

HOUSE BILL NO. 525

INTRODUCED BY A. REGIER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO NICOTINE AND VAPOR PRODUCTS; ~~PROHIBITING DISTRIBUTING, SELLING, OR THE ATTEMPT TO SELL VAPOR PRODUCTS CONTAINING NICOTINE UNLESS INCLUDED IN A DIRECTORY MAINTAINED AND ENFORCED BY THE ATTORNEY GENERAL; REQUIRING MANUFACTURERS OF VAPOR PRODUCTS CONTAINING NICOTINE TO CERTIFY THAT THEIR VAPOR PRODUCTS ARE IN COMPLIANCE WITH FEDERAL MARKETING AUTHORIZATION REQUIREMENTS; APPLYING THE TAX ON TOBACCO PRODUCTS TO VAPOR PRODUCTS THAT CONTAIN NICOTINE; PROVIDING A STATUTORY APPROPRIATION; PROVIDING DEFINITIONS A DEFINITION; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING AN APPROPRIATION; PROVIDING RULEMAKING AUTHORITY;~~ AMENDING SECTIONS 16-11-102, ~~16-11-118, AND 16-11-119, 16-11-120, 16-11-128, 16-11-132, 16-11-141, 16-11-159, AND 17-7-502,~~ MCA; AND PROVIDING AN EFFECTIVE DATE, AND AN APPLICABILITY DATE, ~~AND A TERMINATION DATE.~~"

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. 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) "Full face value of insignia" means the total amount of the tax levied under this part.

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

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

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

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

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

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

(n) "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) "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) "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) "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) "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) "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) (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.

(u) (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.

~~(u)~~(v) "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.

~~(v)~~(w) "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 2. 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) ~~(a) 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:

(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 deposited as follows:~~

~~(a) 68% in the general fund; and~~

~~(b) 32% to the department of 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 3. Effective date.** [This act] is effective July 1, 2025.

NEW SECTION. **Section 4. Applicability.** [This act] applies to vapor products that contain nicotine

Amendment - 2nd Reading-yellow - Requested by: Brian Close - (H) Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Megan Moore,

HB0525.002.001

1 sold on or after July 1, 2025.

2 - END -

AMENDED