

AMENDMENTS TO LB9

Introduced by General Affairs.

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

3           **Section 1.** Section 28-1418.01, Revised Statutes Cumulative  
4 Supplement, 2024, is amended to read:

5           28-1418.01 For purposes of sections 28-1418 to 28-1429.07:

6           (1) Alternative nicotine product means any noncombustible product  
7 containing nicotine or a nicotine analogue that is intended for human  
8 consumption, whether chewed, absorbed, dissolved, or ingested by any  
9 other means. Alternative nicotine product does not include any electronic  
10 nicotine delivery system, cigarette, cigar, or other tobacco product, or  
11 any product regulated as a drug or device by the United States Food and  
12 Drug Administration under Chapter V of the Federal Food, Drug, and  
13 Cosmetic Act;

14           (2) Cigarette means any product that contains nicotine, is intended  
15 to be burned or heated under ordinary conditions of use, and consists of  
16 or contains (a) any roll of tobacco wrapped in paper or in any substance  
17 not containing tobacco, (b) tobacco, in any form, that is functional in  
18 the product which, because of its appearance, the type of tobacco used in  
19 the filler, or its packaging and labeling, is likely to be offered to, or  
20 purchased by, consumers as a cigarette, or (c) any roll of tobacco  
21 wrapped in any substance containing tobacco which, because of its  
22 appearance, the type of tobacco used in the filler, or its packaging and  
23 labeling, is likely to be offered to, or purchased by, consumers as a  
24 cigarette described in subdivision (2)(a) of this section;

25           (3) Delivery sale means to sell, give, or furnish products (a) by  
26 mail or delivery service, (b) through the Internet or a computer network,  
27 (c) by telephone, or (d) through any other electronic method;

1           (4)(a) Electronic nicotine delivery system means any product or  
2 device containing nicotine, a nicotine analogue, tobacco, or tobacco  
3 derivatives that employs a heating element, power source, electronic  
4 circuit, or other electronic, chemical, or mechanical means, regardless  
5 of shape or size, to simulate smoking by delivering the nicotine,  
6 nicotine analogue, tobacco, or tobacco derivatives in vapor, fog, mist,  
7 gas, or aerosol form to a person inhaling from the product or device.

8           (b) Electronic nicotine delivery system includes, but is not limited  
9 to, the following:

10           (i) Any substance containing nicotine, a nicotine analogue, tobacco,  
11 or tobacco derivatives, whether sold separately or sold in combination  
12 with a product or device that is intended to deliver to a person  
13 nicotine, nicotine analogue, tobacco, or tobacco derivatives in vapor,  
14 fog, mist, gas, or aerosol form;

15           (ii) Any product or device marketed, manufactured, distributed, or  
16 sold as an electronic cigarette, electronic cigar, electronic cigarillo,  
17 electronic pipe, electronic hookah, or similar products, names,  
18 descriptors, or devices; and

19           (iii) Any component, part, or accessory of such a product or device  
20 that is used during operation of the product or device when sold in  
21 combination with any substance containing nicotine, a nicotine analogue,  
22 tobacco, or tobacco derivatives.

23           (c) Electronic nicotine delivery system does not include the  
24 following:

25           (i) An alternative nicotine product, cigarette, cigar, or other  
26 tobacco product, or any product regulated as a drug or device by the  
27 United States Food and Drug Administration under Chapter V of the Federal  
28 Food, Drug, and Cosmetic Act; or

29           (ii) Any component, part, or accessory of such a product or device  
30 that is used during operation of the product or device when not sold in  
31 combination with any substance containing nicotine, a nicotine analogue,

1 tobacco, or tobacco derivatives;

2 (5) Nicotine analogue means a substance that has:

3 (a) A chemical structure substantially similar to nicotine; or

4 (b) An effect on the central nervous system that is substantially  
5 similar to, or greater than, the effect on the central nervous system of  
6 nicotine;

7 (6) ~~(5)~~ Self-service display means a retail display that contains a  
8 tobacco product, a tobacco-derived product, an electronic nicotine  
9 delivery system, or an alternative nicotine product and is located in an  
10 area openly accessible to a retailer's customers and from which such  
11 customers can readily access the product without the assistance of a  
12 salesperson. Self-service display does not include a display case that  
13 holds tobacco products, tobacco-derived products, electronic nicotine  
14 delivery systems, or alternative nicotine products behind locked doors;  
15 and

16 (7) ~~(6)~~ Tobacco specialty store means a retail store that (a)  
17 derives at least seventy-five percent of its revenue from tobacco  
18 products, tobacco-derived products, electronic nicotine delivery systems,  
19 or alternative nicotine products and (b) does not permit persons under  
20 the age of twenty-one years to enter the premises unless accompanied by a  
21 parent or legal guardian.

22 **Sec. 2.** Section 59-1523, Revised Statutes Cumulative Supplement,  
23 2024, is amended to read:

24 59-1523 (1) The cigarette tax division of the Tax Commissioner may,  
25 after notice and hearing, revoke or suspend for any violation of section  
26 59-1520 the:

27 (a) License or licenses of any person licensed under sections  
28 28-1418 to 28-1429.07 or sections 77-2601 to 77-2622 and section 6 of  
29 this act; or

30 (b) License or certification of any person licensed or certified  
31 under the Tobacco Products Tax Act.

