

House Bill 355

By: Representatives Williams of the 4th, Dickson of the 6th, and Jerguson of the 22nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 48 of the Official Code of Georgia Annotated, relating to taxes
2 on tobacco products, so as to change certain provisions relating to the excise tax on certain
3 tobacco products; to provide for a definition; to establish the rate of tax on certain tobacco
4 products; to establish the retail selling price before the addition of certain taxes; to provide
5 exemptions from certain taxes; to authorize the collection and payment on the first taxable
6 transaction; to change certain provisions regarding civil and criminal penalties; to provide
7 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Chapter 11 of Title 48 of the Official Code of Georgia Annotated, relating to taxes on
12 tobacco products, is amended by revising Code Section 48-11-1, relating to definitions
13 relative to taxes on tobacco products, as follows:

14 "48-11-1.

15 As used in this chapter, the term:

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

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

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

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

25 (B) Is engaged in the business of:

- 26 (i) Importing cigars into this state or purchasing cigars from other cigar
27 manufacturers or cigar distributors; and
- 28 (ii) Selling the cigars to cigar dealers in this state for resale but is not in the business
29 of selling the cigars directly to the ultimate consumer of the cigars.
- 30 (4) 'Cigar importer' means any person who imports into or who brokers within the United
31 States, either directly or indirectly, a finished cigar for sale or distribution.
- 32 (5) 'Cigar manufacturer' means any person who manufactures, fabricates, assembles,
33 processes, or labels a finished cigar.
- 34 (6) 'Cigarette' means any roll for smoking made wholly or in part of tobacco when the
35 cover of the roll is paper or any substance other than tobacco.
- 36 (7) 'Cigarette dealer' means any person located within the borders of this state who sells
37 or distributes cigarettes to a consumer in this state.
- 38 (8) 'Cigarette distributor' means any person, whether located within or outside the
39 borders of this state, other than a cigarette dealer, who sells or distributes cigarettes
40 within or into the boundaries of this state and who:
- 41 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
42 contact and call on cigarette dealers; and
- 43 (B) Is engaged in the business of:
- 44 (i) Importing cigarettes into this state or purchasing cigarettes from other cigarette
45 manufacturers or cigarette distributors; and
- 46 (ii) Selling the cigarettes to cigarette dealers in this state for resale but is not in the
47 business of selling the cigarettes directly to the ultimate consumer of the cigarettes.
- 48 Such term shall not include any cigarette manufacturer, export warehouse proprietor, or
49 cigarette importer with a valid permit under 26 U.S.C. Section 5712, if such person sells
50 or distributes cigarettes in this state only to cigarette distributors who hold valid and
51 current licenses under Code Section 48-11-4 or to an export warehouse proprietor or
52 another cigarette manufacturer with a valid permit under 26 U.S.C. Section 5712.
- 53 (9) 'Cigarette importer' means any person who imports into or who brokers within the
54 United States, either directly or indirectly, a finished cigarette for sale or distribution.
- 55 (10) 'Cigarette manufacturer' means any person who manufactures, fabricates, assembles,
56 processes, or labels a finished cigarette.
- 57 (11) 'Counterfeit cigarette' means cigarettes that are manufactured, fabricated, assembled,
58 processed, packaged, or labeled by any person other than the trademark owner of a
59 cigarette brand or the owner's designated agent.
- 60 (12) 'Dealer' means any person who is a cigar dealer, a cigarette dealer, or a loose or
61 smokeless tobacco dealer.

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

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

67 ~~(15)~~ (16) 'Little cigar' means any cigar weighing not more than three pounds per thousand.

68 ~~(15)~~ (16) 'Loose or smokeless tobacco' means granulated, plug cut, crimp cut, ready
69 rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist
70 tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings,
71 and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such
72 manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for
73 chewing and smoking but does not include cigarettes or cigars or tobacco purchased for
74 the manufacture of cigarettes or cigars by cigarette manufacturers or cigar manufacturers.

75 ~~(16)~~ (17) 'Loose or smokeless tobacco dealer' means any person located within the
76 borders of this state who sells or distributes loose or smokeless tobacco to a consumer in
77 this state.

