

House Amendment to
Senate File 345

S-5050

1 Amend Senate File 345, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 1, before line 1 by inserting:

4 <DIVISION I

5 DRUG PARAPHERNALIA

6 Section 1. Section 124.414, subsection 3, Code 2023, is
7 amended to read as follows:

8 3. A person who violates this section commits a simple
9 misdemeanor punishable as a scheduled violation under section
10 805.8C.

11 Sec. _____. Section 805.8C, Code 2023, is amended by adding
12 the following new subsection:

13 NEW SUBSECTION. 3A. *Drug paraphernalia violations.*

14 a. For a first violation of section 124.414, the scheduled
15 fine is two hundred sixty dollars.

16 b. For a second or subsequent violation of section 124.414,
17 the scheduled fine is five hundred twenty dollars.

18 DIVISION ____

19 DEVICE REGULATION>

20 2. By striking page 4, line 32, through page 5, line 9, and
21 inserting:

22 <4. *Issuance.*

23 a. Cities may approve device retailer permit applications
24 for applicants located within their respective limits. County
25 boards of supervisors may approve device retailer permit
26 applications for applicants located in their respective
27 counties, outside of the corporate limits of cities.

28 b. Upon approval of a device retailer permit application
29 by a city or county, the department shall issue the permit to
30 the applicant on behalf of the city or county, as applicable,
31 in a manner determined by the department. A city or county
32 shall use the department's electronic portal to process
33 device retailer permit applications. A city or county that is
34 unable to use the department's electronic portal may request
35 permission from the director to process device retailer permit

1 applications by another method.

2 c. The department shall submit the current list of all
3 device retailer permits issued to the department of health
4 and human services by the last day of each quarter of a state
5 fiscal year.>

6 3. Page 5, by striking lines 3 through 6 and inserting
7 <retailer permit to the department within thirty days of
8 issuance of a device retailer permit. The department shall
9 submit the current list of>

10 4. Page 5, by striking lines 14 and 15 and inserting <the
11 period ending June 30 next, to the department. The fee for a
12 device retailer>

13 5. Page 5, by striking lines 17 through 23 and inserting:
14 <6. *Application.* Device retailer permits shall be issued
15 only upon application, accompanied by the one thousand
16 five hundred dollar fee, made upon forms furnished by the
17 department. The application, any supporting documentation, and
18 the associated fees required by this section shall be submitted
19 to the department electronically. The forms shall specify all
20 of the following:>

21 6. By striking page 6, line 27, through page 7, line 10, and
22 inserting:

23 <1. A person shall not mail, ship, or otherwise cause to be
24 delivered any device in connection with a delivery sale to any
25 other person within this state unless the person has applied
26 for and holds a device delivery sale permit as provided in this
27 section.

28 2. All device delivery sale permits provided for in
29 this section shall expire on June 30 of each year. A device
30 delivery sale permit shall not be granted or issued until the
31 applicant has paid the fees provided for in this section for
32 the period ending June 30 next, to the department. The fee
33 for a device delivery sale permit is one thousand five hundred
34 dollars.

35 3. Device delivery sale permits shall be issued only upon

1 application, accompanied by the one thousand five hundred
2 dollar fee, made upon forms furnished by the department. The
3 application, any supporting documentation, and the associated
4 fees required by this section shall be submitted to the
5 department electronically. The forms shall specify all of the
6 following:

7 a. The manner under which the device delivery sale permit
8 holder transacts or intends to transact business as a device
9 delivery sale permit holder.

10 b. The principal office, residence, and place of business,
11 to which the device delivery sale permit is to apply.

12 c. If the applicant is not an individual, the names of the
13 partners if the applicant is a partnership or the names of
14 the principal officers or members if the applicant is a legal
15 entity, and their addresses.

16 d. Such other information as the director shall by rule
17 prescribe.>

18 7. Page 7, line 11, by striking <2.> and inserting <4.>

19 8. Page 7, line 35, after <submitted> by inserting
20 <electronically>

21 9. Page 8, line 4, by striking <3.> and inserting <5.>

22 10. Page 8, line 5, after <director> by inserting
23 <electronically>

24 11. Page 8, line 10, by striking <4.> and inserting <6.>

25 12. Page 8, by striking lines 25 through 28 and inserting:

26 <2. a. There is levied and imposed an excise tax on a
27 device purchased in this state through a sale by a device
28 retailer or purchased for use in this state through a delivery
29 sale of forty percent of the retail sales price of the device.

30 b. For the purposes of this section, "*retail sales price*"
31 means the total amount of consideration, including cash,
32 credit, property, and services, for which personal property or
33 services are sold, leased, or rented, valued in money, whether
34 received in money or otherwise, without any deduction for any
35 of the following:

1 (1) The device retailer's or device delivery sale permit
2 holder's cost of the device sold.

3 (2) The cost of materials used, labor or service cost,
4 interest, losses, all costs of transportation to the device
5 retailer or to the device delivery sale permit holder, as
6 applicable, all taxes imposed on the device retailer or the
7 device delivery sale permit holder except as provided in
8 paragraph "c", subparagraphs (5) and (6), and any other expenses
9 of the device retailer or device delivery sale permit holder.