1 (2) Cigarettes that are acquired, held, owned, possessed,  
2 transported, sold, or distributed in or imported into this state in  
3 violation of section 59-1520 are declared to be contraband goods and are  
4 subject to seizure and forfeiture. Any cigarettes so seized and forfeited  
5 shall be destroyed. Such cigarettes shall be declared to be contraband  
6 goods whether the violation of section 59-1520 is knowing or otherwise.

7 **Sec. 3.** Section 69-2705, Revised Statutes Cumulative Supplement,  
8 2024, is amended to read:

9 69-2705 For purposes of sections 69-2704 to 69-2711:

10 (1) Brand family means all styles of cigarettes sold under the same  
11 trademark and differentiated from one another by means of additional  
12 modifiers or descriptors, including, but not limited to, menthol, lights,  
13 kings, and 100s, and includes any brand name, alone or in conjunction  
14 with any other word, trademark, logo, symbol, motto, selling message, or  
15 recognizable pattern of colors, or any other indicia of product  
16 identification identical or similar to, or identifiable with, a  
17 previously known brand of cigarettes;

18 (2) Cigarette has the same meaning as in section 69-2702;

19 (3) Cigarette inputs means any machinery or other component parts  
20 typically used in the manufacture of cigarettes, including, without  
21 limitation, tobacco whether processed or unprocessed, cigarette papers  
22 and tubes, cigarette filters or any component parts intended for use in  
23 the making of cigarette filters, and any machinery typically used in the  
24 making of cigarettes;

25 (4) Days has the same meaning as in section 69-2702;

26 (5) Directory means the directory compiled by the Tax Commissioner  
27 under section 69-2706 or, in the case of references to another state's  
28 directory, the directory compiled under the similar law in that other  
29 state;

30 (6) Importer has the same meaning as in section 69-2702;

31 (7) Indian country has the same meaning as in section 69-2702;

1 (8) Indian tribe has the same meaning as in section 69-2702;

2 (9) Master Settlement Agreement has the same meaning as in section  
3 69-2702;

4 (10) Nonparticipating manufacturer means any tobacco product  
5 manufacturer that is not a participating manufacturer;

6 (11) Nonparticipating manufacturer cigarettes means cigarettes (a)  
7 of a brand family that is not included in the certification of a  
8 participating manufacturer under subsection (1) of section 69-2706, (b)  
9 that are subject to the escrow requirement under subdivision (2) of  
10 section 69-2703 because the participating manufacturer in whose  
11 certification the brand family is included is not generally performing  
12 its financial obligations under the Master Settlement Agreement, or (c)  
13 of a brand family of a participating manufacturer that is not otherwise  
14 listed on the directory under subsection (2) of section 69-2706;

15 (12) Package means any pack or other container on which a state  
16 stamp or tribal stamp could be applied consistent with and as required by  
17 sections 69-2701 to 69-2711 and 77-2601 to 77-2622 and section 6 of this  
18 act that contains one or more individual cigarettes for sale. Nothing in  
19 such sections shall alter any other applicable requirement with respect  
20 to the minimum number of cigarettes that may be contained in a pack or  
21 other container of cigarettes. References to package do not include a  
22 container of multiple packages;

23 (13) Participating manufacturer has the same meaning as in section  
24 II(jj) of the Master Settlement Agreement;

25 (14) Person means any natural person, trustee, company, partnership,  
26 corporation, or other legal entity, including any Indian tribe or  
27 instrumentality thereof;

28 (15) Purchase means any acquisition in any manner or by any means  
29 for any consideration. The term includes transporting or receiving  
30 product in connection with a purchase;

31 (16) Qualified escrow fund has the same meaning as in section

1 69-2702;

2 (17) Retailer includes retail dealers as defined in section 77-2601  
3 or anyone who is licensed under sections 28-1420 to 28-1422;

4 (18) Sale or sell means any transfer, exchange, or barter in any  
5 manner or by any means for any consideration. Sale or sell includes  
6 distributing or shipping product in connection with a sale;

7 (19) Shortfall amount means the difference between (a) the full  
8 amount of the deposit required to be made by a nonparticipating  
9 manufacturer for a calendar quarter under section 69-2703 and (b) the sum  
10 of (i) any amounts precollected by a stamping agent and deposited into  
11 escrow for that calendar quarter on behalf of the nonparticipating  
12 manufacturer under section 69-2708.01, (ii) the amount deposited into  
13 escrow by the nonparticipating manufacturer for that calendar quarter  
14 under section 69-2703, (iii) any amounts deposited into escrow for that  
15 calendar quarter under subdivision (2)(d) of section 69-2703 by an  
16 importer on such nonparticipating manufacturer's cigarettes, and (iv) any  
17 amounts collected by the state for that calendar quarter under the bond  
18 posted by the nonparticipating manufacturer under section 69-2707.01. The  
19 shortfall amount, if any, for a nonparticipating manufacturer for a  
20 calendar quarter shall be calculated by the Attorney General within  
21 fifteen days following the date on which the state determines the amount  
22 it will collect on the bond posted by the nonparticipating manufacturer  
23 as provided in section 69-2707.01;

