

The Senate Committee on Regulated Industries and Utilities offered the following substitute to SB 298:

A BILL TO BE ENTITLED  
AN ACT

1 To amend various titles of the Official Code of Georgia Annotated so as to provide  
2 protections for and education to minors and other members of the public regarding smoking  
3 and vaping; to amend Title 16 of the Official Code of Georgia Annotated, relating to crimes  
4 and offenses, so as to revise certain provisions relative to the sale to, or possession by,  
5 minors of cigarettes, tobacco, tobacco related objects, alternative nicotine products, and  
6 vapor products to include consumable vapor products that do not contain nicotine; to provide  
7 for penalties; to amend Title 17 of the Official Code of Georgia Annotated, relating to  
8 criminal procedure, so as to provide for arrest by the issuance of citations for certain  
9 violations; to amend Title 20 of the Official Code of Georgia Annotated, relating to  
10 education, so as to require local boards of education to prescribe mandatory instruction and  
11 a minimum course of study concerning the dangers of smoking and vaping; to provide for  
12 the implementation of such course of study; to amend Title 10 of the Official Code of  
13 Georgia Annotated, relating to commerce and trade, so as to revise a definition related to the  
14 Master Settlement Agreement enhancements and to revise a cross-reference; to amend Title  
15 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to  
16 provide authority for the licenses currently issued by the state revenue commissioner to be  
17 expanded in order to permit a license holder to manufacture, distribute, import, or sell  
18 alternative nicotine products and consumable vapor products under certain conditions; to  
19 provide for definitions; to require the state revenue commissioner to maintain certain  
20 information; to revise certain provisions regarding licensing, fees, suspension, revocation,  
21 and renewal; to revise certain provisions regarding penalties, procedures for hearings and  
22 appeals, bonds, registration and inspection of vending machines, reports, appearances before  
23 the commissioner, and inspections of certain records; to provide for powers and duties of  
24 special agents and enforcement officers; to provide for related matters; to provide for  
25 effective dates; to repeal conflicting laws; and for other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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**PART I**  
**SECTION 1-1.**

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by revising Article 7 of Chapter 12, relating to sale or distribution to, or possession by, minors of cigarettes and tobacco related objects, as follows:

"ARTICLE 7

16-12-170.

As used in this article, the term:

(1) 'Alternative nicotine product' means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. ~~The term 'alternative nicotine product'~~ Such term shall include, but shall not be limited to, nicotine gel, pouches, and gum and dissolvable nicotine strips, sticks, lozenges, and pellets. ~~Such term shall not include any tobacco product, consumable vapor product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.~~

(2) 'Cigar wraps' means individual cigar wrappers, known as wraps, blunt wraps, or roll your own cigar wraps, that consist in whole or in part of reconstituted tobacco leaf or flavored tobacco leaf.

(3) 'Cigarette' means roll for smoking made wholly or in part of tobacco when the cover of the roll is paper or any substance other than tobacco.

~~(4) 'Community service' means a public service which a minor might appropriately be required to perform, as determined by the court, as punishment for certain offenses provided for in this article.~~

~~(5) 'Minor' means any person who is under the age of 18 years.~~

~~(4)~~ 'Consumable vapor product' means any vapor liquid or vapor delivery system.

~~(6)~~(5) 'Person' means any natural person or any firm, partnership, company, corporation, or other entity.

~~(7)~~(6) 'Proper identification' means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under Code Sections 40-5-100 through 40-5-104. ~~Proper identification~~ Such term shall not include a birth certificate.

61 ~~(8)~~(7) 'Tobacco product' means any cigars, little cigars, granulated, plug cut, crimp cut,  
 62 ready rubbed, and other smoking tobacco; snuff or snuff powder; cavendish; plug and  
 63 twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings,  
 64 cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in  
 65 such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both  
 66 for chewing and smoking. Such term ~~The term 'tobacco product'~~ shall not include any  
 67 alternative nicotine product, consumable vapor product, or product regulated as a drug  
 68 or device by the United States Food and Drug Administration under Chapter V of the  
 69 Food, Drug, and Cosmetic Act.

70 (8) 'Tobacco product sample' means a cigarette, tobacco product, alternative nicotine  
 71 product, or consumable vapor product distributed to members of the general public at no  
 72 cost for purposes of promoting the product.

73 (9) 'Tobacco related objects' means any papers, wrappers, or other products, devices, or  
 74 substances, including cigar wraps, which are used for the purpose of making cigarettes  
 75 or tobacco products in any form whatsoever.

76 ~~(10) 'Vapor product' means any noncombustible product containing nicotine that~~  
 77 ~~employs a heating element, power source, electronic circuit, or other electronic, chemical,~~  
 78 ~~or mechanical means, regardless of shape or size, that can be used to produce vapor from~~  
 79 ~~nicotine in a solution or other form. The term 'vapor product' shall include any electronic~~  
 80 ~~cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or~~  
 81 ~~device and any vapor cartridge or other container of nicotine in a solution or other form~~  
 82 ~~that is intended to be used with or in an electronic cigarette, electronic cigar, electronic~~  
 83 ~~cigarillo, electronic pipe, or similar product or device. The term 'vapor product' shall not~~  
 84 ~~include any product regulated as a drug or device by the United States Food and Drug~~  
 85 ~~Administration under Chapter V of the Food, Drug, and Cosmetic Act.~~

86 (10) 'Vapor delivery system' means any device developed or intended to deliver vapor  
 87 liquid to an individual who inhales from the device. Such term shall include, but shall  
 88 not be limited to, an electronic cigarette, electronic cigar, electronic pipe, vape pen, vape  
 89 tool, hookah, or electronic hookah. Such term shall not include any fragrance or essential  
 90 oil diffuser, air freshener, tobacco product, alternative nicotine product, or product  
 91 regulated as a drug or device by the United States Food and Drug Administration under  
 92 Chapter V of the Food, Drug, and Cosmetic Act.

93 (11) 'Vapor liquid' means any solution or other substance intended to be aerosolized or  
 94 vaporized and inhaled by an individual, regardless of whether or not the substance  
 95 contains nicotine. Such term shall include, but shall not be limited to, e-liquid, e-juice,  
 96 vape juice, and cartridges that are prefilled with such a solution. Such term shall not  
 97 include any perfume, potpourri, essential oil, tobacco product, alternative nicotine

98 product, or product regulated as a drug or device by the United States Food and Drug  
99 Administration under Chapter V of the Food, Drug, and Cosmetic Act.

100 16-12-171.

101 ~~(a)(1) It shall be unlawful for any person knowingly to:~~

102 ~~(A) Sell or barter, directly or indirectly, any cigarettes, tobacco products, tobacco~~  
103 ~~related objects, alternative nicotine products, or vapor products to a minor;~~

104 ~~(B) Purchase any cigarettes, tobacco products, tobacco related objects, alternative~~  
105 ~~nicotine products, or vapor products for any minor unless the minor for whom the~~  
106 ~~purchase is made is the child of the purchaser; or~~

107 ~~(C) Advise, counsel, or compel any minor to smoke, inhale, chew, or use cigarettes,~~  
108 ~~tobacco products, tobacco related objects, alternative nicotine products, or vapor~~  
109 ~~products.~~

110 ~~(2)(A) The prohibition contained in paragraph (1) of this subsection shall not apply~~  
111 ~~with respect to sale of cigarettes, tobacco products, tobacco related objects, alternative~~  
112 ~~nicotine products, or vapor products by a person when such person has been furnished~~  
113 ~~with proper identification showing that the person to whom the cigarettes, tobacco~~  
114 ~~products, tobacco related objects, alternative nicotine products, or vapor products are~~  
115 ~~sold is 18 years of age or older.~~

