

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 331

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO TOBACCO PRODUCTS TAX; AMENDING SECTION 63-2551, IDAHO CODE, TO REVISE A DEFINITION, TO DEFINE A TERM, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-2564, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE DISTRIBUTION OF TOBACCO PRODUCTS TAX REVENUES; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-2551, Idaho Code, be, and the same is hereby amended to read as follows:

63-2551. TOBACCO PRODUCTS TAX -- DEFINITIONS. As used in this act:

(1) "Tobacco products" ~~shall mean any means:~~

(a) Any cigars, cheroots, stogies, smoking tobacco (including granulated, plug, cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing) and snuff, however prepared; and shall include any other articles or products made of tobacco except cigarettes; and

(b) Electronic smoking products and devices that are, on and after July 1, 2023:

(i) Brought into this state from without the state for sale;

(ii) Made, manufactured, or fabricated in this state for sale in this state; or

(iii) Shipped or transported to retailers in this state, to be sold by those retailers.

(2) "Electronic smoking products and devices" means any device that can be used to deliver aerosolized or vaporized substances to the person inhaling from the device, including but not limited to an electronic cigarette, electronic cigar, electronic pipe, electronic hookah, or vape pen. Electronic smoking products and devices includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. Electronic smoking products and devices does not include any battery or battery charger when sold separately. In addition, electronic smoking products and devices does not include drugs, devices, or combination products authorized for sale by the United States food and drug administration, as those terms are defined in the federal food, drug, and cosmetic act, 21 U.S.C. 301 et seq.

~~(3)~~ (3) "Manufacturer" means a person who manufactures and sells tobacco products.

~~(4)~~ (4) "Distributor" means:

1 (a) ~~any~~ Any person engaged in the business of selling tobacco products  
 2 in this state who brings, or causes to be brought, into this state from  
 3 without the state any tobacco products for sale~~;~~;

4 (b) ~~any~~ Any person who makes, manufactures, or fabricates tobacco prod-  
 5 ucts in this state for sale in this state~~;~~; and

6 (c) ~~any~~ Any person engaged in the business of selling tobacco products  
 7 without this state who ships or transports tobacco products to retail-  
 8 ers in this state, to be sold by those retailers~~;~~;

9 ~~(4)~~ (5) "Subjobber" means any person, other than a manufacturer or dis-  
 10 tributor, who buys tobacco products from a distributor and sells them to per-  
 11 sons other than the ultimate consumers~~;~~;

12 ~~(5)~~ (6) "Retailer" means any person engaged in the business of selling  
 13 tobacco products to ultimate consumers~~;~~;

14 ~~(6)~~ (7) "Sale" means any transfer, exchange, or barter, in any manner  
 15 or by any means whatsoever, for a consideration, and includes and means all  
 16 sales made by any person. It includes a gift by a person engaged in the busi-  
 17 ness of selling tobacco products, for advertising, as a means of evading the  
 18 provisions of this chapter, or for any other purposes whatsoever~~;~~;

19 ~~(7)~~ (8) "Wholesale sales price" means the established price for which a  
 20 manufacturer or any person sells a tobacco product to a distributor that is  
 21 not a related person as defined in section 267 of the Internal Revenue Code,  
 22 exclusive of any discount or other reduction~~;~~;

23 ~~(8)~~ (9) "Business" means any trade, occupation, activity, or enter-  
 24 prise engaged in for the purpose of selling or distributing tobacco products  
 25 in this state~~;~~;

26 ~~(9)~~ (10) "Place of business" means any place where tobacco products are  
 27 manufactured, stored, or kept for the purpose of sale or consumption, in-  
 28 cluding any vessel, vehicle, airplane or train~~;~~;

29 ~~(10)~~ (11) "Retail outlet" means each place of business from which to-  
 30 bacco products are sold to consumers~~;~~;

31 ~~(11)~~ (12) "Commission" means the Idaho state tax commission.

32 SECTION 2. That Section 63-2564, Idaho Code, be, and the same is hereby  
 33 amended to read as follows:

34 63-2564. DISTRIBUTION OF TAX REVENUES. ~~(1)~~ The revenues received from  
 35 the taxes imposed by section 63-2552, Idaho Code, and any penalties, inter-  
 36 est, or deficiency additions, shall be distributed by the tax commission as  
 37 follows:

38 ~~(a)~~ (1) An amount of money shall be distributed to the state refund ac-  
 39 count, sufficient to pay current refund claims. All refunds authorized by  
 40 the commission shall be paid through the state refund account, and those mon-  
 41 eys are continuously appropriated.

42 ~~(b)~~ (2) From the balance remaining with the state treasurer after de-  
 43 ducting the amounts in subsection ~~(a)~~ (1) of this section, ~~all remaining moneys~~  
 44 the first twelve million dollars (\$12,000,000) in the tax year shall be  
 45 remitted directly to the general fund of the state of Idaho and shall be re-  
 46 mitted to that fund periodically, but no less frequently than quarterly.

47 (3) Any remaining moneys following the distributions made pursuant  
 48 to subsections (1) and (2) of this section shall be remitted to the school  
 49 district facilities fund, if established by the first regular session of

1 the sixty-seventh Idaho legislature; otherwise, to the tax relief fund es-  
2 tablished pursuant to section 57-811, Idaho Code, for the purpose of school  
3 property tax relief to be determined by the legislature.

4 SECTION 3. An emergency existing therefor, which emergency is hereby  
5 declared to exist, this act shall be in full force and effect on and after  
6 July 1, 2023.