



2020 South Dakota Legislature

House Bill 1231

Introduced by: **Representative** Karr

1 **An Act to authorize premium cigars to be shipped and transported and modify tax**
 2 **provisions pertaining to premium cigars.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That a NEW SECTION be added:

5 **10-45-2.10. Tax on sale of premium cigars.**

6 In lieu of the tax levied by § 10-50-61, a tax of fifty cents per premium cigar sold
 7 is imposed and shall be added to the amount of tax otherwise imposed under § 10-45-2
 8 on the sale of any premium cigar.

9 For purposes of this section, the term, premium cigar, has the same meaning as
 10 provided in § 10-50-1.

11 **Section 2.** That § 10-50-1 be AMENDED:

12 **10-50-1. Definition of terms.**

13 Terms used in this chapter mean:

- 14 (1) "Consumer," any individual who is not a retailer or a licensed distributor or
 15 wholesaler pursuant to § 10-50-9;
- 16 (2) "Dealer," or "retailer," any person other than a distributor or wholesaler, as defined
 17 herein, who is engaged in this state in the business of selling cigarettes or tobacco
 18 products at retail;
- 19 (3) "Distributor," any person engaged in this state in the business of producing or
 20 manufacturing cigarettes, or importing into the state cigarettes, at least seventy-
 21 five percent of which are purchased directly from the manufacturers thereof;
- 22 (4) "Licensed distributor," or "licensed wholesaler," a distributor or wholesaler licensed
 23 under the provisions of this chapter;
- 24 (5) "Person," any individual, firm, fiduciary, partnership, limited liability company,
 25 corporation, trust, or association, however formed;

- 1 (6) "Premium cigar," a cigar that:
 2 (a) Is hand-constructed;
 3 (b) Is wrapped in one hundred percent leaf tobacco;
 4 (c) Is bunched with one hundred percent tobacco filler;
 5 (d) Has a one hundred percent leaf tobacco binder;
 6 (e) Contains no filter, tip or nontobacco mouthpiece; and
 7 (f) Weighs at least six pounds per one thousand count;
 8 (7) "Sale" or "sell," shall include or apply to gifts, exchanges, and barter;
 9 ~~(7)~~(8) "Secretary," the secretary of revenue;
 10 ~~(8)~~(9) "Tobacco products," cigars, premium cigars, snuff, chewing tobacco, and any other
 11 products made up or composed of tobacco in whole or in part, except cigarettes.

12 **Section 3.** That § 10-50-61 be AMENDED:

13 **10-50-61. Wholesale tax on tobacco products--Tax cap on premium cigars--**
 14 **Credit for tax paid.**

15 ~~In addition to the tax imposed by § 10-50-3, there~~ A tax is imposed, whether or
 16 not a sale occurs, ~~a tax~~ upon ~~all~~ tobacco products in this state and upon any person
 17 engaged in business as a licensed distributor or licensed wholesaler thereof, at the rate of
 18 thirty-five percent of the wholesale purchase price of such tobacco products. Such tax
 19 shall be imposed at the time the distributor or wholesaler brings or causes to be brought
 20 into this state tobacco products for sale; makes, manufactures, or fabricates tobacco
 21 products in this state for sale in this state; or ships or transports tobacco products to
 22 dealers in this state to be sold by those dealers. For the purposes of this chapter, wholesale
 23 purchase price is the price for which a manufacturer sells tobacco products to a licensed
 24 distributor or licensed wholesaler exclusive of any discount or other reduction.

25 Notwithstanding the provisions of this section, no tax is imposed under this section
 26 upon any premium cigar that is subject to sales tax pursuant to § 10-45-2.10.

27 Any licensed distributor or licensed wholesaler who has paid tax pursuant to this
 28 section and subsequently sells the tobacco products to another licensed distributor or
 29 licensed wholesaler for resale, or sells the tobacco products outside of this state, shall
 30 receive a credit for the tax paid pursuant to this section on such tobacco products.

31 **Section 4.** That § 10-50-99 be AMENDED:

1 **10-50-99. Shipment or transportation of cigarettes and tobacco products to**
2 **consumers by sellers or distributors prohibited--Premium Cigars excepted.**

3 No person who is engaged in the business of selling or distributing cigarettes or
4 tobacco products may ship or transport, or cause to be shipped or transported, cigarettes
5 or tobacco products to any consumer in the state. This section does not apply to premium
6 cigars. This section applies regardless of whether the person engaged in the business of
7 selling or distributing cigarettes or tobacco products is located within or without the state.