



State of Wisconsin
2025 - 2026 LEGISLATURE

LRBs0062/1
MDE:cjs

ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 234

May 29, 2025 - Offered by Representative KURTZ.

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

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 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 (4) of the statutes is amended to read:

995.15 (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, or a certificate of analysis from an

1 independent laboratory showing that the electronic vaping device meets the
2 description provided under sub. (2) (c).

3 (END)