

1 **SENATE FLOOR VERSION**

2 February 24, 2025

3 SENATE BILL NO. 680

By: Paxton of the Senate

4 and

5 Caldwell (Trey) of the
6 House

7
8 An Act relating to heated tobacco products; amending
9 68 O.S. 2021, Sections 301, 321, and 322, which
10 relate to the cigarette stamp tax; modifying
11 definition; providing exemption; requiring the
12 Oklahoma Tax Commission to prescribe certain rules
13 and regulations to comply with certain exemption;
14 updating statutory language; updating statutory
15 references; and providing an effective date.

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 and weighing not to exceed three (3) pounds per
23 thousand cigarettes. The term cigarette shall include products that
24 are intended to be heated or burned;

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~~ wholesaler, "~~distributor~~
3 distributor and/or "~~jobber~~ jobber shall also include all purchasers
4 of cigarettes making purchases directly from the manufacturer for
5 distribution at wholesale or retail sale and this shall not affect
6 the requirements 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, or

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

13 ~~e.~~ the payment in lieu of taxes authorized pursuant to a
14 compact entered into by ~~the State of Oklahoma~~ this
15 state and a federally recognized Indian tribe or
16 nation pursuant to the provisions of subsection C of
17 Section 346 of 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 distributing agent shall also mean and include any person who
5 solicits or takes orders for cigarettes to be shipped in interstate
6 commerce to a person in this state by a person residing outside of
7 Oklahoma, the tax not 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,
14 but not limited to, the United States Postal Service, that is
15 engaged in the commercial delivery of letters, packages, or other
16 containers;

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

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

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

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~~ this
12 state, for distribution or sale to disabled ex-servicemen or
13 disabled ex-servicewomen interned in, or inmates of, such hospitals,
14 or residents of such homes;

15 2. All sales to the United States; and

16 3. All sales to a federally recognized Indian tribe or nation
17 which has entered into a compact with ~~the State of Oklahoma~~ this
18 state pursuant to the provisions of subsection C of Section ~~4 of~~
19 ~~this act~~ 346 of this title or to a licensee of such a tribe or
20 nation, upon which the payment in lieu of taxes required by the
21 compact has been paid; ~~and~~

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

1 B. An exemption is hereby provided for the sale of cigarettes
2 that are intended to be heated rather than burned equal to fifty
3 percent (50%) of the taxes 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. Provided, the
12 Tax Commission shall administer the provisions of this act so that
13 stamps shall be available, on or before the effective date of this
14 act, for affixing to packages of cigarettes that are intended to be
15 heated rather than burned.

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

17 COMMITTEE REPORT BY: COMMITTEE ON REVENUE AND TAXATION
18 February 24, 2025 - DO PASS
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