

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 543

By: Crain

4
5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 401, which relates to tobacco
9 products tax; defining term; providing an effective
10 date; and declaring an emergency.

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 68 O.S. 2001, Section 401, is
14 amended to read as follows:

15 Section 401. For the purpose of this article:

16 (a) The word "person" shall mean any individual, company,
17 limited liability company, corporation, partnership, association,
18 joint adventure, estate, trust, or any other group, or combination
19 acting as a unit, and the plural as well as the singular, unless the
20 intention to give a more limited meaning is disclosed by the
21 context.

22 (b) The term "Tax Commission" shall mean the Oklahoma Tax
23 Commission.

1 (c) The word "wholesaler" shall include dealers whose principal
2 business is that of a wholesale dealer or jobber, and who is known
3 to the trade as such, who shall sell any cigars or tobacco products
4 to licensed retail dealers only for the purpose of resale, or giving
5 them away, or exposing the same where they may be taken or
6 purchased, or otherwise acquired by the retailer.

7 (d) The word "retailer" shall include every dealer, other than
8 a wholesale dealer as defined above, whose principal business is
9 that of selling merchandise at retail, who shall sell, or offer for
10 sale, cigars or tobacco products, irrespective of quantity, number
11 of sales, giving the same away or exposing the same where they may
12 be taken, or purchased, or otherwise acquired by the consumer.

13 (e) The word "consumer" shall mean a person who comes into
14 possession of tobacco for the purpose of consuming it, giving it
15 away, or disposing of it in any way by sale, barter or exchange.

16 (f) The words "first sale" shall mean and include the first
17 sale, or distribution, of cigars or tobacco products in intrastate
18 commerce, or the first use or consumption of cigars, or tobacco
19 products within this state.

20 (g) The words "tobacco products" shall mean any cigars,
21 cheroots, stogies, smoking tobacco (including granulated, plug cut,
22 crimp cut, ready rubbed and any other kinds and forms of tobacco
23 suitable for smoking in a pipe or cigarette), chewing tobacco
24 (including cavendish, twist, plug, scrap and any other kinds and

1 forms of tobacco suitable for chewing), however prepared; and shall
2 include any other articles or products made of tobacco or any
3 substitute therefor.

4 (h) The term "distributing agent" shall mean and include every
5 person in this state who acts as an agent of any person outside the
6 state by receiving cigars and tobacco products in interstate
7 commerce and storing such items subject to distribution or delivery,
8 upon order from said person outside the state, to distributors,
9 wholesale dealers and retail dealers, or to consumers. The term
10 "distributing agent" shall also mean and include any person who
11 solicits or takes orders for cigars and tobacco products to be
12 shipped in interstate commerce to a person in this state by a person
13 residing outside of Oklahoma, the tax not having been paid on such
14 cigars and tobacco products.

15 (i) The term "stamp" shall mean the stamp or stamps by use of
16 which:

17 1. The tax levied pursuant to the provisions of Section 401 et
18 seq. of this title is paid;

19 2. The tax levied pursuant to the provisions of Section 426 of
20 this title is paid; or

21 3. The payment in lieu of taxes authorized pursuant to a
22 compact entered into by the State of Oklahoma and a federally
23 recognized Indian tribe or nation pursuant to the provisions of
24 subsection C of Section 346 of this title is paid.

1 (j) The term "drop shipment" shall mean and include any
2 delivery of cigars or tobacco products received by any person within
3 the state when payment for such cigars or tobacco products is made
4 to the shipper or seller by or through a person other than the
5 consignee.

6 (k) The term "cigars" shall include any roll of tobacco for
7 smoking, irrespective of size or shape and irrespective of the
8 tobacco being flavored, adulterated or mixed with any other
9 ingredients, where such roll has a wrapper made chiefly of tobacco.

10 (l) The word "dealer" shall include every person, firm,
11 corporation, or association of persons, who manufactures cigars or
12 tobacco products for distribution, sale, use or consumption in the
13 State of Oklahoma. The word "dealer" is also further defined to
14 mean any person, firm, corporation or association of persons, who
15 imports cigars or tobacco products from any state or foreign
16 country, for distribution, sale, use or consumption in the State of
17 Oklahoma.

18 (m) The term "little cigar" shall mean cigars of all
19 descriptions made of tobacco, or any substitute therefor, and
20 weighing not more than three (3) pounds per thousand. Absent
21 evidence to the contrary, cigars with a ring size of 28 or less
22 shall be considered little cigars.

23 SECTION 2. This act shall become effective July 1, 2009.
24

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

5

6 52-1-65 JCR 3/6/2009 5:12:56 AM

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24