

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

SENATE BILL 1074

4
5 By: Senator J. Taylor

For An Act To Be Entitled

9 AN ACT TO AMEND THE DEFINITION OF "CIGARETTE" FOR
10 THE PURPOSES OF THE ARKANSAS TOBACCO PRODUCTS TAX
11 ACT OF 1977; TO DEFINE THE TERM "CIGAR"; AND FOR
12 OTHER PURPOSES.

Subtitle

15 TO AMEND THE DEFINITION OF "CIGARETTE"
16 FOR THE PURPOSES OF THE ARKANSAS TOBACCO
17 PRODUCTS TAX ACT OF 1977 AND TO DEFINE
18 "CIGAR".

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23 SECTION 1. Arkansas Code § 26-57-203 is amended to read as follows:
24 26-57-203. Definitions.

25 As used in this subchapter, unless the context otherwise requires:

26 (1) "Annual" or "annually" means the fiscal year from July 1
27 through the next June 30;

28 (2) "Cigarette" means any roll of tobacco wrapped in: ~~all rolled~~
29 ~~tobacco, or substitutes therefor, for smoking which is wrapped in paper or~~
30 ~~any substitute other than natural leaf tobacco in its natural state;~~

31 (A) Paper or in any substance not containing tobacco; or

32 (B) Any substance containing tobacco that because of its
33 appearance, the type of tobacco used in the filler, or its packaging and
34 labeling, is likely to be offered to, or purchased by, consumers as a
35 cigarette;

36 (3) "Cigar" means any roll of tobacco wrapped in leaf tobacco or



1 in any substance containing tobacco, other than any roll of tobacco that is a
 2 cigarette under subdivision (2) of this section;

3 ~~(3)~~(4) "Consumer" means a member of the public at large;

4 ~~(4)~~(5) "First sale" means the sale of tobacco products made by a
 5 manufacturer to licensed wholesalers and licensed vendors or a licensed
 6 retailer only;

7 ~~(5)~~(6) "Gross sales" means the amount received for tobacco
 8 products sold at retail, including both the federal and state taxes of the
 9 tobacco products when purchased by a retailer;

10 ~~(6)~~(7) "Licensed" means that the person has received a license
 11 or permit from the Director of the Tobacco Control Board and is otherwise
 12 qualified to do business in this state except that "licensed" does not mean
 13 that a person is registered as a manufacturer;

14 ~~(7)~~(8) "Manufacturer" means any person who produces any tobacco
 15 product for sale and includes, but is not limited to, importers and
 16 distributors who deal in tobacco products as manufacturers and who are
 17 required under this subchapter to sell only to licensed wholesalers or
 18 licensed retailers located in Arkansas;

19 ~~(8)~~(9) "Restricted tobacco products vendor" means a vendor who
 20 is licensed to operate vending machines owned by him on his own premises, and
 21 be otherwise subject to all other restrictions imposed on a general tobacco
 22 products vendor;

23 ~~(9)~~(10) "Person" means any individual, retailer, wholesaler,
 24 manufacturer, firm, association, company, partnership, limited liability
 25 company, corporation, joint-stock company, club, agency, syndicate, the State
 26 of Arkansas, county, municipal corporation or other political subdivision of
 27 this state, receiver, trustee, fiduciary, or trade association;

28 ~~(10)~~(11) "Place of business" means the place where orders are
 29 taken or received or where tobacco products are sold;

30 ~~(11)~~(12) "Retailer" means any person who purchases tobacco
 31 products from licensed wholesalers for the purpose of selling them over the
 32 counter at retail to consumers;

33 ~~(12)~~(13) "Salesman" means the agent or employee of a wholesaler
 34 who sells or offers for sale to licensed wholesalers or licensed retailers or
 35 who solicits for sale, takes orders for, or in any manner promotes the sale
 36 or use of tobacco products;

1 ~~(13)~~(14) The pronouns "he", "his", "him", "they", or any other
2 pronoun shall apply to any person covered by this subchapter;

3 ~~(14)~~(15) "Stamps" means the Arkansas cigarette stamps denoting
4 the tax on cigarettes. When affixed to a container of cigarettes, the stamps
5 shall indicate that the tax has been paid;

6 ~~(15)~~(16) "Tobacco products" means all products containing
7 tobacco for consumption and includes, but is not limited to, cigarettes,
8 cigars, little cigars, cigarillos, chewing tobacco, smokeless tobacco, snuff,
9 smoking tobacco, including pipe tobacco, and smoking tobacco substitutes;

10 ~~(16)~~(17) "Tobacco products vending machine" means any coin-
11 operated vending machine from which tobacco products are sold;

12 ~~(17)~~(18) "General tobacco products vendor" or "vendor" means any
13 person who operates a vending machine or who uses any other mechanical
14 device, from which cigarettes or other tobacco products are delivered to the
15 consumer by inserting coins therein, and who purchases tobacco products only
16 from licensed wholesalers. A general vendor is authorized to operate licensed
17 vending machines, on his own premises and on the premises of others, as a
18 principal business;

19 ~~(18)~~(19) "Warehouse" means a place where tobacco products are
20 stored for another person and to or from which place the tobacco products are
21 shipped or delivered upon order by the owner of the tobacco products to the
22 warehouse; and

23 ~~(19)~~(20) "Wholesaler" means any individual or person, not a
24 manufacturer or owned or operated by a manufacturer, who does business within
25 this state at or from an established place of business who purchases
26 unstamped or untaxed cigarettes or other tobacco products directly from
27 manufacturers that distribute tobacco products in Arkansas, and who sells to
28 properly licensed cigarette vendors or retailers. However, where an Arkansas
29 city is separated from a city in another state only by a state line, a
30 resident of the Arkansas city who maintains a warehouse in the adjoining city
31 in the adjoining state may qualify as a wholesaler under this subchapter if
32 that person is regularly engaged in the sale of tobacco products to licensed
33 retailers within Arkansas as a first sale and is eligible to purchase
34 unstamped cigarettes direct from manufacturers.

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