

**S.198: Proposed language to require tax stamps on tobacco substitute products**

Sec. 8. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

(a) A tax is imposed on all cigarettes, other tobacco products, new smokeless tobacco, little cigars, and roll-your-own tobacco held in this State by any person for sale, unless such products shall be:

- (1) in the possession of a licensed wholesale dealer;
  - (2) in the course of transit and consigned to a licensed wholesale dealer or retail dealer;
- or
- (3) in the possession of a retail dealer who has held the products for 24 hours or less.

(b) Payment of the tax on cigarettes, other tobacco products and new smokeless tobacco under this section shall be evidenced by the affixing of stamps to the packages containing the cigarettes or the tobacco substitutes. Where practicable, the Commissioner may also require that stamps be affixed to packages containing little cigars or roll-your-own tobacco. Any cigarette, tobacco substitute, other tobacco products, new smokeless tobacco, little cigar, or roll-your-own tobacco on which the tax imposed by this section has been paid, such payment being evidenced by the affixing of such stamp or such evidence as the Commissioner may require, shall not be subject to a further tax under this chapter. Nothing contained in this chapter shall be construed to impose a tax on any transaction the taxation of which by this State is prohibited by the ~~constitution of the United States~~ U.S. Constitution. The amount of taxes advanced and paid by a licensed wholesale dealer as ~~herein~~ provided in this section shall be added to and collected as part of the retail sale price on the cigarettes, other tobacco products, new smokeless tobacco, little cigars, or roll-your-own tobacco.

(c) A tax is also imposed on all cigarettes, other tobacco products, new smokeless tobacco, little cigars, and roll-your-own tobacco possessed in this State by any person

for any purpose other than sale as follows:

(1) This tax shall not apply to:

(A) Products bearing a stamp affixed pursuant to this chapter.

(B) Products bearing a tax stamp affixed pursuant to the laws of another jurisdiction with a tax rate equal to or greater than the rate set forth in this subsection (c).

(C) Products purchased outside the State by an individual in quantities of 400 or fewer cigarettes, little cigars, and ~~0.0325-ounce~~ 0.0325-ounce units of roll-your-own tobacco, and brought into the State for that individual's own use or consumption. Products that are ordered from a source outside the State and delivered into this State are not "purchased outside the State" within the meaning of this subsection (c).

(2) There is allowed a credit against the tax under this subsection for cigarette, other tobacco products, new smokeless tobacco, ~~little cigars~~ cigar, or roll-your-own tobacco tax paid to another jurisdiction and evidenced by tax stamps affixed to the subject products pursuant to the laws of that jurisdiction.

(3) A person taxable under this section shall, within 30 days ~~of~~ after first possessing the products in this State, file a return with the Commissioner showing the quantity of products brought into the State. The return must be made in the form and manner prescribed by the Commissioner and be accompanied by remittance of the tax due.

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Sec. XX. 32 V.S.A. § 7772 is amended to read:

#### § 7772. FORM AND SALE OF STAMPS

(a) The Commissioner shall secure stamps of such designs and denominations as ~~he or she~~ the Commissioner shall prescribe to be affixed to packages of cigarettes other tobacco products and new smokeless tobacco as evidence of the payment ~~to~~ of the tax imposed by this chapter. The Commissioner shall sell ~~such~~ the stamps to licensed wholesale dealers at a discount of two and three-tenths percent of their face value for

payment at time of sale.

(b) At the purchaser's request, the Commissioner may sell stamps to be affixed to packages of cigarettes, other tobacco products and new smokeless tobacco as evidence of the payment ~~to~~ of the tax imposed by this chapter to licensed wholesale dealers for payment within 10 days, at a discount of one and five-tenths percent of their face value if timely paid. In determining whether to sell stamps for payment within 10 days, the Commissioner shall consider the credit history of the dealer and the filing and payment history, with respect to any tax administered by the Commissioner, of the dealer or any individual, corporation, partnership, or other legal entity with which the dealer is or was associated as principal, partner, officer, director, employee, agent, or incorporator.

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Sec. XX. 32 V.S.A. § 7774 is amended to read:

§ 7774. AFFIXING STAMPS

Each licensed wholesale dealer shall affix or cause to be affixed to each individual package of cigarettes, other tobacco products or new smokeless tobacco, sold or distributed by ~~him or her~~ the dealer stamps of the proper denomination as required by section 7771 of this title and in such manner as the Commissioner may specify in ~~regulations issued~~ rules adopted pursuant to this chapter. The stamps may be affixed by a licensed wholesale dealer at any time before the cigarettes or tobacco substitutes are transferred out of ~~his or her~~ the dealer's possession.

Sec. XX. 32 V.S.A. § 7775 is amended to read:

§ 7775. RETAIL DEALERS

Within 24 hours after coming into possession of any cigarettes, other tobacco products or new smokeless tobacco not bearing proper stamps evidencing payment of the tax imposed by this chapter and before selling the same, each retail dealer shall affix or cause to be affixed stamps of the proper denomination to each individual package of cigarettes, other tobacco products or new smokeless tobacco as required by section 7771 of this title and in such manner as the Commissioner may specify in ~~regulations issued~~ rules adopted pursuant to this chapter.

