ARTICLE 8

RELATING TO TAX AND REVENUES

SECTION 1. Section 31-36-20 of the General Laws in Chapter 31-36 entitled “Motor Fuel Tax” is hereby amended to read as follows:

31-36-20. Disposition of proceeds.

(a) Notwithstanding any other provision of law to the contrary, all moneys paid into the general treasury under the provisions of this chapter or chapter 37 of this title, and title 46 shall be applied to and held in a separate fund and be deposited in any depositories that may be selected by the general treasurer to the credit of the fund, which fund shall be known as the Intermodal Surface Transportation Fund; provided, that in fiscal year 2004 for the months of July through April six and eighty-five hundredth cents ($0.0685) per gallon of the tax imposed and accruing for the liability under the provisions of § 31-36-7, less refunds and credits, shall be transferred to the Rhode Island public transit authority as provided under § 39-18-21. For the months of May and June in fiscal year 2004, the allocation shall be five and five hundredth cents ($0.0505). Thereafter, until fiscal year 2006, the allocation shall be six and twenty-five hundredth cents ($0.0625). For fiscal years 2006 through FY 2008, the allocation shall be seven and twenty-five hundredth cents ($0.0725); provided, that expenditures shall include the costs of a market survey of non-transit users and a management study of the agency to include the feasibility of moving the Authority into the Department of Transportation, both to be conducted under the auspices of the state budget officer. The state budget officer shall hire necessary consultants to perform the studies, and shall direct payment by the Authority. Both studies shall be transmitted by the Budget Officer to the 2006 session of the General Assembly, with comments from the Authority. For fiscal year 2009, the allocation shall be seven and seventy-five hundredth cents ($0.0775), of which one-half cent ($0.005) shall be derived from the one cent ($0.01) per gallon environmental protection fee pursuant to § 46-12.9-11. For fiscal years 2010 and thereafter, the allocation shall be nine and seventy-five hundredth cents ($0.0975), of which of one-half cent ($0.005) shall be derived from the one cent ($0.01) per gallon environmental protection fee pursuant to § 46-12.9-11. One cent twenty-one hundredth cents ($0.0021) per gallon shall be transferred to the Elderly/Disabled Transportation Program of the department of human services, and seventy-nine hundredth cents ($0.0079) shall be transferred to the Rhode Island public transit authority for the
elderly/disabled transportation program, and the remaining cents per gallon shall be available for
general revenue as determined by the following schedule:

(i) For the fiscal year 2000, three and one fourth cents ($0.0325) shall be available for
general revenue.

(ii) For the fiscal year 2001, one and three-fourth cents ($0.0175) shall be available for
general revenue.

(iii) For the fiscal year 2002, one-fourth cent ($0.0025) shall be available for general
revenue.

(iv) For the fiscal year 2003, two and one-fourth cent ($0.0225) shall be available for
general revenue.

(v) For the months of July through April in fiscal year 2004, one and four-tenths cents
($0.014) shall be available for general revenue. For the months of May through June in fiscal year
2004, three and two-tenths cents ($0.032) shall be available for general revenue, and thereafter,
until fiscal year 2006, two cents ($0.02) shall be available for general revenue. For fiscal year 2006
through fiscal year 2009 one cent ($0.01) shall be available for general revenue.

(2) All deposits and transfers of funds made by the tax administrator under this section,
including those to the Rhode Island public transit authority, the department of human services and
the general fund, shall be made within twenty-four (24) hours of receipt or previous deposit of the
funds in question.

(3) Commencing in fiscal year 2004, the Director of the Rhode Island Department of
Transportation is authorized to remit, on a monthly or less frequent basis as shall be determined by
the Director of the Rhode Island Department of Transportation, or his or her designee, or at the
election of the Director of the Rhode Island Department of Transportation, with the approval of the
Director of the Department of Administration, to an indenture trustee, administrator, or other third
party fiduciary, in an amount not to exceed two cents ($0.02) per gallon of the gas tax imposed, in
order to satisfy debt service payments on aggregate bonds issued pursuant to a Joint Resolution and
Enactment Approving the Financing of Various Department of Transportation Projects adopted
during the 2003 session of the General Assembly, and approved by the Governor.

(4) Commencing in fiscal year 2015, three and one-half cents ($0.035) shall be transferred
to the Rhode Island Turnpike and Bridge Authority to be used for maintenance, operations, capital
expenditures and debt service on any of its projects as defined in chapter 12 of title 24 in lieu of a
toll on the Sakonnet River Bridge. The Rhode Island turnpike and bridge authority is authorized
to remit to an indenture trustee, administrator, or other third party fiduciary any or all of the
foregoing transfers in order to satisfy and/or secure its revenue bonds and notes and/or debt service
payments thereon, including, but not limited to, the bonds and notes issued pursuant to the Joint
Resolution set forth in Section 3 of Article 6 of Chapter 23 of the Public Laws of 2010.
Notwithstanding any other provision of said Joint Resolution the Rhode Island turnpike and bridge
authority is expressly authorized to issue bonds and notes previously authorized under said Joint
Resolution for financing all expenses incurred by it for the formerly authorized tolling of the
Sakonnet River Bridge and the termination thereof.

