

House File 2011 - Introduced

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BY GEARHART

A BILL FOR

1 An Act relating to the taxation and regulation of alternative
2 nicotine products and vapor products, creating the Iowa cancer
3 research fund, and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 453A.1, subsections 1 and 29, Code 2026,
2 are amended to read as follows:

3 1. "Alternative nicotine product" means a product, not
4 consisting of or containing tobacco, that provides for the
5 ingestion into the body of nicotine, or a nicotine analog,
6 whether by chewing, absorbing, dissolving, inhaling, snorting, or
7 sniffing, or by any other means. "Alternative nicotine product"
8 does not include cigarettes, tobacco products, or vapor products,
9 or a product that is regulated as a drug or device by the
10 United States food and drug administration under chapter V of the
11 Federal Food, Drug, and Cosmetic Act.

12 29. a. "Vapor product" means any noncombustible product,
13 which may or may not contain nicotine or a nicotine analog, that
14 employs a heating element, power source, electronic circuit, or
15 other electronic, chemical, or mechanical means, regardless of
16 shape or size, that can be used to produce vapor from a solution
17 or other substance. "Vapor product" includes ~~an~~ but is not
18 limited to the following:

19 (1) Any product or device marketed, manufactured,
20 distributed, or sold as an electronic cigarette, electronic
21 cigar, electronic cigarillo, electronic pipe, or similar product
22 or device, ~~and any.~~

23 (2) Any cartridge or other container of a solution or other
24 substance, which may or may not contain nicotine or a nicotine
25 analog, that is intended to be used with or in an electronic
26 cigarette, electronic cigar, electronic cigarillo, electronic
27 pipe, or similar product or device.

28 (3) Any component, part, or accessory of such a product or
29 device that is used during the operation of the product or device
30 when sold in combination with any substance containing nicotine,
31 a nicotine analog, tobacco, or tobacco derivative.

32 b. "Vapor product" does not include a any of the following:

33 (1) A product regulated as a drug or device by the United
34 States food and drug administration under chapter V of the
35 Federal Food, Drug, and Cosmetic Act.

1 (2) Any component, part, or accessory of such a product or
2 device that is used during the operation of the product or
3 device when not sold in combination with any substance containing
4 nicotine, a nicotine analog, tobacco, or tobacco derivative.

5 Sec. 2. Section 453A.1, Code 2026, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 18A. "*Nicotine analog*" means a substance
8 that has a chemical structure that is substantially similar to
9 nicotine, or that has an effect on the central nervous system
10 that is substantially similar to, or greater than, the effects of
11 nicotine on the central nervous system.

12 Sec. 3. Section 453A.35, subsection 1, paragraph a, Code
13 2026, is amended to read as follows:

14 a. With the exception of revenues credited to the health care
15 trust fund pursuant to paragraph "b" and revenues credited to the
16 Iowa cancer research fund pursuant to paragraph "c", the proceeds
17 derived from the sale of stamps and the payment of fees and
18 penalties provided for under this chapter, and the permit fees
19 received from all state permits issued by the department, shall
20 be credited to the general fund of the state.

21 Sec. 4. Section 453A.35, subsection 1, Code 2026, is amended
22 by adding the following new paragraph:

23 NEW PARAGRAPH. c. The revenues generated from the additional
24 tax in section 453A.43A shall be credited to the Iowa cancer
25 research fund created in section 453A.35B.

26 Sec. 5. NEW SECTION. **453A.35B Iowa cancer research fund.**

27 1. An Iowa cancer research fund is created in the office of
28 the treasurer of state under the authority of the department of
29 health and human services. The fund consists of the revenues
30 generated from the additional tax in section 453A.43A. Moneys in
31 the fund shall be separate from the general fund of the state and
32 shall not be considered part of the general fund of the state.
33 Moneys in the fund shall be used only as specified in this
34 section and shall be appropriated only for the uses specified.
35 Moneys in the fund are not subject to section 8.33 and shall

1 not be transferred, used, obligated, appropriated, or otherwise
2 encumbered, except as provided in this section. Notwithstanding
3 section 12C.7, subsection 2, interest or earnings on moneys
4 deposited in the fund shall be credited to the fund.

