

The House Committee on Ways and Means offers the following substitute to HB 864:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to provide for excise taxes to be levied on the sale of certain alternative
3 nicotine products, vapor devices, and consumable vapor products; to provide for a reduction
4 of the tax rate for modified risk tobacco products; to require licensure of importers,
5 manufacturers, distributors, and dealers of alternative nicotine products or vapor products;
6 to provide for license fees, suspensions, revocations, and renewals; to provide for procedures
7 for hearings and appeals; to provide for bonds; to provide for seizure of certain products; to
8 require certain reports and provide for inspections of certain records; to prohibit certain
9 conduct relating to the sale and transportation of alternative nicotine products and vapor
10 products; to provide for assessments and penalties; to provide for powers and duties of
11 special agents and enforcement officers; to permit licensed dealers to make deliveries of
12 cigars, cigarettes, loose or smokeless tobacco, alternative nicotine products, and vapor
13 products pursuant to specific terms and conditions; to allow such dealers to market, receive,
14 and process orders for such products using electronic means owned, operated, or maintained
15 by third parties; to provide for the relationship between such dealers and third parties; to
16 provide certain requirements for individuals making deliveries on behalf of a dealer; to
17 provide for warrantless searches and seizures by certain agents and officers of the
18 Department of Revenue; to provide for appeals of certain decisions made by the state revenue
19 commissioner; to provide for civil and criminal penalties; to provide for rules and
20 regulations; to revise and provide for definitions; to provide for related matters; to provide
21 for effective dates; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

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

H. B. 864 (SUB)

26

"CHAPTER 11

27 48-11-1.

28 As used in this chapter, the term:

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

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

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

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

42 (B) Is engaged in the business of:

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

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

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

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

54 ~~(1)~~(6) 'Cigar' means any roll for smoking made wholly or in part of tobacco when the
 55 cover of the roll is also tobacco. Such term shall include a little cigar.

56 ~~(2)~~(7) 'Cigar dealer' means any person located within the borders of this state who sells
 57 or distributes cigars to a consumer in this state.

58 ~~(3)~~(8) 'Cigar distributor' means any person, whether located within or outside the borders
 59 of this state, other than a cigar dealer, who sells or distributes cigars within or into the
 60 boundaries of this state and who:

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

63 (B) Is engaged in the business of:

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

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

68 ~~(4)~~(9) 'Cigar importer' means any person who imports into or who brokers within the
69 United States, either directly or indirectly, a finished cigar for sale or distribution.

70 ~~(5)~~(10) 'Cigar manufacturer' means any person who manufactures, fabricates, assembles,
71 processes, or labels a finished cigar.

72 ~~(6)~~(11) 'Cigarette' means any roll or stick for smoking made wholly or in part of tobacco
73 when the cover of the roll is paper or any substance other than tobacco or when the stick
74 is heated in a device without combustion.

75 ~~(7)~~(12) 'Cigarette dealer' means any person located within the borders of this state who
76 sells or distributes cigarettes to a consumer in this state.

77 ~~(8)~~(13) 'Cigarette distributor' means any person, whether located within or outside the
78 borders of this state, other than a cigarette dealer, who sells or distributes cigarettes
79 within or into the boundaries of this state and who:

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

82 (B) Is engaged in the business of:

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

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

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

92 ~~(9)~~(14) 'Cigarette importer' means any person who imports into or who brokers within
93 the United States, either directly or indirectly, a finished cigarette for sale or distribution.

94 ~~(10)~~(15) 'Cigarette manufacturer' means any person who manufactures, fabricates,
95 assembles, processes, or labels a finished cigarette.

96 (16) 'Closed system' means any disposable container which is prefilled and sealed by the
97 manufacturer, not easily refillable or intended or designed to be refillable, and intended

98 or used to dispense consumable vapor products by way of a vapor device that is intended
 99 or designed to be reused.

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

108 ~~(14)~~(18) 'Counterfeit cigarette' means cigarettes that are manufactured, fabricated,
 109 assembled, processed, packaged, or labeled by any person other than the trademark owner
 110 of a cigarette brand or the owner's designated agent.

111 ~~(12)~~(19) 'Dealer' means any person who is a cigar dealer, a cigarette dealer, ~~or~~ a loose
 112 or smokeless tobacco dealer, an alternative nicotine product dealer, or a vapor product
 113 dealer.

114 ~~(13)~~(20) 'Distributor' means any person who is a cigar distributor, a cigarette distributor,
 115 ~~or~~ a loose or smokeless tobacco distributor, an alternative nicotine product distributor, or
 116 a vapor product distributor.

117 (21) 'Electronic means' means internet enabled technology and digital media, including,
 118 but not limited to, websites and consumer applications accessible through computers,
 119 smartphones, or other electronic devices.

120 (22) 'Employee' means an individual who is a full-time or part-time employee or
 121 independent contractor of a licensed dealer and who is at least 21 years of age.

122 ~~(14)~~(23) 'First transaction' means the first sale, receipt, purchase, possession,
 123 consumption, handling, distribution, or use of cigars, cigarettes, ~~or~~ loose or smokeless
 124 tobacco, alternative nicotine products, or vapor products within this state.