10 (3) Charges by the device retailer or device delivery sale
11 permit holder for any services necessary to complete the sale,
12 other than delivery and installation charges.

13 (4) Delivery charges.

14 c. *"Retail sales price"* does not include any of the
15 following:

16 (1) Discounts, including cash, term, or coupons that are
17 not reimbursed by a third party that are allowed by a device
18 retailer or a device delivery sale permit holder and taken by a
19 consumer on sale.

20 (2) Interest, financing, carrying charges from credit
21 extended on the sale of a device, if the amount is separately
22 stated on the invoice, bill of sale, or similar document given
23 to the consumer.

24 (3) Any taxes legally imposed directly on the consumer that
25 are separately stated on the invoice, bill of sale, or similar
26 document given to the consumer.

27 (4) Trade discounts given or allowed by manufacturers,
28 distributors, or wholesalers to device retailers or
29 device delivery sale permit holders or by manufacturers or
30 distributors to wholesalers and payments made by manufacturers,
31 distributors, or wholesalers directly to device retailers
32 or device delivery sale permit holders or by manufacturers
33 or distributors to wholesalers to reduce the sales price of
34 the manufacturer's, distributor's, or wholesaler's product
35 or to promote the sale or recognition of the manufacturer's,

1 distributor's, or wholesaler's product. This subparagraph does
2 not apply to coupons issued by manufacturers, distributors, or
3 wholesalers to consumers.

4 (5) Any state or local tax on a sale that is imposed on the
5 device retailer or device delivery sale permit holder if the
6 statute, rule, or local ordinance imposing the tax provides
7 that the device retailer or device delivery sale permit holder
8 may but is not required to collect such tax from the consumer,
9 and if the tax is separately stated on the invoice, bill of
10 sale, or similar document given to the consumer.

11 (6) Any tribal tax on a sale that is imposed on the device
12 retailer or device delivery sale permit holder if the tribal
13 law imposing the tax provides that the device retailer or
14 device delivery sale permit holder may but is not required
15 to collect such tax from the consumer, and if the tax is
16 separately stated on the invoice, bill of sale, or similar
17 document given to the consumer.

18 d. The retail sales price does not include, and the device
19 excise tax shall not apply to, amounts received for charges
20 included in paragraph "b", subparagraphs (3) and (4), if the
21 charges are separately contracted for, separately stated on
22 the invoice, bill of sale, or similar document given to the
23 consumer, and the amounts represent charges which are not the
24 retail sales price of a taxable sale of a device under this
25 chapter.>

26 13. Page 8, line 35, after <department> by inserting
27 <electronically>

28 14. Page 9, line 6, by striking <program> and inserting <and
29 diversion programs>

30 15. Page 10, by striking line 13 and inserting:

31 <Sec. ____ . NEW SECTION. 453E.6 Specialty courts and
32 diversion programs fund.>

33 16. Page 10, by striking lines 14 through 26 and inserting:

34 <1. A specialty courts and diversion programs fund is
35 created in the state treasury under the control of the office

1 of drug control policy. Moneys from permit fees, with the
2 exception of permit fees collected by the department on
3 behalf of cities or counties in the issuance of permits, and
4 excise taxes imposed and collected pursuant to section 453E.5,
5 shall be deposited in the fund. Permit fees collected by the
6 department on behalf of cities under this chapter shall be
7 remitted by the department to the treasurer of the city where
8 the permit is effective and credited to the general fund of the
9 city. Permit fees collected by the department on behalf of
10 counties under this chapter shall be remitted by the department
11 to the treasurer of the county where the permit is effective
12 and credited to the general fund of the county.>
13 17. Page 10, line 27, by striking <governor's>
14 18. Page 10, line 29, after <courts> by inserting <and
15 diversion programs>
16 19. Page 10, line 33, by striking <governor's>
17 20. Page 10, line 35, by striking <program> and inserting
18 <and diversion programs>
19 21. Page 11, line 2, after <courts> by inserting <and
20 diversion programs>
21 22. Page 11, line 3, by striking <governor's>
22 23. Page 11, line 25, by striking <governor's>
23 24. Page 12, by striking lines 24 through 28 and inserting:
24 <c. A local authority shall report the suspension or
25 revocation of a device retailer permit or a device delivery
26 sale permit under this section to the department within thirty
27 days of the suspension or revocation of the permit.>
28 25. Page 12, by striking lines 26 and 27 and inserting
29 <device delivery sale permit under this section to the
30 department within thirty>
31 26. Page 13, line 16, after <This> by inserting <division
32 of this>
33 27. Page 13, by striking lines 16 and 17 and inserting:
34 <Sec. _____. EFFECTIVE DATE. This Act takes effect January 1,
35 2025.>

1 28. Page 13, line 17, by striking <2024> and inserting
2 <2025>

3 29. Title page, line 1, after <regulation of> by inserting
4 <drug paraphernalia and>

5 30. By renumbering, redesignating, and correcting internal
6 references as necessary.