5 2. Moneys in the fund shall not be disbursed prior to July 1,
6 2027, and shall only be used for purposes related to supporting
7 and funding cancer research in the state. The department of
8 health and human services shall develop an application process
9 and guidelines for cancer researchers to receive moneys from the
10 fund.

11 3. The department of health and human services shall report
12 on the program pursuant to section 217.21, beginning with the
13 period disbursements commence.

14 Sec. 6. Section 453A.40, subsections 1 and 3, Code 2026, are
15 amended to read as follows:

16 1. All persons required to obtain a permit or to be
17 licensed under section 453A.13 or section 453A.44 having in their
18 possession and held for resale on the effective date of an
19 increase in the tax rate cigarettes, little cigars, ~~or~~ tobacco
20 products, alternative nicotine products, or vapor products upon
21 which the tax under section 453A.6, ~~or~~ 453A.43, or 453A.43A has
22 been paid, unused cigarette tax stamps which have been paid for
23 under section 453A.8, unused metered imprints which have been
24 paid for under section 453A.12, or tobacco products, alternative
25 nicotine products, or vapor products for which the tax has not
26 been paid under section 453A.46 shall be subject to an inventory
27 tax on the items as provided in this section.

28 3. The rate of the inventory tax on each item subject to
29 the tax as specified in subsection 1 is equal to the difference
30 between the amount paid on each item under section 453A.6,
31 453A.8, 453A.12, ~~or~~ 453A.43, or 453A.43A prior to the tax
32 increase and the amount that is to be paid on each similar item
33 under section 453A.6, 453A.8, 453A.12, ~~or~~ 453A.43, or 453A.43A
34 after the tax increase except that in computing the rate of the
35 inventory tax any discount allowed or allowable under section

1 453A.8 shall not be considered.

2 Sec. 7. Section 453A.42, subsections 5, 7, 15, and 18, Code
3 2026, are amended to read as follows:

4 5. "Distributor" means any and each of the following:

5 a. Any person engaged in the business of selling tobacco
6 products, alternative nicotine products, or vapor products in
7 this state who brings, or causes to be brought, into this state
8 from without the state any tobacco products, alternative nicotine
9 products, or vapor products for sale.

10 b. Any person who makes, manufactures, or fabricates tobacco
11 products, alternative nicotine products, or vapor products in
12 this state for sale in this state.

13 c. Any person engaged in the business of selling tobacco
14 products, alternative nicotine products, or vapor products
15 without this state who ships or transports tobacco products,
16 alternative nicotine products, or vapor products to retailers in
17 this state, to be sold by those retailers.

18 7. "Manufacturer" means a person who manufactures and sells
19 tobacco products, alternative nicotine products, or vapor
20 products.

21 15. "Subjobber" means any person, other than a manufacturer
22 or distributor, who buys tobacco products, alternative nicotine
23 products, or vapor products from a distributor and sells them to
24 persons other than the ultimate consumers.

25 18. "Wholesale sales price" means the established price
26 for which a manufacturer sells a tobacco product, alternative
27 nicotine products, or vapor products to a distributor, exclusive
28 of any discount or other reduction.

29 Sec. 8. NEW SECTION. **453A.43A Additional taxes on**
30 **alternative nicotine and vapor products.**

31 1. a. A tax is imposed upon all alternative nicotine
32 products and all vapor products in this state and upon any person
33 engaged as a distributor of alternative nicotine products and
34 vapor products, at the rate of ten percent of the wholesale sales
35 price of the alternative nicotine products or vapor products.

1 b. The tax on alternative nicotine products and vapor
2 products shall be imposed at the time the distributor does any
3 of the following:

4 (1) Brings, or causes to be brought into this state from
5 outside the state, alternative nicotine products or vapor
6 products for sale.

7 (2) Makes, manufactures, or fabricates alternative nicotine
8 products or vapor products in this state for sale in this state.

9 (3) Ships or transports alternative nicotine products or
10 vapor products to retailers in this state, to be sold by the
11 retailers.

12 2. A tax is imposed upon the use or storage of alternative
13 nicotine products or vapor products in this state, and upon
14 any person who uses or stores alternative nicotine products or
15 vapor products, at the rate of ten percent of the cost of
16 the alternative nicotine products or vapor products, if the tax
17 imposed under subsection 1 has not been paid.

