

AMENDMENTS TO LB397

Introduced by Cavanaugh, 6.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 28-1418, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 28-1418 Whoever, being a minor under the age of eighteen years,
6 shall use any tobacco products ~~smoke cigarettes or cigars, use vapor~~
7 ~~products or alternative nicotine products, or use tobacco in any form~~
8 ~~whatever,~~ in this state, shall be guilty of a Class V misdemeanor. Any
9 minor charged with a violation of this section may be free from
10 prosecution if he or she furnishes evidence for the conviction of the
11 person or persons selling or giving him or her the tobacco products
12 ~~cigarettes, cigars, vapor products, alternative nicotine products, or~~
13 ~~tobacco.~~

14 Sec. 2. Section 28-1418.01, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 28-1418.01 For purposes of sections 28-1418 to 28-1429.03:

17 (1) Electronic smoking device means any device that can be used to
18 deliver aerosolized or vaporized nicotine to the person inhaling from the
19 device, including, but not limited to, an e-cigarette, e-cigar, e-pipe,
20 vape pen, or e-hookah. Electronic smoking device includes any component,
21 part, or accessory of such a device, whether or not sold separately, and
22 includes any substance intended to be aerosolized or vaporized during the
23 use of the device. Electronic smoking device does not include drugs,
24 devices, or combination products authorized for sale by the United States
25 Food and Drug Administration, as those terms are defined in the Federal
26 Food, Drug, and Cosmetic Act;

27 ~~(1) Alternative nicotine product means any noncombustible product~~

1 ~~containing nicotine that is intended for human consumption, whether~~
2 ~~chewed, absorbed, dissolved, or ingested by any other means. Alternative~~
3 ~~nicotine product does not include any vapor product, cigarette, cigar, or~~
4 ~~other tobacco product, or any product regulated as a drug or device by~~
5 ~~the United States Food and Drug Administration under Chapter V of the~~
6 ~~federal Food, Drug, and Cosmetic Act;~~

7 (2) Self-service display means a retail display that contains a
8 tobacco product, ~~a tobacco derived product, a vapor product, or an~~
9 ~~alternative nicotine product~~ and is located in an area openly accessible
10 to a retailer's customers and from which such customers can readily
11 access the product without the assistance of a salesperson. Self-service
12 display does not include a display case that holds tobacco products,
13 ~~vapor products, or alternative nicotine products behind locked doors;~~

14 (3) Tobacco product means any product that is made from or derived
15 from tobacco, or that contains nicotine, and that is intended for human
16 consumption or is likely to be consumed, whether smoked, heated, chewed,
17 absorbed, dissolved, inhaled, or ingested by any other means, including,
18 but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco,
19 snuff, or snus. Tobacco product also means electronic smoking devices and
20 any component or accessory used in the consumption of a tobacco product,
21 such as filters, rolling papers, pipes, and liquids used in electronic
22 smoking devices, whether or not they contain nicotine. Tobacco product
23 does not include drugs, devices, or combination products authorized for
24 sale by the United States Food and Drug Administration, as those terms
25 are defined in the Federal Food, Drug, and Cosmetic Act; and

26 (4) ~~(3)~~ Tobacco specialty store means a retail store that (a)
27 derives at least seventy-five percent of its revenue from tobacco
28 products, ~~tobacco derived products, vapor products, or alternative~~
29 nicotine products and (b) does not permit minors under the age of
30 eighteen years to enter the premises unless accompanied by a parent or
31 legal guardian. ~~;~~ and

1 ~~(4) Vapor product means any noncombustible product containing~~
2 ~~nicotine that employs a heating element, power source, electronic~~
3 ~~circuit, or other electronic, chemical, or mechanical means, regardless~~
4 ~~of shape or size, that can be used to produce vapor from nicotine in a~~
5 ~~solution or other form. Vapor product includes any electronic cigarette,~~
6 ~~electronic cigar, electronic cigarillo, electronic pipe, or similar~~
7 ~~product or device and any vapor cartridge or other container of nicotine~~
8 ~~in a solution or other form that is intended to be used with or in an~~
9 ~~electronic cigarette, electronic cigar, electronic cigarillo, electronic~~
10 ~~pipe, or similar product or device. Vapor product does not include an~~
11 ~~alternative nicotine product, cigarette, cigar, or other tobacco product,~~
12 ~~or any product regulated as a drug or device by the United States Food~~
13 ~~and Drug Administration under Chapter V of the federal Food, Drug, and~~
14 ~~Cosmetic Act.~~

15 Sec. 3. Section 28-1419, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 28-1419 Whoever shall sell, give, or furnish, in any way, any
18 tobacco product ~~in any form whatever, or any cigarettes, cigarette paper,~~
19 ~~vapor products, or alternative nicotine products,~~ to any minor under
20 eighteen years of age, is guilty of a Class III misdemeanor for each
21 offense.

22 Sec. 4. Section 28-1420, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 28-1420 It shall be unlawful for any person, partnership, limited
25 liability company, or corporation to sell, keep for sale, or give away in
26 course of trade, any tobacco product ~~eigars, tobacco, cigarettes, or~~
27 ~~cigarette material~~ to anyone without first obtaining a license as
28 provided in sections 28-1421 and 28-1422. It shall also be unlawful for
29 any wholesaler to sell or deliver any tobacco product ~~eigars, tobacco,~~
30 ~~cigarettes, or cigarette material~~ to any person, partnership, limited
31 liability company, or corporation who, at the time of such sale or

1 delivery, is not the recipient of a valid tobacco license for the current
2 year to retail the same as provided in such sections. It shall also be
3 unlawful for any person, partnership, limited liability company, or
4 corporation to purchase or receive, for purposes of resale, any tobacco
5 product ~~eigars, tobacco, cigarettes, or cigarette material~~ if such
6 person, partnership, limited liability company, or corporation is not the
7 recipient of a valid tobacco license to retail such tobacco products at
8 the time the same are purchased or received. Whoever shall be found
9 guilty of violating this section shall be guilty of a Class III
10 misdemeanor for each offense.

11 Sec. 5. Section 28-1421, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 28-1421 Licenses for the sale of tobacco products ~~eigars, tobacco,~~
14 ~~cigarettes, and cigarette material~~ to persons over the age of eighteen
15 years shall be issued to individuals, partnerships, limited liability
16 companies, and corporations by the clerk or finance director of any city
17 or village and by the county clerk of any county upon application duly
18 made as provided in section 28-1422. The sale of cigarettes or cigarette
19 materials that contain perfumes or drugs in any form is prohibited and is
20 not licensed by the provisions of this section. ~~Only cigarettes and~~
21 ~~cigarette material containing pure white paper and pure tobacco shall be~~
22 ~~licensed.~~

23 Sec. 6. Section 28-1423, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 28-1423 The term for which such license shall run shall be from the
26 date of filing such application and paying such license fee to and
27 including December 31 of the calendar year in which application for such
28 license is made, and the license fee for any person, partnership, limited
29 liability company, or corporation selling at retail shall be one hundred
30 ~~twenty-five~~ dollars ~~in cities of the metropolitan class, fifteen dollars~~
31 ~~in cities of the primary and first classes, and ten dollars in cities of~~

1 ~~all other classes and in towns and villages and in locations outside of~~
2 ~~the limits of cities, towns and villages. Any person, partnership,~~
3 ~~limited liability company, or corporation selling tobacco products in any~~
4 ~~form at wholesale shall pay a license fee of one hundred dollars annually~~
5 ~~in the aggregate more than one hundred fifty thousand cigars, packages of~~
6 ~~cigarettes, and packages of tobacco in any form, at wholesale, shall pay~~
7 ~~a license fee of one hundred dollars, and if such combined annual sales~~
8 ~~amount to less than one hundred fifty thousand cigars, packages of~~
9 ~~cigarettes and packages of tobacco, the annual license fee shall be~~
10 ~~fifteen dollars. No wholesaler's license shall be issued in any year on a~~
11 ~~less basis than one hundred dollars per annum unless the applicant for~~
12 ~~the same shall file with such application a statement duly sworn to by~~
13 ~~himself or herself, or if applicant is a partnership, by a member of the~~
14 ~~firm, or if a limited liability company, by a member or manager of the~~
15 ~~company, or if a corporation, by an officer or manager thereof, that in~~
16 ~~the past such wholesaler's combined sales of cigars, packages of~~
17 ~~cigarettes, and packages of tobacco in every form have not exceeded in~~
18 ~~the aggregate one hundred fifty thousand annually, and that such sales~~
19 ~~will not exceed such aggregate amount for the current year for which the~~
20 ~~license is to issue. Any person swearing falsely in such affidavit shall~~
21 ~~be guilty of perjury and upon conviction thereof shall be punished as~~
22 ~~provided by section 28-915 and such wholesaler's license shall be revoked~~
23 ~~until the full license fee of one hundred dollars is paid. If application~~
24 ~~for license is made after July 1 of any calendar year, the fee shall be~~
25 ~~one-half of the fee provided in this section.~~

26 Sec. 7. Section 28-1424, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 28-1424 The license~~,~~ provided for in sections 28-1421 and 28-1422
29 shall, when issued, shall authorize the sale of tobacco products cigars~~,~~
30 ~~tobacco, cigarettes, and cigarette material~~ by the licensee and
31 employees~~,~~ to persons over the age of eighteen years~~,~~ at the place of

1 business described in such license for the term therein authorized,
2 unless the same be forfeited as provided in section 28-1425.