78 ~~(17)~~ (18) 'Loose or smokeless tobacco distributor' means any person who:

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

81 (B) Is engaged in the business of:

82 (i) Importing loose or smokeless tobacco into this state or purchasing loose or
83 smokeless tobacco from other loose or smokeless tobacco manufacturers or loose or
84 smokeless tobacco distributors; and

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

88 ~~(18)~~ (19) 'Loose or smokeless tobacco importer' means any person who imports into or
89 who brokers within the United States, either directly or indirectly, finished loose or
90 smokeless tobacco for sale or distribution.

91 ~~(19)~~ (20) 'Loose or smokeless tobacco manufacturer' means any person who
92 manufactures, fabricates, assembles, processes, or labels finished loose or smokeless
93 tobacco.

94 ~~(20)~~ (21) 'Related machinery' means any item, device, conveyance, or vessel of any kind
95 or character used in manufacturing, packaging, labeling, stamping, transporting,
96 distributing, selling, or possessing counterfeit cigarettes.

97 ~~(21)~~ (22) 'Sale' means any sale, transfer, exchange, theft, barter, gift, or offer for sale and
98 distribution in any manner or by any means whatever.

99 ~~(22)~~(23) 'Stamp' means any impression, device, stamp, label, or print manufactured,
100 printed, made, or affixed as prescribed by the commissioner.

101 ~~(23)~~(24) 'Vending machine' means any coin-in-the-slot device used for the automatic
102 merchandising of cigars, cigarettes, or loose or smokeless tobacco."

103 **SECTION 2.**

104 Said chapter is further amended by revising Code Section 48-11-2, relating to excise taxes,
105 rate on tobacco products, the retail selling price before the addition of tax, exemptions,
106 collection and payment on the first taxable transaction, distributors, taxes separately
107 identified, and collection, as follows:

108 "48-11-2.

109 (a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed
110 upon the sale, receipt, purchase, possession, consumption, handling, distribution, or use of
111 cigars, cigarettes, and loose or smokeless tobacco in this state at the following rates:

112 (1) Little cigars ~~weighing not more than three pounds per thousand~~: two and one-half
113 mills each;

114 (2) All ~~other~~ cigars other than little cigars: 23 percent of the wholesale cost price,
115 exclusive of any trade, cash, or other discounts or any promotion, advertising, display,
116 or similar allowances;

117 (3) Cigarettes: 37¢ per pack of 20 cigarettes and a like rate, pro rata, for other size
118 packages; and

119 (4) Loose or smokeless tobacco: 10 percent of the wholesale cost price, exclusive of any
120 trade, cash, or other discounts or any promotion, advertising, display, or similar
121 allowances.

122 (b) When the retail selling price is referred to in this chapter as the basis for computing the
123 tax, it is intended to mean the ordinary retail selling price of the article to the consumer
124 before adding the amount of the tax.

125 (c) The taxes imposed by this chapter are levied ~~with respect to~~ on the purchase or use of
126 cigars, little cigars, cigarettes, or loose or smokeless tobacco by the state or any
127 department, institution, or agency of the state and by the political subdivisions of the state
128 and their departments, institutions, and agencies. The taxes imposed by this chapter are not
129 imposed ~~with respect to~~ on cigars, little cigars, cigarettes, or loose or smokeless tobacco
130 purchased exclusively for use by the patients at the Georgia War Veterans Home and the
131 Georgia War Veterans Nursing Home.

132 (d) The taxes imposed by this chapter are not levied ~~with respect to~~ on cigars, little cigars,
133 cigarettes, or loose or smokeless tobacco the purchase or use of which this state is
134 prohibited from taxing under the Constitution or statutes of the United States.

135 (e) The taxes imposed by this chapter shall be advanced and paid by the distributor to the
 136 commissioner for deposit and distribution as provided in this chapter upon the first taxable
 137 transaction within the state, whether or not the transaction involves the ultimate purchaser
 138 or consumer. The seller or distributor shall collect the tax from the purchaser or consumer
 139 and the purchaser or consumer shall pay the tax to the seller or distributor. The seller or
 140 distributor shall be responsible for the collection of the tax and the payment of the tax to
 141 the commissioner. Whenever cigars, little cigars, cigarettes, or loose or smokeless tobacco
 142 is shipped from outside the state to anyone other than a distributor, the person receiving the
 143 cigars, little cigars, cigarettes, or loose or smokeless tobacco shall be deemed to be a
 144 distributor and shall be responsible for the tax on the cigars, little cigars, cigarettes, or loose
 145 or smokeless tobacco and the payment of the tax to the commissioner. No tobacco
 146 products shall be sold in this state unless lawfully obtained from a person licensed pursuant
 147 to this chapter.