18 3. Any alternative nicotine product or vapor product with
19 respect to which a tax has once been imposed under this
20 subchapter shall not again be subject to tax under this
21 subchapter.

22 4. The tax imposed by this section shall not apply with
23 respect to any alternative nicotine product or vapor product
24 which under the constitution and laws of the United States may
25 not be made the subject of taxation by this state.

26 5. The tax imposed by this section shall be in addition to
27 any other taxes imposed by law.

28 6. All excise taxes collected under this section by any
29 person are deemed to be held in trust for the state of Iowa.

30 Sec. 9. Section 453A.44, subsections 1, 3, and 10, Code 2026,
31 are amended to read as follows:

32 1. ~~No~~ A person shall engage in the business of a distributor
33 or subjobber ~~of tobacco products~~ at any place of business without
34 first having received a license from the director to engage in
35 that business at that place of business.

1 3. A person without this state who ships or transports
2 tobacco products, alternative nicotine products, or vapor
3 products to retailers in this state, to be sold by those
4 retailers, may make application for a license as a distributor,
5 be granted a license by the director, and thereafter be subject
6 to all the provisions of this subchapter and entitled to act as a
7 licensed distributor.

8 10. The director may revoke, cancel, or suspend the license
9 or licenses of any distributor or subjobber for violation of any
10 of the provisions of this subchapter, or any other act applicable
11 to the sale of tobacco products, alternative nicotine products,
12 or vapor products, or any rule or regulations promulgated by the
13 director in furtherance of this subchapter. ~~No~~ A license shall
14 not be revoked, canceled, or suspended except after notice and a
15 hearing by the director as provided in section 453A.48.

16 Sec. 10. Section 453A.45, Code 2026, is amended to read as
17 follows:

18 **453A.45 Licensees, duties.**

19 1. a. Every distributor shall keep at each licensed place
20 of business complete and accurate records for that place of
21 business, including itemized invoices, of tobacco products,
22 alternative nicotine products, or vapor products held, purchased,
23 manufactured, brought in or caused to be brought in from without
24 the state, or shipped or transported to retailers in this state,
25 and of all sales of tobacco products, alternative nicotine
26 products, or vapor products made, except sales to the ultimate
27 consumer.

28 b. When a licensed distributor sells tobacco products,
29 alternative nicotine products, or vapor products exclusively to
30 the ultimate consumer at the address given in the license, an
31 invoice of those sales is not required, but itemized invoices
32 shall be made of all tobacco products, alternative nicotine
33 products, or vapor products transferred to other retail outlets
34 owned or controlled by that licensed distributor. All books,
35 records, and other papers and documents required by this

1 subsection to be kept shall be preserved for a period of at
2 least three years after the date of the documents or the date
3 of the entries appearing in the records, unless the director, in
4 writing, authorized their destruction or disposal at an earlier
5 date. At any time during usual business hours, the director,
6 or the director's duly authorized agents or employees, may enter
7 any place of business of a distributor, without a search warrant,
8 and inspect the premises, the records required to be kept under
9 this subsection, and the tobacco products, alternative nicotine
10 products, or vapor products contained therein, to determine if
11 all the provisions of this subchapter are being fully complied
12 with. If the director, or any such agent or employee, is denied
13 free access or is hindered or interfered with in making the
14 examination, the license of the distributor at that premises is
15 subject to revocation by the director.

16 2. Every person who sells tobacco products, alternative
17 nicotine products, or vapor products to persons other than the
18 ultimate consumer shall render with each sale itemized invoices
19 showing the seller's name and address, the purchaser's name and
20 address, the date of sale, and all prices and discounts. The
21 person shall preserve legible copies of all these invoices for
22 three years from the date of sale.

23 3. Every retailer and subjobber shall procure itemized
24 invoices of all tobacco products, alternative nicotine products,
25 or vapor products purchased. The invoices shall show the name
26 and address of the seller and the date of purchase. The retailer
27 and subjobber shall preserve a legible copy of each invoice
28 for three years from the date of purchase. Invoices shall
29 be available for inspection by the director or the director's
30 authorized agents or employees at the retailer's or subjobber's
31 place of business.