3 Sec. 8. Section 28-1425, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 28-1425 Any licensee who shall sell, give, or furnish in any way to
6 any person under the age of eighteen years, or who shall willingly allow
7 to be taken from his or her place of business by any person under the age
8 of eighteen years, any tobacco products ~~any cigars, tobacco, cigarettes,~~
9 ~~cigarette material, vapor products, or alternative nicotine products~~ is
10 guilty of a Class III misdemeanor. Any officer, director, or manager
11 having charge or control, either separately or jointly with others, of
12 the business of any corporation which violates sections 28-1419
13 ~~28-1418.01~~, 28-1420 to 28-1429, and 28-1429.03, if he or she has
14 knowledge of such violation, shall be subject to the penalties provided
15 in this section. In addition to the penalties provided in this section,
16 such licensee shall be subject to the additional penalty of a revocation
17 and forfeiture of his, her, their, or its license, at the discretion of
18 the court before whom the complaint for violation of such sections may be
19 heard. If such license is revoked and forfeited, all rights under such
20 license shall at once cease and terminate.

21 Sec. 9. Section 28-1427, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 28-1427 Any person under the age of eighteen years who obtains
24 tobacco products ~~shall obtain cigars, tobacco, cigarettes, cigarette~~
25 ~~material, vapor products, or alternative nicotine products from a~~
26 ~~licensee~~ by representing that he or she is of the age of eighteen years
27 or over is guilty of a Class V misdemeanor.

28 Sec. 10. Section 28-1429.01, Reissue Revised Statutes of Nebraska,
29 is amended to read:

30 28-1429.01 The Legislature finds that the incumbent health risks
31 associated with smoking tobacco products have been scientifically proven.

1 The Legislature further finds that the growing number of minors who start
2 using tobacco products ~~smoking~~ is staggering and even more abhorrent are
3 the ages at which such children begin this deadly habit. The Legislature
4 has established an age restriction on the use of tobacco products by
5 minors. To ensure that the use of tobacco products among minors is
6 discouraged to the maximum extent possible, it is the intent of the
7 Legislature to ban the use of vending machines and similar devices to
8 dispense tobacco products in facilities, buildings, or areas which are
9 open to the general public within Nebraska.

10 Sec. 11. Section 28-1429.02, Reissue Revised Statutes of Nebraska,
11 is amended to read:

12 28-1429.02 (1) Except as provided in subsection (2) of this section,
13 it shall be unlawful to dispense ~~cigarettes, other tobacco products,~~
14 ~~vapor products, or alternative nicotine products~~ from a vending machine
15 or similar device. Any person violating this section is guilty of a Class
16 III misdemeanor. In addition, upon conviction for a second offense, the
17 court shall order a six-month suspension of the offender's license to
18 sell tobacco, if any, and, upon conviction for a third or subsequent
19 offense, the court shall order the permanent revocation of the offender's
20 license to sell tobacco, if any.

21 (2) ~~Cigarettes, other tobacco products, vapor products, or~~
22 ~~alternative nicotine products~~ may be dispensed from a vending machine or
23 similar device when such machine or device is located in an area, office,
24 business, plant, or factory which is not open to the general public or on
25 the licensed premises of any establishment having a license issued under
26 the Nebraska Liquor Control Act for the sale of alcoholic liquor for
27 consumption on the premises when such machine or device is located in the
28 same room in which the alcoholic liquor is dispensed.

29 (3) Nothing in this section shall be construed to restrict or
30 prohibit a governing body of a city or village from establishing and
31 enforcing ordinances at least as stringent as or more stringent than the

1 provisions of this section.

2 Sec. 12. Section 28-1429.03, Reissue Revised Statutes of Nebraska,
3 is amended to read:

4 28-1429.03 (1) Except as provided in subsection (2) of this section
5 and section 28-1429.02, it shall be unlawful to sell or distribute any
6 tobacco products ~~cigarettes, cigars, vapor products, alternative nicotine~~
7 ~~products, or tobacco~~ in any form whatever through a self-service display.
8 Any person violating this section is guilty of a Class III misdemeanor.
9 In addition, upon conviction for a second or subsequent offense within a
10 twelve-month period, the court shall order a six-month suspension of the
11 license issued under section 28-1421.

12 (2) Tobacco products ~~Cigarettes, cigars, vapor products, alternative~~
13 ~~nicotine products, or tobacco~~ in any form whatever may be sold or
14 distributed in a self-service display that is located in a tobacco
15 specialty store or cigar shop as defined in section 53-103.08.

16 Sec. 13. (1) Notwithstanding subdivision (2)(b) of section 69-2703,
17 a tobacco product manufacturer that elects to place funds into a
18 qualified escrow fund pursuant to subdivision (2)(a) of section 69-2703
19 may make an irrevocable assignment of its interest in the fund to the
20 benefit of the State of Nebraska. Such assignment shall be permanent and
21 apply to all monetary amounts in the subject qualified escrow fund or
22 that may subsequently come into the fund, including those deposited into
23 the qualified escrow fund prior to the assignment being executed, those
24 deposited into the qualified escrow fund after the assignment is
25 executed, and interest or other appreciation on the amounts. The tobacco
26 product manufacturer, the Attorney General, and the financial institution
27 where the qualified escrow fund is maintained may make such amendments to
28 the qualified escrow fund agreement, the title to the account, and the
29 account itself as may be necessary to effectuate an assignment of rights
30 executed pursuant to this subsection (1) or a withdrawal of amounts from
31 the qualified escrow fund pursuant to subsection (2) of this section. An

1 assignment of rights executed pursuant to this section shall be in
2 writing, shall have received prior approval issued in writing by the
3 Attorney General, shall be signed by the tobacco product manufacturer or
4 a duly authorized representative of the tobacco product manufacturer
5 making the assignment, and shall become effective upon delivery of the
6 assignment to the Attorney General and the financial institution where
7 the qualified escrow fund is maintained.

8 (2) Notwithstanding subdivision (2)(b) of section 69-2703, any
9 escrow amounts assigned to the State of Nebraska pursuant to subsection
10 (1) of this section shall be withdrawn by the state upon request by the
11 State Treasurer and approval by the Attorney General. Any amounts
12 withdrawn pursuant to this subsection shall be remitted to the State
13 Treasurer for distribution in accordance with Article VII, section 5, of
14 the Constitution of Nebraska, and shall be calculated on a dollar-for-
15 dollar basis as a credit against any judgment or settlement described in
16 subdivision (2)(b) of section 69-2703 which may be obtained against the
17 tobacco product manufacturer who has assigned the amounts in the subject
18 qualified escrow fund. Nothing in this section shall be construed to
19 relieve a tobacco product manufacturer from any past, current, or future
20 obligations the manufacturer may have pursuant to sections 69-2701 to
21 69-2711 and section 13 of this act.

22 Sec. 14. Section 69-2705, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 69-2705 For purposes of sections 69-2704 to 69-2711:

25 (1) Brand family means all styles of cigarettes sold under the same
26 trademark and differentiated from one another by means of additional
27 modifiers or descriptors, including, but not limited to, menthol, lights,
28 kings, and 100s, and includes any brand name, alone or in conjunction
29 with any other word, trademark, logo, symbol, motto, selling message, or
30 recognizable pattern of colors, or any other indicia of product
31 identification identical or similar to, or identifiable with, a

1 previously known brand of cigarettes;

2 (2) Cigarette has the same meaning as in section 69-2702;

3 (3) Cigarette inputs means any machinery or other component parts
4 typically used in the manufacture of cigarettes, including, without
5 limitation, tobacco whether processed or unprocessed, cigarette papers
6 and tubes, cigarette filters or any component parts intended for use in
7 the making of cigarette filters, and any machinery typically used in the
8 making of cigarettes;

9 (4) Days has the same meaning as in section 69-2702;

10 (5) Directory means the directory compiled by the Tax Commissioner
11 under section 69-2706 or, in the case of references to another state's
12 directory, the directory compiled under the similar law in that other
13 state;

14 (6) Importer has the same meaning as in section 69-2702;

15 (7) Indian country has the same meaning as in section 69-2702;

16 (8) Indian tribe has the same meaning as in section 69-2702;

17 (9) Master Settlement Agreement has the same meaning as in section
18 69-2702;

19 (10) Nonparticipating manufacturer means any tobacco product
20 manufacturer that is not a participating manufacturer;

21 (11) Nonparticipating manufacturer cigarettes means cigarettes (a)
22 of a brand family that is not included in the certification of a
23 participating manufacturer under subsection (1) of section 69-2706, (b)
24 that are subject to the escrow requirement under subdivision (2) of
25 section 69-2703 because the participating manufacturer in whose
26 certification the brand family is included is not generally performing
27 its financial obligations under the Master Settlement Agreement, or (c)
28 of a brand family of a participating manufacturer that is not otherwise
29 listed on the directory under subsection (2) of section 69-2706;

30 (12) Package means any pack or other container on which a state
31 stamp or tribal stamp could be applied consistent with and as required by

1 sections 69-2701 to 69-2711 and section 13 of this act and sections
2 77-2601 to 77-2622 that contains one or more individual cigarettes for
3 sale. Nothing in such sections shall alter any other applicable
4 requirement with respect to the minimum number of cigarettes that may be
5 contained in a pack or other container of cigarettes. References to
6 package do not include a container of multiple packages;

7 (13) Participating manufacturer has the same meaning as in section
8 II(jj) of the Master Settlement Agreement;

9 (14) Person means any natural person, trustee, company, partnership,
10 corporation, or other legal entity, including any Indian tribe or
11 instrumentality thereof;

