

The Senate Committee on Finance offered the following substitute to HB 882:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and  
2 taxation, so as to revise the rate of the tax on cigars and cigarettes; to provide for excise taxes  
3 to be levied on certain alternative nicotine products and vapor products; to require licensure  
4 of importers, manufacturers, distributors, and dealers of alternative nicotine products or  
5 vapor products; to provide for license fees, suspensions, revocations, and renewals; to  
6 provide for procedures for hearings and appeals; to provide for bonds; to provide for seizure  
7 of certain products; to require certain reports and provide for inspections of certain records;  
8 to prohibit certain conduct relating to the sale and transportation of alternative nicotine  
9 products and vapor products; to provide for assessments and penalties; to provide for powers  
10 and duties of special agents and enforcement officers; to provide for warrantless searches and  
11 seizures by certain agents and officers of the Department of Revenue; to provide for appeals  
12 of certain decisions made by the state revenue commissioner; to provide for civil and  
13 criminal penalties; to provide for rules and regulations; to revise and provide for definitions;  
14 to provide for related matters; to provide for effective dates; to repeal conflicting laws; and  
15 for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

18 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
19 amended by revising paragraph (3) of subsection (a) of Code Section 48-11-2, relating to  
20 excise tax, rate on tobacco products, retail selling price before addition of tax, exemptions,  
21 collection and payment on first transaction, dealers or distributors, tax separately identified,  
22 and collection as follows:

23 "(3) Cigarettes: ~~37¢~~ \$1.35 per pack of 20 cigarettes and a like rate, pro rata, for other size  
24 packages; and"

25 **SECTION 2.**

26 Said title is further amended by revising Chapter 11, relating to taxes on tobacco products,  
27 as follows:

## 28 "CHAPTER 11

29 48-11-1.

30 As used in this chapter, the term:

31 (1) 'Alternative nicotine product' means any material that contains nicotine, but does not  
32 contain tobacco leaf, and is intended for human consumption, whether such material is  
33 chewed, absorbed, dissolved, or ingested by any other means. Such term shall include,  
34 but shall not be limited to, nicotine gel, pouches, or gum or dissolvable nicotine strips,  
35 sticks, lozenges, or pellets. Such term shall not include little cigars, cigars, cigarettes,  
36 loose or smokeless tobacco, consumable vapor products, or any product regulated as a  
37 drug or therapeutic device by the United States Food and Drug Administration under  
38 Chapter V of the Federal Food, Drug, and Cosmetic Act.

39 (2) 'Alternative nicotine product dealer' means any person located within the borders of  
40 this state who sells or distributes alternative nicotine products to a consumer in this state.

41 (3) 'Alternative nicotine product distributor' means any person who:

42 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly  
43 contact and call on alternative nicotine product dealers; and

44 (B) Is engaged in the business of:

45 (i) Importing alternative nicotine products into this state or purchasing alternative  
46 nicotine products from other alternative nicotine product manufacturers or alternative  
47 nicotine product distributors; and

48 (ii) Selling the alternative nicotine products to alternative nicotine product dealers in  
49 this state for resale but is not in the business of selling the alternative nicotine  
50 products directly to the ultimate consumers of the alternative nicotine products.

51 (4) 'Alternative nicotine product importer' means any person who imports into or who  
52 brokers within the United States, either directly or indirectly, finished alternative nicotine  
53 products for sale or distribution.

54 (5) 'Alternative nicotine product manufacturer' means any person who manufactures,  
55 fabricates, assembles, processes, or labels finished alternative nicotine products.

56 ~~(4)~~(6) 'Cigar' means any roll for smoking made wholly or in part of tobacco when the  
57 cover of the roll is also tobacco. Such term shall include a little cigar.

58 ~~(5)~~(7) 'Cigar dealer' means any person located within the borders of this state who sells  
59 or distributes cigars to a consumer in this state.

60 ~~(3)~~(8) 'Cigar distributor' means any person, whether located within or outside the borders  
 61 of this state, other than a cigar dealer, who sells or distributes cigars within or into the  
 62 boundaries of this state and who:

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

65 (B) Is engaged in the business of:

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

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

70 ~~(4)~~(9) 'Cigar importer' means any person who imports into or who brokers within the  
 71 United States, either directly or indirectly, a finished cigar for sale or distribution.

72 ~~(5)~~(10) 'Cigar manufacturer' means any person who manufactures, fabricates, assembles,  
 73 processes, or labels a finished cigar.

74 ~~(6)~~(11) 'Cigarette' means any roll or stick for smoking made wholly or in part of tobacco  
 75 when the cover of the roll is paper or any substance other than tobacco or when the stick  
 76 is heated in a device without combustion.

77 ~~(7)~~(12) 'Cigarette dealer' means any person located within the borders of this state who  
 78 sells or distributes cigarettes to a consumer in this state.

79 ~~(8)~~(13) 'Cigarette distributor' means any person, whether located within or outside the  
 80 borders of this state, other than a cigarette dealer, who sells or distributes cigarettes  
 81 within or into the boundaries of this state and who:

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

84 (B) Is engaged in the business of:

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

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

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

94 ~~(9)~~(14) 'Cigarette importer' means any person who imports into or who brokers within  
 95 the United States, either directly or indirectly, a finished cigarette for sale or distribution.

96 ~~(10)~~(15) 'Cigarette manufacturer' means any person who manufactures, fabricates,  
97 assembles, processes, or labels a finished cigarette.

98 (16) 'Consumable vapor product' means any liquid or solid solution, whether it contains  
99 nicotine or not, that is intended to be heated into an aerosol state and inhaled by an  
100 individual using a vapor device. Such term shall include, but shall not be limited to,  
101 e-liquid, e-juice, vape juice, and cartridges that are prefilled with such a solution. Such  
102 term shall not include any alternative nicotine product, cigar, cigarette, loose or  
103 smokeless tobacco, perfume, potpourri, essential oil, or product regulated as a drug or  
104 therapeutic device by the United States Food and Drug Administration under Chapter V  
105 of the Federal Food, Drug, and Cosmetic Act.

106 ~~(11)~~(17) 'Counterfeit cigarette' means cigarettes that are manufactured, fabricated,  
107 assembled, processed, packaged, or labeled by any person other than the trademark owner  
108 of a cigarette brand or the owner's designated agent.

109 ~~(12)~~(18) 'Dealer' means any person who is a cigar dealer, a cigarette dealer, ~~or~~ a loose  
110 or smokeless tobacco dealer, an alternative nicotine product dealer, or a vapor product  
111 dealer.

112 ~~(13)~~(19) 'Distributor' means any person who is a cigar distributor, a cigarette distributor,  
113 ~~or~~ a loose or smokeless tobacco distributor, an alternative nicotine product distributor, or  
114 a vapor product distributor.

115 ~~(14)~~(20) 'First transaction' means the first sale, receipt, purchase, possession,  
116 consumption, handling, distribution, or use of cigars, cigarettes, ~~or~~ loose or smokeless  
117 tobacco, alternative nicotine products, or vapor products within this state.

118 (21) 'Licensed dealer' means a dealer that maintains a valid license issued pursuant to this  
119 chapter with respect to tobacco products, alternative nicotine products, vapor products,  
120 or a combination thereof.

121 ~~(15)~~(22) 'Little cigar' means any cigar weighing not more than three pounds per  
122 thousand.

123 ~~(16)~~(23) 'Loose or smokeless tobacco' means granulated, plug cut, crimp cut, ready  
124 rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist  
125 tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings,  
126 and sweepings of tobacco; ~~and~~ other kinds and forms of tobacco, prepared in such  
127 manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for  
128 chewing and smoking; and any tobacco product intended for human consumption that is  
129 not otherwise defined by this chapter. Such term shall ~~but does~~ not include alternative  
130 nicotine products, consumable vapor products, cigarettes, ~~or~~ cigars, or tobacco purchased  
131 for the manufacture of cigarettes or cigars by cigarette manufacturers or cigar  
132 manufacturers.

