

Senate Bill 375

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

AS PASSED

A BILL TO BE ENTITLED
AN ACT

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

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

28

SECTION 1.

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

32

"ARTICLE 7

33 16-12-170.

34 As used in this article, the term:

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

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

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

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

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

50 ~~(6)~~(5) 'Person' means any natural person or any firm, partnership, company, corporation,
 51 or other entity.

52 ~~(7)~~(6) 'Proper identification' means any document issued by a governmental agency
 53 containing a description of the ~~person~~ individual, such ~~person's~~ individual's photograph,
 54 or both, and giving such ~~person's~~ individual's date of birth and includes, without being
 55 limited to, a passport, military identification card, driver's license, or an identification
 56 card authorized under Code Sections 40-5-100 through 40-5-104. Proper identification
 57 shall not include a birth certificate.

58 ~~(8)~~(7) 'Tobacco product' means any cigars, little cigars, granulated, plug cut, crimp cut,
 59 ready rubbed, and other smoking tobacco; snuff or snuff powder; cavendish; plug and
 60 twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings,
 61 cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in
 62 such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both

63 for chewing and smoking. Such term ~~The term 'tobacco product'~~ shall not include any
 64 alternative nicotine product, vapor product, or product regulated as a drug or device by
 65 the United States Food and Drug Administration under Chapter V of the Food, Drug, and
 66 Cosmetic Act.

67 ~~(9)~~(8) 'Tobacco related objects' means any papers, wrappers, or other products, devices,
 68 or substances, including cigar wraps, which are used for the purpose of making cigarettes
 69 or tobacco products in any form whatsoever.

70 ~~(10)~~(9) 'Vapor product' means any noncombustible product containing nicotine that
 71 employs a heating element, power source, electronic circuit, or other electronic, chemical,
 72 or mechanical means, regardless of shape or size, that can be used to produce vapor or
 73 aerosol from nicotine or other substances in a solution or other form. Such term ~~The term~~
 74 ~~'vapor product'~~ shall include, but shall not be limited to, any electronic cigarette,
 75 electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any
 76 vapor or aerosol cartridge or other container of nicotine or other substance in a solution
 77 or other form, including, but not limited to, a device component, part, or accessory of the
 78 device, that is intended to be used with or in an electronic cigarette, electronic cigar,
 79 electronic cigarillo, electronic pipe, or similar product or device. Such term ~~The term~~
 80 ~~'vapor product'~~ shall not include any product regulated as a drug or device by the United
 81 States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic
 82 Act.

83 16-12-171.

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

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

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

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

94 (2)(A) The prohibition contained in paragraph (1) of this subsection shall not apply
 95 with respect to sale of cigarettes, tobacco products, tobacco related objects, alternative
 96 nicotine products, or vapor products by a person when such person has been furnished
 97 with proper identification showing that the ~~person~~ individual to whom the cigarettes,

98 tobacco products, tobacco related objects, alternative nicotine products, or vapor
99 products are sold is ~~18~~ 21 years of age or older.

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

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

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

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

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

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

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

132 (B) By requiring attendance at a publicly or privately sponsored lecture or discussion
133 on the health hazards of smoking and vaping or tobacco and vapor product use,

134 provided that such lecture or discussion is offered without charge to the ~~minor~~
 135 individual under the age of 21 years;

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

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

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

146 (2) Any individual who is 21 years of age or older who commits the offense provided for
 147 in paragraph (1) of this subsection shall be guilty of a misdemeanor; provided, however,
 148 that for a conviction of a first offense, such individual shall be punished by a fine of
 149 \$25.00 and for a conviction of a second offense, such individual shall be punished by a
 150 fine of \$50.00. The provisions of Chapter 11 of Title 17 and any other provision of law
 151 to the contrary notwithstanding, the costs of any prosecution for such first or second
 152 offense shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for
 153 such offense be assessed against an individual for conviction thereof.

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

161 16-12-172.