12 (15) Purchase means any acquisition in any manner or by any means
13 for any consideration. The term includes transporting or receiving
14 product in connection with a purchase;

15 (16) Qualified escrow fund has the same meaning as in section
16 69-2702;

17 (17) Retailer includes retail dealers as defined in section 77-2601
18 or anyone who is licensed under sections 28-1420 to 28-1422;

19 (18) Sale or sell means any transfer, exchange, or barter in any
20 manner or by any means for any consideration. Sale or sell includes
21 distributing or shipping product in connection with a sale;

22 (19) Shortfall amount means the difference between (a) the full
23 amount of the deposit required to be made by a nonparticipating
24 manufacturer for a calendar quarter under section 69-2703 and (b) the sum
25 of (i) any amounts precollected by a stamping agent and deposited into
26 escrow for that calendar quarter on behalf of the nonparticipating
27 manufacturer under section 69-2708.01, (ii) the amount deposited into
28 escrow by the nonparticipating manufacturer for that calendar quarter
29 under section 69-2703, (iii) any amounts deposited into escrow for that
30 calendar quarter under subdivision (2)(d) of section 69-2703 by an
31 importer on such nonparticipating manufacturer's cigarettes, and (iv) any

1 amounts collected by the state for that calendar quarter under the bond
2 posted by the nonparticipating manufacturer under section 69-2707.01. The
3 shortfall amount, if any, for a nonparticipating manufacturer for a
4 calendar quarter shall be calculated by the Attorney General within
5 fifteen days following the date on which the state determines the amount
6 it will collect on the bond posted by the nonparticipating manufacturer
7 as provided in section 69-2707.01;

8 (20) Stamping agent means a person that is authorized to affix
9 stamps to packages or other containers of cigarettes under section
10 77-2603 or 77-2603.01 or any person that is required to pay the tobacco
11 tax imposed pursuant to section 77-4008 on roll-your-own cigarettes;

12 (21) Tax Commissioner means the Tax Commissioner of the State of
13 Nebraska;

14 (22) Tobacco product manufacturer has the same meaning as in section
15 69-2702;

16 (23) Units sold has the same meaning as in section 69-2702; and

17 (24) Unstamped cigarettes means any cigarettes that are not
18 contained in a package bearing a stamp required under section 77-2603 or
19 77-2603.01.

20 Sec. 15. Section 69-2706, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 69-2706 (1)(a) Every tobacco product manufacturer whose cigarettes
23 are sold in this state, whether directly or through a distributor,
24 retailer, or similar intermediary or intermediaries, shall execute and
25 deliver on a form prescribed by the Tax Commissioner a certification to
26 the Tax Commissioner and the Attorney General no later than the thirtieth
27 day of April each year, certifying under penalty of perjury that, as of
28 the date of such certification, such tobacco product manufacturer either
29 is a participating manufacturer in compliance with subdivision (1) of
30 section 69-2703 or is a nonparticipating manufacturer in full compliance
31 with subdivision (2) of section 69-2703.

1 (b) A participating manufacturer shall include in its certification
2 a list of its brand families. The participating manufacturer shall update
3 such list thirty calendar days prior to any addition to or modification
4 of its brand families by executing and delivering a supplemental
5 certification to the Tax Commissioner and the Attorney General.

6 (c) A nonparticipating manufacturer shall include in its
7 certification (i) a list of all of its brand families and the number of
8 units sold for each brand family that were sold in the state during the
9 preceding calendar year and (ii) a list of all of its brand families that
10 have been sold in the state at any time during the current calendar year
11 (A) indicating by an asterisk any brand family sold in the state during
12 the preceding or current calendar year that is no longer being sold in
13 the state as of the date of such certification and (B) identifying by
14 name and address any other manufacturer of such brand families in the
15 preceding calendar year. The nonparticipating manufacturer shall update
16 such list thirty calendar days prior to any addition to or modification
17 of its brand families by executing and delivering a supplemental
18 certification to the Tax Commissioner and the Attorney General.

19 (d) In the case of a nonparticipating manufacturer, such
20 certification shall further certify:

21 (i) That such nonparticipating manufacturer is registered to do
22 business in the state or has appointed an agent for service of process in
23 Nebraska and provided notice thereof as required by section 69-2707;

24 (ii) That such nonparticipating manufacturer has established and
25 continues to maintain a qualified escrow fund pursuant to a qualified
26 escrow agreement that has been reviewed and approved by the Attorney
27 General or has been submitted for review by the Attorney General;

28 (iii) That such nonparticipating manufacturer is in full compliance
29 with subdivision (2) of section 69-2703 and this section and any rules
30 and regulations adopted and promulgated pursuant thereto;

31 (iv)(A) The name, address, and telephone number of the financial

1 institution where the nonparticipating manufacturer has established such
2 qualified escrow fund required pursuant to subdivision (2) of section
3 69-2703 and all rules and regulations adopted and promulgated pursuant
4 thereto; (B) the account number of such qualified escrow fund and any
5 subaccount number for the State of Nebraska; (C) the amount such
6 nonparticipating manufacturer placed in such fund for cigarettes sold in
7 the state during the preceding calendar year, the dates and amount of
8 each such deposit, and such evidence or verification as may be deemed
9 necessary by the Attorney General to confirm the foregoing; and (D) the
10 amounts and dates of any withdrawal or transfer of funds the
11 nonparticipating manufacturer made at any time from such fund or from any
12 other qualified escrow fund into which it ever made escrow payments
13 pursuant to subdivision (2) of section 69-2703 and all rules and
14 regulations adopted and promulgated pursuant thereto;

15 (v) That such nonparticipating manufacturer consents to be sued in
16 the district courts of the State of Nebraska for purposes of the state
17 (A) enforcing any provision of sections 69-2703 to 69-2711 and section 13
18 of this act and any rules and regulations adopted and promulgated
19 thereunder or (B) bringing a released claim as defined in section
20 69-2702; and

21 (vi) The information required to establish that such
22 nonparticipating manufacturer has posted the appropriate bond or cash
23 equivalent required under section 69-2707.01.

24 (e) A tobacco product manufacturer shall not include a brand family
25 in its certification unless (i) in the case of a participating
26 manufacturer, the participating manufacturer affirms that the brand
27 family is to be deemed to be its cigarettes for purposes of calculating
28 its payments under the Master Settlement Agreement for the relevant year
29 in the volume and shares determined pursuant to the Master Settlement
30 Agreement and (ii) in the case of a nonparticipating manufacturer, the
31 nonparticipating manufacturer affirms that the brand family is to be

1 deemed to be its cigarettes for purposes of subdivision (2) of section
2 69-2703. Nothing in this section shall be construed as limiting or
3 otherwise affecting the state's right to maintain that a brand family
4 constitutes cigarettes of a different tobacco product manufacturer for
5 purposes of calculating payments under the Master Settlement Agreement or
6 for purposes of section 69-2703.

7 (f) Tobacco product manufacturers shall maintain all invoices and
8 documentation of sales and other such information relied upon for such
9 certification for a period of five years unless otherwise required by law
10 to maintain them for a greater period of time.

11 (2) The Tax Commissioner shall develop, maintain, and make available
12 for public inspection or publish on its web site a directory listing all
13 tobacco product manufacturers that have provided current and accurate
14 certifications conforming to the requirements of subsection (1) of this
15 section and all brand families that are listed in such certifications,
16 and:

17 (a) The Tax Commissioner shall not include or retain in such
18 directory the name or brand families of any tobacco product manufacturer
19 that has failed to provide the required certification or whose
20 certification the commissioner determines is not in compliance with
21 subsection (1) of this section unless the Tax Commissioner has determined
22 that such violation has been cured to his or her satisfaction;

23 (b) Neither a tobacco product manufacturer nor brand family shall be
24 included or retained in the directory if the Attorney General recommends
25 and notifies the Tax Commissioner who concludes, in the case of a
26 nonparticipating manufacturer, that (i) any escrow payment required
27 pursuant to subdivision (2) of section 69-2703 for any period for any
28 brand family, whether or not listed by such nonparticipating
29 manufacturer, has not been fully paid into a qualified escrow fund
30 governed by a qualified escrow agreement that has been approved by the
31 Attorney General or (ii) any outstanding final judgment, including

1 interest thereon, for violations of section 69-2703 has not been fully
2 satisfied for such brand family and such manufacturer;

3 (c) As a condition to being listed and having its brand families
4 listed in the directory, a tobacco product manufacturer shall also (i)
5 certify annually that such manufacturer or its importer holds a valid
6 permit under 26 U.S.C. 5713 and provide a copy of such permit to the Tax
7 Commissioner and the Attorney General, (ii) upon request of the Tax
8 Commissioner or Attorney General, provide documentary proof that it is
9 not in violation of subdivision (1) of section 59-1520, and (iii) certify
10 that it is in compliance with all reporting and registration requirements
11 of 15 U.S.C. 376 and 376a;

12 (d) The Tax Commissioner shall update the directory no later than
13 May 15 of each year to reflect certifications made on or before April 30
14 as required in subsection (1) of this section. The Tax Commissioner shall
15 continuously update the directory as necessary in order to correct
16 mistakes and to add or remove a tobacco product manufacturer or brand
17 family to keep the directory in conformity with the requirements of
18 sections 69-2704 to 69-2711;

19 (e) The Tax Commissioner shall transmit by email or other
20 practicable means to each stamping agent notice of any removal from the
21 directory of any tobacco product manufacturer or brand family. Unless
22 otherwise provided by agreement between the stamping agent and a tobacco
23 product manufacturer, the stamping agent shall be entitled to a refund
24 from a tobacco product manufacturer for any money paid by the stamping
25 agent to the tobacco product manufacturer for any cigarettes of the
26 tobacco product manufacturer still held by the stamping agent on the date
27 of notice by the Tax Commissioner of the removal from the directory of
28 that tobacco product manufacturer or the brand family or for any
29 cigarettes returned to the stamping agent by its customers under
30 subsection (8) of section 69-2709. The Tax Commissioner shall not restore
31 to the directory the tobacco product manufacturer or the brand family

1 until the tobacco product manufacturer has paid the stamping agent any
2 refund due; and

3 (f) Every stamping agent shall provide and update as necessary an
4 electronic mail address to the Tax Commissioner for the purpose of
5 receiving any notifications as may be required by sections 69-2704 to
6 69-2711.