116 ~~(B) In any case where a reasonable or prudent person could reasonably be in doubt as~~  
117 ~~to whether or not the person to whom cigarettes, tobacco products, tobacco related~~  
118 ~~objects, alternative nicotine products, or vapor products are to be sold or otherwise~~  
119 ~~furnished is actually 18 years of age or older, it shall be the duty of the person selling~~  
120 ~~or otherwise furnishing such cigarettes, tobacco products, tobacco related objects,~~  
121 ~~alternative nicotine products, or vapor products to request to see and to be furnished~~  
122 ~~with proper identification as provided for in subsection (b) of this Code section in order~~  
123 ~~to verify the age of such person. The failure to make such request and verification in~~  
124 ~~any case where the person to whom the cigarettes, tobacco products, tobacco related~~  
125 ~~objects, alternative nicotine products, or vapor products are sold or otherwise furnished~~  
126 ~~is less than 18 years of age may be considered by the trier of fact in determining~~  
127 ~~whether the person selling or otherwise furnishing such cigarettes, tobacco products,~~  
128 ~~tobacco related objects, alternative nicotine products, or vapor products did so~~  
129 ~~knowingly.~~

130 ~~(3) Any person who violates this subsection shall be guilty of a misdemeanor.~~

131 ~~(b)(1) It shall be unlawful for any minor to:~~

132 ~~(A) Purchase, attempt to purchase, or possess for personal use any cigarettes, tobacco~~  
133 ~~products, tobacco related objects, alternative nicotine products, or vapor products. This~~

134 ~~subparagraph shall not apply to possession of cigarettes, tobacco products, tobacco~~  
 135 ~~related objects, alternative nicotine products, or vapor products by a minor when a~~  
 136 ~~parent or guardian of such minor gives the cigarettes, tobacco products, tobacco related~~  
 137 ~~objects, alternative nicotine products, or vapor products to the minor and possession is~~  
 138 ~~in the home of the parent or guardian and such parent or guardian is present; or~~  
 139 ~~(B) Misrepresent such minor's identity or age or use any false identification for the~~  
 140 ~~purpose of purchasing or procuring any cigarettes, tobacco products, tobacco related~~  
 141 ~~objects, alternative nicotine products, or vapor products.~~

142 ~~(2) A minor who commits an offense provided for in paragraph (1) of this subsection~~  
 143 ~~may be punished as follows:~~

144 ~~(A) By requiring the performance of community service not exceeding 20 hours;~~

145 ~~(B) By requiring attendance at a publicly or privately sponsored lecture or discussion~~  
 146 ~~on the health hazards of smoking or tobacco use, provided such lecture or discussion~~  
 147 ~~is offered without charge to the minor; or~~

148 ~~(C) By a combination of the punishments described in subparagraphs (A) and (B) of~~  
 149 ~~this paragraph.~~

150 (a) Except as otherwise authorized by law:

151 (1) No person knowingly, directly or through another person, shall furnish, cause to be  
 152 furnished, or permit any person in such person's employ to furnish any cigarettes, tobacco  
 153 products, tobacco related objects, alternative nicotine products, consumable vapor  
 154 products, or tobacco product samples to an individual under 21 years of age;

155 (2) No person shall knowingly allow an individual under 21 years of age to operate a  
 156 vending machine that dispenses cigarettes, tobacco products, tobacco related objects,  
 157 alternative nicotine products, or consumable vapor products;

158 (3) No person knowingly or intentionally shall act as an agent to purchase or acquire any  
 159 cigarettes, tobacco products, tobacco related objects, alternative nicotine products,  
 160 consumable vapor products, or tobacco product samples for or on behalf of an individual  
 161 under 21 years of age;

162 (4) No person shall distribute any tobacco product sample on any public street, sidewalk,  
 163 or park within 500 feet of any school or playground when those facilities are being used  
 164 primarily by individuals under 21 years of age;

165 (5) No individual under 21 years of age shall purchase, attempt to purchase, or  
 166 knowingly possess any cigarettes, tobacco products, tobacco related objects, alternative  
 167 nicotine products, or consumable vapor products;

168 (6) No individual under 21 years of age shall knowingly operate or make a purchase  
 169 from, or attempt to operate or make a purchase from, a vending machine that dispenses

170 cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or  
171 consumable vapor products; and

172 (7) No individual under 21 years of age shall misrepresent such individual's identity or  
173 use false identification for the purpose of purchasing or obtaining any cigarettes, tobacco  
174 products, tobacco related objects, alternative nicotine products, consumable vapor  
175 products, or tobacco product samples.

176 (b) It shall be unlawful for any person to sell or otherwise furnish, or permit anyone in  
177 such person's employ to sell or otherwise furnish, any cigarettes, tobacco products, tobacco  
178 related objects, alternative nicotine products, consumable vapor products, or tobacco  
179 product samples to an individual without requesting to see and being furnished with proper  
180 identification in order to verify that the age of such individual is 21 years of age or older.  
181 Failure to make such request and verification shall be a violation of this Code section and  
182 may be punished as provided in Code Section 16-12-172 and additionally may be  
183 considered by the trier of fact in determining whether the person selling or otherwise  
184 furnishing such cigarettes, tobacco products, tobacco related objects, alternative nicotine  
185 products, consumable vapor products, or tobacco product samples to an individual under  
186 21 years of age did so knowingly.

187 (c) Any person licensed under Chapter 11 of Title 48, or any person acting on behalf of  
188 a person licensed under Chapter 11 of Title 48, that upon requesting proper identification  
189 pursuant to subsection (b) of this Code section from an individual attempting to purchase  
190 or obtain cigarettes, tobacco products, tobacco related objects, alternative nicotine  
191 products, consumable vapor products, or tobacco product samples is tendered as proper  
192 identification a driver's license which indicates that such driver's license is falsified or is  
193 not the driver's license of the individual presenting it or that such individual is under 21  
194 years of age, the person to whom said license is tendered shall be authorized to either write  
195 down the name, address, and driver's license number or to seize and retain such driver's  
196 license. In either event, such person shall immediately thereafter summon a law  
197 enforcement officer who shall be authorized to seize the driver's license either at the scene  
198 or at such time as the driver's license can be located. The procedures and rules connected  
199 with the retention of such license by the law enforcement officer shall be the same as those  
200 provided for the acceptance of a driver's license as bail on arrest for traffic offenses  
201 pursuant to Code Section 17-6-11.

202 (d) Nothing contained in this Code section shall be construed to prohibit any individual  
203 under 21 years of age from:

204 (1) Dispensing, serving, selling, or handling cigarettes, tobacco products, tobacco related  
205 objects, alternative nicotine products, consumable vapor products, or tobacco product

206 samples as a part of employment in any location or place of business licensed under  
207 Chapter 11 of Title 48;

208 (2) Being employed in any location or place of business licensed under Chapter 11 of  
209 Title 48 for the manufacture of cigarettes, tobacco products, tobacco related objects,  
210 alternative nicotine products, consumable vapor products, or tobacco related samples; or

211 (3) Taking orders for and having possession of cigarettes, tobacco products, tobacco  
212 related objects, alternative nicotine products, consumable vapor products, or tobacco  
213 product samples as a part of employment in any location or place of business licensed  
214 under Chapter 11 of Title 48.

215 16-12-172.

216 (a) It is unlawful for any person to knowingly violate any prohibition contained in Code  
217 Section 16-12-171, relating to the furnishing of cigarettes, tobacco products, tobacco  
218 related objects, alternative nicotine products, consumable vapor products, or tobacco  
219 product samples to an individual under 21 years of age.

220 (b) Any person convicted of violating any prohibition contained in paragraph (1), (2), (3),  
221 or (4) of subsection (a) or in subsection (b) of Code Section 16-12-171 shall upon:

222 (1) The first conviction, be guilty of a misdemeanor; or

223 (2) The second or subsequent conviction, be guilty of a misdemeanor of a high and  
224 aggravated nature.

225 (c) Any individual convicted of violating paragraph (5), (6), or (7) of subsection (a) of  
226 Code Section 16-12-171 shall upon:

227 (1) The first conviction, be guilty of a misdemeanor and shall be punished by  
228 imprisonment for not more than six months or a fine of not more than \$300.00, or both;  
229 or

230 (2) The second or subsequent conviction, be guilty of a misdemeanor and shall be  
231 punished by imprisonment for not more than 12 months or a fine of not more than  
232 \$1,000.00, or both.

