



Sen. John J. Cullerton

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LRB097 06653 HLH 53187 a

1 AMENDMENT TO SENATE BILL 21

2 AMENDMENT NO. _____. Amend Senate Bill 21, AS AMENDED,
3 with reference to page and line numbers of Senate Amendment No.
4 1, on page 38, immediately below line 20, by inserting the
5 following:

6 "Section 13. The Tobacco Products Tax Act of 1995 is
7 amended by changing Sections 10-5, 10-10, and 10-30 as follows:

8 (35 ILCS 143/10-5)

9 Sec. 10-5. Definitions. For purposes of this Act:

10 "Business" means any trade, occupation, activity, or
11 enterprise engaged in, at any location whatsoever, for the
12 purpose of selling tobacco products.

13 "Cigarette" has the meaning ascribed to the term in Section
14 1 of the Cigarette Tax Act.

15 "Correctional Industries program" means a program run by a
16 State penal institution in which residents of the penal

1 institution produce tobacco products for sale to persons
2 incarcerated in penal institutions or resident patients of a
3 State operated mental health facility.

4 "Department" means the Illinois Department of Revenue.

5 "Distributor" means any of the following:

6 (1) Any manufacturer or wholesaler in this State
7 engaged in the business of selling tobacco products who
8 sells, exchanges, or distributes tobacco products to
9 retailers or consumers in this State.

10 (2) Any manufacturer or wholesaler engaged in the
11 business of selling tobacco products from without this
12 State who sells, exchanges, distributes, ships, or
13 transports tobacco products to retailers or consumers
14 located in this State, so long as that manufacturer or
15 wholesaler has or maintains within this State, directly or
16 by subsidiary, an office, sales house, or other place of
17 business, or any agent or other representative operating
18 within this State under the authority of the person or
19 subsidiary, irrespective of whether the place of business
20 or agent or other representative is located here
21 permanently or temporarily.

22 (3) Any retailer who receives tobacco products on which
23 the tax has not been or will not be paid by another
24 distributor.

25 "Distributor" does not include any person, wherever
26 resident or located, who makes, manufactures, or fabricates

1 tobacco products as part of a Correctional Industries program
2 for sale to residents incarcerated in penal institutions or
3 resident patients of a State operated mental health facility.

4 "Manufacturer" means any person, wherever resident or
5 located, who manufactures and sells tobacco products, except a
6 person who makes, manufactures, or fabricates tobacco products
7 as a part of a Correctional Industries program for sale to
8 persons incarcerated in penal institutions or resident
9 patients of a State operated mental health facility.

10 "Moist snuff" means any finely cut, ground, or powdered
11 tobacco that is not intended to be smoked, but shall not
12 include any finely cut, ground, or powdered tobacco that is
13 intended to be placed in the nasal cavity.

14 "Person" means any natural individual, firm, partnership,
15 association, joint stock company, joint venture, limited
16 liability company, or public or private corporation, however
17 formed, or a receiver, executor, administrator, trustee,
18 conservator, or other representative appointed by order of any
19 court.

20 "Place of business" means and includes any place where
21 tobacco products are sold or where tobacco products are
22 manufactured, stored, or kept for the purpose of sale or
23 consumption, including any vessel, vehicle, airplane, train,
24 or vending machine.

25 "Retailer" means any person in this State engaged in the
26 business of selling tobacco products to consumers in this

1 State, regardless of quantity or number of sales.

2 "Sale" means any transfer, exchange, or barter in any
3 manner or by any means whatsoever for a consideration and
4 includes all sales made by persons.

5 "Tobacco products" means any cigars; cheroots; stogies;
6 periques; granulated, plug cut, crimp cut, ready rubbed, and
7 other smoking tobacco; snuff (including moist snuff) or snuff
8 flour; cavendish; plug and twist tobacco; fine-cut and other
9 chewing tobaccos; shorts; refuse scraps, clippings, cuttings,
10 and sweeping of tobacco; and other kinds and forms of tobacco,
11 prepared in such manner as to be suitable for chewing or
12 smoking in a pipe or otherwise, or both for chewing and
13 smoking; but does not include cigarettes or tobacco purchased
14 for the manufacture of cigarettes by cigarette distributors and
15 manufacturers defined in the Cigarette Tax Act and persons who
16 make, manufacture, or fabricate cigarettes as a part of a
17 Correctional Industries program for sale to residents
18 incarcerated in penal institutions or resident patients of a
19 State operated mental health facility.

20 "Wholesale price" means the established list price for
21 which a manufacturer sells tobacco products to a distributor,
22 before the allowance of any discount, trade allowance, rebate,
23 or other reduction. In the absence of such an established list
24 price, the manufacturer's invoice price at which the
25 manufacturer sells the tobacco product to unaffiliated
26 distributors, before any discounts, trade allowances, rebates,

1 or other reductions, shall be presumed to be the wholesale
2 price.

3 "Wholesaler" means any person, wherever resident or
4 located, engaged in the business of selling tobacco products to
5 others for the purpose of resale.

6 (Source: P.A. 92-231, eff. 8-2-01.)

7 (35 ILCS 143/10-10)

8 Sec. 10-10. Tax imposed. On the first day of the third
9 month after the month in which this Act becomes law and until
10 July 1, 2011, a tax is imposed on any person engaged in
11 business as a distributor of tobacco products, as defined in
12 Section 10-5, at the rate of 18% of the wholesale price of
13 tobacco products sold or otherwise disposed of to retailers or
14 consumers located in this State. Beginning on July 1, 2011, a
15 tax is imposed on any person engaged in business as a
16 distributor of tobacco products, as defined in Section 10-5, at
17 the rate of (i) 18% of the wholesale price of tobacco products,
18 other than moist snuff, sold or otherwise disposed of to
19 retailers or consumers located in this State and (ii) \$0.20 per
20 ounce of moist snuff, and a proportionate tax at the like rate
21 on all fractional parts of an ounce, sold or otherwise disposed
22 of to retailers or consumers located in this State. The tax is
23 in addition to all other occupation or privilege taxes imposed
24 by the State of Illinois, by any political subdivision thereof,
25 or by any municipal corporation. However, the tax is not

1 imposed upon any activity in that business in interstate
2 commerce or otherwise, to the extent to which that activity may
3 not, under the Constitution and Statutes of the United States,
4 be made the subject of taxation by this State. The tax is also
5 not imposed on sales made to the United States or any entity
6 thereof.

7 Beginning on July 1, 2011, the tax rate imposed per ounce
8 of moist snuff may not exceed 11% of the tax imposed upon a
9 package of 20 cigarettes pursuant to the Cigarette Tax Act.

10 All moneys received by the Department under this Act shall
11 be paid into the Long-Term Care Provider Fund of the State
12 Treasury.

13 (Source: P.A. 92-231, eff. 8-2-01.)

14 (35 ILCS 143/10-30)

15 Sec. 10-30. Returns. Every distributor shall, on or before
16 the 15th day of each month, file a return with the Department
17 covering the preceding calendar month. The return shall
18 disclose the wholesale price for all tobacco products and the
19 quantity of moist snuff sold or otherwise disposed of and other
20 information that the Department may reasonably require. The
21 return shall be filed upon a form prescribed and furnished by
22 the Department.

23 At the time when any return of any distributor is due to be
24 filed with the Department, the distributor shall also remit to
25 the Department the tax liability that the distributor has

1 incurred for transactions occurring in the preceding calendar
2 month.

3 (Source: P.A. 89-21, eff. 6-6-95.)".