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## 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~~ ~~(\$0.01)~~ 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

1 [elderly/disabled transportation program](#), and the remaining cents per gallon shall be available for  
2 general revenue as determined by the following schedule:

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

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

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

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

11 (v) For the months of July through April in fiscal year 2004, one and four-tenths cents  
12 (\$0.014) shall be available for general revenue. For the months of May through June in fiscal year  
13 2004, three and two-tenths cents (\$0.032) shall be available for general revenue, and thereafter,  
14 until fiscal year 2006, two cents (\$0.02) shall be available for general revenue. For fiscal year 2006  
15 through fiscal year 2009 one cent (\$0.01) shall be available for general revenue.

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

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

29 (4) Commencing in fiscal year 2015, three and one-half cents (\$0.035) shall be transferred  
30 to the Rhode Island Turnpike and Bridge Authority to be used for maintenance, operations, capital  
31 expenditures and debt service on any of its projects as defined in chapter 12 of title 24 in lieu of a  
32 toll on the Sakonnet River Bridge. The Rhode Island turnpike and bridge authority is authorized  
33 to remit to an indenture trustee, administrator, or other third party fiduciary any or all of the  
34 foregoing transfers in order to satisfy and/or secure its revenue bonds and notes and/or debt service

1 payments thereon, including, but not limited to, the bonds and notes issued pursuant to the Joint  
2 Resolution set forth in Section 3 of Article 6 of Chapter 23 of the Public Laws of 2010.  
3 Notwithstanding any other provision of said Joint Resolution the Rhode Island turnpike and bridge  
4 authority is expressly authorized to issue bonds and notes previously authorized under said Joint  
5 Resolution for financing all expenses incurred by it for the formerly authorized tolling of the  
6 Sakonnet River Bridge and the termination thereof.

7 (b) Notwithstanding any other provision of law to the contrary, all other funds in the fund  
8 shall be dedicated to the department of transportation, subject to annual appropriation by the general  
9 assembly. The director of transportation shall submit to the general assembly, budget office and  
10 office of the governor annually an accounting of all amounts deposited in and credited to the fund  
11 together with a budget for proposed expenditures for the succeeding fiscal year in compliance with  
12 §§ 35-3-1 and 35-3-4. On order of the director of transportation, the state controller is authorized  
13 and directed to draw his or her orders upon the general treasurer for the payments of any sum or  
14 portion of the sum that may be required from time to time upon receipt of properly authenticated  
15 vouchers.

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

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

26 **44-20-12. Tax imposed on cigarettes sold.**

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

33 **44-20-13. Tax imposed on unstamped cigarettes.**

34 A tax is imposed at the rate of ~~one hundred eighty seven and one half (187.5)~~ two hundred

1 twelve and one-half (212.5) mills for each cigarette upon the storage or use within this state of any  
2 cigarettes not stamped in accordance with the provisions of this chapter in the possession of any  
3 consumer within this state.

4 SECTION 3. Chapter 44-20 of the General Laws entitled "Cigarette Tax" is hereby  
5 amended by adding thereto the following section:

6 **44-20-12.6. Floor stock tax on cigarettes and stamps.**

7 (a) Each person engaging in the business of selling cigarettes at retail in this state shall pay  
8 a tax or excise to the state for the privilege of engaging in that business during any part of the  
9 calendar year 2017. In calendar year 2017, the tax shall be measured by the number of cigarettes  
10 held by the person in this state at 12:01 a.m. on August 1, 2017 and is computed at the rate of  
11 twenty-five (25.0) mills for each cigarette on August 1, 2017.

12 (b) Each distributor licensed to do business in this state pursuant to this chapter shall pay a  
13 tax or excise to the state for the privilege of engaging in that business during any part of the calendar  
14 year 2017. The tax is measured by the number of stamps, whether affixed or to be affixed to  
15 packages of cigarettes, as required by § 44-20-28. In calendar year 2017 the tax is measured by the  
16 number of stamps), whether affixed or to be affixed, held by the distributor at 12:01 a.m. on August  
17 1, 2017, and is computed at the rate of twenty-five (25.0) mills per cigarette in the package to which  
18 the stamps are affixed or to be affixed.

