustible product**
46 **containing nicotine that is intended for human consumption, whether chewed,**

1 **absorbed, dissolved, or ingested by any other means. "Alternative nicotine**
 2 **product" does not include any:**

3 **(a) Tobacco product.**

4 **(b) Vapor product.**

5 **(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).**

6 **(d) Device pursuant to 21 U.S.C. 321(h).**

7 **(e) Combination product described in 21 U.S.C. 353(g).**

8 **(2)** "Brand family" has the meaning as set forth in R.S. 13:5072(1).

9 ~~(2)~~**(3)** "Cigar" includes any roll of tobacco for smoking, irrespective of size
 10 or shape, and irrespective of the tobacco being flavored, adulterated, or mixed with
 11 any other ingredients, where such roll has a wrapper made chiefly of tobacco.

12 ~~(3)~~**(4)** "Cigarette" includes any roll for smoking made wholly or in part of
 13 tobacco, irrespective of size or shape and irrespective of the tobacco being flavored,
 14 adulterated, or mixed with any other ingredient, where such roll has a wrapper or
 15 cover made of paper, or any other material except where such wrapper is wholly or
 16 in greater part made of tobacco.

17 ~~(4)~~**(5)** "Commissioner" means the commissioner of alcohol and tobacco
 18 control.

19 ~~(5)~~**(6)** "Dealer" includes every person who manufactures or purchases cigars,
 20 cigarettes, or other tobacco products for distribution or resale in this state. The term
 21 also means any person who imports cigars, cigarettes, or other tobacco products from
 22 any state or foreign country for distribution, sale, or consumption in this state.

23 ~~(6)~~**(7)** "Exporter license" means the stamping agent designation as set forth
 24 in R.S. 26:902(5)(b).

25 ~~(7)~~**(8)** "Facility" means a part or portion of an establishment which is
 26 designed so as to impede a minor's access to a vending machine by walls or other
 27 separation in combination with signs designed to notify the public that persons under
 28 the age of eighteen are prohibited from the area.

29 ~~(8)~~**(9)** A "knowing violation or failure" is a knowing or intentional engaging
 30 in conduct without a good faith belief that the conduct was consistent with the
 31 provisions of this Chapter.

32 ~~(9)~~**(10)** "Manufacturer" means anyone engaged in the manufacture,
 33 production, or foreign importation of tobacco products who sells to wholesalers.

34 ~~(10)~~**(11)** "Person" means any natural person, trustee, company, partnership,
 35 corporation, or other legal entity.

36 ~~(11)~~**(12)** "Place of business" means the place where the tobacco orders,
 37 **alternative nicotine products orders, or vapor products orders** are received, or
 38 where the taxable tobacco articles are sold, or if sold by a retail dealer upon a
 39 railroad train or on or from any other vehicle, the vehicle on which or from which
 40 the taxable articles **or alternative nicotine products or vapor products** are sold by
 41 the retail dealer. It also includes the establishment where vending machines are
 42 located.

43 ~~(12)~~**(13)** "Purchase" means acquisition in any manner, for any consideration.
 44 The term shall include transporting or receiving product in connection with a
 45 purchase.

46 ~~(13)~~**(14)** "Retail dealer" includes every dealer other than a wholesale dealer,
 47 or manufacturer who sells or offers for sale cigars, cigarettes, or other tobacco
 48 products, **alternative nicotine products, or vapor products**, irrespective of quantity
 49 or the number of sales.

50 ~~(14)~~**(15)** "Sale" or "sell" means any transfer, exchange, or barter in any
 51 manner or by any means for any consideration. The term shall include distributing
 52 or shipping product in connection with a sale. References to a sale "in" or "into" a
 53 state refer to the state of the destination point of the product in the sale, without
 54 regard to where title was transferred. References to sale "from" a state refer to the
 55 sale of cigarettes that are located in that state to the destination in question without
 56 regard to where title was transferred.