7 (3) The failure of the Tax Commissioner to provide notice of any
8 intended removal from the directory as required under subdivision (2)(e)
9 of this section or the failure of a stamping agent to receive such notice
10 shall not relieve the stamping agent of its obligations under sections
11 69-2704 to 69-2711.

12 (4) It shall be unlawful for any person (a) to affix a Nebraska
13 stamp pursuant to section 77-2603 to a package or other container of
14 cigarettes of a tobacco product manufacturer or brand family not included
15 in the directory, (b) to affix a tribal stamp to a package or other
16 container of cigarettes of a tobacco product manufacturer or brand family
17 not included in the directory except as authorized by an agreement
18 pursuant to section 77-2602.06, or (c) to sell, offer, or possess for
19 sale in this state cigarettes of a tobacco product manufacturer or brand
20 family in this state not included in the directory.

21 Sec. 16. Section 69-2707, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 69-2707 (1) Any nonresident or foreign nonparticipating manufacturer
24 that has not registered to do business in the state as a foreign
25 corporation or business entity shall, as a condition precedent to having
26 its brand families included or retained in the directory created in
27 subsection (2) of section 69-2706, appoint and continually engage without
28 interruption the services of an agent in Nebraska to act as agent for the
29 service of process on whom all process, and any action or proceeding
30 against it concerning or arising out of the enforcement of sections
31 69-2703 to 69-2711 and section 13 of this act, may be served in any

1 manner authorized by law. Such service shall constitute legal and valid
2 service of process on the nonparticipating manufacturer. The
3 nonparticipating manufacturer shall provide the name, address, telephone
4 number, and proof of the appointment and availability of such agent to
5 the Tax Commissioner and Attorney General.

6 (2) The nonparticipating manufacturer shall provide notice to the
7 Tax Commissioner and Attorney General thirty calendar days prior to
8 termination of the authority of an agent and shall further provide proof
9 to the satisfaction of the Attorney General of the appointment of a new
10 agent no less than five calendar days prior to the termination of an
11 existing agent appointment. In the event an agent terminates an agency
12 appointment, the nonparticipating manufacturer shall notify the Tax
13 Commissioner and Attorney General of the termination within five calendar
14 days and shall include proof to the satisfaction of the Attorney General
15 of the appointment of a new agent.

16 (3) Any nonparticipating manufacturer whose products are sold in
17 this state who has not appointed and engaged the services of an agent as
18 required by this section shall be deemed to have appointed the Secretary
19 of State as its agent for service of process. The appointment of the
20 Secretary of State as agent shall not satisfy the condition precedent
21 required in subsection (1) of this section to have the nonparticipating
22 manufacturer's brand families included or retained in the directory.

23 Sec. 17. Section 69-2707.01, Reissue Revised Statutes of Nebraska,
24 is amended to read:

25 69-2707.01 (1) All nonparticipating manufacturers subject to the
26 certification requirements of section 69-2706, or whose sales are
27 authorized pursuant to an agreement under section 77-2602.06, shall post
28 a bond, or its cash equivalent, for the benefit of the state, which is
29 subject to execution under subsection (6) ~~(3)~~ of this section. The bond
30 shall be posted by corporate surety located within the United States.
31 The ~~or the~~ cash equivalent of the bond shall be posted by the

1 nonparticipating manufacturer in an account approved by the Attorney
2 General state. ~~The bond or its cash equivalent shall be posted and~~
3 ~~evidence of such posting shall be provided to the Tax Commissioner at~~
4 ~~least ten days in advance of each calendar quarter as a condition to the~~
5 ~~nonparticipating manufacturer and its brand families being included in~~
6 ~~the directory for that quarter.~~

7 (2) The amount of the bond, or its cash equivalent, shall be the
8 greater of shall be determined as follows:

9 (a) One hundred thousand dollars;

10 (b) The greatest required escrow amount due from the
11 nonparticipating manufacturer, or its predecessors, successors,
12 affiliates, importers, or stamping agents, as such terms may be defined
13 and liabilities may be established within sections 69-2701 to 69-2711 and
14 section 13 of this act, for any of the preceding twenty calendar
15 quarters; or

16 (c) The greatest required annual total of quarterly escrow amounts
17 due from the nonparticipating manufacturer, or its predecessors,
18 successors, affiliates, importers, or stamping agents, as such terms may
19 be defined and liabilities may be established within sections 69-2701 to
20 69-2711 and section 13 of this act, for any of the preceding five
21 calendar years, if the Attorney General deems the nonparticipating
22 manufacturer to pose an elevated risk for noncompliance.

23 (3) The Attorney General may deem a nonparticipating manufacturer to
24 pose an elevated risk for noncompliance if:

25 (a) The nonparticipating manufacturer or its brands or brand
26 families, or any predecessor, successor, affiliate, or importer or any of
27 their brands or brand families, has failed to deposit fully the amount
28 due on an escrow obligation with respect to any state at any time during
29 the calendar year or within the preceding five calendar years unless
30 either:

31 (i) The nonparticipating manufacturer did not underdeposit knowingly

1 or recklessly and promptly cured the underdeposit within one hundred
2 eighty days of notice of the underdeposit; or

3 (ii) The underdeposit or lack of deposit is the subject of a good
4 faith dispute as documented to the satisfaction of the Attorney General
5 and the underdeposit is cured within one hundred eighty days of entry of
6 a final order establishing the amount of the required escrow deposit;

7 (b) Any state has removed the nonparticipating manufacturer or its
8 brands or brand families, or any predecessor, successor, affiliate, or
9 importer or any of their brands or brand families, from the state's
10 tobacco directory for noncompliance with the state's escrow deposit or
11 tobacco tax laws at any time during the calendar year or within the
12 preceding five calendar years;

13 (c) Any state has litigation pending against, or an unsatisfied
14 final judgment against, the nonparticipating manufacturer or its brands
15 or brand families, or any predecessor, successor, affiliate, or importer
16 or any of their brands or brand families, for escrow or for penalties,
17 fees, costs, refunds, or attorney's fees related to noncompliance with
18 state escrow laws;

19 (d) The nonparticipating manufacturer, or any predecessor,
20 successor, or affiliate, sells its cigarettes or tobacco products
21 directly to consumers via remote or other non-face-to-face means;

22 (e) A state or federal court determines that the nonparticipating
23 manufacturer, or any predecessor, successor, or affiliate, has violated
24 any tobacco tax or tobacco control law or engaged in unfair business
25 practices or unfair competition;

26 (f) Any state has suspended or revoked a license granted to the
27 nonparticipating manufacturer, or any predecessor, successor, or
28 affiliate, to engage in any aspect of tobacco business;

29 (g) Any state or federal court has determined that the
30 nonparticipating manufacturer, or any predecessor, successor, or
31 affiliate, failed to comply with state or federal law imposing marking,

1 labeling, and stamping requirements or requiring information to be
2 affixed to, or contained in, the labels, markings, or packaging; or

3 (h) The nonparticipating manufacturer fails to submit or complete
4 any required forms, documents, certification, or notices, in a timely
5 manner or to the satisfaction of the Attorney General or Tax
6 Commissioner.

7 (4) A nonparticipating manufacturer shall post the bond or its cash
8 equivalent and shall provide evidence of such posting to the Attorney
9 General and Tax Commissioner both annually, as required by section
10 69-2706, and at least ten days in advance of each calendar quarter as a
11 condition to the nonparticipating manufacturer and its brands or brand
12 families being included in the directory.

13 ~~(a) Unless subdivision (c) of this subsection is applicable, for a~~
14 ~~nonparticipating manufacturer or its affiliates which have been listed on~~
15 ~~any state's directory for at least three years or for any~~
16 ~~nonparticipating manufacturer whose sales are authorized pursuant to an~~
17 ~~agreement under section 77-2602.06, the amount of the bond required shall~~
18 ~~be twenty-five thousand dollars;~~

19 ~~(b) Unless subdivision (c) of this subsection is applicable, for a~~
20 ~~nonparticipating manufacturer or its affiliates which have not been~~
21 ~~listed on any state's directory for at least three years, the amount of~~
22 ~~the bond required shall be fifty thousand dollars; and~~

23 (5) (c) For a nonparticipating manufacturer or its affiliates which
24 have failed, in the past three years, to make a full and timely escrow
25 deposit due under section 69-2703, unless the failure was not knowing or
26 intentional and was promptly cured upon notice, or for any
27 nonparticipating manufacturer or its affiliates which were involuntarily
28 removed from any state's directory, unless the removal was determined to
29 have been erroneous or illegal, the amount of the bond required shall be
30 the greater of (a) (i) fifty thousand dollars or (b) (ii) the greatest
31 amount of escrow owed by the nonparticipating manufacturer or its

1 predecessor in any calendar year in Nebraska within the preceding five
2 calendar years.