Sec. XX. 32 V.S.A. § 7776 is amended to read:

§ 7776. COLLECTION OF CIGARETTE TAX THROUGH NONRESIDENT LICENSED WHOLESALE DEALERS

(a) ~~When~~ If the Commissioner of Taxes finds that ~~the~~ doing so would facilitate collection of the tax imposed by this chapter ~~would be facilitated thereby~~, the Commissioner may, in the Commissioner's discretion, authorize any resident or nonresident person engaged in the business of manufacturing cigarettes, other tobacco products or new smokeless tobacco or any resident or nonresident person who ships cigarettes, other tobacco products or new smokeless tobacco into this State for sale to retail dealers in this State as defined in section 7702 of this title and who qualifies as a licensed wholesale dealer as defined in section 7702 of this title, but need not have a place of business in this State, upon complying with the requirements of the Commissioner, to affix or cause to be affixed the stamps required by this chapter on behalf of the purchasers of such cigarettes, other tobacco products or new smokeless tobacco who would otherwise be taxable therefor, and the Commissioner may sell such stamps to such person as provided in section 7772 of this title.

Sec. XX 32 V.S.A. § 7777 is amended to read:

§ 7777. RECORDS REQUIRED; INSPECTION AND EXAMINATION; ASSESSMENT OF TAX DEFICIENCY

(a) Each licensed wholesale dealer and each retail dealer shall keep complete and accurate records of all cigarettes, other tobacco products, new smokeless tobacco, little cigars, and roll-your-own tobacco manufactured, produced, purchased, transferred, and sold by the dealer. The records shall be of such kind and in such form as the Commissioner may prescribe and shall be safely preserved for six years in such manner as to ensure permanency and accessibility for inspection by the Commissioner and authorized agents. The Commissioner or authorized agents of the Commissioner may enter in or upon any premises where the Commissioner or they have reason to believe that cigarettes, other tobacco products, new smokeless tobacco, little cigars, or roll-your-own tobacco are possessed, stored, or sold, for the purpose of determining whether the provisions of this chapter or 33 V.S.A. chapter 19, subchapter 1A or 1B are being obeyed and may examine and copy the books, papers, records, and ~~the~~ stock of any licensed wholesale dealer or retail dealer, for the purpose of determining whether the tax imposed by this chapter has been fully paid.

(b) If the Commissioner determines that a licensed wholesale dealer has not purchased sufficient stamps to cover sales of cigarettes, other tobacco products, new smokeless tobacco and little cigars, or that a retail dealer has made sales of unstamped cigarettes, other tobacco products, new smokeless tobacco or little cigars or untaxed roll-your-own tobacco, the Commissioner shall thereupon assess the deficiency in tax, plus interest and penalties as provided in section 3202 of this title.

(c) In any case in which a licensed wholesale dealer cannot produce evidence of sufficient stamp purchases to cover the dealer's receipts and sales or other disposition of cigarettes, other tobacco products, new smokeless tobacco or little cigars, it shall be presumed that the cigarettes, other tobacco products, new smokeless tobacco or little cigars were sold without having the proper stamps affixed. In any case in which a licensed wholesale dealer cannot produce proper evidence of payment of the tax on roll-your-own tobacco to cover the dealer's receipts and sales or other disposition of

roll-your-own tobacco, it shall be presumed that the roll-your-own tobacco was sold without the proper tax having been paid.

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#### Sec. 11. TAXATION OF TOBACCO SUBSTITUTES; TAX STAMPS; REPORT

[NOTE: changes to the current version, Draft 2.3, 5/7/26 – 4:19PM, noted in highlights]

(a) **The Office of the Attorney General** ~~Department of Taxes~~, in collaboration with the **Department of Taxes and the** Department of Liquor and Lottery **and the Office of the Attorney General** and in consultation with wholesale dealers and other interested stakeholders, shall: (1) identify efficient and effective processes by which to impose taxes on tobacco substitutes, as defined in 7 V.S.A. § 1001, based on the concentration of nicotine they contain; and (2) evaluate the continued use of tax stamps as evidence of payment of the excise tax on cigarettes, little cigars, and roll-your-own tobacco in this State and consider the advantages and disadvantages of alternative approaches of certifying tax compliance.

#### Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2026, except that:

(1) in Sec. 1 (7 V.S.A. chapter 40), section 1002b (wholesale dealers; license required) shall take effect on July 1, 2027;

(2) in Sec. 5 (32 V.S.A. § 7702), the amendments to subdivisions (5) (definition of “licensed wholesale dealer”) and (17) (definition of “wholesale dealer’s license”) shall take effect on July 1, 2027; and

(3) Secs. 6 (32 V.S.A. § 7776), 7 (32 V.S.A. § 7821), 8 (redesignation), and 9 (repeals) shall take effect on July 1, 2027; and

**(4) [Stamping] Secs. XX (32 V.S.A § 7771), XX (32 V.S.A § 7772), XX (32 V.S.A § 7774), XX (32 V.S.A § 7775), XX (32 V.S.A § 7776), and XX (32 V.S.A. § 7777) shall take effect on January 1, 2029.**