24 (20) Stamping agent means a person that is authorized to affix  
25 stamps to packages or other containers of cigarettes under section  
26 77-2603 or 77-2603.01 or any person that is required to pay the tobacco  
27 tax imposed pursuant to section 77-4008 on roll-your-own cigarettes;

28 (21) Tax Commissioner means the Tax Commissioner of the State of  
29 Nebraska;

30 (22) Tobacco product manufacturer has the same meaning as in section  
31 69-2702;

1 (23) Units sold has the same meaning as in section 69-2702; and

2 (24) Unstamped cigarettes means any cigarettes that are not  
3 contained in a package bearing a stamp required under section 77-2603 or  
4 77-2603.01.

5 **Sec. 4.** Section 69-2709, Revised Statutes Cumulative Supplement,  
6 2024, is amended to read:

7 69-2709 (1) In addition to or in lieu of any other civil or criminal  
8 remedy provided by law, upon a determination that a stamping agent has  
9 violated subsection (4) of section 69-2706 or any rule or regulation  
10 adopted and promulgated pursuant thereto, the Tax Commissioner may revoke  
11 or suspend the license of any stamping agent in the manner provided by  
12 section 77-2615.01. For each violation of subsection (4) of section  
13 69-2706 or the rules and regulations, the Tax Commissioner may also  
14 impose a civil penalty in an amount not to exceed the greater of five  
15 hundred percent of the retail value of the cigarettes or five thousand  
16 dollars upon a determination of violation of subsection (4) of section  
17 69-2706 or any rules or regulations adopted and promulgated pursuant  
18 thereto. Such penalty shall be imposed in the manner provided by section  
19 77-2615.01.

20 (2) The license of a stamping agent shall be subject to termination  
21 if the stamping agent:

22 (a) Fails to provide a report required under section 69-2708,  
23 69-2710.01, or 77-2604.01;

24 (b) Files an incomplete or inaccurate report required under section  
25 69-2708, 69-2710.01, or 77-2604.01 or files an inaccurate certification  
26 required under section 69-2708, subsection (2) of section 77-2603, or  
27 section 69-2710.01;

28 (c) Fails to pay taxes as provided in section 77-2602 or deposit  
29 escrow as provided in section 69-2708.01;

30 (d) Sells cigarettes in or into the state in a package that bears a  
31 stamp required under section 77-2603 or 77-2603.01 that is not the

1 correct stamp and provides for a lower level of tax than the correct  
2 stamp;

3 (e) Sells unstamped cigarettes in, into, or from the state or  
4 possesses unstamped cigarettes in the state except as provided in section  
5 77-2607;

6 (f) Purchases, sells in or into the state, or affixes a stamp to a  
7 package containing cigarettes of a manufacturer or brand family that is  
8 not at the time listed in the directory, or possesses such cigarettes  
9 more than ten days after receiving notice that the manufacturer or brand  
10 family is not in the directory, unless such stamping agent possesses a  
11 directory license under section 77-2603 or unless expressly permitted  
12 under sections 69-2701 to 69-2711 or sections 77-2601 to 77-2622 and  
13 section 6 of this act; or

14 (g) Purchases or sells cigarettes in violation of subsection (5) of  
15 this section or section 69-2710.02.

16 (3) In the case of a violation under subdivision (2)(a), (b), (c),  
17 or (d) of this section that was not knowing or intentional, the stamping  
18 agent shall be entitled to cure the violation within ten days after  
19 receipt of notice of such violation. The license of a stamping agent that  
20 fully cures the violation during that period shall not be terminated on  
21 account of that violation.

22 (4) In the case of a knowing or intentional violation under  
23 subdivision (2)(a), (b), (c), or (d) of this section, or of any violation  
24 described in subdivision (2)(e) or (f) of this section, the stamping  
25 agent shall for a first violation be subject to a civil penalty of up to  
26 one thousand dollars and be guilty of a Class IV misdemeanor and for a  
27 second or subsequent violation be subject to a civil penalty of up to  
28 five thousand dollars per violation and be guilty of a Class II  
29 misdemeanor. In the case of violations described in subdivision (2)(d),  
30 (e), or (f) of this section, each sale constitutes a separate offense.

31 (5) The Tax Commissioner shall promptly remove any stamping agent



1 whose license is terminated from the list required by subsection (4) of  
2 section 77-2603 and shall publish a notice of the termination on the Tax  
3 Commissioner's website and send notice of the termination to all stamping  
4 agents and to all persons listed in the directory. Beginning ten days  
5 following the publication and sending of such notice, no person may sell  
6 cigarettes to, or purchase cigarettes from, the stamping agent whose  
7 license has been terminated.

8 (6) If a stamping agent whose license has been terminated is a  
9 tobacco product manufacturer, the tobacco product manufacturer and its  
10 brand families shall be removed from the directory.

