

**House File 2011 - Introduced**

HOUSE FILE 2011

BY GEARHART

**A BILL FOR**

1 An Act relating to the taxation and regulation of alternative  
2 nicotine products and vapor products, creating the  
3 Iowa cancer research fund, and including effective date  
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 453A.1, subsections 1 and 29, Code 2026,  
2 are amended to read as follows:

3 1. "*Alternative nicotine product*" means a product, not  
4 consisting of or containing tobacco, that provides for the  
5 ingestion into the body of nicotine, or a nicotine analog,  
6 whether by chewing, absorbing, dissolving, inhaling, snorting,  
7 or sniffing, or by any other means. "*Alternative nicotine*  
8 *product*" does not include cigarettes, tobacco products, or vapor  
9 products, or a product that is regulated as a drug or device by  
10 the United States food and drug administration under chapter V  
11 of the Federal Food, Drug, and Cosmetic Act.

12 29. a. "*Vapor product*" means any noncombustible product,  
13 which may or may not contain nicotine or a nicotine analog,  
14 that employs a heating element, power source, electronic  
15 circuit, or other electronic, chemical, or mechanical means,  
16 regardless of shape or size, that can be used to produce vapor  
17 from a solution or other substance. "*Vapor product*" includes an  
18 but is not limited to the following:

19 (1) Any product or device marketed, manufactured,  
20 distributed, or sold as an electronic cigarette, electronic  
21 cigar, electronic cigarillo, electronic pipe, or similar  
22 product or device, and any.

23 (2) Any cartridge or other container of a solution or other  
24 substance, which may or may not contain nicotine or a nicotine  
25 analog, that is intended to be used with or in an electronic  
26 cigarette, electronic cigar, electronic cigarillo, electronic  
27 pipe, or similar product or device.

28 (3) Any component, part, or accessory of such a product  
29 or device that is used during the operation of the product or  
30 device when sold in combination with any substance containing  
31 nicotine, a nicotine analog, tobacco, or tobacco derivative.

32 b. "*Vapor product*" does not include a any of the following:

33 (1) A product regulated as a drug or device by the United  
34 States food and drug administration under chapter V of the  
35 Federal Food, Drug, and Cosmetic Act.

1     (2) Any component, part, or accessory of such a product  
2 or device that is used during the operation of the product  
3 or device when not sold in combination with any substance  
4 containing nicotine, a nicotine analog, tobacco, or tobacco  
5 derivative.

6     Sec. 2. Section 453A.1, Code 2026, is amended by adding the  
7 following new subsection:

8     NEW SUBSECTION. 18A. *"Nicotine analog"* means a substance  
9 that has a chemical structure that is substantially similar to  
10 nicotine, or that has an effect on the central nervous system  
11 that is substantially similar to, or greater than, the effects  
12 of nicotine on the central nervous system.

13     Sec. 3. Section 453A.35, subsection 1, paragraph a, Code  
14 2026, is amended to read as follows:

15     a. With the exception of revenues credited to the health  
16 care trust fund pursuant to paragraph "b" and revenues credited  
17 to the Iowa cancer research fund pursuant to paragraph "c",  
18 the proceeds derived from the sale of stamps and the payment  
19 of fees and penalties provided for under [this chapter](#), and  
20 the permit fees received from all state permits issued by the  
21 department, shall be credited to the general fund of the state.

22     Sec. 4. Section 453A.35, subsection 1, Code 2026, is amended  
23 by adding the following new paragraph:

24     NEW PARAGRAPH. c. The revenues generated from the  
25 additional tax in section 453A.43A shall be credited to the  
26 Iowa cancer research fund created in section 453A.35B.

27     Sec. 5. NEW SECTION. 453A.35B **Iowa cancer research fund.**

28     1. An Iowa cancer research fund is created in the office of  
29 the treasurer of state under the authority of the department of  
30 health and human services. The fund consists of the revenues  
31 generated from the additional tax in section 453A.43A. Moneys  
32 in the fund shall be separate from the general fund of the  
33 state and shall not be considered part of the general fund of  
34 the state. Moneys in the fund shall be used only as specified  
35 in this section and shall be appropriated only for the uses

1 specified. Moneys in the fund are not subject to section 8.33  
2 and shall not be transferred, used, obligated, appropriated,  
3 or otherwise encumbered, except as provided in this section.  
4 Notwithstanding section 12C.7, subsection 2, interest or  
5 earnings on moneys deposited in the fund shall be credited to  
6 the fund.

