**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTIONS 12‑21‑615 AND 12‑21‑730 SO AS TO PROVIDE FOR THE LEVYING, ASSESSMENT, COLLECTION, AND PAYMENT OF CERTAIN TAXES ON VAPOR PRODUCTS; AND TO AMEND SECTIONS 12‑21‑625, 12‑21‑660, 12‑21‑690, 12‑21‑760, AND 12‑21‑800, ALL RELATING TO THE REGULATION OF BUSINESSES SELLING TOBACCO, AMMUNITION, AND PLAYING CARDS, SO AS TO MAKE CONFORMING AND TECHNICAL CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

“Section 12‑21‑615. (A) There shall be levied, assessed, collected, and paid in respect to a vapor product an excise tax in the amount of five cents per fluid milliliter of consumable product. All invoices for vapor products issued by manufacturers must state the amount of consumable product in milliliters.

(B) A copy of all invoices for the purchase or sale of any vapor products must be retained by any party that issues or receives the invoice for a period of three years, subject to examination by the Department of Revenue.

(C) For purposes of this article:

(1) ‘Consumable product’ means any liquid solution or other material that may contain nicotine, flavorings, or other ingredients that are depleted as a vapor product is used.

(2) ‘Vapor product’ means any nonlighted, noncombustible product that employs a mechanical heating element, battery, or electronic circuit, regardless of shape or size, that can be used to produce vapor from a solution that may contain nicotine, flavorings, or other ingredients. The term includes any vapor cartridge or other container of solution that is intended to be used with or in an electronic smoking device, as defined in Section 16‑17‑501, or a similar product or device. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

Section 12‑21‑730. Each person or distributor of vapor products taxable under this article, first receiving untaxed vapor products for sale or distribution in this State, is subject to the tax imposed in Section 12‑21‑615. Each distributor required to pay the tax shall make a report to the department, in the form the department prescribes, of all vapor products sold or disposed of in this State, and pay taxes due thereon no later than the twentieth day of the month next succeeding the month of the sale or disposition. However, any person or distributor making shipments of vapor products to retail locations in and out of this State shall apply to the department for a license which enables them to purchase vapor products free of tax, and report and pay tax as provided in this section on sales of vapor products sold to locations in this State.

The department shall require bonds or statements of financial stability satisfactory to the department to cover possible losses resulting from failure to remit taxes due. When the return required by this section is timely filed and the taxes shown to be due are paid by the date specified in this section, the person or distributor may deduct three and one‑half percent of the tax due.”

B. Section 12‑21‑625(A) of the 1976 Code is amended to read:

“(A) Effective July 1, 2010, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12‑21‑620(A)(1) in an amount equal to two and one‑half cents on each cigarette.”

C. Section 12‑21‑660 of the 1976 Code is amended to read:

“Section 12‑21‑660. Every person engaged in the business of purchasing, selling or distributing cigars, cheroots, stogies, cigarettes, snuff, ~~or~~ smoking or chewing tobacco, or vapor products at wholesale or through vending machines within the State and all cigarette, cigar, ~~and~~ tobacco product, and vapor product manufacturers’ sales representatives who conduct business in this State shall file with the Department of Revenue an application for a license permitting him to engage in such business. When such business is conducted at two or more separate places, a separate license for each place of business shall be required. A person whose business is conducted through vending machines needs to obtain only one license but shall maintain an up‑to‑date list of the location of each vending machine operated under this license and each manufacturer’s sales representative needs to obtain only one license. The provisions of this section shall not apply to persons who own and stock vending machines for use on their own premises.

Nothing in this section shall be construed as requiring a license for the privilege of buying, selling or distributing leaf tobacco nor shall this section apply to churches, schools or charitable organizations operating booths at state, county, or community fairs or to school or church entertainments.”

D. Section 12‑21‑690 of the 1976 Code is amended to read:

“Section 12‑21‑690. No license issued permitting the sale and distribution of tobacco products or vapor products shall be transferable and any license issued to any person who shall afterwards retire from business shall be null and void. But anyone may be allowed to operate for ten days after purchase of stock in bulk, pending granting of a license upon application made promptly upon such purchase.”

E. Section 12‑21‑760 of the 1976 Code is amended to read:

“Section 12‑21‑760. It is the intent of this article to require all manufacturers within this State, wholesale dealers, jobbers, distributors, and retail dealers to affix the stamps provided for in this article to the applicable taxable commodities, but when the stamps have been affixed as required in this article no further or other stamp shall be required under the provisions of this chapter regardless of how often such articles may be sold or resold within this State.”

F. Section 12‑21‑800 of the 1976 Code is amended to read:

“Section 12‑21‑800. As used in Sections 12‑21‑620 and 12‑21‑780, ‘tobacco products’ means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine‑cut, and other chewing tobacco, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in a manner to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing or smoking, but does not include cigarettes or vapor products.”

SECTION 2. This act takes effect upon approval by the Governor.

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