148 (f) The amount of taxes advanced and paid to the state as provided in this Code section
 149 shall be added to and collected as a part of the sales price of the cigars, little cigars,
 150 cigarettes, or loose or smokeless tobacco sold or distributed. The amount of the tax shall
 151 be stated separately from the price of the cigars, little cigars, cigarettes, or loose or
 152 smokeless tobacco.

153 (g) The cigars, little cigars, cigarettes, and loose or smokeless tobacco tax imposed shall
 154 be collected only once upon the same ~~cigarettes~~, cigars, little cigars, cigarettes, or loose or
 155 smokeless tobacco."

156 SECTION 3.

157 Said chapter is further amended by revising Code Section 48-11-4, relating to the licensing
 158 of persons engaged in tobacco business, initial and annual fees, suspension and revocation
 159 of licenses, the registration and inspection of vending machines, bonds, jurisdiction, and
 160 licensing of promotional activities, as follows:

161 "48-11-4.

162 (a) No person shall engage in or conduct the business of manufacturing, importing,
 163 brokering, purchasing, selling, consigning, vending, dealing in, receiving, or distributing
 164 cigars, little cigars, cigarettes, or loose or smokeless tobacco in this state without first
 165 obtaining a license from the commissioner.

166 (b) All licenses shall be issued by the commissioner, who shall make rules and regulations
 167 with respect to applications for and issuance of the licenses and for other purposes of
 168 enforcing this chapter. The commissioner may refuse to issue any license under this chapter
 169 when the commissioner has reasonable cause to believe that the applicant has willfully
 170 withheld information requested of the applicant or required by the regulations to be

171 provided or reported or when the commissioner has reasonable cause to believe that the
172 information submitted in any application or report is false or misleading and is not given
173 in good faith.

174 (c) The fee for a manufacturer's, importer's, or distributor's license shall be \$50.00
175 annually, except that for a person commencing business as a manufacturer, importer, or
176 distributor for the first time the first year's fee shall be \$250.00. Each dealer shall have a
177 permanent license issued by the commissioner free of charge. Each license, except a
178 dealer's license, shall begin on July 1 and end on June 30 of the next succeeding year. The
179 prescribed fee shall accompany every application for a license and shall apply for any
180 portion of the annual period. Each manufacturer's, importer's, distributor's, or dealer's
181 license shall be subject to suspension or revocation for violation of any of the provisions
182 of this chapter or of the rules and regulations made pursuant to this chapter. A separate
183 license shall be required for each place of business. No person shall hold a distributor's
184 license and a dealer's license at the same time.

185 (d) The commissioner may make rules and regulations governing the sale of cigars, little
186 cigars, cigarettes, loose or smokeless tobacco, and other tobacco products in vending
187 machines. The commissioner shall require annually a special registration of each vending
188 machine for any operation in this state and charge a license fee for the registration in the
189 amount of \$1.00 for each machine. The annual registration shall indicate the location of the
190 vending machine. No vending machine shall be purchased or transported into this state for
191 use in this state when the vending machine is not so designed as to permit inspection
192 without opening the machine for the purpose of determining that cigars, little cigars,
193 cigarettes, loose or smokeless tobacco, and other tobacco products contained in the
194 machine bear the tax stamp required under this chapter.

195 (e) The manufacturer's, importer's, distributor's, or dealer's license shall be exhibited in the
196 place of business for which it is issued in the manner prescribed by the commissioner. The
197 commissioner shall require each licensed manufacturer, importer, or distributor to file with
198 the commissioner a bond in an amount of not less than \$1,000.00 to guarantee the proper
199 performance of the manufacturer's, importer's, or distributor's duties and the discharge of
200 the manufacturer's, importer's, or distributor's liabilities under this chapter. The bond shall
201 run concurrently with the manufacturer's, importer's, or distributor's license but shall
202 remain in full force and effect for a period of one year after the expiration or revocation of
203 the manufacturer's, importer's, or distributor's license unless the commissioner certifies that
204 all obligations due the state arising under this chapter have been paid.