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

128 ~~(15)~~(25) 'Little cigar' means any cigar weighing not more than three pounds per
 129 thousand.

130 ~~(16)~~(26) 'Loose or smokeless tobacco' means granulated, plug cut, crimp cut, ready
 131 rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist
 132 tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings,
 133 and sweepings of tobacco; ~~and~~ other kinds and forms of tobacco, prepared in such
 134 manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for

135 chewing and smoking; and any tobacco product intended for human consumption that is
 136 not otherwise defined by this chapter. Such term shall ~~but does~~ not include alternative
 137 nicotine products, consumable vapor products, cigarettes, or cigars, or tobacco purchased
 138 for the manufacture of cigarettes or cigars by cigarette manufacturers or cigar
 139 manufacturers.

140 ~~(17)~~(27) 'Loose or smokeless tobacco dealer' means any person located within the
 141 borders of this state who sells or distributes loose or smokeless tobacco to a consumer in
 142 this state.

143 ~~(18)~~(28) 'Loose or smokeless tobacco distributor' means any person who:

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

146 (B) Is engaged in the business of:

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

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

153 ~~(19)~~(29) 'Loose or smokeless tobacco importer' means any person who imports into or
 154 who brokers within the United States, either directly or indirectly, finished loose or
 155 smokeless tobacco for sale or distribution.

156 ~~(20)~~(30) 'Loose or smokeless tobacco manufacturer' means any person who
 157 manufactures, fabricates, assembles, processes, or labels finished loose or smokeless
 158 tobacco.

159 (31) 'Modified risk tobacco product' means any product that is included in a modified
 160 risk tobacco product order issued by the United States secretary of health and human
 161 services pursuant to 21 U.S.C. Section 387k as it existed on January 1, 2020.

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

164 (33) 'Proper identification' means any document issued by a governmental agency
 165 containing a description of the person or such person's photograph, or both, and giving
 166 such person's date of birth and that includes, without being limited to, a passport, military
 167 identification card, driver's license, or identification card authorized under Code Sections
 168 40-5-100 through 40-5-104.

169 ~~(21)~~(34) 'Related machinery' means any item, device, conveyance, or vessel of any kind
 170 or character used in manufacturing, packaging, labeling, stamping, transporting,
 171 distributing, selling, or possessing counterfeit cigarettes.

- 172 ~~(22)~~(35) 'Sale' means any sale, transfer, exchange, theft, barter, gift, or offer for sale and
 173 distribution in any manner or by any means whatever.
- 174 ~~(23)~~(36) 'Stamp' means any impression, device, stamp, label, or print manufactured,
 175 printed, made, or affixed as prescribed by the commissioner.
- 176 (37) 'Third party' means any person registered to do business in this state that has a
 177 contractual relationship with at least one licensed dealer. Such term shall include such
 178 person's employees and independent contractors.
- 179 (38) 'Tobacco product' means any cigar, cigarette, or loose or smokeless tobacco.
- 180 ~~(24)~~(39) 'Vapor device' means any system or device developed or intended to deliver a
 181 consumable vapor product to an individual who inhales from the device. Such term shall
 182 include, but not be limited to, an electronic nicotine delivery system, an electronic
 183 cigarette, electronic cigar, electronic pipe, vape pen, vape tool, or electronic hookah.
 184 Such term shall not include a fragrance or essential oil diffuser, an air freshener, or any
 185 product regulated as a drug or device by the United States Food and Drug Administration
 186 under Chapter V of the Federal Food, Drug, and Cosmetic Act.
- 187 (40) 'Vapor product' means any consumable vapor product or vapor device.
- 188 (41) 'Vapor product dealer' means any person located within the borders of this state who
 189 sells or distributes vapor products to a consumer in this state.
- 190 (42) 'Vapor product distributor' means any person who:
- 191 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
 192 contact and call on vapor product dealers; and
- 193 (B) Is engaged in the business of:
- 194 (i) Importing vapor products into this state or purchasing vapor products from other
 195 vapor product manufacturers or vapor product distributors; and
- 196 (ii) Selling the vapor products to vapor product dealers in this state for resale but is
 197 not in the business of selling the vapor products directly to the ultimate consumers of
 198 the vapor products.
- 199 (43) 'Vapor product importer' means any person who imports into or who brokers within
 200 the United States, either directly or indirectly, finished vapor products for sale or
 201 distribution.
- 202 (44) 'Vapor product manufacturer' means any person who manufactures, fabricates,
 203 assembles, processes, or labels finished vapor products.
- 204 (45) 'Vending machine' means any coin-in-the-slot device or other automated device that
 205 accepts payment and is used for the automatic merchandising of cigars, cigarettes, or
 206 loose or smokeless tobacco.

207 48-11-2.

208 (a) An excise tax, in addition to all other taxes of every kind imposed by law, is imposed
 209 upon the sale, receipt, purchase, possession, consumption, handling, distribution, or use of
 210 cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor
 211 products in this state at the following rates:

212 (1) Little cigars: two and one-half mills each;

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

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

218 (4) Loose or smokeless tobacco: 10 percent of the wholesale cost price, exclusive of any
 219 trade, cash, or other discounts or any promotion, advertising, display, or similar
 220 allowances;

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

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

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

229 (a.1) The rate of any tax imposed by this Code section shall be reduced by 50 percent
 230 when imposed on a modified risk tobacco product.

