

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Overdorf offered the following:
3

4 **Amendment**

5 Remove lines 163-589 and insert:

6 means either:

7 (a) An application pursuant to 21 U.S.C. s. 387j for a
8 nicotine dispensing device containing or utilizing nicotine
9 derived from tobacco marketed in the United States as of August
10 8, 2016, which was submitted to the FDA on or before September
11 9, 2020, and accepted for filing; or

12 (b) An application pursuant to 21 U.S.C. s. 387j for a
13 nicotine dispensing device containing or utilizing nicotine
14 derived from a non-tobacco source that is not a single use or
15 disposable electronic cigarette, an electronic cigar, an
16 electronic cigarillo, an electronic pipe, or other similar

Amendment No. 1

17 device and that does not use a sealed, prefilled, and disposable
18 cartridge of nicotine in a solution.

19 (14) "Wholesale nicotine products dealer" means the holder
20 of a wholesale nicotine products dealer permit who purchases
21 nicotine dispensing devices or nicotine products from any
22 nicotine product manufacturer.

23 (15) "Wholesale nicotine products dealer permit" means a
24 permit issued by the division under s. 569.316.

25 (1)~~(9)~~ "Any person under the age of 21" does not include
26 any person under the age of 21 who:

27 (a) Is in the military reserve or on active duty in the
28 Armed Forces of the United States; or

29 (b) Is acting in his or her scope of lawful employment.

30 Section 1. Section 569.311, Florida Statutes, is created
31 to read:

32 569.311 Nicotine dispensing device directory.-

33 (1) By December 1, 2024, and annually thereafter, every
34 nicotine product manufacturer that sells nicotine dispensing
35 devices to any person for eventual retail sale in this state
36 shall execute and deliver a form, prescribed by the division,
37 under penalty of perjury for each such nicotine dispensing
38 device sold that meets either of the following criteria:

39 (a) The manufacturer of a nicotine dispensing device has
40 submitted a timely filed premarket tobacco product application
41 for the nicotine dispensing device pursuant to 21 U.S.C. s. 387j

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

42 and remains stayed by a court order, or the manufacturer has
43 filed a timely request for supervisory review with the FDA which
44 remains under review, or the order has been rescinded by the FDA
45 or vacated by a court; or

46 (b) The nicotine product manufacturer has received a
47 marketing granted order under 21 U.S.C. s. 387j for the nicotine
48 dispensing device from the FDA.

49 (2) The form prescribed by the division pursuant to
50 subsection (1) must require each nicotine product manufacturer
51 to set forth the name under which the nicotine product
52 manufacturer transacts or intends to transact business, the
53 address of the location of the nicotine product manufacturer's
54 principal place of business, the nicotine product manufacturer's
55 e-mail address, and the brand name of the nicotine dispensing
56 device, the device's category (e.g., e-liquid, power unit,
57 device, e-liquid cartridge, e-liquid pod, disposable), the
58 device's name, and any flavor utilized with the device that is
59 sold in this state. The division may allow a nicotine product
60 manufacturer to group its nicotine dispensing devices on its
61 certification.

62 (3) In addition to completing the form prescribed by the
63 division pursuant to subsection (1), each nicotine product
64 manufacturer shall provide a copy of the cover page of the
65 granted marketing order issued by the FDA pursuant to 21 U.S.C.
66 s. 387j for each device; a copy of the acceptance letter issued

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

67 by the FDA pursuant to 21 U.S.C. s. 387j for a timely filed
68 premarket tobacco product application for each device; or a
69 document issued by the FDA or by a court confirming that the
70 premarket tobacco product application has been received and
71 denied, but the order is not yet in effect for each device.

72 (4) Any nicotine product manufacturer submitting a
73 certification pursuant to subsection (1) shall notify the
74 division within 30 days after any material change to the
75 certification, including, but not limited to, issuance by the
76 FDA of any of the following:

77 (a) A denial of a market authorization pursuant to 21
78 U.S.C. s. 387j;

79 (b) An order requiring a nicotine product manufacturer to
80 remove a nicotine dispensing device or nicotine product from the
81 market either temporarily or permanently;

82 (c) Any notice of action taken by the FDA affecting the
83 ability of the nicotine dispensing device to be introduced or
84 delivered in this state for commercial distribution;

85 (d) Any change in policy which results in a nicotine
86 dispensing device becoming an FDA enforcement priority; or

87 (e) Any other change deemed material by the division
88 pursuant to a rule of the division.