(b) Notwithstanding any other provision of law to the contrary, all other funds in the fund
shall be dedicated to the department of transportation, subject to annual appropriation by the general
assembly. The director of transportation shall submit to the general assembly, budget office and
office of the governor annually an accounting of all amounts deposited in and credited to the fund
together with a budget for proposed expenditures for the succeeding fiscal year in compliance with
§§ 35-3-1 and 35-3-4. On order of the director of transportation, the state controller is authorized
and directed to draw his or her orders upon the general treasurer for the payments of any sum or
portion of the sum that may be required from time to time upon receipt of properly authenticated
vouchers.

(c) At any time the amount of the fund is insufficient to fund the expenditures of the
department of transportation, not to exceed the amount authorized by the general assembly, the
general treasurer is authorized, with the approval of the governor and the director of administration,
in anticipation of the receipts of monies enumerated in § 31-36-20 to advance sums to the fund, for
the purposes specified in § 31-36-20, any funds of the state not specifically held for any particular
purpose. However, all the advances made to the fund shall be returned to the general fund
immediately upon the receipt by the fund of proceeds resulting from the receipt of monies to the
extent of the advances.

SECTION 2. Sections 44-20-12 and 44-20-13 of the General Laws in Chapter 44-20
entitled “Cigarette Tax” are hereby amended to read as follows:

44-20-12. Tax imposed on cigarettes sold.
A tax is imposed on all cigarettes sold or held for sale in the state. The payment of the tax
to be evidenced by stamps, which may be affixed only by licensed distributors to the packages
containing such cigarettes. Any cigarettes on which the proper amount of tax provided for in this
chapter has been paid, payment being evidenced by the stamp, is not subject to a further tax under
this chapter. The tax is at the rate of one hundred eighty-seven and one-half (187.5) two hundred
twelve and one-half (212.5) mills for each cigarette.

A tax is imposed at the rate of one hundred eighty-seven and one-half (187.5) two hundred
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(212.5) mills for each cigarette upon the storage or use within this state of any

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(cigarettes not stamped in accordance with the provisions of this chapter in the possession of any

consumer within this state.

SECTION 3. Chapter 44-20 of the General Laws entitled “Cigarette Tax” is hereby

amended by adding thereto the following section:

**44-20-12.6. Floor stock tax on cigarettes and stamps.**

(a) Each person engaging in the business of selling cigarettes at retail in this state shall pay

tax or excise to the state for the privilege of engaging in that business during any part of the

calendar year 2017. In calendar year 2017, the tax shall be measured by the number of cigarettes

held by the person in this state at 12:01 a.m. on August 1, 2017 and is computed at the rate of

twenty-five (25.0) mills for each cigarette on August 1, 2017.

(b) Each distributor licensed to do business in this state pursuant to this chapter shall pay a

tax or excise to the state for the privilege of engaging in that business during any part of the calendar

year 2017. The tax is measured by the number of stamps, whether affixed or to be affixed to

packages of cigarettes, as required by § 44-20-28. In calendar year 2017 the tax is measured by the

number of stamps), whether affixed or to be affixed, held by the distributor at 12:01 a.m. on August

1, 2017, and is computed at the rate of twenty-five (25.0) mills per cigarette in the package to which

the stamps are affixed or to be affixed.

(c) Each person subject to the payment of the tax imposed by this section shall, on or before

August 15, 2017, file a return, under oath or certified under the penalties of perjury, with the tax

administrator on forms furnished by him or her, showing the amount of cigarettes and the number

of stamps in that person's possession in this state at 12:01 a.m. on August 1, 2017, as described in

this section above, and the amount of tax due, and shall at the time of filing the return pay the tax

to the tax administrator. Failure to obtain forms shall not be an excuse for the failure to make a

return containing the information required by the tax administrator.

(d) The tax administrator may prescribe rules and regulations, not inconsistent with law,

with regard to the assessment and collection of the tax imposed by this section.

SECTION 4. Chapter 44-1 of the General Laws entitled “State Tax Officials” is hereby

amended by adding thereto the following sections:

**44-1-37. Administrative penalties and attorney's fees.**

(a) Whenever a licensee and/or a taxpayer violates any provision of title 44 or the

regulations promulgated thereunder, the tax administrator may, in accordance with the

requirements of the Administrative Procedures Act, Chapter 35 of Title 42 of the Rhode Island

General Laws:
(1) Revoke or suspend a license or permit issued by the division of taxation;

(2) Levy an administrative penalty in an amount not less than one hundred ($100) nor more than fifty thousand dollars ($50,000);

(3) Order the violator to cease such actions; and/or

(4) Any combination of the above penalties.

