Senator Bill 375
By: Senators Mullis of the 53rd, Watson of the 1st, Burke of the 11th, Kirkpatrick of the 32nd, Miller of the 49th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, so as to increase the age of individuals to which the sale or distribution of cigarettes, tobacco products, tobacco related objects, alternative nicotine products, and vapor products is prohibited; to revise and provide for definitions; to provide for an additional offense of using vapor products in a school safety zone; to provide for and revise certain fines and penalties; to provide for seizure and forfeiture; To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to provide for excise taxes to be levied on the sale of certain alternative nicotine products, vapor devices, and consumable vapor products; to require licensure of importers, manufacturers, distributors, and dealers of alternative nicotine products or vapor products; to provide for license fees, suspensions, revocations, and renewals; to provide for procedures for hearings and appeals; to provide for seizures of certain products; to require certain reports and provide for inspections of certain records; to prohibit certain conduct relating to the sale and transportation of alternative nicotine products and vapor products; to provide for assessments and penalties; to provide for powers and duties of special agents and enforcement officers; to permit licensed dealers to make deliveries of cigars, cigarettes, loose or smokeless tobacco, alternative nicotine products, and vapor products pursuant to specific terms and conditions; to allow such dealers to market, receive, and process orders for such products using electronic means owned, operated, or maintained by third parties; to provide for the relationship between such dealers and third parties; to provide certain requirements for individuals making deliveries on behalf of a dealer; to provide for warrantless searches and seizures by certain agents and officers of the Department of Revenue; to provide for appeals of certain decisions made by the state revenue commissioner; to provide for civil and criminal penalties; to provide for rules and regulations; to revise and provide for definitions; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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SECTION 1.

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by revising Article 7 of Chapter 12, relating to sale or distribution to, or possession by, minors of cigarettes and tobacco related objects, as follows:

ARTICLE 7

16-12-170.

As used in this article, the term:

(1) 'Alternative nicotine product' means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Such term shall not include any tobacco product, vapor product, or any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

(2) 'Cigar wraps' means individual cigar wrappers, known as wraps, blunt wraps, or roll your own cigar wraps, that consist in whole or in part of reconstituted tobacco leaf or flavored tobacco leaf.

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

(4) 'Community service' means a public service which an individual under the age of 21 years might appropriately be required to perform, as determined by the court, as punishment for certain offenses provided for in this article.

(5) 'Minor' means any person who is under the age of 18 years.

(6) 'Person' means any natural person or any firm, partnership, company, corporation, or other entity.

(7) 'Proper identification' means any document issued by a governmental agency containing a description of the individual, such as a passport, military identification card, driver's license, or an identification card authorized under Code Sections 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate.

(8) 'Tobacco product' means any cigars, little cigars, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff powder; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both.
for chewing and smoking. **Such term** the **term** *tobacco product* shall not include any alternative nicotine product, vapor product, or product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

(9)(8) 'Tobacco related objects' means any papers, wrappers, or other products, devices, or substances, including cigar wraps, which are used for the purpose of making cigarettes or tobacco products in any form whatsoever.

(10)(9) 'Vapor product' means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from nicotine or other substances in a solution or other form. **Such term** the **term** *vapor product* shall include, but shall not be limited to, any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor or aerosol cartridge or other container of nicotine or other substance in a solution or other form, including, but not limited to, a device component, part, or accessory of the device, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. **Such term** the **term** *vapor product* shall not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

16-12-171.

(a)(1) It shall be unlawful for any person knowingly to:

(A) Sell or barter, directly or indirectly, any cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products to a minor any individual under the age of 21 years;

(B) Purchase any cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products for any minor unless the minor for whom the purchase is made is the child of the purchaser individual under the age of 21 years; or

(C) Advise, counsel, or compel any minor individual under the age of 21 years to smoke, inhale, chew, or use cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products.

(2)(A) The prohibition contained in paragraph (1) of this subsection shall not apply with respect to sale of cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products by a person when such person has been furnished with proper identification showing that the person individual to whom the cigarettes,
tobacco products, tobacco related objects, alternative nicotine products, or vapor products are sold is 18-21 years of age or older.

(B) In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the person individual to whom cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products are to be sold or otherwise furnished is actually 18-21 years of age or older, it shall be the duty of the person selling or otherwise furnishing such cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products to request to see and to be furnished with proper identification as provided for in subsection (b) of this Code section in order to verify the age of such person individual. The failure to make such request and verification in any case where the individual to whom the cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products are sold or otherwise furnished is less than 18-21 years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products did so knowingly.

(3) Any person who violates this subsection shall be guilty of a misdemeanor.

(b)(1) It shall be unlawful for any minor individual under the age of 21 years to:

(A) Purchase, attempt to purchase, or possess for personal use any cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products. This subparagraph shall not apply to possession of cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products by a minor when a parent or guardian of such minor gives the cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products to the minor and possession is in the home of the parent or guardian and such parent or guardian is present; or

(B) Misrepresent such minor's identity or age or use any false identification for the purpose of purchasing or procuring any cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products.