89 (5) The division shall develop and maintain a directory
90 listing all nicotine product manufacturers that sell nicotine
91 dispensing devices in this state and the nicotine dispensing

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

92 devices certified by those manufacturers with the division which
93 comply with this section. The division shall make the directory
94 available January 1, 2025, on its or the Department of Business
95 and Professional Regulation's website. The division shall update
96 the directory as necessary. The division shall establish a
97 process to provide retailers, distributors, and wholesalers
98 notice of the initial publication of the directory and changes
99 made to the directory in the prior month.

100 (6) The division shall establish by rule a process to
101 provide a nicotine product manufacturer notice and an
102 opportunity to cure deficiencies before removing the
103 manufacturer or any of its nicotine dispensing devices from the
104 directory.

105 (a) The division may not remove the nicotine product
106 manufacturer or any of its nicotine dispensing devices from the
107 directory until at least 30 days after the nicotine product
108 manufacturer has been given notice of an intended action. Notice
109 is sufficient and deemed immediately received by a nicotine
110 product manufacturer if the notice is sent either electronically
111 or by facsimile to an e-mail address or facsimile number
112 provided by the nicotine product manufacturer in its most recent
113 certification filed under subsection (1).

114 (b) The nicotine product manufacturer has 15 days from the
115 date of service of the notice of the division's intended action
116 to establish that the nicotine product manufacturer or any of

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

117 its nicotine dispensing devices must be included on the
118 directory.

119 (c) A determination by the division not to include or to
120 remove a nicotine product manufacturer or nicotine dispensing
121 device from the directory is subject to review under chapter
122 120. If a nicotine product manufacturer seeks review of removal
123 from the directory, the division must keep the nicotine
124 dispensing device on the directory until entry of a final order.

125 (d) If a nicotine dispensing device is removed from the
126 directory, each retailer and each wholesaler holding nicotine
127 dispensing devices for eventual sale to a consumer in this state
128 has 30 days from the day such product is removed from the
129 directory to sell the product or remove the product from its
130 inventory. After 30 days following removal from the directory,
131 the product identified in the notice of removal is contraband
132 and subject to s. 569.345.

133 (7)(a) Except as provided in subsections (b) and (c),
134 beginning March 1, 2025, or on the date that the division first
135 makes the directory available for public inspection on its or
136 the Department of Business and Professional Regulation's
137 website, whichever is later, a nicotine product manufacturer
138 that offers for sale in this state a nicotine dispensing device
139 not listed on the directory is subject to a fine of \$1,000 per
140 day for each individual nicotine dispensing device offered for
141 sale in violation of this section until the offending product is

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

142 removed from the market or until the offending product is
143 properly listed on the directory.

144 (b) Each retailer shall have 60 days from the date that
145 the division first makes the directory available for inspection
146 on its public website to sell products that were in its
147 inventory and not included on the directory or remove those
148 products from inventory.

149 (c) Each distributor or wholesaler shall have 60 days from
150 the date that the division first makes the directory available
151 for inspection on its public website to remove from inventory
152 those products intended for eventual retail sale to a consumer
153 in this state.

154 (8) A nicotine product manufacturer that falsely
155 represents any of the information required by subsection (1) or
156 subsection (2) commits a felony of the third degree for each
157 false representation, punishable as provided in s. 775.082 or s.
158 775.083.

159 (9) Each retail nicotine products dealer and wholesale
160 nicotine products dealer is subject to unannounced inspections
161 or audit checks by the division for purposes of enforcing this
162 section. The division shall conduct unannounced follow-up
163 compliance checks of all noncompliant retail nicotine products
164 dealers or wholesale nicotine products dealers within 30 days
165 after any violation of this section. The division shall publish
166 the results of all inspections or audits at least annually and

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

167 shall make the results available to the public on request.

168 (10) The division may establish by rule a procedure to
169 allow nicotine product manufacturers to renew certifications
170 without having to resubmit all the information required by this
171 section.

172 (11) The failure of a nicotine product manufacturer to
173 provide information or documents required by this section may
174 result in a nicotine dispensing device not being included on the
175 directory or the removal of a nicotine dispensing device from
176 the directory. The division may assess an administrative fine of
177 up to \$1,000 for each nicotine dispensing device offered for
178 sale in this state if a nicotine product manufacturer fails to
179 provide notice to the division of a material change to its
180 certification within 30 days after that material change. The
181 division shall deposit all fines collected into the General
182 Revenue Fund. An order imposing an administrative fine becomes
183 effective 15 days after the date of the order.

