

By: Hopson

H.B. No. 4417

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the cigars and tobacco products tax.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Subchapter C, Chapter 155, Tax Code, Section  
5 155.001 is amended to read as follows:

6 Sec. 155.001. DEFINITIONS. In this chapter:

7 (1-a) "Affiliate" means a person who controls, is controlled by,  
8 or is under common control with another person.

9 (1-b) "Bonded agent" means a person in this state who is an agent  
10 of a person outside this state and receives cigars and tobacco  
11 products in interstate commerce and stores the cigars and tobacco  
12 products for distribution or delivery to distributors under orders  
13 from the person outside this state.

14 (2) "Cigar" means a roll of fermented tobacco that is wrapped in  
15 tobacco and the main stream of smoke from which produces an alkaline  
16 reaction to litmus paper.

17 (3) "Commercial business location" means the entire premises  
18 occupied by a permit applicant or a person required to hold a permit  
19 under this chapter.

20 (4) "Common carrier" means a motor carrier registered under  
21 Chapter 643, Transportation Code, or a motor carrier operating  
22 under a certificate issued by the Interstate Commerce Commission or  
23 a successor agency to the Interstate Commerce Commission.

24 (5) "Consumer" means a person who possesses tobacco products for

1 personal consumption.

2 (6) "Distributor" means a person who:

3 (A) receives tobacco products for the purpose of making a  
4 first sale in this state from a manufacturer outside the state or  
5 within the state or otherwise brings or causes to be brought into  
6 this state tobacco products for sale, use, or consumption;

7 (B) manufactures or produces tobacco products; or

8 (C) is an importer or import broker.

9 (7) "Export warehouse" means a person in this state who receives  
10 tobacco products from manufacturers and stores the tobacco products  
11 for the purpose of making sales to authorized persons for resale,  
12 use, or consumption outside the United States.

13 (8) "First sale" means, except as otherwise provided by this  
14 chapter:

15 (A) the first transfer of possession in connection with a  
16 purchase, sale, or any exchange for value of tobacco products in  
17 intrastate commerce;

18 (B) the first use or consumption of tobacco products in this  
19 state; or

20 (C) the loss of tobacco products in this state whether  
21 through negligence, theft, or other unaccountable loss.

22 (9) "Importer" or "import broker" means a person who ships,  
23 transports, or imports into this state tobacco products  
24 manufactured or produced outside the United States for the purpose  
25 of making a first sale in this state.

26 (10) "Manufacturer" means a person who manufactures or produces  
27 tobacco products and sells tobacco products to a distributor or an

1 affiliate of the person.

2 (11) "Manufacturer's representative" means a person employed by a  
3 manufacturer to sell or distribute the manufacturer's tobacco  
4 products.

5 (12) "Permit holder" means a bonded agent, distributor,  
6 wholesaler, manufacturer, importer, or retailer required to obtain  
7 a permit under Section 155.041.

8 (13) "Place of business" means:

9 (A) a commercial business location where tobacco products  
10 are sold;

11 (B) a commercial business location where tobacco products  
12 are kept for sale or consumption or otherwise stored; or

13 (C) a vehicle from which tobacco products are sold.

14 (14) "Retailer" means a person who engages in the practice of  
15 selling tobacco products to consumers and includes the owner of a  
16 coin-operated vending machine.

17 (15) "Tobacco product" means:

18 (A) a cigar;

19 (B) smoking tobacco, including granulated, plug-cut,  
20 crimp-cut, ready-rubbed, and any form of tobacco suitable for  
21 smoking in a pipe or as a cigarette;

22 (C) chewing tobacco, including Cavendish, Twist, plug,  
23 scrap, and any kind of tobacco suitable for chewing;

24 (D) snuff or other preparations of pulverized tobacco; or

25 (E) an article or product that is made of tobacco or a  
26 tobacco substitute and that is not a cigarette.

27 (16) "Wholesaler" means a person, including a manufacturer's

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1 representative, who sells or distributes tobacco products in this  
2 state for resale but who is not a distributor.

3 SECTION 2. This Act takes effect September 1, 2009.