7 2. Moneys in the fund shall not be disbursed prior to  
8 July 1, 2027, and shall only be used for purposes related  
9 to supporting and funding cancer research in the state. The  
10 department of health and human services shall develop an  
11 application process and guidelines for cancer researchers to  
12 receive moneys from the fund.

13 3. The department of health and human services shall report  
14 on the program pursuant to section 217.21, beginning with the  
15 period disbursements commence.

16 Sec. 6. Section 453A.40, subsections 1 and 3, Code 2026, are  
17 amended to read as follows:

18 1. All persons required to obtain a permit or to be licensed  
19 under [section 453A.13](#) or [section 453A.44](#) having in their  
20 possession and held for resale on the effective date of an  
21 increase in the tax rate cigarettes, little cigars, ~~or~~ tobacco  
22 products, alternative nicotine products, or vapor products upon  
23 which the tax under [section 453A.6](#), ~~or~~ [453A.43](#), or [453A.43A](#)  
24 has been paid, unused cigarette tax stamps which have been  
25 paid for under [section 453A.8](#), unused metered imprints which  
26 have been paid for under [section 453A.12](#), or tobacco products,  
27 alternative nicotine products, or vapor products for which the  
28 tax has not been paid under [section 453A.46](#) shall be subject to  
29 an inventory tax on the items as provided in [this section](#).

30 3. The rate of the inventory tax on each item subject to  
31 the tax as specified in [subsection 1](#) is equal to the difference  
32 between the amount paid on each item under [section 453A.6](#),  
33 [453A.8](#), [453A.12](#), ~~or~~ [453A.43](#), or [453A.43A](#) prior to the tax  
34 increase and the amount that is to be paid on each similar item  
35 under [section 453A.6](#), [453A.8](#), [453A.12](#), ~~or~~ [453A.43](#), or [453A.43A](#)

1 after the tax increase except that in computing the rate of the  
2 inventory tax any discount allowed or allowable under section  
3 453A.8 shall not be considered.

4 Sec. 7. Section 453A.42, subsections 5, 7, 15, and 18, Code  
5 2026, are amended to read as follows:

6 5. "*Distributor*" means any and each of the following:

7 a. Any person engaged in the business of selling tobacco  
8 products, alternative nicotine products, or vapor products  
9 in this state who brings, or causes to be brought, into this  
10 state from without the state any tobacco products, alternative  
11 nicotine products, or vapor products for sale~~†~~.

12 b. Any person who makes, manufactures, or fabricates tobacco  
13 products, alternative nicotine products, or vapor products in  
14 this state for sale in this state~~†~~.

15 c. Any person engaged in the business of selling tobacco  
16 products, alternative nicotine products, or vapor products  
17 without this state who ships or transports tobacco products,  
18 alternative nicotine products, or vapor products to retailers  
19 in this state, to be sold by those retailers.

20 7. "*Manufacturer*" means a person who manufactures and sells  
21 tobacco products, alternative nicotine products, or vapor  
22 products.

23 15. "*Subjobber*" means any person, other than a manufacturer  
24 or distributor, who buys tobacco products, alternative nicotine  
25 products, or vapor products from a distributor and sells them  
26 to persons other than the ultimate consumers.

27 18. "*Wholesale sales price*" means the established price  
28 for which a manufacturer sells a tobacco product, alternative  
29 nicotine products, or vapor products to a distributor,  
30 exclusive of any discount or other reduction.

31 Sec. 8. NEW SECTION. 453A.43A Additional taxes on  
32 alternative nicotine and vapor products.

33 1. a. A tax is imposed upon all alternative nicotine  
34 products and all vapor products in this state and upon any  
35 person engaged as a distributor of alternative nicotine

1 products and vapor products, at the rate of ten percent of the  
2 wholesale sales price of the alternative nicotine products or  
3 vapor products.

4 *b.* The tax on alternative nicotine products and vapor  
5 products shall be imposed at the time the distributor does any  
6 of the following:

7 (1) Brings, or causes to be brought into this state from  
8 outside the state, alternative nicotine products or vapor  
9 products for sale.

10 (2) Makes, manufactures, or fabricates alternative nicotine  
11 products or vapor products in this state for sale in this  
12 state.

13 (3) Ships or transports alternative nicotine products or  
14 vapor products to retailers in this state, to be sold by the  
15 retailers.

16 2. A tax is imposed upon the use or storage of alternative  
17 nicotine products or vapor products in this state, and upon  
18 any person who uses or stores alternative nicotine products or  
19 vapor products, at the rate of ten percent of the cost of the  
20 alternative nicotine products or vapor products, if the tax  
21 imposed under subsection 1 has not been paid.

