

House Bill 124

By: Representative O`Neal of the 146th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 48 of the Official Code of Georgia Annotated, relating to cigar
2 and cigarette taxes, so as to change certain definitions regarding such taxes; to provide an
3 effective date; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Chapter 11 of Title 48 of the Official Code of Georgia Annotated, relating to cigar and
7 cigarette taxes, is amended by striking Code Section 48-11-1, relating to definitions
8 regarding such taxes, and inserting in its place a new Code Section 48-11-1 to read as
9 follows:

10 "48-11-1.

11 As used in this chapter, the term:

12 (1) 'Cigar' means any roll for smoking made wholly or in part of tobacco when the cover
13 of the roll is also tobacco.

14 (2) 'Cigar dealer' means any person located within the borders of this state who sells or
15 distributes cigars to a consumer in this state.

16 (3) 'Cigar distributor' means any person, whether located within or outside the borders
17 of this state, other than a cigar dealer, who sells or distributes cigars within or into the
18 boundaries of this state and who:

19 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
20 contact and call on cigar dealers; and

21 (B) Is engaged in the business of:

22 (i) Importing cigars into this state or purchasing cigars from other cigar
23 manufacturers or cigar distributors; and

24 (ii) Selling the cigars to cigar dealers in this state for resale but is not in the business
25 of selling the cigars directly to the ultimate consumer of the cigars.

1 (4) 'Cigar importer' means any person who imports into or who brokers within the United
2 States, either directly or indirectly, a finished cigar for sale or distribution.

3 (5) 'Cigar manufacturer' means any person who manufactures, fabricates, assembles,
4 processes, or labels a finished cigar.

5 (6) 'Cigarette' means any roll for smoking made wholly or in part of tobacco when the
6 cover of the roll is paper or any substance other than tobacco.

7 (7) 'Cigarette dealer' means any person located within the borders of this state who sells
8 or distributes cigarettes to a consumer in this state.

9 (8) 'Cigarette distributor' means any person, whether located within or outside the
10 borders of this state, other than a cigarette dealer, who sells or distributes cigarettes
11 within or into the boundaries of this state and who:

12 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
13 contact and call on cigarette dealers; and

14 (B) Is engaged in the business of:

15 (i) Importing cigarettes into this state or purchasing cigarettes from other cigarette
16 manufacturers or cigarette distributors; and

17 (ii) Selling the cigarettes to cigarette dealers in this state for resale but is not in the
18 business of selling the cigarettes directly to the ultimate consumer of the cigarettes.

19 Such term shall not include any cigarette manufacturer, export warehouse proprietor, or
20 cigarette importer with a valid permit under 26 U.S.C. Section 5712, if such person sells
21 or distributes cigarettes in this state only to cigarette distributors who hold valid and
22 current licenses under Code Section 48-11-4 or to an export warehouse proprietor or
23 another cigarette manufacturer with a valid permit under 26 U.S.C. Section 5712.

24 (9) 'Cigarette importer' means any person who imports into or who brokers within the
25 United States, either directly or indirectly, a finished cigarette for sale or distribution.

26 (10) 'Cigarette manufacturer' means any person who manufactures, fabricates, assembles,
27 processes, or labels a finished cigarette.

28 (11) 'Counterfeit cigarette' means cigarettes that are manufactured, fabricated, assembled,
29 processed, packaged, or labeled by any person other than the trademark owner of a
30 cigarette brand or the owner's designated agent.

31 (12) 'Dealer' means any person who is a cigar dealer, a cigarette dealer, or a loose or
32 smokeless tobacco dealer.

33 (13) 'Distributor' means any person who is a cigar distributor, a cigarette distributor, or
34 a loose or smokeless tobacco distributor.

35 (14) 'First taxable transaction' means the first sale, receipt, purchase, possession,
36 consumption, handling, distribution, or use of cigars, cigarettes, or loose or smokeless
37 tobacco within this state.

1 (15) 'Loose or smokeless tobacco' means granulated, plug cut, crimp cut, ready rubbed,
2 and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist tobacco;
3 fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and
4 sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as
5 to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and
6 smoking but does not include cigarettes or cigars or tobacco purchased for the
7 manufacture of cigarettes or cigars by cigarette manufacturers or cigar manufacturers.

8 (16) 'Loose or smokeless tobacco dealer' means any person located within the borders
9 of this state who sells or distributes loose or smokeless tobacco to a consumer in this
10 state.

11 (17) 'Loose or smokeless tobacco distributor' means any person who:

12 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
13 contact and call on loose or smokeless tobacco dealers; and

14 (B) Is engaged in the business of:

15 (i) Importing loose or smokeless tobacco into this state or purchasing loose or
16 smokeless tobacco from other loose or smokeless tobacco manufacturers or loose or
17 smokeless tobacco distributors; and

18 (ii) Selling the loose or smokeless tobacco to loose or smokeless tobacco dealers in
19 this state for resale but is not in the business of selling the loose or smokeless tobacco
20 directly to the ultimate consumer of the loose or smokeless tobacco.

21 (18) 'Loose or smokeless tobacco importer' means any person who imports into or who
22 brokers within the United States, either directly or indirectly, finished loose or smokeless
23 tobacco for sale or distribution.

24 (19) 'Loose or smokeless tobacco manufacturer' means any person who manufactures,
25 fabricates, assembles, processes, or labels finished loose or smokeless tobacco.

26 (20) 'Related machinery' means any item, device, conveyance, or vessel of any kind or
27 character used in manufacturing, packaging, labeling, stamping, transporting, distributing,
28 selling, or possessing counterfeit cigarettes.

29 (21) 'Sale' means any sale, transfer, exchange, theft, barter, gift, or offer for sale and
30 distribution in any manner or by any means whatever.

31 (22) 'Stamp' means any impression, device, stamp, label, or print manufactured, printed,
32 made, or affixed as prescribed by the commissioner.

33 (23) 'Vending machine' means any coin-in-the-slot device used for the automatic
34 merchandising of cigars, cigarettes, or loose or smokeless tobacco."

1 **SECTION 2.**

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

4 **SECTION 3.**

5 All laws and parts of laws in conflict with this Act are repealed.