57 ~~(15)~~**(16)** "Sales entity affiliate" means an entity that sells cigarettes that it
 58 acquires directly from a manufacturer or importer and is affiliated with that
 59 manufacturer or importer as established by documentation received directly from
 60 that manufacturer or importer to the satisfaction of the attorney general. Entities are
 61 affiliated with each other if one, directly or indirectly through one or more

1 intermediaries, controls or is controlled by or is under common control with the
2 other.

3 ~~(16)~~**(17)** "Secretary" means the secretary of the Department of Revenue and
4 includes any of his duly authorized assistants.

5 ~~(17)~~**(18)** "Self-service display" means any display that contains tobacco
6 products, **alternative nicotine products, or vapor products**, and is located in an
7 area openly accessible to the retail dealer's customers and from which such
8 customers can readily access tobacco products, **alternative nicotine products, or**
9 **vapor products** without the assistance of a salesperson. A display case that holds
10 tobacco products, **alternative nicotine products, or vapor products** behind locked
11 doors does not constitute a self-service display for purposes of this Chapter.

12 ~~(18)~~**(19)** "Smokeless tobacco" means any finely cut, ground, powdered, or
13 leaf tobacco that is intended to be placed in the oral or nasal cavity.

14 ~~(19)~~**(20)** "Smoking tobacco" includes granulated, plug cut, crimp cut, ready
15 rubbed, and any other kind and form of tobacco prepared in such manner as to be
16 suitable for smoking in pipe or cigarette.

17 ~~(20)~~**(21)** "Stamp" means the impression, device, stamp, label, or print
18 manufactured or printed as prescribed by the secretary by the use of which the tax
19 levied hereunder is paid. By way of extension, and not limitation, the term "stamp"
20 means any impression or character affixed to or which shall be stamped upon
21 commodities by metered stamping machine or device by use of which the tax levied
22 hereunder is paid.

23 ~~(21)~~**(22)** "Stamping agent" means a dealer that is authorized to affix tax
24 stamps to packages or other containers of cigarettes under R.S. 47:843 et seq. or any
25 dealer that is required to pay the excise tax or tobacco tax imposed pursuant to R.S.
26 47:841 et seq. on cigarettes.

27 ~~(22)~~**(23)** "State directory" or "directory" means the directory compiled by the
28 attorney general under R.S. 13:5073, or, in the case of reference to another state's
29 directory, the directory compiled under the similar law in that other state.

30 ~~(23)~~**(24)** "Tobacconist" means any bona fide tobacco retailer engaged in
31 receiving bulk smoking tobacco for the purpose of blending such tobacco for retail
32 sale at a particular retail outlet where fifty percent or more of the total purchases for
33 the preceding twelve months were purchases of tobacco products, excluding
34 cigarettes.

35 ~~(24)~~**(25)** "Tobacco product" means any cigar, cigarette, smokeless tobacco,
36 or smoking tobacco.

37 **(26) "Vapor product" means any non-combustible product containing**
38 **nicotine or other substances that employs a heating element, power source,**
39 **electronic circuit, or other electronic, chemical or mechanical means, regardless**
40 **of shape or size, that can be used to produce vapor from nicotine in a solution**
41 **or other form. "Vapor product" includes any electronic cigarette, electronic**
42 **cigar, electronic cigarillo, electronic pipe, or similar product or device and any**
43 **vapor cartridge or other container of nicotine in a solution or other form that**
44 **is intended to be used with or in an electronic cigarette, electronic cigar,**
45 **electronic cigarillo, electronic pipe, or similar product or device. "Vapor**
46 **product" does not include any:**

47 **(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).**

48 **(b) Device pursuant to 21 U.S.C. 321(h).**

49 **(c) Combination product described in 21 U.S.C. 353(g).**

50 ~~(25)~~**(27)** "Vending machine" means any mechanical, electric, or electronic
51 self-service device which, upon insertion of money, tokens, or any other form of
52 payment, automatically dispenses tobacco products, **alternative nicotine products,**
53 **or vapor products.**

54 ~~(26)~~**(28)** "Vending machine operator" means any person who controls the use
55 of one or more vending machines as to the supply of cigarettes or any tobacco
56 products in the machine or the receipts from cigarettes vended through such
57 machines.