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

166 'SALE OF CIGARETTES, TOBACCO, TOBACCO PRODUCTS, TOBACCO
 167 RELATED OBJECTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR
 168 PRODUCTS TO ~~PERSONS~~ INDIVIDUALS UNDER ~~18~~ 21 YEARS OF AGE IS
 169 PROHIBITED BY LAW.'

170 Such sign shall be printed in letters of at least one-half inch in height.

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

173 16-12-173.

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

178 'THE PURCHASE OF CIGARETTES, TOBACCO PRODUCTS, TOBACCO
179 RELATED OBJECTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR
180 PRODUCTS FROM THIS VENDING MACHINE BY ANY ~~PERSON~~ INDIVIDUAL
181 UNDER ~~18~~ 21 YEARS OF AGE IS PROHIBITED BY LAW.'

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

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

189 (c) It shall be a violation of subsection (a) of Code Section 16-12-171 for any person
190 knowingly to allow ~~a minor~~ an individual under the age of 21 years to operate a vending
191 machine which dispenses cigarettes, tobacco products, tobacco related objects, alternative
192 nicotine products, or vapor products.

193 (d) The offenses provided for by paragraph (1) of subsection (b) of Code Section
194 16-12-171 shall apply to the operation by ~~a minor~~ an individual under the age of 21 years
195 of a vending machine which dispenses cigarettes, tobacco products, tobacco related objects,
196 alternative nicotine products, or vapor products.

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

200 (A) In locations which are not readily accessible to ~~minors~~ individuals under the age
201 of 21 years, including, but not limited to:

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

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

206 (iii) Places where alcoholic beverages are offered for sale;
 207 (B) In areas which are in the immediate vicinity, in plain view, and under the
 208 continuous supervision of the proprietor of the establishment or an employee who will
 209 observe the purchase of cigarettes, tobacco products, tobacco related objects, alternative
 210 nicotine products, and vapor products from the vending machine; and
 211 (C) In rest areas adjacent to roads and highways of the state.
 212 (2) Violation of this subsection shall be punished as provided in subsection (b) of this
 213 Code section ~~for violation of subsection (a) of this Code section.~~

214 16-12-174.

215 (a) As used in this Code section, the term 'tobacco product sample' means a cigarette,
 216 tobacco product, alternative nicotine product, or vapor product distributed to members of
 217 the general public at no cost for purposes of promoting the product.
 218 (b) It shall be unlawful for any person to distribute any tobacco product sample to any
 219 ~~person~~ individual under the age of ~~18~~ 21 years.
 220 (c) A person distributing tobacco product samples shall require proof of age from a
 221 prospective recipient if an ordinary person would conclude on the basis of appearance that
 222 such prospective recipient may be under the age of ~~18~~ 21 years.
 223 (d) It shall be unlawful for any ~~person~~ individual who has not attained the age of ~~18~~ 21
 224 years to receive or attempt to receive any tobacco product sample.
 225 (e) No person shall distribute tobacco product samples on any public street, sidewalk, or
 226 park within 500 feet of any school or playground when those facilities are being used
 227 primarily by ~~persons~~ individuals under the age of ~~18~~ 21 years.
 228 (f) ~~A violation of subsection (b), (c), or (e)~~ Violation of this Code section shall be punished
 229 as a misdemeanor. A violation of subsection (d) of this Code section shall be punished as
 230 provided for in paragraph (2) of subsection (b) of Code Section 16-12-171.

231 16-12-175.

232 (a) The provisions of this article, inclusive, shall be enforced through actions brought in
 233 any court of competent jurisdiction by the prosecuting attorney for the county in which the
 234 alleged violation occurred as well as through administrative citations issued by special
 235 agents or enforcement officers of the state revenue commissioner. Any fine collected for
 236 a violation of said provision shall be paid to the clerk of the court of the jurisdiction in
 237 which the violation occurred. Upon receipt of a fine for any violation of said provision, the
 238 clerk shall promptly notify the state revenue commissioner of the violation.
 239 (b) The state revenue commissioner, acting through special agents or enforcement officers,
 240 shall annually conduct random, unannounced inspections at locations where cigarettes,