11 (7) A stamping agent whose license is terminated shall be eligible  
12 for reinstatement:

13 (a) Ninety days following the termination, in the case of a first  
14 failure under subdivision (2)(a), (b), (c), or (d) of this section that  
15 was not knowing or intentional;

16 (b) One hundred eighty days following the termination, in the case  
17 of a second failure under subdivision (2)(a), (b), (c), or (d) of this  
18 section that was not knowing or intentional;

19 (c) One year following the termination, in the case of a third or  
20 subsequent failure under subdivision (2)(a), (b), (c), or (d) of this  
21 section that was not knowing or intentional;

22 (d) One year following the termination, in the case of a first  
23 knowing or intentional failure under subdivision (2)(a), (b), (c), or (d)  
24 of this section or a first violation described in subdivision (2)(e),  
25 (f), or (g) of this section; and

26 (e) Three years following the termination, in the case of a second  
27 or subsequent knowing or intentional failure under subdivision (2)(a),  
28 (b), (c), or (d) of this section or a second or subsequent violation  
29 described in subdivision (2)(e), (f), or (g) of this section.

30 (8) Any cigarettes that have been sold, offered for sale, or  
31 possessed for sale in this state in violation of subsection (4) of

1 section 69-2706 shall be deemed contraband under section 77-2620 and such  
2 cigarettes shall be subject to seizure and forfeiture as provided in  
3 section 77-2620, except that all such cigarettes so seized and forfeited  
4 shall be destroyed and not resold. The stamping agent shall notify its  
5 customers for a brand family with regard to any notice of removal of a  
6 tobacco product manufacturer or a brand family from the directory and  
7 give its customers a seven-day period for the return of cigarettes that  
8 become contraband.

9 (9) The Attorney General, on behalf of the Tax Commissioner, may  
10 seek an injunction to restrain a threatened or actual violation of  
11 subsection (4) of section 69-2706 or section 69-2708 by a stamping agent  
12 and to compel the stamping agent to comply with subsection (4) of section  
13 69-2706 or section 69-2708. In any action brought pursuant to this  
14 section, the state shall be entitled to recover the costs of  
15 investigation, costs of the action, and reasonable attorney's fees. This  
16 subsection shall not apply to a stamping agent purchasing cigarettes  
17 which are not in violation of subsection (4) of section 69-2706 or  
18 section 69-2708.

19 (10) It is unlawful for a person to (a) sell or distribute  
20 cigarettes for sale in this state or (b) acquire, hold, own, possess,  
21 transport, import, or cause to be imported cigarettes that the person  
22 knows or should know are intended for distribution or sale in the state  
23 in violation of subsection (4) of section 69-2706. A violation of this  
24 subsection is a Class III misdemeanor.

25 (11) If a court determines that a person has violated any portion of  
26 sections 69-2704 to 69-2711, the court shall order the payment of any  
27 profits, gains, gross receipts, or other benefits from the violation to  
28 be remitted to the State Treasurer for distribution in accordance with  
29 Article VII, section 5, of the Constitution of Nebraska. Unless otherwise  
30 expressly provided, the remedies or penalties provided by sections  
31 69-2704 to 69-2711 are cumulative to each other and to the remedies or

1 penalties available under all applicable laws of this state.

2 (12) It is unlawful for any manufacturer, importer, or stamping  
3 agent to knowingly submit any false information required pursuant to  
4 sections 69-2703 to 69-2711. A violation of this subsection is a Class IV  
5 felony. Knowing submission of false information shall also be grounds for  
6 removal of a tobacco product manufacturer from the directory.

7 (13) A tobacco product manufacturer that knowingly or intentionally  
8 sells cigarettes in violation of subsection (5) of this section or  
9 section 69-2710.01 and its brand families shall be removed from the  
10 directory.

11 (14) A nonparticipating manufacturer whose total nationwide reported  
12 sales on which federal excise tax is paid exceed the sum of its  
13 nationwide reports under 15 U.S.C. 375 et seq. and any intrastate sales  
14 reports under 15 U.S.C. 375 et seq. by more than five percent of its  
15 total sales or one million cigarettes, whichever is less, shall be  
16 subject to removal from the directory unless it cures or satisfactorily  
17 explains the discrepancy within ten days after receipt of notice of the  
18 discrepancy from the Attorney General pursuant to section 69-2708.01.

19 (15) Any person that is not a stamping agent or tobacco product  
20 manufacturer that fails to file a complete and accurate report required  
21 under section 69-2708, 69-2710.01, 77-2604, or 77-2604.01 shall be  
22 entitled to cure the failure within ten days after receipt of notice of  
23 the discrepancy from the Attorney General pursuant to section 69-2708.01.  
24 If the person fails to fully cure the failure within such period, it  
25 shall be subject to a civil penalty of up to one thousand dollars per  
26 violation and shall be ineligible to hold any license of the state  
27 regarding cigarette sales until the date specified by subsection (7) of  
28 this section for violations of subdivision (2)(a) of this section.

29 (16) A directory license shall be subject to termination if the  
30 licensee acts inconsistently with its certification under subsection (2)  
31 of section 77-2603 or violates sections 69-2701 to 69-2711.