58 ~~(27)~~**(29)** "Wholesale dealer" means a dealer whose principal business is that
59 of a wholesaler, who sells cigarettes, cigars, or other tobacco products to retail
60 dealers for purpose of resale, who is a bona fide wholesaler, and fifty percent of
61 whose total tobacco sales are to retail stores other than its own or its subsidiaries

1 within Louisiana. Wholesale dealer shall include any person in the state who
2 acquires cigarettes solely for the purpose of resale in vending machines, provided
3 such person services fifty or more cigarette vending machines in Louisiana other
4 than his own, and a Louisiana dealer who was affixing cigarette and tobacco stamps
5 as of January 1, 1974.

6 §902. Permits

7 The commissioner shall issue as authorized by this Section the following
8 types of permits and shall adopt rules and regulations that specify the identifying
9 information that is required to appear on the face of each type of permit:

10 (1) Retail Dealer Permit. A retail dealer permit shall be issued to a dealer
11 other than a wholesale dealer or vending machine operator for each retail outlet
12 where cigars, cigarettes, ~~or~~ other tobacco products, **alternative nicotine products,**
13 **or vapor products** are offered for sale either over the counter or by vending
14 machine.

15 * * *

16 §905. Renewal of a permit

17 * * *

18 B. If a dealer fails to file an application and pay the permit fees by the date
19 established by the commissioner, there shall be added to the fee, in addition to other
20 penalties provided in this Chapter, a delinquency penalty of twenty-five percent if
21 the failure is not more than thirty days, with an additional twenty-five percent for
22 each additional thirty days or fraction thereof during which the failure continues. If
23 the dealer fails to make his application by the date established by the commissioner,
24 the commissioner may, without notice or hearing, suspend his right to possess or sell
25 tobacco products, **alternative nicotine products, and vapor products.**

26 * * *

27 §909. General requirements of eligibility

28 A. The commissioner may suspend a permit previously issued or may refuse
29 to grant a permit if, after a hearing and by a preponderance of the evidence, it is
30 proven that the permittee, or an employee or agent thereof, or applicant either:

31 * * *

32 (2) Has violated the terms and provisions of R.S. 14:91.6 relative to the
33 unlawful distribution of tobacco products, **alternative nicotine products, or vapor**
34 **products.**"

35 AMENDMENT NO. 22

36 On page 6, delete lines 23 through 29, and on page 7, delete lines 1 through 12, and insert
37 the following:

38 "§910. Vending machines

39 In order to prevent persons under eighteen years of age from purchasing or
40 receiving tobacco products, **alternative nicotine products, or vapor products** from
41 vending machines, the sale or delivery of tobacco such products through a vending
42 machine is prohibited unless either:

43 (1) The machine is located in an establishment to which persons under the
44 age of eighteen are denied access.

45 (2) The machine is located in facilities where the dealer ensures that no
46 person younger than eighteen years of age is present or permitted to enter at any time
47 and the machine is located within the unobstructed line of sight of a dealer or a
48 dealer's agent or employee who is responsible for preventing persons younger than
49 eighteen years of age from purchasing tobacco products, **alternative nicotine**
50 **products, or vapor products** through that machine.

51 §910.1. Self-service displays

52 A. In order to prevent persons under eighteen years of age from purchasing
53 or receiving tobacco products, **alternative nicotine products, or vapor products**
54 from self-service displays, the sale or delivery of tobacco such products through a
55 self-service display is prohibited unless the machine is a vending machine **as defined**
56 **in R.S. 26:910** that complies with the terms and provisions of ~~R.S. 26:910~~ **that**
57 **Section.**

1 B.(1) The provisions of this Section shall not apply to a tobacconist at a
2 particular outlet or a retail tobacco business.