133 ~~(17)~~(24) 'Loose or smokeless tobacco dealer' means any person located within the  
 134 borders of this state who sells or distributes loose or smokeless tobacco to a consumer in  
 135 this state.

136 ~~(18)~~(25) 'Loose or smokeless tobacco distributor' means any person who:

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

139 (B) Is engaged in the business of:

140 (i) Importing loose or smokeless tobacco into this state or purchasing loose or  
 141 smokeless tobacco from other loose or smokeless tobacco manufacturers or loose or  
 142 smokeless tobacco distributors; and

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

146 ~~(19)~~(26) 'Loose or smokeless tobacco importer' means any person who imports into or  
 147 who brokers within the United States, either directly or indirectly, finished loose or  
 148 smokeless tobacco for sale or distribution.

149 ~~(20)~~(27) 'Loose or smokeless tobacco manufacturer' means any person who  
 150 manufactures, fabricates, assembles, processes, or labels finished loose or smokeless  
 151 tobacco.

152 ~~(21)~~(28) 'Related machinery' means any item, device, conveyance, or vessel of any kind  
 153 or character used in manufacturing, packaging, labeling, stamping, transporting,  
 154 distributing, selling, or possessing counterfeit cigarettes.

155 ~~(22)~~(29) 'Sale' means any sale, transfer, exchange, theft, barter, gift, or offer for sale and  
 156 distribution in any manner or by any means whatever.

157 ~~(23)~~(30) 'Stamp' means any impression, device, stamp, label, or print manufactured,  
 158 printed, made, or affixed as prescribed by the commissioner.

159 (31) 'Tobacco product' means any cigar, cigarette, or loose or smokeless tobacco.

160 ~~(24)~~(32) 'Vapor device' means any system or device developed or intended to deliver a  
 161 consumable vapor product to an individual who inhales from the device. Such term shall  
 162 include, but not be limited to, an electronic nicotine delivery system, an electronic  
 163 cigarette, electronic cigar, electronic pipe, vape pen, vape tool, or electronic hookah.  
 164 Such term shall not include a fragrance or essential oil diffuser, an air freshener, or any  
 165 product regulated as a drug or device by the United States Food and Drug Administration  
 166 under Chapter V of the Federal Food, Drug, and Cosmetic Act.

167 (33) 'Vapor product' means any consumable vapor product or vapor device.

168 (34) 'Vapor product dealer' means any person located within the borders of this state who  
 169 sells or distributes vapor products to a consumer in this state.

- 170 (35) 'Vapor product distributor' means any person who:  
 171 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly  
 172 contact and call on vapor product dealers; and  
 173 (B) Is engaged in the business of:  
 174 (i) Importing vapor products into this state or purchasing vapor products from other  
 175 vapor product manufacturers or vapor product distributors; and  
 176 (ii) Selling the vapor products to vapor product dealers in this state for resale but is  
 177 not in the business of selling the vapor products directly to the ultimate consumers of  
 178 the vapor products.
- 179 (36) 'Vapor product importer' means any person who imports into or who brokers within  
 180 the United States, either directly or indirectly, finished vapor products for sale or  
 181 distribution.
- 182 (37) 'Vapor product manufacturer' means any person who manufactures, fabricates,  
 183 assembles, processes, or labels finished vapor products.
- 184 (38) 'Vending machine' means any coin-in-the-slot device used for the automatic  
 185 merchandising of cigars, cigarettes, or loose or smokeless tobacco.

186 48-11-2.

- 187 (a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed  
 188 upon the sale, receipt, purchase, possession, consumption, handling, distribution, or use of  
 189 cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor  
 190 products in this state at the following rates:
- 191 (1) Little cigars: two and one-half mills each;
- 192 (2) All cigars other than little cigars: ~~23~~ 12 percent of the wholesale cost price, exclusive  
 193 of any trade, cash, or other discounts or any promotion, advertising, display, or similar  
 194 allowances;
- 195 (3) Cigarettes: ~~37¢~~ \$1.35 per pack of 20 cigarettes and a like rate, pro rata, for other size  
 196 packages; ~~and~~
- 197 (4) Loose or smokeless tobacco and alternative nicotine products: 10 percent of the  
 198 wholesale cost price, exclusive of any trade, cash, or other discounts or any promotion,  
 199 advertising, display, or similar allowances; and
- 200 (5) Consumable vapor products: \$1.25, on a pro rata basis, per fluid milliliter or cubic  
 201 centimeter.
- 202 (b) When the retail selling price is referred to in this chapter as the basis for computing the  
 203 tax, it is intended to mean the ordinary retail selling price of the article to the consumer  
 204 before adding the amount of the tax.

205 (c) The taxes imposed by this chapter are levied on the purchase or use of cigars,  
206 cigarettes, or loose or smokeless tobacco by the state or any department, institution, or  
207 agency of the state and by the political subdivisions of the state and their departments,  
208 institutions, and agencies. The taxes imposed by this chapter are not imposed on cigars,  
209 cigarettes, or loose or smokeless tobacco purchased exclusively for use by the patients at  
210 the Georgia War Veterans Home and the Georgia War Veterans Nursing Home.

211 (d) The taxes imposed by this chapter are not levied on cigars, cigarettes, ~~or~~ loose or  
212 smokeless tobacco, alternative nicotine products, or vapor products, the purchase or use of  
213 which this state is prohibited from taxing under the Constitution or statutes of the United  
214 States.

215 (e) The taxes imposed by this chapter shall be advanced and paid by the dealer or  
216 distributor licensed pursuant to this chapter to the commissioner for deposit and  
217 distribution as provided in this chapter upon the first transaction within this state, whether  
218 or not the transaction involves the ultimate purchaser or consumer. The licensed dealer or  
219 distributor shall collect the tax on the first transaction within this state from the purchaser  
220 or consumer, and the purchaser or consumer shall pay the tax to the dealer or distributor.  
221 The dealer or distributor shall be responsible for the collection of the tax and the payment  
222 of the tax to the commissioner. Whenever cigars, cigarettes, ~~or~~ loose or smokeless tobacco  
223 ~~is~~, alternative nicotine products, or vapor products are shipped from outside this state to  
224 anyone other than a distributor, the person receiving the cigars, cigarettes, ~~or~~ loose or  
225 smokeless tobacco, alternative nicotine products, or vapor products shall be deemed to be  
226 a distributor and shall be responsible for the tax on the cigars, cigarettes, ~~or~~ loose or  
227 smokeless tobacco, alternative nicotine products, or vapor products and the payment of the  
228 tax to the commissioner. No tobacco products, alternative nicotine products, or vapor  
229 products shall be received in, sold in, or shipped into this state unless lawfully obtained  
230 from a person licensed pursuant to this chapter or from an importer with a valid permit  
231 issued pursuant to 26 U.S.C. Section 5712.

232 (f) The amount of taxes advanced and paid to the state as provided in this Code section  
233 shall be added to and collected as a part of the sales price of the cigars, cigarettes, ~~or~~ loose  
234 or smokeless tobacco, alternative nicotine products, or vapor products sold or distributed.  
235 The amount of the tax shall be stated separately from the price of the cigars, cigarettes, ~~or~~  
236 loose or smokeless tobacco, alternative nicotine products, or vapor products.

237 (g) The cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products,  
238 and vapor products tax imposed shall be collected only once upon the same cigars,  
239 cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products.

240 48-11-3.

241 (a) Except as otherwise provided in this Code section, the taxes imposed by Code Section  
 242 48-11-2 shall be collected and paid through the use of stamps. The commissioner shall  
 243 secure stamps of such design and materials as the commissioner deems appropriate to  
 244 protect the revenue and shall sell the stamps to licensed distributors at a discount of not less  
 245 than 2 percent and not more than 8 percent of the value of the stamps. The exact  
 246 percentage of the discount shall be based on brackets according to the volume of cigars,  
 247 cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor  
 248 products handled by the distributor pursuant to regulations promulgated by the  
 249 commissioner. The commissioner shall prescribe by regulation the condition, method, and  
 250 manner in which stamps are to be affixed to containers of cigars, cigarettes, ~~and~~ loose or  
 251 smokeless tobacco, alternative nicotine products, and vapor products.