1 (17) Any person that knowingly or intentionally purchases or sells  
2 cigarettes in violation of subsection (5) of this section or section  
3 69-2710.01 or that knowingly or intentionally sells cigarettes in or into  
4 the state in a package that bears a stamp required under section 77-2603  
5 or 77-2603.01 that is not the correct stamp and provides for a lower  
6 level of tax than the correct stamp shall for a first violation be  
7 subject to a civil penalty of up to one thousand dollars and be guilty of  
8 a Class IV misdemeanor and for a second or subsequent violation be  
9 subject to a civil penalty of up to five thousand dollars per violation  
10 and be guilty of a Class II misdemeanor. Each sale constitutes a separate  
11 violation.

12 **Sec. 5.** Section 69-2710.01, Revised Statutes Cumulative Supplement,  
13 2024, is amended to read:

14 69-2710.01 (1) Any person that during a month acquired, purchased,  
15 sold, possessed, transferred, transported, or caused to be transported in  
16 or into this state cigarettes of a tobacco product manufacturer or brand  
17 family that was not in the directory at the time shall, within fifteen  
18 days following the end of that month, file a report in the manner  
19 prescribed by the Tax Commissioner and certify to the state that the  
20 report is complete and accurate. The report shall contain, in addition to  
21 any further information that the Tax Commissioner may reasonably require  
22 to assist the Tax Commissioner in enforcing sections 69-2701 to 69-2711  
23 and 77-2601 to 77-2622 and section 6 of this act and the Tobacco Products  
24 Tax Act, the following information:

25 (a) The total number of those cigarettes, in each case identifying  
26 by name and number of cigarettes (i) the manufacturers of those  
27 cigarettes, (ii) the brand families of those cigarettes, (iii) in the  
28 case of a sale or transfer, the name and address of the recipient of  
29 those cigarettes, (iv) in the case of an acquisition or purchase, the  
30 name and address of the seller or sender of those cigarettes, and (v) the  
31 other states in whose directory the manufacturer and brand family of

1 those cigarettes were listed at the time and whose stamps the person is  
2 authorized to affix; and

3 (b) In the case of acquisition, purchase, or possession, the details  
4 of the person's subsequent sale or transfer of those cigarettes,  
5 identifying by name and number of cigarettes (i) the brand families of  
6 those cigarettes, (ii) the date of the sale or transfer, (iii) the name  
7 and address of the recipient, (iv) the number of stamps of each other  
8 state that the person affixed to the packages containing those cigarettes  
9 during that month, (v) the total number of cigarettes contained in the  
10 packages to which it affixed each respective other state's stamp, (vi)  
11 the manufacturers and brand families of the packages to which it affixed  
12 each respective other state's stamp, and (vii) a certification that it  
13 reported each sale or transfer to the taxing authority of the other state  
14 by fifteen days following the end of the month in which the sale or  
15 transfer was made and attaching a copy of all such reports. If the  
16 subsequent sale or transfer is from this state into another state in  
17 packages not bearing a stamp of the other state, the report shall also  
18 contain the information described in subdivision (2)(c) of section  
19 77-2604.01.

20 (2) Reports under this section shall be in addition to reports under  
21 sections 69-2708, 77-2604, and 77-2604.01.

22 **Sec. 6.** (1) As soon as practicable after any return is filed, the  
23 Tax Commissioner shall examine the return. If the commissioner, in his or  
24 her judgment, finds that the return is incorrect and any amount of tax  
25 due from a stamping agent, wholesale dealer, or retail dealer who is  
26 subject to sections 77-2601 to 77-2622 is unpaid, the commissioner shall  
27 notify such person of the deficiency. Such notice shall be delivered by  
28 mail or personal service.

29 (2) Except as provided in subsection (3) of this section, a notice  
30 of a deficiency determination shall be personally served or mailed within  
31 three years after the later of:

1       (a) The last day of the calendar month following the period for  
2 which the amount is proposed to be determined; or

3       (b) The date the return was filed.

4       (3) In the case of a person failing to make a return, filing a false  
5 or fraudulent return with the intent to evade the sections 77-2601 to  
6 77-2622, or omitting from a return an amount properly includable therein  
7 which is in excess of twenty-five percent of the amount of tax stated in  
8 the return, a notice of determination shall be personally served within  
9 six years after the last day of the calendar month following the period  
10 for which the amount is proposed to be determined.

11       (4) When, before the expiration of the time prescribed in this  
12 section for the mailing of a notice of deficiency determination, both the  
13 Tax Commissioner and the person to be sent the notice have consented in  
14 writing to its mailing after such time, the notice of the deficiency  
15 determination may be mailed at any time prior to the expiration of the  
16 period agreed upon. The agreed-upon period may be extended by subsequent  
17 agreement, in writing, made before the expiration of the period  
18 previously agreed upon.

19       **Sec. 7.** Section 77-2604, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21       77-2604 (1) Every stamping agent, wholesale dealer, and retail  
22 dealer who is subject to sections 77-2601 to 77-2622 and section 6 of  
23 this act shall make and file with the Tax Commissioner, on or before the  
24 fifteenth day of each calendar month in the manner prescribed by the Tax  
25 Commissioner, true, correct, and sworn reports covering, for the last  
26 preceding calendar month, the number of cigarettes purchased, from whom  
27 purchased, the specific kinds and brands thereof, the manufacturer, if  
28 known, and such other matters and in such detail as the Tax Commissioner  
29 may require.