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

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

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

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

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

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

269 48-11-3.

270 (a) Except as otherwise provided in this Code section, the taxes imposed by Code Section
 271 48-11-2 shall be collected and paid through the use of stamps. The commissioner shall
 272 secure stamps of such design and materials as the commissioner deems appropriate to
 273 protect the revenue and shall sell the stamps to licensed distributors at a discount of not less
 274 than 2 percent and not more than 8 percent of the value of the stamps. The exact
 275 percentage of the discount shall be based on brackets according to the volume of cigars,
 276 cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor
 277 products handled by the distributor pursuant to regulations promulgated by the
 278 commissioner. The commissioner shall prescribe by regulation the condition, method, and

279 manner in which stamps are to be affixed to containers of cigars, cigarettes, ~~and~~ loose or
280 smokeless tobacco, alternative nicotine products, and vapor products.

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

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

295 48-11-4.

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

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

312 (a.2) The commissioner shall maintain at all times information for each location for which
313 any license has been issued under this chapter whether the license holder is authorized to
314 engage in business as a dealer, distributor, importer, or manufacturer, or a combination

315 thereof, and whether cigars, cigarettes, loose or smokeless tobacco, alternative nicotine
316 products, or vapor products, or any combination thereof, have been authorized at such
317 location.

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

326 (c)(1) The annual renewal fee for a manufacturer's, importer's, distributor's, or dealer's
327 license shall be \$10.00 except for an additional \$10.00 fee per year for those licenses that
328 include vapor products. There shall also be a ~~first-year~~ first-year registration fee of
329 \$250.00 for a person commencing business as a manufacturer, importer, or distributor,
330 provided that there shall be only a first-year registration fee of \$10.00 upon first issuance
331 of each manufacturer's, importer's, distributor's, or dealer's license for vapor products to
332 a person that currently holds such a license for tobacco products. All renewal
333 applications shall be filed at least 30 days in advance of the expiration date shown on the
334 license.

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

338 (3) Each dealer's license shall be valid for 12 months beginning on the date of issue for
339 the initial license, and the first day of the month of issue for subsequent licenses, and
340 shall expire on the last day of the month preceding the month in which the initial license
341 was issued. Any dealer licensed under the provisions of this Code section who is also
342 licensed under Chapter 2 of Title 3 to sell alcoholic beverages may, upon written request
343 to the commissioner, arrange to have both licenses renewed on the same date each year.
344 Any dealer who follows the proper procedure for a renewal of his or her license,
345 including filing the application for renewal at least 30 days in advance of the expiration
346 date of his or her existing license, shall be allowed to continue operating as a dealer under
347 the existing license until the commissioner has issued the new license or denied the
348 application for renewal.

349 (4) Each manufacturer's, importer's, distributor's, or dealer's license shall be subject to
350 suspension or revocation for violation of any of the provisions of this chapter or of the
351 rules and regulations made pursuant to this chapter or Chapters 13 and 13A of Title 10

352 or of the rules and regulations made pursuant to those chapters. A separate license shall
353 be required for each place of business. No person shall hold a distributor's license and
354 a dealer's license at the same time.

355 (d) The commissioner may make rules and regulations governing the sale of cigars,
356 cigarettes, loose or smokeless tobacco, and other tobacco products in vending machines.
357 The commissioner shall require annually a special registration of each vending machine for
358 any operation in this state and charge a license fee for the registration in the amount of
359 \$10.00 for each machine. The annual registration shall indicate the location of the vending
360 machine. No vending machine shall be purchased or transported into this state for use in
361 this state when the vending machine is not so designed as to permit inspection without
362 opening the machine for the purpose of determining that all cigars, cigarettes, loose or
363 smokeless tobacco, and other tobacco products contained in the machine bear the tax stamp
364 required under this chapter.

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

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

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

391 48-11-4.1.

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

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

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

404 48-11-4.2.

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

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

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

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

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

422 (A) Is at least 21 years of age;