(b) The tax administrator is hereby authorized, and may in his or her discretion, recover the reasonable cost of legal services provided by in-house attorneys in the Department of Revenue and/or the Division of Taxation incurred in matters pertaining to administrative hearings, court hearings, and appeals. Nothing in this section shall limit the power of the tax administrator to retain outside legal counsel and to recover the costs of such legal counsel pursuant to other provisions of the general laws.

(c) Any monetary penalties assessed pursuant to this section shall be as general revenues.

44-1-38. Jeopardy determinations.

If the tax administrator believes that the collection of any amount of tax, interest, and/or penalty assessed in a notice of deficiency determination will be jeopardized by a delay which could render a person or entity judgment proof and/or frustrate the collectability of said determination, the tax administrator shall thereupon make a jeopardy determination of the amount of tax required to be collected, including interest and penalties, if any. Said jeopardy determination shall state briefly the facts upon which it is based. The amount of the tax, interest, and/or penalties so determined is shall be due and payable immediately upon the mailing by the tax administrator of the notice of that jeopardy determination. Within thirty (30) days of the date of the mailing of the notice of the jeopardy determination, the taxpayer may bring an action in the sixth (6th) division district court appealing the jeopardy determination. Within twenty (20) days after the action is commenced, the district court shall make a determination of whether or not the making of the jeopardy assessment is was reasonable under the circumstances.


For the purpose of determining taxpayer compliance, any and all information or data required to be generated or maintained pursuant to title 44 and/or the regulations promulgated thereunder, shall be deemed to be the property of the State of Rhode Island.

SECTION 5. Sections 44-11-2.2 and 44-11-29 of the General Laws in Chapter 44-11 entitled “Business Corporation Tax” are hereby amended to read as follows:


(a) Definitions.

(1) "Pass-through entity” means a corporation that for the applicable tax year is treated as
an S Corporation under IRC § 1362(a) [26 U.S.C. § 1362(a)], and a general partnership, limited partnership, limited liability partnership, trust, or limited liability company that for the applicable tax year is not taxed as a corporation for federal tax purposes under the state's check-the-box regulation.

(2) "Member" means an individual who is a shareholder of an S corporation; a partner in a general partnership, a limited partnership, or a limited liability partnership; a member of a limited liability company; or a beneficiary of a trust;

(3) "Nonresident" means an individual who is not a resident of or domiciled in the state, a business entity that does not have its commercial domicile in the state, and a trust not organized in the state.

(b) Withholding.

(1) A pass-through entity shall withhold income tax at the highest Rhode Island withholding tax rate provided for individuals or nine percent (9%) seven percent (7%) for corporations on the member's share of income of the entity which is derived from or attributable to sources within this state distributed to each nonresident member and pay the withheld amount in the manner prescribed by the tax administrator. The pass-through entity shall be liable for the payment of the tax required to be withheld under this section and shall not be liable to such member for the amount withheld and paid over in compliance with this section. A member of a pass-through entity that is itself a pass-through entity (a "lower-tier pass-through entity") shall be subject to this same requirement to withhold and pay over income tax on the share of income distributed by the lower-tier pass-through entity to each of its nonresident members. The tax administrator shall apply tax withheld and paid over by a pass-through entity on distributions to a lower-tier pass-through entity to the withholding required of that lower-tier pass-through entity.

(2) A pass-through entity shall, at the time of payment made pursuant to this section, deliver to the tax administrator a return upon a form prescribed by the tax administrator showing the total amounts paid or credited to its nonresident members, the amount withheld in accordance with this section, and any other information the tax administrator may require. A pass-through entity shall furnish to its nonresident member annually, but not later than the fifteenth day of the third month after the end of its taxable year, a record of the amount of tax withheld on behalf of such member on a form prescribed by the tax administrator.

(c) Notwithstanding subsection (b), a pass-through entity is not required to withhold tax for a nonresident member if:

(1) The member has a pro rata or distributive share of income of the pass-through entity from doing business in, or deriving income from sources within, this State of less than $1,000 per
annual accounting period;

(2) The tax administrator has determined by regulation, ruling or instruction that the member's income is not subject to withholding; or

(3) The member elects to have the tax due paid as part of a composite return filed by the pass-through entity under subsection (d); or

(4) The entity is a publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code (26 U.S.C. § 7704(b)) that is treated as a partnership for the purposes of the Internal Revenue Code and that has agreed to file an annual information return reporting the name, address, taxpayer identification number and other information requested by the tax administrator of each unitholder with an income in the state in excess of $500.

(d) Composite return.

(1) A pass-through entity may file a composite income tax return on behalf of electing nonresident members reporting and paying income tax at the state's highest marginal rate on the members' pro rata or distributive shares of income of the pass-through entity from doing business in, or deriving income from sources within, this State.

