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HOUSE BILL NO. 293

INTRODUCED BY R. MARSHALL, S. GUNDERSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO ALTERNATIVE NICOTINE AND VAPOR PRODUCTS; ESTABLISHING THAT ALTERNATIVE NICOTINE AND VAPOR PRODUCTS ARE SEPARATE FROM TOBACCO REGULATIONS; PROVIDING DEFINITIONS; PROVIDING FOR LICENSURE AND FEES; PROVIDING RESTRICTIONS ON SALES TO PERSONS UNDER 18 AND ON CERTAIN OTHER SALES; PROVIDING FOR CIVIL PENALTIES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-1-111, 16-11-122, 16-11-302, 16-11-303, 16-11-304, 16-11-305, 16-11-306, 16-11-308, 16-11-309, 16-11-310, 16-11-311, 30-16-301, 45-5-623, AND 45-5-637, MCA; AND REPEALING SECTION 16-11-313, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** For the purposes of [sections 1 through 9], the following definitions apply:

(1) (a) "Alternative nicotine product" means any manufactured noncombustible product containing nicotine derived from tobacco that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. The term includes synthetic nicotine and synthetic nicotine products.

(b) The term does not include a tobacco product, a vapor product, or a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

(2) (a) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

1 (b) The term does not include a product regulated as a drug or device by the United States food
2 and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

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4 **NEW SECTION. Section 2. License -- fee -- renewal.** (1) A person may not sell alternative nicotine
5 products or vapor products at retail, whether over the counter, by vending machine, or otherwise, without a
6 license obtained from the department of revenue.

7 (2) A license for the retail sale of alternative nicotine products or vapor products may be obtained
8 from the department of revenue.

9 (3) An application for a license to sell either alternative nicotine products or vapor products must
10 be accompanied by a fee of \$20. The fee may be paid by credit card and may be discounted for payment
11 processing charges paid by the department to a third party. The fee collected by the department must be
12 deposited in the general fund.

13 (4) The license must be renewed annually on or before the anniversary date established by rule by
14 the board of review established in 30-16-302 and upon payment of the annual fee is effective for 1 year, without
15 proration, and is not transferable.

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17 **NEW SECTION. Section 3. Prohibition on sales to persons under 18 years of age -- signs.** (1) A
18 person may not sell or distribute an alternative nicotine product or vapor product to an individual under 18 years
19 of age, whether over the counter, by vending machine, or otherwise.

20 (2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of
21 a driver's license or other generally accepted identification that includes a picture of the individual.

22 (3) If the seller scans a person's government or tribal-issued identification, the seller shall handle
23 data and metadata from the scan in accordance with 16-3-313.

24 (4) A retail seller of alternative nicotine products or vapor products shall conspicuously display, at
25 each place on the premises at which alternative nicotine products or vapor products are displayed and sold, a
26 sign that is to be provided without charge by the department of revenue that states: "Montana law prohibits the
27 sale of alternative nicotine products and vapor products to persons under 18 years of age."

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