19 (c) Each person subject to the payment of the tax imposed by this section shall, on or before  
20 August 15, 2017, file a return, under oath or certified under the penalties of perjury, with the tax  
21 administrator on forms furnished by him or her, showing the amount of cigarettes and the number  
22 of stamps in that person's possession in this state at 12:01 a.m. on August 1, 2017, as described in  
23 this section above, and the amount of tax due, and shall at the time of filing the return pay the tax  
24 to the tax administrator. Failure to obtain forms shall not be an excuse for the failure to make a  
25 return containing the information required by the tax administrator.

26 (d) The tax administrator may prescribe rules and regulations, not inconsistent with law,  
27 with regard to the assessment and collection of the tax imposed by this section.

28 SECTION 4. Chapter 44-1 of the General Laws entitled "State Tax Officials" is hereby  
29 amended by adding thereto the following sections:

30 **44-1-37. Administrative penalties and attorney's fees.**

31 (a) Whenever a licensee and/or a taxpayer violates any provision of title 44 or the  
32 regulations promulgated thereunder, the tax administrator may, in accordance with the  
33 requirements of the Administrative Procedures Act, Chapter 35 of Title 42 of the Rhode Island  
34 General Laws:

1           (1) Revoke or suspend a license or permit issued by the division of taxation;  
2           (2) Levy an administrative penalty in an amount not less than one hundred (\$100) nor more  
3 than fifty thousand dollars (\$50,000);  
4           (3) Order the violator to cease such actions; and/or  
5           (4) Any combination of the above penalties.  
6           (b) The tax administrator is hereby authorized, and may in his or her discretion, recover  
7 the reasonable cost of legal services provided by in-house attorneys in the Department of Revenue  
8 and/or the Division of Taxation incurred in matters pertaining to administrative hearings, court  
9 hearings, and appeals. Nothing in this section shall limit the power of the tax administrator to retain  
10 outside legal counsel and to recover the costs of such legal counsel pursuant to other provisions of  
11 the general laws.

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

13           **44-1-38. Jeopardy determinations.**

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

26           **44-1-39. Information deemed state property.**

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

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

32           **44-11-2.2 Pass-Through Entities – Definitions – Withholding – Returns.**

33           (a) Definitions.

34           (1) "Pass-through entity" means a corporation that for the applicable tax year is treated as

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

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

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

11 (b) *Withholding.*

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

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

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

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

1 annual accounting period;

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

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

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

11 *(d) Composite return.*

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

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

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

21 **44-11-29. Notice to tax administrator of sale of assets – Tax due.**

22 (a) The sale or transfer of the major part in value of the assets of a domestic corporation,  
23 domestic limited liability company, domestic limited partnership, or any other domestic business  
24 entity, or of the major part in value of the assets situated in this state of a foreign corporation,  
25 foreign limited liability company, foreign limited partnership, or any other foreign business entity,  
26 other than in the ordinary course of trade and in the regular and usual prosecution of ~~the~~  
27 ~~corporation's~~ business by said corporation, limited liability company, limited partnership, or any  
28 other business entity whether domestic or foreign, and the sale or transfer of the major part in value  
29 of the assets of a domestic corporation, domestic limited liability company, domestic limited  
30 partnership, or any other domestic corporation business entity, or of the major part in value of the  
31 assets situated in this state of a foreign corporation, foreign limited liability company, foreign  
32 limited partnership, or any other foreign business entity which is engaged in the business of buying,  
33 selling, leasing, renting, managing, or dealing in real estate, shall be fraudulent and void as against  
34 the state unless the corporation, limited liability company, limited partnership, or any other business

1 entity, whether domestic or foreign, ~~corporation shall,~~ at least five (5) business days before the sale  
2 or transfer, ~~notify~~ notifies the tax administrator of the proposed sale or transfer and of the price,  
3 terms, and conditions of the sale or transfer and of the character and location of the assets by  
4 requesting a letter of good standing from the tax division. Whenever a corporation, limited liability  
5 company, limited partnership, or any other business entity, whether domestic or foreign, ~~shall~~  
6 makes such a sale or transfer, ~~the tax imposed by this chapter~~ any and all tax returns required to be  
7 filed under this title must be filed and any and all taxes imposed under this title shall become due  
8 and payable at the time when the tax administrator is so notified of the sale or transfer, or, if he or  
9 she is not so notified, at the time when he or she should have been notified of the sale or transfer.

