

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 57th Legislature (2020)

4   HOUSE BILL 3221

By: Roberts (Dustin) of the  
House

5  
6   and

7   **Paxton** of the Senate

8  
9   AS INTRODUCED

10                   An Act relating to revenue and taxation; amending 68  
11                   O.S. 2011, Section 401, which relates to tobacco  
12                   products taxation; modifying definitions; providing  
                  an effective date; and declaring an emergency.

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

16           SECTION 1.        AMENDATORY        68 O.S. 2011, Section 401, is  
17   amended to read as follows:

18           Section 401. For the purpose of this article:

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

1 (b) The term "Tax Commission" shall mean the Oklahoma Tax  
2 Commission.

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

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

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

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

22 (g) The words "tobacco products" shall mean any cigars,  
23 ~~cheroots, stogies, smoking tobacco (including granulated, plug cut,~~  
24 ~~crimp cut, ready rubbed and any other kinds and forms of tobacco~~

1 ~~suitable for smoking in a pipe or cigarette), chewing tobacco~~  
2 ~~(including cavendish, twist, plug, scrap and any other kinds and~~  
3 ~~forms of tobacco suitable for chewing), however prepared; and shall~~  
4 ~~include any other articles or products made of tobacco or any~~  
5 ~~substitute therefor~~ and smokeless tobacco.

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

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

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

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

23 3. The payment in lieu of taxes authorized pursuant to a  
24 compact entered into by the State of Oklahoma and a federally

1 recognized Indian tribe or nation pursuant to the provisions of  
2 subsection C of Section 346 of this title is paid.

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

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

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

20 (m) The term "smokeless tobacco" shall mean all smokeless  
21 tobacco including snuff and chewing tobacco.

22 1. The term "snuff" shall mean any finely cut, ground or  
23 powdered tobacco that is not intended to be smoked.  
24

1        2. The term "chewing tobacco" means any leaf tobacco that is  
2 not intended to be smoked.

3        (n) The term "smoking tobacco" shall mean any pipe tobacco or  
4 roll-your-own tobacco.

5        1. The term "pipe tobacco" means any tobacco which, because of  
6 its appearance, type, packaging or labeling, is suitable for use and  
7 likely to be offered to, or purchased by, consumers as tobacco to be  
8 smoked in a pipe.

9        2. The term "roll-your-own tobacco" means any tobacco which,  
10 because of its appearance, type, packaging or labeling, is suitable  
11 for use and likely to be offered to, or purchased by, consumers as  
12 tobacco for making cigarettes or cigars, or for use as wrappers  
13 thereof.

14        SECTION 2. This act shall become effective July 1, 2020.

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

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20 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/11/2020 - DO PASS,  
21 As Coauthored.  
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