252 (b) The commissioner may prescribe by regulation an alternate method, in lieu of the sale  
 253 of stamps, of collecting and paying the tax imposed upon cigars and little cigars. The  
 254 commissioner may also prescribe by regulation an alternate method, in lieu of the sale of  
 255 stamps, of collecting and paying the tax imposed on loose or smokeless tobacco, alternative  
 256 nicotine products, or vapor products. Any such regulations shall be promulgated so that  
 257 use of the alternate method will result in the same revenue to the state as the state would  
 258 realize through the sale of stamps to the distributors.

259 (c) No distributor shall sell or exchange with another distributor any stamps issued  
 260 pursuant to this chapter. The commissioner is authorized to redeem at cost price any  
 261 stamps presented for redemption by a licensed distributor when the commissioner  
 262 determines from physical inspection that no cigars, cigarettes, ~~or~~ loose or smokeless  
 263 tobacco, alternative nicotine products, or vapor products ~~has~~ been sold by the  
 264 distributor under pretense of the tax imposed by this chapter having been paid through use  
 265 of the stamps.

266 48-11-4.

267 (a) No person shall engage in or conduct the business of manufacturing, importing,  
 268 brokering, purchasing, selling, consigning, vending, dealing in, shipping, receiving, or  
 269 distributing cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products,  
 270 or vapor products in this state without first obtaining a license from the commissioner.

271 (a.1) The commissioner may require a separate license for each business activity and  
 272 product for which a license is required under this chapter. Alternatively, the commissioner  
 273 may issue a single license allowing the license holder to act as dealer, distributor, importer,  
 274 or manufacturer, or a combination thereof as to cigars, cigarettes, loose or smokeless  
 275 tobacco, alternative nicotine products, or vapor products, or any combination thereof, at a

276 location; provided, however, that the commissioner may permit or limit the business or  
277 activities of a license holder as to any product or products for which a license is required  
278 under this chapter without issuing a new license or requiring a new application.

279 (a.2) The commissioner shall maintain at all times information for each location for which  
280 any license has been issued under this chapter whether the license holder is authorized to  
281 engage in business as a dealer, distributor, importer, or manufacturer, or a combination  
282 thereof, and whether cigars, cigarettes, loose or smokeless tobacco, alternative nicotine  
283 products, or vapor products, or any combination thereof, have been authorized at such  
284 location.

285 (b) All licenses shall be issued by the commissioner, who shall make rules and regulations  
286 with respect to applications for and issuance of the licenses and for other purposes of  
287 enforcing this chapter. The commissioner may refuse to issue any license under this  
288 chapter when the commissioner has reasonable cause to believe that the applicant has  
289 willfully withheld information requested of the applicant or required by the regulations to  
290 be provided or reported or when the commissioner has reasonable cause to believe that the  
291 information submitted in any application or report is false or misleading and is not given  
292 in good faith.

293 (c)(1) The annual renewal fee for a each manufacturer's, importer's, distributor's, or  
294 dealer's license for vapor products shall be \$100.00 and for tobacco products which shall  
295 automatically include alternative nicotine products, such annual renewal fee shall be  
296 ~~\$10.00~~ \$100.00 combined. There shall also be a first-year first-year registration fee of  
297 \$250.00 for a person commencing business as a manufacturer, importer, or distributor  
298 upon first issuance of each manufacturer's, importer's, distributor's, or dealer's license for  
299 vapor products and \$250.00 for tobacco products, provided that alternative nicotine  
300 products shall be automatically included with the tobacco products registration and  
301 first-year registration fee. All renewal applications shall be filed at least 30 days in  
302 advance of the expiration date shown on the license.

303 (2) Each license, except a dealer's license, shall begin on July 1 and end on June 30 of  
304 the next succeeding year. The prescribed fee shall accompany every application for a  
305 license and shall apply for any portion of the annual period.

306 (3) Each dealer's license shall be valid for 12 months beginning on the date of issue for  
307 the initial license, and the first day of the month of issue for subsequent licenses, and  
308 shall expire on the last day of the month preceding the month in which the initial license  
309 was issued. Any dealer licensed under the provisions of this Code section who is also  
310 licensed under Chapter 2 of Title 3 to sell alcoholic beverages may, upon written request  
311 to the commissioner, arrange to have both licenses renewed on the same date each year.  
312 Any dealer who follows the proper procedure for a renewal of his or her license,

313 including filing the application for renewal at least 30 days in advance of the expiration  
314 date of his or her existing license, shall be allowed to continue operating as a dealer under  
315 the existing license until the commissioner has issued the new license or denied the  
316 application for renewal.

317 (4) Each manufacturer's, importer's, distributor's, or dealer's license shall be subject to  
318 suspension or revocation for violation of any of the provisions of this chapter or of the  
319 rules and regulations made pursuant to this chapter or Chapters 13 and 13A of Title 10  
320 or of the rules and regulations made pursuant to those chapters. A separate license shall  
321 be required for each place of business. No person shall hold a distributor's license and  
322 a dealer's license at the same time.

323 (d) The commissioner may make rules and regulations governing the sale of cigars,  
324 cigarettes, loose or smokeless tobacco, and other tobacco products in vending machines.  
325 The commissioner shall require annually a special registration of each vending machine for  
326 any operation in this state and charge a license fee for the registration in the amount of  
327 \$10.00 for each machine. The annual registration shall indicate the location of the vending  
328 machine. No vending machine shall be purchased or transported into this state for use in  
329 this state when the vending machine is not so designed as to permit inspection without  
330 opening the machine for the purpose of determining that all cigars, cigarettes, loose or  
331 smokeless tobacco, and other tobacco products contained in the machine bear the tax stamp  
332 required under this chapter.

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

342 (f) The jurisdiction of the commissioner in the administration of this chapter shall extend  
343 to every person using or consuming cigars, cigarettes, ~~or~~ loose or smokeless tobacco,  
344 alternative nicotine products, or vapor products in this state and to every person dealing in  
345 cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor  
346 products in any way for business purposes and maintaining a place of business in this state.  
347 For the purpose of this chapter, the maintaining of an office, store, plant, warehouse, stock  
348 of goods, or regular sales or promotional activity, whether carried on automatically or by  
349 salespersons or other representatives, shall constitute, among other activities, the

350 maintaining of a place of business. For the purpose of enforcement of this chapter and the  
351 rules and regulations promulgated under this chapter, notwithstanding any other provision  
352 of law, the commissioner or his or her duly appointed hearing officer is granted authority  
353 to conduct hearings which shall at all times be exercised in conformity with rules and  
354 regulations promulgated by the commissioner and consistent with Chapter 13 of Title 50,  
355 the 'Georgia Administrative Procedure Act.'

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

359 48-11-4.1.

360 (a) It shall be unlawful to sell vapor products to any person who is not a licensed  
361 manufacturer, importer, distributor, or dealer of vapor products pursuant to Code Section  
362 48-11-4 by any means other than an in-person, face-to-face sale.

363 (b) A seller of a vapor product shall request proper identification from each person  
364 attempting to purchase a vapor product which shows that such person is at least 21 years  
365 of age. Each person attempting to purchase a vapor product shall provide proper  
366 identification to the seller at the time of such purchase.

367 (c) A violation of any provision of this Code section shall be punished as for a  
368 misdemeanor as provided in Code Section 16-1-10 and shall result in the probation,  
369 suspension, or revocation by the commissioner of all licenses issued to the seller pursuant  
370 to Code Section 48-11-4.

371 48-11-5.