(2) An individual under the age of 21 years who commits an offense provided for in paragraph (1) of this subsection may or paragraph (1) of subsection (c) of this Code section shall be punished as follows:

(A) By requiring the performance of community service not exceeding 20 hours that may be related to the awareness of the health hazards of smoking and vaping or tobacco and vapor product use;

(B) By requiring attendance at a publicly or privately sponsored lecture or discussion on the health hazards of smoking and vaping or tobacco and vapor product use,
provided that such lecture or discussion is offered without charge to the minor individual under the age of 21 years;

(C) When an individual under the age of 21 years fails to comply with such imposed community service, or for a third or subsequent violation within the same calendar year as the first violation, by requiring the Department of Driver Services to withhold issuance of or to suspend the driver's license or driving privilege of such individual for a period of 45 consecutive days; or

(D) By a combination of the punishments described in subparagraphs (A) and (B) through (C) of this paragraph.

(c)(1) It shall be unlawful for any individual to knowingly use a vapor product within a school safety zone. As used in this subsection the term 'school safety zone' shall have the same meaning as provided in Code Section 16-11-127.1.

(2) Any individual who is 21 years of age or older who commits the offense provided for in paragraph (1) of this subsection shall be guilty of a misdemeanor; provided, however, that for a conviction of a first offense, such individual shall be punished by a fine of $25.00 and for a conviction of a second offense, such individual shall be punished by a fine of $50.00. The provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of any prosecution for such first or second offense shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against an individual for conviction thereof.

(3) Any vapor product used in violation of paragraph (1) of this subsection is declared to be contraband, and no person shall have a property right in it. In addition to persons authorized to seize property pursuant to Code Section 9-16-6, property which is subject to forfeiture under this subsection may be seized by any special agent or enforcement officer of the state revenue commissioner. Any property which is subject to forfeiture under this subsection shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

16-12-172.

(a) Any person owning or operating a place of business in which cigarettes, tobacco products, or tobacco related objects, alternative nicotine products, or vapor products are sold or offered for sale shall post in a conspicuous place a sign which shall contain the following statement:

'SALE OF CIGARETTES, TOBACCO, TOBACCO PRODUCTS, TOBACCO RELATED OBJECTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS TO PERSONS INDIVIDUALS UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW.'
Such sign shall be printed in letters of at least one-half inch in height.

(b) Any person who fails to comply with the requirements of subsection (a) of this Code section shall be guilty of a misdemeanor.

16-12-173.

(a)(1) Any person who maintains in such person's place of business a vending machine which dispenses cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products shall place or cause to be placed in a conspicuous place on such vending machine a sign containing the following statement:

'THE PURCHASE OF CIGARETTES, TOBACCO PRODUCTS, TOBACCO RELATED OBJECTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS FROM THIS VENDING MACHINE BY ANY PERSON UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW.'

(2) Any person who maintains in such person's place of business a vending machine which dispenses cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products shall not dispense any other type of product, other than matches, in such vending machine.

(b) Any person who fails to comply with the requirements of subsection (a) of this Code section shall be guilty of a misdemeanor; provided, however, that for a first offense, the sentence shall be a fine not to exceed $300.00.

(c) It shall be a violation of subsection (a) of Code Section 16-12-171 for any person knowingly to allow a minor to operate a vending machine which dispenses cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products.

(d) The offenses provided for by paragraph (1) of subsection (b) of Code Section 16-12-171 shall apply to the operation by a minor of a vending machine which dispenses cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products.

(e)(1) The sale or offering for sale of cigarettes, tobacco products, tobacco related objects, alternative nicotine products, or vapor products from vending machines shall not be permitted except:

(A) In locations which are not readily accessible to minors, including, but not limited to:

(i) Factories, businesses, offices, and other places which are not open to the general public;

(ii) Places open to the general public which do not admit minors under the age of 21 years; and

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(iii) Places where alcoholic beverages are offered for sale;

(B) In areas which are in the immediate vicinity, in plain view, and under the continuous supervision of the proprietor of the establishment or an employee who will observe the purchase of cigarettes, tobacco products, tobacco related objects, alternative nicotine products, and vapor products from the vending machine; and

(C) In rest areas adjacent to roads and highways of the state.

(2) Violation of this subsection shall be punished as provided in subsection (b) of this Code section for violation of subsection (a) of this Code section.

16-12-174.

(a) As used in this Code section, the term 'tobacco product sample' means a cigarette, tobacco product, alternative nicotine product, or vapor product distributed to members of the general public at no cost for purposes of promoting the product.

(b) It shall be unlawful for any person to distribute any tobacco product sample to any person individual under the age of 21 years.

(c) A person distributing tobacco product samples shall require proof of age from a prospective recipient if an ordinary person would conclude on the basis of appearance that such prospective recipient may be under the age of 21 years.

(d) It shall be unlawful for any person individual who has not attained the age of 21 years to receive or attempt to receive any tobacco product sample.

(e) No person shall distribute tobacco product samples on any public street, sidewalk, or park within 500 feet of any school or playground when those facilities are being used primarily by persons individuals under the age of 21 years.