233 (d) When any individual who has not been previously convicted of any offense under this  
234 Code section or any other law of the United States, this state, or any other state relating to  
235 cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or  
236 consumable vapor products pleads guilty to or is found guilty of a violation of  
237 paragraph (5), (6), or (7) of subsection (a) of Code Section 16-12-171, the court, without  
238 entering a judgment of guilt and with the consent of such individual, may defer further  
239 proceedings and place such individual on probation upon such reasonable terms and  
240 conditions as the court may require. The terms of probation shall require the individual to  
241 undergo a comprehensive rehabilitation program, including, if necessary, medical

242 treatment, not to exceed one year and designed to acquaint such individual with the ill  
243 effects of the use or abuse of cigarettes, tobacco products, tobacco related objects,  
244 alternative nicotine products, and consumable vapor products and with knowledge of the  
245 gains and benefits which can be achieved by being a good member of society. Upon  
246 violation of a term or condition of probation, the court may enter an adjudication of guilt  
247 and proceed accordingly. Upon fulfillment of the terms and conditions of probation, the  
248 court shall discharge the individual and dismiss the proceedings against such individual.  
249 Discharge and dismissal under this subsection shall be without court adjudication of guilt  
250 and shall not be deemed a conviction for purposes of this subsection or for purposes of  
251 disqualifications or disabilities imposed by law upon conviction of a crime. Discharge and  
252 dismissal under this subsection may occur only once with respect to any individual.

253 (e)(1) A law enforcement officer shall arrest by issuance of a citation pursuant to Code  
254 Section 17-4-23 any person accused of violating paragraph (5), (6), or (7) of  
255 subsection (a) of Code Section 16-12-171. The citation shall enumerate the specific  
256 charges against the individual and either the date upon which the individual is to appear  
257 and answer the charges or a notation that the individual will be later notified of the date  
258 upon which the individual is to appear and answer the charges. If the individual charged  
259 shall fail to appear as required, the judge having jurisdiction of the offense may issue a  
260 warrant or other order directing the apprehension of such individual and commanding that  
261 such individual be brought before the court to answer the charges contained within the  
262 citation and the charge of the individual's failure to appear as required. Nothing in this  
263 paragraph shall be construed to restrict the discretion of the prosecuting attorney to use  
264 a uniform traffic citation as the formal charging document.

265 (2) A law enforcement officer arresting a person by the issuance of a citation under  
266 paragraph (1) of this subsection may require any such individual having a driver's license  
267 or instruction permit to provide such license or permit to the arresting officer in order to  
268 ensure the appearance of such person to answer the charges against the individual. The  
269 procedures and rules connected with the acceptance of such license or permit and  
270 subsequent disposition of the case shall be the same as provided for the acceptance of a  
271 driver's license as bail on arrest for traffic offenses pursuant to Code Section 17-6-11.

272 (f) Testimony by any individual under 21 years of age, when given in an administrative  
273 or judicial proceeding against another person for a violation of any provision of Code  
274 Section 16-12-171, shall not be used in any administrative or judicial proceedings brought  
275 against such testifying individual under 21 years of age.

276 (g) Nothing in this Code section shall be construed to modify, amend, or supersede  
277 Chapter 11 of Title 15.

278 ~~16-12-172~~ 16-12-173.

279 (a) Any person owning or operating a place of business in which cigarettes, tobacco  
280 products, ~~or tobacco related objects,~~ alternative nicotine products, or consumable vapor  
281 products are sold or offered for sale shall post in a conspicuous place a sign which shall  
282 contain the following statement:

283 'SALE OF CIGARETTES, TOBACCO, TOBACCO PRODUCTS, TOBACCO  
284 RELATED OBJECTS, ALTERNATIVE NICOTINE PRODUCTS, OR CONSUMABLE  
285 VAPOR PRODUCTS TO PERSONS UNDER 18 21 YEARS OF AGE IS PROHIBITED  
286 BY LAW.'

287 Such sign shall be printed in letters of at least one-half inch in height.

288 (b) Any person ~~who fails to comply with the requirements of subsection (a)~~ convicted of  
289 a violation of this Code section shall be guilty of a misdemeanor.

290 ~~16-12-173~~ 16-12-174.

291 (a)(1) Any person who maintains in such person's place of business a vending machine  
292 which dispenses cigarettes, tobacco products, tobacco related objects, alternative nicotine  
293 products, or consumable vapor products shall place or cause to be placed in a  
294 conspicuous place on such vending machine a sign containing the following statement:

295 'THE PURCHASE OF CIGARETTES, TOBACCO PRODUCTS, TOBACCO  
296 RELATED OBJECTS, ALTERNATIVE NICOTINE PRODUCTS, OR  
297 CONSUMABLE VAPOR PRODUCTS FROM THIS VENDING MACHINE BY  
298 ANY PERSON UNDER 18 21 YEARS OF AGE IS PROHIBITED BY LAW.'

299 (2) Any person who maintains in such person's place of business a vending machine  
300 which dispenses cigarettes, tobacco products, tobacco related objects, alternative nicotine  
301 products, or consumable vapor products shall not dispense any other type of product,  
302 other than matches, in such vending machine.

303 ~~(b) Any person who fails to comply with the requirements of subsection (a) of this Code~~  
304 ~~section shall be guilty of a misdemeanor; provided, however, for a first offense, the~~  
305 ~~sentence shall be a fine not to exceed \$300.00.~~

306 ~~(c) It shall be a violation of subsection (a) of Code Section 16-12-171 for any person~~  
307 ~~knowingly to allow a minor to operate a vending machine which dispenses cigarettes,~~  
308 ~~tobacco products, tobacco related objects, alternative nicotine products, or vapor products.~~

309 ~~(d) The offenses provided for by paragraph (1) of subsection (b) of Code Section~~  
310 ~~16-12-171 shall apply to the operation by a minor of a vending machine which dispenses~~  
311 ~~cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor~~  
312 ~~products.~~

313 ~~(e)(1)(b)~~ The sale or offering for sale of cigarettes, tobacco products, tobacco related  
 314 objects, alternative nicotine products, or consumable vapor products from vending  
 315 machines shall not be permitted except:

316 ~~(A)(1)~~ In locations which are not readily accessible to minors, including, but not limited  
 317 to:

318 ~~(i)(A)~~ Factories, businesses, offices, and other places which are not open to the general  
 319 public;

320 ~~(ii)(B)~~ Places open to the general public which do not admit minors; and

321 ~~(iii)(C)~~ Places where alcoholic beverages are offered for sale;

322 ~~(B)(2)~~ In areas which are in the immediate vicinity, plain view, and under the continuous  
 323 supervision of the proprietor of the establishment or an employee who will observe the  
 324 purchase of cigarettes, tobacco products, tobacco related objects, alternative nicotine  
 325 products, and consumable vapor products from the vending machine; and

326 ~~(C)(3)~~ In rest areas adjacent to roads and highways of the state.

327 ~~(2)~~ Violation of this subsection shall be punished as provided in subsection (b) of this  
 328 Code section for violation of subsection (a) of this Code section.

329 (c) Any person convicted of a violation of this Code section shall be guilty of a  
 330 misdemeanor; provided, however, that for a first offense, the punishment shall be a fine not  
 331 to exceed \$300.00.

332 ~~16-12-174.~~

333 ~~(a)~~ As used in this Code section, the term 'tobacco product sample' means a cigarette,  
 334 tobacco product, alternative nicotine product, or vapor product distributed to members of  
 335 the general public at no cost for purposes of promoting the product.

336 ~~(b)~~ It shall be unlawful for any person to distribute any tobacco product sample to any  
 337 person under the age of 18 years.

338 ~~(c)~~ A person distributing tobacco product samples shall require proof of age from a  
 339 prospective recipient if an ordinary person would conclude on the basis of appearance that  
 340 such prospective recipient may be under the age of 18 years.

341 ~~(d)~~ It shall be unlawful for any person who has not attained the age of 18 years to receive  
 342 or attempt to receive any tobacco product sample.

343 ~~(e)~~ No person shall distribute tobacco product samples on any public street, sidewalk, or  
 344 park within 500 feet of any school or playground when those facilities are being used  
 345 primarily by persons under the age of 18 years.

346 ~~(f)~~ Violation of this Code section shall be punished as a misdemeanor.

347 16-12-175.