30       (2)(a) Each manufacturer and importer that sells cigarettes in or  
31 into the state shall, within fifteen days following the end of each

1 month, file a report in the manner prescribed by the Tax Commissioner and  
2 certify to the state that the report is complete and accurate.

3 (b) The report shall contain the following information: The total  
4 number of cigarettes sold by that manufacturer or importer in or into the  
5 state during that month and identifying by name and number of cigarettes,  
6 (i) the manufacturers of those cigarettes, (ii) the brand families of  
7 those cigarettes, and (iii) the purchasers of those cigarettes. A  
8 manufacturer's or importer's report shall include cigarettes sold in or  
9 into the state through its sales entity affiliate.

10 (c) The requirements of this subsection shall be satisfied and no  
11 further report shall be required under this section with respect to  
12 cigarettes if the manufacturer or importer timely submits to the Tax  
13 Commissioner the report or reports required to be submitted by it with  
14 respect to those cigarettes under 15 U.S.C. 376 to the Tax Commissioner  
15 and certifies to the state that the reports are complete and accurate.

16 (d) Upon request by the Tax Commissioner, a manufacturer or importer  
17 shall provide copies of all sales reports referenced in subdivisions (2)  
18 (a) and (b) of this section that it filed in other states.

19 (e) Each manufacturer and importer that sells cigarettes in or into  
20 the state shall either (i) submit its federal excise tax returns and all  
21 monthly operational reports on Alcohol and Tobacco Tax and Trade Bureau  
22 Form 5210.5 and all adjustments, changes, and amendments to such reports  
23 to the Tax Commissioner no later than sixty days after the close of the  
24 quarter in which the returns were filed or (ii) submit to the United  
25 States Treasury a request or consent under section 6103(c) of the  
26 Internal Revenue Code of 1986 as defined in section 49-801.01 authorizing  
27 the federal Alcohol and Tobacco Tax and Trade Bureau and, in the case of  
28 a foreign manufacturer or importer, the United States Customs Service to  
29 disclose the manufacturer's or importer's federal returns to the Tax  
30 Commissioner as of sixty days after the close of the quarter in which the  
31 returns were filed.

1           **Sec. 8.** Section 77-2612, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3           77-2612 The Tax Commissioner may employ, with the advice and consent  
4 of the Governor, a sufficient number of inspectors, clerks, assistants,  
5 and agents to enforce sections 77-2601 to 77-2622 and section 6 of this  
6 act, including the collection of all stamp taxes and all revenue from  
7 cigarette tax meters. In such enforcement, the Tax Commissioner may call  
8 to his or her aid the Attorney General, any county attorney, any sheriff,  
9 any deputy sheriff, or any other peace officer. The compensation of all  
10 persons employed shall be fixed by the Governor and shall be paid from  
11 the revenue derived under such sections. The expenses of administering  
12 such sections, including necessary assistants, clerical help, cost of  
13 enforcement, cost of stamps, and incidental expenses, when approved by  
14 the Tax Commissioner, shall be paid by warrants, issued against the  
15 General Fund, but such warrants shall not exceed four percent of the  
16 funds collected under such sections, such expenses in each instance to be  
17 approved by the Tax Commissioner.

18           The Tax Commissioner may adopt and promulgate rules and regulations  
19 which are consistent with sections 77-2601 to 77-2622 and section 6 of  
20 this act and their proper enforcement.

21           Each stamping agent shall annually apply to the Tax Commissioner,  
22 upon forms to be furnished by the Tax Commissioner, for a license to use  
23 the tax meter machines, as set forth in section 77-2603, or to purchase  
24 such stamps as provided in section 77-2608, or both. The license shall  
25 expire on December 31 each year. Each wholesale dealer applying for a  
26 stamping agent license shall furnish with such application evidence  
27 satisfactory to the Tax Commissioner showing that the wholesale dealer  
28 has obtained a license as a wholesale dealer in accordance with section  
29 28-1423. The applicant shall accompany the application with a fee of five  
30 hundred dollars to be placed in the General Fund if the license is  
31 granted and otherwise to be returned to the applicant. If the applicant



1 is an individual, the application shall include the applicant's social  
2 security number. If the application is approved and the bond referred to  
3 in section 77-2603 is given and approved, if such bond is required under  
4 section 77-2603, the Tax Commissioner shall issue such license which  
5 shall be conspicuously posted in the place of business of such stamping  
6 agent.

7 **Sec. 9.** Section 77-2615.01, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 77-2615.01 (1) In addition to sections 77-2615 and 77-2622, for any  
10 violation of sections 77-2601 to 77-2622 and section 6 of this act or the  
11 rules and regulations adopted and promulgated under such sections, the  
12 Tax Commissioner may:

13 (a) After notice and hearing, suspend or revoke the licenses of any  
14 person licensed under sections 28-1420 to 28-1429 or 77-2601 to 77-2622  
15 and section 6 of this act. Notice of hearing shall be given as provided  
16 in the Administrative Procedure Act; and

17 (b) Impose an administrative penalty not to exceed one thousand  
18 dollars for any violation.