- 423 (B) Has a valid Georgia driver's license;
- 424 (C) Has undergone within the last 12 months a background check that includes a local
 425 and national criminal history and driving record and:
- 426 (i) Has not had more than three moving violations in the prior three-year period;
- 427 (ii) Has not had a major traffic violation, as such term is defined in Code Section
 428 40-5-142, in the prior three-year period;
- 429 (iii) Has not been convicted within the past seven years of driving under the influence
 430 of drugs or alcohol;
- 431 (iv) Has not been convicted at any time of fraud, a sexual offense, the use of a motor
 432 vehicle to commit a felony, a crime involving property damage, a crime involving
 433 theft, a crime involving an act of violence, or a crime involving an act of terror; and
- 434 (v) Does not have a match on the National Sex Offender Registry data base;
- 435 (D) Shall not possess or handle as part of or during the delivery forms of compensation
 436 that are used to purchase or transact the sale of tobacco products, alternative nicotine
 437 products, or vapor products; and
- 438 (E) Does not receive compensation based upon whether an attempted delivery results
 439 in a completed transaction;
- 440 (5) The delivery shall be made by the licensed dealer, employee, or third party to an
 441 individual who is at least 21 years of age and presents proper identification verifying the
 442 age of such individual;
- 443 (6) At the time of the delivery, the licensed dealer, employee, or third party shall verify
 444 the identity and age of the individual accepting delivery by validating the proper
 445 identification of the individual accepting delivery and obtaining his or her signature on
 446 a written or electronic acknowledgment of receipt of the order and certification of legal
 447 age to purchase tobacco products, alternative nicotine products, or vapor products. The
 448 licensed dealer, employee, or third party shall scan or otherwise verify the proper
 449 identification of the individual accepting delivery and shall retain a record of such
 450 individual's name and date of birth that shall be available for inspection upon request for
 451 a minimum of three years;
- 452 (7) The licensed dealer, employee, or third party conducting the delivery shall not make
 453 the delivery if:
- 454 (A) No individual is at the address to accept delivery; or
- 455 (B) The individual attempting to accept the delivery:
- 456 (i) Is less than 21 years of age;
- 457 (ii) Fails to produce proper identification verifying his or her age; or
- 458 (iii) Fails to provide a signature that matches such proper identification;

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

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

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

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

468 (C) Any addiction or substance abuse facility; or

469 (D) Any locker, mailbox, package shipping location, or similar service or storage
 470 facility or business.

471 (b) A licensed dealer may use electronic means to market, receive, and process orders
 472 placed by individuals who are at least 21 years of age for tobacco products, alternative
 473 nicotine products, or vapor products it is licensed to sell, provided that any such orders
 474 shall be delivered in accordance with subsection (a) of this Code section.

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

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

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

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

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

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

494 (6) The delivery of tobacco products, alternative nicotine products, or vapor products to
 495 the individual who placed the order shall be made by the licensed dealer, employee, or

496 third party as provided for in paragraphs (4) through (9) of subsection (a) of this Code
 497 section.

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

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

505 (2) Securing evidence as may be needed for an administrative proceedings action, as
 506 provided in this Code section or any other provision of this chapter.

507 (e) The commissioner shall be authorized to promulgate and enforce such rules and
 508 regulations as he or she may deem necessary to carry out or effectuate the provisions of this
 509 Code section, including, but not limited to, rules and regulations governing the training of
 510 individuals making deliveries.

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

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

526 48-11-5.

527 (a)(1) If the commissioner finds that the collection of the tax imposed by this chapter
 528 would be facilitated by such action, the commissioner may authorize any person residing
 529 or located outside this state who is engaged in the business of manufacturing cigars,
 530 cigarettes, or loose or smokeless tobacco, alternative nicotine products, or vapor products
 531 or any person residing or located outside this state who ships cigars, cigarettes, or loose

532 or smokeless tobacco, alternative nicotine products, or vapor products into this state for
 533 sale to licensed dealers in this state to be licensed as a distributor and, after the person
 534 complies with the commissioner's requirements, to affix or cause to be affixed the stamps
 535 required by this chapter on behalf of the purchasers of the cigars, cigarettes, ~~or~~ loose or
 536 smokeless tobacco, alternative nicotine products, or vapor products who would otherwise
 537 be taxable for the cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine
 538 products, and vapor products. The commissioner may sell tax stamps to an authorized
 539 person or may authorize the use of a metering machine by the person as provided in Code
 540 Section 48-11-3.

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

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

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

563 48-11-6.

564 The commissioner may suspend or refuse to renew a license issued to any person under this
 565 chapter for violation of any provision of this chapter or Chapters 13 and 13A of Title 10
 566 or of the rules and regulations made pursuant to those chapters. After notice and
 567 opportunity for hearing, the commissioner may revoke a license issued to any person under

568 this chapter for violation of any provision of this chapter or of any rule or regulation of the
 569 commissioner made pursuant to this chapter or Chapters 13 and 13A of Title 10 or of the
 570 rules and regulations made pursuant to those chapters. Any person aggrieved by the
 571 suspension of or refusal to renew his or her license may apply to the commissioner for a
 572 hearing as provided in subsection (a) of Code Section 48-11-18; and any person aggrieved
 573 by the action of the commissioner in revoking or refusing to renew his or her license after
 574 hearing may further appeal to the courts as provided in subsection (b) of Code Section
 575 48-11-18. No legal proceedings or other action by the commissioner shall be barred or
 576 abated by the suspension, revocation, or expiration of any license issued under this chapter.

577 48-11-7.

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

581 48-11-8.

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

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

589 (3) No person shall sell, offer for sale, or possess with intent to sell any loose or
 590 smokeless tobacco in this state when the loose or smokeless tobacco container does not
 591 bear the tax stamps required by Code Section 48-11-3 or upon which the tax has not been
 592 paid under the alternate method of collecting the tax provided under Code Section
 593 48-11-3.