32 4. Records of all deliveries or shipments of tobacco
33 products, alternative nicotine products, or vapor products from
34 any public warehouse of first destination in this state which is
35 subject to the provisions of and licensed under chapter 554 shall

1 be kept by the warehouse and be available to the director for
2 inspection. ~~They~~ The records shall show the name and address
3 of the consignee, the date, the quantity of tobacco products,
4 alternative nicotine products, or vapor products delivered, and
5 such other information as the commissioner may require. ~~These~~
6 The records shall be preserved for three years from the date of
7 delivery of the tobacco products, alternative nicotine products,
8 or vapor products.

9 5. a. The transportation of tobacco products, alternative
10 nicotine products, or vapor products into this state by means
11 other than common carrier must be reported to the director within
12 thirty days with the following exceptions:

13 (1) The transportation of not more than fifty cigars, not
14 more than ten ounces of snuff or snuff powder, or not more than
15 one pound of smoking or chewing tobacco or other tobacco products
16 not specifically mentioned herein;

17 (2) Transportation by a person with a place of business
18 outside the state, who is licensed as a distributor under section
19 453A.44, or tobacco products, alternative nicotine products, or
20 vapor products sold by such person to a retailer in this state.

21 b. The report shall be made on forms provided by the
22 director. A report required under this subsection shall be filed
23 electronically. A report required to be submitted electronically
24 under this subsection that is filed in a manner other than in
25 an electronic format specified by the department shall not be
26 considered a valid submission unless the director has permitted
27 the submission of such a report through an alternative method
28 pursuant to section 453A.57.

29 c. Common carriers transporting tobacco products, alternative
30 nicotine products, or vapor products into this state shall file
31 with the director reports of all such shipments other than those
32 which are delivered to public warehouses of first destination in
33 this state which are licensed under the provisions of chapter
34 554. Such reports shall be filed electronically with the
35 department on or before the tenth day of each month and shall

1 show with respect to deliveries made in the preceding month all
2 of the following:

3 (1) The date.

4 (2) The point of origin.

5 (3) The point of delivery.

6 (4) The name of the consignee.

7 (5) A description and the quantity of tobacco products,
8 alternative nicotine products, or vapor products delivered.

9 (6) Such other information as the director may require.

10 d. Any person who fails or refuses to transmit to the
11 director the required reports or whoever refuses to permit the
12 examination of the records by the director shall be guilty of
13 a serious misdemeanor. In addition, any person who fails to
14 timely submit a report required under this section is subject to
15 a penalty in the amount of fifty dollars for each occurrence.

16 Sec. 11. Section 453A.46, subsection 1, paragraph a,
17 subparagraph (1), Code 2026, is amended to read as follows:

18 (1) On or before the twentieth day of each calendar month
19 every distributor with a place of business in this state shall
20 file a return with the director showing for the preceding
21 calendar month the quantity and wholesale sales price of each
22 tobacco product, alternative nicotine products, or vapor products
23 brought, or caused to be brought, into this state for sale;
24 made, manufactured, or fabricated in this state for sale in this
25 state; and any other information the director may require. Every
26 licensed distributor outside this state shall in like manner file
27 a return with the director showing for the preceding calendar
28 month the quantity and wholesale sales price of each tobacco
29 product, alternative nicotine products, or vapor products shipped
30 or transported to retailers in this state to be sold by those
31 retailers and any other information the director may require.
32 Returns shall be made upon forms made available in electronic
33 form and prescribed by the director and shall contain other
34 information as the director may require. Each return shall be
35 accompanied by a remittance for the full tax liability shown

1 on the return, less a discount as fixed by the director not
2 to exceed five percent of the tax. Within three years after
3 the return is filed or within three years after the return
4 became due, whichever is later, the department shall examine it,
5 determine the correct amount of tax, and assess the tax against
6 the taxpayer for any deficiency. The period for examination and
7 determination of the correct amount of tax is unlimited in the
8 case of a false or fraudulent return made with the intent to
9 evade tax, or in the case of a failure to file a return.