348 (a) The provisions of this article, inclusive, shall be enforced through actions brought in  
 349 any court of competent jurisdiction by the prosecuting attorney for the county in which the  
 350 alleged violation occurred as well as through administrative citations issued by special  
 351 agents or enforcement officers of the state revenue commissioner. Any fine collected for  
 352 a violation of said provision shall be paid to the clerk of the court of the jurisdiction in  
 353 which the violation occurred. Upon receipt of a fine for any violation of said provision, the  
 354 clerk shall promptly notify the state revenue commissioner of the violation.

355 (b) The state revenue commissioner, acting through special agents or enforcement officers,  
 356 shall annually conduct random, unannounced inspections at locations where cigarettes,  
 357 tobacco products, alternative nicotine products, or consumable vapor products are sold or  
 358 distributed to ensure compliance with this article. Individuals ~~Persons~~ ~~under the age of 18~~  
 359 21 years of age may be enlisted to test compliance with this article; provided, however, that  
 360 such ~~persons~~ individuals may be used to test compliance with this article only if the testing  
 361 is conducted under the direct supervision of such special agents or enforcement officers and  
 362 written parental consent for any individual under 18 years of age has been provided. Any  
 363 other use of ~~persons~~ individuals ~~under the age of 18~~ 21 years of age to test compliance with  
 364 this article or any other prohibition of like or similar import shall be unlawful and the  
 365 person or persons responsible for such use shall be subject to the penalties prescribed in  
 366 this article. The state revenue commissioner shall prepare annually for submission by the  
 367 Governor to the secretary of the United States Department of Health and Human Services  
 368 the report required by section 1926 of subpart I of part B of Title XIX of the federal Public  
 369 Health Service Act, 42 U.S.C. 300x-26.

370 16-12-176.

371 The state revenue commissioner shall administer and enforce this article and may make  
 372 reasonable rules and regulations for its administration and enforcement. The state revenue  
 373 commissioner may designate employees of the Department of Revenue for the purpose of  
 374 administering and enforcing this article and may delegate to employees of such department  
 375 any of the duties required of the state revenue commissioner pursuant to this article."

376 **SECTION 1-2.**

377 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
 378 amended by revising Code Section 17-4-23, relating to procedure for arrests by citation for  
 379 motor vehicle violations, issuance of warrants for arrest for failure of persons charged to  
 380 appear in court, and bond, as follows:

381 "17-4-23.

382 (a)(1) A law enforcement officer may arrest a person accused of violating any law or  
383 ordinance enacted by local law governing the operation, licensing, registration,  
384 maintenance, or inspection of motor vehicles, or violating paragraph (2), (3), or (5) of  
385 subsection (a) of Code Section 3-3-23 or paragraph (5), (6), or (7) of subsection (a) of  
386 Code Section 16-12-171, by the issuance of a citation, provided that such offense is  
387 committed in his or her presence or information constituting a basis for such arrest was  
388 received by the arresting officer from a law enforcement officer observing such offense  
389 being committed, except that, when such offense results in an accident, an investigating  
390 officer may issue citations regardless of whether the offense occurred in the presence of  
391 a law enforcement officer.

392 (2) A law enforcement officer may arrest a person accused of any misdemeanor violation  
393 of Code Section 16-7-21, 16-8-14, 16-8-14.1, or 16-13-30 by the issuance of a citation,  
394 provided that such offense is committed in his or her presence or information constituting  
395 a basis for such arrest was received by the arresting officer or an investigating officer  
396 from another law enforcement officer or other individual observing or aware of such  
397 offense being committed. When an arrest is made for such offense, prior to releasing the  
398 accused on citation, the arresting law enforcement officer shall review the accused's  
399 criminal record as such is on file with the Federal Bureau of Investigation and the  
400 Georgia Crime Information Center within the Georgia Bureau of Investigation and ensure  
401 that the accused's fingerprints are obtained.

402 (3) The arresting officer shall issue a citation to the accused which shall enumerate the  
403 specific charges and the date upon which he or she is to appear and answer the charges  
404 or a notation that he or she will be later notified of the date upon which he or she is to  
405 appear and answer the charges. When an arresting officer makes an arrest concerning the  
406 operation of a motor vehicle based on information received from another law  
407 enforcement officer who observed the offense being committed, the citation shall list the  
408 name of each officer and each officer must be present when the charges against the  
409 accused are heard.

410 (b) If the accused fails to appear as specified in the citation, the judicial officer having  
411 jurisdiction of the offense may issue a warrant ordering the apprehension of the accused  
412 and commanding that he or she be brought before the court to answer the charge contained  
413 within the citation and the charge of his or her failure to appear as required. The accused  
414 shall then be allowed to make a reasonable bond to appear on a given date before the court.

415 (c) Notwithstanding subsection (b) of this Code section, when an accused was issued a  
416 citation for a violation of Code Section 16-7-21, 16-8-14, 16-8-14.1, or 16-13-30, and the  
417 accused fails to appear as specified in the citation, the judicial officer having jurisdiction

418 of the offense, absent a finding of sufficient excuse to appear at the time and place  
 419 specified in the citation, shall issue a warrant ordering the apprehension of the accused and  
 420 commanding that he or she be brought before the court to answer the charge contained  
 421 within the citation and the charge of his or her failure to appear as required. The accused  
 422 shall then be allowed to make a reasonable bond to appear on a given date before the  
 423 court."

424 **PART II**  
 425 **SECTION 2-1.**

426 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
 427 revising Code Section 20-2-144, relating to mandatory instruction concerning alcohol and  
 428 drug use, as follows:

429 "20-2-144.

430 (a) Each local board of education shall prescribe mandatory instruction concerning vaping,  
 431 smoking, and alcohol and other drug use in every year in every grade from kindergarten  
 432 through grade 12 as shall be determined by the State Board of Education. Such course of  
 433 study shall implement the minimum course of study provided for in subsection (b) of this  
 434 Code section or its equivalent, as approved by the State Board of Education. Each local  
 435 board of education may supplement the exact approach of content areas of such minimum  
 436 course of study with such curriculum standards as it may deem appropriate. Such standards  
 437 shall include instruction which discourages vaping and the use of alcohol, tobacco, and  
 438 controlled substances and communicates that the use of illicit drugs and improper use of  
 439 legally obtained drugs and other substances is wrong and dangerous.

440 (b) The State Board of Education shall prescribe a minimum course of study of vaping,  
 441 smoking, and alcohol and other drug use which may be included as a part of a course of  
 442 study in comprehensive health education where offered and where appropriate. Instruction  
 443 also shall be integrated into other curriculum requirements as determined by the State  
 444 Board of Education. The course shall be age appropriate, shall be sequential in method of  
 445 study, and shall include the following elements where appropriate in the instruction:

- 446 (1) Detailed, factual information regarding physiological, psychological, sociological,  
 447 and legal aspects of substance abuse;
- 448 (2) Detailed information concerning the availability of help and assistance for persons  
 449 with chemical dependency problems;
- 450 (3) Skills needed to evaluate advertisements for, and media portrayals of, alcohol,  
 451 tobacco, consumable vapor products, and controlled substances; ~~and~~

- 452 (4) Detailed information and warnings from the Surgeon General and the Department of  
 453 Human Services concerning the dangers of vaping and smoking; and  
 454 ~~(4)~~(5) Detailed instruction on the need for, and role of, lawful authority and law-abiding  
 455 behavior, which instruction may include interacting and working with members of the  
 456 legal and justice professions.
- 457 (c) A manual setting out the details of such course of study shall be prepared by or  
 458 approved by the State School Superintendent in cooperation with the Department of Public  
 459 Health, the State Board of Education, the Department of Public Safety, and such expert  
 460 advisers as they may choose.
- 461 (d) The minimum course of study to be prescribed by the State Board of Education  
 462 pursuant to subsection (b) of this Code section shall be ready for implementation not later  
 463 than ~~July 1, 1990~~ July 1, 2020. Each local board shall implement either such minimum  
 464 course of study or its equivalent not later than December 31, ~~1990~~ 2020. Any local board  
 465 of education which fails to comply with this subsection shall not be eligible to receive any  
 466 state funding under this article until such minimum course of study or its equivalent has  
 467 been implemented.
- 468 (e) The State Board of Education and the local boards of education shall supplement the  
 469 instruction required under this Code section by making resource information and materials  
 470 available to student clubs, organizations, and peer-to-peer programs."