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

596 (b) Each distributor at the location for which such distributor's license is issued and in the
 597 manner specified by the commissioner shall affix the stamps required by this Code section
 598 to each individual package of cigarettes sold or distributed by such distributor, except as
 599 prohibited by Code Section 10-13A-5. Each distributor shall comply with the
 600 commissioner's regulations for the payment of the tax on cigars, ~~or~~ loose or smokeless
 601 tobacco, alternative nicotine products, or vapor products as provided in Code Section
 602 48-11-3 or shall affix to each container of cigars or loose or smokeless tobacco sold by

603 such distributor or from which such distributor sells cigars or loose or smokeless tobacco
 604 the stamps required by this chapter. The stamps may be affixed or the tax under the
 605 alternate method may be paid by a distributor at any time before the cigars, cigarettes, ~~or~~
 606 loose or smokeless tobacco, alternative nicotine products, or vapor products ~~is~~ are
 607 transferred out of such distributor's possession.

608 (c) It is the intent of this chapter that the tax imposed by this chapter be paid only once and
 609 that, if the distributor acquires stamped cigarettes, tax-paid cigars, stamped cigars, stamped
 610 loose or smokeless tobacco, ~~or~~ tax-paid loose or smokeless tobacco, tax-paid alternative
 611 nicotine products, or tax-paid vapor products, such distributor is not required to affix
 612 additional stamps or provide other evidence of payment of the tax.

613 (d) Every dealer who comes into possession of cigars, cigarettes, or loose or smokeless
 614 tobacco not bearing proper tax stamps or other evidence of the tax imposed by this chapter
 615 shall report the cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine
 616 products, or vapor products to the commissioner prior to displaying, selling, using, or
 617 otherwise disposing of the cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative
 618 nicotine products, and vapor products. After a report, the commissioner shall authorize a
 619 licensed distributor to affix the proper stamps to the cigars, cigarettes, ~~and~~ loose or
 620 smokeless tobacco, alternative nicotine products, or vapor products or, in the case of cigars,
 621 ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products, authorize
 622 the dealer to remit the tax by the alternate method promulgated by the commissioner in
 623 accordance with Code Section 48-11-3. A licensed distributor shall affix the stamps or
 624 comply with the alternate regulations when presented a permit for such action issued by the
 625 commissioner. A licensed distributor shall stamp cigarettes or comply with the alternate
 626 method provided in this chapter with respect to cigars, ~~or~~ loose or smokeless tobacco,
 627 alternative nicotine products, or vapor products, other than such distributor's own, only
 628 when authorized by the permit issued by the commissioner.

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

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

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

649 48-11-9.

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

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

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

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

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

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

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

672 (3) This subsection shall not be construed to require the commissioner to confiscate
 673 unstamped or nontax-paid cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative
 674 nicotine products, and vapor products or other property when the commissioner has

675 reason to believe that the owner of the cigars, cigarettes, loose or smokeless tobacco,
676 alternative nicotine products, vapor products, or other property is not willfully or
677 intentionally evading the tax imposed by this chapter.

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

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

708 (d) Any vending machine containing or dispensing any cigarettes or loose or smokeless
709 tobacco which does not bear the tax stamps required under this chapter or containing or
710 dispensing any cigars or loose or smokeless tobacco upon which the tax has not been paid
711 either through the purchase of stamps or the alternate procedure provided by the

712 commissioner as required under this chapter shall be a contraband article. The
 713 commissioner may seize any such machine and deal with it in the same manner as provided
 714 by law for the seizure and sale of unstamped cigarettes or loose or smokeless tobacco and
 715 nontax-paid cigars or loose or smokeless tobacco.

716 48-11-10.

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

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

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

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

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

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

733 48-11-11.

734 (a) Each distributor and each dealer shall keep complete and accurate records of all cigars,
 735 cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor
 736 products manufactured, produced, purchased, and sold. The original records or a complete
 737 and legible photocopy or electronic image shall be safely preserved for three years in an
 738 appropriate manner to ensure permanency and accessibility for inspection by the
 739 commissioner and the commissioner's authorized agents. The commissioner and the
 740 commissioner's authorized agents may examine the books, papers, and records of any
 741 distributor or dealer in this state for the purpose of determining whether the tax imposed
 742 by this chapter has been fully paid and, for the purpose of determining whether the
 743 provisions of this chapter are properly observed, may investigate and examine the stock of
 744 cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor
 745 products in or upon any premises, including, but not limited to, public and private
 746 warehouses where the cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine

747 products, or vapor products ~~is~~ are possessed, stored, or sold. Invoices sufficient to cover
 748 current inventory at a licensed location shall be maintained at such licensed location and
 749 made available for immediate inspection. All other records may be kept at a locality other
 750 than the licensed location and shall be provided for inspection within two business days
 751 after receipt of notification from the commissioner or an authorized agent of the
 752 commissioner to make such records available.

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

757 48-11-12.

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

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

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

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

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

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

781 48-11-13.

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

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

789 (1) Cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or
 790 vapor products in the hands of a licensed distributor or dealer;

791 (2) Cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or
 792 vapor products in the possession of a common carrier complying with Code Section
 793 48-11-22 or delivery being made pursuant to Code Section 48-11-4.2;

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

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

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

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

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

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

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

807 48-11-14.