3 (6) ~~(3)~~ If a nonparticipating manufacturer that posted a bond
4 pursuant to this section has failed to make, or have made on its behalf
5 by an entity with joint and several liability, escrow deposits equal to
6 the full amount owed for a quarter within fifteen days following the due
7 date for the quarter under section 69-2703, the state may execute upon
8 the bond, first to recover delinquent escrow, which amount shall be
9 deposited into a qualified escrow account under section 69-2703, and then
10 to recover civil penalties and costs authorized under such section.
11 Escrow obligations above the amount collected on the bond remain due from
12 that nonparticipating manufacturer and, as provided in subdivision (2)(d)
13 of section 69-2703 and section 69-2708.01, from the importers and
14 stamping agents that sold its cigarettes during that calendar quarter.

15 Sec. 18. Section 69-2709, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 69-2709 (1) In addition to or in lieu of any other civil or criminal
18 remedy provided by law, upon a determination that a stamping agent has
19 violated subsection (4) of section 69-2706 or any rule or regulation
20 adopted and promulgated pursuant thereto, the Tax Commissioner may revoke
21 or suspend the license of any stamping agent in the manner provided by
22 section 77-2615.01. For each violation of subsection (4) of section
23 69-2706 or the rules and regulations, the Tax Commissioner may also
24 impose a civil penalty in an amount not to exceed the greater of five
25 hundred percent of the retail value of the cigarettes or five thousand
26 dollars upon a determination of violation of subsection (4) of section
27 69-2706 or any rules or regulations adopted and promulgated pursuant
28 thereto. Such penalty shall be imposed in the manner provided by section
29 77-2615.01.

30 (2) The license of a stamping agent shall be subject to termination
31 if the stamping agent:

1 (a) Fails to provide a report required under section 69-2708,
2 69-2710.01, or 77-2604.01;

3 (b) Files an incomplete or inaccurate report required under section
4 69-2708, 69-2710.01, or 77-2604.01 or files an inaccurate certification
5 required under section 69-2708, subsection (2) of section 77-2603, or
6 section 69-2710.01;

7 (c) Fails to pay taxes as provided in section 77-2602 or deposit
8 escrow as provided in section 69-2708.01;

9 (d) Sells cigarettes in or into the state in a package that bears a
10 stamp required under section 77-2603 or 77-2603.01 that is not the
11 correct stamp and provides for a lower level of tax than the correct
12 stamp;

13 (e) Sells unstamped cigarettes in, into, or from the state or
14 possesses unstamped cigarettes in the state except as provided in section
15 77-2607;

16 (f) Purchases, sells in or into the state, or affixes a stamp to a
17 package containing cigarettes of a manufacturer or brand family that is
18 not at the time listed in the directory, or possesses such cigarettes
19 more than ten days after receiving notice that the manufacturer or brand
20 family is not in the directory, unless such stamping agent possesses a
21 directory license under section 77-2603 or unless expressly permitted
22 under sections 69-2701 to 69-2711 and section 13 of this act or sections
23 77-2601 to 77-2622; or

24 (g) Purchases or sells cigarettes in violation of subsection (5) of
25 this section or section 69-2710.02.

26 (3) In the case of a violation under subdivision (2)(a), (b), (c),
27 or (d) of this section that was not knowing or intentional, the stamping
28 agent shall be entitled to cure the violation within ten days after
29 receipt of notice of such violation. The license of a stamping agent that
30 fully cures the violation during that period shall not be terminated on
31 account of that violation.

1 (4) In the case of a knowing or intentional violation under
2 subdivision (2)(a), (b), (c), or (d) of this section, or of any violation
3 described in subdivision (2)(e) or (f) of this section, the stamping
4 agent shall for a first violation be subject to a civil penalty of up to
5 one thousand dollars and be guilty of a Class IV misdemeanor and for a
6 second or subsequent violation be subject to a civil penalty of up to
7 five thousand dollars per violation and be guilty of a Class II
8 misdemeanor. In the case of violations described in subdivision (2)(d),
9 (e), or (f) of this section, each sale constitutes a separate offense.

10 (5) The Tax Commissioner shall promptly remove any stamping agent
11 whose license is terminated from the list required by subsection (4) of
12 section 77-2603 and shall publish a notice of the termination on the Tax
13 Commissioner's web site and send notice of the termination to all
14 stamping agents and to all persons listed in the directory. Beginning ten
15 days following the publication and sending of such notice, no person may
16 sell cigarettes to, or purchase cigarettes from, the stamping agent whose
17 license has been terminated.

18 (6) If a stamping agent whose license has been terminated is a
19 tobacco product manufacturer, the tobacco product manufacturer and its
20 brand families shall be removed from the directory.

21 (7) A stamping agent whose license is terminated shall be eligible
22 for reinstatement:

23 (a) Ninety days following the termination, in the case of a first
24 failure under subdivision (2)(a), (b), (c), or (d) of this section that
25 was not knowing or intentional;

26 (b) One hundred eighty days following the termination, in the case
27 of a second failure under subdivision (2)(a), (b), (c), or (d) of this
28 section that was not knowing or intentional;

29 (c) One year following the termination, in the case of a third or
30 subsequent failure under subdivision (2)(a), (b), (c), or (d) of this
31 section that was not knowing or intentional;

1 (d) One year following the termination, in the case of a first
2 knowing or intentional failure under subdivision (2)(a), (b), (c), or (d)
3 of this section or a first violation described in subdivision (2)(e),
4 (f), or (g) of this section; and

5 (e) Three years following the termination, in the case of a second
6 or subsequent knowing or intentional failure under subdivision (2)(a),
7 (b), (c), or (d) of this section or a second or subsequent violation
8 described in subdivision (2)(e), (f), or (g) of this section.

9 (8) Any cigarettes that have been sold, offered for sale, or
10 possessed for sale in this state in violation of subsection (4) of
11 section 69-2706 shall be deemed contraband under section 77-2620 and such
12 cigarettes shall be subject to seizure and forfeiture as provided in
13 section 77-2620, except that all such cigarettes so seized and forfeited
14 shall be destroyed and not resold. The stamping agent shall notify its
15 customers for a brand family with regard to any notice of removal of a
16 tobacco product manufacturer or a brand family from the directory and
17 give its customers a seven-day period for the return of cigarettes that
18 become contraband.

19 (9) The Attorney General, on behalf of the Tax Commissioner, may
20 seek an injunction to restrain a threatened or actual violation of
21 subsection (4) of section 69-2706 or section 69-2708 by a stamping agent
22 and to compel the stamping agent to comply with subsection (4) of section
23 69-2706 or section 69-2708. In any action brought pursuant to this
24 section, the state shall be entitled to recover the costs of
25 investigation, costs of the action, and reasonable attorney's fees. This
26 subsection shall not apply to a stamping agent purchasing cigarettes
27 which are not in violation of subsection (4) of section 69-2706 or
28 section 69-2708.

29 (10) It is unlawful for a person to (a) sell or distribute
30 cigarettes for sale in this state or (b) acquire, hold, own, possess,
31 transport, import, or cause to be imported cigarettes that the person

1 knows or should know are intended for distribution or sale in the state
2 in violation of subsection (4) of section 69-2706. A violation of this
3 subsection is a Class III misdemeanor.

4 (11) If a court determines that a person has violated any portion of
5 sections 69-2704 to 69-2711, the court shall order the payment of any
6 profits, gains, gross receipts, or other benefits from the violation to
7 be remitted to the State Treasurer for distribution in accordance with
8 Article VII, section 5, of the Constitution of Nebraska. Unless otherwise
9 expressly provided, the remedies or penalties provided by sections
10 69-2704 to 69-2711 are cumulative to each other and to the remedies or
11 penalties available under all applicable laws of this state.

12 (12) It is unlawful for any manufacturer, importer, or stamping
13 agent to knowingly submit any false information required pursuant to
14 sections 69-2703 to 69-2711 and section 13 of this act. A violation of
15 this subsection is a Class IV felony. Knowing submission of false
16 information shall also be grounds for removal of a tobacco product
17 manufacturer from the directory.

18 (13) A tobacco product manufacturer that knowingly or intentionally
19 sells cigarettes in violation of subsection (5) of this section or
20 section 69-2710.01 and its brand families shall be removed from the
21 directory.

22 (14) A nonparticipating manufacturer whose total nationwide reported
23 sales on which federal excise tax is paid exceed the sum of its
24 nationwide reports under 15 U.S.C. 375 et seq. and any intrastate sales
25 reports under 15 U.S.C. 375 et seq. by more than five percent of its
26 total sales or one million cigarettes, whichever is less, shall be
27 subject to removal from the directory unless it cures or satisfactorily
28 explains the discrepancy within ten days after receipt of notice of the
29 discrepancy from the Attorney General pursuant to section 69-2708.01.

30 (15) Any person that is not a stamping agent or tobacco product
31 manufacturer that fails to file a complete and accurate report required

1 under section 69-2708, 69-2710.01, 77-2604, or 77-2604.01 shall be
2 entitled to cure the failure within ten days after receipt of notice of
3 the discrepancy from the Attorney General pursuant to section 69-2708.01.
4 If the person fails to fully cure the failure within such period, it
5 shall be subject to a civil penalty of up to one thousand dollars per
6 violation and shall be ineligible to hold any license of the state
7 regarding cigarette sales until the date specified by subsection (7) of
8 this section for violations of subdivision (2)(a) of this section.

9 (16) A directory license shall be subject to termination if the
10 licensee acts inconsistently with its certification under subsection (2)
11 of section 77-2603 or violates sections 69-2701 to 69-2711 and section 13
12 of this act.

