

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 199

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO TAX; AMENDING THE HEADING FOR CHAPTER 25, TITLE 63, IDAHO CODE, TO PROVIDE FOR ELECTRONIC SMOKING PRODUCTS AND DEVICES; AMENDING SECTION 63-2551, IDAHO CODE, TO REVISE A DEFINITION AND TO DEFINE A TERM; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That the Heading for Chapter 25, Title 63, Idaho Code, be, and the same is hereby amended to read as follows:

CHAPTER 25

CIGARETTE, ELECTRONIC SMOKING PRODUCTS AND DEVICES, AND TOBACCO PRODUCTS TAXES

SECTION 2. That Section 63-2551, Idaho Code, be, and the same is hereby amended to read as follows:

63-2551. ELECTRONIC SMOKING PRODUCTS AND DEVICES AND TOBACCO PRODUCTS TAX -- DEFINITIONS. As used in this act:

(1) "Tobacco products" ~~shall mean any~~ means:

(a) Any cigars, cheroots, stogies, smoking tobacco (including granulated, plug, cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing) and snuff, however prepared; and shall include any other articles or products made of tobacco except cigarettes; and

(b) In addition, beginning on July 1, 2023, electronic smoking products and devices, not including electronic smoking products and devices already within the state on July 1, 2023;

(2) "Electronic smoking products and devices" means any device that can be used to deliver aerosolized or vaporized substances to the person inhaling from the device, including but not limited to an electronic cigarette, electronic cigar, electronic pipe, electronic hookah, or vape pen. Electronic smoking products and devices includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking products and devices does not include any battery or battery charger when sold separately. In addition, electronic smoking products and devices does not include drugs, devices, or combination products authorized for sale by the United States food and drug administration, as those terms are defined in the federal food, drug, and cosmetic act;

~~(2)~~ (3) "Manufacturer" means a person who manufactures and sells tobacco products;

~~(3)~~ (4) "Distributor" means:

1 (a) ~~any~~ Any person engaged in the business of selling tobacco products  
 2 in this state who brings, or causes to be brought, into this state from  
 3 without the state any tobacco products for sale~~;~~;

4 (b) ~~any~~ Any person who makes, manufactures, or fabricates tobacco prod-  
 5 ucts in this state for sale in this state~~;~~; and

6 (c) ~~any~~ Any person engaged in the business of selling tobacco products  
 7 without this state who ships or transports tobacco products to retail-  
 8 ers in this state, to be sold by those retailers;

9 ~~(4)~~ (5) "Subjobber" means any person, other than a manufacturer or dis-  
 10 tributor, who buys tobacco products from a distributor and sells them to per-  
 11 sons other than the ultimate consumers;

12 ~~(5)~~ (6) "Retailer" means any person engaged in the business of selling  
 13 tobacco products to ultimate consumers;

14 ~~(6)~~ (7) "Sale" means any transfer, exchange, or barter, in any manner  
 15 or by any means whatsoever, for a consideration, and includes and means all  
 16 sales made by any person. It includes a gift by a person engaged in the busi-  
 17 ness of selling tobacco products, for advertising, as a means of evading the  
 18 provisions of this chapter, or for any other purposes whatsoever;

19 ~~(7)~~ (8) "Wholesale sales price" means the established price for which a  
 20 manufacturer or any person sells a tobacco product to a distributor that is  
 21 not a related person as defined in section 267 of the Internal Revenue Code,  
 22 exclusive of any discount or other reduction;

23 ~~(8)~~ (9) "Business" means any trade, occupation, activity, or enter-  
 24 prise engaged in for the purpose of selling or distributing tobacco products  
 25 in this state;

26 ~~(9)~~ (10) "Place of business" means any place where tobacco products are  
 27 manufactured, stored, or kept for the purpose of sale or consumption, in-  
 28 cluding any vessel, vehicle, airplane or train;

29 ~~(10)~~ (11) "Retail outlet" means each place of business from which to-  
 30 bacco products are sold to consumers;

31 ~~(11)~~ (12) "Commission" means the Idaho state tax commission.

32 SECTION 3. An emergency existing therefor, which emergency is hereby  
 33 declared to exist, this act shall be in full force and effect on and after  
 34 July 1, 2023.