(2) A nonresident member whose only source of income within a state is from one or more pass-through entities may elect to be included in a composite return filed pursuant to this section.

(3) A nonresident member that has been included in a composite return may file an individual income tax return and shall receive credit for tax paid on the member's behalf by the pass-through entity.

44-11-29. Notice to tax administrator of sale of assets – Tax due.

(a) The sale or transfer of the major part in value of the assets of a domestic corporation, domestic limited liability company, domestic limited partnership, or any other domestic business entity, or of the major part in value of the assets situated in this state of a foreign corporation, foreign limited liability company, foreign limited partnership, or any other foreign business entity, other than in the ordinary course of trade and in the regular and usual prosecution of the corporation's business by said corporation, limited liability company, limited partnership, or any other business entity whether domestic or foreign, and the sale or transfer of the major part in value of the assets of a domestic corporation, domestic limited liability company, domestic limited partnership, or any other domestic corporation business entity, or of the major part in value of the assets situated in this state of a foreign corporation, foreign limited liability company, foreign limited partnership, or any other foreign business entity, which is engaged in the business of buying, selling, leasing, renting, managing, or dealing in real estate, shall be fraudulent and void as against the state unless the corporation, limited liability company, limited partnership, or any other business...
entity, whether domestic or foreign, corporation shall, at least five (5) business days before the sale or transfer, notify the tax administrator of the proposed sale or transfer and of the price, terms, and conditions of the sale or transfer and of the character and location of the assets by requesting a letter of good standing from the tax division. Whenever a corporation, limited liability company, limited partnership, or any other business entity, whether domestic or foreign, shall make such a sale or transfer, the tax imposed by this chapter and all taxes imposed under this title shall become due and payable at the time when the tax administrator is so notified of the sale or transfer, or, if he or she is not so notified, at the time when he or she should have been notified of the sale or transfer.

(b) This section shall not apply to sales by receivers, assignees under a voluntary assignment for the benefit of creditors, trustees in bankruptcy, debtors in possession in bankruptcy, or public officers acting under judicial process.

SECTION 6. Section 44-18-30 of the General Laws in Chapter 44-18 entitled “Sales and Use Taxes – Liability and Computation” is hereby amended to read as follows:


A fee of twenty-five dollars ($25.00) shall be paid by all organizations applying for a certificate of exemption from the Rhode Island sales and use tax under § 44-18-30(5). The certificate of exemption shall be valid for four (4) years from the date of issue. All fees collected under this section shall be allocated to the tax administrator for enforcement and collection of all taxes. All certificates issued prior to the effective date of this section shall expire four (4) years from the effective date of this section.

SECTION 7. Sections 44-19-22, 44-19-31, and 44-19-42 of the General Laws in Chapter 44-19 entitled “Sales and Use Taxes – Enforcement and Collection” are hereby amended to read as follows:


The sale or transfer by any taxpayer other than receivers, assignees under a voluntary assignment for the benefit of creditors, trustees in bankruptcy, debtors in possession in bankruptcy, or public officers acting under judicial process of the major part in value of the assets of the taxpayer other than in the ordinary course of trade and the regular and usual prosecution of the taxpayer’s business, is fraudulent and void as against the state, unless the taxpayer, at least five (5) days before the sale or transfer, notifies the tax administrator of the proposed sale or transfer and of the price, terms, and conditions of the sale or transfer and of the character and location of those assets by requesting a letter of good standing from the tax division. Whenever the taxpayer makes a sale or transfer, any and all tax returns required to be filed under this title must be filed and any and all
taxes imposed under by chapter 18 of this title must be paid at the time when the tax administrator is so notified of the sale or transfer, or, if the administrator is not so notified, at the time when he or she the administrator should have been notified of the sale or transfer.


Any retailer or other person failing to file a return or report required by this chapter, or filing or causing to be filed, or making or causing to be made, or giving or causing to be given any return, report, certificate, affidavit, representation, information, testimony, or statement required or authorized by this chapter, which is willfully false, or willfully failing to file a bond required by this chapter or willfully failing to comply with the provisions of this chapter, or failing to file a registration certificate and that data in connection with it as the tax administrator by regulation or may require, or to display or surrender a permit as required by this chapter, or assigning or transferring the permit, or failing to file a notice of a show or failing to display a permit to operate a show or operating a show without obtaining a permit, or permitting a person to display or sell tangible personal property, services, or food and drink at a show without displaying a permit, or willfully failing to charge separately the tax imposed by this chapter or to state the tax separately on any bill, statement, memorandum, or receipt issued or employed by the person upon which the tax is required to be stated separately as provided in § 44-19-8, or willfully failing to collect the tax from a customer, or willfully failing to remit any tax to the state which was collected from a customer, or who refers or causes reference to be made to this tax in a form or manner other than that required by this chapter, or failing to keep any records required by this chapter, is, in addition to any other penalties in this chapter or elsewhere prescribed, guilty of a felony, punishment for which is a fine of not more than ten thousand dollars ($10,000) twenty-five thousand dollars ($25,000), or imprisonment for one five years, or both.