(f) A violation of subsection (b), (c), or (e) Violation of this Code section shall be punished as a misdemeanor. A violation of subsection (d) of this Code section shall be punished as provided for in paragraph (2) of subsection (b) of Code Section 16-12-171.

16-12-175.

(a) The provisions of this article, inclusive, shall be enforced through actions brought in any court of competent jurisdiction by the prosecuting attorney for the county in which the alleged violation occurred as well as through administrative citations issued by special agents or enforcement officers of the state revenue commissioner. Any fine collected for a violation of said provision shall be paid to the clerk of the court of the jurisdiction in which the violation occurred. Upon receipt of a fine for any violation of said provision, the clerk shall promptly notify the state revenue commissioner of the violation.

(b) The state revenue commissioner, acting through special agents or enforcement officers, shall annually conduct random, unannounced inspections at locations where cigarettes,
tobacco products, alternative nicotine products, or vapor products are sold or distributed to ensure compliance with this article. Individuals persons under the age of 18 years may be enlisted to test compliance with this article; provided, however, that such persons individuals may be used to test compliance with this article only if the testing is conducted under the direct supervision of such special agents or enforcement officers and written parental consent for any individual under the age of 18 years has been provided. Any other use of persons individuals under the age of 18 years to test compliance with this article or any other prohibition of like or similar import shall be unlawful, and the person or persons responsible for such use shall be subject to the penalties prescribed in this article.

The state revenue commissioner shall prepare annually for submission by the Governor to the secretary of the United States Department of Health and Human Services the report required by section 1926 of subpart I of part Section 1926 of Subpart I of Part B of Title XIX of the federal Public Health Service Act, 42 U.S.C. 300x-26.

16-12-176.

The state revenue commissioner shall administer and enforce this article and may make reasonable rules and regulations for its administration and enforcement. The state revenue commissioner may designate employees of the Department of Revenue for the purpose of administering and enforcing this article and may delegate to employees of such department any of the duties required of the state revenue commissioner pursuant to this article.

SECTION 2.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Chapter 11, relating to taxes on tobacco products, as follows:

CHAPTER 11

As used in this chapter, the term:

(1) ‘Alternative nicotine product’ means any material that contains nicotine, but does not contain tobacco leaf, and is intended for human consumption, whether such material is chewed, absorbed, dissolved, or ingested by any other means. Such term shall include, but shall not be limited to, nicotine gel, pouches, or gum or dissolvable nicotine strips, sticks, lozenges, or pellets. Such term shall not include little cigars, cigars, cigarettes, loose or smokeless tobacco, consumable vapor products, or any product regulated as a drug or therapeutic device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
(2) ‘Alternative nicotine product dealer’ means any person located within the borders of this state who sells or distributes alternative nicotine products to a consumer in this state.

(3) ‘Alternative nicotine product distributor’ means any person who:

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

(B) Is engaged in the business of:

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

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

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

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

(1)(6) ‘Cigar’ means any roll for smoking made wholly or in part of tobacco when the cover of the roll is also tobacco. Such term shall include a little cigar.

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

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

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

(B) Is engaged in the business of:

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

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

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

(5)(10) ‘Cigar manufacturer’ means any person who manufactures, fabricates, assembles, processes, or labels a finished cigar.
'Cigarette' means any roll or stick for smoking made wholly or in part of tobacco when the cover of the roll is paper or any substance other than tobacco or when the stick is heated in a device without combustion.

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

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

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

(B) Is engaged in the business of:

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

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

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

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

'Cigarette manufacturer' means any person who manufactures, fabricates, assembles, processes, or labels a finished cigarette.

'Closed system' means any disposable container which is prefilled and sealed by the manufacturer, not easily refillable or intended or designed to be refillable, and intended or used to dispense consumable vapor products by way of a vapor device that is intended or designed to be reused.

'Consumable vapor product' means any liquid solution, whether it contains nicotine or not, that is intended to be heated into an aerosol state and inhaled by an individual. Such term shall include, but shall not be limited to, e-liquid, e-juice, vape juice, and cartridges that are prefilled with such a solution. Such term shall not include any alternative nicotine product, cigar, cigarette, loose or smokeless tobacco, perfume, potpourri, essential oil, or product regulated as a drug or therapeutic device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
(11) 'Counterfeit cigarette' means cigarettes that are manufactured, fabricated, assembled, processed, packaged, or labeled by any person other than the trademark owner of a cigarette brand or the owner's designated agent.

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

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

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

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

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

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

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

(19) 'Loose or smokeless tobacco distributor' means any person who:
(A) Maintains a warehouse, warehouse personnel, and salespersons who regularly contact and call on loose or smokeless tobacco dealers; and

(B) Is engaged in the business of:

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

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

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

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

(31) Reserved.

(32)'Open system' means any method or manner used to contain a consumable vapor product that is not a closed system.

(33)'Proper identification' means any document issued by a governmental agency containing a description of the person or such person's photograph, or both, and giving such person's date of birth and that includes, without being limited to, a passport, military identification card, driver's license, or identification card authorized under Code Sections 40-5-100 through 40-5-104.

