

1 HOUSE BILL NO. 525  
2 INTRODUCED BY A. REGIER  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO NICOTINE AND  
5 VAPOR PRODUCTS; ~~PROHIBITING DISTRIBUTING, SELLING, OR THE ATTEMPT TO SELL VAPOR~~  
6 ~~PRODUCTS CONTAINING NICOTINE UNLESS INCLUDED IN A DIRECTORY MAINTAINED AND~~  
7 ~~ENFORCED BY THE ATTORNEY GENERAL; REQUIRING MANUFACTURERS OF VAPOR PRODUCTS~~  
8 ~~CONTAINING NICOTINE TO CERTIFY THAT THEIR VAPOR PRODUCTS ARE IN COMPLIANCE WITH~~  
9 ~~FEDERAL MARKETING AUTHORIZATION REQUIREMENTS; PROHIBITING THE SALE OF DISPOSABLE~~  
10 ~~VAPOR PRODUCTS; APPLYING THE TAX ON TOBACCO PRODUCTS TO PROVIDING FOR A TAX ON~~  
11 ~~VAPOR PRODUCTS THAT CONTAIN NICOTINE; PROVIDING FOR AN INTERIM STUDY OF VAPOR~~  
12 ~~PRODUCT LICENSING AND REGULATION; PROVIDING A STATUTORY APPROPRIATION; PROVIDING~~  
13 ~~DEFINITIONS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION;~~  
14 ~~PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR CONTINGENT VOIDNESS; AMENDING~~  
15 ~~SECTIONS 16-11-102, 16-11-118, 16-11-111, AND 16-11-119, 16-11-120, 16-11-128, 16-11-132, 16-11-141,~~  
16 ~~16-11-159, AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE, AN APPLICABILITY DATE, AND A~~  
17 ~~TERMINATION DATE."~~

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

20  
21 (Refer to Introduced Bill)

22 Strike everything after the enacting clause and insert:

23  
24 **NEW SECTION. Section 1. Interim study of vapor product licensing and regulation.** (1) The  
25 economic affairs interim committee, provided for in 5-5-223, shall study vapor product licensing and regulation.  
26 (2) The study may include but is not limited to:  
27 (a) how and where vapor products are manufactured;  
28 (b) methods for ensuring the safety of vapor products;

(c) best practices for licensing vapor product manufacturers and retailers;

(d) whether to develop a vapor product directory and, if developed, how the directory should be administered; and

(e) penalties for failure to comply with vapor product regulations.

(3) The economic affairs interim committee shall complete the study by September 15, 2026, and reporting its findings and recommendations, including legislation, to the 70th legislature.

**NEW SECTION. Section 2. Sale of disposable vapor products prohibited.** Disposable vapor products may not be offered to the public for sale in this state.

**Section 3.** Section 16-11-102, MCA, is amended to read:

**"16-11-102. Definitions.** (1) As used in this chapter, the following definitions apply, unless the context requires otherwise:

(a) "Contraband" means:

(i) any tobacco product possessed, sold, offered for sale, distributed, held, owned, acquired, transported, imported, or caused to be imported in violation of this part;

(ii) any cigarette or roll-your-own tobacco that is possessed, sold, offered for sale, distributed, held, owned, acquired, transported, imported, or caused to be imported in violation of part 4 or 5;

(iii) any cigarettes that bear trademarks that are counterfeit under state or federal trademark laws;

(iv) any cigarettes bearing false or counterfeit insignia or tax stamps from any state; or

(v) any cigarettes or tobacco products that violate 16-10-306.

(b) "Department" means the department of revenue provided for in 2-15-1301.

(c) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed.

(2) As used in this part, the following definitions apply, unless the context requires otherwise:

(a) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(i) any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(ii) tobacco, in any form, that is functional in the product and that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette; or

(iii) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance or the type of tobacco used in the filler and regardless of its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette described in subsection (2)(a)(i).

(b) "Controlling person" means a person who owns an equity interest of 10% or more of a business or the equivalent.

(c) "Directory" means the tobacco product directory as provided in 16-11-504.

(d) "Disposable vapor product" means a vapor product that is a prefilled, self-contained product designed for one-time use.

~~(d)~~(e) "Full face value of insignia" means the total amount of the tax levied under this part.

~~(e)~~(f) "Insignia" or "indicia" means the impression, mark, or stamp approved by the department under the provisions of this part.

~~(f)~~(g) "Licensed retailer" means any person, other than a wholesaler, subjobber, or tobacco product vendor, who is licensed under the provisions of this part.

~~(g)~~(h) "Licensed subjobber" means a subjobber licensed under the provisions of this part. The person must be treated as a wholesaler.