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

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

15 **44-18-30.1. Application for certificate of exemption – Fees.**

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

22 SECTION 7. Sections 44-19-22, 44-19-31, and 44-19-42 of the General Laws in Chapter  
23 44-19 entitled “Sales and Use Taxes – Enforcement and Collection” are hereby amended to read as  
24 follows:

25 **44-19-22. Notice of transfer of business – Taxes due immediately.**

26 The sale or transfer by any taxpayer other than receivers, assignees under a voluntary  
27 assignment for the benefit of creditors, trustees in bankruptcy, debtors in possession in bankruptcy,  
28 or public officers acting under judicial process of the major part in value of the assets of the taxpayer  
29 other than in the ordinary course of trade and the regular and usual prosecution of the taxpayer’s  
30 business, is fraudulent and void as against the state, unless the taxpayer, at least five (5) days before  
31 the sale or transfer, notifies the tax administrator of the proposed sale or transfer and of the price,  
32 terms, and conditions of the sale or transfer and of the character and location of those assets by  
33 requesting a letter of good standing from the tax division. Whenever the taxpayer makes a sale or  
34 transfer, any and all tax returns required to be filed under this title must be filed and any and all

1 taxes imposed under ~~by chapter 18 of~~ this title must be paid at the time ~~when~~ the tax administrator  
2 is so notified of the sale or transfer, or, if the administrator is not so notified, at the time when he  
3 or she ~~the administrator~~ should have been notified of the sale or transfer.

4 **44-19-31. Penalty for violations generally.**

5 Any retailer or other person failing to file a return or report required by this chapter, or  
6 filing or causing to be filed, or making or causing to be made, or giving or causing to be given any  
7 return, report, certificate, affidavit, representation, information, testimony, or statement required or  
8 authorized by this chapter, which is willfully false, or willfully failing to file a bond required by  
9 this chapter or willfully failing to comply with the provisions of this chapter, or failing to file a  
10 registration certificate and that data in connection with it as the tax administrator by regulation or  
11 may require, or to display or surrender a permit as required by this chapter, or assigning or  
12 transferring the permit, or failing to file a notice of a show or failing to display a permit to operate  
13 a show or operating a show without obtaining a permit, or permitting a person to display or sell  
14 tangible personal property, services, or food and drink at a show without displaying a permit, or  
15 willfully failing to charge separately the tax imposed by this chapter or to state the tax separately  
16 on any bill, statement, memorandum, or receipt issued or employed by the person upon which the  
17 tax is required to be stated separately as provided in § 44-19-8, or willfully failing to collect the tax  
18 from a customer, or willfully failing to remit any tax to the state which was collected from a  
19 customer, or who refers or causes reference to be made to this tax in a form or manner other than  
20 that required by this chapter, or failing to keep any records required by this chapter, is, in addition  
21 to any other penalties in this chapter or elsewhere prescribed, guilty of a felony, punishment for  
22 which is a fine of not more than ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars  
23 (\$25,000), or imprisonment for ~~one~~ five years, or both.

24 **44-19-42. Suppression of Sales ~~Sales suppression devices~~ – Definitions and**  
25 **applicability.**

26 (a) As used in this section:

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

31 (2) “Electronic cash register” means a device that keeps a register, accounting, or  
32 supporting documents through the means of an electronic device or computer system designed to  
33 record transaction data for the purpose of computing, compiling, or processing retail sales  
34 transaction data in any manner.