22 3. Any alternative nicotine product or vapor product  
23 with respect to which a tax has once been imposed under  
24 this subchapter shall not again be subject to tax under this  
25 subchapter.

26 4. The tax imposed by this section shall not apply with  
27 respect to any alternative nicotine product or vapor product  
28 which under the constitution and laws of the United States may  
29 not be made the subject of taxation by this state.

30 5. The tax imposed by this section shall be in addition to  
31 any other taxes imposed by law.

32 6. All excise taxes collected under this section by any  
33 person are deemed to be held in trust for the state of Iowa.

34 Sec. 9. Section 453A.44, subsections 1, 3, and 10, Code  
35 2026, are amended to read as follows:

1 1. ~~No~~ A person shall engage in the business of a distributor  
2 or subjobber ~~of tobacco products~~ at any place of business  
3 without first having received a license from the director to  
4 engage in that business at that place of business.

5 3. A person without this state who ships or transports  
6 tobacco products, alternative nicotine products, or vapor  
7 products to retailers in this state, to be sold by those  
8 retailers, may make application for a license as a distributor,  
9 be granted a license by the director, and thereafter be subject  
10 to all the provisions of this subchapter and entitled to act as  
11 a licensed distributor.

12 10. The director may revoke, cancel, or suspend the  
13 license or licenses of any distributor or subjobber for  
14 violation of any of the provisions of this subchapter, or  
15 any other act applicable to the sale of tobacco products,  
16 alternative nicotine products, or vapor products, or any rule  
17 or regulations promulgated by the director in furtherance of  
18 this subchapter. ~~No~~ A license shall not be revoked, canceled,  
19 or suspended except after notice and a hearing by the director  
20 as provided in section 453A.48.

21 Sec. 10. Section 453A.45, Code 2026, is amended to read as  
22 follows:

23 **453A.45 Licensees, duties.**

24 1. *a.* Every distributor shall keep at each licensed  
25 place of business complete and accurate records for that  
26 place of business, including itemized invoices, of tobacco  
27 products, alternative nicotine products, or vapor products  
28 held, purchased, manufactured, brought in or caused to be  
29 brought in from without the state, or shipped or transported to  
30 retailers in this state, and of all sales of tobacco products,  
31 alternative nicotine products, or vapor products made, except  
32 sales to the ultimate consumer.

33 *b.* When a licensed distributor sells tobacco products,  
34 alternative nicotine products, or vapor products exclusively to  
35 the ultimate consumer at the address given in the license, an

1 invoice of those sales is not required, but itemized invoices  
2 shall be made of all tobacco products, alternative nicotine  
3 products, or vapor products transferred to other retail  
4 outlets owned or controlled by that licensed distributor. All  
5 books, records, and other papers and documents required by  
6 this subsection to be kept shall be preserved for a period  
7 of at least three years after the date of the documents or  
8 the date of the entries appearing in the records, unless the  
9 director, in writing, authorized their destruction or disposal  
10 at an earlier date. At any time during usual business hours,  
11 the director, or the director's duly authorized agents or  
12 employees, may enter any place of business of a distributor,  
13 without a search warrant, and inspect the premises, the records  
14 required to be kept under this subsection, and the tobacco  
15 products, alternative nicotine products, or vapor products  
16 contained therein, to determine if all the provisions of this  
17 subchapter are being fully complied with. If the director,  
18 or any such agent or employee, is denied free access or is  
19 hindered or interfered with in making the examination, the  
20 license of the distributor at that premises is subject to  
21 revocation by the director.

22 2. Every person who sells tobacco products, alternative  
23 nicotine products, or vapor products to persons other than the  
24 ultimate consumer shall render with each sale itemized invoices  
25 showing the seller's name and address, the purchaser's name and  
26 address, the date of sale, and all prices and discounts. The  
27 person shall preserve legible copies of all these invoices for  
28 three years from the date of sale.

29 3. Every retailer and subjobber shall procure itemized  
30 invoices of all tobacco products, alternative nicotine  
31 products, or vapor products purchased. The invoices shall show  
32 the name and address of the seller and the date of purchase.  
33 The retailer and subjobber shall preserve a legible copy  
34 of each invoice for three years from the date of purchase.  
35 Invoices shall be available for inspection by the director or

1 the director's authorized agents or employees at the retailer's  
2 or subjobber's place of business.