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

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

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

(37)'Third party' means any person registered to do business in this state that has a contractual relationship with at least one licensed dealer. Such term shall include such person's employees and independent contractors.

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

(39)'Vapor device' means any system or device developed or intended to deliver a consumable vapor product to an individual who inhales from the device. Such term shall include, but not be limited to, an electronic nicotine delivery system, an electronic
cigarette, electronic cigar, electronic pipe, vape pen, vape tool, or electronic hookah.
Such term shall not include a fragrance or essential oil diffuser, an air freshener, or any
product regulated as a drug or device by the United States Food and Drug Administration

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

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

(42) 'Vapor product distributor' means any person who:
(A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
contact and call on vapor product dealers; and
(B) Is engaged in the business of:
(i) Importing vapor products into this state or purchasing vapor products from other
vapor product manufacturers or vapor product distributors; and
(ii) Selling the vapor products to vapor product dealers in this state for resale but is
not in the business of selling the vapor products directly to the ultimate consumers of
the vapor products.

(43) 'Vapor product importer' means any person who imports into or who brokers within
the United States, either directly or indirectly, finished vapor products for sale or
distribution.

(44) 'Vapor product manufacturer' means any person who manufactures, fabricates,
assembles, processes, or labels finished vapor products.

(45) 'Vending machine' means any coin-in-the-slot device or other automated device that
accepts payment and is used for the automatic merchandising of cigars, cigarettes, or
loose or smokeless tobacco.

48-11-2.
(a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed
upon the sale, receipt, purchase, possession, consumption, handling, distribution, or use of
cigars, cigarettes, and loose or smokeless tobacco, alternative nicotine products, and vapor
products in this state at the following rates:
(1) Little cigars: two and one-half mills each;
(2) All cigars other than little cigars: 23 percent of the wholesale cost price, exclusive
of any trade, cash, or other discounts or any promotion, advertising, display, or similar
allowances;
(3) Cigarettes: 37¢ per pack of 20 cigarettes and a like rate, pro rata, for other size
packages; and
(4) Loose or smokeless tobacco: 10 percent of the wholesale cost price, exclusive of any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances;

(5) Consumable vapor products in a closed system: 5¢ per fluid milliliter;

(6) Consumable vapor products in an open system: 7 percent of the wholesale cost price, exclusive of any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances; and

(7) Vapor devices that contain any consumable vapor product at the time of sale and which are not designed or intended to be reused or refilled: 7 percent of the wholesale cost price, exclusive of any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances.

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

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

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

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

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

The cigars, cigarettes, and loose or smokeless tobacco, alternative nicotine products, and vapor products tax imposed shall be collected only once upon the same cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products.

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

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

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

48-11-4.

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

(a.1) The commissioner may require a separate license for each business activity and product for which a license is required under this chapter. Alternatively, the commissioner may issue a single license allowing the license holder to act as dealer, distributor, importer, or manufacturer, or a combination thereof as to cigars, cigarettes, loose or smokeless tobacco, alternative nicotine products, or vapor products, or any combination thereof, at a location; provided, however, that the total licensing fee paid for the location shall be the same, whether the commissioner requires multiple licenses or issues a single license except for an additional $10.00 fee upon first issuance and each annual renewal of any manufacturer's, importer's, distributor's, or dealer's license for vapor products; provided, further, that the commissioner may permit or limit the business or activities of a license holder as to any product or products for which a license is required under this chapter without issuing a new license or requiring a new application.

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

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

(c)(1) The annual renewal fee for a manufacturer's, importer's, distributor's, or dealer's license shall be $10.00 except for an additional $10.00 fee per year for those licenses that include vapor products. There shall also be a first-year registration fee of
$250.00 for a person commencing business as a manufacturer, importer, or distributor, provided that there shall be only a first-year registration fee of $10.00 upon first issuance of each manufacturer's, importer's, distributor's, or dealer's license for vapor products to a person that currently holds such a license for tobacco products. All renewal applications shall be filed at least 30 days in advance of the expiration date shown on the license.

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

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

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

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

(d) The commissioner may make rules and regulations governing the sale of cigars, cigarettes, loose or smokeless tobacco, and other tobacco products in vending machines. The commissioner shall require annually a special registration of each vending machine for any operation in this state and charge a license fee for the registration in the amount of $10.00 for each machine. The annual registration shall indicate the location of the vending machine. No vending machine shall be purchased or transported into this state for use in this state when the vending machine is not so designed as to permit inspection without opening the machine for the purpose of determining that all cigars, cigarettes, loose or smokeless tobacco, and other tobacco products contained in the machine bear the tax stamp required under this chapter.
(e) The manufacturer's, importer's, distributor's, or dealer's license shall be exhibited in the place of business for which it is issued in the manner prescribed by the commissioner. The commissioner shall require each licensed distributor to file with the commissioner a bond in an amount of not less than $1,000.00 to guarantee the proper performance of the distributor's duties and the discharge of the distributor's liabilities under this chapter. The bond shall run concurrently with the distributor's license but shall remain in full force and effect for a period of one year after the expiration or revocation of the distributor's license unless the commissioner certifies that all obligations due the state arising under this chapter have been paid.

