

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 1000

By Senators Rucker, Grady, and Helton

[Introduced February 19, 2026; referred
to the Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
 2 designated §16-9H-1, §16-9H-2, §16-9H-3, §16-9H-4, §16-9H-5, and §16-9H-6, relating to
 3 establishing the Alternative Nicotine Product Regulatory Act of 2026; providing definitions;
 4 establishing manufacturing, labeling, and safety requirements; creating penalties for
 5 violation and authorizing the Attorney General to enforce this act; and creating the
 6 Alternative Nicotine Products Compliance Fund.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9H. ALTERNATIVE NICOTINE PRODUCT REGULATORY ACT OF 2026.

§16-9H-1. Alternative Nicotine Product Regulatory Act of 2026; intent.

1 The intent of this act is to protect public health and safety by:
 2 (1) Ensuring the safety and security of alternative nicotine products manufactured for sale
 3 in the state;
 4 (2) Ensuring that alternative nicotine manufactured or sold in the state conforms to
 5 appropriate standards related to labeling, marketing, and appearance;
 6 (3) Ensuring that alternative nicotine products are not contaminated by the inclusion of
 7 ingredients or other substances that might pose unreasonable threats to public health and safety;
 8 and
 9 (4) Ensuring that alternative nicotine products manufactured or sold in this state are not
 10 targeted to appeal to minors.

§16-9H-2. Definitions.

1 For the purposes of this article, the following terms shall have the following meanings:
 2 (a) "Alternative Nicotine Product" means any noncombustible product that contains
 3 nicotine and that is intended for human consumption, whether chewed, absorbed, dissolved,
 4 ingested, or consumed by other means.
 5 (b) "Department" means the Department of Revenue.
 6 (c) "E-liquid" means a solution that:

7 (1) Contains propylene glycol, vegetable glycerin, nicotine, nicotine salts and/or flavorings;

8 and

9 (2) Is intended to be used in an electronic cigarette; and

10 (d) E-liquid does not include cannabis, THC, CBD, or hemp as defined under the laws of
11 the state.

12 (e) "Manufacturing" means the process by which an alternative nicotine product is
13 fabricated, assembled, packaged or labeled, and is sealed in final packaging intended for
14 consumer use.

15 (f) "Minor" means an individual who is less than 21 years of age.

16 (g) "Packaging" means any receptacle that contains a finished alternative nicotine product.

17 (h) "Sale" means any sale, offer for sale, or attempt to sell a finished alternative nicotine
18 product to any individual of legal age for monetary value.

19 (i) "Sell" means to exchange or otherwise furnish any alternative nicotine product to any
20 individual of legal age for monetary value.

21 (j) "Tamper evident package" means a package having at least one indicator or barrier to
22 entry that, if breached or missing, can reasonably be expected to provide visible evidence to
23 consumers that tampering has occurred.

§16-9H-3. Manufacturing, labeling, marketing, and safety requirements.

1 (a) Manufacturers, dealers, wholesalers, and retailers shall comply with the following
2 requirements:

3 (1) An e-liquid bottle must use a child proof cap that has the child resistant effectiveness
4 set forth in the federal poison prevention packaging standards, 16 CFR 1700.15(b)(1).

5 (2) An e-liquid bottle or an electronic cigarette that contains e-liquid must use a tamper
6 evident package. The tamper evident package feature must be designed to remain intact when
7 handled in a reasonable manner during the manufacture, distribution, and retail display of the e-
8 liquid bottle.

9 (3) The label on an e-liquid bottle, electronic cigarette, or alternative nicotine product must
10 meet the nicotine addictiveness warning statement requirements set forth in 21 CFR 1143.3.

11 (4) The package containing the alternative nicotine product must contain the ingredients in
12 the product as well as the name of the manufacturer or wholesaler along with the address of the
13 manufacturer or wholesaler firmly affixed to or printed on the package for tracking purposes. A
14 scannable bar code or QR code located on the package may meet this requirement.

15 (b) A manufacturer, dealer, wholesalers, or retailers of an alternative nicotine product shall
16 be prohibited from selling any alternative nicotine product that:

17 (1) Uses, in the name of the product, the labeling of the product, or its packaging, or in its
18 marketing materials,

19 (A) The terms "candy", "candies", or variants in spelling such as "kandy" or "kandeez";

20 (B) The terms "bubble gum", "cotton candy", "gummy bear", "gummy worm", "lollipop", or
21 other variants of these terms;

22 (C) References to cartoons, cartoon characters, superheroes, television shows, video
23 games, and movies, or other similar characters or references;

24 (D) References or utilizes trade dress, trademarks, or other related imagery that imitate or
25 replicate trade dress, trademarks, or other imagery of food brands or products that have been
26 primarily marketed to minors such as brands of breakfast cereals, cookies, juice drinks, soft drinks,
27 ice creams, and frozen pops.

28 (E) References or utilizes trade dress, trademarks, or other related imagery that imitate or
29 replicate trade dress, trademarks, or other imagery of school supplies such as USB drives or
30 highlighters, smart phones or smart watches, headphones, any item of clothing, or toy, video game
31 devices or phone app integration features.

§16-9H-4. Penalties and suspension; Attorney General enforcement.

1 (a) The Department may assess a civil penalty against a manufacturer, dealer, wholesaler,
2 or retailer for a violation of this Act in an amount that does not exceed \$5,000. A civil penalty may

3 be assessed in addition to other penalties allowed under this Act.

4 (b) The Attorney General is authorized to investigate and enforce violations of §16-9H-3 of
5 this code. Upon determining that a manufacturer, dealer, wholesaler or retailer has violated any
6 provision of §16-9H-3 of this code, the Attorney General may bring a civil action in any court of
7 competent jurisdiction to:

8 (1) Seek injunctive relief restraining or enjoining any manufacturer, dealer, wholesaler or
9 retailer from continuing to engage in activities that violate §16-9H-3 of this code;

10 (2) Recover civil penalties of up to \$10,000 per violation; or (iii) obtain appropriate relief to
11 protect the public interest.

12 (c) Civil penalties collected under this Act shall be deposited in the Alternative Nicotine
13 Products Compliance Fund.

§16-9H-5. Alternative Nicotine Products Compliance Fund.

1 (a) The Alternative Nicotine Products Compliance Fund is hereby created as a special fund
2 under state law.

3 (b) The Alternative Nicotine Products Compliance Fund shall be utilized by the Department
4 and Attorney General for enforcement of this Act.

§16-9H-6. Effective date.

1 This article shall be effective 90 days from passage.

NOTE: The purpose of this bill is to create the "Alternative Nicotine Product Regulatory Act of 2026" and the Alternative Nicotine Products Compliance Fund.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.