

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

400H0244

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB 21** - 01/16/2002

Introduced by: The Committee on Judiciary at the request of the Attorney General

1 FOR AN ACT ENTITLED, An Act to prohibit tax stamping or payment of taxes on cigarettes
2 or roll your own tobacco products produced by certain nonparticipating manufacturers and
3 to provide for the creation of a directory for compliant nonparticipating manufacturers.

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

5 Section 1. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 No distributor or wholesaler may, directly or indirectly, affix a South Dakota cigarette tax
8 stamp or imprint to a package of cigarettes, or pay South Dakota cigarette tax on roll-your-own
9 tobacco product, manufactured or sold by a tobacco product manufacturer unless:

- 10 (1) The manufacturer is a participating manufacturer as that term is defined in subdivision
11 10-50B-7(1); or
12 (2) The manufacturer is a nonparticipating manufacturer in compliance with subdivision
13 10-50B-7(2).

14 Section 2. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
15 follows:



1 The secretary of revenue shall annually, no later than May fifteenth, transmit to all licensed
2 distributors and wholesalers, and post on the Department of Revenue's website, a directory of
3 nonparticipating tobacco product manufacturers determined by the secretary to be in compliance
4 with subdivision 10-50B-7(2). The secretary of revenue shall amend the directory on the
5 Department of Revenue's website, as necessary, to include any nonparticipating tobacco product
6 manufacturer determined to be in compliance with subdivision 10-50B-7(2) after May fifteenth,
7 or to remove any nonparticipating tobacco product manufacturer subsequently determined not
8 to be in compliance with subdivision 10-50B-7(2). The secretary of revenue may require
9 distributors, wholesalers, and nonparticipating tobacco product manufacturers to submit such
10 information as the secretary may determine is necessary to enable the secretary to determine
11 whether a nonparticipating tobacco product manufacturer is in compliance with subdivision 10-
12 50B-7(2).

13 Section 3. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Any nonparticipating tobacco product manufacturer excluded or removed from the directory
16 may request a contested case hearing before the secretary. A request for hearing shall be made
17 within sixty days of the exclusion or removal or the date the manufacturer determined it was in
18 full compliance with this chapter and chapter 10-50B, and shall contain the evidence supporting
19 the manufacturer's compliance with subdivision 10-50B-7(2). At the hearing, the secretary shall
20 determine whether the nonparticipating tobacco product manufacturer is in compliance with
21 subdivision 10-50B-7(2), and whether the manufacturer should be listed in the directory.

22 Section 4. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 Any stamped cigarettes or roll-your-own tobacco on which taxes have been paid in violation

1 of this Act are contraband goods and may be legally seized, without a warrant, by the secretary
2 of revenue, department agents or employees, or by any law enforcement officer of this state if
3 directed by the secretary to do so. Any tobacco products seized and forfeited under this section
4 shall be destroyed. The Department of Revenue may allow a credit for tax paid on contraband
5 cigarettes and roll-your-own product returned to the manufacturer or distributor from which they
6 were purchased.