241 tobacco products, alternative nicotine products, or vapor products are sold or distributed
 242 to ensure compliance with this article. ~~Individuals~~ ~~Persons~~ under the age of ~~18~~ 21 years
 243 may be enlisted to test compliance with this article; provided, however, that such ~~persons~~
 244 individuals may be used to test compliance with this article only if the testing is conducted
 245 under the direct supervision of such special agents or enforcement officers and written
 246 parental consent for any individual under the age of 18 years has been provided. Any other
 247 use of ~~persons~~ individuals under the age of ~~18~~ 21 years to test compliance with this article
 248 or any other prohibition of like or similar import shall be unlawful, and the person or
 249 persons responsible for such use shall be subject to the penalties prescribed in this article.
 250 The state revenue commissioner shall prepare annually for submission by the Governor to
 251 the secretary of the United States Department of Health and Human Services the report
 252 required by ~~section 1926 of subpart I of part~~ Section 1926 of Subpart I of Part B of Title
 253 XIX of the federal Public Health Service Act, 42 U.S.C. 300x-26.

254 16-12-176.

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

260 **SECTION 2.**

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

263 "CHAPTER 11

264 48-11-1.

265 As used in this chapter, the term:

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

- 274 (2) 'Alternative nicotine product dealer' means any person located within the borders of
 275 this state who sells or distributes alternative nicotine products to a consumer in this state.
- 276 (3) 'Alternative nicotine product distributor' means any person who:
 277 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
 278 contact and call on alternative nicotine product dealers; and
 279 (B) Is engaged in the business of:
 280 (i) Importing alternative nicotine products into this state or purchasing alternative
 281 nicotine products from other alternative nicotine product manufacturers or alternative
 282 nicotine product distributors; and
 283 (ii) Selling the alternative nicotine products to alternative nicotine product dealers in
 284 this state for resale but is not in the business of selling the alternative nicotine
 285 products directly to the ultimate consumers of the alternative nicotine products.
- 286 (4) 'Alternative nicotine product importer' means any person who imports into or who
 287 brokers within the United States, either directly or indirectly, finished alternative nicotine
 288 products for sale or distribution.
- 289 (5) 'Alternative nicotine product manufacturer' means any person who manufactures,
 290 fabricates, assembles, processes, or labels finished alternative nicotine products.
- 291 ~~(1)~~(6) 'Cigar' means any roll for smoking made wholly or in part of tobacco when the
 292 cover of the roll is also tobacco. Such term shall include a little cigar.
- 293 ~~(2)~~(7) 'Cigar dealer' means any person located within the borders of this state who sells
 294 or distributes cigars to a consumer in this state.
- 295 ~~(3)~~(8) 'Cigar distributor' means any person, whether located within or outside the borders
 296 of this state, other than a cigar dealer, who sells or distributes cigars within or into the
 297 boundaries of this state and who:
 298 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
 299 contact and call on cigar dealers; and
 300 (B) Is engaged in the business of:
 301 (i) Importing cigars into this state or purchasing cigars from other cigar
 302 manufacturers or cigar distributors; and
 303 (ii) Selling the cigars to cigar dealers in this state for resale but is not in the business
 304 of selling the cigars directly to the ultimate consumer of the cigars.
- 305 ~~(4)~~(9) 'Cigar importer' means any person who imports into or who brokers within the
 306 United States, either directly or indirectly, a finished cigar for sale or distribution.
- 307 ~~(5)~~(10) 'Cigar manufacturer' means any person who manufactures, fabricates, assembles,
 308 processes, or labels a finished cigar.

309 ~~(6)~~(11) 'Cigarette' means any roll or stick for smoking made wholly or in part of tobacco
 310 when the cover of the roll is paper or any substance other than tobacco or when the stick
 311 is heated in a device without combustion.

312 ~~(7)~~(12) 'Cigarette dealer' means any person located within the borders of this state who
 313 sells or distributes cigarettes to a consumer in this state.