3 4. Records of all deliveries or shipments of tobacco  
4 products, alternative nicotine products, or vapor products from  
5 any public warehouse of first destination in this state which  
6 is subject to the provisions of and licensed under chapter  
7 554 shall be kept by the warehouse and be available to the  
8 director for inspection. ~~They~~ The records shall show the name  
9 and address of the consignee, the date, the quantity of tobacco  
10 products, alternative nicotine products, or vapor products  
11 delivered, and such other information as the commissioner may  
12 require. ~~These~~ The records shall be preserved for three years  
13 from the date of delivery of the tobacco products, alternative  
14 nicotine products, or vapor products.

15 5. *a.* The transportation of tobacco products, alternative  
16 nicotine products, or vapor products into this state by means  
17 other than common carrier must be reported to the director  
18 within thirty days with the following exceptions:

19 (1) The transportation of not more than fifty cigars, not  
20 more than ten ounces of snuff or snuff powder, or not more  
21 than one pound of smoking or chewing tobacco or other tobacco  
22 products not specifically mentioned herein;

23 (2) Transportation by a person with a place of business  
24 outside the state, who is licensed as a distributor under  
25 section 453A.44, or tobacco products, alternative nicotine  
26 products, or vapor products sold by such person to a retailer  
27 in this state.

28 *b.* The report shall be made on forms provided by the  
29 director. A report required under [this subsection](#) shall be  
30 filed electronically. A report required to be submitted  
31 electronically under [this subsection](#) that is filed in a manner  
32 other than in an electronic format specified by the department  
33 shall not be considered a valid submission unless the director  
34 has permitted the submission of such a report through an  
35 alternative method pursuant to [section 453A.57](#).

1     *c.* Common carriers transporting tobacco products,  
2 alternative nicotine products, or vapor products into this  
3 state shall file with the director reports of all such  
4 shipments other than those which are delivered to public  
5 warehouses of first destination in this state which are  
6 licensed under the provisions of [chapter 554](#). Such reports  
7 shall be filed electronically with the department on or before  
8 the tenth day of each month and shall show with respect to  
9 deliveries made in the preceding month all of the following:

10     (1) The date.

11     (2) The point of origin.

12     (3) The point of delivery.

13     (4) The name of the consignee.

14     (5) A description and the quantity of tobacco products,  
15 alternative nicotine products, or vapor products delivered.

16     (6) Such other information as the director may require.

17     *d.* Any person who fails or refuses to transmit to the  
18 director the required reports or whoever refuses to permit the  
19 examination of the records by the director shall be guilty  
20 of a serious misdemeanor. In addition, any person who fails  
21 to timely submit a report required under [this section](#) is  
22 subject to a penalty in the amount of fifty dollars for each  
23 occurrence.

24     Sec. 11. Section 453A.46, subsection 1, paragraph a,  
25 subparagraph (1), Code 2026, is amended to read as follows:

26     (1) On or before the twentieth day of each calendar month  
27 every distributor with a place of business in this state shall  
28 file a return with the director showing for the preceding  
29 calendar month the quantity and wholesale sales price of each  
30 tobacco product, alternative nicotine products, or vapor  
31 products brought, or caused to be brought, into this state  
32 for sale; made, manufactured, or fabricated in this state for  
33 sale in this state; and any other information the director  
34 may require. Every licensed distributor outside this state  
35 shall in like manner file a return with the director showing

1 for the preceding calendar month the quantity and wholesale  
2 sales price of each tobacco product, alternative nicotine  
3 products, or vapor products shipped or transported to retailers  
4 in this state to be sold by those retailers and any other  
5 information the director may require. Returns shall be made  
6 upon forms made available in electronic form and prescribed  
7 by the director and shall contain other information as the  
8 director may require. Each return shall be accompanied by a  
9 remittance for the full tax liability shown on the return, less  
10 a discount as fixed by the director not to exceed five percent  
11 of the tax. Within three years after the return is filed or  
12 within three years after the return became due, whichever is  
13 later, the department shall examine it, determine the correct  
14 amount of tax, and assess the tax against the taxpayer for any  
15 deficiency. The period for examination and determination of  
16 the correct amount of tax is unlimited in the case of a false or  
17 fraudulent return made with the intent to evade tax, or in the  
18 case of a failure to file a return.