184 Section 2. Section 569.312, Florida Statutes, is created
185 to read:

186 569.312 Maintenance and inspection of nicotine dispensing
187 device records.—

188 (1) Each nicotine product manufacturer that sells nicotine
189 dispensing devices in this state shall maintain and keep for a
190 period of 3 years, at the address listed on the certification
191 required pursuant to s. 569.311, a complete and accurate record

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

192 of the number of nicotine dispensing devices sold or delivered
193 to a wholesaler in this state and to which each nicotine
194 dispensing device was sold on a wholesale basis, including the
195 business name, license number, shipping and business addresses,
196 e-mail address, and telephone number for the person or entity to
197 which each product was sold. Such records may be kept in an
198 electronic or paper format.

199 (2) Each retail nicotine products dealer; wholesale
200 nicotine product dealer; wholesale dealer, as defined in s.
201 210.01(6); and distributing agent, as defined in s. 210.01(14),
202 shall maintain and keep for a period of 3 years at its principal
203 place of business a complete and accurate record of the quantity
204 of each nicotine dispensing device received, delivered, or sold
205 in this state and to which each nicotine dispensing device was
206 sold or delivered or from which the business received each
207 nicotine dispensing device, including the business name, license
208 number, shipping and business addresses, e-mail address, and
209 telephone number for the person or entity to which each product
210 was sold or delivered or from which each product was received.
211 Such records may be kept in an electronic or paper format.

212 (3) Nicotine product manufacturers that sell nicotine
213 dispensing devices in this state; retail nicotine products
214 dealers; wholesale nicotine products dealers; wholesale dealers,
215 as defined in s. 210.01(6); and distributing agents, as defined
216 in s. 210.01(14), who sell or deliver nicotine dispensing

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

217 devices directly to consumers are not required to keep and
218 maintain the name, address, e-mail address, and telephone number
219 of consumers who purchase or receive nicotine dispensing
220 devices.

221 (4) Within 7 calendar days after receiving a request by
222 the division, a nicotine product manufacturer that sells
223 nicotine dispensing devices in this state, including a
224 manufacturer selling nicotine dispensing devices directly to
225 consumers; a retail nicotine products dealer; a wholesale
226 nicotine products dealer; a wholesale dealer, as defined in s.
227 210.01(6); and a distributing agent, as defined in s.
228 210.01(14), shall provide to the division or its duly authorized
229 representative copies of records related to the nicotine
230 dispensing devices received, delivered, or sold in this state
231 and to which those nicotine dispensing devices were sold or
232 delivered or from which they were received.

233 (5) The division, or a designated employee thereof, may
234 examine the records required to be maintained by each nicotine
235 product manufacturer, retail nicotine products dealer, wholesale
236 nicotine products dealer, wholesale dealer, as defined in s.
237 210.01(6), and distributing agent, as defined in s. 210.01(14);
238 issue subpoenas to such persons or entities; administer oaths;
239 and take depositions of witnesses within or outside of this
240 state. The civil law of this state regarding enforcing obedience
241 to a subpoena lawfully issued by a judge or other person duly

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

242 authorized to issue subpoenas under the laws of this state in
243 civil cases applies to a subpoena issued by the division, or any
244 designated employee thereof. The subpoena may be enforced by
245 writ of attachment issued by the division, or any designated
246 employee, for such witness to compel him or her to appear before
247 the division, or any designated employee, and give his or her
248 testimony and to bring and produce such records as may be
249 required for examination. The division, or any designated
250 employee, may bring an action against a witness who refuses to
251 appear or give testimony by citation before the circuit court,
252 which shall punish such witness for contempt as in cases of
253 refusal to obey the orders and process of the circuit court. The
254 division may in such cases pay such attendance and mileage fees
255 as are permitted to be paid to witnesses in civil cases
256 appearing before the circuit court.

257 (6) The division may assess an administrative fine of up
258 to \$1,000 for each violation of this section. The division shall
259 deposit all fines collected into the General Revenue Fund. An
260 order imposing an administrative fine becomes effective 15 days
261 after the date of the order.