314 ~~(8)~~(13) 'Cigarette distributor' means any person, whether located within or outside the
 315 borders of this state, other than a cigarette dealer, who sells or distributes cigarettes
 316 within or into the boundaries of this state and who:

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

319 (B) Is engaged in the business of:

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

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

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

329 ~~(9)~~(14) 'Cigarette importer' means any person who imports into or who brokers within
 330 the United States, either directly or indirectly, a finished cigarette for sale or distribution.

331 ~~(10)~~(15) 'Cigarette manufacturer' means any person who manufactures, fabricates,
 332 assembles, processes, or labels a finished cigarette.

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

337 (17) 'Consumable vapor product' means any liquid solution, whether it contains nicotine
 338 or not, that is intended to be heated into an aerosol state and inhaled by an individual.

339 Such term shall include, but shall not be limited to, e-liquid, e-juice, vape juice, and
 340 cartridges that are prefilled with such a solution. Such term shall not include any
 341 alternative nicotine product, cigar, cigarette, loose or smokeless tobacco, perfume,
 342 potpourri, essential oil, or product regulated as a drug or therapeutic device by the United
 343 States Food and Drug Administration under Chapter V of the Federal Food, Drug, and
 344 Cosmetic Act.

345 ~~(11)~~(18) 'Counterfeit cigarette' means cigarettes that are manufactured, fabricated,
 346 assembled, processed, packaged, or labeled by any person other than the trademark owner
 347 of a cigarette brand or the owner's designated agent.

348 ~~(12)~~(19) 'Dealer' means any person who is a cigar dealer, a cigarette dealer, ~~or~~ a loose
 349 or smokeless tobacco dealer, an alternative nicotine product dealer, or a vapor product
 350 dealer.

351 ~~(13)~~(20) 'Distributor' means any person who is a cigar distributor, a cigarette distributor,
 352 ~~or~~ a loose or smokeless tobacco distributor, an alternative nicotine product distributor, or
 353 a vapor product distributor.

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

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

359 ~~(14)~~(23) 'First transaction' means the first sale, receipt, purchase, possession,
 360 consumption, handling, distribution, or use of cigars, cigarettes, ~~or~~ loose or smokeless
 361 tobacco, alternative nicotine products, or vapor products within this state.

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

365 ~~(15)~~(25) 'Little cigar' means any cigar weighing not more than three pounds per
 366 thousand.

367 ~~(16)~~(26) 'Loose or smokeless tobacco' means granulated, plug cut, crimp cut, ready
 368 rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist
 369 tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings,
 370 and sweepings of tobacco; ~~and~~ other kinds and forms of tobacco, prepared in such
 371 manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for
 372 chewing and smoking; and any tobacco product intended for human consumption that is
 373 not otherwise defined by this chapter. Such term shall but does not include alternative
 374 nicotine products, consumable vapor products, cigarettes, or cigars, or tobacco purchased
 375 for the manufacture of cigarettes or cigars by cigarette manufacturers or cigar
 376 manufacturers.

377 ~~(17)~~(27) 'Loose or smokeless tobacco dealer' means any person located within the
 378 borders of this state who sells or distributes loose or smokeless tobacco to a consumer in
 379 this state.

380 ~~(18)~~(28) 'Loose or smokeless tobacco distributor' means any person who:

