



2025 South Dakota Legislature

Senate Bill 194

Introduced by: **Senator Miskimins**

1 **An Act to classify nicotine products as tobacco products, to increase tax rates on**
 2 **cigarettes and tobacco products, to create the healthcare workforce**
 3 **development fund, and to make an appropriation therefor.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That § 10-50-1 be AMENDED:**

6 **10-50-1.** Terms used in this chapter mean:

- 7 (1) "Consumer," ~~any an~~ individual who is not a retailer or a licensed distributor or
 8 wholesaler pursuant to § 10-50-9;
- 9 (2) "Dealer," or "retailer," ~~any a~~ person other than a distributor or wholesaler, as
 10 defined herein, who is engaged in this state in the business of selling cigarettes or
 11 tobacco products at retail;
- 12 (3) "Distributor," ~~any a~~ person engaged in this state in the business of producing or
 13 manufacturing cigarettes, or importing into the state cigarettes, at least seventy-
 14 five percent of which are purchased directly from the manufacturers thereof;
- 15 (4) "Licensed distributor," or "licensed wholesaler," a distributor or wholesaler licensed
 16 under the provisions of this chapter;
- 17 (5) "Person," ~~any an~~ individual, firm, fiduciary, partnership, limited liability company,
 18 corporation, trust, or association, however formed;
- 19 (6) "Sale" or "sell," ~~shall include or apply to~~ transactions, gifts, exchanges, and barter;
- 20 (7) "Secretary," the secretary of ~~revenue~~ the Department of Revenue;
- 21 (8) "Tobacco products," cigars, snuff, chewing tobacco, ~~and any other products~~ a
 22 product made up or composed of tobacco in whole or in part, except cigarettes and
 23 a substance containing nicotine or synthetic nicotine intended for consumption by
 24 chewing, absorbing, dissolving, swallowing, or inhaling, but the term does not
 25 mean:
- 26 (a) Cigarettes, as defined by § 10-50B-4; or

1 (b) Nicotine replacement products approved by the United States Department
 2 of Health and Human Services for the treatment of tobacco dependence
 3 under 21 U.S.C § 387r (June 22, 2009).

4 **Section 2. That § 10-50-3 be AMENDED:**

5 **10-50-3.** A tax is imposed, whether or not a sale occurs, at the following rates on
 6 all cigarettes held in this state for sale by any person:

- 7 (1) Class A, on cigarettes weighing not more than three pounds per thousand, ~~seventy-~~
 8 six and one-half one hundred fifty-one and one-half mills on each cigarette.
 9 (2) Class B, on cigarettes weighing more than three pounds per thousand, ~~seventy-six~~
 10 and one-half one hundred fifty-one and one-half mills on each cigarette.

11 **Section 3. That § 10-50-61 be AMENDED:**

12 **10-50-61.** In addition to the tax imposed by § 10-50-3, there is imposed, whether
 13 or not a sale occurs, a tax ~~upon~~ on all tobacco products in this state and ~~upon~~ on any
 14 person engaged in business as a licensed distributor or licensed wholesaler thereof, at the
 15 rate of ~~thirty-five~~ forty-five percent of the wholesale purchase price of such tobacco
 16 products. ~~Such~~ The tax ~~shall be~~ is imposed at the time the distributor or wholesaler brings
 17 or causes to be brought into this state tobacco products for sale; ~~he~~ she, ~~makes,~~ manufactures,
 18 ~~or fabricates~~ tobacco products in this state for sale in this state; ~~he~~ she, or ~~ships or~~ transports
 19 tobacco products to dealers in this state to be sold by those dealers. For the purposes of
 20 this chapter, the wholesale purchase price is the price for which a manufacturer sells
 21 tobacco products to a licensed distributor or licensed wholesaler exclusive of any discount
 22 or other reduction.

23 ~~Any~~ A licensed distributor or licensed wholesaler who has paid tax pursuant to this
 24 section and subsequently sells the tobacco products to another licensed distributor or
 25 licensed wholesaler for resale, or sells the tobacco products outside of this state, ~~shall~~
 26 receive is entitled to a credit for the tax paid pursuant to this section on ~~such~~ the tobacco
 27 products.

28 **Section 4. That § 10-50-52 be AMENDED:**

29 **10-50-52.** The first ~~thirty~~ forty-five million dollars in revenue collected annually
 30 pursuant to this chapter ~~shall~~ must be deposited in the general fund. The next five million
 31 dollars in excess of thirty million dollars collected annually ~~shall~~ must be deposited in the

1 tobacco prevention and reduction trust fund and shall be used to implement the tobacco
 2 prevention and reduction program. The next ten million dollars in excess of the fifty million
 3 dollars collected annually must be deposited into the healthcare workforce development
 4 fund established pursuant to section 5 of this Act.

5 All revenue collected pursuant to this chapter in excess of ~~thirty-five~~ sixty million
 6 dollars ~~shall~~ must be deposited in the general fund.

7 **Section 5. That a NEW SECTION be added to chapter 10-50:**

8 There is created in the state treasury the healthcare workforce development fund.
 9 The fund consists of all revenues distributed to it pursuant to § 10-50-52.

10 The Department of Health shall administer the fund. The department may award
 11 grant moneys from the fund as needed for purposes of the fund. Interest on moneys
 12 credited to the fund must remain in the fund. Expenditures from the fund are continuously
 13 appropriated for training healthcare workers, and growing the healthcare workforce, in
 14 this state.