

2012 -- H 7455

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LC01327
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO TAXATION - CIGARETTE TAX

Introduced By: Representatives Ucci, and O`Neill

Date Introduced: February 09, 2012

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-20-1 and 44-20-2 of the General Laws in Chapter 44-20
2 entitled "Cigarette Tax" are hereby amended to read as follows:

3 **44-20-1. Definitions. --** Whenever used in this chapter, unless the context requires
4 otherwise:

5 (1) "Administrator" means the tax administrator;

6 (2) "Cigarettes" means and includes any cigarettes suitable for smoking in cigarette
7 form, and each sheet of cigarette rolling paper;

8 (3) "Dealer" means any person whether located within or outside of this state, who sells
9 or distributes cigarettes to a consumer in this state [and shall have the same definition as found in](#)
10 [section 11-9-13.4](#);

11 (4) "Distributor" means any person:

12 (A) Whether located within or outside of this state, other than a dealer, who sells or
13 distributes cigarettes within or into this state. Such term shall not include any cigarette
14 manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C.
15 section 5712, if such person sells or distributes cigarettes in this state only to licensed distributors,
16 or to an export warehouse proprietor or another manufacturer with a valid permit under 26 U.S.C.
17 section 5712;

18 (B) Selling cigarettes directly to consumers in this state by means of at least twenty-five
19 (25) cigarette vending machines;

1 (C) Engaged in this state in the business of manufacturing cigarettes or any person
2 engaged in the business of selling cigarettes to dealers, or to other persons, for the purpose of
3 resale only; provided, that seventy-five percent (75%) of all cigarettes sold by that person in this
4 state are sold to dealers or other persons for resale and selling cigarettes directly to at least forty
5 (40) dealers or other persons for resale; or

6 (D) Maintaining one or more regular places of business in this state for that purpose;
7 provided, that seventy-five percent (75%) of the sold cigarettes are purchased directly from the
8 manufacturer and selling cigarettes directly to at least forty (40) dealers or other persons for
9 resale;

10 (5) "Importer" means any person who imports into the United States, either directly or
11 indirectly, a finished cigarette for sale or distribution;

12 (6) "Licensed", when used with reference to a manufacturer, importer, distributor or
13 dealer, means only those persons who hold a valid and current license issued under section 44-20-
14 2 for the type of business being engaged in. When the term "licensed" is used before a list of
15 entities, such as "licensed manufacturer, importer, wholesale dealer, or retailer dealer," such term
16 shall be deemed to apply to each entity in such list;

17 (7) "Manufacturer" means any person who manufactures, fabricates, assembles,
18 processes, or labels a finished cigarette;

19 (8) "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or
20 association, however formed;

21 (9) "Place of business" means and includes any place where cigarettes are sold or where
22 cigarettes are stored or kept for the purpose of sale or consumption, including any vessel, vehicle,
23 airplane, train, or vending machine;

24 (10) "Sale" or "sell" includes and applies to gifts, exchanges, and barter;

25 (11) "Stamp" means the impression, device, stamp, label, or print manufactured, printed,
26 or made as prescribed by the administrator to be affixed to packages of cigarettes, as evidence of
27 the payment of the tax provided by this chapter or to indicate that the cigarettes are intended for a
28 sale or distribution in this state that is exempt from state tax under the provisions of state law; and
29 also includes impressions made by metering machines authorized to be used under the provisions
30 of this chapter;

31 [\(12\) "Retail tobacco products dealer" shall have the same definition as in section 11-9-](#)
32 [13.4;](#)

33 [\(13\) "Retail tobacco products dealer license" shall have the same definition as in section](#)
34 [11-9-13.4;](#)

1 [\(14\) "Tobacco products" shall have the same definition as in section 11-9-13.4.](#)

2 **44-20-2. Importer, distributor, and dealer licenses required -- Licenses required. --**

3 Each person engaging in the business of selling ~~cigarette~~ [tobacco](#) products in this state, including
4 any distributor or dealer, shall secure a license from the administrator before engaging in that
5 business, or continuing to engage in it. A separate application and license is required for each
6 place of business operated by a distributor or dealer; provided, that an operator of vending
7 machines for cigarette products is not required to obtain a distributor's license for each machine.
8 If the applicant for a license does not have a place of business in this state, the license shall be
9 issued for such applicant's principal place of business, wherever located. A licensee shall notify
10 the administrator within thirty (30) days in the event that it changes its principal place of
11 business. A separate license is required for each class of business if the applicant is engaged in
12 more than one of the activities required to be licensed by this section. No person shall maintain or
13 operate or cause to be operated a vending machine for cigarette products without procuring a
14 dealer's license for each machine.

15 SECTION 2. Chapter 44-20 of the General Laws entitled "Cigarette Tax" is hereby
16 amended by adding thereto the following sections:

17 **44-20-1.1. Legislative intent. --** [The legislature of the state, in order to safeguard life,](#)
18 [health, property, and the public welfare of this state, and in order to provide a uniform system of](#)
19 [regulation of tobacco products, finds and declares it is the policy of the state to provide for a](#)
20 [state-wide regulation of tobacco products. The general assembly further finds and declares that it](#)
21 [is the policy of this state that the department of administration, division of taxation, shall have the](#)
22 [power to enforce the provisions of this chapter 44-20 \("Cigarette Tax"\).](#)

23 **44-20-8.3. Preemption. --** [The provisions of this chapter 44-20 \("Cigarette Tax"\) shall be](#)
24 [applicable and uniform throughout this state and in all political subdivisions and municipalities in](#)
25 [the state, and no local authority shall enact or enforce any ordinance, rule, or regulation that is in](#)
26 [conflict with the provisions of this chapter, unless expressly authorized by this chapter.](#)

27 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would add and amend definitions to the “Cigarette Tax”, and would also add a
- 2 legislative intent to the chapter.
- 3 This act would take effect upon passage.

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