372 (a)(1) If the commissioner finds that the collection of the tax imposed by this chapter  
373 would be facilitated by such action, the commissioner may authorize any person residing  
374 or located outside this state who is engaged in the business of manufacturing cigars,  
375 cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products  
376 or any person residing or located outside this state who ships cigars, cigarettes, ~~or~~ loose  
377 or smokeless tobacco, alternative nicotine products, or vapor products into this state for  
378 sale to licensed dealers in this state to be licensed as a distributor and, after the person  
379 complies with the commissioner's requirements, to affix or cause to be affixed the stamps  
380 required by this chapter on behalf of the purchasers of the cigars, cigarettes, ~~or~~ loose or  
381 smokeless tobacco, alternative nicotine products, or vapor products who would otherwise  
382 be taxable for the cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine  
383 products, and vapor products. The commissioner may sell tax stamps to an authorized

384 person or may authorize the use of a metering machine by the person as provided in Code  
385 Section 48-11-3.

386 (2) The commissioner shall require a bond of a nonresident distributor satisfactory to the  
387 commissioner and in an amount of not less than \$1,000.00, conditioned upon the payment  
388 of the tax and compliance with any other requirements specified by the commissioner.  
389 As a condition of authorization as provided in this Code section, a nonresident distributor  
390 shall agree to submit the distributor's books, accounts, and records for examination by the  
391 commissioner or the commissioner's duly authorized agent during reasonable business  
392 hours and shall appoint in writing an agent who resides in this state for the purpose of  
393 service. Service upon an agent shall be sufficient service upon the nonresident distributor  
394 and made by leaving a duly attested copy of the process with the agent. When legal  
395 process against any nonresident distributor is served upon the agent, the agent shall notify  
396 the nonresident distributor in the manner specified in Code Section 40-12-2.

397 (3) Upon the grant of authorization as provided in this subsection and except as may  
398 otherwise be determined by the commissioner, a nonresident distributor shall become a  
399 licensed distributor within the meaning of this chapter and shall be subject to all  
400 provisions of this chapter applicable to licensed distributors.

401 (b) Every nonresident manufacturer, importer, or distributor of cigars, cigarettes, ~~or~~ loose  
402 or smokeless tobacco, alternative nicotine products, or vapor products making shipments  
403 of cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor  
404 products by common carrier or otherwise for their own account or for the account of others  
405 to distributors or dealers of cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative  
406 nicotine products, or vapor products located within this state shall make reports of the  
407 shipments when and as required by rules and regulations of the commissioner.

408 48-11-6.

409 The commissioner may suspend or refuse to renew a license issued to any person under this  
410 chapter for violation of any provision of this chapter or Chapters 13 and 13A of Title 10  
411 or of the rules and regulations made pursuant to those chapters. After notice and  
412 opportunity for hearing, the commissioner may revoke a license issued to any person under  
413 this chapter for violation of any provision of this chapter or of any rule or regulation of the  
414 commissioner made pursuant to this chapter or Chapters 13 and 13A of Title 10 or of the  
415 rules and regulations made pursuant to those chapters. Any person aggrieved by the  
416 suspension of or refusal to renew his or her license may apply to the commissioner for a  
417 hearing as provided in subsection (a) of Code Section 48-11-18; and any person aggrieved  
418 by the action of the commissioner in revoking or refusing to renew his or her license after  
419 hearing may further appeal to the courts as provided in subsection (b) of Code Section

420 48-11-18. No legal proceedings or other action by the commissioner shall be barred or  
421 abated by the suspension, revocation, or expiration of any license issued under this chapter.

422 48-11-7.

423 Each bond required to be filed pursuant to this chapter shall be executed by the distributor  
424 as principal and, as surety, by a corporation authorized to engage in business as a surety  
425 company in this state.

426 48-11-8.

427 (a)(1) No person shall sell, offer for sale, or possess with intent to sell any cigarettes in  
428 this state when the cigarette container does not bear the tax stamps required by Code  
429 Section 48-11-3.

430 (2) No person shall sell, offer for sale, or possess with intent to sell in this state any  
431 cigars or little cigars, alternative nicotine products, or vapor products upon which the tax  
432 has not been paid under the alternate method of collecting the taxes provided in Code  
433 Section 48-11-3 or which do not bear tax stamps.

434 (3) No person shall sell, offer for sale, or possess with intent to sell any loose or  
435 smokeless tobacco in this state when the loose or smokeless tobacco container does not  
436 bear the tax stamps required by Code Section 48-11-3 or upon which the tax has not been  
437 paid under the alternate method of collecting the tax provided under Code Section  
438 48-11-3.

439 (4) No person shall sell, offer for sale, or possess with intent to sell cigarettes as  
440 prohibited by Code Section 10-13A-5.

441 (b) Each distributor at the location for which such distributor's license is issued and in the  
442 manner specified by the commissioner shall affix the stamps required by this Code section  
443 to each individual package of cigarettes sold or distributed by such distributor, except as  
444 prohibited by Code Section 10-13A-5. Each distributor shall comply with the  
445 commissioner's regulations for the payment of the tax on cigars, ~~or~~ loose or smokeless  
446 tobacco, alternative nicotine products, or vapor products as provided in Code Section  
447 48-11-3 or shall affix to each container of cigars or loose or smokeless tobacco sold by  
448 such distributor or from which such distributor sells cigars or loose or smokeless tobacco  
449 the stamps required by this chapter. The stamps may be affixed or the tax under the  
450 alternate method may be paid by a distributor at any time before the cigars, cigarettes, ~~or~~  
451 loose or smokeless tobacco, alternative nicotine products, or vapor products ~~is~~ are  
452 transferred out of such distributor's possession.

453 (c) It is the intent of this chapter that the tax imposed by this chapter be paid only once and  
454 that, if the distributor acquires stamped cigarettes, tax-paid cigars, stamped cigars, stamped

455 loose or smokeless tobacco, ~~or~~ tax-paid loose or smokeless tobacco, tax-paid alternative  
 456 nicotine products, or tax-paid vapor products, such distributor is not required to affix  
 457 additional stamps or provide other evidence of payment of the tax.

458 (d) Every dealer who comes into possession of cigars, cigarettes, or loose or smokeless  
 459 tobacco not bearing proper tax stamps or other evidence of the tax imposed by this chapter  
 460 shall report the cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine  
 461 products, or vapor products to the commissioner prior to displaying, selling, using, or  
 462 otherwise disposing of the cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative  
 463 nicotine products, and vapor products. After a report, the commissioner shall authorize a  
 464 licensed distributor to affix the proper stamps to the cigars, cigarettes, ~~and~~ loose or  
 465 smokeless tobacco, alternative nicotine products, or vapor products or, in the case of cigars,  
 466 ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products, authorize  
 467 the dealer to remit the tax by the alternate method promulgated by the commissioner in  
 468 accordance with Code Section 48-11-3. A licensed distributor shall affix the stamps or  
 469 comply with the alternate regulations when presented a permit for such action issued by the  
 470 commissioner. A licensed distributor shall stamp cigarettes or comply with the alternate  
 471 method provided in this chapter with respect to cigars, ~~or~~ loose or smokeless tobacco,  
 472 alternative nicotine products, or vapor products, other than such distributor's own, only  
 473 when authorized by the permit issued by the commissioner.

474 (e) No wholesale or retail distributor or wholesale or retail dealer shall accept deliveries  
 475 of unstamped cigarettes; or loose or smokeless tobacco or nontax-paid cigars, ~~or~~  
 476 nontax-paid loose or smokeless tobacco, nontax-paid alternative nicotine products, or  
 477 nontax-paid vapor products which ~~is~~ are shipped to such distributor or acquired by such  
 478 distributor at any place within this state except as authorized and provided in this Code  
 479 section. All cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine  
 480 products, and vapor products shall be examined by the distributor or dealer on receipt, and  
 481 the distributor shall immediately report the cigars, cigarettes, ~~or~~ loose or smokeless  
 482 tobacco, alternative nicotine products, or vapor products to the commissioner as provided  
 483 in subsection (d) of this Code section.

484 (f) The commissioner may prescribe the charges which may be made by a distributor to  
 485 any person for the services of the distributor as provided in this chapter in affixing the tax  
 486 stamps to each individual package of cigarettes, ~~or~~ loose or smokeless tobacco, alternative  
 487 nicotine products, or vapor products and may prescribe the charges which may be made by  
 488 a distributor in complying with the commissioner's alternate regulations for the collection  
 489 of the tax on cigars and little cigars or loose or smokeless tobacco.