262 Section 3. Section 569.313, Florida Statutes, is created
263 to read:

264 569.313 Shipment of unregistered nicotine dispensing
265 devices sold for retail sale in this state.-

266 (1) A nicotine product manufacturer may not sell, ship, or

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

267 otherwise distribute a nicotine dispensing device in this state
268 for eventual retail sale to a consumer in this state for which:

269 (a) The FDA has entered an order requiring the nicotine
270 product manufacturer to remove the product from the market
271 either temporarily or permanently, which order has not been
272 stayed by the FDA or a court of competent jurisdiction, the
273 manufacturer has filed a timely request for supervisory review
274 with the FDA which remains under review, or the order has been
275 rescinded by the FDA or vacated by a court;

276 (b) The nicotine product manufacturer has not submitted a
277 timely filed premarket tobacco product application for the
278 nicotine dispensing device;

279 (c) The nicotine product manufacturer's timely filed
280 premarket tobacco product application for the nicotine
281 dispensing device is no longer pending because it was not
282 accepted by the FDA, it was denied by the FDA, or it is subject
283 to any other order or action by the FDA or any court that
284 negatively affects the ability of the product to be introduced
285 or delivered into interstate commerce for commercial
286 distribution in the United States; or

287 (d) The nicotine product manufacturer has not submitted
288 the certification required under this chapter for any of the
289 nicotine dispensing devices intended for eventual retail sale to
290 a consumer in this state.

291 (2) Any person who knowingly ships or receives nicotine

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

292 dispensing devices in violation of this section commits a
293 misdemeanor of the first degree, punishable as provided in s.
294 775.082 or s. 775.083.

295 (3) The division may also assess an administrative fine of
296 up to \$5,000 for each violation. The division shall deposit all
297 finances collected into the General Revenue Fund. An order imposing
298 an administrative fine becomes effective 15 days after the date
299 of the order.

300 Section 4. Section 569.316, Florida Statutes, is created
301 to read:

302 569.316 Wholesale nicotine products dealer permits;
303 application; qualifications; renewal; duplicates.-

304 (1)(a) Each person, firm, association, or corporation that
305 seeks to deal, at wholesale, in nicotine products that will be
306 sold at retail within this state, or to sell nicotine products
307 or nicotine dispensing devices to any retail nicotine products
308 dealer who intends to sell those nicotine products in this
309 state, must obtain a wholesale nicotine products dealer permit
310 for each place of business or premises at which nicotine
311 products are sold.

312 (b) Application for a wholesale nicotine products dealer
313 permit must be made on a form furnished by the division and must
314 set forth the name under which the applicant transacts or
315 intends to transact business, the address of the location of the
316 applicant's place of business, the applicant's e-mail address,

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

317 and any other information the division requires. If the
318 applicant has or intends to have more than one place of business
319 dealing in nicotine products or nicotine dispensing devices, a
320 separate application must be made for each place of business. If
321 the applicant is a firm or an association, the application must
322 set forth the names, e-mail addresses, and addresses of the
323 persons constituting the firm or association. If the applicant
324 is a corporation, the application must set forth the names, e-
325 mail addresses, and addresses of the principal officers of the
326 corporation. The application must also set forth any other
327 information prescribed by the division for the purpose of
328 identifying the applicant firm, association, or corporation. The
329 application must be signed and verified by oath or affirmation
330 by the owner, if a sole proprietor; if the owner is a firm,
331 association, or partnership, by the members or partners thereof;
332 or, if the owner is a corporation, by an executive officer of
333 the corporation or by a person authorized by the corporation to
334 sign the application, together with the written evidence of this
335 authority.

336 (2) (a) Wholesale nicotine products dealer permits may be
337 issued only to persons who are 21 years of age or older or to
338 corporations the officers of which are 21 years of age or older.

339 (b) The division may refuse to issue a wholesale nicotine
340 products dealer permit to any person, firm, association, or
341 corporation whose permit has been revoked by any jurisdiction;

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

342 to any corporation an officer of which has had such permit
343 revoked by any jurisdiction; or to any person who is or has been
344 an officer of a corporation whose permit has been revoked by any
345 jurisdiction. The division must revoke any wholesale nicotine
346 products dealer permit issued to a firm, an association, or a
347 corporation prohibited from obtaining such permit under this
348 chapter.

