



Rep. Kelly M. Cassidy

Filed: 5/7/2021

10200SB1706ham001

LRB102 16571 HLH 26201 a

1 AMENDMENT TO SENATE BILL 1706

2 AMENDMENT NO. _____. Amend Senate Bill 1706 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Tobacco Products Tax Act of 1995 is
5 amended by changing Section 10-5 as follows:

6 (35 ILCS 143/10-5)

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

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

11 "Cigarette" has the meaning ascribed to the term in
12 Section 1 of the Cigarette Tax Act.

13 "Contraband little cigar" means:

14 (1) packages of little cigars containing 20 or 25
15 little cigars that do not bear a required tax stamp under
16 this Act;

1 (2) packages of little cigars containing 20 or 25
2 little cigars that bear a fraudulent, imitation, or
3 counterfeit tax stamp;

4 (3) packages of little cigars containing 20 or 25
5 little cigars that are improperly tax stamped, including
6 packages of little cigars that bear only a tax stamp of
7 another state or taxing jurisdiction; or

8 (4) packages of little cigars containing other than 20
9 or 25 little cigars in the possession of a distributor,
10 retailer or wholesaler, unless the distributor, retailer,
11 or wholesaler possesses, or produces within the time frame
12 provided in Section 10-27 or 10-28 of this Act, an invoice
13 from a stamping distributor, distributor, or wholesaler
14 showing that the tax on the packages has been or will be
15 paid.

16 "Correctional Industries program" means a program run by a
17 State penal institution in which residents of the penal
18 institution produce tobacco products for sale to persons
19 incarcerated in penal institutions or resident patients of a
20 State operated mental health facility.

21 "Department" means the Illinois Department of Revenue.

22 "Distributor" means any of the following:

23 (1) Any manufacturer or wholesaler in this State
24 engaged in the business of selling tobacco products who
25 sells, exchanges, or distributes tobacco products to
26 retailers or consumers in this State.

1 (2) Any manufacturer or wholesaler engaged in the
2 business of selling tobacco products from without this
3 State who sells, exchanges, distributes, ships, or
4 transports tobacco products to retailers or consumers
5 located in this State, so long as that manufacturer or
6 wholesaler has or maintains within this State, directly or
7 by subsidiary, an office, sales house, or other place of
8 business, or any agent or other representative operating
9 within this State under the authority of the person or
10 subsidiary, irrespective of whether the place of business
11 or agent or other representative is located here
12 permanently or temporarily.

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

16 "Distributor" does not include any person, wherever
17 resident or located, who makes, manufactures, or fabricates
18 tobacco products as part of a Correctional Industries program
19 for sale to residents incarcerated in penal institutions or
20 resident patients of a State operated mental health facility.

21 "Electronic cigarette" means:

22 (1) any device that employs a battery or other
23 mechanism to heat a solution or substance to produce a
24 vapor or aerosol intended for inhalation, except (A) any
25 device designed solely for use with cannabis that contains
26 a statement on the retail packaging that the device is

1 designed solely for use with cannabis and not for use with
2 tobacco or (B) any device that contains a solution or
3 substance that contains cannabis subject to tax under the
4 Compassionate Use of Medical Cannabis Program Act or the
5 Cannabis Regulation and Tax Act;

6 (2) any cartridge or container of a solution or
7 substance intended to be used with or in the device or to
8 refill the device, except any cartridge or container of a
9 solution or substance that contains cannabis subject to
10 tax under the Compassionate Use of Medical Cannabis
11 Program Act or the Cannabis Regulation and Tax Act; or

12 (3) any solution or substance, whether or not it
13 contains nicotine, intended for use in the device, except
14 any solution or substance that contains cannabis subject
15 to tax under the Compassionate Use of Medical Cannabis
16 Program Act or the Cannabis Regulation and Tax Act.

17 The changes made to the definition of "electronic
18 cigarette" by this amendatory Act of the 102nd General
19 Assembly apply on and after June 28, 2020, but no claim for
20 credit or refund is allowed on or after the effective date of
21 this amendatory Act of the 102nd General Assembly for such
22 taxes paid during the period beginning June 28, 2020 and the
23 effective date of this amendatory Act of the 102nd General
24 Assembly.