~~(h)~~(i) "Licensed wholesaler" means a wholesaler licensed under the provisions of this part.

~~(i)~~(j) "Manufacturer" means any person who fabricates tobacco products from raw materials for the purpose of resale.

~~(j)~~(k) "Manufacturer's original container" means the original master shipping case or original shipping case used by the tobacco product manufacturer to ship multipack units, such as boxes, cartons, and sleeves, to warehouse distribution points.

~~(k)~~(l) "Moist snuff" means any finely cut, ground, or powdered tobacco, other than dry snuff, that is intended to be placed in the oral cavity.

~~(l)~~(m) (i) "Premium cigar" means any roll of tobacco that is hand wrapped in 100% whole tobacco leaf, is not wrapped by a machine, and does not contain a filter, tip, or any characterizing nontobacco flavor.

(ii) The term does not include a cigarette.

~~(m)(n)~~ "Record" means an original document, a legible facsimile, or an electronically preserved copy.

~~(n)(o)~~ "Retailer" means a person, other than a wholesaler, who is engaged in the business of selling tobacco products to the ultimate consumer. The term includes a person who operates fewer than 10 tobacco product vending machines.

~~(o)(p)~~ "Roll-your-own tobacco" means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes.

~~(p)(q)~~ "Sale" or "sell" means any transfer of tobacco products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means.

~~(q)(r)~~ "Sole distributor" means a person who either causes a unique brand of tobacco products to be manufactured according to distinctive specifications and acts as the exclusive distributor of the tobacco products or is the exclusive distributor of a brand of tobacco products within the continental United States.

~~(r)(s)~~ "Subjobber" means a person who purchases from a licensed wholesaler cigarettes with the Montana cigarette tax insignia affixed and sells or offers to sell tobacco products to a licensed retailer or tobacco product vendor. An isolated sale or exchange of cigarettes between licensed retailers does not constitute those retailers as subjobbers.

~~(s)(t)~~ "Tobacco product" means:  
~~(i)~~ cigarettes and all other products containing tobacco that are intended for human consumption or use; ~~or~~

~~(ii)~~ vapor products that contain nicotine.

~~(t)(u)~~ (i) "Tobacco product vendor" means a person doing business in the state who purchases tobacco products through a wholesaler, subjobber, or retailer for 10 or more tobacco product vending machines that the person operates for a profit in premises or locations other than the person's own.

(ii) A tobacco product vendor must be treated as a wholesaler.

~~(v)~~ (i) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes an

electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(ii) The term does not include a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

~~(w)~~(w) "Wholesale price" means the established price for which a manufacturer sells a tobacco product to a wholesaler or any other person before any discount or reduction.

~~(w)~~(x) "Wholesaler" means a person who:

(i) purchases tobacco products from a manufacturer for the purpose of selling tobacco products to subjobbers, tobacco product vendors, wholesalers, or retailers; or

(ii) purchases tobacco products from a sole distributor, another wholesaler, or any other person for the purpose of selling tobacco products to subjobbers, tobacco product vendors, wholesalers, or retailers."

**Section 4.** Section 16-11-111, MCA, is amended to read:

**"16-11-111. Cigarette, tobacco products, and moist snuff sales tax -- exemption for sale to tribal member.** (1) (a) A tax on the purchase of cigarettes for consumption, use, or any purpose other than resale in the regular course of business is imposed and must be precollected by the wholesaler and paid to the state of Montana. The tax is \$1.70 on each package containing 20 cigarettes. Whenever packages contain other than 20 cigarettes, there is a tax on each cigarette equal to 1/20 the tax on a package containing 20 cigarettes.

(b) The tax computed under subsection (1)(a) applies to illegally packaged cigarettes under 16-11-307.

(2) The tax imposed in subsection (1) does not apply to quota cigarettes.

(3) Subject to the refund or credit provided in subsection (4), the tax must be precollected on all cigarettes entering a Montana Indian reservation.

(4) Pursuant to the procedure provided in subsection (5), a wholesaler making a sale of cigarettes to a retailer within the boundaries of a Montana Indian reservation may apply to the department for a refund or credit for taxes precollected on cigarettes sold by the retailer to a member of the federally recognized Indian

1 tribe or tribes on whose reservation the sale is made. A wholesaler who does not file a claim within 1 year of the  
2 shipment date forfeits the refund or credit.