205 (f) The jurisdiction of the commissioner in the administration of this chapter shall extend
206 to every person using or consuming cigars, little cigars, cigarettes, or loose or smokeless
207 tobacco in this state and to every person dealing in cigars, little cigars, cigarettes, or loose

208 or smokeless tobacco in any way for business purposes and maintaining a place of business
 209 in this state. For the purpose of this chapter, the maintaining of an office, store, plant,
 210 warehouse, stock of goods, or regular sales or promotional activity, whether carried on
 211 automatically or by salespersons or other representatives, shall constitute, among other
 212 activities, the maintaining of a place of business. For the purpose of enforcement of this
 213 chapter and the rules and regulations promulgated ~~hereunder~~ under this chapter,
 214 notwithstanding any other provision of law, the commissioner or his or her duly appointed
 215 hearing officer is granted authority to conduct hearings which shall at all times be exercised
 216 in conformity with rules and regulations promulgated by the commissioner and consistent
 217 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

218 (g) The commissioner may provide for the licensing of promotional activities, not
 219 including the sale of cigars, little cigars, cigarettes, or loose or smokeless tobacco, carried
 220 on by the manufacturer. The fee for any such license shall be \$10.00 annually."

221 **SECTION 4.**

222 Said chapter is further amended by revising subsection (a) of Code Section 48-11-10, relating
 223 to monthly reports of licensed distributors, contents, and authority to require reports from
 224 common carriers, warehousemen, and others, as follows:

225 "(a) Every licensed distributor shall file with the commissioner, on or before the tenth day
 226 of each month, a report in the form prescribed by the commissioner ~~and~~ disclosing:

227 (1) The quantity of cigars, little cigars, cigarettes, or loose or smokeless tobacco on hand
 228 on the first and last days of the calendar month immediately preceding the month in
 229 which the report is filed;

230 (2) Information required by the commissioner concerning the amount of stamps
 231 purchased, used, and on hand during the report period; and

232 (3) Information otherwise required by the commissioner for the report period."

233 **SECTION 5.**

234 Said chapter is further amended by revising subsection (a) of Code Section 48-11-14,
 235 relating to registration, reports, and tax payments of persons acquiring tobacco products
 236 subject to tax under Code Section 48-11-13, as follows:

237 "(a) Before any person acquires cigars, little cigars, cigarettes, or loose or smokeless
 238 tobacco subject to the tax imposed by Code Section 48-11-13, such person shall register
 239 with the commissioner as a responsible taxpayer subject to the obligation of maintaining
 240 records and making reports in the form prescribed by the commissioner. The report shall
 241 be made on or before the tenth day of the month following the month in which the cigars,

242 little cigars, cigarettes, or loose or smokeless tobacco was acquired and shall be
 243 accompanied by the amount of tax due."

244 **SECTION 6.**

245 Said chapter is further amended by revising Code Section 48-11-18, relating to the procedure
 246 for hearing by persons aggrieved by actions of commissioner, initiation of hearings by the
 247 commissioner, production of evidence, appeals, bonds, grounds for not sustaining the
 248 commissioner's action, and costs, as follows:

249 "48-11-18.

250 (a) Any person aggrieved by any action of the commissioner or the commissioner's
 251 authorized agent may apply to the commissioner, in writing within ten days after the notice
 252 of the action is delivered or mailed to the commissioner, for a hearing. The application
 253 shall set forth the reasons why the hearing should be granted and the manner of relief
 254 sought. The commissioner shall notify the applicant of the time and place fixed for the
 255 hearing. After the hearing, the commissioner may make an order as may appear to the
 256 commissioner to be just and lawful and shall furnish a copy of the order to the applicant.
 257 The commissioner at any time by notice in writing may order a hearing on the
 258 commissioner's own initiative and require the taxpayer or any other person whom the
 259 commissioner believes to be in possession of information concerning any manufacture,
 260 importation, use, consumption, storage, or sale of cigars, little cigars, cigarettes, or loose
 261 or smokeless tobacco which has escaped taxation to appear before the commissioner or the
 262 commissioner's duly authorized agent with any specific books of account, papers, or other
 263 documents for examination under oath relative to the information.