25 "Electronic cigarette" includes, but is not limited to,
26 any electronic nicotine delivery system, electronic cigar,

1 electronic cigarillo, electronic pipe, electronic hookah, vape
2 pen, or similar product or device, and any component or part
3 that can be used to build the product or device. "Electronic
4 cigarette" does not include: cigarettes, as defined in Section
5 1 of the Cigarette Tax Act; any product approved by the United
6 States Food and Drug Administration for sale as a tobacco
7 cessation product, a tobacco dependence product, or for other
8 medical purposes that is marketed and sold solely for that
9 approved purpose; any asthma inhaler prescribed by a physician
10 for that condition that is marketed and sold solely for that
11 approved purpose; or any therapeutic product approved for use
12 under the Compassionate Use of Medical Cannabis Program Act.

13 "Little cigar" means and includes any roll, made wholly or
14 in part of tobacco, where such roll has an integrated
15 cellulose acetate filter and weighs less than 4 pounds per
16 thousand and the wrapper or cover of which is made in whole or
17 in part of tobacco.

18 "Manufacturer" means any person, wherever resident or
19 located, who manufactures and sells tobacco products, except a
20 person who makes, manufactures, or fabricates tobacco products
21 as a part of a Correctional Industries program for sale to
22 persons incarcerated in penal institutions or resident
23 patients of a State operated mental health facility.

24 Beginning on January 1, 2013, "moist snuff" means any
25 finely cut, ground, or powdered tobacco that is not intended
26 to be smoked, but shall not include any finely cut, ground, or

1 powdered tobacco that is intended to be placed in the nasal
2 cavity.

3 "Person" means any natural individual, firm, partnership,
4 association, joint stock company, joint venture, limited
5 liability company, or public or private corporation, however
6 formed, or a receiver, executor, administrator, trustee,
7 conservator, or other representative appointed by order of any
8 court.

9 "Place of business" means and includes any place where
10 tobacco products are sold or where tobacco products are
11 manufactured, stored, or kept for the purpose of sale or
12 consumption, including any vessel, vehicle, airplane, train,
13 or vending machine.

14 "Retailer" means any person in this State engaged in the
15 business of selling tobacco products to consumers in this
16 State, regardless of quantity or number of sales.

17 "Sale" means any transfer, exchange, or barter in any
18 manner or by any means whatsoever for a consideration and
19 includes all sales made by persons.

20 "Stamp" or "stamps" mean the indicia required to be
21 affixed on a package of little cigars that evidence payment of
22 the tax on packages of little cigars containing 20 or 25 little
23 cigars under Section 10-10 of this Act. These stamps shall be
24 the same stamps used for cigarettes under the Cigarette Tax
25 Act.

26 "Stamping distributor" means a distributor licensed under

1 this Act and also licensed as a distributor under the
2 Cigarette Tax Act or Cigarette Use Tax Act.

3 "Tobacco products" means any cigars, including little
4 cigars; cheroots; stogies; periques; granulated, plug cut,
5 crimp cut, ready rubbed, and other smoking tobacco; snuff
6 (including moist snuff) or snuff flour; cavendish; plug and
7 twist tobacco; fine-cut and other chewing tobaccos; shorts;
8 refuse scraps, clippings, cuttings, and sweeping of tobacco;
9 and other kinds and forms of tobacco, prepared in such manner
10 as to be suitable for chewing or smoking in a pipe or
11 otherwise, or both for chewing and smoking; but does not
12 include cigarettes as defined in Section 1 of the Cigarette
13 Tax Act or tobacco purchased for the manufacture of cigarettes
14 by cigarette distributors and manufacturers defined in the
15 Cigarette Tax Act and persons who make, manufacture, or
16 fabricate cigarettes as a part of a Correctional Industries
17 program for sale to residents incarcerated in penal
18 institutions or resident patients of a State operated mental
19 health facility.

20 Beginning on July 1, 2019, "tobacco products" also
21 includes electronic cigarettes.

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

1 manufacturer sells the tobacco product to unaffiliated
2 distributors, before any discounts, trade allowances, rebates,
3 or other reductions, shall be presumed to be the wholesale
4 price.

5 "Wholesaler" means any person, wherever resident or
6 located, engaged in the business of selling tobacco products
7 to others for the purpose of resale. "Wholesaler", when used
8 in this Act, does not include a person licensed as a
9 distributor under Section 10-20 of this Act unless expressly
10 stated in this Act.

11 (Source: P.A. 101-31, eff. 6-28-19; 101-593, eff. 12-4-19.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law."