(f) The jurisdiction of the commissioner in the administration of this chapter shall extend to every person using or consuming cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products in this state and to every person dealing in cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products in any way for business purposes and maintaining a place of business in this state. For the purpose of this chapter, the maintaining of an office, store, plant, warehouse, stock of goods, or regular sales or promotional activity, whether carried on automatically or by salespersons or other representatives, shall constitute, among other activities, the maintaining of a place of business. For the purpose of enforcement of this chapter and the rules and regulations promulgated under this chapter, notwithstanding any other provision of law, the commissioner or his or her duly appointed hearing officer is granted authority to conduct hearings which shall at all times be exercised in conformity with rules and regulations promulgated by the commissioner and consistent with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

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

48-11-4.1.

(a) Except as expressly provided in Code Section 48-11-4.2, it shall be unlawful to sell vapor products to any person who is not a licensed manufacturer, importer, distributor, or dealer of vapor products pursuant to Code Section 48-11-4 by any means other than an in-person, face-to-face sale.

(b) A seller of a vapor product shall request proper identification from each person attempting to purchase a vapor product which shows that such person is at least 21 years of age. Each person attempting to purchase a vapor product shall provide proper identification to the seller at the time of such purchase.
(c) A violation of any provision of this Code section shall be punished as for a misdemeanor as provided in Code Section 16-1-10 and shall result in the probation, suspension, or revocation by the commissioner of all licenses issued to the seller pursuant to Code Section 48-11-4.

48-11-4.2.

(a) Any licensed dealer may deliver to an address designated by an individual making a purchase of tobacco products, alternative nicotine products, or vapor products lawfully sold to and purchased by such individual for personal use and not for resale, subject to the following terms and conditions:

(1) The individual making the purchase shall, prior to ordering and purchasing tobacco products, alternative nicotine products, or vapor products for delivery, establish an account maintained by the licensed dealer that shall be available for inspection by the department;

(2) The licensed dealer or the employee shall process all payments made by the individual making the purchase from the licensed dealer;

(3) The licensed dealer, employee, or third party shall assemble, package, and fulfill each order at the licensed premises of the licensed dealer. Once any tobacco product, alternative nicotine product, or vapor product that is part of an order leaves the licensed premises of the licensed dealer, such product shall remain in the possession of the licensed dealer, the employee, or the third party who is to make the delivery and shall not be transferred to any other person until the time of delivery;

(4) The delivery shall be made by the licensed dealer, employee, or third party who:

(A) Is at least 21 years of age;

(B) Has a valid Georgia driver's license;

(C) Has undergone within the last 12 months a background check that includes a local and national criminal history and driving record and:

(i) Has not had more than three moving violations in the prior three-year period;

(ii) Has not had a major traffic violation, as such term is defined in Code Section 40-5-142, in the prior three-year period;

(iii) Has not been convicted within the past seven years of driving under the influence of drugs or alcohol;

(iv) Has not been convicted at any time of fraud, a sexual offense, the use of a motor vehicle to commit a felony, a crime involving property damage, a crime involving theft, a crime involving an act of violence, or a crime involving an act of terror; and

(v) Does not have a match on the National Sex Offender Registry data base.
(D) Shall not possess or handle as part of or during the delivery forms of compensation that are used to purchase or transact the sale of tobacco products, alternative nicotine products, or vapor products; and

(E) Does not receive compensation based upon whether an attempted delivery results in a completed transaction;

(5) The delivery shall be made by the licensed dealer, employee, or third party to an individual who is at least 21 years of age and presents proper identification verifying the age of such individual;

(6) At the time of the delivery, the licensed dealer, employee, or third party shall verify the identity and age of the individual accepting delivery by validating the proper identification of the individual accepting delivery and obtaining his or her signature on a written or electronic acknowledgment of receipt of the order and certification of legal age to purchase tobacco products, alternative nicotine products, or vapor products. The licensed dealer, employee, or third party shall scan or otherwise verify the proper identification of the individual accepting delivery and shall retain a record of such individual's name and date of birth that shall be available for inspection upon request for a minimum of three years;

(7) The licensed dealer, employee, or third party conducting the delivery shall not make the delivery if:

(A) No individual is at the address to accept delivery; or

(B) The individual attempting to accept the delivery:

(i) Is less than 21 years of age;

(ii) Fails to produce proper identification verifying his or her age; or

(iii) Fails to provide a signature that matches such proper identification;

(8) All deliveries shall be inspected at the time of delivery by the individual accepting such delivery. The transaction shall be deemed complete upon acceptance of the delivery of the tobacco products, alternative nicotine products, or vapor products, and all sales shall be final; and

(9) No delivery shall knowingly be made to any address or to any property that is part of:

(A) Any public or private elementary or secondary school, including without limitation any dormitory, housing, or common space located on the campus thereof;

(B) Any prison, reformatory, or other correctional facility;

(C) Any addiction or substance abuse facility; or

(D) Any locker, mailbox, package shipping location, or similar service or storage facility or business.
(b) A licensed dealer may use electronic means to market, receive, and process orders placed by individuals who are at least 21 years of age for tobacco products, alternative nicotine products, or vapor products it is licensed to sell, provided that any such orders shall be delivered in accordance with subsection (a) of this Code section.

