

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 60th Legislature (2025)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2742

By: Caldwell (Trey) and **Lawson**
of the House

and

Paxton of the Senate

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8
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10 COMMITTEE SUBSTITUTE

11 [cigarettes - taxes - definition - exemption -
12 stamps - reference - effective date -
13 emergency]

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

17 SECTION 1. AMENDATORY 68 O.S. 2021, Section 301, is
18 amended to read as follows:

19 Section 301. For purposes of Section 301 et seq. of this title:

20 1. The term "cigarette" is defined to mean and include all
21 rolled tobacco ~~or any substitute therefor~~, wrapped in paper or any
22 substitute therefor, intended to be heated or burned, and weighing
23 not to exceed three (3) pounds per thousand cigarettes;
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1 2. The term "person" is defined to mean and include any
2 individual, company, partnership, joint venture, joint agreement,
3 association (mutual or otherwise), limited liability company,
4 corporation, estate, trust, business trust receiver, or trustee
5 appointed by any state or federal court, or otherwise, syndicate, or
6 any political subdivision of the state or combination acting as a
7 unit, in the plural or singular number;

8 3. The term "wholesaler", "distributor" and/or "jobber" is
9 defined to mean and include a person, firm or corporation organized
10 and existing, or doing business, primarily to sell cigarettes to,
11 and render service to retailers in the territory such person, firm
12 or corporation chooses to serve, and that:

- 13 a. purchases cigarettes directly from the manufacturer,
- 14 b. at least seventy-five percent (75%) of whose gross
15 sales are made at wholesale,
- 16 c. handles goods in wholesale quantities and sells
17 through salespersons, advertising and/or sales
18 promotion devices,
- 19 d. carries at all times at its principal place of
20 business a representative stock of cigarettes for
21 sale, and
- 22 e. comes into the possession of cigarettes for the
23 purpose of selling them to retailers or to persons

1 outside or within the state who might resell or retail
2 such cigarettes to consumers.

3 In addition to the foregoing, and irrespective of the percentage
4 or type of sales, the term "wholesaler", "distributor" and/or
5 "jobber" shall also include all purchasers of cigarettes making
6 purchases directly from the manufacturer for distribution at
7 wholesale or retail sale and this shall not affect the requirements
8 relating to retail licenses;

9 4. The term "retailer" is defined to be:

10 a. a person who comes into the possession of cigarettes
11 for the purpose of selling, or who sells them at
12 retail, or

13 b. a person, not coming within the classification of
14 wholesaler, distributor and/or jobber as herein
15 defined, having possession of more than one thousand
16 cigarettes;

17 5. The term "consumer" is defined to be a person who receives
18 or who in any way comes into possession of cigarettes for the
19 purpose of consuming them, giving them away, or disposing of them in
20 a way other than by sale, barter or exchange;

21 6. The term "Tax Commission" is defined to mean the Oklahoma
22 Tax Commission;

23 7. The term "sale" and/or "sales" is hereby defined to be and
24 declared to include sales, barter, exchanges and every other

1 manner, method and form of transferring the ownership of personal
2 property from one person to another, and is also declared to be the
3 use or consumption in this state in the first instance of cigarettes
4 received from without the state or of any other cigarettes upon
5 which the tax has not been paid. The term "first sale" shall mean
6 and include the first sale or distribution of cigarettes in
7 intrastate commerce or the first use or consumption of cigarettes
8 within this state;

9 8. The term "stamp" as herein used shall mean the stamp or
10 stamps by use of which:

- 11 a. the tax levied pursuant to the provisions of Section
12 301 et seq. of this title is paid,
- 13 b. the tax levied pursuant to the provisions of Section
14 349 of this title is paid, or
- 15 c. the payment in lieu of taxes authorized pursuant to a
16 compact entered into by the State of Oklahoma and a
17 federally recognized Indian tribe or nation pursuant
18 to the provisions of subsection C of Section 346 of
19 this title is paid;

20 9. The term "drop shipment" shall mean and include any delivery
21 of cigarettes received by any person within this state when payment
22 for such cigarettes is made to the shipper or seller by or through a
23 person other than the consignee;

1 10. The term "distributing agent" shall mean and include every
2 person in this state who acts as an agent of any person outside the
3 state by receiving cigarettes in interstate commerce and storing
4 such cigarettes subject to distribution or delivery upon order from
5 the person outside the state to distributors, wholesale dealers and
6 retail dealers, or to consumers. The term "distributing agent"
7 shall also mean and include any person who solicits or takes orders
8 for cigarettes to be shipped in interstate commerce to a person in
9 this state by a person residing outside of Oklahoma, the tax not
10 having been paid on such cigarettes;