349 (3) Upon approval of an application for a wholesale
350 nicotine products dealer permit, the division shall issue to the
351 applicant a wholesale nicotine products dealer permit for the
352 place of business or premises specified in the application. A
353 wholesale nicotine products dealer permit is not assignable and
354 is valid only for the person in whose name the wholesale
355 nicotine products dealer permit is issued and for the place
356 designated in the wholesale nicotine products dealer permit. The
357 wholesale nicotine products dealer permit must be conspicuously
358 displayed at all times at the place for which it is issued.

359 (4) A wholesale dealer, as defined in s. 210.01(6), or a
360 distributing agent, as defined in s. 210.01(14), is not required
361 to have a separate or additional wholesale nicotine products
362 dealer permit to deal, at wholesale, in nicotine dispensing
363 devices within this state. A wholesale dealer, as defined in s.
364 210.01(6), a distributing agent, as defined in s. 210.01(14), or
365 a tobacco products distributor, as defined in s. 210.25(5),
366 which deals, at wholesale, in nicotine dispensing devices is

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

367 subject to, and must be in compliance with, this chapter.

368 Section 5. Section 569.317, Florida Statutes, is created
369 to read:

370 569.317 Wholesale nicotine products dealer permitholder;
371 administrative penalties.—A wholesale nicotine products dealer
372 permitholder may only purchase and sell for retail sale in this
373 state nicotine dispensing devices contained on the directory
374 created by the division pursuant to s. 569.311. The division may
375 suspend or revoke the wholesale nicotine products dealer permit
376 of a wholesale nicotine products dealer permitholder upon
377 sufficient cause appearing of a violation of this part by a
378 wholesale nicotine products dealer permitholder or its agent or
379 employee. The division may also assess an administrative fine of
380 up to \$5,000 for each violation. The division shall deposit all
381 finances collected into the General Revenue Fund. An order imposing
382 an administrative fine becomes effective 15 days after the date
383 of the order. The division may suspend the imposition of a
384 penalty against a wholesale nicotine products dealer
385 permitholder, conditioned upon compliance with terms the
386 division considers appropriate.

387 Section 6. Section 569.32, Florida Statutes, is amended to
388 read:

389 569.32 Retail nicotine products dealer permits;
390 application; qualifications; renewal; duplicates.—

391 (1) (a) Each person, firm, association, or corporation that

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

392 seeks to deal, at retail, in nicotine products or nicotine
393 dispensing devices within this ~~the~~ state, or to allow a nicotine
394 products vending machine to be located on its premises in this
395 ~~the~~ state, must obtain a retail nicotine products dealer permit
396 for each place of business or premises at which nicotine
397 products or nicotine dispensing devices are sold. Each dealer
398 owning, leasing, furnishing, or operating vending machines
399 through which nicotine products are sold must obtain a permit
400 for each machine and shall post the permit in a conspicuous
401 place on or near the machine; however, if the dealer has more
402 than one vending machine at a single location or if nicotine
403 products or nicotine dispensing devices are sold both over the
404 counter and through a vending machine at a single location, the
405 dealer need obtain only one permit for that location.

406 (b) Application for a permit must be made on a form
407 furnished by the division and must set forth the name under
408 which the applicant transacts or intends to transact business,
409 the address of the location of the applicant's place of business
410 within this ~~the~~ state, and any other information the division
411 requires. If the applicant has or intends to have more than one
412 place of business dealing in nicotine products or nicotine
413 dispensing devices within this ~~the~~ state, a separate application
414 must be made for each place of business. If the applicant is a
415 firm or an association, the application must set forth the names
416 and addresses of the persons constituting the firm or

PCS for CSHB 1007 a1

Published On: 2/21/2024 8:43:00 PM

Amendment No. 1

417 association; if the applicant is a corporation, the application
418 must set forth the names and addresses of the principal officers
419 of the corporation. The application must also set forth any
420 other information prescribed by the division for the purpose of
421 identifying the applicant firm, association, or corporation. The
422 application must be signed and verified by oath or affirmation
423 by the owner, if a sole proprietor; or, if the owner is a firm,
424 association, or partnership, by the members or partners thereof;
425 or, if the owner is a corporation, by an executive officer of
426 the corporation or by a person authorized by the corporation to
427 sign the application, together with the written evidence of this
428 authority.

429 (c) Permits must be issued annually.

430 (d) The holder of a permit may renew the permit each year.

431 A dealer that does not timely renew its permit must pay a late
432 fee of \$5 for each month or portion of a month occurring after
433 expiration, and before renewal, of the dealer's permit. The
434 division shall establish by rule a renewal procedure.