44-19-42. Suppression of Sales Sales suppression devices – Definitions and applicability.

(a) As used in this section:

(1)“Automated sales suppression device,” also known as a “zapper,” means a software program, carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies transaction data, transaction reports, or any other electronic records of electronic cash registers and other point-of-sale systems.

(2) “Electronic cash register” means a device that keeps a register accounting, or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in any manner.
(3) “Phantom-ware” means a hidden programming option, whether preinstalled or installed at a later time, embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that:

(i) Can be used to create a virtual second till; or

(ii) May eliminate or manipulate transaction records in any manner.

(4) “Remote data manipulation” means and includes, but is not limited to, sending, transmitting, transporting, or receiving through any electronic means any and all transaction data to a remote location, whether or not that location is within Rhode Island or outside the state or the United States, for the purpose of manipulating and/or altering said data in any way, whether or not the actual manipulation is performed manually or through automated means.

(5) “Transaction data” includes items purchased by a customer, the price for each item. A taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash, debit, or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(6) “Transaction reports” means a report documenting, but not limited to, the sales, the taxes collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

(b) A person shall not knowingly sell, purchase, install, transfer or possess an automated sales suppression device or phantom-ware.

(c) A person shall not knowingly suppress sales by engaging in remote data manipulation, either as the sender or the receiver of the information.

(d) Any person who violates subdivision (b) and/or (c) of this section shall be guilty of a felony and, upon conviction, shall be subject to a fine not exceeding fifty-thousand dollars ($50,000) or imprisonment not exceeding five (5) years, or both.

(e) In addition, a person who violates subdivision (b) and/or (c) of this section shall be liable to the state for:

(1) All taxes, interest, and penalties due as the result of the person’s use of an automated sales suppression device or phantom-ware and/or remote data manipulation; and

(2) All profits associated with the person’s sale of an automated sales suppression device or phantom-ware and/or remote data manipulation.

(f) An automated sales suppression device or phantom-ware and any device containing such device or software shall be deemed contraband and shall be subject to seizure by the tax...
administrator or by a law enforcement officer when directed to do so by the tax administrator.

(g) Safe harbor. A person shall not be subject to prosecution under Rhode Island general laws § 44-19-42, if by October 1, 2014, the person:

(1) Notifies the division of taxation of the person’s possession of an automated sales suppression device;

(2) Provides any and all information requested by the division of taxation, including transaction records, software specifications, encryption keys, passwords, and other data; and

(3) Corrects any underreported sales tax records and fully pays the division of taxation any amounts previously owed.

(h) This section shall not be construed to limit the person’s civil or criminal liability under any other provision of the law.


CHAPTER 44-20

CIGARETTE AND OTHER TOBACCO PRODUCTS TAX

44-20-1. Definitions.

Whenever used in this chapter, unless the context requires otherwise:

(1) “Administrator” means the tax administrator;

(2) “Cigarettes” means and includes any cigarettes suitable for smoking in cigarette form, and each sheet of cigarette rolling paper, including but not limited to, paper made into a hollow cylinder or cone, made with paper or any other material, with or without a filter suitable for use in making cigarettes;

(3) “Dealer” means any person whether located within or outside of this state, who sells or distributes cigarettes and/or other tobacco products to a consumer in this state;

(4) “Distributor” means any person:

(A) Whether located within or outside of this state, other than a dealer, who sells or distributes cigarettes and/or other tobacco products within or into this state. Such term shall not include any cigarette or other tobacco product manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C. § 5712, if such person sells or distributes cigarettes and/or other tobacco products in this state only to licensed distributors, or to an export warehouse proprietor or another manufacturer with a valid permit under 26 U.S.C. § 5712;

(B) Selling cigarettes and/or other tobacco products directly to consumers in this state by means of at least twenty-five (25) cigarette vending machines;
(C) Engaged in this state in the business of manufacturing cigarettes and/or other tobacco products or any person engaged in the business of selling cigarettes and/or other tobacco products to dealers, or to other persons, for the purpose of resale only; provided, that seventy-five percent (75%) of all cigarettes and/or other tobacco products sold by that person in this state are sold to dealers or other persons for resale and selling cigarettes and/or other tobacco products directly to at least forty (40) dealers or other persons for resale; or

(D) Maintaining one or more regular places of business in this state for that purpose; provided, that seventy-five percent (75%) of the sold cigarettes and/or other tobacco products are purchased directly from the manufacturer and selling cigarettes and/or other tobacco products directly to at least forty (40) dealers or other persons for resale;