3 (5) The distribution of tax-free cigarettes to a tribal member must be implemented through a  
4 system of preapproved wholesaler shipments. A licensed Montana wholesaler shall contact the department for  
5 approval prior to the shipment of the untaxed cigarettes. The department may authorize sales based on  
6 whether the quota, as established in a cooperative agreement between the department and an Indian tribe or  
7 as set out in this chapter, has been met. If authorized as a tax-exempt sale, the wholesaler, upon providing  
8 proof of order and delivery to a retailer within the boundaries of a Montana Indian reservation selling cigarettes  
9 to members of a federally recognized tribe or tribes of that reservation, must be given a refund or credit. Once  
10 the quota has been filled, the department shall immediately notify all affected wholesalers that further sales on  
11 that reservation must be taxed and that a claim for a refund or credit will not be honored for the remainder of  
12 the quota period. Quota allocations are not transferable between quota periods or between reservations.

13 (6) The total amount of refunds or credits allowed by the department to all wholesalers claiming the  
14 refund or credit under subsection (4) for any month may not exceed an amount that is equal to the tax due on  
15 the quota allocation. The department shall determine the amount of refunds or credits for each Indian  
16 reservation at the beginning of each fiscal year, using the most recent census data available from the bureau of  
17 Indian affairs or as provided in a cooperative agreement with the tribe or tribes of the Indian reservation.

18 (7) There must be collected and paid to the state of Montana a tax of 50% of the wholesale price,  
19 to the wholesaler, of all tobacco products other than cigarettes, premium cigars, vapor products that contain  
20 nicotine, and moist snuff. The tax on a premium cigar is the lesser of 50% of the wholesale price or 35 cents a  
21 premium cigar. The tax on moist snuff is 85 cents an ounce based upon the net weight of the package listed by  
22 the manufacturer. For packages of moist snuff that are less than or greater than 1 ounce, the tax must be  
23 proportional to the size of the package. The tax on vapor products that contain nicotine is 20% of the wholesale  
24 price. Tobacco products shipped from Montana and destined for retail sale and consumption outside the state  
25 are not subject to this tax.

26 (8) The tax imposed by subsection (7) must be precollected and paid by a wholesaler to the  
27 department upon sale to a Montana retailer. A wholesaler who fails to report or pay the tax required by this part  
28 must be assessed penalty and interest as provided in 15-1-216.

(9) A retailer who purchases tobacco products for resale on which the tobacco products tax has not been collected and paid to the department shall comply with all the provisions of this part and the rules adopted to implement this part as if it were a wholesaler.

(10) A retailer must assume that the tobacco products tax has not been collected and paid to the department in the absence of a statement on the retailer's invoice or sales slip for the tobacco products that states that the applicable Montana tobacco products tax is included in the total billing cost."

**Section 5.** Section 16-11-119, MCA, is amended to read:

**"16-11-119. Disposition of taxes -- statutory appropriation.** (1) A sum equal to the amount necessary to purchase cigarette tax stamps must be deposited to or allocated from the state special revenue fund to the credit of the department from cigarette taxes collected under the provisions of 16-11-111, as provided in subsection ~~(5)~~ (6) of this section.

(2) After the deposit or allocation in subsection (1), cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 17-2-124, be deposited as follows:

(a) 8.3% or \$5 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes;

(b) 2.6% in the major repair long-range building program account provided for in 17-7-221;

(c) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in 53-6-1201;

(d) \$150,000 in the veterans and surviving spouses state special revenue account provided for in 10-2-108; and

(e) the remainder to the state general fund.

(3) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state general fund.

(4) ~~The Except as provided in subsection (5), the~~ taxes collected on tobacco products other than cigarettes must in accordance with the provisions of 17-2-124 be deposited as follows:

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(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201.

(5) The taxes collected on vapor products that contain nicotine must be used as follows:

(a) 68% to the department of revenue for the licensing and regulation of vapor products; and

(b) 32% to the department of public health and human services for nicotine use prevention.

(5)(6) Each fiscal year, a sum equal to the amount of money necessary to purchase cigarette tax stamps is statutorily appropriated, as provided in 17-7-502, from the state special revenue fund allocation in subsection (1) to the department for tax administration responsibilities."

NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2025.

NEW SECTION. Section 7. Appropriation. There is appropriated \$8,000 from the general fund to the legislative services division for the biennium beginning July 1, 2025, to pay for costs associated with the study required by [section 1].

NEW SECTION. Section 8. Contingent voidness. (1) Pursuant to Joint Rule 40-65, if [this act] does not include an appropriation for the interim study provided for in [section 1] prior to being transmitted to the governor, then [section 1] is void.

(2) If the appropriation in [section 5] is vetoed, then [section 1] is void..

NEW SECTION. Section 9. Codification instruction. [Section 2] is intended to be codified as an integral part of Title 16, chapter 11, part 1, and the provisions of Title 16, chapter 11, part 1, apply to [section 2].

NEW SECTION. Section 10. Applicability. [This act] applies to vapor products that contain nicotine sold on or after July 1, 2025.

NEW SECTION. Section 11. Termination. [Section 1] terminates December 31, 2026.



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- END -

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