490 (g) This Code section shall not apply to unstamped cigars, ~~and~~ little cigars, ~~or~~ loose or  
 491 smokeless tobacco, alternative nicotine products, or vapor products upon which the tax has

492 been paid in accordance with the alternate regulations promulgated by the commissioner  
493 under Code Section 48-11-3.

494 48-11-9.

495 (a)(1) Any cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine  
496 products, or vapor products found at any place in this state without stamps affixed to  
497 them as required by this chapter and any cigarettes in violation of subsection (c) of Code  
498 Section 10-13A-9 are declared to be contraband articles and may be seized by the  
499 commissioner, the commissioner's agents or employees, or any peace officer of this state  
500 when directed by the commissioner to do so.

501 (2) Paragraph (1) of this subsection shall not apply when:

502 (A) The tax has been paid on the unstamped cigars and little cigars, ~~or~~ loose or  
503 smokeless tobacco, alternative nicotine products, or vapor products in accordance with  
504 the commissioner's regulations promulgated pursuant to Code Section 48-11-3;

505 (B) The cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products,  
506 or vapor products ~~are~~ is in the possession of a licensed distributor;

507 (C) The cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products,  
508 or vapor products ~~are~~ is in course of transit from outside this state and ~~is~~ are consigned  
509 to a licensed distributor;

510 (D) The cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products,  
511 or vapor products ~~are~~ is in the possession of a transporter who is in compliance with  
512 Code Section 48-11-22; or

513 (E) The cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products,  
514 or vapor products ~~are~~ is in the possession of a registered taxpayer as defined in Code  
515 Section 48-11-14 and the time for making the report required by Code Section 48-11-14  
516 has not expired.

517 (3) This subsection shall not be construed to require the commissioner to confiscate  
518 unstamped or nontax-paid cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative  
519 nicotine products, and vapor products or other property when the commissioner has  
520 reason to believe that the owner of the cigars, cigarettes, loose or smokeless tobacco,  
521 alternative nicotine products, vapor products, or other property is not willfully or  
522 intentionally evading the tax imposed by this chapter.

523 (b) Any cigars, cigarettes, loose or smokeless tobacco, alternative nicotine products, vapor  
524 products, or other property seized pursuant to this chapter may be offered for sale by the  
525 commissioner, at the commissioner's discretion, at public auction to the highest bidder after  
526 advertisement as provided in this Code section. The commissioner shall deliver to the  
527 Office of the State Treasurer the proceeds of any sale made under this Code section.

528 Before delivering any cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine  
529 products, or vapor products sold to a purchaser at the sale, the commissioner shall require  
530 the purchaser to affix to the packages the amount of stamps required by this chapter or to  
531 comply with the commissioner's alternate method. The seizure and sale of any cigars,  
532 cigarettes, loose or smokeless tobacco, or other property pursuant to this chapter shall not  
533 relieve any person from a fine, imprisonment, or other penalty for violation of this chapter.

534 (c) When any cigars, cigarettes, loose or smokeless tobacco, alternative nicotine products,  
535 vapor products, or other property has been seized pursuant to this chapter, the  
536 commissioner, at the commissioner's discretion, may advertise it for sale in a newspaper  
537 published or having a circulation in the place in which the seizure occurred, at least five  
538 days before the sale. Any person claiming an interest in the cigars, cigarettes, loose or  
539 smokeless tobacco, alternative nicotine products, vapor products, or other property may  
540 make written application to the commissioner for a hearing. The application shall state the  
541 person's interest in the cigars, cigarettes, loose or smokeless tobacco, alternative nicotine  
542 products, vapor products, or other property and such person's reasons why the cigars,  
543 cigarettes, loose or smokeless tobacco, alternative nicotine products, vapor products, or  
544 other property should not be forfeited. Further proceedings on the application for hearing  
545 shall be taken as provided in subsection (a) of Code Section 48-11-18. No sale of any  
546 cigars, cigarettes, loose or smokeless tobacco, alternative nicotine products, vapor products,  
547 or other property seized pursuant to this chapter shall be made while an application for a  
548 hearing is pending before the commissioner. The pendency of an appeal under subsection  
549 (b) of Code Section 48-11-18 shall not prevent the sale unless the appellant posts a  
550 satisfactory bond with surety in an amount double the estimated value of the cigars,  
551 cigarettes, loose or smokeless tobacco, alternative nicotine products, vapor products, or  
552 other property and conditioned upon the successful termination of the appeal.

553 (d) Any vending machine containing or dispensing any cigarettes or loose or smokeless  
554 tobacco which does not bear the tax stamps required under this chapter or containing or  
555 dispensing any cigars or loose or smokeless tobacco upon which the tax has not been paid  
556 either through the purchase of stamps or the alternate procedure provided by the  
557 commissioner as required under this chapter shall be a contraband article. The  
558 commissioner may seize any such machine and deal with it in the same manner as provided  
559 by law for the seizure and sale of unstamped cigarettes or loose or smokeless tobacco and  
560 nontax-paid cigars or loose or smokeless tobacco.

561 48-11-10.

562 (a) Every licensed distributor shall file with the commissioner, on or before the tenth day  
563 of each month, a report in the form prescribed by the commissioner disclosing:

564 (1) The quantity of cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine  
565 products, or vapor products on hand on the first and last days of the calendar month  
566 immediately preceding the month in which the report is filed;

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

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

570 (b) The commissioner may require other reports as the commissioner deems necessary for  
571 the proper administration of this chapter, including, but not limited to, reports from  
572 common carriers and warehousemen with respect to cigars, cigarettes, ~~and~~ loose or  
573 smokeless tobacco, alternative nicotine products, and vapor products delivered to or stored  
574 at any point in this state.

575 (c) Any person who fails to file any report when due shall forfeit as a penalty for each day  
576 after the due date until the report is filed the sum of \$25.00, to be collected in the manner  
577 provided in subsection (c) of Code Section 48-11-24 for the collection of penalties.

578 48-11-11.

579 (a) Each distributor and each dealer shall keep complete and accurate records of all cigars,  
580 cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor  
581 products manufactured, produced, purchased, and sold. The original records or a complete  
582 and legible photocopy or electronic image shall be safely preserved for three years in an  
583 appropriate manner to ensure permanency and accessibility for inspection by the  
584 commissioner and the commissioner's authorized agents. The commissioner and the  
585 commissioner's authorized agents may examine the books, papers, and records of any  
586 distributor or dealer in this state for the purpose of determining whether the tax imposed  
587 by this chapter has been fully paid and, for the purpose of determining whether the  
588 provisions of this chapter are properly observed, may investigate and examine the stock of  
589 cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor  
590 products in or upon any premises, including, but not limited to, public and private  
591 warehouses where the cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine  
592 products, or vapor products ~~is~~ are possessed, stored, or sold. Invoices sufficient to cover  
593 current inventory at a licensed location shall be maintained at such licensed location and  
594 made available for immediate inspection. All other records may be kept at a locality other  
595 than the licensed location and shall be provided for inspection within two business days  
596 after receipt of notification from the commissioner or an authorized agent of the  
597 commissioner to make such records available.

598 (b) The commissioner and his or her authorized agents may examine the books, papers,  
599 and records of any transportation company, any common, contract, or private carrier, and

600 any public or private warehouse for the purpose of determining whether the provisions of  
601 this chapter are properly observed.

602 48-11-12.