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

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

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

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

834 48-11-15.

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

846 48-11-16.

847 (a) The commissioner may permit licensed distributors to purchase tax stamps from the
 848 department on account. Permits may be granted only to licensed distributors who post
 849 bonds with the commissioner in amounts sufficient in the opinion of the commissioner to
 850 secure payment for stamps delivered on account. Tax stamps purchased by licensed

851 distributors shall be paid for in full on or before the twentieth day of the month next
 852 succeeding the purchase. The bond provided in this Code section shall be secured by cash
 853 which shall bear no interest, by negotiable securities approved by the Office of the State
 854 Treasurer, or by a surety bond executed by a surety company licensed to do business in this
 855 state and approved by the commissioner.

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

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

861 48-11-17.

862 The amount of any unpaid tax shall be a lien against the property of any distributor or
 863 dealer who sells cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine
 864 products, or vapor products without collecting the tax and against the property of any
 865 person using or consuming cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative
 866 nicotine products, or vapor products without proper stamps affixed to the cigars, cigarettes,
 867 ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products or without
 868 the tax paid on the cigars, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or
 869 vapor products as otherwise provided in this chapter. The commissioner or the
 870 commissioner's authorized agents are authorized to seize the property of a delinquent
 871 distributor, dealer, or taxpayer and sell it as provided by law to satisfy the claim for taxes
 872 due under this chapter; or the commissioner may record the commissioner's lien specifying
 873 and describing the property against which the lien is effective, and the lien shall be good
 874 as against any other person until the claim for taxes is satisfied.

875 48-11-18.

876 (a) Any person aggrieved by any action of the commissioner or the commissioner's
 877 authorized agent may apply to the commissioner, in writing within ten days after the notice
 878 of the action is delivered or mailed to the commissioner, for a hearing. The application
 879 shall set forth the reasons why the hearing should be granted and the manner of relief
 880 sought. The commissioner shall notify the applicant of the time and place fixed for the
 881 hearing. After the hearing, the commissioner may make an order as may appear to the
 882 commissioner to be just and lawful and shall furnish a copy of the order to the applicant.
 883 The commissioner at any time by notice in writing may order a hearing on the
 884 commissioner's own initiative and require the taxpayer or any other person whom the
 885 commissioner believes to be in possession of information concerning any manufacture,

886 importation, use, consumption, storage, or sale of cigars, cigarettes, ~~or~~ loose or smokeless
 887 tobacco, alternative nicotine products, or vapor products which ~~has~~ have escaped taxation
 888 to appear before the commissioner or the commissioner's duly authorized agent with any
 889 specific books of account, papers, or other documents for examination under oath relative
 890 to the information.

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

903 48-11-19.

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

- 909 (1) Obtain and execute warrants for arrest of persons charged with violations of such
 910 laws;
- 911 (2) Obtain and execute search warrants in the enforcement of such laws;
- 912 (3) Arrest without warrant any person violating such laws in the officer's presence or
 913 within such officer's immediate knowledge when there is likely to be a failure of
 914 enforcement of such laws for want of a judicial officer to issue a warrant;
- 915 (4) Make investigations in the enforcement of such laws and, in connection with such
 916 investigations, to go upon any property outside buildings, whether posted or otherwise,
 917 in the performance of such officer's duties;
- 918 (5) Seize and take possession of all property which is declared contraband under such
 919 laws; and
- 920 (6) Carry firearms while performing such officer's duties.

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

927 (c) After a special agent or enforcement officer has accumulated 25 years of service with
 928 the department, upon leaving the department under honorable conditions, such special
 929 agent or enforcement officer shall be entitled as part of such officer's compensation to
 930 retain his or her weapon and badge pursuant to regulations promulgated by the
 931 commissioner.

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

938 48-11-20.

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

943 48-11-21.

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

946 48-11-22.

947 (a) Every person who transports upon the public highways, roads, and streets of this state
 948 cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor
 949 products not stamped or on which tax has not been paid in accordance with the alternate
 950 regulations provided by the commissioner under Code Section 48-11-3 shall have in such
 951 person's actual possession invoices or delivery tickets for the cigars, cigarettes, ~~and~~ loose
 952 or smokeless tobacco, alternative nicotine products, and vapor products which show the
 953 true name and address of the consignor or seller, the true name of the consignee or
 954 purchaser, the quantity and brands of the cigars, cigarettes, ~~or~~ loose or smokeless tobacco,

955 alternative nicotine products, or vapor products transported, and the name and address of
 956 the person who has assumed or shall assume the payment of the tax at the point of ultimate
 957 destination. In the absence of the invoices or delivery tickets, the cigars, cigarettes, ~~or~~
 958 loose or smokeless tobacco, alternative nicotine products, or vapor products being
 959 transported and the vehicles in which the cigars, cigarettes, ~~or~~ loose or smokeless tobacco,
 960 alternative nicotine products, or vapor products ~~are~~ is being transported shall be confiscated
 961 and disposed of as provided in Code Section 48-11-9; and the transporter may be liable for
 962 a penalty of not more than \$50.00 for each individual carton of little cigars or cigarettes,
 963 \$50.00 for each individual box of cigars, ~~and~~ \$50.00 for each individual container of loose
 964 or smokeless tobacco being transported by such person, and \$50.00 for each individual
 965 container of alternative nicotine products, each vapor device, or each 5 milliliters of
 966 consumable vapor products. The penalty shall be recovered as provided in subsection (c)
 967 of Code Section 48-11-24.