19 (2) No person whose license has been suspended or revoked shall sell  
20 cigarettes or permit cigarettes to be sold during the period of  
21 suspension or revocation on the premises occupied by him or her. No  
22 disciplinary proceeding or action shall be barred or abated by the  
23 expiration, transfer, surrender, continuance, renewal, or extension of  
24 any license issued under sections 28-1420 to 28-1429 or 77-2601 to  
25 77-2622 and section 6 of this act.

26 (3) Any person aggrieved by any decision, order, or finding of the  
27 Tax Commissioner may appeal the decision, order, or finding, and the  
28 appeal shall be in accordance with the Administrative Procedure Act.

29 (4) If a person's license has been suspended or revoked and the  
30 person's name has been removed for at least ten days from the list of  
31 licensed entities published by the Tax Commissioner under subsection (4)

1 of section 77-2603, any person that sells cigarettes to or purchases  
2 cigarettes from such person shall be jointly and severally liable for any  
3 taxes applicable to such cigarettes under section 77-2602 and for any  
4 escrow due on such cigarettes under section 69-2703.

5 **Sec. 10.** Section 77-4001, Revised Statutes Cumulative Supplement,  
6 2024, is amended to read:

7 77-4001 Sections 77-4001 to 77-4025 and sections 12, 14, 17, and 19  
8 of this act shall be known and may be cited as the Tobacco Products Tax  
9 Act.

10 **Sec. 11.** Section 77-4002, Revised Statutes Cumulative Supplement,  
11 2024, is amended to read:

12 77-4002 For purposes of the Tobacco Products Tax Act, unless the  
13 context otherwise requires, the definitions found in sections 77-4003 to  
14 77-4007 and sections 12 and 14 of this act shall be used.

15 **Sec. 12.** Alternative nicotine product has the same meaning as in  
16 section 28-1418.01.

17 **Sec. 13.** Section 77-4003.01, Revised Statutes Cumulative Supplement,  
18 2024, is amended to read:

19 77-4003.01 Consumable material means any liquid solution or other  
20 material containing nicotine or a nicotine analogue that is depleted as  
21 an electronic nicotine delivery system is used.

22 **Sec. 14.** Nicotine analogue has the same meaning as in section  
23 28-1418.01.

24 **Sec. 15.** Section 77-4007, Revised Statutes Cumulative Supplement,  
25 2024, is amended to read:

26 77-4007 (1) Tobacco products means (a) shall mean ~~(1)~~ cigars, (b)  
27 ~~(2)~~ cheroots, (c) ~~(3)~~ stogies, (d) ~~(4)~~ periques, (e) ~~(5)~~ granulated, plug  
28 cut, crimp cut, ready rubbed, and other smoking tobacco, (f) ~~(6)~~ snuff,  
29 (g) ~~(7)~~ snuff flour, (h) ~~(8)~~ cavendish, (i) ~~(9)~~ plug and twist tobacco,  
30 (j) ~~(10)~~ fine cut and other chewing tobacco, (k) ~~(11)~~ shorts, refuse  
31 scraps, clippings, cuttings, and sweepings of tobacco, (l) ~~(12)~~ other

1 kinds and forms of tobacco, prepared in such manner as to be suitable for  
2 chewing or smoking in a pipe or otherwise or both for chewing and  
3 smoking, (m) any alternative nicotine product and (n) ~~(13)~~ electronic  
4 nicotine delivery systems.

5 (2) Tobacco ~~, except that tobacco~~ products does not include shall  
6 ~~not mean~~ cigarettes as defined in section 77-2601.

7 **Sec. 16.** Section 77-4008, Revised Statutes Cumulative Supplement,  
8 2024, is amended to read:

9 77-4008 (1)(a) A tax is hereby imposed upon the first owner of  
10 tobacco products to be sold in this state.

11 (b) The tax on snuff shall be forty-four cents per ounce and a  
12 proportionate tax at the like rate on all fractional parts of an ounce.  
13 Such tax shall be computed based on the net weight as listed by the  
14 manufacturer.

15 (c) The tax on an electronic nicotine delivery system containing  
16 three milliliters or less of consumable material shall be five cents per  
17 milliliter of consumable material and a proportionate tax at the like  
18 rate on all fractional parts of a milliliter.

19 (d) The tax on an electronic nicotine delivery system containing  
20 more than three milliliters of consumable material shall be ten percent  
21 of (i) the purchase price of such electronic nicotine delivery system  
22 paid by the first owner or (ii) the price at which the first owner who  
23 made, manufactured, or fabricated the electronic nicotine delivery system  
24 sells the item to others.

25 (e) For electronic nicotine delivery systems in the possession of  
26 retail dealers for which tax has not been paid, the tax under this  
27 subsection shall be imposed at the earliest time the retail dealer: (i)  
28 Brings or causes to be brought into the state any electronic nicotine  
29 delivery system for sale; (ii) makes, manufactures, or fabricates any  
30 electronic nicotine delivery system in this state for sale in this state;  
31 or (iii) sells any electronic nicotine delivery system to consumers

1 within this state.

