

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1013

Introduced by Linehan, 39.

Read first time January 15, 2020

Committee: Revenue

- 1 A BILL FOR AN ACT relating to tobacco; to amend section 77-2602.05,
- 2 Reissue Revised Statutes of Nebraska; to change provisions relating
- 3 to a cigarette tax and exempt transactions; to repeal the original
- 4 section; and to declare an emergency.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2602.05, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 77-2602.05 (1) A person that paid taxes applicable under section
4 77-2602 on cigarettes sold in an exempt transaction shall be eligible for
5 a refund of the taxes paid on those cigarettes.

6 (2) Exempt transactions, for purposes of this section and section
7 69-2703, are defined as:

8 (a) Cigarette sales on a federal installation in a transaction that
9 is exempt from state taxation under federal law; and

10 (b) Cigarette sales on an Indian tribe's Indian country to its
11 tribal members where state taxation is precluded by federal law.

12 (3) Except as provided in subsection (5) of this section, the person
13 seeking a refund of taxes shall submit an application to the Tax
14 Commissioner providing documentation sufficient to demonstrate (a) that
15 the cigarettes were sold in a package bearing the correct stamp required
16 under section 77-2603 or 77-2603.01 and that the stamp was one that
17 required payment of tax, (b) that the person paid the applicable taxes in
18 question, (c) that the cigarettes were sold in an exempt transaction, and
19 (d) that the person has not previously obtained the refund on the
20 cigarettes. The documentation shall include, in addition to information
21 necessary to meet the requirements of subdivisions (3)(a) through (d) of
22 this section and any other information that the Tax Commissioner may
23 reasonably require, documents showing the identity of the seller and
24 purchaser and the places of shipment and delivery of the cigarettes. The
25 Tax Commissioner shall verify the accuracy and completeness of the
26 required documentation and information before granting the requested
27 refund.

28 (4) If a meritorious refund claim under subsection (3) of this
29 section is not paid within sixty days after submission of the required
30 documentation, the refund shall include interest on the amount of such
31 refund at the rate specified in section 45-104.02 as such rate existed at

1 the date of submission of the required documentation.

2 (5) The Tax Commissioner and an Indian tribe may agree upon a tax
3 refund formula to operate in lieu of application for refunds under
4 subsection (3) of this section. The aggregate refund provided to an
5 Indian tribe under a formula for a year shall not exceed the aggregate
6 tax paid by entities owned and operated by that tribe or a member of that
7 tribe on cigarettes sold in exempt transactions on that tribe's Indian
8 country during that year. Refunds of taxes under subsection (3) of this
9 section shall not be available for cigarettes sold in exempt transactions
10 on an Indian tribe's Indian country by an Indian tribe that agrees upon a
11 refund formula under this subsection. Nothing in this subsection shall
12 limit the state's authority to enter into an agreement pursuant to
13 section 77-2602.06 pertaining to the collection and dissemination of any
14 cigarette taxes which may otherwise be inconsistent with this subsection.

15 (6) Any product that is taxed as a cigar under Title 26 of the
16 United States Code, and is a cigarette for purposes of section 77-2602,
17 shall not be treated as a cigarette for purposes of subdivision (4) of
18 section 69-2702 and the Master Settlement Agreement as defined in section
19 69-2702.

20 Sec. 2. Original section 77-2602.05, Reissue Revised Statutes of
21 Nebraska, is repealed.

22 Sec. 3. Since an emergency exists, this act takes effect when
23 passed and approved according to law.