264 (b) Any person aggrieved because of any final action or decision of the commissioner,
 265 after hearing, may appeal from the decision to the superior court of the county in which the
 266 appellant resides. The appeal shall be returnable at the same time and shall be served and
 267 returned in the same manner as required in the case of a summons in a civil action. The
 268 authority issuing the citation shall take from the appellant a bond of recognizance to the
 269 state, with surety, conditioned to prosecute the appeal and to effect and comply with the
 270 orders and decrees of the court. The action of the commissioner shall be sustained unless
 271 the court finds that ~~he~~ the commissioner misinterpreted this chapter or that there is no
 272 evidence to support ~~his~~ the commissioner's action. If the commissioner's action is not
 273 sustained, the court may grant equitable relief to the appellant. Upon all appeals which are
 274 denied, costs may be taxed against the appellant at the discretion of the court. No costs of
 275 any appeal shall be taxed against the state."

276

SECTION 7.

277 Said chapter is further amended by revising Code Section 48-11-22, relating to the
 278 transportation of unstamped tobacco products, the requirement of invoices or delivery tickets,
 279 contents, confiscation and disposition absent invoice or ticket, penalties, and applicability,
 280 as follows:

281 "48-11-22.

282 (a) Every person who transports upon the public highways, roads, and streets of this state
 283 cigars, little cigars, cigarettes, or loose or smokeless tobacco not stamped or on which tax
 284 has not been paid in accordance with the alternate regulations provided by the
 285 commissioner under Code Section 48-11-3 shall have in such person's actual possession
 286 invoices or delivery tickets for the cigars, little cigars, cigarettes, and loose or smokeless
 287 tobacco which show the true name and address of the consignor or seller, the true name of
 288 the consignee or purchaser, the quantity and brands of the cigars, little cigars, cigarettes,
 289 or loose or smokeless tobacco transported, and the name and address of the person who has
 290 assumed or shall assume the payment of the tax at the point of ultimate destination. In the
 291 absence of the invoices or delivery tickets, the cigars, little cigars, cigarettes, or loose or
 292 smokeless tobacco being transported and the vehicles in which the cigars, little cigars,
 293 cigarettes, or loose or smokeless tobacco is being transported shall be confiscated and
 294 disposed of as provided in Code Section 48-11-9; and the transporter may be liable for a
 295 penalty of not more than \$25.00 for each individual carton of little cigars or cigarettes,
 296 \$50.00 for each individual box of cigars, and ~~\$25.00~~ \$50.00 for each individual container
 297 of loose or smokeless tobacco being transported by such person. The penalty shall be
 298 recovered as provided in subsection (c) of Code Section 48-11-24.

299 (b) This Code section shall apply only ~~with respect~~ to the transportation of more than 200
 300 cigarettes, more than 200 little cigars, more than 20 cigars, or more than six containers of
 301 loose or smokeless tobacco."

302

SECTION 8.

303 Said chapter is further amended by revising Code Section 48-11-24, relating to penalties for
 304 possession of unstamped tobacco products, penalties for operation of an unlicensed business
 305 or activity, procedure for enforcement and collection of penalties, and costs and expenses,
 306 as follows:

307 "48-11-24.

308 (a) Any person who possesses unstamped cigarettes ~~or loose or smokeless tobacco~~ or
 309 nontax-paid cigars, little cigars, or loose or smokeless tobacco in violation of this chapter
 310 shall be liable for a penalty of not more than ~~\$25.00~~ \$50.00 for each individual carton of
 311 unstamped cigarettes ~~or loose or smokeless tobacco~~ and \$50.00 for each individual

312 nontax-paid carton of little cigars, box of ~~nontax-paid~~ cigars, or container of loose or
 313 smokeless tobacco in his or her possession.

314 (b) Any person who engages in any business or activity for which a license is required by
 315 this chapter without first having obtained a license to do so or any person who continues
 316 to engage in or conduct the business after ~~his~~ the person's license has been revoked or
 317 during a suspension of the license shall be liable for a penalty of not more than \$250.00.
 318 Each day that the business is engaged in or conducted shall be deemed a separate offense.