2 (f) The tax on alternative nicotine products shall be twenty percent  
3 of (i) the purchase price of such products paid by the first owner or  
4 (ii) the price at which a first owner who made, manufactured, or  
5 fabricated the product sells the items to others.

6 (g) ~~(f)~~ The tax on tobacco products not otherwise provided for in  
7 this section other than snuff and electronic nicotine delivery systems  
8 shall be twenty percent of (i) the purchase price of such tobacco  
9 products paid by the first owner or (ii) the price at which a first owner  
10 who made, manufactured, or fabricated the tobacco product sells the items  
11 to others.

12 (h) ~~(g)~~ The tax on tobacco products shall be in addition to all  
13 other taxes.

14 (2) Whenever any person who is licensed under section 77-4009  
15 purchases tobacco products from another person licensed under section  
16 77-4009, the seller shall be liable for the payment of the tax.

17 (3) Amounts collected pursuant to this section shall be used and  
18 distributed pursuant to section 77-4025.

19 **Sec. 17.** (1) For any violation of the Tobacco Products Tax Act or  
20 the rules and regulations adopted and promulgated under the act, the Tax  
21 Commissioner may, in addition to any other penalty or sanction:

22 (a) After notice and hearing, suspend or revoke the licenses of any  
23 person licensed under sections 28-1420 to 28-1429. Notice of hearing  
24 shall be given as provided in the Administrative Procedure Act; and

25 (b) Impose an administrative penalty not to exceed five thousand  
26 dollars for any violation.

27 (2) No person whose license has been suspended or revoked shall sell  
28 tobacco products or permit tobacco products to be sold during the period  
29 of suspension or revocation on the premises occupied by such person. No  
30 disciplinary proceeding or action shall be barred or abated by the  
31 expiration, transfer, surrender, continuance, renewal, or extension of

1 any license issued under the Tobacco Products Tax Act or sections 28-1420  
2 to 28-1429.

3 (3) Any person aggrieved by any decision, order, or finding of the  
4 Tax Commissioner may appeal the decision, order, or finding, and the  
5 appeal shall be in accordance with the Administrative Procedure Act.

6 **Sec. 18.** Section 77-4015, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 77-4015 (1) As soon as practicable after any return is filed, the  
9 Tax Commissioner shall examine the return. If the Tax Commissioner, in  
10 his or her judgment, finds that the return is incorrect and any amount of  
11 tax due from the licensee is unpaid, he or she shall notify the licensee  
12 of the deficiency. Such notice shall be delivered by mail or personal  
13 service mailed to the licensee.

14 (2) Except as provided in subsection (3) of this section, a notice  
15 of a deficiency determination shall be personally served or mailed within  
16 three years after the later of:

17 (a) The last day of the calendar month following the period for  
18 which the amount is proposed to be determined; or

19 (b) The date the return was filed.

20 (3) In the case of a person failing to make a return, filing a false  
21 or fraudulent return with the intent to evade the Tobacco Products Tax  
22 Act, or omitting from a return an amount properly includable therein  
23 which is in excess of twenty-five percent of the amount of tax stated in  
24 the return, a notice of determination shall be personally served within  
25 six years after the last day of the calendar month following the period  
26 for which the amount is proposed to be determined.

27 (4) When, before the expiration of the time prescribed in this  
28 section for the mailing of a notice of deficiency determination, both the  
29 Tax Commissioner and the person to be sent the notice have consented in  
30 writing to its mailing after such time, the notice of the deficiency  
31 determination may be mailed at any time prior to the expiration of the

1 period agreed upon. The agreed-upon period may be extended by subsequent  
2 agreement, in writing, made before the expiration of the period  
3 previously agreed upon.

4 **Sec. 19.** (1) Any tobacco products that have been sold, offered for  
5 sale, or possessed for sale in this state in violation of the Tobacco  
6 Products Tax Act are declared to be contraband goods and may be seized by  
7 the Tax Commissioner, by the commissioner's agents or employees, or by  
8 any peace officer of this state, when directed by the commissioner to do  
9 so, without a warrant.

10 (2) The Tax Commissioner may, upon satisfactory proof, direct the  
11 return of any confiscated tobacco products when the commissioner has  
12 reason to believe that the owner thereof has not willfully or  
13 intentionally evaded any tax imposed under section 77-4008.

14 (3) Any tobacco products forfeited to the state under this section  
15 shall be destroyed or used for law enforcement purposes and then  
16 destroyed. The cost of such seizure, forfeiture, and destruction shall be  
17 borne by the person from whom the products are seized.

18 (4) The Tax Commissioner, agents and employees of the commissioner,  
19 and any peace officer of this state, when acting pursuant to this  
20 section, shall not in any way be responsible in any court for the seizure  
21 or the confiscation of any tobacco products.

22 **Sec. 20.** This act becomes operative on January 1, 2026.

23 **Sec. 21.** Original sections 77-2604, 77-2612, 77-2615.01, and  
24 77-4015, Reissue Revised Statutes of Nebraska, and sections 28-1418.01,  
25 59-1523, 69-2705, 69-2709, 69-2710.01, 77-4001, 77-4002, 77-4003.01,  
26 77-4007, and 77-4008, Revised Statutes Cumulative Supplement, 2024, are  
27 repealed.