



Rep. Arthur L. Turner

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1 AMENDMENT TO SENATE BILL 44

2 AMENDMENT NO. _____. Amend Senate Bill 44 on page 22,
3 immediately below line 11, by inserting the following:

4 "Section 20. The Tobacco Products Tax Act of 1995 is
5 amended by changing Sections 10-5 and 10-10 as follows:

6 (35 ILCS 143/10-5)

7 Sec. 10-5. Definitions. For purposes of this Act:

8 "Business" means any trade, occupation, activity, or
9 enterprise engaged in, at any location whatsoever, for the
10 purpose of selling tobacco products.

11 "Cigarette" has the meaning ascribed to the term in Section
12 1 of the Cigarette Tax Act.

13 "Correctional Industries program" means a program run by a
14 State penal institution in which residents of the penal
15 institution produce tobacco products for sale to persons
16 incarcerated in penal institutions or resident patients of a

1 State operated mental health facility.

2 "Department" means the Illinois Department of Revenue.

3 "Distributor" means any of the following:

4 (1) Any manufacturer or wholesaler in this State
5 engaged in the business of selling tobacco products who
6 sells, exchanges, or distributes tobacco products to
7 retailers or consumers in this State.

8 (2) Any manufacturer or wholesaler engaged in the
9 business of selling tobacco products from without this
10 State who sells, exchanges, distributes, ships, or
11 transports tobacco products to retailers or consumers
12 located in this State, so long as that manufacturer or
13 wholesaler has or maintains within this State, directly or
14 by subsidiary, an office, sales house, or other place of
15 business, or any agent or other representative operating
16 within this State under the authority of the person or
17 subsidiary, irrespective of whether the place of business
18 or agent or other representative is located here
19 permanently or temporarily.

20 (3) Any retailer who receives tobacco products on which
21 the tax has not been or will not be paid by another
22 distributor.

23 "Distributor" does not include any person, wherever
24 resident or located, who makes, manufactures, or fabricates
25 tobacco products as part of a Correctional Industries program
26 for sale to residents incarcerated in penal institutions or

1 resident patients of a State operated mental health facility.

2 "Manufacturer" means any person, wherever resident or
3 located, who manufactures and sells tobacco products, except a
4 person who makes, manufactures, or fabricates tobacco products
5 as a part of a Correctional Industries program for sale to
6 persons incarcerated in penal institutions or resident
7 patients of a State operated mental health facility.

8 "Moist snuff" means finely cut, ground, or powdered tobacco
9 that has a moisture content of no less than 45% and is not
10 offered in individual single-dose tablets or other discrete
11 single-use units.

12 "Person" means any natural individual, firm, partnership,
13 association, joint stock company, joint venture, limited
14 liability company, or public or private corporation, however
15 formed, or a receiver, executor, administrator, trustee,
16 conservator, or other representative appointed by order of any
17 court.

18 "Place of business" means and includes any place where
19 tobacco products are sold or where tobacco products are
20 manufactured, stored, or kept for the purpose of sale or
21 consumption, including any vessel, vehicle, airplane, train,
22 or vending machine.

23 "Retailer" means any person in this State engaged in the
24 business of selling tobacco products to consumers in this
25 State, regardless of quantity or number of sales.

26 "Sale" means any transfer, exchange, or barter in any

1 manner or by any means whatsoever for a consideration and
2 includes all sales made by persons.

3 "Tobacco products" means any cigars; cheroots; stogies;
4 periques; granulated, plug cut, crimp cut, ready rubbed, and
5 other smoking tobacco; snuff or snuff flour; cavendish; plug
6 and twist tobacco; fine-cut and other chewing tobaccos; shorts;
7 refuse scraps, clippings, cuttings, and sweeping of tobacco;
8 and other kinds and forms of tobacco, prepared in such manner
9 as to be suitable for chewing or smoking in a pipe or
10 otherwise, or both for chewing and smoking; but does not
11 include cigarettes or tobacco purchased for the manufacture of
12 cigarettes by cigarette distributors and manufacturers defined
13 in the Cigarette Tax Act and persons who make, manufacture, or
14 fabricate cigarettes as a part of a Correctional Industries
15 program for sale to residents incarcerated in penal
16 institutions or resident patients of a State operated mental
17 health facility.

18 "Wholesale price" means the established list price for
19 which a manufacturer sells tobacco products to a distributor,
20 before the allowance of any discount, trade allowance, rebate,
21 or other reduction. In the absence of such an established list
22 price, the manufacturer's invoice price at which the
23 manufacturer sells the tobacco product to unaffiliated
24 distributors, before any discounts, trade allowances, rebates,
25 or other reductions, shall be presumed to be the wholesale
26 price.

1 "Wholesaler" means any person, wherever resident or
2 located, engaged in the business of selling tobacco products to
3 others for the purpose of resale.

4 (Source: P.A. 92-231, eff. 8-2-01.)

5 (35 ILCS 143/10-10)

6 Sec. 10-10. Tax imposed. On the first day of the third
7 month after the month in which this Act becomes law and through
8 first day of the first month to occur not less than 60 days
9 after the effective date of this amendatory Act of the 96th
10 General Assembly, a tax is imposed on any person engaged in
11 business as a distributor of tobacco products, as defined in
12 Section 10-5, at the rate of 18% of the wholesale price of
13 tobacco products sold or otherwise disposed of to retailers or
14 consumers located in this State. Beginning on the first day of
15 the first month to occur not less than 60 days after the
16 effective date of this amendatory Act of the 96th General
17 Assembly, the tax shall be imposed at the rate of 30% of the
18 wholesale price of tobacco products, other than moist snuff,
19 sold or otherwise disposed of to retailers or consumers located
20 in this State. Beginning on the first day of the first month to
21 occur not less than 60 days after the effective date of this
22 amendatory Act of the 96th General Assembly, the tax shall be
23 imposed on moist snuff at the rate of \$0.60 per ounce. The
24 taxes imposed by this Section shall be applied to the wholesale
25 price of tobacco products before any other applicable tax

1 imposed by the State, by the federal government, or by a unit
2 of local government. The tax is in addition to all other
3 occupation or privilege taxes imposed by the State of Illinois,
4 by any political subdivision thereof, or by any municipal
5 corporation. However, the tax is not imposed upon any activity
6 in that business in interstate commerce or otherwise, to the
7 extent to which that activity may not, under the Constitution
8 and Statutes of the United States, be made the subject of
9 taxation by this State. The tax is also not imposed on sales
10 made to the United States or any entity thereof.

11 For returns due prior to the effective date of the tax
12 increase imposed by this amendatory Act of the 96th General
13 Assembly, all ~~All~~ moneys received by the Department under this
14 Act shall be paid into the Long-Term Care Provider Fund of the
15 State Treasury. For returns due on or after the effective date
16 of the tax increase imposed by this amendatory Act of the 96th
17 General Assembly, 78.92% of the moneys received by the
18 Department under this Act shall be paid into the Long-Term Care
19 Provider Fund; 10.54% of the moneys received by the Department
20 under this Act shall be paid into the Healthcare Provider
21 Relief Fund; and 10.54% of the moneys received under this Act
22 shall be remitted to the Illinois Department of Public Health
23 for support of tobacco prevention, cessation, and control
24 programs in accordance with the Centers for Disease Control and
25 Prevention's 2007 Best Practices for Comprehensive Tobacco
26 Control Programs.

1 (Source: P.A. 92-231, eff. 8-2-01.)".