

March 1, 2022

NOTICE

(Please share this information with ENDS manufacturers or suppliers)

TO: All Electronic Nicotine Delivery System (ENDS) Manufacturers, Wholesalers, Retailers, Jobbers, Semijobbers, Retailers and Importers

SUBJECT: Update on Electronic Nicotine Delivery System (ENDS) Certifications and Directory

Submitting Certification

On February 1, 2022, the Alabama Department of Revenue (ALDOR) mailed a notice concerning the new Electronic Nicotine Delivery System (ENDS) certifications and directory referenced in Act 2021-453, which may be viewed at <https://revenue.alabama.gov/business-license/tobacco-tax/>. Beginning March 1, 2022, e-liquid manufacturers and manufacturers of alternative nicotine products who want their approved products to appear on the Directory must submit the required certification to ALDOR via My Alabama Taxes (MAT) at <https://myalabamataxes.alabama.gov/>. To submit the certifications, click on the “Register a business/Obtain a new tax account number” hyperlink in the “Businesses” section. Certifications along with a \$2,000 application fee must be submitted electronically via MAT by April 30, 2022, for approved products to be included on the Directory.

ENDS Directory

In order to allow wholesalers and retailers to more timely identify approved products prior to May 1, 2022, **the ENDS directory will be live as of March 1, 2022 with manufacturers and products added upon approval.** The Directory is located at <https://myalabamataxes.alabama.gov/#1>. To view the Directory, click on “View or upload a report” in the “Businesses” section. Under Tobacco Reports, click on the Approved ENDS Products Directory hyperlink. **If the products are not listed on the Directory, the products cannot be offered for sale in this state. Manufacturers and retailers are subject to a daily penalty for sales of products not listed on the Directory.**

Certifications

To be listed on the ENDS Directory, all e-liquid manufacturers and alternative nicotine product manufacturers whose products are sold in Alabama must provide certification that:

- Manufacturer has received a marketing order or other authorization for product (**Attach a copy of the cover page of the marketing order or other authorization** to the electronic certification in MAT.) or
- Product was on the market in the USA as of 08/08/2016 and the manufacturer submitted a premarket tobacco product application by 9/9/2020 to the FDA for a marketing order (**Attach a copy of the cover page of the premarket tobacco application with evidence of receipt of the application by the FDA** to the electronic certification in MAT.) and;
 - Premarket tobacco product application for the product remains under review by FDA, or

- FDA has issued a no marketing order for the product and the Agency or a federal court has issued a stay order or injunction pending manufacturer's appeal of the no marketing order, or
- FDA issued a formal statement, guidance, or rule temporarily exempting a product from the federal premarket tobacco application requirements. (**Attach a copy of the document(s) issued by the FDA.**)

Product Update Requirements

The manufacturer is required to notify ALDOR within 30 days of any material change to the certification including the following:

- A market order of other authorization pursuant to 21 U.S.C. §387j.
- An order requiring a manufacturer to remove a product from the market either temporarily or permanently.
- Any notice of action taken by the FDA affecting the ability of the new product to be introduced or delivered into interstate commerce for commercial distribution.
- Any change in policy that results in a product no longer being exempt from federal enforcement oversight.

Note: Product deletions and additions may be made throughout the year via MAT with no cost associated.

Additional Information/Questions

For additional information, please visit our website at <https://revenue.alabama.gov/business-license/tobacco-tax/> under the heading "Manufacturers of E-Liquid and Alternative Nicotine Products."

Feel free to contact the Tobacco Tax Section with any questions:

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