

## ENGROSSED LEGISLATIVE BILL 212

Introduced by Wordekemper, 15.

A BILL FOR AN ACT relating to the Tobacco Products Tax Act; to amend sections 77-4004, 77-4009, and 77-4014, Reissue Revised Statutes of Nebraska, section 77-4017, Revised Statutes Cumulative Supplement, 2024, and sections 77-4001 and 77-4002, Revised Statutes Supplement, 2025; to require licensure and regulation of persons engaged in remote retail sales of covered tobacco products as prescribed; to provide for taxation of such sales; to define and redefine terms; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

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

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

**Sec. 2.** Section 77-4002, Revised Statutes Supplement, 2025, is amended to read:

77-4002 For purposes of the Tobacco Products Tax Act, unless the context otherwise requires, the definitions found in sections 77-4002.01 to 77-4007 and sections 3 and 5 of this act shall be used.

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

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

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

77-4004 First owner shall mean any person:

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

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

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

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

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

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

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

(3) The retailer:

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

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

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

77-4009 (1) Each first owner of tobacco products to be sold in this state shall be licensed by the Tax Commissioner. Every application for such license shall be made on a form prescribed by the Tax Commissioner. The application

shall include: (a) The name and address of the applicant or, if the applicant is a firm, partnership, limited liability company, or association, the name and address of each of its members or, if the applicant is a corporation, the name and address of each of its officers and the address of its principal place of business; (b) the location of the place of business to be licensed; and (c) such other information as the Tax Commissioner may require for the purpose of administering the Tobacco Products Tax Act.

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

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

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

77-4014 (1) On or before the tenth day of each calendar month, every person licensed under subsection (1) of section 77-4009 shall file a return with the Tax Commissioner showing either the quantity and the price of each tobacco product brought or caused to be brought into this state for sale or the quantity and the price of each tobacco product made, manufactured, or

fabricated in this state for sale in this state, whichever is applicable, during the preceding calendar month. For snuff, such return shall also include the net weight as listed by the manufacturer.

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

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

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

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

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

brought into this state. For snuff, such records shall also include the net weight as listed by the manufacturer.

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

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

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

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

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

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**PRESIDENT OF THE LEGISLATURE**

*THIS IS TO CERTIFY that the within LB 212 was passed by the One Hundred Ninth Legislature of Nebraska at its Second Session on the ..... day of ..... 20.....*

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**CLERK OF THE LEGISLATURE**

**Approved:**

..... 20....., ..... o'clock .....M.

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**GOVERNOR**