13 (17) Any person that knowingly or intentionally purchases or sells
14 cigarettes in violation of subsection (5) of this section or section
15 69-2710.01 or that knowingly or intentionally sells cigarettes in or into
16 the state in a package that bears a stamp required under section 77-2603
17 or 77-2603.01 that is not the correct stamp and provides for a lower
18 level of tax than the correct stamp shall for a first violation be
19 subject to a civil penalty of up to one thousand dollars and be guilty of
20 a Class IV misdemeanor and for a second or subsequent violation be
21 subject to a civil penalty of up to five thousand dollars per violation
22 and be guilty of a Class II misdemeanor. Each sale constitutes a separate
23 violation.

24 Sec. 19. Section 69-2710, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 69-2710 (1) Before any tobacco product manufacturer may be removed
27 from the directory, the Tax Commissioner shall provide the tobacco
28 product manufacturer thirty days' notice of the intended action and shall
29 post the notice in the directory. The tobacco product manufacturer shall
30 have thirty days to come into compliance with sections 69-2703 to 69-2711
31 and section 13 of this act or, in the alternative, secure a temporary

1 injunction against removal in the district court of Lancaster County. For
2 purposes of the temporary injunction sought pursuant to this subsection,
3 loss of the ability to sell tobacco products as a result of removal from
4 the directory shall constitute irreparable harm. If after thirty days the
5 tobacco product manufacturer remains in noncompliance and has not
6 obtained a temporary injunction pursuant to this subsection, the tobacco
7 product manufacturer shall be removed from the directory.

8 (2) If the Tax Commissioner determines that a tobacco product
9 manufacturer shall not be included in the directory, such manufacturer
10 may request a contested case before the Tax Commissioner under the
11 Administrative Procedure Act. The Tax Commissioner shall notify the
12 tobacco product manufacturer in writing of the determination not to
13 include it in the directory. A request for hearing shall be made within
14 thirty calendar days after the date of the determination that the
15 manufacturer shall not be included in the directory and shall contain the
16 evidence supporting the manufacturer's compliance with sections 69-2703
17 to 69-2711 and section 13 of this act. The hearing shall be held within
18 sixty days after the request. At the hearing, the Tax Commissioner shall
19 determine whether the tobacco product manufacturer is in compliance with
20 sections 69-2703 to 69-2711 and section 13 of this act and whether the
21 manufacturer should be listed in the directory. A final decision shall be
22 rendered within thirty days after the hearing. Any decision of the Tax
23 Commissioner may be appealed. The appeal shall be in accordance with the
24 Administrative Procedure Act.

25 Sec. 20. Section 69-2710.01, Reissue Revised Statutes of Nebraska,
26 is amended to read:

27 69-2710.01 (1) Any person that during a month acquired, purchased,
28 sold, possessed, transferred, transported, or caused to be transported in
29 or into this state cigarettes of a tobacco product manufacturer or brand
30 family that was not in the directory at the time shall, within fifteen
31 days following the end of that month, file a report in the manner

1 prescribed by the Tax Commissioner and certify to the state that the
2 report is complete and accurate. The report shall contain, in addition to
3 any further information that the Tax Commissioner may reasonably require
4 to assist the Tax Commissioner in enforcing sections 69-2701 to 69-2711
5 and section 13 of this act and sections 77-2601 to 77-2622 and the
6 Tobacco Products Tax Act, the following information:

7 (a) The total number of those cigarettes, in each case identifying
8 by name and number of cigarettes (i) the manufacturers of those
9 cigarettes, (ii) the brand families of those cigarettes, (iii) in the
10 case of a sale or transfer, the name and address of the recipient of
11 those cigarettes, (iv) in the case of an acquisition or purchase, the
12 name and address of the seller or sender of those cigarettes, and (v) the
13 other states in whose directory the manufacturer and brand family of
14 those cigarettes were listed at the time and whose stamps the person is
15 authorized to affix; and

16 (b) In the case of acquisition, purchase, or possession, the details
17 of the person's subsequent sale or transfer of those cigarettes,
18 identifying by name and number of cigarettes (i) the brand families of
19 those cigarettes, (ii) the date of the sale or transfer, (iii) the name
20 and address of the recipient, (iv) the number of stamps of each other
21 state that the person affixed to the packages containing those cigarettes
22 during that month, (v) the total number of cigarettes contained in the
23 packages to which it affixed each respective other state's stamp, (vi)
24 the manufacturers and brand families of the packages to which it affixed
25 each respective other state's stamp, and (vii) a certification that it
26 reported each sale or transfer to the taxing authority of the other state
27 by fifteen days following the end of the month in which the sale or
28 transfer was made and attaching a copy of all such reports. If the
29 subsequent sale or transfer is from this state into another state in
30 packages not bearing a stamp of the other state, the report shall also
31 contain the information described in subdivision (2)(c) of section

1 77-2604.01.

2 (2) Reports under this section shall be in addition to reports under
3 sections 69-2708, 77-2604, and 77-2604.01.

4 Sec. 21. Section 69-2710.03, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 69-2710.03 The Tax Commissioner may adopt and promulgate rules and
7 regulations necessary to effect the purposes of sections 69-2703 to
8 69-2711 and section 13 of this act.

9 Sec. 22. Section 71-7611, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 71-7611 (1) The Nebraska Health Care Cash Fund is created. The State
12 Treasurer shall transfer (a) sixty million three hundred thousand dollars
13 on or before July 15, 2014, (b) sixty million three hundred fifty
14 thousand dollars on or before July 15, 2015, (c) sixty million three
15 hundred fifty thousand dollars on or before July 15, 2016, (d) sixty
16 million seven hundred thousand dollars on or before July 15, 2017, (e)
17 five hundred thousand dollars on or before May 15, 2018, (f) sixty-one
18 million six hundred thousand dollars on or before July 15, 2018, (g)
19 sixty-one million three hundred fifty thousand dollars on or before July
20 15, 2019, and (h) sixty million four hundred fifty thousand dollars on or
21 before every July 15 thereafter from the Nebraska Medicaid
22 Intergovernmental Trust Fund and the Nebraska Tobacco Settlement Trust
23 Fund to the Nebraska Health Care Cash Fund, except that such amount shall
24 be reduced by the amount of the unobligated balance in the Nebraska
25 Health Care Cash Fund at the time the transfer is made. The state
26 investment officer shall advise the State Treasurer on the amounts to be
27 transferred first from the Nebraska Medicaid Intergovernmental Trust Fund
28 until the fund balance is depleted and from the Nebraska Tobacco
29 Settlement Trust Fund thereafter in order to sustain such transfers in
30 perpetuity. The state investment officer shall report electronically to
31 the Legislature on or before October 1 of every even-numbered year on the

1 sustainability of such transfers. The Nebraska Health Care Cash Fund
2 shall also include money received pursuant to section 77-2602. Except as
3 otherwise provided by law, no more than the amounts specified in this
4 subsection may be appropriated or transferred from the Nebraska Health
5 Care Cash Fund in any fiscal year.

6 The State Treasurer shall transfer ten million dollars from the
7 Nebraska Medicaid Intergovernmental Trust Fund to the General Fund on
8 June 28, 2018, and June 28, 2019.

9 It is the intent of the Legislature that no additional programs are
10 funded through the Nebraska Health Care Cash Fund until funding for all
11 programs with an appropriation from the fund during FY2012-13 are
12 restored to their FY2012-13 levels.

13 (2) Any money in the Nebraska Health Care Cash Fund available for
14 investment shall be invested by the state investment officer pursuant to
15 the Nebraska Capital Expansion Act and the Nebraska State Funds
16 Investment Act.

17 (3) The University of Nebraska and postsecondary educational
18 institutions having colleges of medicine in Nebraska and their affiliated
19 research hospitals in Nebraska, as a condition of receiving any funds
20 appropriated or transferred from the Nebraska Health Care Cash Fund,
21 shall not discriminate against any person on the basis of sexual
22 orientation.

23 (4) The State Treasurer shall transfer fifty thousand dollars on or
24 before July 15, 2016, from the Nebraska Health Care Cash Fund to the
25 Board of Regents of the University of Nebraska for the University of
26 Nebraska Medical Center. It is the intent of the Legislature that these
27 funds be used by the College of Public Health for workforce training.

28 (5) It is the intent of the Legislature that the cost of the staff
29 and operating costs necessary to carry out the changes made by Laws 2018,
30 LB439, and not covered by fees or federal funds shall be funded from the
31 Nebraska Health Care Cash Fund for fiscal years 2018-19 and 2019-20.

1 (6)(a) Beginning with fiscal year 2020-21, and every fiscal year
2 thereafter, one dollar of the one dollar and sixty-four cents special
3 privilege tax under subsection (1) of section 77-2602 shall be
4 distributed as follows:

5 (i) Forty percent to the Nebraska Health Care Cash Fund;

6 (ii) Thirty-five percent for medicaid expansion;

7 (iii) Fifteen percent to the University of Nebraska Medical Center
8 and the Creighton University Medical Center for cancer research;

9 (iv) Five percent for the Tobacco Prevention and Control Program;

10 and

11 (v) Five percent for addiction treatment services.