19 Sec. 12. Section 453A.46, subsection 6, Code 2026, is  
20 amended to read as follows:

21 6. On or before the twentieth day of each calendar month,  
22 every consumer who, during the preceding calendar month,  
23 has acquired title to or possession of tobacco products,  
24 alternative nicotine products, or vapor products for use or  
25 storage in this state, and upon which ~~tobacco products~~ the  
26 ~~tax~~ taxes imposed by section 453A.43 ~~has~~ or 453A.43A have not  
27 been paid, shall file a return with the director showing the  
28 quantity of tobacco products, alternative nicotine products,  
29 or vapor products so acquired. The return shall be made upon  
30 a form furnished and prescribed by the director, and shall  
31 contain other information as the director may require. The  
32 return shall be accompanied by a remittance for the full unpaid  
33 tax liability shown by it. Within three years after the return  
34 is filed or within three years after the return became due,  
35 whichever is later, the department shall examine it, determine

1 the correct amount of tax, and assess the tax against the  
2 taxpayer for any deficiency. The period for examination and  
3 determination of the correct amount of tax is unlimited in the  
4 case of a false or fraudulent return made with the intent to  
5 evade tax, or in the case of a failure to file a return.

6 Sec. 13. Section 453A.47, Code 2026, is amended to read as  
7 follows:

8 **453A.47 Refunds, credits.**

9 Where tobacco products, alternative nicotine products, or  
10 vapor products upon which the tax imposed by this subchapter  
11 has been reported and paid are shipped or transported by the  
12 distributor to consumers to be consumed without the state or  
13 to retailers or subjobbers without the state to be sold by  
14 those retailers or subjobbers without the state or are returned  
15 to the manufacturer by the distributor or destroyed by the  
16 distributor, refund of such tax or credit may be made to the  
17 distributor in accordance with regulations prescribed by the  
18 director. Any overpayment of the tax imposed under section  
19 453A.43 or 453A.43A may be made to the taxpayer in accordance  
20 with regulations prescribed by the director. The director  
21 shall cause any such refund of tax to be paid out of the general  
22 fund of the state, and so much of said fund as may be necessary  
23 is hereby appropriated for that purpose.

24 Sec. 14. Section 453A.47C, subsections 3 and 4, Code 2026,  
25 are amended to read as follows:

26 3. A retailer required to possess or possessing a permit  
27 under section 453A.13 or 453A.47A to make delivery sales  
28 of alternative nicotine products or vapor products within  
29 this state shall be deemed to have waived all claims that  
30 such retailer lacks physical presence within this state for  
31 purposes of collecting and remitting sales and use tax and the  
32 additional tax provided in section 453A.43A.

33 4. A retailer making taxable delivery sales of alternative  
34 nicotine products or vapor products within this state shall  
35 remit to the department all sales and use tax due on such sales

1 at the times and in the manner provided by chapter 423, and  
2 remit the additional tax as provided in section 453A.43A.

3 Sec. 15. Section 453A.48, subsection 3, Code 2026, is  
4 amended to read as follows:

5 3. The director may exchange information with the officers  
6 and agencies of other states administering laws relating to the  
7 taxation of tobacco products, alternative nicotine products,  
8 and vapor products.

9 Sec. 16. EFFECTIVE DATE. This Act takes effect January 1,  
10 2027.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with  
13 the explanation's substance by the members of the general assembly.

14 This bill regulates alternative nicotine products and vapor  
15 products and imposes taxes upon the wholesale sales price of  
16 such products, and makes numerous conforming changes to Code  
17 chapter 453A (cigarettes and tobacco-related products).

18 The bill defines "nicotine analog" to mean a substance that  
19 has a chemical structure that is substantially similar to  
20 nicotine, or that has an effect on the central nervous system  
21 that is substantially similar to, or greater than, the effects  
22 of nicotine on the central nervous system.

23 The bill adds "nicotine analog" to the definitions of  
24 "alternative nicotine product" and "vapor product".

25 The bill imposes a tax on alternative nicotine and  
26 vapor products upon any person engaged as a distributor of  
27 alternative nicotine products and vapor products, at the rate  
28 of 10 percent of the wholesale sales price of such products.  
29 In the alternative, a tax is imposed on the use or storage of  
30 alternative nicotine and vapor products, at the rate of 10  
31 percent of the cost of such products, if the 10 percent tax on  
32 the wholesale sales price has not been paid.

33 The revenue generated by the bill is credited to the new  
34 Iowa cancer research fund (fund), under the authority of the  
35 department of health and human services (HHS). The bill

1 specifies moneys in the fund shall not be disbursed prior to  
2 July 1, 2027, and shall only be appropriated for purposes  
3 related to supporting and funding cancer research in the state.  
4 The bill requires HHS to develop an application process and  
5 guidelines for cancer researchers to receive moneys from the  
6 fund.

7 The fund is not subject to reversion and moneys or earnings  
8 attributable to the fund are credited to the fund.

9 The bill takes effect January 1, 2027.