



State of Wisconsin
2025 - 2026 LEGISLATURE

LRBs0069/1
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ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO ASSEMBLY BILL 234

June 18, 2025 - Offered by Representative KURTZ.

1 **AN ACT** *to amend* 995.15 (2) (intro.), 995.15 (4), 995.15 (9) (a) and 995.15 (9) (b);
2 *to create* 995.15 (2) (c), 995.15 (2m) and 995.15 (9) (d) of the statutes;
3 **relating to:** the electronic vaping device directory and hemp-derived
4 electronic vaping devices.

Analysis by the Legislative Reference Bureau

Under current law created in 2023 Wisconsin Act 73, manufacturers of “electronic vaping devices,” defined in part as devices that may be used to deliver any aerosolized or vaporized liquid or other substance for inhalation, regardless of whether the liquid or other substance contains nicotine, must, beginning July 1, 2025, annually certify to the Department of Revenue that the manufacturer has received a marketing authorization or similar order for the electronic vaping device from the U.S. Food and Drug Administration pursuant to 21 USC 387j. In addition, beginning September 1, 2025, DOR must maintain a public directory of all electronic vaping device manufacturers and electronic vaping devices for which certification forms have been submitted. An electronic vaping device may not be sold or offered for sale in this state if the device is not listed in the directory.

Under this bill, a manufacturer of electronic vaping devices that contain hemp and do not contain nicotine (hemp devices) is not required to certify to DOR that the

manufacturer has received a marketing authorization from the FDA. However, the manufacturer is still required to submit to DOR information about the manufacturer's hemp devices that are available for sale in this state for the purpose of the electronic vaping device directory, and a hemp device may not be sold or offered for sale if the device is not listed in the directory. When submitting information to DOR about the manufacturer's hemp device, the manufacturer must include a certificate of analysis from an independent laboratory showing that the electronic vaping device is a hemp device.

Also, under the bill, the effective dates for the requirements related to the electronic vaping device directory, as they apply to the manufacturing, sale, or offering for sale of hemp devices, are delayed for one year. Under the bill, the certification requirement first applies to a manufacturer of a hemp device on July 1, 2026, and DOR may not impose a forfeiture for the sale or offering for sale of a hemp device not listed on the electronic vaping device directory before September 1, 2026.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 995.15 (2) (intro.) of the statutes is amended to read:

995.15 (2) (intro.) ~~No~~ Subject to sub. (2m), no later than July 1, 2025, and annually thereafter, every manufacturer of electronic vaping devices that are sold in this state, either directly by the manufacturer or through a distributor, wholesaler, retailer, or similar intermediary, shall certify to the department, on a form and in the manner prescribed by the department, that the manufacturer shall comply with this section and that ~~either one~~ one of the following ~~apply~~ applies:

SECTION 2. 995.15 (2) (c) of the statutes is created to read:

995.15 (2) (c) The electronic vaping device contains hemp, as defined in s. 94.55 (1), and does not contain nicotine.

SECTION 3. 995.15 (2m) of the statutes is created to read:

995.15 (2m) The requirements of sub. (2) first apply to a manufacturer of an electronic vaping device that meets the description provided under sub. (2) (c) on July 1, 2026.

1 **SECTION 4.** 995.15 (4) of the statutes is amended to read:

2 995.15 (4) The submissions to the department under subs. (2) and (3) shall
3 include a copy of the marketing authorization or similar order for the electronic
4 vaping device issued by the U.S. food and drug administration pursuant to 21 USC
5 387j, as provided under sub. (2) (a), ~~or~~ evidence that the pre-market tobacco product
6 application for the electronic vaping device was submitted to the U.S. food and drug
7 administration, as provided under sub. (2) (b), and a final decision on the
8 application has not otherwise taken effect, or a certificate of analysis from an
9 independent laboratory showing that the electronic vaping device meets the
10 description provided under sub. (2) (c).

11 **SECTION 5.** 995.15 (9) (a) of the statutes is amended to read:

12 995.15 (9) (a) ~~Beginning~~ Subject to par. (d), beginning September 1, 2025, or
13 on the date that the department first makes the directory maintained under sub.
14 (6) available for public inspection on its website, whichever is later, the department
15 shall impose on each retailer who sells or offers for sale an electronic vaping device
16 in this state that is not included in the directory a forfeiture of \$1,000 per day for
17 each electronic vaping device offered for sale in violation of this section until each
18 such device is no longer offered for sale in this state or until each such device is
19 properly listed on the directory pursuant to this section.

20 **SECTION 6.** 995.15 (9) (b) of the statutes is amended to read:

21 995.15 (9) (b) ~~Beginning~~ Subject to par. (d), beginning September 1, 2025, or
22 on the date that the department first makes the directory maintained under sub.
23 (6) available for public inspection on its website, whichever is later, the department
24 shall impose on each manufacturer of an electronic vaping device that is sold in this

SECTION 6

1 state, but not included in the directory a forfeiture of \$1,000 per day for each
2 electronic vaping device offered for sale in violation of this section until each such
3 device is no longer offered for sale in this state or until each such device is properly
4 listed on the directory pursuant to this section.

5 **SECTION 7.** 995.15 (9) (d) of the statutes is created to read:

6 995.15 **(9)** (d) The department may not impose a forfeiture under par. (a) or (b)
7 for the sale or offering for sale of an electronic vaping device that meets the
8 description provided under sub. (2) (c) before September 1, 2026.

9 **(END)**