603 (a)(1) The commissioner shall assess a deficiency and may assess a penalty of 10 percent  
604 of the deficiency if, after an examination of the invoices, books, and records of a licensed  
605 distributor or dealer or of any other information obtained by the commissioner or the  
606 commissioner's authorized agents, the commissioner determines that:

607 (A) The report of the licensed distributor or dealer is incorrect;

608 (B) The licensed distributor or dealer has not paid the tax in accordance with the  
609 alternate regulations promulgated by the commissioner under Code Section 48-11-3;  
610 or

611 (C) The licensed distributor or dealer has not purchased sufficient stamps to cover such  
612 licensed distributor's or dealer's receipts for sales or other disposition of unstamped  
613 cigarettes or loose or smokeless tobacco and nontax-paid cigars, ~~or nontax-paid~~ loose  
614 or smokeless tobacco, nontax-paid alternative nicotine products, or nontax-paid vapor  
615 products.

616 (2) In any case where a licensed distributor or dealer cannot produce evidence of  
617 sufficient stamps purchased or other payment of the tax to cover the receipt of unstamped  
618 cigarettes or loose or smokeless tobacco or nontax-paid cigars, ~~or nontax-paid~~ loose or  
619 smokeless tobacco, nontax-paid alternative nicotine products, or nontax-paid vapor  
620 products, it shall be assumed that the cigars, cigarettes, and loose or smokeless tobacco  
621 were sold without having either the proper stamps affixed or the tax paid on unstamped  
622 cigars or loose or smokeless tobacco.

623 (b) If the commissioner determines that the deficiency or any part of the deficiency is due  
624 to a fraudulent intent to evade the tax, a penalty of 50 percent of the deficiency shall be  
625 added to the amount due.

626 48-11-13.

627 (a) There is imposed a tax on every person for the privilege of using, consuming, or storing  
628 cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor  
629 products in this state on which the tax imposed by Code Section 48-11-2 has not been paid.  
630 The tax shall be measured by and graduated in accordance with the volume of cigars,  
631 cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor  
632 products used, consumed, or stored as set forth in Code Section 48-11-2.

633 (b) This Code section shall not apply to:

- 634 (1) Cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or  
 635 vapor products in the hands of a licensed distributor or dealer;
- 636 (2) Cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or  
 637 vapor products in the possession of a common carrier complying with Code Section  
 638 48-11-22;
- 639 (3) Cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or  
 640 vapor products stored in a public warehouse;
- 641 (4) Cigarettes or little cigars in an amount not exceeding 200 cigarettes or little cigars  
 642 which have been brought into this state on the person;
- 643 (5) Cigars in an amount not exceeding 20 cigars which have been brought into this state  
 644 on the person; ~~or~~
- 645 (6) Loose or smokeless tobacco in an amount not exceeding six containers which has  
 646 been brought into this state on the person;
- 647 (7) Alternative nicotine products in an amount not exceeding six containers which have  
 648 been brought into this state on the person;
- 649 (8) Consumable vapor products in an amount not exceeding 50 milliliters which have  
 650 been brought into this state on the person; or
- 651 (9) Up to five vapor devices which have been brought into this state on the person.

652 48-11-14.

653 (a) Before any person acquires cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative  
 654 nicotine products, or vapor products subject to the tax imposed by Code Section 48-11-13,  
 655 such person shall register with the commissioner as a responsible taxpayer subject to the  
 656 obligation of maintaining records and making reports in the form prescribed by the  
 657 commissioner. The report shall be made on or before the tenth day of the month following  
 658 the month in which the cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative  
 659 nicotine products, or vapor products were ~~was~~ acquired and shall be accompanied by the  
 660 amount of tax due.

661 (b) If any person subject to the tax imposed by Code Section 48-11-13 fails to make the  
 662 required report or makes an incorrect report, the commissioner shall assess the correct  
 663 amount of tax due from that person from the best information available to him or her. A  
 664 copy of the assessment shall be furnished the person by registered or certified mail or  
 665 statutory overnight delivery, return receipt requested, or by personal service. Any person  
 666 aggrieved by any assessment pursuant to this Code section may request a hearing in the  
 667 manner provided in subsection (a) of Code Section 48-11-18.

668 (c) Every person subject to the tax imposed by Code Section 48-11-13 who fails to register  
 669 with the commissioner as a responsible taxpayer, who fails to make a report within the time

670 specified, or who fails to remit the tax within the time specified may be required to pay a  
671 penalty of not less than \$25.00 nor more than \$250.00 in addition to the tax and any other  
672 penalties imposed by law and found due by the commissioner. The commissioner may  
673 proceed to collect the tax and penalty in the manner provided in subsection (c) of Code  
674 Section 48-11-24.

675 (d) Except as otherwise provided in this Code section, the sanctions and penalties set forth  
676 in Code Sections 48-11-15, 48-11-17, 48-11-18, and 48-11-20 through 48-11-24 and in  
677 Code Sections 48-7-2 and 48-13-38 shall be imposed where applicable for any violations  
678 of this chapter by consumers.

679 48-11-15.

680 The Office of the State Treasurer is authorized to pay, on the order of the commissioner,  
681 claims for refunds of cigar, cigarette, ~~or~~ loose or smokeless tobacco, alternative nicotine  
682 product, or vapor product taxes found by the commissioner or the courts to be due any  
683 distributor, dealer, or taxpayer. The commissioner, upon proof satisfactory to the  
684 commissioner and in accordance with regulations promulgated by the commissioner, shall  
685 refund the cost price of stamps affixed to any package of cigars, cigarettes, or loose or  
686 smokeless tobacco or shall refund the tax paid on cigars, ~~or~~ loose or smokeless tobacco,  
687 alternative nicotine products, or vapor products under the alternate method when the cigars,  
688 cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products  
689 have ~~has~~ become unfit for use, consumption, or sale and ~~has~~ have been destroyed or  
690 shipped out of this state.

691 48-11-16.

692 (a) The commissioner may permit licensed distributors to purchase tax stamps from the  
693 department on account. Permits may be granted only to licensed distributors who post  
694 bonds with the commissioner in amounts sufficient in the opinion of the commissioner to  
695 secure payment for stamps delivered on account. Tax stamps purchased by licensed  
696 distributors shall be paid for in full on or before the twentieth day of the month next  
697 succeeding the purchase. The bond provided in this Code section shall be secured by cash  
698 which shall bear no interest, by negotiable securities approved by the Office of the State  
699 Treasurer, or by a surety bond executed by a surety company licensed to do business in this  
700 state and approved by the commissioner.

701 (b) The commissioner may cancel without notice any permit issued under this Code  
702 section if the licensed distributor fails or refuses to comply with the requirements of this  
703 Code section or with the rules and regulations adopted under authority of this Code section.

704 (c) On or before June 30 of each fiscal year, the licensed distributor shall pay in its entirety  
705 any liability for the purchase of tax stamps due at that time.

706 48-11-17.

707 The amount of any unpaid tax shall be a lien against the property of any distributor or  
708 dealer who sells cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine  
709 products, or vapor products without collecting the tax and against the property of any  
710 person using or consuming cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative  
711 nicotine products, or vapor products without proper stamps affixed to the cigars, cigarettes,  
712 ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products or without  
713 the tax paid on the cigars, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or  
714 vapor products as otherwise provided in this chapter. The commissioner or the  
715 commissioner's authorized agents are authorized to seize the property of a delinquent  
716 distributor, dealer, or taxpayer and sell it as provided by law to satisfy the claim for taxes  
717 due under this chapter; or the commissioner may record the commissioner's lien specifying  
718 and describing the property against which the lien is effective, and the lien shall be good  
719 as against any other person until the claim for taxes is satisfied.

720 48-11-18.

721 (a) Any person aggrieved by any action of the commissioner or the commissioner's  
722 authorized agent may apply to the commissioner, in writing within ten days after the notice  
723 of the action is delivered or mailed to the commissioner, for a hearing. The application  
724 shall set forth the reasons why the hearing should be granted and the manner of relief  
725 sought. The commissioner shall notify the applicant of the time and place fixed for the  
726 hearing. After the hearing, the commissioner may make an order as may appear to the  
727 commissioner to be just and lawful and shall furnish a copy of the order to the applicant.  
728 The commissioner at any time by notice in writing may order a hearing on the  
729 commissioner's own initiative and require the taxpayer or any other person whom the  
730 commissioner believes to be in possession of information concerning any manufacture,  
731 importation, use, consumption, storage, or sale of cigars, cigarettes, ~~or~~ loose or smokeless  
732 tobacco, alternative nicotine products, or vapor products which ~~has~~ have escaped taxation  
733 to appear before the commissioner or the commissioner's duly authorized agent with any  
734 specific books of account, papers, or other documents for examination under oath relative  
735 to the information.

