



WISCONSIN LEGISLATURE

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Testimony before the Senate Committee on Agriculture and Revenue

Senate Bill 257

Senator Pat Testin and Representative Tony Kurtz

Good morning. Thank you, committee members for being here today to learn about Senate Bill 257.

Senate Bill 257 is technical in nature and makes a slight change to the definition of an electronic vaping device from 2023 Wisconsin Act 73.

As part of Act 73, an electronic vaping device registry was created and the law requires every manufacturer of an electronic vaping device sold in the state to be approved by the Food and Drug Administration (FDA) or receive a pre-market tobacco product application (PMTA) approval and be registered by July 1, 2025.

However, Wisconsin businesses that are producing hemp-derived products are in a unique position where they do not qualify for FDA market authorization or PMTA because the products do not utilize any nicotine or tobacco. This means the impending deadline will essentially ban these products and force these businesses out of state or to close their doors entirely. After speaking with the authors of 2023 Wisconsin Act 73, it's our understanding it was not the intent to include hemp-derived products in this registry.

Our offices reached out to the Department of Revenue (DOR) and asked they consider temporarily delaying enforcement of the July 1, 2025 deadline for the electronic vaping device registry only for hemp-derived vaping products. DOR was not willing to delay the enforcement and financial penalties. Therefore, working with stakeholders in this space, we drafted this bill to redefine electronic vaping devices to be specific to devices for inhaling an aerosolized or vaporized liquid that contains nicotine. Following the public hearing in the Assembly, our offices worked with the Governor's office, DOR and the stakeholder groups to come up with the language in Senate Substitute Amendment 1. The sub retains the current law definitions for electronic vaping devices and instead exempts hemp [as defined by 94.55(1)] vapes. The amendment still requires the manufacturer to register the devices.

This ensures the companies in Wisconsin that produce hemp-derived products would be able to continue to operate. It's important to acknowledge there is still a need for regulation for hemp-based products, and there is a group of legislators and stakeholders working on that very issue. However, we felt like this needed to be separate due to the pressing nature of the deadline and the major impact it could have on businesses, jobs, and the hemp industry as a whole.

We appreciate the opportunity to testify about this bill today and are happy to answer any questions you may have.