(c) A licensed dealer may market, receive, and process orders for tobacco products, alternative nicotine products, or vapor products it is licensed to sell placed by individuals who are at least 21 years of age using electronic means owned, operated, or maintained by a third party, provided that any such order shall be delivered in accordance with subsection (a) of this Code section and that:

(1) The licensed dealer shall maintain control and responsibility over the sales transaction and the transfer of the physical possession of tobacco products, alternative nicotine products, or vapor products to the employee or third party conducting the delivery;

(2) The licensed dealer shall retain discretion to elect whether to accept and complete an order or to reject an order;

(3) The transaction shall take place between the individual placing the order and the licensed dealer and the licensed dealer shall appear as the merchant of record at the time of purchase and at the time of receipt of the delivery;

(4) Any credit or debit card information provided by the individual placing the order to a third party for the purpose of the transaction with the licensed dealer shall be automatically directed to the licensed dealer;

(5) The licensed dealer who accepts the order shall receive the payment that is made by the individual making the purchase with such licensed dealer; and

(6) The delivery of tobacco products, alternative nicotine products, or vapor products to the individual who placed the order shall be made by the licensed dealer, employee, or third party as provided for in paragraphs (4) through (9) of subsection (a) of this Code section.

(d) Persons appointed by the commissioner as special agents or enforcement officers of the department shall, in addition to the powers and duties provided for in this chapter, have the power to inspect, without a warrant, in a lawful manner any premises of the licensed dealer or any vehicle being used by the licensed dealer, employee, or third party to make a delivery under this Code section for the purpose of:

(1) Determining if any provision of this Code section or any rule or regulation promulgated under its authority is being violated; or

(2) Securing evidence as may be needed for an administrative proceedings action, as provided in this Code section or any other provision of this chapter.
(e) The commissioner shall be authorized to promulgate and enforce such rules and regulations as he or she may deem necessary to carry out or effectuate the provisions of this Code section, including, but not limited to, rules and regulations governing the training of individuals making deliveries.

(f) In addition to the commissioner's power to suspend, revoke, or cancel licenses issued pursuant to this chapter, upon a violation of any provision of this Code section or any rule or regulation promulgated thereunder, the commissioner shall have the power to impose a fine not to exceed $500.00 for each violation and may suspend for up to 30 days for each violation the authorization provided by this Code section for the licensed dealer to deliver tobacco products, alternative nicotine products, or vapor products or to use an employee or third party to deliver such products. Any violation committed by an employee or a third party shall be attributed to and deemed to be an act taken by the licensed dealer for purposes of this Code section. A licensed dealer, employee, and third party may each be fined for the same violation. Nothing in this paragraph shall be construed to allow the commissioner to suspend or terminate the authorization of a licensed dealer to sell tobacco products, alternative nicotine products, or vapor products on the licensed premises as a result of a violation of this Code section by a third party.

(g) The penalties provided for in this Code section shall be in addition to any criminal penalties that may otherwise be provided by law.

48-11-5.

(a)(1) If the commissioner finds that the collection of the tax imposed by this chapter would be facilitated by such action, the commissioner may authorize any person residing or located outside this state who is engaged in the business of manufacturing cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products or any person residing or located outside this state who ships cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products into this state for sale to licensed dealers in this state to be licensed as a distributor and, after the person complies with the commissioner's requirements, to affix or cause to be affixed the stamps required by this chapter on behalf of the purchasers of the cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products who would otherwise be taxable for the cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, and vapor products. The commissioner may sell tax stamps to an authorized person or may authorize the use of a metering machine by the person as provided in Code Section 48-11-3.

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

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

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

48-11-6.

The commissioner may suspend or refuse to renew a license issued to any person under this chapter for violation of any provision of this chapter or Chapters 13 and 13A of Title 10 or of the rules and regulations made pursuant to those chapters. After notice and opportunity for hearing, the commissioner may revoke a license issued to any person under this chapter for violation of any provision of this chapter or of any rule or regulation of the commissioner made pursuant to this chapter or Chapters 13 and 13A of Title 10 or of the rules and regulations made pursuant to those chapters. Any person aggrieved by the suspension of or refusal to renew his or her license may apply to the commissioner for a hearing as provided in subsection (a) of Code Section 48-11-18; and any person aggrieved by the action of the commissioner in revoking or refusing to renew his or her license after hearing may further appeal to the courts as provided in subsection (b) of Code Section 48-11-18. No legal proceedings or other action by the commissioner shall be barred or abated by the suspension, revocation, or expiration of any license issued under this chapter.
Each bond required to be filed pursuant to this chapter shall be executed by the distributor as principal and, as surety, by a corporation authorized to engage in business as a surety company in this state.

