

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2742 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By deleting the content of the entire measure, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Trey Caldwell \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2742

By: Caldwell (Trey)

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to cigarettes; amending 68 O.S. 2021,  
9 Sections 301, 321, and 322, which relate to the  
10 administration of cigarette excise taxes; modifying  
11 definition of cigarette; providing partial exemption  
12 to cigarette excise taxes for certain types of  
13 products; requiring certain stamps be made available  
14 on certain timeline; clarifying reference; providing  
15 an effective date; and declaring an emergency..

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 68 O.S. 2021, Section 301, is  
18 amended to read as follows:

19 Section 301. For purposes of Section 301 et seq. of this title:

20 1. The term "cigarette" is defined to mean and include all  
21 rolled tobacco ~~or any substitute therefor~~, wrapped in paper or any  
22 substitute therefor, intended to be heated or burned, and weighing  
23 not to exceed three (3) pounds per thousand cigarettes;

24 2. The term "person" is defined to mean and include any  
individual, company, partnership, joint venture, joint agreement,

1 association (mutual or otherwise), limited liability company,  
2 corporation, estate, trust, business trust receiver, or trustee  
3 appointed by any state or federal court, or otherwise, syndicate, or  
4 any political subdivision of the state or combination acting as a  
5 unit, in the plural or singular number;

6 3. The term "wholesaler", "distributor" and/or "jobber" is  
7 defined to mean and include a person, firm or corporation organized  
8 and existing, or doing business, primarily to sell cigarettes to,  
9 and render service to retailers in the territory such person, firm  
10 or corporation chooses to serve, and that:

- 11 a. purchases cigarettes directly from the manufacturer,
- 12 b. at least seventy-five percent (75%) of whose gross  
13 sales are made at wholesale,
- 14 c. handles goods in wholesale quantities and sells  
15 through salespersons, advertising and/or sales  
16 promotion devices,
- 17 d. carries at all times at its principal place of  
18 business a representative stock of cigarettes for  
19 sale, and
- 20 e. comes into the possession of cigarettes for the  
21 purpose of selling them to retailers or to persons  
22 outside or within the state who might resell or retail  
23 such cigarettes to consumers.

24

1 In addition to the foregoing, and irrespective of the percentage  
2 or type of sales, the term "wholesaler", "distributor" and/or  
3 "jobber" shall also include all purchasers of cigarettes making  
4 purchases directly from the manufacturer for distribution at  
5 wholesale or retail sale and this shall not affect the requirements  
6 relating to retail licenses;

7 4. The term "retailer" is defined to be:

8 a. a person who comes into the possession of cigarettes  
9 for the purpose of selling, or who sells them at  
10 retail, or

11 b. a person, not coming within the classification of  
12 wholesaler, distributor and/or jobber as herein  
13 defined, having possession of more than one thousand  
14 cigarettes;

15 5. The term "consumer" is defined to be a person who receives  
16 or who in any way comes into possession of cigarettes for the  
17 purpose of consuming them, giving them away, or disposing of them in  
18 a way other than by sale, barter or exchange;

19 6. The term "Tax Commission" is defined to mean the Oklahoma  
20 Tax Commission;

21 7. The term "sale" and/or "sales" is hereby defined to be and  
22 declared to include sales, barter, exchanges and every other  
23 manner, method and form of transferring the ownership of personal  
24 property from one person to another, and is also declared to be the

1 use or consumption in this state in the first instance of cigarettes  
2 received from without the state or of any other cigarettes upon  
3 which the tax has not been paid. The term "first sale" shall mean  
4 and include the first sale or distribution of cigarettes in  
5 intrastate commerce or the first use or consumption of cigarettes  
6 within this state;

7 8. The term "stamp" as herein used shall mean the stamp or  
8 stamps by use of which:

9 a. the tax levied pursuant to the provisions of Section  
10 301 et seq. of this title is paid,

11 b. the tax levied pursuant to the provisions of Section  
12 349 of this title is paid, or

13 c. the payment in lieu of taxes authorized pursuant to a  
14 compact entered into by the State of Oklahoma and a  
15 federally recognized Indian tribe or nation pursuant  
16 to the provisions of subsection C of Section 346 of  
17 this title is paid;

18 9. The term "drop shipment" shall mean and include any delivery  
19 of cigarettes received by any person within this state when payment  
20 for such cigarettes is made to the shipper or seller by or through a  
21 person other than the consignee;

22 10. The term "distributing agent" shall mean and include every  
23 person in this state who acts as an agent of any person outside the  
24 state by receiving cigarettes in interstate commerce and storing

