

AMENDMENTS TO LB9

Introduced by

1 1. Insert the following new sections:

2 Sec. 2. Section 77-4001, Revised Statutes Supplement, 2023, as
3 amended by Laws 2024, LB1204, section 25, is amended to read:

4 77-4001 Sections 77-4001 to 77-4025, ~~and~~ sections 29 and 30 of this
5 act, and section 4 of this act shall be known and may be cited as the
6 Tobacco Products Tax Act.

7 Sec. 3. Section 77-4002, Revised Statutes Supplement, 2023, is
8 amended to read:

9 77-4002 For purposes of the Tobacco Products Tax Act, unless the
10 context otherwise requires, the definitions found in sections 77-4003 to
11 77-4007 and section 4 of this act shall be used.

12 Sec. 4. Alternative nicotine product has the same meaning as in
13 section 28-1418.01.

14 Sec. 5. Section 77-4007, Revised Statutes Supplement, 2023, is
15 amended to read:

16 77-4007 Tobacco products shall mean (1) cigars, (2) cheroots, (3)
17 stogies, (4) periques, (5) granulated, plug cut, crimp cut, ready rubbed,
18 and other smoking tobacco, (6) snuff, (7) snuff flour, (8) cavendish, (9)
19 plug and twist tobacco, (10) fine cut and other chewing tobacco, (11)
20 shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco,
21 (12) other kinds and forms of tobacco, prepared in such manner as to be
22 suitable for chewing or smoking in a pipe or otherwise or both for
23 chewing and smoking, ~~and~~ (13) electronic nicotine delivery systems, and
24 (14) alternative nicotine products, except that tobacco products shall
25 not mean cigarettes as defined in section 77-2601.

26 Sec. 6. Section 77-4008, Revised Statutes Supplement, 2023, is
27 amended to read:

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

3 (b) The tax on snuff shall be forty-four cents per ounce and a
4 proportionate tax at the like rate on all fractional parts of an ounce.
5 Such tax shall be computed based on the net weight as listed by the
6 manufacturer.

7 (c) The tax on an electronic nicotine delivery system containing
8 three milliliters or less of consumable material shall be five cents per
9 milliliter of consumable material and a proportionate tax at the like
10 rate on all fractional parts of a milliliter.

11 (d) The tax on an electronic nicotine delivery system containing
12 more than three milliliters of consumable material shall be ten percent
13 of (i) the purchase price of such electronic nicotine delivery system
14 paid by the first owner or (ii) the price at which the first owner who
15 made, manufactured, or fabricated the electronic nicotine delivery system
16 sells the item to others.

17 (e) For electronic nicotine delivery systems in the possession of
18 retail dealers for which tax has not been paid, the tax under this
19 subsection shall be imposed at the earliest time the retail dealer: (i)
20 Brings or causes to be brought into the state any electronic nicotine
21 delivery system for sale; (ii) makes, manufactures, or fabricates any
22 electronic nicotine delivery system in this state for sale in this state;
23 or (iii) sells any electronic nicotine delivery system to consumers
24 within this state.

25 (f) The tax on alternative nicotine products shall be ten cents per
26 ounce and a proportionate tax at the like rate on all fractional parts of
27 an ounce. Such tax shall be computed based on the net weight as listed by
28 the manufacturer.

29 (g) (f) The tax on tobacco products, other than snuff, and
30 electronic nicotine delivery systems, and alternative nicotine products,
31 shall be twenty percent of (i) the purchase price of such tobacco

1 products paid by the first owner or (ii) the price at which a first owner
2 who made, manufactured, or fabricated the tobacco product sells the items
3 to others.

4 (h) ~~(g)~~ The tax on tobacco products shall be in addition to all
5 other taxes.

6 (2) Whenever any person who is licensed under section 77-4009
7 purchases tobacco products from another person licensed under section
8 77-4009, the seller shall be liable for the payment of the tax.

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

11 Sec. 7. Section 77-4014, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 77-4014 (1) On or before the tenth day of each calendar month, every
14 person licensed under subsection (1) of section 77-4009 shall file a
15 return with the Tax Commissioner showing either the quantity and the
16 price of each tobacco product brought or caused to be brought into this
17 state for sale or the quantity and the price of each tobacco product
18 made, manufactured, or fabricated in this state for sale in this state,
19 whichever is applicable, during the preceding calendar month. For snuff
20 and alternative nicotine products, such return shall also include the net
21 weight as listed by the manufacturer.

22 (2) Every person licensed pursuant to subsection (2) of section
23 77-4009 shall, in the manner described in subsection (1) of this section,
24 file a return showing in detail the different kinds, quantity, and
25 wholesale sales price of each tobacco product shipped or transported to
26 retailers in this state to be sold by such retailers during the preceding
27 calendar month. For snuff and alternative nicotine products, such return
28 shall also include the net weight as listed by the manufacturer.

29 (3) Returns shall be made upon forms furnished and prescribed by the
30 Tax Commissioner. Each return shall be accompanied by a remittance for
31 the full tax liability shown, less an amount of such liability equal to

1 any amount allowed a payer of the sales and use tax pursuant to
2 subdivision (1)(d) of section 77-2708 as compensation to reimburse the
3 licensee for his or her expenses incurred in complying with the Tobacco
4 Products Tax Act.

5 Sec. 8. Section 77-4017, Reissue Revised Statutes of Nebraska, as
6 amended by Laws 2024, LB1204, section 33, is amended to read:

7 77-4017 (1) Every person licensed or certified under the Tobacco
8 Products Tax Act shall keep complete and accurate records for all places
9 of business, including itemized invoices of tobacco products (a) held,
10 purchased, manufactured, or brought in or caused to be brought into this
11 state or (b) for a person located outside of this state, shipped or
12 transported to retailers in this state. Such records shall be of
13 sufficient detail to identify the manufacturer of each tobacco product
14 held, purchased, manufactured, or brought in or caused to be brought into
15 this state. For snuff and alternative nicotine products, such records
16 shall also include the net weight as listed by the manufacturer.

17 (2) All books, records, and other papers and documents required to
18 be kept by this section shall be preserved for a period of at least three
19 years after the due date of the tax imposed by the Tobacco Products Tax
20 Act unless the Tax Commissioner, in writing, authorizes their destruction
21 or disposal at an earlier date.

22 (3) At any time during usual business hours, duly authorized agents
23 or employees of the Tax Commissioner may enter any place of business of a
24 person licensed or certified under the Tobacco Products Tax Act and
25 inspect the premises, the records required to be kept pursuant to this
26 section, and the tobacco products contained in such place of business for
27 purposes of determining whether or not such person is in full compliance
28 with the act. Refusal to permit such inspection by a duly authorized
29 agent or employee of the Tax Commissioner shall be grounds for
30 revocation, cancellation, or suspension of the license or certification.

31 2. Renumber the remaining sections, correct internal references, and

1 correct the repealer accordingly.