10 Sec. 12. Section 453A.46, subsection 6, Code 2026, is amended
11 to read as follows:

12 6. On or before the twentieth day of each calendar month,
13 every consumer who, during the preceding calendar month, has
14 acquired title to or possession of tobacco products, alternative
15 nicotine products, or vapor products for use or storage in this
16 state, and upon which ~~tobacco products~~ the ~~tax~~ taxes imposed
17 by section 453A.43 has or 453A.43A have not been paid, shall
18 file a return with the director showing the quantity of tobacco
19 products, alternative nicotine products, or vapor products so
20 acquired. The return shall be made upon a form furnished and
21 prescribed by the director, and shall contain other information
22 as the director may require. The return shall be accompanied
23 by a remittance for the full unpaid tax liability shown by
24 it. Within three years after the return is filed or within
25 three years after the return became due, whichever is later, the
26 department shall examine it, determine the correct amount of tax,
27 and assess the tax against the taxpayer for any deficiency. The
28 period for examination and determination of the correct amount of
29 tax is unlimited in the case of a false or fraudulent return made
30 with the intent to evade tax, or in the case of a failure to file
31 a return.

32 Sec. 13. Section 453A.47, Code 2026, is amended to read as
33 follows:

34 **453A.47 Refunds, credits.**

35 Where tobacco products, alternative nicotine products, or

1 vapor products upon which the tax imposed by this subchapter
2 has been reported and paid are shipped or transported by the
3 distributor to consumers to be consumed without the state or
4 to retailers or subjobbers without the state to be sold by
5 those retailers or subjobbers without the state or are returned
6 to the manufacturer by the distributor or destroyed by the
7 distributor, refund of such tax or credit may be made to the
8 distributor in accordance with regulations prescribed by the
9 director. Any overpayment of the tax imposed under section
10 453A.43 or 453A.43A may be made to the taxpayer in accordance
11 with regulations prescribed by the director. The director shall
12 cause any such refund of tax to be paid out of the general fund
13 of the state, and so much of said fund as may be necessary is
14 hereby appropriated for that purpose.

15 Sec. 14. Section 453A.47C, subsections 3 and 4, Code 2026,
16 are amended to read as follows:

17 3. A retailer required to possess or possessing a permit
18 under section 453A.13 or 453A.47A to make delivery sales of
19 alternative nicotine products or vapor products within this
20 state shall be deemed to have waived all claims that such
21 retailer lacks physical presence within this state for purposes
22 of collecting and remitting sales and use tax and the additional
23 tax provided in section 453A.43A.

24 4. A retailer making taxable delivery sales of alternative
25 nicotine products or vapor products within this state shall remit
26 to the department all sales and use tax due on such sales at the
27 times and in the manner provided by chapter 423, and remit the
28 additional tax as provided in section 453A.43A.

29 Sec. 15. Section 453A.48, subsection 3, Code 2026, is amended
30 to read as follows:

31 3. The director may exchange information with the officers
32 and agencies of other states administering laws relating to the
33 taxation of tobacco products, alternative nicotine products, and
34 vapor products.

35 Sec. 16. EFFECTIVE DATE. This Act takes effect January 1,

1 2027.

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5 This bill regulates alternative nicotine products and vapor
6 products and imposes taxes upon the wholesale sales price of such
7 products, and makes numerous conforming changes to Code chapter
8 453A (cigarettes and tobacco-related products).

9 The bill defines "nicotine analog" to mean a substance that
10 has a chemical structure that is substantially similar to
11 nicotine, or that has an effect on the central nervous system
12 that is substantially similar to, or greater than, the effects of
13 nicotine on the central nervous system.

14 The bill adds "nicotine analog" to the definitions of
15 "alternative nicotine product" and "vapor product".

16 The bill imposes a tax on alternative nicotine and vapor
17 products upon any person engaged as a distributor of alternative
18 nicotine products and vapor products, at the rate of 10
19 percent of the wholesale sales price of such products. In
20 the alternative, a tax is imposed on the use or storage of
21 alternative nicotine and vapor products, at the rate of 10
22 percent of the cost of such products, if the 10 percent tax on
23 the wholesale sales price has not been paid.

24 The revenue generated by the bill is credited to the new
25 Iowa cancer research fund (fund), under the authority of the
26 department of health and human services (HHS). The bill specifies
27 moneys in the fund shall not be disbursed prior to July 1, 2027,
28 and shall only be appropriated for purposes related to supporting
29 and funding cancer research in the state. The bill requires
30 HHS to develop an application process and guidelines for cancer
31 researchers to receive moneys from the fund.

32 The fund is not subject to reversion and moneys or earnings
33 attributable to the fund are credited to the fund.

34 The bill takes effect January 1, 2027.