471 **PART III**

472 **SECTION 3-1.**

473 Title 10 of the Official Code of Georgia Annotated, relating to commerce and trade, is  
 474 amended in Code Section 10-13A-2, relating to definitions regarding the Master Settlement  
 475 Agreement enhancements, by revising paragraph (4) as follows:

476 "(4) 'Dealer' means a cigarette dealer and or loose and or smokeless dealers tobacco  
 477 dealer as defined in ~~paragraphs (7) and (17)~~ of Code Section 48-11-1."

478 **SECTION 3-2.**

479 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
 480 amended by revising Code Section 48-11-1, relating to definitions regarding taxes on tobacco  
 481 products, as follows:

482 "48-11-1.

483 As used in this chapter, the term:

484 (1) 'Alternative nicotine product' means any product that consists of or contains nicotine  
 485 that can be ingested into the body by chewing, smoking, heating, absorbing, dissolving,

486 inhaling, snorting, sniffing, or any other means. Such term shall include, but shall not be  
 487 limited to, nicotine gel, pouches, and gum and dissolvable nicotine strips, sticks,  
 488 lozenges, and pellets. Such term shall not include any cigars, cigarettes, loose or  
 489 smokeless tobacco, consumable vapor products, or products regulated as a drug or device  
 490 by the United States Food and Drug Administration under Chapter V of the Food, Drug,  
 491 and Cosmetic Act.

492 (2) 'Alternative nicotine product dealer' means any person located within the borders of  
 493 this state who sells or distributes alternative nicotine products to a consumer in this state.

494 (3) 'Alternative nicotine product distributor' means any person who:

495 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly  
 496 contact and call on alternative nicotine product dealers; and

497 (B) Is engaged in the business of:

498 (i) Importing alternative nicotine products into this state or purchasing alternative  
 499 nicotine products from other alternative nicotine product manufacturers or alternative  
 500 nicotine product distributors; and

501 (ii) Selling the alternative nicotine products to alternative nicotine product dealers in  
 502 this state for resale but is not in the business of selling the alternative nicotine  
 503 products directly to the ultimate consumer of the alternative nicotine products.

504 (4) 'Alternative nicotine product importer' means any person who imports into or who  
 505 brokers within the United States, either directly or indirectly, finished alternative nicotine  
 506 products for sale or distribution.

507 (5) 'Alternative nicotine product manufacturer' means any person who manufactures,  
 508 fabricates, assembles, processes, or labels finished alternative nicotine products.

509 ~~(1)~~(6) 'Cigar' means any roll for smoking made wholly or in part of tobacco when the  
 510 cover of the roll is also tobacco. Such term shall include a little cigar.

511 ~~(2)~~(7) 'Cigar dealer' means any person located within the borders of this state who sells  
 512 or distributes cigars to a consumer in this state.

513 ~~(3)~~(8) 'Cigar distributor' means any person, whether located within or outside the borders  
 514 of this state, other than a cigar dealer, who sells or distributes cigars within or into the  
 515 boundaries of this state and who:

516 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly  
 517 contact and call on cigar dealers; and

518 (B) Is engaged in the business of:

519 (i) Importing cigars into this state or purchasing cigars from other cigar  
 520 manufacturers or cigar distributors; and

521 (ii) Selling the cigars to cigar dealers in this state for resale but is not in the business  
 522 of selling the cigars directly to the ultimate consumer of the cigars.

- 523 ~~(4)~~(9) 'Cigar importer' means any person who imports into or who brokers within the  
 524 United States, either directly or indirectly, a finished cigar for sale or distribution.
- 525 ~~(5)~~(10) 'Cigar manufacturer' means any person who manufactures, fabricates, assembles,  
 526 processes, or labels a finished cigar.
- 527 ~~(6)~~(11) 'Cigarette' means any roll for smoking made wholly or in part of tobacco when  
 528 the cover of the roll is paper or any substance other than tobacco.
- 529 ~~(7)~~(12) 'Cigarette dealer' means any person located within the borders of this state who  
 530 sells or distributes cigarettes to a consumer in this state.
- 531 ~~(8)~~(13) 'Cigarette distributor' means any person, whether located within or outside the  
 532 borders of this state, other than a cigarette dealer, who sells or distributes cigarettes  
 533 within or into the boundaries of this state and who:
- 534 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly  
 535 contact and call on cigarette dealers; and
- 536 (B) Is engaged in the business of:
- 537 (i) Importing cigarettes into this state or purchasing cigarettes from other cigarette  
 538 manufacturers or cigarette distributors; and
- 539 (ii) Selling the cigarettes to cigarette dealers in this state for resale but is not in the  
 540 business of selling the cigarettes directly to the ultimate consumer of the cigarettes.
- 541 Such term shall not include any cigarette manufacturer, export warehouse proprietor, or  
 542 cigarette importer with a valid permit under 26 U.S.C. Section 5712, if such person sells  
 543 or distributes cigarettes in this state only to cigarette distributors who hold valid and  
 544 current licenses under Code Section 48-11-4 or to an export warehouse proprietor or  
 545 another cigarette manufacturer with a valid permit under 26 U.S.C. Section 5712.
- 546 ~~(9)~~(14) 'Cigarette importer' means any person who imports into or who brokers within  
 547 the United States, either directly or indirectly, a finished cigarette for sale or distribution.
- 548 ~~(10)~~(15) 'Cigarette manufacturer' means any person who manufactures, fabricates,  
 549 assembles, processes, or labels a finished cigarette.
- 550 (16) 'Consumable vapor product' means any vapor liquid or vapor delivery system.
- 551 (17) 'Consumable vapor product dealer' means any person located within the borders of  
 552 this state who sells or distributes consumable vapor products to a consumer in this state.
- 553 (18) 'Consumable vapor product distributor' means any person who:
- 554 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly  
 555 contact and call on consumable vapor product dealers; and
- 556 (B) Is engaged in the business of:
- 557 (i) Importing consumable vapor products into this state or purchasing consumable  
 558 vapor products from other consumable vapor product manufacturers or consumable  
 559 vapor product distributors; and

560 (ii) Selling the consumable vapor products to consumable vapor product dealers in  
 561 this state for resale but is not in the business of selling the consumable vapor products  
 562 directly to the ultimate consumer of the consumable vapor products.

563 (19) 'Consumable vapor product importer' means any person who imports into or who  
 564 brokers within the United States, either directly or indirectly, finished consumable vapor  
 565 products for sale or distribution.

566 (20) 'Consumable vapor product manufacturer' means any person who manufactures,  
 567 fabricates, assembles, processes, or labels finished consumable vapor products.

568 ~~(11)~~(21) 'Counterfeit cigarette' means cigarettes that are manufactured, fabricated,  
 569 assembled, processed, packaged, or labeled by any person other than the trademark owner  
 570 of a cigarette brand or the owner's designated agent.

571 ~~(12)~~(22) 'Dealer' means any person who is a cigar dealer, a cigarette dealer, or a loose  
 572 or smokeless tobacco dealer, an alternative nicotine product dealer, or a consumable  
 573 vapor product dealer.

574 ~~(13)~~(23) 'Distributor' means any person who is a cigar distributor, a cigarette distributor,  
 575 or a loose or smokeless tobacco distributor, an alternative nicotine product distributor, or  
 576 a consumable vapor product distributor.

577 ~~(14)~~(24) 'First transaction' means the first sale, receipt, purchase, possession,  
 578 consumption, handling, distribution, or use of cigars, cigarettes, or loose or smokeless  
 579 tobacco, alternative nicotine products, or consumable vapor products within this state.

580 ~~(15)~~(25) 'Little cigar' means any cigar weighing not more than three pounds per  
 581 thousand.

582 ~~(16)~~(26) 'Loose or smokeless tobacco' means granulated, plug cut, crimp cut, ready  
 583 rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist  
 584 tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings,  
 585 and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such  
 586 manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for  
 587 chewing and smoking, but does not include cigarettes or cigars or tobacco purchased for  
 588 the manufacture of cigarettes or cigars by cigarette manufacturers or cigar manufacturers.

589 ~~(17)~~(27) 'Loose or smokeless tobacco dealer' means any person located within the  
 590 borders of this state who sells or distributes loose or smokeless tobacco to a consumer in  
 591 this state.

