

Transmittal Sheet For Notice Of Intended Action

Control: 810 Department or Agency: Revenue
Rule Nos: 810-7-1-.32
Rule Title: E-Liquid and Alternative Nicotine Product Manufacturers Certification

New; Amended; Repealed; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that result from the absence of the proposed rule? N/A

Are all the facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule relate to or effect any matter of litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency .

Signature of certifying officer
Date 04/20/2022



REC'D & FILED

APR 20 2022

**ALABAMA DEPARTMENT OF REVENUE
Tax Policy and Governmental Affairs**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-7-1-.32

E-Liquid and Alternative Nicotine Product Manufacturers Certification

INTENDED ACTION

Amended

**SUBSTANCE OF
PROPOSED ACTION:**

This rule is being amended as the UPC codes are not included in the documentation received from the FDA and therefore their notation should be removed from the rule.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be conducted at **01:30 PM on Tuesday, June 07, 2022** via web-conference. To participate in the upcoming web-conference public hearing please contact the Tax Policy and Governmental Affairs Division at Taxpolicy@revenue.alabama.gov or 334-242-1380 to obtain the appropriate sign-in information for a specific public hearing date. Copies of the rule(s) can be obtained at <http://www.revenue.alabama.gov/tax-policy/>.

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time following publication of the notice up until the conclusion of the hearing. Interested parties may also may present their views during the web-conference.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, June 07, 2022

CONTACT PERSON AT AGENCY:

Meagan Barrett

Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Mary Martin Mitchell, Secretary
Alabama Department of Revenue

810-7-1-.32 E-Liquid and Alternative Nicotine Product Manufacturers
Certification

(1) Definitions.

(a) Annual Renewal Application Fee – The five-hundred-dollar (\$500) fee due each year from every certifying e-liquid manufacturer and manufacturer of alternative nicotine products that maintains an active vape account with the department. The renewal fee does not apply for inactive accounts.

(b) Certifying E-Liquid Manufacturer and Manufacturer of Alternative Nicotine Products – Any e-liquid manufacturer or manufacturer of alternative nicotine products that submits a certification or renewal as required in § 28-11-17.1, Code of Ala. 1975.

(c) Initial Application Fee – The initial fee of two thousand dollars (\$2,000) due from every certifying e-liquid manufacturer and manufacturer of alternative nicotine products.

(d) Product Offered for Sale – Each unique e-liquid or alternative nicotine brand name along with the product code constitutes a separate product offered for sale in this state.

(2) Directory.

(a) Pursuant to §28-11-17.1, Code of Ala. 1975, beginning May 1, 2022, and no later than May 1 of each year thereafter, the department will post to its website a directory of certifying e-liquid manufacturers and manufacturers of alternative nicotine products along with a listing of the certified and approved products.

(b) Only those products appearing on the directory may be offered for sale in Alabama. All other products are subject to penalty.

(3) Certification Application and Associated Fee.

(a) Initial Certification Application - Beginning March 1, 2022, each manufacturer must electronically submit to the department an initial certification application along with the initial application fee through the department's online portal. Failure to submit the required fee will result in a denial of the application.

(b) Renewal Application - Beginning March 1 through April 30 of each subsequent year, an annual renewal application and the annual renewal application fee must be electronically submitted to the department to remain on the directory. The

annual renewal application and annual renewal application fee must be received by the department during the annual renewal period to be considered timely.

(c) Expiration of Certification - If the manufacturer's certification expires, the manufacturer must remit the initial application fee with the required application and associated penalty, if applicable, to be recertified and have its products certified/approved for sale and placed back on the directory.

(4) Penalties and Fines. Pursuant to §28-11-17.1, Code of Ala. 1975, the following penalties and/or fines may apply:

(a) Manufacturer Penalty - One thousand dollar (\$1,000) fine per day for each product offered for sale by the manufacturer that is not listed on the directory until the product is removed from the market or properly listed on the directory. ~~The one thousand dollar (\$1,000) daily penalty shall be applied as follows:~~

~~1. All products with the same brand name and UPC code shall be considered one product offered for sale.~~

~~2. Any products with different UPC codes shall be considered different products.~~

~~3. Any packaging without UPC codes shall be considered different products unless they can easily and positively be identified as the same product.~~

(b) Retailer Penalty - Five hundred dollar (\$500) fine for any e-liquid or alternative nicotine product offered for sale by a retailer that does not identify the manufacturer or name of product on the packaging.

(c) Manufacturers or retailers that violate any of the provisions of Chapter 11 of Title 28, Code of Ala. 1975, may be subject to a five hundred dollar (\$500) fine per offense.

Author: Bonita Calhoun

Authority: § 40-2A-7(a)(5), 28-11-17.1, and Chapter 11 of Title 28, Code of Ala. 1975.

History: New Rule: Filed February 16, 2022; effective April 14, 2022.
Amended: Filed April 20, 2022, effective