1 (3) "Phantom-ware" means a hidden programming option, whether preinstalled or installed  
2 at a later time, embedded in the operating system of an electronic cash register or hardwired into  
3 the electronic cash register that:

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

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

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

11 ~~(4)~~(5) "Transaction data" includes items purchased by a customer, the price for each item.  
12 A taxability determination for each item, a segregated tax amount for each of the taxed items, the  
13 amount of cash, debit, or credit tendered, the net amount returned to the customer in change, the  
14 date and time of the purchase, the name, address, and identification number of the vendor, and the  
15 receipt or invoice number of the transaction.

16 ~~(5)~~(6) "Transaction reports" means a report documenting, but not limited to, the sales,  
17 the taxes collected, media totals, and discount voids at an electronic cash register that is  
18 printed on cash register tape at the end of a day or shift, or a report documenting every action at an  
19 electronic cash register that is stored electronically.

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

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

24 ~~(c)~~(d) Any person who violates subdivision (b) and/or (c) of this section shall be guilty of  
25 a felony and, upon conviction, shall be subject to a fine not exceeding fifty-thousand dollars  
26 (\$50,000) or imprisonment not exceeding five (5) years, or both.

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

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

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

33 ~~(e)~~(f) An automated sales suppression device or phantom-ware and any device containing  
34 such device or software shall be deemed contraband and shall be subject to seizure by the tax

1 administrator or by a law enforcement officer when directed to do so by the tax administrator.

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

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

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

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

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

12 SECTION 8. Sections 44-20-1, 44-20-3, 44-20-4.1, 44-20-8, 44-20-8.2, 44-20-13.2, 44-  
13 20-15, 44-20-33, 44-20-35,44-20-40.1, 44-20-43, 44-20-45, and 44-20-51.1 of the General Laws  
14 in Chapter 44-20 entitled "Cigarette Tax" are hereby amended to read as follows:

15 CHAPTER 44-20

16 CIGARETTE AND OTHER TOBACCO PRODUCTS TAX

17 **44-20-1. Definitions.**

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

19 (1) "Administrator" means the tax administrator;

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

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

26 (4) "Distributor" means any person:

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

33 (B) Selling cigarettes and/or other tobacco products directly to consumers in this state by  
34 means of at least twenty-five (25) ~~cigarette~~ vending machines;

1 (C) Engaged in this state in the business of manufacturing cigarettes and/or other tobacco  
2 products or any person engaged in the business of selling cigarettes and/or other tobacco products  
3 to dealers, or to other persons, for the purpose of resale only; provided, that seventy-five percent  
4 (75%) of all cigarettes and/or other tobacco products sold by that person in this state are sold to  
5 dealers or other persons for resale and selling cigarettes and/or other tobacco products directly to  
6 at least forty (40) dealers or other persons for resale; or

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

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

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

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

20 (8) "Other tobacco products" (OTP) means any cigars (excluding Little Cigars, as defined  
21 in § 44-20.2-1, which are subject to cigarette tax), cheroots, stogies, smoking tobacco (including  
22 granulated, plug cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for  
23 smoking in a otherwise), chewing tobacco (including Cavendish, twist, plug, scrap and any other  
24 kinds and forms of tobacco suitable for chewing), any and all forms of hookah, shisha and  
25 "mu'assel" tobacco, snuff, and shall include any other articles or products made of or containing  
26 tobacco, in whole or in part, or any tobacco substitute, except cigarettes;

27 ~~(8)~~(9) "Person" means any individual, including an employee or agent, firm, fiduciary,  
28 partnership, corporation, trust, or association, however formed;

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

31 ~~(9)~~(11) "Place of business" means ~~and includes~~ any ~~place~~ location where cigarettes and/or  
32 other tobacco products are sold, ~~or where cigarettes are stored,~~ or kept ~~for the purpose of sale or~~  
33 ~~consumption,~~ including, but not limited to, any storage room, attic, basement, garage or other  
34 facility immediately adjacent to the location. It also includes any receptacle, hide, vessel, vehicle,

1 airplane, train, or vending machine;

