

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1444

By: Paxton

AS INTRODUCED

An Act relating to tobacco products; amending 68 O.S. 2011, Section 401, which relates to definitions; updating language; modifying definition; defining terms; and providing an effective date.

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

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

Section 401. For the purpose of this article:

~~(a) The word "person" shall mean~~ 1. "Person" means any individual, company, limited liability company, corporation, partnership, association, joint adventure, estate, trust, or any other group, or combination acting as a unit, and the plural as well as the singular, unless the intention to give a more limited meaning is disclosed by the context.

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

~~(c) The word "wholesaler" shall include~~ 3. "Wholesaler" means dealers whose principal business is that of a wholesale dealer or

1 jobber, and who is known to the trade as such, who shall sell any  
2 cigars or tobacco products to licensed retail dealers only for the  
3 purpose of resale, or giving them away, or exposing the same where  
4 they may be taken or purchased, or otherwise acquired by the  
5 retailer.

6 ~~(d) The word "retailer" shall include~~ 4. "Retailer" means  
7 every dealer, other than a wholesale dealer as defined above, whose  
8 principal business is that of selling merchandise at retail, who  
9 shall sell, or offer for sale, cigars or tobacco products,  
10 irrespective of quantity, number of sales, giving the same away or  
11 exposing the same where they may be taken, or purchased, or  
12 otherwise acquired by the consumer.

13 ~~(e) The word "consumer" shall mean~~ 5. "Consumer" means a  
14 person who comes into possession of tobacco for the purpose of  
15 consuming it, giving it away, or disposing of it in any way by sale,  
16 barter or exchange.

17 ~~(f) The words "first sale" shall mean and include~~ 6. "First  
18 sale" means the first sale, or distribution, of cigars or tobacco  
19 products in intrastate commerce, or the first use or consumption of  
20 cigars, or tobacco products within this state.

21 ~~(g) The words "tobacco products" shall mean~~ 7. "Tobacco  
22 products" means any cigars, ~~cheroots, stogies,~~ smoking tobacco  
23 ~~(including granulated, plug cut, crimp cut, ready rubbed and any~~  
24 ~~other kinds and forms of tobacco suitable for smoking in a pipe or~~

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

5 ~~(h) The term "distributing agent" shall mean and include 8.~~

6 "Distributing agent" means every person in this state who acts as an  
7 agent of any person outside the state by receiving cigars and  
8 tobacco products in interstate commerce and storing such items  
9 subject to distribution or delivery, upon order from said person  
10 outside the state, to distributors, wholesale dealers and retail  
11 dealers, or to consumers. ~~The term "distributing agent" shall also~~  
12 ~~mean and include~~ Distributing agent also means 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 9. "Stamp" means~~ the stamp or  
18 stamps by use of which:

19 1. ~~The~~

20 a. the tax levied pursuant to the provisions of Section  
21 401 et seq. of this title is paid~~+~~,

22 2. ~~The~~

23 b. the tax levied pursuant to the provisions of Section  
24 426 of this title is paid~~+~~, or

1       3. ~~The~~

2           c.   the payment in lieu of taxes authorized pursuant to a  
3           compact entered into by the State of Oklahoma and a  
4           federally recognized Indian tribe or nation pursuant  
5           to the provisions of subsection C of Section 346 of  
6           this title is paid.

7       ~~(j) The term "drop shipment" shall mean and include 10. "Drop~~  
8 shipment" means any delivery of cigars or tobacco products received  
9 by any person within the state when payment for such cigars or  
10 tobacco products is made to the shipper or seller by or through a  
11 person other than the consignee.

12       ~~(k) The term "cigars" shall include 11. "Cigars" means~~ any  
13 roll of tobacco for smoking, irrespective of size or shape and  
14 irrespective of the tobacco being flavored, adulterated or mixed  
15 with any other ingredients, where such roll has a wrapper made  
16 chiefly of tobacco.

17       ~~(l) The word "dealer" shall include 12. "Dealer" means~~ every  
18 person, firm, corporation, or association of persons, who  
19 manufactures cigars or tobacco products for distribution, sale, use  
20 or consumption in the State of Oklahoma. ~~The word "dealer" is also~~  
21 ~~further defined to mean~~ Dealer also means any person, firm,  
22 corporation or association of persons, who imports cigars or tobacco  
23 products from any state or foreign country, for distribution, sale,  
24 use or consumption in ~~the State of Oklahoma~~ this state.

1        13. "Smokeless tobacco" means all smokeless tobacco including  
2 snuff and chewing tobacco. For the purposes of this paragraph:

3            a. Snuff" means any finely cut, ground or powdered  
4            tobacco that is not intended to be smoked, and

5            b. "Chewing tobacco" means any leaf tobacco that is not  
6            intended to be smoked.

7 14. "Smoking tobacco" means any pipe tobacco or roll-your-own  
8 tobacco. For the purposes of this paragraph:

9            a. "Pipe tobacco" means any tobacco which, because of its  
10            appearance, type, packaging, or labeling, is suitable  
11            for use and likely to be offered to, or purchased by,  
12            consumers as tobacco to be smoked in a pipe, and

13            b. "Roll-your-own tobacco" means any tobacco which,  
14            because of its appearance, type, packaging, or  
15            labeling, is suitable for use and likely to be offered  
16            to, or purchased by, consumers as tobacco for making  
17            cigarettes or cigars, or for use as wrappers thereof.

18        SECTION 2. This act shall become effective November 1, 2020.

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20        57-2-3649            JCR            1/15/2020 2:03:50 PM