- 381 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
 382 contact and call on loose or smokeless tobacco dealers; and
- 383 (B) Is engaged in the business of:
- 384 (i) Importing loose or smokeless tobacco into this state or purchasing loose or
 385 smokeless tobacco from other loose or smokeless tobacco manufacturers or loose or
 386 smokeless tobacco distributors; and
- 387 (ii) Selling the loose or smokeless tobacco to loose or smokeless tobacco dealers in
 388 this state for resale but is not in the business of selling the loose or smokeless tobacco
 389 directly to the ultimate consumer of the loose or smokeless tobacco.
- 390 ~~(19)~~(29) 'Loose or smokeless tobacco importer' means any person who imports into or
 391 who brokers within the United States, either directly or indirectly, finished loose or
 392 smokeless tobacco for sale or distribution.
- 393 ~~(20)~~(30) 'Loose or smokeless tobacco manufacturer' means any person who
 394 manufactures, fabricates, assembles, processes, or labels finished loose or smokeless
 395 tobacco.
- 396 (31) Reserved.
- 397 (32) 'Open system' means any method or manner used to contain a consumable vapor
 398 product that is not a closed system.
- 399 (33) 'Proper identification' means any document issued by a governmental agency
 400 containing a description of the person or such person's photograph, or both, and giving
 401 such person's date of birth and that includes, without being limited to, a passport, military
 402 identification card, driver's license, or identification card authorized under Code Sections
 403 40-5-100 through 40-5-104.
- 404 ~~(21)~~(34) 'Related machinery' means any item, device, conveyance, or vessel of any kind
 405 or character used in manufacturing, packaging, labeling, stamping, transporting,
 406 distributing, selling, or possessing counterfeit cigarettes.
- 407 ~~(22)~~(35) 'Sale' means any sale, transfer, exchange, theft, barter, gift, or offer for sale and
 408 distribution in any manner or by any means whatever.
- 409 ~~(23)~~(36) 'Stamp' means any impression, device, stamp, label, or print manufactured,
 410 printed, made, or affixed as prescribed by the commissioner.
- 411 (37) 'Third party' means any person registered to do business in this state that has a
 412 contractual relationship with at least one licensed dealer. Such term shall include such
 413 person's employees and independent contractors.
- 414 (38) 'Tobacco product' means any cigar, cigarette, or loose or smokeless tobacco.
- 415 ~~(24)~~(39) 'Vapor device' means any system or device developed or intended to deliver a
 416 consumable vapor product to an individual who inhales from the device. Such term shall
 417 include, but not be limited to, an electronic nicotine delivery system, an electronic

418 cigarette, electronic cigar, electronic pipe, vape pen, vape tool, or electronic hookah.
 419 Such term shall not include a fragrance or essential oil diffuser, an air freshener, or any
 420 product regulated as a drug or device by the United States Food and Drug Administration
 421 under Chapter V of the Federal Food, Drug, and Cosmetic Act.

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

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

425 (42) 'Vapor product distributor' means any person who:

426 (A) Maintains a warehouse, warehouse personnel, and salespersons who regularly
 427 contact and call on vapor product dealers; and

428 (B) Is engaged in the business of:

429 (i) Importing vapor products into this state or purchasing vapor products from other
 430 vapor product manufacturers or vapor product distributors; and

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

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

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

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

442 48-11-2.

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

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

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

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

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

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

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

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

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

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

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

477 (e) The taxes imposed by this chapter shall be advanced and paid by the dealer or
 478 distributor licensed pursuant to this chapter to the commissioner for deposit and
 479 distribution as provided in this chapter upon the first transaction within this state, whether
 480 or not the transaction involves the ultimate purchaser or consumer. The licensed dealer or
 481 distributor shall collect the tax on the first transaction within this state from the purchaser
 482 or consumer, and the purchaser or consumer shall pay the tax to the dealer or distributor.
 483 The dealer or distributor shall be responsible for the collection of the tax and the payment
 484 of the tax to the commissioner. Whenever cigars, cigarettes, ~~or~~ loose or smokeless tobacco
 485 ~~is,~~ alternative nicotine products, or vapor products are shipped from outside this state to
 486 anyone other than a distributor, the person receiving the cigars, cigarettes, ~~or~~ loose or
 487 smokeless tobacco, alternative nicotine products, or vapor products shall be deemed to be
 488 a distributor and shall be responsible for the tax on the cigars, cigarettes, ~~or~~ loose or
 489 smokeless tobacco, alternative nicotine products, or vapor products and the payment of the

490 tax to the commissioner. No tobacco products, alternative nicotine products, or vapor
 491 products shall be received in, sold in, or shipped into this state unless lawfully obtained
 492 from a person licensed pursuant to this chapter or from an importer with a valid permit
 493 issued pursuant to 26 U.S.C. Section 5712.

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

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

502 48-11-3.