(5) "Importer" means any person who imports into the United States, either directly or indirectly, a finished cigarette or other tobacco product for sale or distribution;

(6) "Licensed", when used with reference to a manufacturer, importer, distributor or dealer, means only those persons who hold a valid and current license issued under § 44-20-2 for the type of business being engaged in. When the term "licensed" is used before a list of entities, such as "licensed manufacturer, importer, wholesale dealer, or retailer dealer," such term shall be deemed to apply to each entity in such list;

(7) "Manufacturer" means any person who manufactures, fabricates, assembles, processes, or labels a finished cigarette and/or other tobacco products;

(8) “Other tobacco products” (OTP) means any cigars (excluding Little Cigars, as defined in § 44-20-2-1, which are subject to cigarette tax), cheroots, stogies, smoking tobacco (including granulated, plug cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a otherwise), chewing tobacco (including Cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing), any and all forms of hookah, shisha and "mu'assel" tobacco, snuff, and shall include any other articles or products made of or containing tobacco, in whole or in part, or any tobacco substitute, except cigarettes;

(9) “Person” means any individual, including an employee or agent, firm, fiduciary, partnership, corporation, trust, or association, however formed;

(10) “Pipe” means an apparatus made of any material used to burn or vaporize products so that the smoke or vapors can be inhaled or ingested by the user;

(11) “Place of business” means and includes any place location where cigarettes and/or other tobacco products are sold, or where cigarettes are stored, or kept for the purpose of sale or consumption, including, but not limited to, any storage room, attic, basement, garage or other facility immediately adjacent to the location. It also includes any receptacle, hide, vessel, vehicle,
airplane, train, or vending machine;

(10)-(12) "Sale" or "sell" includes and applies to means gifts, exchanges, and barter of cigarettes and/or other tobacco products. The act of holding, storing, or keeping cigarettes and/or other tobacco products at a place of business for any purpose shall be presumed to be holding the cigarettes and/or other tobacco products for sale. Furthermore, any sale of cigarettes and/or other tobacco products by the servants, employees, or agents of the licensed dealer during business hours at the place of business shall be presumed to be a sale by the licensee;

(11)(13) "Stamp" means the impression, device, stamp, label, or print manufactured, printed, or made as prescribed by the administrator to be affixed to packages of cigarettes, as evidence of the payment of the tax provided by this chapter or to indicate that the cigarettes are intended for a sale or distribution in this state that is exempt from state tax under the provisions of state law; and also includes impressions made by metering machines authorized to be used under the provisions of this chapter.


Any distributor or dealer who sells, offers for sale, or possesses with intent to sell, cigarettes and/or any other tobacco products without a license as provided in § 44-20-2, shall be fined in accordance with the provisions of and the penalties contained in § 11-9-13.15, shall be guilty of a misdemeanor, and shall be fined not more than ten thousand dollars ($10,000) for each offense, or be imprisoned for a term not to exceed one (1) year, or be punished by both a fine and imprisonment.

44-20-4.1. License availability.

(a) No license under this chapter may be granted, maintained or renewed if the applicant, or any combination of persons owning directly or indirectly any interests in the applicant:

(1) Owes five hundred dollars ($500) or more in delinquent cigarette taxes;
(2) Is delinquent in any tax filings for one month or more;
(3) Had a license under this chapter revoked by the administrator within the past two (2) years;
(4) Has been convicted of a crime relating to cigarettes and/or other tobacco products;
(5) Is a cigarette manufacturer or importer that is neither: (i) a participating manufacturer as defined in subsection II (jj) of the “Master Settlement Agreement” as defined in § 23-71-2; nor (ii) in full compliance with chapter 20.2 of this title and § 23-71-3;
(6) Has imported, or caused to be imported, into the United States any cigarette in violation of 19 U.S.C. § 1681a; or
(7) Has imported, or caused to be imported, into the United States, or manufactured for
sale or distribution in the United States any cigarette that does not fully comply with the Federal

(b)(1) No person shall apply for a new license or permit (as defined in § 44-19-1) or renewal
of a license or permit, and no license or permit shall be issued or renewed for any applicant, or any
combination of persons owning directly or indirectly any interests in the applicant, unless
all outstanding fines, fees or other charges relating to any license or permit held by the applicant, or any combination of persons owning directly or indirectly any interests in the applicant,
as well as any other tax obligations of the applicant, or any combination of persons owning directly
or indirectly any interests in the applicant have been paid.

(2) No license or permit shall be issued relating to a business at any specific location until
all prior licenses or permits relating to that business or to that location have been officially
terminated and all fines, fees or charges relating to the prior license or permit have been
paid or otherwise resolved or the administrator has found that the person applying for the new
license or permit is not acting as an agent for the prior licensee or permit holder who is subject to
any such related fines, fees or charges that are still due. Evidence of such agency status includes,
but is not limited to, a direct familial relationship and/or an employment, contractual or other formal
financial or business relationship with the prior licensee or permit holder.