12 Sec. 23. Section 77-2601, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 77-2601 For purposes of sections 77-2601 to 77-2615:

15 (1) Person means and includes every individual, firm, association,
16 joint-stock company, partnership, limited liability company, syndicate,
17 corporation, trustee, or other legal entity, including any Indian tribe
18 or instrumentality thereof;

19 (2) Wholesale dealer means a person who sells cigarettes to licensed
20 retail dealers other than branch stores operated by or connected with
21 such wholesale dealer for purposes of resale and is licensed under
22 section 28-1423;

23 (3) Retail dealer includes every person other than a wholesale
24 dealer engaged in the business of selling cigarettes in this state
25 irrespective of quantity, amount, or number of sales thereof;

26 (4) Tax Commissioner means the Tax Commissioner of the State of
27 Nebraska;

28 (5) Cigarette means any product that contains nicotine, is intended
29 to be burned or heated under ordinary conditions of use, and consists of
30 or contains (a) any roll of tobacco wrapped in paper or in any substance
31 not containing tobacco; (b) tobacco, in any form, that is functional in

1 the product, which, because of its appearance, the type of tobacco used
2 in the filler, or its packaging and labeling, is likely to be offered to,
3 or purchased by, consumers as a cigarette; or (c) any roll of tobacco
4 wrapped in any substance containing tobacco which, because of its
5 appearance, the type of tobacco used in the filler, or its packaging or
6 labeling, is likely to be offered to or purchased by consumers as a
7 cigarette described in subdivision (5)(a) of this section ~~roll for~~
8 ~~smoking made wholly or in part of tobacco irrespective of size or shape~~
9 ~~and whether or not such tobacco is flavored, adulterated, or mixed with~~
10 ~~any other ingredient, the wrapper or cover of which is made of paper or~~
11 ~~any other material excepting tobacco;~~

12 (6) Consumer means any person, firm, association, partnership,
13 limited liability company, joint-stock company, syndicate, or corporation
14 not having a license to sell cigarettes;

15 (7) Sales entity affiliate means an entity that (a) sells cigarettes
16 that it acquires directly from a manufacturer or importer and (b) is
17 affiliated with that manufacturer or importer. Entities are affiliated
18 with each other if one directly, or indirectly through one or more
19 intermediaries, controls or is controlled by or is under common control
20 with the other. Unless provided otherwise, manufacturer or importer
21 includes any sales entity affiliate of that manufacturer or importer;

22 (8) Stamping agent has the same meaning as in section 69-2705; and

23 (9) Indian country means (a) all land in this state within the
24 limits of any Indian reservation under the jurisdiction of the United
25 States, notwithstanding the issuance of any patent, including rights-of-
26 way running through the reservation, (b) all dependent Indian communities
27 within the borders of this state, and (c) all Indian allotments in this
28 state, the Indian titles to which have not been extinguished, including
29 rights-of-way running through such allotments.

30 Sec. 24. Section 77-2602, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 77-2602 (1) Every stamping agent engaged in distributing or selling
2 cigarettes at wholesale in this state shall pay to the Tax Commissioner
3 of this state a special privilege tax. This shall be in addition to all
4 other taxes. It shall be paid prior to or at the time of the sale, gift,
5 or delivery to the retail dealer in the several amounts as follows: On
6 each package of cigarettes containing not more than twenty cigarettes,
7 one dollar and sixty-four cents per package; and on packages containing
8 more than twenty cigarettes, the same tax as provided on packages
9 containing not more than twenty cigarettes for the first twenty
10 cigarettes in each package and a tax of one-twentieth of the tax on the
11 first twenty cigarettes on each cigarette in excess of twenty cigarettes
12 in each package.

13 (2) Beginning October 1, 2004, the State Treasurer shall place the
14 equivalent of forty-nine cents of such tax in the General Fund. The State
15 Treasurer shall reduce the amount placed in the General Fund under this
16 subsection by the amount prescribed in subdivision (3)(d) of this
17 section. For purposes of this section, the equivalent of a specified
18 number of cents of the tax shall mean that portion of the proceeds of the
19 tax equal to the specified number divided by the tax rate per package of
20 cigarettes containing not more than twenty cigarettes.

21 (3) The State Treasurer shall distribute the remaining proceeds of
22 such tax in the following order:

23 (a) First, beginning July 1, 1980, the State Treasurer shall place
24 the equivalent of one cent of such tax in the Nebraska Outdoor Recreation
25 Development Cash Fund. For fiscal year distributions occurring after
26 FY1998-99, the distribution under this subdivision shall not be less than
27 the amount distributed under this subdivision for FY1997-98. Any money
28 needed to increase the amount distributed under this subdivision to the
29 FY1997-98 amount shall reduce the distribution to the General Fund;

30 (b) Second, beginning July 1, 1993, the State Treasurer shall place
31 the equivalent of three cents of such tax in the Health and Human

1 Services Cash Fund to carry out sections 81-637 to 81-640. For fiscal
2 year distributions occurring after FY1998-99, the distribution under this
3 subdivision shall not be less than the amount distributed under this
4 subdivision for FY1997-98. Any money needed to increase the amount
5 distributed under this subdivision to the FY1997-98 amount shall reduce
6 the distribution to the General Fund;

7 (c) Third, beginning October 1, 2002, and continuing until all the
8 purposes of the Deferred Building Renewal Act have been fulfilled, the
9 State Treasurer shall place the equivalent of seven cents of such tax in
10 the Building Renewal Allocation Fund. The distribution under this
11 subdivision shall not be less than the amount distributed under this
12 subdivision for FY1997-98. Any money needed to increase the amount
13 distributed under this subdivision to the FY1997-98 amount shall reduce
14 the distribution to the General Fund;

15 (d) Fourth, until July 1, 2009, the State Treasurer shall place in
16 the Municipal Infrastructure Redevelopment Fund the sum of five hundred
17 twenty thousand dollars each fiscal year to carry out the Municipal
18 Infrastructure Redevelopment Fund Act. The Legislature shall appropriate
19 the sum of five hundred twenty thousand dollars each year for fiscal year
20 2003-04 through fiscal year 2008-09;

21 (e) Fifth, beginning July 1, 2001, and continuing until June 30,
22 2008, the State Treasurer shall place the equivalent of two cents of such
23 tax in the Information Technology Infrastructure Fund. The distribution
24 under this subdivision shall not be less than two million fifty thousand
25 dollars. Any money needed to increase the amount distributed under this
26 subdivision to two million fifty thousand dollars shall reduce the
27 distribution to the General Fund;

28 (f) Sixth, beginning July 1, 2001, and continuing until June 30,
29 2016, the State Treasurer shall place one million dollars each fiscal
30 year in the City of the Primary Class Development Fund. If necessary, the
31 State Treasurer shall reduce the distribution of tax proceeds to the

1 General Fund pursuant to subsection (2) of this section by such amount
2 required to fulfill the one million dollars to be distributed pursuant to
3 this subdivision;

4 (g) Seventh, beginning July 1, 2001, and continuing until June 30,
5 2016, the State Treasurer shall place one million five hundred thousand
6 dollars each fiscal year in the City of the Metropolitan Class
7 Development Fund. If necessary, the State Treasurer shall reduce the
8 distribution of tax proceeds to the General Fund pursuant to subsection
9 (2) of this section by such amount required to fulfill the one million
10 five hundred thousand dollars to be distributed pursuant to this
11 subdivision;

12 (h) Eighth, beginning July 1, 2008, and continuing until June 30,
13 2009, the State Treasurer shall place the equivalent of two million fifty
14 thousand dollars of such tax in the Nebraska Public Safety Communication
15 System Cash Fund. Beginning July 1, 2009, and continuing until June 30,
16 2016, the State Treasurer shall place the equivalent of two million five
17 hundred seventy thousand dollars of such tax in the Nebraska Public
18 Safety Communication System Cash Fund. Beginning July 1, 2016, and every
19 fiscal year thereafter, the State Treasurer shall place the equivalent of
20 three million eight hundred twenty thousand dollars of such tax in the
21 Nebraska Public Safety Communication System Cash Fund. If necessary, the
22 State Treasurer shall reduce the distribution of tax proceeds to the
23 General Fund pursuant to subsection (2) of this section by such amount
24 required to fulfill the distribution pursuant to this subdivision; and

25 (i) Ninth, beginning July 1, 2016, and every fiscal year thereafter,
26 the State Treasurer shall place the equivalent of one million two hundred
27 fifty thousand dollars of such tax in the Nebraska Health Care Cash Fund.
28 If necessary, the State Treasurer shall reduce the distribution of tax
29 proceeds to the General Fund pursuant to subsection (2) of this section
30 by such amount required to fulfill the distribution pursuant to this
31 subdivision.

1 (4) If, after distributing the proceeds of such tax pursuant to
2 subsections (2) and (3) of this section, any proceeds of such tax remain,
3 the State Treasurer shall place such remainder in the Nebraska Capital
4 Construction Fund.

5 (5) The Legislature hereby finds and determines that the projects
6 funded from the Municipal Infrastructure Redevelopment Fund and the
7 Building Renewal Allocation Fund are of critical importance to the State
8 of Nebraska. It is the intent of the Legislature that the allocations and
9 appropriations made by the Legislature to such funds or, in the case of
10 allocations for the Municipal Infrastructure Redevelopment Fund, to the
11 particular municipality's account not be reduced until all contracts and
12 securities relating to the construction and financing of the projects or
13 portions of the projects funded from such funds or accounts of such funds
14 are completed or paid or, in the case of the Municipal Infrastructure
15 Redevelopment Fund, the earlier of such date or July 1, 2009, and that
16 until such time any reductions in the cigarette tax rate made by the
17 Legislature shall be simultaneously accompanied by equivalent reductions
18 in the amount dedicated to the General Fund from cigarette tax revenue.
19 Any provision made by the Legislature for distribution of the proceeds of
20 the cigarette tax for projects or programs other than those to (a) the
21 General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund,
22 (c) the Health and Human Services Cash Fund, (d) the Municipal
23 Infrastructure Redevelopment Fund, (e) the Building Renewal Allocation
24 Fund, (f) the Information Technology Infrastructure Fund, (g) the City of
25 the Primary Class Development Fund, (h) the City of the Metropolitan
26 Class Development Fund, (i) the Nebraska Public Safety Communication
27 System Cash Fund, and (j) the Nebraska Health Care Cash Fund shall not be
28 made a higher priority than or an equal priority to any of the programs
29 or projects specified in subdivisions (a) through (j) of this subsection.

