

Article 4.

Department of Revenue.

Part 1. General Provisions.

§ 143B-217. Department of Revenue – creation.

There is hereby recreated and reestablished a department to be known as the "Department of Revenue" with the organization, duties, functions, and powers defined in the Executive Organization Act of 1973. (1973, c. 476, s. 184.)

§ 143B-218. Department of Revenue – duties.

It shall be the duty of the Department to collect and account for the State's tax funds, to insure uniformity of administration of the tax laws and regulations, to conduct research on revenue matters, and to exercise general and specific supervision over the valuation and taxation of property throughout the State. (1973, c. 476, s. 185; 1981, c. 859, s. 81; c. 1127, s. 53.)

§ 143B-218.1: Recodified as § 105-256(a)(6) by Session Laws 2001-414, s. 25.

§ 143B-219. Department of Revenue – functions.

(a) The functions of the Department of Revenue shall comprise, except as otherwise expressly provided by the Executive Organization Act of 1973 or by the Constitution of North Carolina, all executive functions of the State in relation to revenue collection, tax research, tax settlement, and property tax supervision including those prescribed powers, duties and functions enumerated in Article 16 of Chapter 143A of the General Statutes of this State.

(b) All functions, powers, duties, and obligations heretofore vested in any agency enumerated in Article 16 of Chapter 143A of the General Statutes are hereby transferred to and vested in the Department of Revenue, except as otherwise provided by the Executive Organization Act of 1973. They shall include, by way of extension and not of limitation, the functions of:

- (1) The Commissioner and Department of Revenue,
- (2) The Department of Tax Research, and
- (3) The State Board of Assessment. (1973, c. 476, s. 186; 1981, c. 859, s. 82; c. 1127, s. 53.)

§ 143B-220. Department of Revenue – head.

The Secretary of Revenue shall be the head of the Department. (1973, c. 476, s. 187.)

§ 143B-221: Repealed by Session Laws 2001-414, s. 47.

Part 2. Property Tax Commission.

§§ 143B-222 through 143B-225: Repealed by Session Laws 1991, c. 110, s. 3.

§ 143B-226: Reserved for future codification purposes.

§ 143B-227: Reserved for future codification purposes.

§ 143B-228: Reserved for future codification purposes.

§ 143B-229: Reserved for future codification purposes.

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- § 143B-245.1: Reserved for future codification purposes.
- § 143B-245.2: Reserved for future codification purposes.
- § 143B-245.3: Reserved for future codification purposes.
- § 143B-245.4: Reserved for future codification purposes.
- § 143B-245.5: Reserved for future codification purposes.
- § 143B-245.6: Reserved for future codification purposes.
- § 143B-245.7: Reserved for future codification purposes.

§ 143B-245.8: Reserved for future codification purposes.

§ 143B-245.9: Reserved for future codification purposes.

Part 3. Certification and Directory of Vapor Products and Consumable Products.

§ 143B-245.10. Definitions.

The following definitions apply throughout this Part:

- (1) Alternative nicotine product. – As defined in G.S. 14-313(a)(1).
- (2) Consumable product. – As defined in G.S. 14-313(a)(1a).
- (3) Distribute. – As defined in G.S. 14-313(a)(1b).
- (4) FDA. – As defined in G.S. 14-313(a)(1c).
- (5) Secretary. – The Secretary of the Department of Revenue.
- (6) Timely Filed Premarket Tobacco Product Application. – As defined in G.S. 14-313(a)(3c).
- (7) Tobacco product. – As defined in G.S. 14-313(a)(4).
- (8) Vapor product. – As defined in G.S. 14-313(a)(5). (2024-31, s. 2(b).)

§ 143B-245.11. Certification process.

(a) Certification. – Beginning March 1, 2025, and annually thereafter, every manufacturer of vapor products and consumable products sold for retail sale in this State, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the Secretary, a certification to the Secretary under penalty of perjury, of the following:

- (1) The manufacturer received an order granted pursuant to 21 U.S.C. § 387j(c) (marketing granted order) for the vapor product or consumable product from the FDA.
- (2) The manufacturer submitted a Timely Filed Premarket Tobacco Product Application as defined in G.S. 14-313(a)(3c) for the vapor product or consumable product; and the application either remains under review by the FDA or has received a denial order that has been and remains stayed by the FDA or court order, rescinded by the FDA, or vacated by a court.
- (3) The manufacturer is exempt from the requirements of subdivision (1) or (2) of this subsection because the vapor product or consumable product only reflects changes to the name, brand style, or packaging of a vapor product or consumable product.