11 11. The term "vending machine" shall mean and include any coin
12 operating machine, contrivance, or device, by means of which
13 cigarettes are sold or dispensed in their original container;

14 12. The term "use" means and includes the exercise of any right
15 or power over cigarettes incident to the ownership or possession
16 thereof, except that it shall not include the sale of cigarettes in
17 the regular course of business;

18 13. a. The term "delivery sale" means any sale of cigarettes
19 to a consumer in Oklahoma where either:

- 20 (1) the purchaser submits the order for such sale by
21 means of a telephonic or other method of voice
22 transmission, the mails or any other delivery
23 service, or the Internet or other online service,
24 or

1 (2) the cigarettes are delivered by use of the mails
2 or other delivery service.

3 b. A sale of cigarettes which satisfies the criteria in
4 subparagraph a of this paragraph shall be a delivery
5 sale regardless of whether the seller is located
6 within or outside of Oklahoma.

7 c. A sale of cigarettes not for personal consumption to a
8 person who is a wholesale dealer or a retail dealer
9 shall not be a delivery sale.

10 d. For purposes of this paragraph, any sale of cigarettes
11 to an individual in Oklahoma shall be treated as a
12 sale to a consumer unless such individual is licensed
13 as a distributor or retailer of cigarettes by the Tax
14 Commission;

15 14. The term "delivery service" means any person, including but
16 not limited to the United States Postal Service, that is engaged in
17 the commercial delivery of letters, packages, or other containers;

18 15. The term "manufacturer" means any person who manufactures,
19 fabricates, assembles, processes, or labels a finished cigarette; or
20 imports, either directly or indirectly, a finished cigarette for
21 sale or distribution in this state;

22 16. The term "mails" or "mailing" means the shipment of
23 cigarettes through the United States Postal Service;

1 17. The term "shipping container" means a container in which
2 cigarettes are shipped in connection with a delivery sale; and

3 18. The term "shipping documents" means bills of lading,
4 airbills, or any other documents used to evidence the undertaking by
5 a delivery service to deliver letters, packages, or other
6 containers.

7 SECTION 2. AMENDATORY 68 O.S. 2021, Section 321, is
8 amended to read as follows:

9 Section 321. A. The following sales are hereby exempted from
10 the stamp excise tax levied pursuant to the provisions of Section
11 301 et seq. of this title:

12 1. All cigarettes sold to veterans hospitals and state operated
13 domiciliary homes for veterans located in the State of Oklahoma, for
14 distribution or sale to disabled ex-servicemen or disabled ex-
15 servicewomen interned in, or inmates of, such hospitals, or
16 residents of such homes;

17 2. All sales to the United States;

18 3. All sales to a federally recognized Indian tribe or nation
19 which has entered into a compact with the State of Oklahoma pursuant
20 to the provisions of subsection C of Section 1 of this act or to a
21 licensee of such a tribe or nation, upon which the payment in lieu
22 of taxes required by the compact has been paid; and
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1 4. All sales to a federally recognized Indian tribe or nation
2 or to a licensee of such a tribe or nation upon which the tax levied
3 pursuant to the provisions of Section 4 of this act has been paid.

4 B. To the sale of cigarettes that are intended to be heated
5 rather than burned shall be applied a tax exemption equal to fifty
6 percent (50%) of the tax levied pursuant to the provisions of
7 Section 301 et seq. of this title.

8 SECTION 3. AMENDATORY 68 O.S. 2021, Section 322, is
9 amended to read as follows:

10 Section 322. The Oklahoma Tax Commission shall prescribe such
11 rules and make such regulations as to the sale or distribution of
12 cigarettes, and the exemption from the stamp excise tax thereof, as
13 shall be deemed necessary to comply with the provisions of ~~the~~
14 ~~preceding section~~ Section 301 et seq of this title, including the
15 creation of distinct stamps to affix to packages of cigarettes that
16 are intended to be heated rather than burned, and provide that such
17 stamps be made available on or before the effective date of this
18 act.

19 SECTION 4. This act shall become effective November 1, 2025.
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21 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
22 02/26/2025 - DO PASS, As Amended and Coauthored.
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