736 (b) Any person aggrieved because of any final action or decision of the commissioner,  
737 after hearing, may appeal from the decision to the superior court of the county in which the  
738 appellant resides. The appeal shall be returnable at the same time and shall be served and

739 returned in the same manner as required in the case of a summons in a civil action. The  
740 authority issuing the citation shall take from the appellant a bond of recognizance to the  
741 state, with surety, conditioned to prosecute the appeal and to effect and comply with the  
742 orders and decrees of the court. The action of the commissioner shall be sustained unless  
743 the court finds that the commissioner misinterpreted this chapter or that there is no  
744 evidence to support the commissioner's action. If the commissioner's action is not  
745 sustained, the court may grant equitable relief to the appellant. Upon all appeals which are  
746 denied, costs may be taxed against the appellant at the discretion of the court. No costs of  
747 any appeal shall be taxed against the state.

748 48-11-19.

749 (a) Each person appointed by the commissioner as a special agent or enforcement officer  
750 of the department for the enforcement of the laws of this state with respect to the  
751 manufacture, transportation, distribution, sale, possession, and taxation of cigars, cigarettes,  
752 little cigars, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor  
753 products shall have the authority throughout this state to:

754 (1) Obtain and execute warrants for arrest of persons charged with violations of such  
755 laws;

756 (2) Obtain and execute search warrants in the enforcement of such laws;

757 (3) Arrest without warrant any person violating such laws in the officer's presence or  
758 within such officer's immediate knowledge when there is likely to be a failure of  
759 enforcement of such laws for want of a judicial officer to issue a warrant;

760 (4) Make investigations in the enforcement of such laws and, in connection with such  
761 investigations, to go upon any property outside buildings, whether posted or otherwise,  
762 in the performance of such officer's duties;

763 (5) Seize and take possession of all property which is declared contraband under such  
764 laws; and

765 (6) Carry firearms while performing such officer's duties.

766 (b) Each special agent or enforcement officer shall file with the commissioner a public  
767 official's bond in the amount of \$1,000.00, the cost of the bond to be borne by the  
768 department. Nothing in this chapter shall be construed to relieve agents and officers, after  
769 making an arrest, from the duties imposed generally to obtain a warrant promptly and to  
770 return arrested persons without undue delay before a person authorized to examine,  
771 commit, or receive bail as required by general law.

772 (c) After a special agent or enforcement officer has accumulated 25 years of service with  
773 the department, upon leaving the department under honorable conditions, such special  
774 agent or enforcement officer shall be entitled as part of such officer's compensation to

775 retain his or her weapon and badge pursuant to regulations promulgated by the  
776 commissioner.

777 (d) As used in this subsection, the term 'disability' means a disability that prevents an  
778 individual from working as a law enforcement officer. When a special agent or  
779 enforcement officer leaves the department as a result of a disability arising in the line of  
780 duty, such special agent or enforcement officer shall be entitled as part of such officer's  
781 compensation to retain his or her weapon and badge in accordance with regulations  
782 promulgated by the commissioner.

783 48-11-20.

784 The failure to do any act required by this chapter shall be deemed an act committed in part  
785 at the office of the commissioner in Atlanta. The certificate of the commissioner to the  
786 effect that any act required by this chapter has not been done shall be prima-facie evidence  
787 that the act has not been done.

788 48-11-21.

789 The superior courts of this state shall have jurisdiction of offenses against this chapter  
790 which are punishable by fine or imprisonment, or both.

791 48-11-22.

792 (a) Every person who transports upon the public highways, roads, and streets of this state  
793 cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor  
794 products not stamped or on which tax has not been paid in accordance with the alternate  
795 regulations provided by the commissioner under Code Section 48-11-3 shall have in such  
796 person's actual possession invoices or delivery tickets for the cigars, cigarettes, ~~and~~ loose  
797 or smokeless tobacco, alternative nicotine products, and vapor products which show the  
798 true name and address of the consignor or seller, the true name of the consignee or  
799 purchaser, the quantity and brands of the cigars, cigarettes, ~~or~~ loose or smokeless tobacco,  
800 alternative nicotine products, or vapor products transported, and the name and address of  
801 the person who has assumed or shall assume the payment of the tax at the point of ultimate  
802 destination. In the absence of the invoices or delivery tickets, the cigars, cigarettes, ~~or~~  
803 loose or smokeless tobacco, alternative nicotine products, or vapor products being  
804 transported and the vehicles in which the cigars, cigarettes, ~~or~~ loose or smokeless tobacco,  
805 alternative nicotine products, or vapor products ~~are~~ ~~is~~ being transported shall be confiscated  
806 and disposed of as provided in Code Section 48-11-9; and the transporter may be liable for  
807 a penalty of not more than \$50.00 for each individual carton of little cigars or cigarettes,  
808 \$50.00 for each individual box of cigars, ~~and~~ \$50.00 for each individual container of loose

809 or smokeless tobacco being transported by such person, and \$50.00 for each individual  
 810 container of alternative nicotine products, each vapor device, or each 5 milliliters of  
 811 consumable vapor products. The penalty shall be recovered as provided in subsection (c)  
 812 of Code Section 48-11-24.

813 (b) This Code section shall apply only to the transportation of more than 200 cigarettes,  
 814 more than 200 little cigars, more than 20 cigars, ~~or~~ more than six containers of loose or  
 815 smokeless tobacco, more than six containers of alternative nicotine products, more than  
 816 five vapor devices, or more than 50 milliliters of consumable vapor products.

817 48-11-23.

818 (a) It shall be unlawful for any person, with the intent to evade the tax imposed by this  
 819 chapter, to transport cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine  
 820 products, or vapor products in violation of Code Section 48-11-22.

821 (b) Any person who violates Code Section 48-11-22, with the intent to evade the tax  
 822 imposed by this chapter, shall, upon conviction, be subject to the following punishments:

823 (1) If such person is transporting more than 20 but fewer than 60 cigars, more than 200  
 824 but fewer than 600 cigarettes or little cigars, ~~or~~ more than six but fewer than 18  
 825 containers of loose or smokeless tobacco, more than six but fewer than 18 containers of  
 826 alternative nicotine products, more than five vapor devices but fewer than 20 vapor  
 827 devices, or more than 50 milliliters but fewer than 200 milliliters of consumable vapor  
 828 products, such person shall be guilty of a misdemeanor;

829 (2) If such person is transporting 60 or more but fewer than 200 cigars, 600 or more but  
 830 fewer than 2,000 cigarettes or little cigars, ~~or~~ 18 or more but fewer than 60 containers of  
 831 loose or smokeless tobacco, 18 or more but fewer than 60 containers of alternative  
 832 nicotine products, 20 or more but fewer than 60 vapor devices, or 200 milliliters or more  
 833 but fewer than 600 milliliters of consumable vapor products, such person shall be guilty  
 834 of a misdemeanor of a high and aggravated nature; or

835 (3) If such person is transporting 200 or more cigars, 2,000 or more cigarettes or little  
 836 cigars, ~~or~~ 60 or more containers of loose or smokeless tobacco, 60 or more containers of  
 837 alternative nicotine products, 60 or more vapor devices, or 600 milliliters or more of  
 838 consumable vapor products, such person shall be guilty of a felony and, upon conviction  
 839 thereof, shall be imprisoned for not less than three years nor more than ten years.

840 48-11-23.1.

841 (a) As used in this Code section, the term 'package' means a pack, carton, or container of  
 842 any kind in which cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products,

843 or vapor products are ~~is~~ offered for sale, sold, or otherwise distributed, or intended for  
 844 distribution, to consumers.

