453A.52 Vapor products directory — established — requirements.

1. By August 1, annually, following the date the director first makes the vapor products directory available as specified in section 453A.52A, every vapor products manufacturer where vapor products are sold in the state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, shall certify under penalty of perjury on a form and in the manner prescribed by the director, that the vapor products manufacturer agrees to comply with this subchapter and to one of the following:

a. That the vapor products manufacturer has received a marketing authorization or similar order for the vapor product from the United States food and drug administration pursuant to 21 U.S.C. §387j.

b. That the vapor product was marketed in the United States as of August 8, 2016, the vapor products manufacturer submitted a premarket tobacco product application for the vapor product to the United States food and drug administration pursuant to 21 U.S.C. §387j on or before September 9, 2020, and the application either remains under review by the United States food and drug administration or a final decision on the application has not otherwise taken effect.

2. A vapor products manufacturer shall submit a certification form that separately lists each of the vapor products manufacturer's vapor products sold in this state.

3. Each initial and annual certification form required to be submitted under this section shall be accompanied by both of the following:

a. A copy of the marketing authorization or other order for each vapor product issued by the United States food and drug administration pursuant to 21 U.S.C. §387j, or evidence that the premarket tobacco product application for each vapor product was submitted to the United States food and drug administration and a final authorization or order has not yet taken effect.

b. A payment of one hundred dollars for each vapor product listed in the certification.

4. A vapor products manufacturer required to submit a certification form under this section shall notify the director within thirty business days of any material change to the certification form, including the issuance or denial of a marketing authorization or other order by the United States food and drug administration pursuant to 21 U.S.C. §387j, or any other order or action by the United States food and drug administration that affects the authorization of the vapor product to be introduced or delivered into interstate commerce for commercial distribution in the United States.

5. *a.* The director shall maintain and make publicly available a vapor products directory that lists all vapor products manufacturers and vapor products for which certification forms have been submitted.

b. The director shall make the directory available on the department's internet site.

c. The director shall update the directory as necessary in order to correct mistakes, ensure accuracy, and add or remove vapor products on at least a monthly basis.

d. The director shall notify each retailer, distributor, and wholesaler of any change to the directory on at least a monthly basis via electronic communication.

6. *a.* The director shall provide a vapor products manufacturer with notice and an opportunity to cure deficiencies before removing the vapor products manufacturer or a vapor product from the directory.

b. The director shall not remove a vapor products manufacturer or the vapor products manufacturer's vapor product from the directory until at least fifteen business days after the vapor products manufacturer has been given notice of an intended action. Notice shall be sufficient and be deemed immediately received by a vapor products manufacturer if the notice is sent either electronically or by facsimile to an electronic mail address or facsimile number, as applicable, provided by the vapor products manufacturer in the vapor products manufacturer's most recent certification filed under this section.

c. The vapor products manufacturer shall have fifteen business days from the date of service of the notice of intended action to establish that the vapor products manufacturer or the vapor product should be included in the directory.

d. A determination by the director to not include or to remove a vapor products

manufacturer or a vapor product from the directory shall be subject to review by the filing of a civil action for prospective declaratory or injunctive relief.

7. If a vapor product is removed from the directory, the director shall notify each retailer, distributor, and wholesaler of the removal of the vapor product and the effective date of such removal from the directory via electronic communication.

8. If a vapor product is removed from the directory, each retailer, distributor, and wholesaler shall have twenty-one business days from the day such vapor product is removed from the directory to remove the vapor product from its inventory and return the vapor product to the vapor products manufacturer for disposal. After twenty-one business days following removal from the directory, the vapor products of a vapor products manufacturer identified in the notice of removal are contraband and are subject to seizure, forfeiture, and destruction, and shall not be purchased or sold in the state. The cost of such seizure, forfeiture, and destruction shall be borne by the person from whom the vapor products are confiscated.

9. Any certification form, notice, and supporting documentation and any payment required to be submitted to the department pursuant to this section shall be submitted to the department electronically, unless the director has permitted submission of such information through an alternative method pursuant to section 453A.57.

2024 Acts, ch 1180, §4; 2025 Acts, ch 132, §31
NEW subsection 9