592 ~~(18)~~(28) 'Loose or smokeless tobacco distributor' means any person who:

593 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly  
 594 contact and call on loose or smokeless tobacco dealers; and

595 (B) Is engaged in the business of:

596 (i) Importing loose or smokeless tobacco into this state or purchasing loose or  
 597 smokeless tobacco from other loose or smokeless tobacco manufacturers or loose or  
 598 smokeless tobacco distributors; and

599 (ii) Selling the loose or smokeless tobacco to loose or smokeless tobacco dealers in  
 600 this state for resale but is not in the business of selling the loose or smokeless tobacco  
 601 directly to the ultimate consumer of the loose or smokeless tobacco.

602 ~~(19)~~(29) 'Loose or smokeless tobacco importer' means any person who imports into or  
 603 who brokers within the United States, either directly or indirectly, finished loose or  
 604 smokeless tobacco for sale or distribution.

605 ~~(20)~~(30) 'Loose or smokeless tobacco manufacturer' means any person who  
 606 manufactures, fabricates, assembles, processes, or labels finished loose or smokeless  
 607 tobacco.

608 ~~(21)~~(31) 'Related machinery' means any item, device, conveyance, or vessel of any kind  
 609 or character used in manufacturing, packaging, labeling, stamping, transporting,  
 610 distributing, selling, or possessing counterfeit cigarettes.

611 ~~(22)~~(32) 'Sale' means any sale, transfer, exchange, theft, barter, gift, or offer for sale and  
 612 distribution in any manner or by any means whatever.

613 ~~(23)~~(33) 'Stamp' means any impression, device, stamp, label, or print manufactured,  
 614 printed, made, or affixed as prescribed by the commissioner.

615 (34) 'Vapor delivery system' means any device developed or intended to deliver vapor  
 616 liquid to an individual who inhales from the device. Such term shall include, but shall  
 617 not be limited to, an electronic cigarette, electronic cigar, electronic pipe, vape pen, vape  
 618 tool, hookah, or electronic hookah. Such term shall not include any fragrance or essential  
 619 oil diffusers, air fresheners, cigars, cigarettes, loose or smokeless tobacco, alternative  
 620 nicotine products, or products regulated as a drug or device by the United States Food and  
 621 Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

622 (35) 'Vapor liquid' means any solution or other substance intended to be aerosolized or  
 623 vaporized and inhaled by an individual, regardless of whether or not the substance  
 624 contains nicotine. Such term shall include, but shall not be limited to, e-liquid, e-juice,  
 625 vape juice, and cartridges that are prefilled with such a solution. Such term shall not  
 626 include any perfume, potpourri, essential oil, tobacco product, alternative nicotine  
 627 product, or product regulated as a drug or device by the United States Food and Drug  
 628 Administration under Chapter V of the Food, Drug, and Cosmetic Act.

629 ~~(24)~~(36) 'Vending machine' means any coin-in-the-slot or other device used for the  
 630 automatic merchandising of cigars, cigarettes, or loose or smokeless tobacco, alternative  
 631 nicotine products, or consumable vapor products."

**SECTION 3-3.**

Said title is further amended by revising Code Section 48-11-4, relating to licensing of persons engaged in tobacco business, initial and annual fees, suspension and revocation, registration and inspection of vending machines, bond by distributor, jurisdiction, and licensing of promotional activities, as follows:

"48-11-4.

(a) No person shall engage in or conduct the business of manufacturing, importing, brokering, purchasing, selling, consigning, vending, dealing in, shipping, receiving, or distributing cigars, cigarettes, ~~or loose or smokeless tobacco, alternative nicotine products, or consumable vapor products~~ in this state without first obtaining a license from the commissioner. The commissioner may require a separate license for each business activity and product for which a license is required under this chapter. Alternatively, the commissioner may issue a single license allowing the license holder to act as dealer, distributor, importer, or manufacturer, or a combination thereof as to cigars, cigarettes, loose or smokeless tobacco, alternative nicotine products, or consumable vapor products, or any combination thereof, at a location; provided, however, that the total licensing fee paid for the location shall be the same, whether the commissioner requires multiple licenses or issues a single license; and provided, further, that the commissioner may permit or limit the business or activities of a license holder as to any product or products for which a license is required under this chapter without issuing a new license or requiring a new application.

(b) The commissioner shall maintain at all times information for each location for which any license has been issued under this chapter whether the license holder is authorized to engage in business as a dealer, distributor, importer, or manufacturer, or a combination thereof, and whether cigars, cigarettes, loose or smokeless tobacco, alternative nicotine products, or consumable vapor products, or any combination thereof, have been authorized at such location.

~~(b)~~(c) All licenses shall be issued by the commissioner, who shall make rules and regulations with respect to applications for and issuance of the licenses and for other purposes of enforcing this chapter.

(d) The commissioner may refuse to issue or place conditions or limitations upon any license issued under this chapter when the commissioner has reasonable cause to believe that the applicant has willfully withheld information requested of the applicant or required by the rules or regulations to be provided or reported or when the commissioner has reasonable cause to believe that the information submitted in any application or report is false or misleading and is not given in good faith.

668 ~~(e)~~(e)(1) The annual renewal fee for a manufacturer's, importer's, distributor's, or dealer's  
 669 license shall be \$10.00. There shall also be a first year registration fee of \$250.00 for a  
 670 person commencing business as a manufacturer, importer, or distributor. All renewal  
 671 applications shall be filed at least 30 days in advance of the expiration date shown on the  
 672 license.

673 (2) Each license, except a dealer's license, shall begin on July 1 and end on June 30 of  
 674 the next succeeding year. The prescribed fee shall accompany every application for a  
 675 license and shall apply for any portion of the annual period.

676 (3) Each dealer's license shall be valid for 12 months beginning on the date of issue for  
 677 the initial license, and the first day of the month of issue for subsequent licenses, and  
 678 shall expire on the last day of the month preceding the month in which the initial license  
 679 was issued. Any dealer licensed under the provisions of this Code section who is also  
 680 licensed under Chapter 2 of Title 3 to sell alcoholic beverages may, upon written request  
 681 to the commissioner, arrange to have both licenses renewed on the same date each year.  
 682 Any dealer who follows the proper procedure for a renewal of ~~his or her~~ a license,  
 683 including filing the application for renewal at least 30 days in advance of the expiration  
 684 date of ~~his or her~~ such existing license, shall be allowed to continue operating as a dealer  
 685 under the existing license until the commissioner has issued the new license or denied the  
 686 application for renewal.

687 (4) Each manufacturer's, importer's, distributor's, or dealer's license shall be subject to  
 688 suspension, limitation, or revocation for violation of any of the provisions of:

689 (A) This ~~this~~ chapter or of the rules and regulations made pursuant to this chapter; ~~or~~

690 (B) Chapters 13 and 13A of Title 10 or of the rules and regulations made pursuant to  
 691 those chapters; or

692 (C) Article 7 of Chapter 12 of Title 16 or of the rules and regulations made pursuant  
 693 to such article.

694 (5) A separate license shall be required for each location or place of business.

695 (6) No person shall hold a distributor's license and a dealer's license at the same time,  
 696 unless so authorized by the commissioner and such person's license is limited to the sale  
 697 of consumable vapor products.

698 ~~(d)~~(f) The commissioner may make rules and regulations governing the sale of cigars,  
 699 cigarettes, loose or smokeless tobacco, ~~and~~ other tobacco products, alternative nicotine  
 700 products, and consumable vapor products in vending machines. The commissioner shall  
 701 require annually a special registration of each vending machine for any operation in this  
 702 state and charge a license fee for the registration in the amount of \$10.00 for each machine.  
 703 The annual registration shall indicate the location of the vending machine. No vending  
 704 machine shall be purchased or transported into this state for use in this state when the

705 vending machine is not so designed as to permit inspection without opening the machine  
 706 for the purpose of determining that all cigars, cigarettes, loose or smokeless tobacco, ~~and~~  
 707 other tobacco products, alternative nicotine products, and consumable vapor products  
 708 contained in the machine bear the tax stamp required under this chapter.