845 (b) No tax stamp may be affixed to, or made upon, any package of cigarettes, ~~or~~ loose or  
 846 smokeless tobacco, alternative nicotine products, or vapor products if:

847 (1) The package differs in any respect with the requirements of the federal Cigarette  
 848 Labeling and Advertising Act, 15 U.S.C. Section 1331, et seq., or those requirements  
 849 established by the United States Food and Drug Administration, for the placement of  
 850 labels, warnings, or any other information upon a package of cigarettes, ~~or~~ loose or  
 851 smokeless tobacco, alternative nicotine products, or vapor products that ~~is~~ are to be sold  
 852 within the United States;

853 (2) The package is labeled 'For Export Only,' 'U.S. Tax Exempt,' 'For Use Outside U.S.,'  
 854 or similar wording indicating that the manufacturer did not intend that the product be sold  
 855 in the United States;

856 (3) The package, or a package containing individually stamped packages, has been  
 857 altered by adding or deleting the wording, labels, or warnings described in paragraph (1)  
 858 or (2) of this subsection;

859 (4) The package has been imported into the United States after January 1, 2000, in  
 860 violation of 26 U.S.C. Section 5754;

861 (5) The package in any way violates federal trademark or copyright laws; or

862 (6) The package in any way violates Code Section 10-13A-5.

863 (c) Any person who sells or holds for sale a cigarette, ~~or~~ loose or smokeless tobacco,  
 864 alternative nicotine product, or vapor product package to which is affixed a tax stamp in  
 865 violation of subsection (b) of this Code section shall be guilty of a misdemeanor.

866 (d) Notwithstanding any other provision of law, the commissioner may revoke any license  
 867 issued under this chapter to any person who sells or holds for sale a cigarette, ~~or~~ loose or  
 868 smokeless tobacco, alternative nicotine product, or vapor product package to which is  
 869 affixed a tax stamp in violation of subsection (b) of this Code section.

870 (e) Notwithstanding any other provision of law, the commissioner may seize and destroy  
 871 or sell to the manufacturer, only for export, packages that do not comply with subsection  
 872 (b) of this Code section.

873 (f) A violation of subsection (b) of this Code section shall constitute an unfair and  
 874 deceptive act or practice under Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair  
 875 Business Practices Act of 1975.'

876 48-11-24.

877 (a) Any person who possesses unstamped cigarettes or nontax-paid cigars, ~~or~~ little cigars,  
 878 ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products in violation

879 of this chapter shall be liable for a penalty of not more than \$50.00 for each individual  
 880 carton of unstamped cigarettes and \$50.00 for each individual nontax-paid carton of little  
 881 cigars, box of cigars, or container of loose or smokeless tobacco, alternative nicotine  
 882 products, or vapor products in his or her possession.

883 (b) Any person who engages in any business or activity for which a license is required by  
 884 this chapter without first having obtained a license to do so or any person who continues  
 885 to engage in or conduct the business after the person's license has been revoked or during  
 886 a suspension of the license shall be guilty of a misdemeanor of a high and aggravated  
 887 nature and, upon conviction thereof, shall be subject to imprisonment for up to 12 months,  
 888 a fine of not more than \$5,000.00, or both. Each day that the business is engaged in or  
 889 conducted shall be deemed a separate offense.

890 (c) Proceedings to enforce and collect the penalties provided by this chapter shall be  
 891 brought by and in the name of the commissioner. With respect to offenses committed  
 892 within the territorial jurisdiction of the court, each superior court shall have jurisdiction to  
 893 enforce and collect the penalty. The costs recoverable in any such proceeding shall be  
 894 recovered by the commissioner in the event of judgment in the commissioner's favor. If  
 895 the judgment is for the defendant, it shall be without costs against the commissioner. All  
 896 expenses incident to the recovery of any penalty pursuant to this Code section shall be paid  
 897 in the same manner as any other expense incident to the administration of this chapter.

898 48-11-25.

899 (a)(1) It shall be unlawful for any person, with the intent to evade the tax imposed by this  
 900 chapter, to possess unstamped cigarettes or loose or smokeless tobacco or nontax-paid  
 901 cigars, or loose or smokeless tobacco, alternative nicotine products, or vapor products.

902 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a  
 903 misdemeanor.

904 (b)(1) It shall be unlawful for any person, with the intent to evade the tax imposed by this  
 905 chapter, to:

906 (A) Sell cigarettes or loose or smokeless tobacco without the stamps required by this  
 907 chapter being affixed to the cigarettes or loose or smokeless tobacco; or

908 (B) Sell cigars, or loose or smokeless tobacco, alternative nicotine products, or vapor  
 909 products without the stamp or stamps required by this chapter or without the tax being  
 910 paid on the cigars, or loose or smokeless tobacco, alternative nicotine products, or  
 911 vapor products in accordance with the alternate method.

912 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony  
 913 and, upon conviction thereof, shall be imprisoned for not less than one year nor more than  
 914 ten years.

915 48-11-26.

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

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

921 (2) Aid or abet another in the filing with the commissioner of any false or fraudulent  
922 report or statement.

923 (b) Any person who violates subsection (a) of this Code section shall be guilty of a  
924 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be subject  
925 to a fine of not more than \$1,000.00 for each separate offense.

926 48-11-27.

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

928 (1) Make a false entry upon any invoices or any record relating to the purchase,  
929 possession, or sale of cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative  
930 nicotine products, or vapor products; or

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

934 (b) Any person who violates subsection (a) of this Code section shall be guilty of a  
935 misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than  
936 \$250.00 for each separate offense.

937 48-11-28.

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

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

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

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

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

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

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

949 (b) Any person who violates subsection (a) of this Code section shall be guilty of a felony  
950 and, upon conviction thereof, shall be imprisoned for not less than three years nor more  
951 than ten years.

952 48-11-29.

953 Reserved.

954 48-11-30.

955 (a) Notwithstanding any other provision of law, the sale or possession for sale of  
956 counterfeit cigarettes by any person shall result in the seizure of the product and related  
957 machinery by the commissioner or his or her authorized agents and any law enforcement  
958 agency at the direction of the commissioner and shall be punishable as follows:

959 (1) A first violation with a total quantity of less than two cartons of cigarettes shall be  
960 punishable by a fine of \$1,000.00 or five times the retail value of the cigarettes involved,  
961 whichever is greater, or imprisonment not to exceed five years, or both the fine and  
962 imprisonment;

963 (2) A subsequent violation with a total quantity of less than two cartons of cigarettes  
964 shall be punishable by a fine of \$5,000.00 or five times the retail value of the cigarettes  
965 involved, whichever is greater, or imprisonment not to exceed five years, or both the fine  
966 and imprisonment;

967 (3) A first violation with a total quantity of two cartons of cigarettes or more shall be  
968 punishable by a fine of \$2,000.00 or five times the retail value of the cigarettes involved,  
969 whichever is greater, or imprisonment not to exceed five years, or both the fine and  
970 imprisonment; and

971 (4) A subsequent violation with a quantity of two cartons of cigarettes or more shall be  
972 punishable by a fine of \$50,000.00 or five times the retail value of the cigarettes involved,  
973 whichever is greater, or imprisonment not to exceed five years, or both the fine and  
974 imprisonment.

975 (b) An act committed by or on behalf of a licensed cigarette manufacturer, cigarette  
976 importer, cigarette distributor, or cigarette dealer in violation of paragraph (2) or (4) of  
977 subsection (a) of this Code section shall also result in the revocation of the license by the  
978 department pursuant to Code Section 48-11-6.

979 (c) Any counterfeit cigarette seized by or at the direction of the commissioner shall be  
980 destroyed by the commissioner or his or her designee. Any related machinery seized by  
981 or at the direction of the commissioner may be sold by the commissioner at public auction  
982 in accordance with the requirements of Code Section 48-11-9."

983

**SECTION 3.**

984 Section 1 of this Act shall become effective on September 1, 2020, and Section 2 of this Act  
985 shall become effective on January 1, 2021.

986

**SECTION 4.**

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