

June 2024

# Immediate Attention Required – Manufacturer of Electronic Nicotine Delivery System (ENDS) Certification

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Legislative Bill 1204 ([LB 1204](#)) requires a manufacturer of electronic nicotine delivery systems (ENDS) that are sold at retail in this state, whether directly or through a distributor, wholesaler, retailer, or similar intermediary or intermediaries, to submit a certification with DOR.

The initial certification must be submitted by April 1, 2025. The certification requires a nonrefundable \$75 fee for each ENDS listed in the certification. In order for the certification to be approved the ENDS manufacturer must include:

1. If applicable, a copy of the Prevent All Cigarette Trafficking (PACT) Act Registration Form (ATF Form 5070.1) as submitted by the ENDS manufacturer to the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States Department of Justice, and an attestation that the applicant is in compliance with, and will continue to comply with, all applicable requirements of 15 U.S.C. 375 and 376;
2. An attestation that the ENDS manufacturer will comply with all applicable laws of Nebraska and of the applicant's principal place of business;
3. An attestation that the ENDS manufacturer's products fully comply with the requirements of the United States Customs and Border Protection agency, including accurate Entry Summary forms (CBP Form 7501), and that the applicant is not in violation of 18 U.S.C. 541, 542, or 545;
4. A list of each type or model of ENDS of the manufacturer which is sold in this state; and
5. Other information as the Tax Commissioner may require for the purpose of administering the Tobacco Products Tax Act.

Beginning October 1, 2025, all approved ENDS manufacturers and ENDS authorized for sale in this state will be listed on DOR's website. Additional information about how to submit the certification will be posted to DOR's website when it becomes available.

LB 1204 defines delivery sale. Delivery sale means to sell, give, or furnish products by mail, delivery service, through the Internet, by a computer network, by telephone, or through any other electronic method. Effective July 19, 2024, a person cannot by delivery sale sell, give, or furnish to any consumer in Nebraska ENDS. A violation results in a Class I misdemeanor. Any common carrier that knowingly transports any ENDS in any form for a person who violates the delivery sale prohibition is also guilty of a Class I misdemeanor. Violating the prohibition of delivery sales also constitutes a deceptive trade practice under the Uniform Deceptive Trade Practices Act.