709 ~~(e)~~(g) The manufacturer's, importer's, distributor's, or dealer's license shall be exhibited  
 710 in the place of business for which it is issued in the manner prescribed by the  
 711 commissioner. The commissioner shall require each licensed distributor to file with the  
 712 commissioner a bond in an amount of not less than \$1,000.00 to guarantee the proper  
 713 performance of the distributor's duties and the discharge of the distributor's liabilities under  
 714 this chapter. The bond shall run concurrently with the distributor's license but shall remain  
 715 in full force and effect for a period of one year after the expiration or revocation of the  
 716 distributor's license unless the commissioner certifies that all obligations due the state  
 717 arising under this chapter have been paid.

718 ~~(f)~~(h) The jurisdiction of the commissioner in the administration of this chapter shall  
 719 extend to every person using or consuming cigars, cigarettes, ~~or~~ loose or smokeless  
 720 tobacco, alternative nicotine products, or consumable vapor products in this state and to  
 721 every person dealing in cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative  
 722 nicotine products, or consumable vapor products in any way for business purposes and  
 723 maintaining a location or place of business in this state. For the purpose of this chapter,  
 724 the maintaining of an office, store, plant, warehouse, stock of goods, or regular sales or  
 725 promotional activity, whether carried on automatically or by salespersons or other  
 726 representatives, shall constitute, among other activities, the maintaining of a location or  
 727 place of business. For the purpose of enforcement of this chapter and the rules and  
 728 regulations promulgated under this chapter, notwithstanding any other provision of law,  
 729 the commissioner or his or her duly appointed hearing officer is granted authority to  
 730 conduct hearings which shall at all times be exercised in conformity with rules and  
 731 regulations promulgated by the commissioner and consistent with Chapter 13 of Title 50,  
 732 the 'Georgia Administrative Procedure Act.'

733 ~~(g)~~(i) The commissioner may provide for the licensing of promotional activities, not  
 734 including the sale of cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine  
 735 products, or consumable vapor products, carried on by ~~the~~ a manufacturer. The fee for any  
 736 such license shall be \$10.00 annually."

#### 737 SECTION 3-4.

738 Said title is further amended by revising Code Section 48-11-5, relating to licensing of  
 739 nonresident distributors, authorized use of stamps or metering machine, bond, amount,

740 examination of records, service on agent, applicability of chapter to nonresident distributors,  
741 and reports of shipments, as follows:

742 "48-11-5.

743 (a)(1) If the commissioner finds that the collection of the tax imposed by this chapter or  
744 the enforcement of any provisions of this chapter or Article 7 of Chapter 12 of Title 16  
745 would be facilitated by such action, the commissioner may authorize any person residing  
746 or located outside this state who is engaged in the business of manufacturing cigars,  
747 cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or consumable  
748 vapor products or any person residing or located outside this state who ships cigars,  
749 cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or consumable  
750 vapor products into this state for sale to licensed dealers in this state to be licensed as a  
751 distributor ~~and, after the person complies.~~ After such person has complied with the  
752 commissioner's requirements, the commissioner may authorize such person to affix or  
753 cause to be affixed the stamps required by this chapter on behalf of the purchasers of the  
754 cigars, cigarettes, or loose or smokeless tobacco who would otherwise be taxable for the  
755 cigars, cigarettes, and loose or smokeless tobacco. The commissioner may sell tax  
756 stamps to an authorized person or may authorize the use of a metering machine by the  
757 person as provided in Code Section 48-11-3.

758 (2) The commissioner shall require a bond of a nonresident distributor satisfactory to the  
759 commissioner and in an amount of not less than \$1,000.00, conditioned upon the payment  
760 of the tax and compliance with any other requirements specified by the commissioner.  
761 As a condition of authorization as provided in this Code section, a nonresident distributor  
762 shall agree to submit the distributor's books, accounts, and records for examination by the  
763 commissioner or the commissioner's duly authorized agent during reasonable business  
764 hours and shall appoint in writing an agent who resides in this state for the purpose of  
765 service. Service upon an agent shall be sufficient service upon the nonresident distributor  
766 and made by leaving a duly attested copy of the process with the agent. When legal  
767 process against any nonresident distributor is served upon the agent, the agent shall notify  
768 the nonresident distributor in the manner specified in Code Section 40-12-2.

769 (3) Upon the grant of authorization as provided in this subsection and except as may  
770 otherwise be determined by the commissioner, a nonresident distributor shall become a  
771 licensed distributor within the meaning of this chapter and shall be subject to all  
772 provisions of this chapter applicable to licensed distributors.

773 (b) Every nonresident manufacturer, importer, or distributor of cigars, cigarettes, ~~or~~ loose  
774 or smokeless tobacco, alternative nicotine products, or consumable vapor products making  
775 shipments of cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products,  
776 or consumable vapor products by common carrier or otherwise for their own account or for

777 the account of others to distributors or dealers of cigars, cigarettes, ~~or~~ loose or smokeless  
 778 tobacco, alternative nicotine products, or consumable vapor products located within this  
 779 state shall make reports of the shipments when and as required by rules and regulations of  
 780 the commissioner."

### 781 SECTION 3-5.

782 Said title is further amended by revising Code Section 48-11-6, relating to suspension,  
 783 refusal of renewal, and revocation of licenses, notice, procedures for hearings, appeals, and  
 784 effect of suspension or refusal to renew on other activities by commissioner, as follows

785 "48-11-6.

786 (a) For a violation of any provision of this chapter or of the rules and regulations made  
 787 pursuant to this chapter, Chapters 13 and 13A of Title 10 or of the rules and regulations  
 788 made pursuant to those chapters, or Article 7 of Chapter 12 of Title 16 or of the rules and  
 789 regulations made pursuant to that article, the ~~The~~ commissioner may ~~suspend~~, after notice  
 790 and an opportunity for a hearing, take any or all of the following actions in addition to  
 791 pursuing any other penalty authorized by law:

792 (1) Impose a fine not to exceed \$5,000.00 for each violation; or

793 (2) Suspend, place conditions or limitations upon, revoke, or refuse to renew a license  
 794 issued to any person under this chapter for violation of any provision of this chapter or  
 795 Chapters 13 and 13A of Title 10 or of the rules and regulations made pursuant to those  
 796 chapters. After notice and opportunity for hearing, the commissioner may revoke a  
 797 license issued to any person under this chapter for violation of any provision of this  
 798 chapter or of any rule or regulation of the commissioner made pursuant to this chapter or  
 799 Chapters 13 and 13A of Title 10 or of the rules and regulations made pursuant to those  
 800 chapters.

801 (b) Any person aggrieved by the suspension of or refusal to renew his or her license any  
 802 action taken by the commissioner under subsection (a) of this Code section may apply to  
 803 the commissioner for a hearing as provided in subsection (a) of Code Section 48-11-18;  
 804 and any person aggrieved by the any such action of the commissioner in revoking or  
 805 refusing to renew his or her license after a hearing may further appeal to the courts as  
 806 provided in subsection (b) of Code Section 48-11-18. No legal proceedings or other action  
 807 by the commissioner shall be barred or abated by the imposition of a fine or the suspension,  
 808 limitation, revocation, or expiration of any license issued under this chapter."

809

**SECTION 3-6.**

810

Said title is further amended by revising Code Section 48-11-10, relating to monthly reports of licensed distributors, contents, authority to require reports from common carriers, warehousemen, and others, and penalty for failure to file timely report, as follows:

811

812

813

"48-11-10.

814

(a) Every licensed distributor shall file with the commissioner, on or before the tenth day of each month, a report in the form prescribed by the commissioner disclosing:

815

816

(1) The quantity of cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or consumable vapor products on hand on the first and last days of the calendar month immediately preceding the month in which the report is filed;

817

818

819

(2) Information required by the commissioner concerning the amount of stamps, if any, purchased, used, and on hand during the report period; and

820

821

(3) Information otherwise required by the commissioner for the report period.

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(b) The commissioner may require other reports as the commissioner deems necessary for the proper administration of this chapter, including, but not limited to, reports from common carriers and warehousemen with respect to cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and consumable vapor products delivered to or stored at any point in this state.

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(c) Any person who fails to file any report when due shall forfeit as a penalty for each day after the due date until the report is filed the sum of \$25.00, to be collected in the manner provided in subsection (c) of Code Section 48-11-24 for the collection of penalties."

