SB95

WRUPEE5-1

By Senators Figures, Kelley, Coleman, Stewart, Jones, Smitherman, Carnley, Kitchens, Waggoner, Hovey, Williams, Butler, Allen, Price, Chesteen, Albritton, Stutts, Sessions, Weaver, Givhan, Bell, Elliott, Livingston, Reed, Barfoot, Gudger, Melson, Shelnutt, Beasley, Chambliss, Coleman-Madison, Singleton, Hatcher, Orr, Roberts

RFD: Judiciary

First Read: 13-Feb-24

SYNOPSIS:

Under existing law, it unlawful for an individual under 21 years of age to possess any tobacco, tobacco product, alternative nicotine product, or electronic nicotine delivery system, or false proof of identification.

This bill would specify that an individual under 21 years of age commits a violation for the possession of an electronic nicotine delivery system or other electronic battery-powered device capable of producing a vapor upon inhalation, without regard to which particular e-liquid or other substance, if any, was contained or otherwise used in the device.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds

within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL

TO BE ENTITLED

AN ACT

Relating to vaping devices; to amend Section 28-11-13, Code of Alabama 1975, to further provide prohibitions on the possession of an electronic nicotine delivery system by individuals under 21 years of age; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 28-11-13, Code of Alabama 1975, is amended to read as follows:

"§28-11-13

(a)(1) It is unlawful for any individual under ~~the age of~~ 21 years of age to purchase, use, possess, or transport tobacco, a tobacco product, an electronic nicotine delivery system or other electronic battery-powered device capable of being used to deliver any e-liquid, e-liquid substitute, tobacco, CBD oil, THC oil, herbal extract, or nicotine salt,

or any analog thereof, or any other substance to the individual through the inhalation of vapor, or an alternative nicotine product within this state.

(2) For purposes of this subsection, a violation is committed upon mere possession of an electronic nicotine delivery system or other electronic battery-powered device as described in subdivision (1), irrespective of which particular e-liquid or other substance, if any, was contained or otherwise used in the device.

(b) It shall not be unlawful for an individual under ~~the age of~~ 21 years of age who is an employee of a tobacco, tobacco product, electronic nicotine delivery system, or alternative nicotine product permit holder to handle, transport, or sell tobacco, a tobacco product, an electronic nicotine delivery system, or an alternative tobacco product if the employee is acting within the line and scope of employment and the permit holder, or an employee of the permit holder who is 21 years of age or older, is present.

~~(b)~~(c) It is unlawful for any individual under ~~the age of~~ 21 years of age to present or offer to another person proof of identification ~~which~~that is false, fraudulent, or not actually his or her own proof of identification in order to buy, receive, or otherwise obtain, or attempt to buy, receive, or otherwise obtain, any tobacco, tobacco product, electronic nicotine delivery system, or alternative nicotine product.

~~(c)~~(d) If a minor is cited for any violation under this section, the citing agency shall make reasonable efforts to notify a parent, legal guardian, or legal custodian of the

minor unless the minor has been emancipated by court order or operation of law."

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective on October 1, 2024.