

AMENDMENTS TO LB212

(Amendments to Standing Committee amendments, AM319)

Introduced by Wordekemper, 15.

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

3 **Section 1.** Section 77-4001, Revised Statutes Supplement, 2025, is
4 amended to read:

5 77-4001 Sections 77-4001 to 77-4027 and sections 3 and 5 of this act
6 shall be known and may be cited as the Tobacco Products Tax Act.

7 **Sec. 2.** Section 77-4002, Revised Statutes Supplement, 2025, 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 77-4002.01
11 to 77-4007 and sections 3 and 5 of this act shall be used.

12 **Sec. 3.** (1) Covered tobacco product means cigars, pipe tobacco, or
13 any other tobacco products as defined in section 77-4007, excluding
14 tobacco products described in subdivisions (1)(f), (1)(g), (1)(j), and
15 (1)(n) of such section.

16 (2) For purposes of this section, pipe tobacco means any of the
17 tobacco products described in subdivisions (1)(d), (e), (h), and (i) of
18 section 77-4007.

19 **Sec. 4.** Section 77-4004, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 77-4004 First owner shall mean any person:

22 (1) Engaged in the business of selling tobacco products in this
23 state who brings or causes to be brought into this state from outside
24 this state any tobacco products for sale in this state, including a
25 retailer who purchases directly from suppliers outside this state who are
26 not licensed pursuant to subsection (2) of section 77-4009;

1 (2) Who makes, manufactures, or fabricates tobacco products in this
2 state for sale in this state; ~~or~~

3 (3) Engaged in business outside this state who ships or transports
4 tobacco products to retailers in this state and who becomes licensed
5 pursuant to subsection (2) of section 77-4009; or -

6 (4) Engaged in business outside this state who makes remote retail
7 sales of covered tobacco products to consumers in this state and who
8 becomes licensed pursuant to subsection (3) of section 77-4009.

9 **Sec. 5. Remote retail sale of covered tobacco products means an**
10 **order for the sale of a covered tobacco product in which:**

11 (1) A consumer submits the order for the covered tobacco product by
12 telephone or other method of voice transmission, mail, or the Internet or
13 other online service;

14 (2) The retailer is not in the physical presence of the consumer
15 when the request for the sale is made; and

16 (3) The retailer:

17 (a) Delivers the covered tobacco product to the consumer by common
18 carrier, private delivery service, or other method of remote delivery; or

19 (b) Is not in the physical presence of the consumer when the
20 consumer obtains possession of the covered tobacco product.

21 **Sec. 6. Section 77-4009, Reissue Revised Statutes of Nebraska, is**
22 **amended to read:**

23 77-4009 (1) Each first owner of tobacco products to be sold in this
24 state shall be licensed by the Tax Commissioner. Every application for
25 such license shall be made on a form prescribed by the Tax Commissioner.
26 The application shall include: (a) The name and address of the applicant
27 or, if the applicant is a firm, partnership, limited liability company,
28 or association, the name and address of each of its members or, if the
29 applicant is a corporation, the name and address of each of its officers
30 and the address of its principal place of business; (b) the location of
31 the place of business to be licensed; and (c) such other information as

1 the Tax Commissioner may require for the purpose of administering the
2 Tobacco Products Tax Act.

3 (2) A person outside of this state who ships or transports tobacco
4 products to any person in this state to be sold in this state may make
5 application for a license and be granted such a license by the Tax
6 Commissioner. If a license is granted, such person shall be subject to
7 the Tobacco Products Tax Act and shall be entitled to act as a licensee.
8 A person outside this state who receives a license shall have established
9 sufficient contact with this state for the exercise of personal
10 jurisdiction over the person in any matter or issue arising under the
11 act.

12 (3) A person outside of this state who makes remote retail sales of
13 covered tobacco products to consumers in this state shall make
14 application for a license and be granted such a license by the Tax
15 Commissioner. If a license is granted, such person shall be subject to
16 the Tobacco Products Tax Act after making one hundred thousand dollars in
17 sales or two hundred separate sales transactions of covered tobacco
18 products in the preceding or current calendar year. A person outside this
19 state who receives a license shall have established sufficient contact
20 with this state for the exercise of personal jurisdiction over the person
21 in any matter or issue arising under the act.

22 **Sec. 7.** Section 77-4014, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 77-4014 (1) On or before the tenth day of each calendar month, every
25 person licensed under subsection (1) of section 77-4009 shall file a
26 return with the Tax Commissioner showing either the quantity and the
27 price of each tobacco product brought or caused to be brought into this
28 state for sale or the quantity and the price of each tobacco product
29 made, manufactured, or fabricated in this state for sale in this state,
30 whichever is applicable, during the preceding calendar month. For snuff,
31 such return shall also include the net weight as listed by the

1 manufacturer.

2 (2) Every person licensed pursuant to subsection (2) of section
3 77-4009 shall, in the manner described in subsection (1) of this section,
4 file a return showing in detail the different kinds, quantity, and
5 wholesale sales price of each tobacco product shipped or transported to
6 retailers in this state to be sold by such retailers during the preceding
7 calendar month. For snuff, such return shall also include the net weight
8 as listed by the manufacturer.

9 (3) On or before the tenth day of each calendar month, every person
10 licensed pursuant to subsection (3) of section 77-4009 shall, in the
11 manner described in subsection (1) of this section, file a return showing
12 in detail the different kinds, quantity, and purchase price paid by each
13 such seller of each covered tobacco product shipped or transported to
14 consumers in this state in the preceding calendar month.

15 (4) ~~(3)~~ Returns shall be made upon forms furnished and prescribed by
16 the Tax Commissioner. Each return shall be accompanied by a remittance
17 for the full tax liability shown, less an amount of such liability equal
18 to any amount allowed a payer of the sales and use tax pursuant to
19 subdivision (1)(d) of section 77-2708 as compensation to reimburse the
20 licensee for his or her expenses incurred in complying with the Tobacco
21 Products Tax Act.

22 **Sec. 8.** Section 77-4017, Revised Statutes Cumulative Supplement,
23 2024, is amended to read:

24 77-4017 (1)(a) ~~(1)~~ Every person licensed or certified under the
25 Tobacco Products Tax Act pursuant to subsection (1) or (2) of section
26 77-4009 shall keep complete and accurate records for all places of
27 business, including itemized invoices of tobacco products (i) ~~(a)~~ held,
28 purchased, manufactured, or brought in or caused to be brought into this
29 state or (ii) ~~(b)~~ for a person located outside of this state, shipped or
30 transported to retailers in this state. Such records shall be of
31 sufficient detail to identify the manufacturer of each tobacco product

1 held, purchased, manufactured, or brought in or caused to be brought into
2 this state. For snuff, such records shall also include the net weight as
3 listed by the manufacturer.

4 (b) Every person licensed under subsection (3) of section 77-4009
5 shall keep complete and accurate records for all places of business,
6 including all itemized invoices of covered tobacco products sold to
7 consumers in this state. Such persons shall also keep records sufficient
8 to identify the purchase price of the covered tobacco products paid by
9 the licensee on such invoices.

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

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

24 **Sec. 9.** This act becomes operative on January 1, 2027.

25 **Sec. 10.** Original sections 77-4004, 77-4009, and 77-4014, Reissue
26 Revised Statutes of Nebraska, section 77-4017, Revised Statutes
27 Cumulative Supplement, 2024, and sections 77-4001 and 77-4002, Revised
28 Statutes Supplement, 2025, are repealed.