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

972 48-11-23.

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

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

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

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

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

995 48-11-23.1.

996 (a) As used in this Code section, the term 'package' means a pack, carton, or container of
 997 any kind in which cigarettes, ~~or loose or smokeless tobacco, alternative nicotine products,~~
 998 or vapor products ~~are~~ is offered for sale, sold, or otherwise distributed, or intended for
 999 distribution, to consumers.

1000 (b) No tax stamp may be affixed to, or made upon, any package of cigarettes, ~~or loose or~~
 1001 ~~smokeless tobacco, alternative nicotine products, or vapor products~~ if:

1002 (1) The package differs in any respect with the requirements of the federal Cigarette
 1003 Labeling and Advertising Act, 15 U.S.C. Section 1331, et seq., or those requirements
 1004 established by the United States Food and Drug Administration, for the placement of
 1005 labels, warnings, or any other information upon a package of cigarettes, ~~or loose or~~
 1006 ~~smokeless tobacco, alternative nicotine products, or vapor products~~ that ~~is~~ are to be sold
 1007 within the United States;

1008 (2) The package is labeled 'For Export Only,' 'U.S. Tax Exempt,' 'For Use Outside U.S.,'
 1009 or similar wording indicating that the manufacturer did not intend that the product be sold
 1010 in the United States;

1011 (3) The package, or a package containing individually stamped packages, has been
 1012 altered by adding or deleting the wording, labels, or warnings described in paragraph (1)
 1013 or (2) of this subsection;

1014 (4) The package has been imported into the United States after January 1, 2000, in
 1015 violation of 26 U.S.C. Section 5754;

1016 (5) The package in any way violates federal trademark or copyright laws; or

1017 (6) The package in any way violates Code Section 10-13A-5.

1018 (c) Any person who sells or holds for sale a cigarette, ~~or loose or smokeless tobacco,~~
 1019 alternative nicotine product, or vapor product package to which is affixed a tax stamp in
 1020 violation of subsection (b) of this Code section shall be guilty of a misdemeanor.

1021 (d) Notwithstanding any other provision of law, the commissioner may revoke any license
 1022 issued under this chapter to any person who sells or holds for sale a cigarette, ~~or loose or~~
 1023 ~~smokeless tobacco, alternative nicotine product, or vapor product~~ package to which is
 1024 affixed a tax stamp in violation of subsection (b) of this Code section.

1025 (e) Notwithstanding any other provision of law, the commissioner may seize and destroy
 1026 or sell to the manufacturer, only for export, packages that do not comply with subsection
 1027 (b) of this Code section.

1028 (f) A violation of subsection (b) of this Code section shall constitute an unfair and
 1029 deceptive act or practice under Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair
 1030 Business Practices Act of 1975.'

1031 48-11-24.

1032 (a) Any person who possesses unstamped cigarettes or nontax-paid cigars, ~~or~~ little cigars,
 1033 ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products in violation
 1034 of this chapter shall be liable for a penalty of not more than \$50.00 for each individual
 1035 carton of unstamped cigarettes and \$50.00 for each individual nontax-paid carton of little
 1036 cigars, box of cigars, or container of loose or smokeless tobacco, alternative nicotine
 1037 products, or vapor products in his or her possession.

1038 (b) Any person who engages in any business or activity for which a license is required by
 1039 this chapter without first having obtained a license to do so or any person who continues
 1040 to engage in or conduct the business after the person's license has been revoked or during
 1041 a suspension of the license shall be guilty of a misdemeanor of a high and aggravated
 1042 nature and, upon conviction thereof, shall be subject to imprisonment for up to 12 months,
 1043 a fine of not more than \$5,000.00, or both. Each day that the business is engaged in or
 1044 conducted shall be deemed a separate offense.

1045 (c) Proceedings to enforce and collect the penalties provided by this chapter shall be
 1046 brought by and in the name of the commissioner. With respect to offenses committed
 1047 within the territorial jurisdiction of the court, each superior court shall have jurisdiction to
 1048 enforce and collect the penalty. The costs recoverable in any such proceeding shall be
 1049 recovered by the commissioner in the event of judgment in the commissioner's favor. If
 1050 the judgment is for the defendant, it shall be without costs against the commissioner. All
 1051 expenses incident to the recovery of any penalty pursuant to this Code section shall be paid
 1052 in the same manner as any other expense incident to the administration of this chapter.

1053 48-11-25.

1054 (a)(1) It shall be unlawful for any person, with the intent to evade the tax imposed by this
 1055 chapter, to possess unstamped cigarettes or loose or smokeless tobacco or nontax-paid
 1056 cigars, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products.

1057 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a
 1058 misdemeanor.