2 ~~(10)(12)~~ "Sale" or "sell" ~~includes and applies to~~ means gifts, exchanges, and barter; of  
3 cigarettes and/or other tobacco products. The act of holding, storing, or keeping cigarettes and/or  
4 other tobacco products at a place of business for any purpose shall be presumed to be holding the  
5 cigarettes and/or other tobacco products for sale. Furthermore, any sale of cigarettes and/or other  
6 tobacco products by the servants, employees, or agents of the licensed dealer during business hours  
7 at the place of business shall be presumed to be a sale by the licensee;

8 ~~(11)~~(13) "Stamp" means the impression, device, stamp, label, or print manufactured,  
9 printed, or made as prescribed by the administrator to be affixed to packages of cigarettes, as  
10 evidence of the payment of the tax provided by this chapter or to indicate that the cigarettes are  
11 intended for a sale or distribution in this state that is exempt from state tax under the provisions of  
12 state law; and also includes impressions made by metering machines authorized to be used under  
13 the provisions of this chapter.

14 **44-20-3. Penalties for unlicensed business.**

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

21 **44-20-4.1. License availability.**

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

- 24 (1) Owes five hundred dollars (\$500) or more in delinquent ~~cigarette~~ taxes;  
25 (2) Is delinquent in any tax filings for one month or more;  
26 (3) Had a license under this chapter revoked by the administrator within the past two (2)  
27 years;

28 (4) Has been convicted of a crime relating to cigarettes ~~stolen or counterfeit cigarettes~~  
29 and/or other tobacco products;

30 (5) Is a cigarette manufacturer or importer that is neither: (i) a participating manufacturer  
31 as defined in subsection II (jj) of the "Master Settlement Agreement" as defined in § 23-71-2; nor  
32 (ii) in full compliance with chapter 20.2 of this title and § 23-71-3;

33 (6) Has imported, or caused to be imported, into the United States any cigarette or other  
34 tobacco product in violation of 19 U.S.C. § 1681a; or

1 (7) Has imported, or caused to be imported, into the United States, or manufactured for  
2 sale or distribution in the United States any cigarette that does not fully comply with the Federal  
3 Cigarette Labeling and Advertising Act (15 U.S.C. § 1331, et. seq).

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

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

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

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

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

30 **44-20-8. Suspension or revocation of license.**

31 The tax administrator may suspend or revoke any license under this chapter for failure of  
32 the licensee to comply with any provision of this chapter or with any provision of any other law or  
33 ordinance relative to the sale or purchase of cigarettes or other tobacco products; ~~and the~~. The tax  
34 administrator may also suspend or revoke any license for failure of the licensee to comply with any

1 provision of [chapter 19 of title 44 and](#) chapter 13 of title 6, and, for the purpose of determining  
2 whether the licensee is complying with any provision of chapter 13 of title 6, the tax administrator  
3 and his or her authorized agents are empowered, in addition to authority conferred by § 44-20-40,  
4 to examine the books, papers, and records of any licensee. The administrator shall revoke the  
5 license of any person who would be ineligible to obtain a new or renew a license by reason of any  
6 of the conditions for licensure provided in § 44-20-4.1. Any person aggrieved by the suspension  
7 or revocation may apply to the administrator for a hearing as provided in § 44-20-47, and may  
8 further appeal to the district court as provided in § 44-20-48.

9 **44-20-8.2. Transactions only with licensed manufacturers, importers, distributors,**  
10 **and dealers.**

11 A manufacturer or importer may sell or distribute cigarettes [and/or other tobacco products](#)  
12 to a person located or doing business within this state, only if such person is a licensed importer or  
13 distributor. An importer may obtain cigarettes [and/or other tobacco products](#) only from a licensed  
14 manufacturer. A distributor may sell or distribute cigarettes [and/or other tobacco products](#) to a  
15 person located or doing business within this state, only if such person is a licensed distributor or  
16 dealer. A distributor may obtain cigarettes [and/or other tobacco products](#) only from a licensed  
17 manufacturer, importer, or distributor. A dealer may obtain cigarettes [and/or other tobacco](#)  
18 [products](#) only from a licensed distributor.