(3) No person shall apply for a new license or permit pertaining to a specific location in
order to evade payment of any fines, fees or other charges relating to a prior license or permit for
that location.

(4) No new license or permit shall be issued for a business at a specific location for which
a license or permit already has been issued unless there is a bona fide, good faith change in
ownership of the business at that location.

(5) No license or permit shall be issued, renewed or maintained for any person, including
the owners of the business being licensed or having applied and received a permit, that has been
convicted of violating any criminal law relating to tobacco products, the payment of taxes or fraud
or has been ordered to pay civil fines of more than twenty-five thousand ($25,000) dollars for
violations of any civil law relating to tobacco products, the payment of taxes or fraud.

44-20-8. Suspension or revocation of license.

The tax administrator may suspend or revoke any license under this chapter for failure of
the licensee to comply with any provision of this chapter or with any provision of any other law or
ordinance relative to the sale or purchase of cigarettes or other tobacco products and the, The tax
administrator may also suspend or revoke any license for failure of the licensee to comply with any
provision of chapter 19 of title 44 and chapter 13 of title 6, and, for the purpose of determining
whether the licensee is complying with any provision of chapter 13 of title 6, the tax administrator
and his or her authorized agents are empowered, in addition to authority conferred by § 44-20-40,
to examine the books, papers, and records of any licensee. The administrator shall revoke the
license of any person who would be ineligible to obtain a new or renew a license by reason of any
of the conditions for licensure provided in § 44-20-4.1. Any person aggrieved by the suspension
or revocation may apply to the administrator for a hearing as provided in § 44-20-47, and may
further appeal to the district court as provided in § 44-20-48.

44-20-8.2. Transactions only with licensed manufacturers, importers, distributors, and dealers.

A manufacturer or importer may sell or distribute cigarettes and/or other tobacco products
to a person located or doing business within this state, only if such person is a licensed importer or
distributor. An importer may obtain cigarettes and/or other tobacco products only from a licensed
manufacturer. A distributor may sell or distribute cigarettes and/or other tobacco products to a
person located or doing business within this state, only if such person is a licensed distributor or
dealer. A distributor may obtain cigarettes and/or other tobacco products only from a licensed
manufacturer, importer, or distributor. A dealer may obtain cigarettes and/or other tobacco
products only from a licensed distributor.

44-20-13.2. Tax imposed on other tobacco products, smokeless tobacco, cigars, and pipe tobacco products.

(a) A tax is imposed on all other tobacco products, smokeless tobacco, cigars, and pipe
tobacco products sold or held for sale in the state by any person, the payment of the tax to be
accomplished according to a mechanism established by the administrator, division of taxation,
department of administration revenue. Any tobacco product on which the proper amount of tax
provided for in this chapter has been paid, payment being evidenced by a stamp, is not subject to a
further tax under this chapter. The tax imposed by this section shall be as follows:

(1) At the rate of eighty percent (80%) of the wholesale cost of other tobacco products,
cigars, pipe tobacco products and smokeless tobacco other than snuff.

(2) Notwithstanding the eighty percent (80%) rate in subsection (a) above, in the case of
cigars, the tax shall not exceed fifty cents ($.50) for each cigar.

(3) At the rate of one dollar ($1.00) per ounce of snuff, and a proportionate tax at the like
rate on all fractional parts of an ounce thereof. Such tax shall be computed based on the net weight
as listed by the manufacturer, provided, however, that any product listed by the manufacturer as
having a net weight of less than 1.2 ounces shall be taxed as if the product has a net weight of 1.2
(b) Any dealer having in his or her possession any tobacco, cigars, and pipe tobacco products with respect to the storage or use of which a tax is imposed by this section shall, within five (5) days after coming into possession of the tobacco, cigars, and pipe tobacco in this state, file a return with the tax administrator in a form prescribed by the tax administrator. The return shall be accompanied by a payment of the amount of the tax shown on the form to be due. Records required under this section shall be preserved on the premises described in the relevant license in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the administrator.

(c) The proceeds collected are paid into the general fund.

44-20-15. Confiscation of contraband cigarettes, other tobacco products, and other property.

(a) All cigarettes and other tobacco products which are held for sale or distribution within the borders of this state in violation of the requirements of this chapter are declared to be contraband goods and may be seized by the tax administrator or his or her agents, or employees, or by any sheriff or his or her deputy or any police officer when directed by the tax administrator to do so, without a warrant. All cigarettes contraband goods seized by the state under this chapter shall be destroyed.

(b) All fixtures, equipment, and all other materials and personal property on the premises of any distributor or dealer who, with the intent to defraud the state, fails to keep or make any record, return, report, or inventory; keeps or makes any false or fraudulent record, return, report, or inventory required by this chapter; refuses to pay any tax imposed by this chapter; or attempts in any manner to evade or defeat the requirements of this chapter shall be forfeited to the state.

