

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 212

FINAL READING

Introduced by Wordekemper, 15.

Read first time January 14, 2025

Committee: Revenue

- 1 A BILL FOR AN ACT relating to the Tobacco Products Tax Act; to amend
- 2 sections 77-4004, 77-4009, and 77-4014, Reissue Revised Statutes of
- 3 Nebraska, section 77-4017, Revised Statutes Cumulative Supplement,
- 4 2024, and sections 77-4001 and 77-4002, Revised Statutes Supplement,
- 5 2025; to require licensure and regulation of persons engaged in
- 6 remote retail sales of covered tobacco products as prescribed; to
- 7 provide for taxation of such sales; to define and redefine terms; to
- 8 provide an operative date; and to repeal the original sections.
- 9 Be it enacted by the people of the State of Nebraska,

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

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

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

7 77-4002 For purposes of the Tobacco Products Tax Act, unless the
8 context otherwise requires, the definitions found in sections 77-4002.01
9 to 77-4007 and sections 3 and 5 of this act shall be used.

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

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

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

19 77-4004 First owner shall mean any person:

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

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

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

30 (4) Engaged in business outside this state who makes remote retail
31 sales of covered tobacco products to consumers in this state and who

1 becomes licensed pursuant to subsection (3) of section 77-4009.

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

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

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

9 (3) The retailer:

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

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

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

16 77-4009 (1) Each first owner of tobacco products to be sold in this
17 state shall be licensed by the Tax Commissioner. Every application for
18 such license shall be made on a form prescribed by the Tax Commissioner.
19 The application shall include: (a) The name and address of the applicant
20 or, if the applicant is a firm, partnership, limited liability company,
21 or association, the name and address of each of its members or, if the
22 applicant is a corporation, the name and address of each of its officers
23 and the address of its principal place of business; (b) the location of
24 the place of business to be licensed; and (c) such other information as
25 the Tax Commissioner may require for the purpose of administering the
26 Tobacco Products Tax Act.

27 (2) A person outside of this state who ships or transports tobacco
28 products to any person in this state to be sold in this state may make
29 application for a license and be granted such a license by the Tax
30 Commissioner. If a license is granted, such person shall be subject to
31 the Tobacco Products Tax Act and shall be entitled to act as a licensee.

1 A person outside this state who receives a license shall have established
2 sufficient contact with this state for the exercise of personal
3 jurisdiction over the person in any matter or issue arising under the
4 act.

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

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

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

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

1 as listed by the manufacturer.

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

8 (4) (3) Returns shall be made upon forms furnished and prescribed by
9 the Tax Commissioner. Each return shall be accompanied by a remittance
10 for the full tax liability shown, less an amount of such liability equal
11 to any amount allowed a payer of the sales and use tax pursuant to
12 subdivision (1)(d) of section 77-2708 as compensation to reimburse the
13 licensee for his or her expenses incurred in complying with the Tobacco
14 Products Tax Act.

15 **Sec. 8.** Section 77-4017, Revised Statutes Cumulative Supplement,
16 2024, is amended to read:

17 77-4017 (1)(a) (1) Every person licensed or certified under the
18 Tobacco Products Tax Act pursuant to subsection (1) or (2) of section
19 77-4009 shall keep complete and accurate records for all places of
20 business, including itemized invoices of tobacco products (i) (a) held,
21 purchased, manufactured, or brought in or caused to be brought into this
22 state or (ii) (b) for a person located outside of this state, shipped or
23 transported to retailers in this state. Such records shall be of
24 sufficient detail to identify the manufacturer of each tobacco product
25 held, purchased, manufactured, or brought in or caused to be brought into
26 this state. For snuff, such records shall also include the net weight as
27 listed by the manufacturer.

28 (b) Every person licensed under subsection (3) of section 77-4009
29 shall keep complete and accurate records for all places of business,
30 including all itemized invoices of covered tobacco products sold to
31 consumers in this state. Such persons shall also keep records sufficient

1 to identify the purchase price of the covered tobacco products paid by
2 the licensee on such invoices.

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

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

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

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