

AMENDMENTS TO LB 89

Introduced by Revenue.

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 77-4001, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-4001 Sections 77-4001 to 77-4025 and section 3 of this
6 act shall be known and may be cited as the Tobacco Products Tax
7 Act.

8 Sec. 2. Section 77-4002, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-4002 For purposes of the Tobacco Products Tax Act,
11 unless the context otherwise requires, the definitions found in
12 sections 77-4003 to 77-4007 and section 3 of this act shall be
13 used.

14 Sec. 3. Snuff means any finely cut, ground, or powered
15 tobacco that is not intended to be smoked.

16 Sec. 4. Section 77-4008, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-4008 ~~(1)~~ (1) (a) A tax is hereby imposed upon the first
19 owner of tobacco products to be sold in this state. ~~The tax~~

20 (b) The tax on snuff shall be forty cents per ounce and
21 a proportionate tax at the like rate on all fractional parts of an
22 ounce. Such tax shall be computed based on the net weight as listed
23 by the manufacturer.

1 (c) The tax on tobacco products other than snuff shall
2 be twenty percent of ~~(a)~~ (i) the purchase price of such tobacco
3 products paid by the first owner or ~~(b)~~ (ii) the price at which
4 a first owner who made, manufactured, or fabricated the tobacco
5 product sells the items to others. ~~Such tax~~

6 (d) The tax on tobacco products shall be in addition to
7 all other taxes.

8 (2) Whenever any person who is licensed under section
9 77-4009 purchases tobacco products from another person licensed
10 under section 77-4009, the seller shall be liable for the payment
11 of the tax.

12 (3) ~~On and after October 1, 2002, and continuing until~~
13 ~~October 1, 2004, the Tax Commissioner shall remit the amount~~
14 ~~collected pursuant to this section to the State Treasurer, and the~~
15 ~~State Treasurer shall credit three-fourths of such amount to the~~
16 ~~General Fund and one-fourth of such amount to the Cash Reserve~~
17 ~~Fund. On and after October 1, 2004, amounts collected~~ Amounts
18 collected pursuant to this section shall be used and distributed
19 pursuant to section 77-4025.

20 Sec. 5. Section 77-4014, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-4014 (1) On or before the tenth day of each calendar
23 month, ~~commencing on or after January 1, 1988,~~ every person
24 licensed under subsection (1) of section 77-4009 shall file a
25 return with the Tax Commissioner showing either the quantity and
26 the price of each tobacco product brought or caused to be brought
27 into this state for sale or the quantity and the price of each

1 tobacco product made, manufactured, or fabricated in this state for
2 sale in this state, whichever is applicable, during the preceding
3 calendar month. For snuff, such return shall also include the net
4 weight as listed by the manufacturer.

5 (2) Every person licensed pursuant to subsection (2) of
6 section 77-4009 shall, in the manner described in subsection (1)
7 of this section, file a return showing in detail the different
8 kinds, quantity, and wholesale sales price of each tobacco product
9 shipped or transported to retailers in this state to be sold by
10 such retailers during the preceding calendar month. For snuff,
11 such return shall also include the net weight as listed by the
12 manufacturer.

13 (3) Returns shall be made upon forms furnished and
14 prescribed by the Tax Commissioner. Each return shall be
15 accompanied by a remittance for the full tax liability shown, less
16 an amount of such liability equal to any amount allowed a payer of
17 the sales and use tax pursuant to subdivision (1)(d) of section
18 77-2708 as compensation to reimburse the licensee for his or her
19 expenses incurred in complying with the Tobacco Products Tax Act.

20 Sec. 6. Section 77-4017, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-4017 (1) Every licensee shall keep complete and
23 accurate records for all places of business, including itemized
24 invoices of tobacco products (a) held, purchased, manufactured, or
25 brought in or caused to be brought into this state or (b) for a
26 licensee located outside of this state, shipped or transported to
27 retailers in this state. For snuff, such records shall also include

1 the net weight as listed by the manufacturer.

2 (2) All books, records, and other papers and documents
3 required to be kept by this section shall be preserved for a period
4 of at least three years after the due date of the tax imposed
5 by the Tobacco Products Tax Act unless the Tax Commissioner, in
6 writing, authorizes their destruction or disposal at an earlier
7 date.

8 (3) At any time during usual business hours, duly
9 authorized agents or employees of the Tax Commissioner may enter
10 any place of business of a licensee and inspect the premises,
11 the records required to be kept pursuant to this section, and
12 the tobacco products contained in such place of business for
13 purposes of determining whether or not such licensee is in full
14 compliance with the act. Refusal to permit such inspection by a
15 duly authorized agent or employee of the Tax Commissioner shall be
16 grounds for revocation, cancellation, or suspension of the license.

17 Sec. 7. This act becomes operative on October 1, 2009.

18 Sec. 8. Original sections 77-4001, 77-4002, 77-4008,
19 77-4014, and 77-4017, Reissue Revised Statutes of Nebraska, are
20 repealed.