At the locations indicated, amend the bill as follows:

1. Page 2, line 1: after “enforcement” insert “, granting rule-making authority,”.

2. Page 24, line 21: after that line insert:

   “SECTION 64m. 995.15 of the statutes is created to read:

   995.15 Electronic vaping device directory. (1) In this section:
   
   (a) “Department” means the department of revenue.
   
   (b) “Electronic vaping device” has the meaning given in s. 134.65 (1a) (b).

   (2) 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 of the following apply:

(a) 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.

(b) The electronic vaping device was marketed in the United States as of August 8, 2016, the manufacturer submitted a pre-market tobacco product application for the electronic vaping device to the U.S. food and drug administration pursuant to 21 USC 387j on or before September 9, 2020, and the application either remains under review by the U.S. food and drug administration or a final decision on the application has not otherwise taken effect.

(3) At the time a manufacturer of electronic vaping devices submits the form under sub. (2), a manufacturer of electronic vaping devices shall submit, in the manner prescribed by the department, a form that separately lists each of the manufacturer’s electronic vaping devices that are available for sale in this state. The manufacturer shall submit with the form, and in each year thereafter, a payment equal to the number of devices listed on the form, multiplied by $500.

(4) The submissions to the department under subs. (2) and (3) shall include a copy of the marketing authorization or similar order for the electronic vaping device issued by the U.S. food and drug administration pursuant to 21 USC 387j, as provided under sub. (2) (a), or evidence that the pre-market tobacco product application for the electronic vaping device was submitted to the U.S. food and drug administration, as provided under sub. (2) (b), and a final decision on the application has not otherwise taken effect.
(5) A manufacturer that is required to submit a certification form under this section shall notify the department within 30 days of any material change to the information contained in the certification form, including the issuance or denial of a marketing authorization or similar order by the U.S. food and drug administration pursuant to 21 USC 387j, as provided under sub. (2) (a), or any other order or action by the U.S. food and drug administration that affects the ability of the electronic vaping device to be introduced or delivered into interstate commerce for commercial distribution in the United States.

(6) Beginning March 1, 2025, the department shall maintain and make publicly available on its website a directory that lists all electronic vaping device manufacturers and electronic vaping devices for which certification forms have been submitted and shall update the directory at least monthly to ensure accuracy.

(7) (a) The department shall provide manufacturers notice and an opportunity to cure deficiencies in the directory maintained under sub. (6) before removing manufacturers or electronic vaping devices from the directory. The department may remove a manufacturer or the manufacturer’s devices from the directory no sooner than 15 business days after the date on which the department sends the manufacturer notice under this paragraph. The department shall send the notice under this paragraph by email or facsimile to the email address or facsimile number provided by the manufacturer in the manufacturer’s most recent certification submitted under this section.

(b) A manufacturer that receives notice under par. (a) has no more than 15 business days to respond to the notice and provide sufficient information, as determined by the department, in order for the manufacturer or the manufacturer’s electronic vaping devices to remain in the directory maintained under sub. (6).
(c) A determination by the department to not include or to remove from the
directory maintained under sub. (6) a manufacturer or an electronic vaping device
shall be subject to review by the filing of a civil action for prospective declaratory or
injunctive relief.

(8) If an electronic vaping device is removed from the directory maintained
under sub. (6), each retailer, distributor, and wholesaler that has such a device in its
inventory shall remove the device from its inventory no later 21 days after the date
on which the device is removed from the directory and return the device to the
manufacturer for disposal. After 21 days following removal from the directory, the
electronic vaping devices of a manufacturer identified in the notice under sub. (7) (a)
are subject to seizure, forfeiture, and destruction, and may not be purchased or sold
in this state. The cost of such seizure, forfeiture, and destruction shall be borne by
the person from whom the electronic vaping devices are confiscated.

(9) (a) Beginning March 1, 2025, or on the date that the department first makes
the directory maintained under sub. (6) available for public inspection on its website,
whichever is later, the department shall impose on each retailer who sells or offers
for sale an electronic vaping device in this state that is not included in the directory
a forfeiture of $1,000 per day for each electronic vaping device offered for sale in
violation of this section until each such device is no longer offered for sale in this state
or until each such device is properly listed on the directory pursuant to this section.

(b) Beginning March 1, 2025, or on the date that the department first makes
the directory maintained under sub. (6) available for public inspection on its website,
whichever is later, the department shall impose on each manufacturer of an
electronic vaping device that is sold in this state, but not included in the directory
a forfeiture of $1,000 per day for each electronic vaping device offered for sale in
violation of this section until each such device is no longer offered for sale in this state or until each such device is properly listed on the directory pursuant to this section.

(c) Any retailer, distributor, wholesaler, or manufacturer who violates this section engages in an unfair and deceptive trade practice in violation of s. 100.20.

(10) Section 139.82, as it applies to records and inspections under subch. III of ch. 139, applies to records and inspections under this section.

(11) (a) Any electronic vaping device sold, offered for sale, or possessed for sale, in this state, in violation of this section shall be deemed contraband and such devices shall be subject to seizure in the manner provided under s. 139.40 for the seizure of cigarettes. All electronic vaping devices that are seized as provided under this paragraph shall be destroyed and not resold.

(b) The duly authorized employees of the department have all necessary police powers to prevent violations of this section.

(12) (a) Upon request by the secretary of revenue, the attorney general may represent this state or assist a district attorney in prosecuting any case arising under this section.

(b) The state shall be entitled to recover the costs of investigation, expert witness fees, court costs, and reasonable attorney fees for any action brought by the state to enforce this section.

(13) Section 995.12 (3), as it applies to an agent for service of process under s. 995.12, applies to an agent for service of process under this section.

(14) The department may promulgate rules to administer this section.

(15) No later than July 1, 2026, and annually thereafter, the department shall provide a report to the legislature, as provided under s. 13.172 (2), regarding the status of the directory maintained under sub. (6), manufacturers and electronic
vaping devices included in the directory, revenue and expenditures related to
administration of this section, and enforcement activities undertaken pursuant to
this section.”.

(END)