1059 (b)(1) It shall be unlawful for any person, with the intent to evade the tax imposed by this
1060 chapter, to:

1061 (A) Sell cigarettes or loose or smokeless tobacco without the stamps required by this
1062 chapter being affixed to the cigarettes or loose or smokeless tobacco; or

1063 (B) Sell cigars, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor
1064 products without the stamp or stamps required by this chapter or without the tax being
1065 paid on the cigars, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or
1066 vapor products in accordance with the alternate method.

1067 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony
1068 and, upon conviction thereof, shall be imprisoned for not less than one year nor more than
1069 ten years.

1070 48-11-26.

1071 (a) With respect to this chapter, it shall be unlawful for any person, with the intent to
1072 defraud the state or evade the payment of any tax, penalty, or interest or any part of a
1073 payment when due, to:

1074 (1) Willfully fail or refuse to file any report or statement required to be filed pursuant to
1075 this chapter or by the commissioner's rules and regulations; or

1076 (2) Aid or abet another in the filing with the commissioner of any false or fraudulent
1077 report or statement.

1078 (b) Any person who violates subsection (a) of this Code section shall be guilty of a
1079 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be subject
1080 to a fine of not more than \$1,000.00 for each separate offense.

1081 48-11-27.

1082 (a) It shall be unlawful for any person to:

1083 (1) Make a false entry upon any invoices or any record relating to the purchase,
1084 possession, or sale of cigars, cigarettes, or loose or smokeless tobacco, alternative
1085 nicotine products, or vapor products; or

1086 (2) With intent to evade any tax imposed by this chapter, present any false entry upon
1087 any such invoice or record for the inspection of the commissioner or the commissioner's
1088 authorized agents.

1089 (b) Any person who violates subsection (a) of this Code section shall be guilty of a
1090 misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than
1091 \$250.00 for each separate offense.

1092 48-11-28.

1093 (a) With respect to this chapter, it shall be unlawful for any person to:

1094 (1) Fraudulently make, utter, forge, or counterfeit any stamp prescribed by the
1095 commissioner;

1096 (2) Cause or procure a violation of paragraph (1) of this subsection to be done;

1097 (3) Willfully utter, publish, pass, or render as true any false, altered, forged, or
1098 counterfeited stamp;

1099 (4) Knowingly possess any false, altered, forged, or counterfeited stamp;

1100 (5) For the purpose of evading the tax imposed, use more than once any stamp required
1101 by this chapter; or

1102 (6) Tamper with or cause to be tampered with any metering machine authorized to be
1103 used.

1104 (b) Any person who violates subsection (a) of this Code section shall be guilty of a felony
1105 and, upon conviction thereof, shall be imprisoned for not less than three years nor more
1106 than ten years.

1107 48-11-29.

1108 Reserved.

1109 48-11-30.

1110 (a) Notwithstanding any other provision of law, the sale or possession for sale of
1111 counterfeit cigarettes by any person shall result in the seizure of the product and related
1112 machinery by the commissioner or his or her authorized agents and any law enforcement
1113 agency at the direction of the commissioner and shall be punishable as follows:

1114 (1) A first violation with a total quantity of less than two cartons of cigarettes shall be
1115 punishable by a fine of \$1,000.00 or five times the retail value of the cigarettes involved,
1116 whichever is greater, or imprisonment not to exceed five years, or both the fine and
1117 imprisonment;

1118 (2) A subsequent violation with a total quantity of less than two cartons of cigarettes
1119 shall be punishable by a fine of \$5,000.00 or five times the retail value of the cigarettes
1120 involved, whichever is greater, or imprisonment not to exceed five years, or both the fine
1121 and imprisonment;

1122 (3) A first violation with a total quantity of two cartons of cigarettes or more shall be
1123 punishable by a fine of \$2,000.00 or five times the retail value of the cigarettes involved,
1124 whichever is greater, or imprisonment not to exceed five years, or both the fine and
1125 imprisonment; and

1126 (4) A subsequent violation with a quantity of two cartons of cigarettes or more shall be
1127 punishable by a fine of \$50,000.00 or five times the retail value of the cigarettes involved,
1128 whichever is greater, or imprisonment not to exceed five years, or both the fine and
1129 imprisonment.

1130 (b) An act committed by or on behalf of a licensed cigarette manufacturer, cigarette
1131 importer, cigarette distributor, or cigarette dealer in violation of paragraph (2) or (4) of
1132 subsection (a) of this Code section shall also result in the revocation of the license by the
1133 department pursuant to Code Section 48-11-6.

1134 (c) Any counterfeit cigarette seized by or at the direction of the commissioner shall be
1135 destroyed by the commissioner or his or her designee. Any related machinery seized by
1136 or at the direction of the commissioner may be sold by the commissioner at public auction
1137 in accordance with the requirements of Code Section 48-11-9."

1138 **SECTION 2.**

1139 This Act shall become effective upon its approval by the Governor or upon its becoming law
1140 without such approval for purposes of promulgating rules and regulations and shall become
1141 effective on January 1, 2021, for all other purposes.

1142 **SECTION 3.**

1143 All laws and parts of laws in conflict with this Act are repealed.