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

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

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

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

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

It is the intent of this chapter that the tax imposed by this chapter be paid only once and that, if the distributor acquires stamped cigarettes, tax-paid cigars, stamped cigars, stamped loose or smokeless tobacco, or tax-paid loose or smokeless tobacco, tax-paid alternative nicotine products, or tax-paid vapor products, such distributor is not required to affix additional stamps or provide other evidence of payment of the tax.
(d) Every dealer who comes into possession of cigars, cigarettes, or loose or smokeless tobacco not bearing proper tax stamps or other evidence of the tax imposed by this chapter shall report the cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products to the commissioner prior to displaying, selling, using, or otherwise disposing of the cigars, cigarettes, and loose or smokeless tobacco, alternative nicotine products, and vapor products. After a report, the commissioner shall authorize a licensed distributor to affix the proper stamps to the cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products or, in the case of cigars, or loose or smokeless tobacco, alternative nicotine products, or vapor products, authorize the dealer to remit the tax by the alternate method promulgated by the commissioner in accordance with Code Section 48-11-3. A licensed distributor shall affix the stamps or comply with the alternate regulations when presented a permit for such action issued by the commissioner. A licensed distributor shall stamp cigarettes or comply with the alternate method provided in this chapter with respect to cigars, or loose or smokeless tobacco, alternative nicotine products, or vapor products, other than such distributor’s own, only when authorized by the permit issued by the commissioner.

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

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

(g) This Code section shall not apply to unstamped cigars, and little cigars, or loose or smokeless tobacco, alternative nicotine products, or vapor products upon which the tax has been paid in accordance with the alternate regulations promulgated by the commissioner under Code Section 48-11-3.
48-11-9.

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

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

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

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

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

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

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

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

(b) Any cigars, cigarettes, loose or smokeless tobacco, alternative nicotine products, vapor products, or other property seized pursuant to this chapter may be offered for sale by the commissioner, at the commissioner's discretion, at public auction to the highest bidder after advertisement as provided in this Code section. The commissioner shall deliver to the Office of the State Treasurer the proceeds of any sale made under this Code section. Before delivering any cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products sold to a purchaser at the sale, the commissioner shall require the purchaser to affix to the packages the amount of stamps required by this chapter or to
comply with the commissioner’s alternate method. The seizure and sale of any cigars, cigarettes, loose or smokeless tobacco, or other property pursuant to this chapter shall not relieve any person from a fine, imprisonment, or other penalty for violation of this chapter.

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

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

48-11-10.
(a) Every licensed distributor shall file with the commissioner, on or before the tenth day of each month, a report in the form prescribed by the commissioner disclosing:

(1) The quantity of cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products on hand on the first and last days of the calendar month immediately preceding the month in which the report is filed;
(2) Information required by the commissioner concerning the amount of stamps purchased, used, and on hand during the report period; and

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

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

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

48-11-11.

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

(b) The commissioner and his or her authorized agents may examine the books, papers, and records of any transportation company, any common, contract, or private carrier, and any public or private warehouse for the purpose of determining whether the provisions of this chapter are properly observed.
48-11-12.

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

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

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

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

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

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


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

(b) This Code section shall not apply to:

(1) Cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products in the hands of a licensed distributor or dealer;
(2) Cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products in the possession of a common carrier complying with Code Section 48-11-22 or delivery being made pursuant to Code Section 48-11-4.2;

(3) Cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products stored in a public warehouse;

(4) Cigarettes or little cigars in an amount not exceeding 200 cigarettes or little cigars which have been brought into this state on the person;

(5) Cigars in an amount not exceeding 20 cigars which have been brought into this state on the person;

(6) Loose or smokeless tobacco in an amount not exceeding six containers which has been brought into this state on the person;

(7) Alternative nicotine products in an amount not exceeding six containers which have been brought into this state on the person;

(8) Consumable vapor products in an amount not exceeding 50 milliliters which have been brought into this state on the person; or

(9) Up to five vapor devices which have been brought into this state on the person.

48-11-14.

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

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

(c) Every person subject to the tax imposed by Code Section 48-11-13 who fails to register with the commissioner as a responsible taxpayer, who fails to make a report within the time specified, or who fails to remit the tax within the time specified may be required to pay a penalty of not less than $25.00 nor more than $250.00 in addition to the tax and any other
penalties imposed by law and found due by the commissioner. The commissioner may
proceed to collect the tax and penalty in the manner provided in subsection (c) of Code
Section 48-11-24.

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

48-11-15.
The Office of the State Treasurer is authorized to pay, on the order of the commissioner,
claims for refunds of cigar, cigarette, or smokeless tobacco, alternative nicotine
product, or vapor product taxes found by the commissioner or the courts to be due any
distributor, dealer, or taxpayer. The commissioner, upon proof satisfactory to the
commissioner and in accordance with regulations promulgated by the commissioner, shall
refund the cost price of stamps affixed to any package of cigars, cigarettes, or loose or
smokeless tobacco or shall refund the tax paid on cigars, or loose or smokeless tobacco,
alternative nicotine products, or vapor products under the alternate method when the cigars,
cigarettes, or smokeless tobacco, alternative nicotine products, or vapor products
have become unfit for use, consumption, or sale and have been destroyed or
shipped out of this state.