3 (2) "Retail tobacco business" for purposes of this Section means a bona fide
4 retail dealer engaged in the sale of tobacco products and accessories for retail sale
5 where fifty percent or more of the total sales for the preceding twelve months,
6 excluding fuel sales, were tobacco products, including cigarettes, **alternative**
7 **nicotine products, or vapor products.**

8 (3) "Tobacconist at a particular outlet" for purposes of this Section means
9 a bona fide retail dealer engaged in receiving bulk smoking tobacco for the purpose
10 of blending such tobacco for retail sale at a particular retail outlet where fifty percent
11 or more of the total purchases for the preceding twelve months were purchases of
12 tobacco products, excluding cigarettes, **alternative nicotine products, or vapor**
13 **products.**

14 §911. Acts prohibited

15 A. No person, agent, associate, employee, representative, or servant of any
16 person shall permit any of the following acts to be done on or about any premises
17 which sells or offers for sale tobacco products, **alternative nicotine products, or**
18 **vapor products:**

19 (1) Sell or serve tobacco products, **alternative nicotine products, or vapor**
20 **products** over-the-counter in a retail establishment to any person under the age of
21 eighteen unless such person submits a driver's license, selective service card, or other
22 lawful identification which on its face establishes the age of the person as eighteen
23 years or older and there is no reason to doubt the authenticity or correctness of the
24 identification.

25 (2) Violate the terms and provisions of R.S. 14:91.6 relative to the unlawful
26 distribution of tobacco products, **alternative nicotine products, or vapor products.**

27 * * *

28 §917. Violations by employee; employer liability

29 A. Sale of tobacco products, **alternative nicotine products, or vapor**
30 **products** to a minor by a retail dealer's agent, associate, employee, representative,
31 or servant shall be considered an act of the retail dealer for purposes of suspension,
32 revocation, or assessment of civil penalties unless all of the following conditions
33 exist:

34 * * *

35 C. The provisions of Subsection A of this Section shall not apply if a retail
36 dealer, **or lawful retailer of alternative nicotine products or vapor products, as**
37 **applicable,** within one hundred eighty days from the hiring of an agent, associate,
38 employee, representative, or servant can prove that he has made application to have
39 the employee attend a training program or the retail dealer **or lawful retailer, as**
40 **applicable,** has received an extension of time in which to comply from the
41 commissioner because of unavailability of a training program.

42 * * *

43 §932. Definitions

44 For purposes of this Chapter, the following terms have the respective
45 meanings ascribed to them in this Chapter, unless a different meaning clearly appears
46 from the context:

47 * * *

48 (6)"Server" means any employee of a vendor, other than security personnel,
49 who is authorized to sell or serve alcoholic beverages, ~~or~~ tobacco products,
50 **alternative nicotine products, or vapor products** in the normal course of his or her
51 employment or deals with customers who purchase or consume alcoholic beverages
52 or tobacco products. "Server" shall not include individuals employed on a temporary
53 or casual basis by a bona fide hotel or motel for banquets, catering, or other special
54 events.

55 * * *

56 Section 3. R.S. 47:851(C)(2) is hereby amended and reenacted to read as follows:

57 §851. Dealers receiving unstamped and/or nontax paid cigarettes, cigars, and
58 smoking tobaccos required to file monthly reports and maintain records;
59 vending machine restrictions

60 * * *

61 C. Vending machine operators.

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(2) In accordance with state law prohibiting minors from purchasing tobacco products **R.S. 14:91.8(D)**, vending machine operators shall affix a ~~sticker in a prominent place on each machine, in print not smaller than twenty-two point, sign or sticker in not less than 22-point type on the front of each machine~~ stating, "~~Louisiana Law Prohibits the Purchase of Tobacco Products by Anyone Under Age 17~~" **"LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS TO PERSONS UNDER AGE 18"**."

10 AMENDMENT NO. 23

11 On page 7, line 14, change "Section 3." to "Section 4."