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HOUSE BILL 502

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Jim R. Trujillo

AN ACT

RELATING TO TAXATION; INCREASING THE TOBACCO PRODUCTS TAX;
IMPOSING THE TAX ON E-CIGARETTES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-12A-2 NMSA 1978 (being Laws 1986,
Chapter 112, Section 3, as amended) is amended to read:

"7-12A-2. DEFINITIONS.--As used in the Tobacco Products
Tax Act:

A. "department" means the taxation and revenue
department, the secretary or any employee of the department
exercising authority lawfully delegated to that employee by the
secretary;

B. "distribute" means to sell or to give;

C. "e-cigarette":

(1) means any electronic oral device that can

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1 be used to provide a vapor or aerosol of nicotine or any other
2 substance to the person inhaling from the device; and

3 (2) includes any such device, or any part
4 thereof, whether manufactured, distributed, marketed or sold as
5 an e-cigarette, e-cigar, e-pipe or any other product name or
6 descriptor;

7 [~~E-~~] D. "engaging in business" means carrying on or
8 causing to be carried on any activity with the purpose of
9 direct or indirect benefit;

10 [~~D-~~] E. "first purchaser" means a person engaging
11 in business in New Mexico [~~who~~] that manufactures tobacco
12 products or [~~who~~] that purchases or receives on consignment
13 tobacco products from any person outside of New Mexico, which
14 tobacco products are to be distributed in New Mexico in the
15 ordinary course of business;

16 [~~E-~~] F. "person" means any individual, estate,
17 trust, receiver, cooperative association, club, corporation,
18 company, firm, partnership, joint venture, syndicate, limited
19 liability company, limited liability partnership, other
20 association or gas, water or electric utility owned or operated
21 by a county or municipality or other entity of the state;
22 "person" also means, to the extent permitted by law, a federal,
23 state or other governmental unit or subdivision or an agency,
24 department or instrumentality;

25 [~~F-~~] G. "product value" means the amount paid, net

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1 of any discounts taken and allowed, for tobacco products or, in
2 the case of tobacco products received on consignment, the value
3 of the tobacco products received or, in the case of tobacco
4 products manufactured and sold in New Mexico, the proceeds from
5 the sale by the manufacturer of the tobacco products; and

6 ~~[G-]~~ H. "tobacco product" means:

7 (1) any product, other than cigarettes, made
8 of or derived from [or containing] tobacco or nicotine that is
9 intended for human consumption, whether smoked, heated, chewed,
10 absorbed, dissolved, inhaled, snorted, sniffed or ingested by
11 any other means, including cigars, chewing tobacco, e-
12 cigarettes, pipe tobacco or snuff; and

13 (2) any component, part or accessory used to
14 consume tobacco or nicotine but does not include any product
15 that has been approved by the United States food and drug
16 administration for sale as a tobacco cessation product or for
17 other therapeutic purposes where such product is marketed and
18 sold solely for such an approved use."

19 SECTION 2. Section 7-12A-3 NMSA 1978 (being Laws 1986,
20 Chapter 112, Section 4, as amended) is amended to read:

21 "7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
22 "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

23 A. For the privilege of engaging in business to
24 manufacture [or acquisition of], acquire or distribute tobacco
25 products [in New Mexico to be distributed] in the ordinary

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1 course of business and for the [~~consumption of~~] privilege of
2 consuming tobacco products in New Mexico, there is imposed an
3 excise tax at the rate of [~~twenty-five~~] forty-five percent of
4 the product value of the tobacco products.

5 B. The tax imposed by Subsection A of this section
6 may be referred to as the "tobacco products tax".

7 C. The tobacco products tax shall be paid by the
8 first purchaser on or before the twenty-fifth day of the month
9 following the month in which the taxable event occurs."

10 SECTION 3. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2019.