(b) Requirements for Manufacturers; Fees. – In addition to the requirements contained in subsection (a) of this section, each manufacturer shall provide to the Secretary the following:

- (1) For each vapor product and consumable product offered by the manufacturer, a copy of (i) the marketing granted order issued by the FDA pursuant to 21 U.S.C. § 387j; (ii) a copy of the acceptance letter issued by the FDA pursuant to 21 U.S.C. § 387j for a Timely Filed Premarket Tobacco Product Application; or (iii) a document issued by the FDA or by a court confirming that the premarket tobacco product application has received a denial order that is not yet in effect; and

(2) An initial fee of two thousand dollars (\$2,000) to offset the costs incurred by the Department of Revenue for processing the certifications and operating the directory and an annual renewal fee of five hundred dollars (\$500.00) each year on March 1 to offset the costs associated with maintaining the directory and satisfying the requirements of this section for each consumable product or vapor product to be listed in the directory.

(c) Certification Form. – The certification form shall separately list each brand name, category (e.g., e-liquid, power unit, device, e-liquid cartridge, e-liquid pod, disposable), product name, and flavor for each consumable product or vapor product that is sold in this State.

(d) Confidentiality. – The information submitted by the manufacturer pursuant to subsections (a) and (b) of this section shall be considered confidential commercial or financial information for purposes of G.S. 132-1.2. The manufacturer may redact certain confidential commercial or financial information provided under subsection (a) of this section. The Secretary shall not disclose such information except as required or authorized by law.

(e) Notification of Material Changes to the Certification. – Any manufacturer submitting a certification pursuant to subsections (a) and (b) of this section shall notify the Secretary as soon as practicable but not later than 30 days of any material change to the certification, including the issuance or denial of a marketing authorization or other order by the FDA pursuant to 21 U.S.C. § 387j, or any other order or action by the FDA or any court that affects the ability of the consumable product or vapor product to be introduced or delivered into interstate commerce for commercial distribution in the United States. (2024-31, s. 2(b).)

§ 143B-245.12. Public directory.

(a) Development and Maintenance of Directory. – Beginning on May 1, 2025, the Secretary shall develop, maintain, and make publicly available on the Secretary's public website a directory listing all manufacturers of consumable products or vapor products that have provided certifications that comply with G.S. 143B-245.11(a) and (b) and all product names, brand names, categories (e.g., e-liquid, e-liquid cartridge, e-liquid pod, disposable), and flavors for which certifications have been submitted and approved by the Secretary. The Secretary shall update the directory at least monthly to ensure accuracy. The Secretary shall establish a process to provide licensed retailers, distributors, and wholesalers notice of the initial publication of the directory and changes made to the directory in the prior month.

(b) Exclusion from the Directory. – No manufacturer or the manufacturer's consumable products or vapor products shall be included or retained in the directory if the Secretary determines that any of the following apply:

- (1) The manufacturer failed to provide a complete and accurate certification as required by G.S. 143B-245.11(a) and (b).
- (2) The manufacturer submitted a certification that does not comply with the requirements of G.S. 143B-245.11(c).
- (3) The manufacturer failed to include with its certification the payment required by G.S. 143B-245.11(b).
- (4) The manufacturer sold products in North Carolina required to be certified under this Part during a period when either the manufacturer or the product had not been certified and listed on the directory.

- (5) The information provided by the manufacturer in its certification is determined by the Secretary to contain false information or contains material misrepresentations or omissions.
- (c) Removal from the Directory. – The Secretary shall provide the manufacturer notice and an opportunity to cure deficiencies before removing the manufacturer or products from the directory.
- (1) The Secretary may not remove the manufacturer or its products from the directory until at least 30 days after the manufacturer has been given notice of an intended action. Notice shall be sufficient and be deemed immediately received by a manufacturer if the notice is sent either electronically or by facsimile to an electronic mail address or facsimile number, as the case may be, provided by the manufacturer in its most recent certification filed under G.S. 143B-245.11(a).
 - (2) The manufacturer shall have 15 business days from the date of service of the notice of the Secretary's intended action to establish that the manufacturer of consumable products or vapor products should be included in the directory.
 - (3) Retailers shall have 30 days following the removal of a manufacturer or its products from the directory to sell such products that were in the retailer's inventory as of the date of removal or remove those products from inventory and return them to the distributor or wholesaler from whom the products were purchased for a refund.
 - (4) After 30 days following removal from the directory, the consumable product or vapor product of a manufacturer identified in the notice of removal and intended for retail sale in North Carolina may not be purchased or sold for retail sale in North Carolina.
 - (5) A determination by the Secretary to not include or to remove from the directory a manufacturer or a manufacturer's product shall be subject to review by the filing of a civil action for prospective declaratory or injunctive relief. (2024-31, s. 2(b).)