1 such cigarettes subject to distribution or delivery upon order from  
2 the person outside the state to distributors, wholesale dealers and  
3 retail dealers, or to consumers. The term "distributing agent"  
4 shall also mean and include any person who solicits or takes orders  
5 for cigarettes to be shipped in interstate commerce to a person in  
6 this state by a person residing outside of Oklahoma, the tax not  
7 having been paid on such cigarettes;

8 11. The term "vending machine" shall mean and include any coin  
9 operating machine, contrivance, or device, by means of which  
10 cigarettes are sold or dispensed in their original container;

11 12. The term "use" means and includes the exercise of any right  
12 or power over cigarettes incident to the ownership or possession  
13 thereof, except that it shall not include the sale of cigarettes in  
14 the regular course of business;

15 13. a. The term "delivery sale" means any sale of cigarettes  
16 to a consumer in Oklahoma where either:

17 (1) the purchaser submits the order for such sale by  
18 means of a telephonic or other method of voice  
19 transmission, the mails or any other delivery  
20 service, or the Internet or other online service,  
21 or

22 (2) the cigarettes are delivered by use of the mails  
23 or other delivery service.

24

1           b. A sale of cigarettes which satisfies the criteria in  
2           subparagraph a of this paragraph shall be a delivery  
3           sale regardless of whether the seller is located  
4           within or outside of Oklahoma.

5           c. A sale of cigarettes not for personal consumption to a  
6           person who is a wholesale dealer or a retail dealer  
7           shall not be a delivery sale.

8           d. For purposes of this paragraph, any sale of cigarettes  
9           to an individual in Oklahoma shall be treated as a  
10          sale to a consumer unless such individual is licensed  
11          as a distributor or retailer of cigarettes by the Tax  
12          Commission;

13          14. The term "delivery service" means any person, including but  
14          not limited to the United States Postal Service, that is engaged in  
15          the commercial delivery of letters, packages, or other containers;

16          15. The term "manufacturer" means any person who manufactures,  
17          fabricates, assembles, processes, or labels a finished cigarette; or  
18          imports, either directly or indirectly, a finished cigarette for  
19          sale or distribution in this state;

20          16. The term "mails" or "mailing" means the shipment of  
21          cigarettes through the United States Postal Service;

22          17. The term "shipping container" means a container in which  
23          cigarettes are shipped in connection with a delivery sale; and  
24

1 18. The term "shipping documents" means bills of lading,  
2 airbills, or any other documents used to evidence the undertaking by  
3 a delivery service to deliver letters, packages, or other  
4 containers.

5 SECTION 2. AMENDATORY 68 O.S. 2021, Section 321, is  
6 amended to read as follows:

7 Section 321. A. The following sales are hereby exempted from  
8 the stamp excise tax levied pursuant to the provisions of Section  
9 301 et seq. of this title:

10 1. All cigarettes sold to veterans hospitals and state operated  
11 domiciliary homes for veterans located in the State of Oklahoma, for  
12 distribution or sale to disabled ex-servicemen or disabled ex-  
13 servicewomen interned in, or inmates of, such hospitals, or  
14 residents of such homes;

15 2. All sales to the United States;

16 3. All sales to a federally recognized Indian tribe or nation  
17 which has entered into a compact with the State of Oklahoma pursuant  
18 to the provisions of subsection C of Section 1 of this act or to a  
19 licensee of such a tribe or nation, upon which the payment in lieu  
20 of taxes required by the compact has been paid; and

21 4. All sales to a federally recognized Indian tribe or nation  
22 or to a licensee of such a tribe or nation upon which the tax levied  
23 pursuant to the provisions of Section 4 of this act has been paid.

24



1        B. To the sale of cigarettes that are intended to be heated  
2 rather than burned shall be applied a tax exemption equal to fifty  
3 percent (50%) of the tax levied pursuant to the provisions of  
4 Section 301 et seq. of this title.

5        SECTION 3.        AMENDATORY        68 O.S. 2021, Section 322, is  
6 amended to read as follows:

7        Section 322. The Oklahoma Tax Commission shall prescribe such  
8 rules and make such regulations as to the sale or distribution of  
9 cigarettes, and the exemption from the stamp excise tax thereof, as  
10 shall be deemed necessary to comply with the provisions of ~~the~~  
11 preceding section Section 301 et seq of this title, including the  
12 creation of distinct stamps to affix to packages of cigarettes that  
13 are intended to be heated rather than burned, and provide that such  
14 stamps be made available on or before the effective date of this  
15 act.

16        SECTION 4. This act shall become effective November 1, 2025.

17  
18        60-1-12267        JM        01/27/25

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