19 **44-20-13.2. Tax imposed on other tobacco products, smokeless tobacco, cigars, and**  
20 **pipe tobacco products.**

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

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

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

31 (3) At the rate of one dollar (\$1.00) per ounce of snuff, and a proportionate tax at the like  
32 rate on all fractional parts of an ounce thereof. Such tax shall be computed based on the net weight  
33 as listed by the manufacturer, provided, however, that any product listed by the manufacturer as  
34 having a net weight of less than 1.2 ounces shall be taxed as if the product has a net weight of 1.2

1 ounces.

2 ~~(b) Any dealer having in his or her possession any tobacco, cigars, and pipe tobacco~~  
3 ~~products with respect to the storage or use of which a tax is imposed by this section shall, within~~  
4 ~~five (5) days after coming into possession of the tobacco, cigars, and pipe tobacco in this state, file~~  
5 ~~a return with the tax administrator in a form prescribed by the tax administrator. The return shall~~  
6 ~~be accompanied by a payment of the amount of the tax shown on the form to be due. Records~~  
7 ~~required under this section shall be preserved on the premises described in the relevant license in~~  
8 ~~such a manner as to ensure permanency and accessibility for inspection at reasonable hours by~~  
9 ~~authorized personnel of the administrator.~~

10 ~~(e)~~(b) The proceeds collected are paid into the general fund.

11 **44-20-15. Confiscation of contraband cigarettes, other tobacco products, and other**  
12 **property.**

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

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

24 **44-20-33. Sale of contraband ~~unstamped~~ cigarettes or contraband other tobacco**  
25 **products prohibited.**

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

30 **44-20-35. Penalties for violations as to unstamped contraband cigarettes or**  
31 **contraband other tobacco products.**

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

34 (1) For a first offense in a twenty-four-month (24) period, fined ~~not more than one thousand~~

1 ~~dollars (\$1,000), or~~ not more than ~~five (5)~~ ten (10) times the retail value of the ~~cigarettes~~ contraband  
2 cigarettes and/or contraband other tobacco products involved, whichever is greater or be  
3 imprisoned not more than one (1) year, or be both fined and imprisoned;

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

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

10 **44-20-40.1. Inspections.**

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

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

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

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

31 **44-20-45. Importation of cigarettes and/or other tobacco products with intent to evade**  
32 **tax.**

33 Any person, firm, corporation, club, or association of persons who ~~or that~~ orders any  
34 cigarettes and/or other tobacco products for another or pools orders for cigarettes and/or other

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

8 **44-20-51.1. Civil Penalties.**

9 (a) Whoever omits, neglects, or refuses to comply with any duty imposed upon him/her by  
10 this chapter, or does, or causes to be done, any of the things required by this chapter, or does  
11 anything prohibited by this chapter, shall, in addition to any other penalty provided in this chapter,  
12 be liable as follows:

13 (1) For a first offense in a twenty-four month (24) period, a penalty of not more than ~~one~~  
14 ~~thousand dollars (\$1,000), or five (5)~~ ten (10) times the retail value of the cigarettes and/or other  
15 tobacco products involved, ~~whichever is greater, to be recovered, with costs of suit, in a civil action;~~  
16 and

17 (2) For a second or subsequent offense in a twenty-four-month (24) period, a penalty of  
18 not more than ~~five thousand dollars (\$5,000), or not more than~~ twenty-five (25) times the retail  
19 value of the cigarettes and/or other tobacco products involved, ~~whichever is greater, to be~~  
20 ~~recovered, with costs of suit, in a civil action.~~

21 (b) Whoever fails to pay any tax imposed by this chapter at the time prescribed by law or  
22 regulations, shall, in addition to any other penalty provided in this chapter, be liable for a penalty  
23 of one thousand dollars (\$1,000) or not more than five (5) times the tax due but unpaid, whichever  
24 is greater.

25 (c) When determining the amount of a penalty sought or imposed under this section,  
26 evidence of mitigating or aggravating factors, including history, severity, and intent, shall be  
27 considered.

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