§ 143B-245.13. Retail sale of consumable products and vapor products.

(a) Products Prohibited from Retail Sale. – Except as provided in subdivisions (1) and (2) of this subsection, beginning May 1, 2025, or on the date that the Department of Revenue first makes the directory available for public inspection on its public website as provided in G.S. 143B-245.12(a), whichever is later, consumable products or vapor products not included in the directory may not be sold for retail sale in North Carolina, either directly or through an importer, distributor, wholesaler, retailer, or similar intermediary or intermediaries. [The following applies:]

- (1) Each retailer shall have 60 days from the date that the Secretary first makes the directory available for inspection on its public website to sell products that were in its inventory and not included in the directory or remove those products from inventory and return them to the distributor or wholesaler from whom the products were purchased for a refund.
- (2) Each distributor or wholesaler shall have 60 days from the date that the Secretary first makes the directory available for inspection on its public website

to remove those products intended for ultimate retail sale in the State from its inventory.

- (3) After 60 calendar days following publication of the directory, consumable products or vapor products not listed in the directory and intended for retail sale in North Carolina may not be purchased or sold for retail sale in North Carolina except as provided in G.S. 143B-245.12(c).
- (b) Reserved for future codification purposes. (2024-31, s. 2(b).)

§ 143B-245.14. Agent for service of process.

- (a) Registered Agent. – The following conditions apply:
 - (1) A manufacturer not registered to do business in the State shall, as a condition precedent to having its name or its products listed and retained in the directory, appoint and continually engage without interruption a registered agent in this State for service of process on whom all process and any action or proceeding arising out of the enforcement of this Part or G.S. 14-313(g) and (h) may be served. The manufacturer shall provide to the Secretary the name, address, and telephone number of its agent for service of process and shall provide any other information relating to its agent as may be requested by the Secretary.
 - (2) A manufacturer located outside of the United States shall, as an additional condition precedent to having its products listed or retained in the directory, cause each of its importers of any of its products to be sold in the State to appoint, and continually engage without interruption, the services of an agent in the State in accordance with the provisions of this section. All obligations of a manufacturer imposed by this section with respect to appointment of its agent shall also apply to the importers with respect to appointment of their agents.
 - (3) A manufacturer shall provide written notice to the Secretary 30 calendar days prior to the termination of the authority of an agent appointed pursuant to subdivisions (1) and (2) of this subsection. No less than five calendar days prior to the termination of an existing agent appointment, a manufacturer shall provide to the Secretary the name, address, and telephone number of its newly appointed agent for service of process and shall provide any other information relating to the new appointment as may be requested by the Secretary. In the event an agent terminates an agency appointment, the manufacturer shall notify the division of the termination within five calendar days and shall include proof to the satisfaction of the division of the appointment of a new agent.
- (b) Reserved for future codification purposes. (2024-31, s. 2(b).)

§ 143B-245.15. Compliance.

(a) Unannounced Compliance Check. – Each retailer, distributor, and wholesaler that sells or distributes consumable products or vapor products in this State shall be subject to unannounced compliance checks by the Secretary or its designee, which may include State and local law enforcement officials, for purposes of enforcing this Part. Unannounced follow-up compliance checks of all noncompliant retailers, distributors, and wholesalers shall be conducted within 30 days after any violation of this Part. [The following applies:]

- (1) Any person who observes a violation described in G.S. 143B-245.13 may alert the Secretary of such violation, and the Secretary shall cause an unannounced compliance check to occur with respect to the person alleged to be in violation.
 - (2) The Secretary shall publish the results of all compliance checks at least annually and shall make the results available to the public on request.
- (b) Reserved for future codification purposes. (2024-31, s. 2(b).)

§ 143B-245.16. Rules; use of fees; report.

(a) Rules. – The Secretary shall adopt rules for the implementation and enforcement of this Part.

(b) Use of Fees and Penalties. – The fees received under this Part and the penalties collected under G.S. 14-313(h) by the Department of Revenue shall be used by the Department of Revenue exclusively for processing the certifications, operating and maintaining the directory, and enforcement of this Part.

(c) Report. – Beginning on January 31, 2026, and annually thereafter, the Secretary shall provide a report to the legislature regarding the status of the directory, manufacturers and products included in the directory, revenue and expenditures related to administration of this section [Article], and enforcement activities undertaken pursuant to this section [Article], including the number of stores that have been inspected and the results from such inspections. (2024-31, s. 2(b).)