319 (c) Proceedings to enforce and collect the penalties provided by this chapter shall be
 320 brought by and in the name of the commissioner. With respect to offenses committed
 321 within the territorial jurisdiction of the court, each superior court shall have jurisdiction to
 322 enforce and collect the penalty. The costs recoverable in any such proceeding shall be
 323 recovered by the commissioner in the event of judgment in ~~his~~ the commissioner's favor.
 324 If the judgment is for the defendant, it shall be without costs against the commissioner. All
 325 expenses incident to the recovery of any penalty pursuant to this Code section shall be paid
 326 in the same manner as any other expense incident to the administration of this chapter."

327 **SECTION 9.**

328 Said chapter is further amended by revising Code Section 48-11-26, relating to failure to file
 329 a report or a filing false report required by chapter and penalties, as follows:

330 "48-11-26.

331 (a) With respect to this chapter, it shall be unlawful for any person, with the intent to
 332 defraud the state or evade the payment of any tax, penalty, or interest or any part of a
 333 payment when due, to:

334 (1) Willfully fail or refuse to file any report or statement required to be filed pursuant to
 335 this chapter or by the commissioner's rules and regulations;

336 (2) File or cause to be filed with the commissioner any false or fraudulent report or
 337 statement; or

338 (3) Aid or abet another in the filing with the commissioner of any false or fraudulent
 339 report or statement.

340 (b) Any person who violates subsection (a) of this Code section shall be guilty of a
 341 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be
 342 punished by a fine of not more than \$1,000.00 for each separate offense."

343 **SECTION 10.**

344 Said chapter is further amended by revising Code Section 48-11-27, relating to false entries
 345 on invoices or records pursuant to chapter and penalties, as follows:

346 "48-11-27.

347 (a) It shall be unlawful for any person to:

348 (1) Make a false entry upon any invoices or any record relating to the purchase,
349 possession, or sale of cigarettes or loose or smokeless tobacco; or

350 (2) With intent to evade any tax imposed by this chapter, present any false entry upon
351 any such invoice or record for the inspection of the commissioner or the commissioner's
352 authorized agents.

353 (b) Any person who violates subsection (a) of this Code section shall be guilty of a
354 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be
355 punished by a fine of not more than \$250.00 for each separate offense."

356 **SECTION 11.**

357 Said chapter is further amended by revising Code Section 48-11-28, relating to possession,
358 use, manufacture, or other unlawful activities involving counterfeited stamps or tampering
359 with metering machine pursuant to chapter and penalties, as follows:

360 "48-11-28.

361 (a) With respect to this chapter, it shall be unlawful for any person to:

362 (1) Fraudulently make, utter, forge, or counterfeit any stamp prescribed by the
363 commissioner;

364 (2) Cause or procure a violation of paragraph (1) of this subsection to be done;

365 (3) Willfully utter, publish, pass, or render as true any false, altered, forged, or
366 counterfeited stamp;

367 (4) Knowingly possess any false, altered, forged, or counterfeited stamp;

368 (5) For the purpose of evading the tax imposed, use more than once any stamp required
369 by this chapter; or

370 (6) Tamper with or cause to be tampered with any metering machine authorized to be
371 used.

372 (b) Any person who violates subsection (a) of this Code section shall be guilty of a felony
373 and, upon conviction thereof, shall be imprisoned for not less than ~~one year~~ three years nor
374 more than ten years."

375 **SECTION 12.**

376 Said chapter is further amended by revising Code Section 48-11-29, relating to swearing and
377 testifying falsely with respect to matters governed by chapter, as follows:

378 "48-11-29.

379 ~~(a) It shall be unlawful for any person to:~~

380 ~~(1) Knowingly swear to or affirm any false or fraudulent statement with intent to evade~~
381 ~~the payment of any tax imposed by this chapter; or~~
382 ~~(2) Under oath, testify falsely at any hearing held pursuant to this chapter.~~
383 ~~(b) Any person who violates subsection (a) of this Code section shall be guilty of a~~
384 ~~misdemeanor Reserved.~~"

385 **SECTION 13.**

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

388 **SECTION 14.**

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