48-11-16.
(a) The commissioner may permit licensed distributors to purchase tax stamps from the
department on account. Permits may be granted only to licensed distributors who post
bonds with the commissioner in amounts sufficient in the opinion of the commissioner to
secure payment for stamps delivered on account. Tax stamps purchased by licensed
distributors shall be paid for in full on or before the twentieth day of the month next
succeeding the purchase. The bond provided in this Code section shall be secured by cash
which shall bear no interest, by negotiable securities approved by the Office of the State
Treasurer, or by a surety bond executed by a surety company licensed to do business in this
state and approved by the commissioner.

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

(c) On or before June 30 of each fiscal year, the licensed distributor shall pay in its entirety
any liability for the purchase of tax stamps due at that time.
The amount of any unpaid tax shall be a lien against the property of any distributor or dealer who sells cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products without collecting the tax and against the property of any person using or consuming cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products without proper stamps affixed to the cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products or without the tax paid on the cigars, or loose or smokeless tobacco, alternative nicotine products, or vapor products as otherwise provided in this chapter. The commissioner or the commissioner's authorized agents are authorized to seize the property of a delinquent distributor, dealer, or taxpayer and sell it as provided by law to satisfy the claim for taxes due under this chapter; or the commissioner may record the commissioner's lien specifying and describing the property against which the lien is effective, and the lien shall be good as against any other person until the claim for taxes is satisfied.

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

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

48-11-19.

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

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

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

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

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

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

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

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

(c) After a special agent or enforcement officer has accumulated 25 years of service with
the department, upon leaving the department under honorable conditions, such special
agent or enforcement officer shall be entitled as part of such officer's compensation to
retain his or her weapon and badge pursuant to regulations promulgated by the
commissioner.
(d) As used in this subsection, the term 'disability' means a disability that prevents an individual from working as a law enforcement officer. When a special agent or enforcement officer leaves the department as a result of a disability arising in the line of duty, such special agent or enforcement officer shall be entitled as part of such officer's compensation to retain his or her weapon and badge in accordance with regulations promulgated by the commissioner.

48-11-20.

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

48-11-21.

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

48-11-22.

(a) Every person who transports upon the public highways, roads, and streets of this state cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products not stamped or on which tax has not been paid in accordance with the alternate regulations provided by the commissioner under Code Section 48-11-3 shall have in such person's actual possession invoices or delivery tickets for the cigars, cigarettes, and loose or smokeless tobacco, alternative nicotine products, and vapor products which show the true name and address of the consignor or seller, the true name of the consignee or purchaser, the quantity and brands of the cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products transported, and the name and address of the person who has assumed or shall assume the payment of the tax at the point of ultimate destination. In the absence of the invoices or delivery tickets, the cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products being transported and the vehicles in which the cigars, cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products are being transported shall be confiscated and disposed of as provided in Code Section 48-11-9; and the transporter may be liable for a penalty of not more than $50.00 for each individual carton of little cigars or cigarettes, $50.00 for each individual box of cigars, and $50.00 for each individual container of loose or smokeless tobacco being transported by such person, and $50.00 for each individual container of alternative nicotine products, each vapor device, or each 5 milliliters of
consumable vapor products. The penalty shall be recovered as provided in subsection (c) of Code Section 48-11-24.

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

48-11-23.

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

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

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

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

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

48-11-23.1.

(a) As used in this Code section, the term 'package' means a pack, carton, or container of any kind in which cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products are offered for sale, sold, or otherwise distributed, or intended for distribution, to consumers.
(b) No tax stamp may be affixed to, or made upon, any package of cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products if:

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

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

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

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

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


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

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

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

(f) A violation of subsection (b) of this Code section shall constitute an unfair and deceptive act or practice under Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair Business Practices Act of 1975.'
cigars, box of cigars, or container of loose or smokeless tobacco, alternative nicotine products, or vapor products in his or her possession.

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

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

48-11-25.

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

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

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

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

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

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than ten years.
(a) With respect to this chapter, it shall be unlawful for any person, with the intent to
defraud the state or evade the payment of any tax, penalty, or interest or any part of a
payment when due, to:

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Tamper with or cause to be tampered with any metering machine authorized to be
used.
(b) Any person who violates subsection (a) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than three years nor more than ten years.

48-11-29. Reserved.

48-11-30. (a) Notwithstanding any other provision of law, the sale or possession for sale of counterfeit cigarettes by any person shall result in the seizure of the product and related machinery by the commissioner or his or her authorized agents and any law enforcement agency at the direction of the commissioner and shall be punishable as follows:

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

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

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

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

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

(c) Any counterfeit cigarette seized by or at the direction of the commissioner shall be destroyed by the commissioner or his or her designee. Any related machinery seized by or at the direction of the commissioner may be sold by the commissioner at public auction in accordance with the requirements of Code Section 48-11-9."
SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval; provided, however, that Section 2 of this Act shall become effective on January 1, 2021, for all other purposes.

SECTION 4.

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