

AN ACT

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

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

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

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

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

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

The secretary of revenue shall annually, no later than May fifteenth, transmit to all licensed distributors and wholesalers, and post on the Department of Revenue's website, a directory of nonparticipating tobacco product manufacturers determined by the secretary to be in compliance with subdivision 10-50B-7(2). The secretary of revenue shall amend the directory on the Department of Revenue's website, as necessary, to include any nonparticipating tobacco product manufacturer determined to be in compliance with subdivision 10-50B-7(2) after May fifteenth, or to remove any nonparticipating tobacco product manufacturer subsequently determined not to be in compliance with subdivision 10-50B-7(2). The secretary of revenue may require distributors, wholesalers, and

nonparticipating tobacco product manufacturers to submit such information as the secretary may determine is necessary to enable the secretary to determine whether a nonparticipating tobacco product manufacturer is in compliance with subdivision 10-50B-7(2).

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

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

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

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

An Act to prohibit tax stamping or payment of taxes on cigarettes or roll your own tobacco products produced by certain nonparticipating manufacturers and to provide for the creation of a directory for compliant nonparticipating manufacturers.

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I certify that the attached Act
originated in the
SENATE as Bill No. 21

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 21
File No.
Chapter No.

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Received at this Executive Office
this \_\_\_ day of \_\_\_\_\_,
20\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_
for the Governor

The attached Act is hereby
approved this \_\_\_ day of
\_\_\_\_\_, A.D., 20\_\_\_

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_
at \_\_\_\_\_ o'clock \_\_ M.

Secretary of State

By \_\_\_\_\_
Asst. Secretary of State