

HOUSE BILL 2651

By Towns

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17; Title 47; Title 67 and Title 68, relative to vapor products.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-1001(13), is amended by deleting the subdivision in its entirety and substituting instead the following:

(13) "Manufacturing distributor" means any person, with a plant located in this state, engaged in the business of manufacturing or processing consumable tobacco products or liquid nicotine taxed by this part;

SECTION 2. Tennessee Code Annotated, Section 67-4-1001(23), is amended by deleting the subdivision in its entirety and substituting instead the following:

(23) "Tobacco products" means cigars, cigarettes, liquid nicotine, manufactured tobacco, and snuff, but not tobacco produced and processed by the grower for the grower's own use and not for sale;

SECTION 3. Tennessee Code Annotated, Section 67-4-1001, is amended by adding the following as new, appropriately designated subdivisions:

() "Liquid nicotine" means any consumable nicotine solution or other material containing nicotine that is depleted as a vapor product is used;

() "Vapor product":

(A) Means any noncombustible product containing nicotine that employs a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce or emit a visible or non-visible vapor;

(B) Includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product, and any vapor cartridge or other container of a solution containing nicotine or any other substance that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar electronic nicotine delivery device; and

(C) Does not include any product regulated under chapter V of the Food, Drug, and Cosmetic Act (21 U.S.C. § 351 et seq.);

SECTION 4. Tennessee Code Annotated, Section 67-4-1002, is amended by deleting the section in its entirety and substituting instead the following:

Every dealer or distributor of tobacco products, liquid nicotine, or vapor products defined in this part shall pay to the department, for exclusive state purposes, taxes in addition to all other taxes or fees, for the privilege of selling cigarettes and tobacco products in this state.

SECTION 5. Tennessee Code Annotated, Section 67-4-1004, is amended by deleting the section in its entirety and substituting instead the following:

(a) The rate is three cents (3¢) on each cigarette and each milligram of liquid nicotine.

(b)

(1) In addition to the tax provided in subsection (a), every dealer or distributor of tobacco products defined in this part shall pay an enforcement and administration fee to the department of five hundredths of one cent (0.05¢) per pack of cigarettes for sale in Tennessee. The commissioner shall collect the fee from each dealer or distributor upon the purchase of tobacco tax stamps.

(2) In addition to the tax provided in subsection (b), every dealer or distributor of vapor products defined in this part shall pay an enforcement and administration fee to the department of five hundredths of one cent (0.05¢) per packaged unit of liquid nicotine for sale in Tennessee. The commissioner shall

collect the fee from each dealer or distributor upon the purchase of tobacco tax stamps.

(c) Any wholesale dealers, jobbers, tobacco distributors, and retail dealers having cigarette tax stamps, affixed and unaffixed, in their possession on July 1, 2007, shall not be required to pay the additional cigarette tax on the stamps resulting from the increase in the tax rate from ten (10) mills to three cents (3¢) on cigarettes bearing the stamps.

(d)

(1) In addition to the tax provided in subsections (a) and (b), there is levied an additional one-tenth of one cent (0.1¢) on each cigarette or milligram of liquid nicotine.

(2) Any wholesale dealers, jobbers, tobacco distributors, and retail dealers having cigarette tax stamps, affixed and unaffixed, in their possession on July 1, 2007, shall not be required to pay the additional cigarette tax on the stamps resulting from the increase in the tax rate of one-tenth of one cent (0.1¢) on cigarettes bearing the stamps.

SECTION 6. Tennessee Code Annotated, Section 67-4-1006(a), is amended by deleting the subsection and substituting instead the following:

(1) The tax imposed by this part shall be paid by the purchase of stamps from the commissioner of such design or denomination as may be prescribed by the commissioner, including for liquid nicotine, except that reconciliation payments of taxes on cigarettes made by cigarette rolling machine operators shall be paid in the time and manner prescribed by § 67-4-1031.

(2) In lieu of tax stamps, the commissioner may, at the commissioner's discretion, provide other means by which the tax applicable to products other than cigarettes may be paid.

SECTION 7. Tennessee Code Annotated, Section 67-4-1011, is amended by deleting the section and substituting instead the following:

(a)

(1) The commissioner is authorized and empowered to prescribe the methods to be used by dealers and distributors in recording purchases and sales of tobacco products and vapor products and purchases and consumption of tobacco tax stamps.

(2) The commissioner is further authorized and empowered to require persons selling, distributing, or dealing in tobacco products or vapor products to file such reports with the department in the manner and at such times as the commissioner may deem necessary in carrying out this part.

(b) In any case where a person cannot produce evidence of sufficient stamps purchased or other payment of the tax imposed to cover all of any tobacco products or liquid nicotine received, it may be assumed that such products were disposed of without having either the proper stamps affixed or the tax paid on the tobacco products.

(c)

(1) Every common carrier transporting cigars, cigarettes, manufactured tobacco, or snuff in this state shall keep a complete record of all tobacco products handled in each transaction separately, and shall show the transportation of such tobacco products, both interstate and intrastate.

(2) Every common carrier in this state shall give and permit the commissioner free access to such books and records, and furnish such information and reports as the commissioner may require.

(3) Any person violating this subsection (c) commits a Class A misdemeanor.

(d) A cigarette rolling machine operator must keep records both of tobacco sold for use in the operator's cigarette rolling machine and of any cigarettes made from such tobacco through use of the cigarette rolling machine.

SECTION 8. This act shall take effect January 1, 2021, the public welfare requiring it.