30 Sec. 25. Section 77-2603, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 77-2603 (1) The tax, as levied in section 77-2602, shall be paid and
2 stamps or cigarette tax meter impressions shall be affixed or printed
3 with a cigarette tax meter by the person having possession and ownership
4 of such cigarettes after the same shall have come to rest in this state
5 and intended to be sold or given away in this state. Nothing in sections
6 77-2601 to 77-2615 shall be construed to require a stamping agent to fix
7 the retail price or to require any retail dealer to sell at any
8 particular price. Subject to such rules and regulations as the Tax
9 Commissioner shall prescribe, tax meter machines may be used when
10 approved by the Tax Commissioner to affix a suitable stamp or impression
11 on each package of cigarettes and cigarettes with a tax meter impression
12 shall be treated as stamped cigarettes for purposes of sections 69-2701
13 to 69-2711 and section 13 of this act and sections 77-2601 to 77-2615.
14 Before any person is issued a license to affix stamps or cigarette tax
15 meter impressions, the person shall make application to become licensed
16 as a stamping agent to the Tax Commissioner on a form provided by the Tax
17 Commissioner to engage in such activity.

18 (2) Any manufacturer, importer, sales entity affiliate, wholesale
19 dealer, or retail dealer that engages in the business of selling
20 cigarettes may apply to be licensed as a stamping agent in accordance
21 with this section. A license shall be issued by the Tax Commissioner to
22 an applicant upon the applicant's:

23 (a) Meeting all requirements of sections 69-2701 to 69-2711 and
24 section 13 of this act and sections 77-2601 to 77-2615 and rules and
25 regulations pursuant to such sections;

26 (b) Certifying on a form prescribed by the Tax Commissioner that it
27 will comply with the requirements of section 69-2708; and

28 (c) In the case of an applicant located outside of the state,
29 designating an agent for service of process in Nebraska, and providing
30 notice thereof as required by section 69-2707, in connection with
31 enforcement of sections 69-2701 to 69-2711 and section 13 of this act and

1 sections 77-2601 to 77-2615, and, if approval is given by the Tax
2 Commissioner, the manufacturer, importer, sales entity affiliate,
3 wholesale dealer, or retail dealer shall furnish a corporate surety bond,
4 conditioned to faithfully comply with all the requirements of sections
5 77-2601 to 77-2615, in a sum not less than ten thousand dollars. Such
6 bond shall be subject to forfeiture if the stamping agent fails to pay
7 the shortfall amount under subsection (1) of section 69-2708.01 unless
8 the stamping agent is excused from liability under subsection (3) of
9 section 69-2708.01.

10 (3) Nothing in sections 77-2601 to 77-2615 shall prevent the Tax
11 Commissioner from affixing the stamps or meter impressions in lieu of the
12 provisions for affixing stamps and meter impressions by stamping agents
13 as determined by such rules and regulations adopted by the Tax
14 Commissioner.

15 (4) The Tax Commissioner shall list on its web site the names of all
16 persons licensed as stamping agents under this section. Manufacturers,
17 importers, and sales entity affiliates shall be entitled to rely upon the
18 list in selling cigarettes as provided in section 69-2706.

19 (5) A manufacturer, importer, sales entity affiliate, wholesale
20 dealer, or retail dealer that engages in the business of selling
21 cigarettes and that holds a valid stamping agent license under subsection
22 (1) of this section may apply for a directory license allowing it to
23 purchase or possess in the state cigarettes of a manufacturer or brand
24 family not at the time of purchase listed in the directory for sale into
25 another state if permitted under section 69-2706. A directory license
26 shall be issued by the Tax Commissioner to an applicant upon the
27 applicant's (a) demonstrating that it holds a valid license under
28 subsection (1) of this section and (b) providing a certification by an
29 officer thereof on a form prescribed by the Tax Commissioner that any
30 cigarettes of a manufacturer or brand family not listed in the directory
31 will be purchased or possessed solely for sale or transfer into another

1 state as permitted by section 69-2706. The directory license shall remain
2 in effect for a period of one year.

3 (6) No directory license may be issued to a person that acted
4 inconsistently with a certification it previously made under subsection
5 (2) of this section.

6 (7) The Tax Commissioner shall list on its web site the names of all
7 persons holding a directory license. Manufacturers, importers, sales
8 entity affiliates, and stamping agents shall be entitled to rely upon the
9 list in selling cigarettes as provided in section 69-2706.

10 Sec. 26. Section 77-4001, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 77-4001 Sections 77-4001 to 77-4025 and section 28 of this act shall
13 be known and may be cited as the Tobacco Products Tax Act.

14 Sec. 27. Section 77-4007, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 77-4007 (1) Tobacco product means:

17 (a) Any product that is made from or derived from tobacco, or that
18 contains nicotine, that is intended for human consumption or is likely to
19 be consumed, whether smoked, heated, chewed, absorbed, dissolved,
20 inhaled, or ingested by any other means, including, but not limited to, a
21 cigar, pipe tobacco, chewing tobacco, snuff, or snus; and

22 (b) Electronic smoking devices and any component or accessory used
23 in the consumption of a tobacco product, such as filters, rolling papers,
24 pipes, and substances used in electronic smoking devices, whether or not
25 they contain nicotine.

26 (2) Tobacco product does not include:

27 (a) Cigarettes as defined in section 77-2601; or

28 (b) Drugs, devices, or combination products authorized for sale by
29 the federal Food and Drug Administration, as those terms are defined in
30 the Federal Food, Drug and Cosmetic Act.

31 ~~Tobacco products shall mean (1) cigars, (2) cheroots, (3) stogies,~~

1 ~~(4) periques, (5) granulated, plug cut, crimp cut, ready rubbed, and~~
2 ~~other smoking tobacco, (6) snuff, (7) snuff flour, (8) cavendish, (9)~~
3 ~~plug and twist tobacco, (10) fine cut and other chewing tobacco, (11)~~
4 ~~shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco, and~~
5 ~~(12) other kinds and forms of tobacco, prepared in such manner as to be~~
6 ~~suitable for chewing or smoking in a pipe or otherwise or both for~~
7 ~~chewing and smoking, except that tobacco products shall not mean~~
8 ~~cigarettes as defined in section 77-2601.~~

9 Sec. 28. (1) Electronic smoking device means any device that can be
10 used to deliver aerosolized or vaporized nicotine to the person inhaling
11 from the device, including, but not limited to, an e-cigarette, e-cigar,
12 e-pipe, vape pen, or e-hookah. Electronic smoking device includes any
13 component, part, or accessory of such a device, whether or not sold
14 separately, and includes any substance intended to be aerosolized or
15 vaporized during the use of the device.

16 (2) Electronic smoking device does not include:

17 (a) Any battery or battery charger when sold separately; or

18 (b) Drugs, devices, or combination products authorized for sale by
19 the federal Food and Drug Administration, as those terms are defined in
20 the Federal Food, Drug and Cosmetic Act.

21 Sec. 29. Section 77-4008, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 77-4008 (1)(a) A tax is hereby imposed upon the first owner of
24 tobacco products to be sold in this state.

25 (b) The tax on snuff shall be sixty-five percent of (i) the purchase
26 price of such tobacco products paid by the first owner or (ii) the price
27 at which a first owner who made, manufactured, or fabricated the tobacco
28 products sells the items to others, except for any snuff whose applicable
29 tax per one and two-tenths ounces net weight of product is less than the
30 cigarette tax as provided in section 77-2602, the tax on snuff shall be
31 the same as the cigarette tax provided in section 77-2602 ~~forty-four~~

1 ~~cents per ounce and a proportionate tax at the like rate on all~~
2 ~~fractional parts of an ounce.~~ Such tax shall be computed based on the net
3 weight as listed by the manufacturer.

4 (c) The tax on tobacco products other than snuff shall be sixty-five
5 ~~twenty~~ percent of (i) the purchase price of such tobacco products paid by
6 the first owner or (ii) the price at which a first owner who made,
7 manufactured, or fabricated the tobacco product sells the items to
8 others.

9 (d) The tax on tobacco products shall be in addition to all other
10 taxes.

11 (2) Whenever any person who is licensed under section 77-4009
12 purchases tobacco products from another person licensed under section
13 77-4009, the seller shall be liable for the payment of the tax.

14 (3) Amounts collected pursuant to this section shall be used and
15 distributed pursuant to section 77-4025.

16 Sec. 30. Original sections 28-1418, 28-1418.01, 28-1419, 28-1420,
17 28-1421, 28-1423, 28-1424, 28-1425, 28-1427, 28-1429.01, 28-1429.02,
18 28-1429.03, 69-2705, 69-2706, 69-2707, 69-2707.01, 69-2709, 69-2710,
19 69-2710.01, 69-2710.03, 71-7611, 77-2601, 77-2602, 77-2603, 77-4001,
20 77-4007, and 77-4008, Reissue Revised Statutes of Nebraska, are repealed.