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**SECTION 3-7.**

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Said title is further amended by revising Code Section 48-11-11, relating to records of distributors and dealers; stock of tobacco products, inspection by commissioner and agents, and inspection of records of transportation companies, carriers, and warehouses, as follows:

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"48-11-11.

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(a) Each distributor and each dealer shall keep complete and accurate records of all cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and consumable vapor products manufactured, produced, purchased, and sold. The original records or a complete and legible photocopy or electronic image shall be safely preserved for three years in an appropriate manner to ensure permanency and accessibility for inspection by the commissioner and the commissioner's authorized agents. The commissioner and the commissioner's authorized agents may examine the books, papers, and records of any distributor or dealer in this state for the purpose of determining whether the tax imposed by this chapter has been fully paid and, for the purpose of determining whether the provisions of this chapter are properly observed, may investigate and examine the stock of

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845 cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or  
 846 consumable vapor products in or upon any premises, including, but not limited to, public  
 847 and private warehouses where the cigars, cigarettes, ~~or~~ loose or smokeless tobacco,  
 848 alternative nicotine products, or consumable vapor products ~~are~~ is possessed, stored, or  
 849 sold. Invoices sufficient to cover current inventory at a licensed location shall be  
 850 maintained at such licensed location and made available for immediate inspection. All  
 851 other records may be kept at a locality other than the licensed location and shall be  
 852 provided for inspection within two business days after receipt of notification from the  
 853 commissioner or an authorized agent of the commissioner to make such records available.  
 854 (b) The commissioner and ~~his or her~~ the commissioner's authorized agents may examine  
 855 the books, papers, and records of any transportation company, any common, contract, or  
 856 private carrier, and any public or private warehouse for the purpose of determining whether  
 857 the provisions of this chapter are properly observed."

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### SECTION 3-8.

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Said title is further amended by revising Code Section 48-11-18, relating to procedure for  
 860 hearing by persons aggrieved by action of commissioner, initiation of hearings by  
 861 commissioner, production of evidence, appeals, bond, grounds for not sustaining  
 862 commissioner's action, and costs, as follows:

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"48-11-18.

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(a) Any person aggrieved by any action of the commissioner or the commissioner's  
 865 authorized agent may apply to the commissioner, in writing within ten days after the notice  
 866 of the action is delivered or mailed to the commissioner, for a hearing. The application  
 867 shall set forth the reasons why the hearing should be granted and the manner of relief  
 868 sought. The commissioner shall notify the applicant of the time and place fixed for the  
 869 hearing. After the hearing, the commissioner may make an order as may appear to the  
 870 commissioner to be just and lawful and shall furnish a copy of the order to the applicant.  
 871 The commissioner at any time by notice in writing may order a hearing on the  
 872 commissioner's own initiative and require ~~the taxpayer or any other~~ person whom the  
 873 commissioner believes to be in possession of information, knowledge, or evidence  
 874 concerning any manufacture, importation, use, consumption, storage, or sale of cigars,  
 875 cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or consumable  
 876 vapor products which ~~has~~ have escaped taxation or are the subject of a violation of any  
 877 provision of this chapter or of the rules and regulations made pursuant to this chapter,  
 878 Chapters 13 and 13A of Title 10 or of the rules and regulations made pursuant to those  
 879 chapters, or Article 7 of Chapter 12 of Title 16 or of the rules and regulations made  
 880 pursuant to that article to appear for examination under oath before the commissioner or

881 the commissioner's duly authorized agent ~~with~~ and produce any specific books of account,  
 882 papers, or other documents ~~for examination under oath relative to the information or any~~  
 883 other evidence.

884 (b) Any person aggrieved because of any final action or decision of the commissioner,  
 885 after hearing, may appeal from the decision to the superior court of the county in which the  
 886 appellant resides. The appeal shall be returnable at the same time and shall be served and  
 887 returned in the same manner as required in the case of a summons in a civil action. The  
 888 authority issuing the citation shall, if appropriate based on the nature of the citation, take  
 889 from the appellant a bond of recognizance to the state, with surety, conditioned to  
 890 prosecute the appeal and to effect and comply with the orders and decrees of the court. The  
 891 action of the commissioner shall be sustained unless the court finds that the commissioner  
 892 misinterpreted this chapter or that there is no evidence to support the commissioner's  
 893 action. If the commissioner's action is not sustained, the court may grant equitable relief  
 894 to the appellant. Upon all appeals which are denied, costs may be taxed against the  
 895 appellant at the discretion of the court. No costs of any appeal shall be taxed against the  
 896 state."

897 **SECTION 3-9.**

898 Said title is further amended by revising Code Section 48-11-19, relating to powers and  
 899 duties of special agents and enforcement officers of department, bond, duties following  
 900 arrests, and retention of weapon and badge upon retirement, as follows:

901 "48-11-19.

902 (a) Each person appointed by the commissioner as a special agent or enforcement officer  
 903 of the department for the enforcement of the laws of this state with respect to the  
 904 manufacture, transportation, distribution, sale, possession, and taxation of cigars, cigarettes,  
 905 little cigars, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and consumable  
 906 vapor products shall have the authority throughout this state to:

- 907 (1) Obtain and execute warrants for arrest of persons charged with violations of such  
 908 laws;
- 909 (2) Obtain and execute search warrants in the enforcement of such laws;
- 910 (3) Arrest without warrant any person violating such laws in the officer's presence or  
 911 within such officer's immediate knowledge when there is likely to be a failure of  
 912 enforcement of such laws for want of a judicial officer to issue a warrant;
- 913 (4) Make investigations in the enforcement of such laws and, in connection with such  
 914 investigations, to go upon any property outside buildings, whether posted or otherwise,  
 915 in the performance of such officer's duties;

- 916 (5) Seize and take possession of all property which is declared contraband under such  
 917 laws; and
- 918 (6) Carry firearms while performing such officer's duties.
- 919 (b) Each special agent or enforcement officer shall file with the commissioner a public  
 920 official's bond in the amount of \$1,000.00, the cost of the bond to be borne by the  
 921 department. Nothing in this chapter shall be construed to relieve agents and officers, after  
 922 making an arrest, from the duties imposed generally to obtain a warrant promptly and to  
 923 return arrested persons without undue delay before a person authorized to examine,  
 924 commit, or receive bail as required by general law.
- 925 (c) After a special agent or enforcement officer has accumulated 25 years of service with  
 926 the department, upon leaving the department under honorable conditions, such special  
 927 agent or enforcement officer shall be entitled as part of such officer's compensation to  
 928 retain his or her weapon and badge pursuant to regulations promulgated by the  
 929 commissioner.
- 930 (d) As used in this subsection, the term 'disability' means a disability that prevents an  
 931 individual from working as a law enforcement officer. When a special agent or  
 932 enforcement officer leaves the department as a result of a disability arising in the line of  
 933 duty, such special agent or enforcement officer shall be entitled as part of such officer's  
 934 compensation to retain his or her weapon and badge in accordance with regulations  
 935 promulgated by the commissioner."

936 **SECTION 3-10.**

937 Said title is further amended by revising Code Section 48-11-27, relating to false entries on  
 938 invoices or records pursuant to chapter and penalty, as follows:

939 "48-11-27.

940 (a) It shall be unlawful for any person to:

- 941 (1) Make a false entry upon any invoices or any record relating to the purchase,  
 942 possession, or sale of cigars, cigarettes, or loose or smokeless tobacco, alternative  
 943 nicotine products, or consumable vapor products; or
- 944 (2) With intent to evade any tax imposed by this chapter, present any false entry upon  
 945 any such invoice or record for the inspection of the commissioner or the commissioner's  
 946 authorized agents.

947 (b) Any person who violates subsection (a) of this Code section shall be guilty of a  
 948 misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than  
 949 \$250.00 for each separate offense."

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**PART IV**

951

**SECTION 4-1.**

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Part I of this Act shall become effective on July 1, 2020. Part III of this Act shall become

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effective on September 1, 2020. This Act shall otherwise become effective upon its approval

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by the Governor or upon its becoming law without such approval.

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**SECTION 4-2.**

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All laws and parts of laws in conflict with this Act are repealed.