ENROLLED SENATE
BILL NO. 1504

By: Robinson of the Senate

and

Vaughn and Nance of the House

An Act relating to crimes and punishments and taxation; amending 21 O.S. 2001, Section 1241, which relates to furnishing tobacco products to minors; prohibiting bidis; amending 68 O.S. 2001, Section 327, which relates to definitions; including bidis in certain definitions; modifying reference; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1241, is amended to read as follows:

Section 1241. Any person who shall furnish to any minor by gift, sale or otherwise any cigarettes, cigarette papers, cigars, bidis, snuff, chewing tobacco, or any other form of tobacco product shall be guilty of a misdemeanor and, upon conviction ~~thereof~~, shall be ~~sentenced to pay a~~ punished by a fine in the amount of not less than Twenty-five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00) and ~~be confined~~ by imprisonment in the county jail for a term of not less than ten (10) days nor more than ninety (90) days for each offense.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 327, is amended to read as follows:

Section 327. The following words, terms and phrases, when used in this act, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

a. "Person" shall mean and include any individual, firm, association, company, partnership, limited liability company, corporation, joint stock company, club, agency, syndicate municipal corporation, or other political subdivision of this state, trust, receiver, trustee, fiduciary, and conservator.

b. "Cigarettes" shall mean and include any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of

paper, leaves, string, or any other substance or material, excepting tobacco.

c. "Tobacco Products" shall mean any bidis, cigars, cheroots, stogies, smoking tobacco (including granulated, plug cut, crimp cut, ready rubbed, and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including cavendish, twist, plug, scrap, and any other kinds and forms of tobacco suitable for chewing), however prepared; and shall include any other articles or products made of tobacco or any substitute therefor.

d. "Sale" shall mean any transfer for a consideration, exchange, barter, gift, offer for sale, and distribution in any manner or by any means whatsoever.

e. "Wholesaler" and/or "jobber" is defined to mean a person, firm, or corporation organized and existing, or doing business primarily to sell cigarettes to, and render service to retailers in the territory such person, firm or corporation chooses to serve; that purchases cigarettes directly from the manufacturer; that at least seventy-five percent (75%) of whose gross sales are made at wholesale; to other than their own retail stores, that handles goods in wholesale quantities and sells through salesmen, advertising, and/or sales promotion devices; that carries at all times at his or its principal place of business a representative stock of cigarettes and tobacco products for sale, and that comes into the possession of cigarettes for the purpose of selling them to retailers or to persons outside or within the state who might resell or retail such cigarettes to consumers.

f. The word "Sub-Jobber" is defined to mean any person in this state who does not purchase cigarettes and tobacco products from a manufacturer and who acquires stamped cigarettes and tobacco products from a wholesaler, at least seventy-five percent (75%) of which are for purposes of resale to retailers in this state, or to persons for the purpose of resale only.

g. "Retailer" means any person in this state who is engaged in the business of selling cigarettes and tobacco products at retail and any person selling cigarettes through vending machines.

h. "Manufacturer's representative, or manufacturer's salesman" shall mean any person working for or under the supervision of a manufacturer and whose action is not controlled by the wholesaler or retailer.

i. "Consumer" shall mean a person who comes into possession of cigarettes or tobacco products for the purpose of consuming them, giving them away, or disposing of them in a way other than by sale, barter, or exchange.

j. "Drop shipment" shall mean and include any delivery of cigarettes or tobacco products received by any person within this state when payment for such cigarettes or tobacco products is made to the shipper or seller by or through a person other than the consignee.

k. "Sell at retail", "sale at retail", and "retail sales" shall mean and include any transfer of title to cigarettes and tobacco products for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use.

l. "Sell at wholesale", "sale at wholesale", and "wholesale sales" shall mean and include any transfer of title to cigarettes and tobacco products for a valuable consideration, made in the ordinary course of trade or usual conduct of the wholesaler's business, to the retailer for the purpose of resale.

m. "Basic costs of cigarettes and tobacco products" shall mean the invoice cost of cigarettes and tobacco products to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes and tobacco products to the retailer or wholesaler, as the case may be, within thirty (30) days prior to the date of sale in the quantity last purchased, whichever is lower, less all trade discounts, except the customary discounts for cash, to which shall be added the full face value of any stamps which may be required by any cigarette and tobacco products tax act of this state or federal act now in effect or hereafter enacted, if not already included by the manufacturer in ~~his~~ the list price.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 4th day of March, 2002.

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Presiding Officer of the Senate

Passed the House of Representatives the 8th day of April, 2002.

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Presiding Officer of the House
of Representatives