Wisconsin Legislative Council
AMENDMENT MEMO

Memo published: June 10, 2025

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2025 Assembly Bill 234	Assembly Substitute Amendment 1

BACKGROUND

Under 2023 Wisconsin Act 73, any manufacturer of an electronic vaping device must register the device with the Department of Revenue (DOR) by July 1, 2025, and annually thereafter. In order to register the device, the manufacturer must certify to DOR that the manufacturer has either received a marketing authorization or similar order for the device from the U.S. Food and Drug Administration (FDA), or that the device was marketed in the United States prior to August 8, 2016; the manufacturer submitted a premarket tobacco product application by September 9, 2020; and the application remains under review or a final decision has not otherwise taken effect. A device that is not included on the registry may not be sold in Wisconsin.

The term "electronic vaping device" is defined as any device 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, with certain items specifically included or excluded from this definition.

2025 ASSEMBLY BILL 234

Assembly Bill 234 amends the definition of "electronic vaping device" for purposes of the registry to mean a device that delivers an aerosolized or vaporized liquid for inhalation from the application of a heating element to a liquid containing nicotine from any source, with certain items specifically included or excluded from this definition. A device that does not meet this definition may be sold in Wisconsin without the manufacturer registering the device with DOR.

ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 retains the broader definition of "electronic vaping device" found in current law and the requirement that the manufacturer of any electronic vaping device register with DOR in order for the device to be sold in Wisconsin. Under the substitute amendment, the requirement to have received or applied for an FDA marketing authorization, however, does not apply to the manufacturer of a device that contains hemp, as defined in current law,[1] but does not contain nicotine. The manufacturer of such a device must provide DOR a certificate of analysis from an independent laboratory showing that the device contains hemp and does not contain nicotine.

[1] "Hemp" is generally defined as the cannabis plant, including all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis. [s. 94.55 (1), Stats.]

BILL HISTORY

Representative Kurtz offered Assembly Substitute Amendment 1 on May 29, 2025. On June 4, 2025, the Assembly Committee on State Affairs voted to recommend adoption of the amendment and passage of the bill, as amended, on votes of Ayes, 8; Noes, 2.

For a full history of the bill, visit the Legislature's bill history page.

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