44-20-33. Sale of contraband unstamped cigarettes or contraband other tobacco products prohibited.

No distributor shall sell, and no other person shall sell, offer for sale, display for sale, or possess with intent to sell any contraband other tobacco products or contraband cigarettes, the packages or boxes containing of which do not bear stamps evidencing the payment of the tax imposed by this chapter.

44-20-35. Penalties for violations as to unstamped contraband cigarettes or contraband other tobacco products.

(a) Any person who violates any provision of §§ 44-20-33 and 44-20-34 shall be fined or imprisoned, or both fined and imprisoned, as follows:

(1) For a first offense in a twenty-four-month (24) period, fined not more than one thousand
dollars ($1,000), or not more than five (5) ten (10) times the retail value of the cigarettes contraband cigarettes and/or contraband other tobacco products involved, whichever is greater, or be imprisoned not more than one (1) year, or be both fined and imprisoned;

(2) For a second or subsequent offense in a twenty-four-month (24) period, fined not more than five thousand dollars ($5,000) or not more than twenty-five (25) times the retail value of the cigarettes contraband cigarettes and/or contraband other tobacco products involved, whichever is greater, or be imprisoned not more than three (3) years, or be both fined and imprisoned.

(b) When determining the amount of a fine sought or imposed under this section, evidence of mitigating factors, including history, severity, and intent shall be considered.

### 44-20-40.1. Inspections.

(a) The administrator or his or her duly authorized agent shall have authority to enter and inspect, without a warrant during normal business hours, and with a warrant during nonbusiness hours, the facilities and records of any manufacturer, importer, distributor or dealer.

(b) In any case where the administrator or his or her duly authorized agent, or any police officer of this state, has knowledge or reasonable grounds to believe that any vehicle is transporting cigarettes or other tobacco products in violation of this chapter, the administrator, such agent, or such police officer, is authorized to stop such vehicle and to inspect the same for contraband cigarettes or other tobacco products.

### 44-20-43. Violations as to reports and records.

Any person who fails to submit the reports required in this chapter by the tax administrator under this chapter, or who makes any incomplete, false, or fraudulent report, or who refuses to permit the tax administrator or his or her authorized agent to examine any books, records, papers, or stocks of cigarettes or other tobacco products as provided in this chapter, or who refuses to supply the tax administrator with any other information which the tax administrator requests for the reasonable and proper enforcement of the provisions of this chapter, shall be guilty of a misdemeanor punishable by imprisonment up to one (1) year, or a fine fined of not more than five thousand dollars ($5,000), or both, for the first offense, and for each subsequent offense, shall be fined not more than ten thousand dollars ($10,000), or be imprisoned not more than five (5) years, or be both fined and imprisoned.

### 44-20-45. Importation of cigarettes and/or other tobacco products with intent to evade tax.

Any person, firm, corporation, club, or association of persons who or that orders any cigarettes and/or other tobacco products for another or pools orders for cigarettes and/or other
tobacco products from any persons or conspires with others for pooling orders, or receives in this
state any shipment of unstamped contraband cigarettes and/or contraband other tobacco products
on which the tax imposed by this chapter has not been paid, for the purpose and intention of
violating the provisions of this chapter or to avoid payment of the tax imposed in this chapter, is
guilty of a felony and shall be fined one hundred thousand dollars ($100,000) or five (5) times the
retail value of the cigarettes involved, whichever is greater, or imprisoned not more than fifteen
(15) years, or both.

(a) Whoever omits, neglects, or refuses to comply with any duty imposed upon him/her by
this chapter, or does, or causes to be done, any of the things required by this chapter, or does
anything prohibited by this chapter, shall, in addition to any other penalty provided in this chapter,
be liable as follows:
(1) For a first offense in a twenty-four month (24) period, a penalty of not more than one
thousand dollars ($1,000), or five (5) ten (10) times the retail value of the cigarettes and/or other
tobacco products involved, whichever is greater, to be recovered, with costs of suit, in a civil action;
and
(2) For a second or subsequent offense in a twenty-four month (24) period, a penalty of
not more than five thousand dollars ($5,000), or not more than twenty-five (25) times the retail
value of the cigarettes and/or other tobacco products involved, whichever is greater, to be
recovered, with costs of suit, in a civil action.
(b) Whoever fails to pay any tax imposed by this chapter at the time prescribed by law or
regulations, shall, in addition to any other penalty provided in this chapter, be liable for a penalty
of one thousand dollars ($1,000) or not more than five (5) times the tax due but unpaid, whichever
is greater.
(c) When determining the amount of a penalty sought or imposed under this section,
evidence of mitigating or aggravating factors, including history, severity, and intent, shall be
considered.

SECTION 9. This article shall take effect as of July 1, 2017, except for sections 2 and 3
which take effect as of August 1, 2017.