

1 HB373
2 172949-1
3 By Representatives Coleman, Scott, Robinson, Ford, Black,
4 Jackson, Melton, Clarke, Forte, Drummond, Lindsey, Lawrence,
5 Daniels, England, McClammy, Grimsley, Moore (M), Todd,
6 Alexander, McCampbell, Rogers and Beech
7 RFD: Health
8 First Read: 08-MAR-16

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8 SYNOPSIS: Existing law does not require warnings on
9 e-cigarette advertising about the dangers of
10 nicotine.

11 This bill would require all e-cigarette
12 advertising, with certain exceptions, to include
13 certain warnings about the dangers of nicotine.

14 This bill would impose criminal penalties.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.

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9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to the advertising of e-cigarettes; to
14 require certain warnings; to impose criminal penalties; and in
15 connection therewith to have as its purpose or effect the
16 requirement of a new or increased expenditure of local funds
17 within the meaning of Amendment 621 of the Constitution of
18 Alabama of 1901, now appearing as Section 111.05 of the
19 Official Recompilation of the Constitution of Alabama of 1901,
20 as amended.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. For the purposes of this act, the
23 following terms shall have the following meanings:

24 (1) ADVERTISING. Any paid advertisement or
25 communication appearing in any print media or broadcast on any
26 electronic media.

1 (2) E-CIGARETTE. An electronic cigarette or similar
2 device that operates on batteries and converts liquid nicotine
3 into a vapor that is inhaled in the same way as smoke from a
4 cigarette.

5 Section 2. (a) It shall be unlawful for any person
6 to broadcast, publish, or circulate any advertising for an
7 e-cigarette without a notice appearing on the printed matter
8 with a clear and unmistakable warning that the e-cigarette
9 contains nicotine, which may be addictive, or on the broadcast
10 at the beginning, during, or end of a radio or television
11 spot, stating a warning that the e-cigarette contains
12 nicotine, which may be addictive.

13 (b) This section does not apply if the advertising
14 is:

15 (1) Designed to be worn by a person.

16 (2) Placed as a paid link on an Internet website,
17 provided the advertising is no more than 200 characters in
18 length and the link directs the user to another Internet
19 website that complies with subsection (a).

20 (3) Placed as a graphic or picture link where
21 compliance with subsection (a) is not reasonably practical due
22 to the size of the graphic or picture link and the link
23 directs the user to another Internet website that complies
24 with subsection (a).

25 (4) Placed at no cost on an Internet website for
26 which there is no cost to post content for public users.

1 (5) Placed or distributed on an unpaid profile
2 account which is available to the public without charge or on
3 a social networking Internet website, as long as the source of
4 the advertising is patently clear from the content or format
5 of the advertising.

6 (6) Distributed as a text message or other message
7 via Short Message Service, provided the message is no more
8 than 200 characters in length or requires the recipient to
9 sign up or opt in to receive the message.

10 (7) Connected with or included in any software
11 application or accompanying function, provided that the user
12 signs up, opts in, downloads, or otherwise accesses the
13 application from or through a website that complies with
14 subsection (a).

15 (8) Sent by a third-party user from a website,
16 provided the website complies with subsection (a).

17 (9) Contained in or distributed through any other
18 technology related item, service, or device, for which
19 compliance with subsection (a) is not reasonably practical due
20 to the size or nature of the item, service, or device as
21 available, or the means of displaying the advertising makes
22 compliance with subsection (a) impracticable.

23 (c) Any person who intentionally violates this act
24 shall be guilty of a Class A misdemeanor.

25 Section 3. Although this bill would have as its
26 purpose or effect the requirement of a new or increased
27 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now
2 appearing as Section 111.05 of the Official Recompilation of
3 the Constitution of Alabama of 1901, as amended, because the
4 bill defines a new crime or amends the definition of an
5 existing crime.

6 Section 4. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.