503 (a) Except as otherwise provided in this Code section, the taxes imposed by Code Section
 504 48-11-2 shall be collected and paid through the use of stamps. The commissioner shall
 505 secure stamps of such design and materials as the commissioner deems appropriate to
 506 protect the revenue and shall sell the stamps to licensed distributors at a discount of not less
 507 than 2 percent and not more than 8 percent of the value of the stamps. The exact
 508 percentage of the discount shall be based on brackets according to the volume of cigars,
 509 cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor
 510 products handled by the distributor pursuant to regulations promulgated by the
 511 commissioner. The commissioner shall prescribe by regulation the condition, method, and
 512 manner in which stamps are to be affixed to containers of cigars, cigarettes, ~~and~~ loose or
 513 smokeless tobacco, alternative nicotine products, and vapor products.

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

521 (c) No distributor shall sell or exchange with another distributor any stamps issued
 522 pursuant to this chapter. The commissioner is authorized to redeem at cost price any
 523 stamps presented for redemption by a licensed distributor when the commissioner
 524 determines from physical inspection that no cigars, cigarettes, ~~or~~ loose or smokeless
 525 tobacco, alternative nicotine products, or vapor products have ~~has~~ been sold by the

526 distributor under pretense of the tax imposed by this chapter having been paid through use
527 of the stamps.

528 48-11-4.

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

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

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

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

559 (c)(1) The annual renewal fee for a manufacturer's, importer's, distributor's, or dealer's
560 license shall be \$10.00 except for an additional \$10.00 fee per year for those licenses that
561 include vapor products. There shall also be a ~~first-year~~ first-year registration fee of

562 \$250.00 for a person commencing business as a manufacturer, importer, or distributor,
563 provided that there shall be only a first-year registration fee of \$10.00 upon first issuance
564 of each manufacturer's, importer's, distributor's, or dealer's license for vapor products to
565 a person that currently holds such a license for tobacco products. All renewal
566 applications shall be filed at least 30 days in advance of the expiration date shown on the
567 license.

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

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

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

588 (d) The commissioner may make rules and regulations governing the sale of cigars,
589 cigarettes, loose or smokeless tobacco, and other tobacco products in vending machines.
590 The commissioner shall require annually a special registration of each vending machine for
591 any operation in this state and charge a license fee for the registration in the amount of
592 \$10.00 for each machine. The annual registration shall indicate the location of the vending
593 machine. No vending machine shall be purchased or transported into this state for use in
594 this state when the vending machine is not so designed as to permit inspection without
595 opening the machine for the purpose of determining that all cigars, cigarettes, loose or
596 smokeless tobacco, and other tobacco products contained in the machine bear the tax stamp
597 required under this chapter.

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

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

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

624 48-11-4.1.

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

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

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

637 48-11-4.2.

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

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

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

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

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

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

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

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

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

660 (ii) Has not had a major traffic violation, as such term is defined in Code Section
 661 40-5-142, in the prior three-year period;

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

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

667 (v) Does not have a match on the National Sex Offender Registry data base;

- 668 (D) Shall not possess or handle as part of or during the delivery forms of compensation
 669 that are used to purchase or transact the sale of tobacco products, alternative nicotine
 670 products, or vapor products; and
- 671 (E) Does not receive compensation based upon whether an attempted delivery results
 672 in a completed transaction;
- 673 (5) The delivery shall be made by the licensed dealer, employee, or third party to an
 674 individual who is at least 21 years of age and presents proper identification verifying the
 675 age of such individual;
- 676 (6) At the time of the delivery, the licensed dealer, employee, or third party shall verify
 677 the identity and age of the individual accepting delivery by validating the proper
 678 identification of the individual accepting delivery and obtaining his or her signature on
 679 a written or electronic acknowledgment of receipt of the order and certification of legal
 680 age to purchase tobacco products, alternative nicotine products, or vapor products. The
 681 licensed dealer, employee, or third party shall scan or otherwise verify the proper
 682 identification of the individual accepting delivery and shall retain a record of such
 683 individual's name and date of birth that shall be available for inspection upon request for
 684 a minimum of three years;
- 685 (7) The licensed dealer, employee, or third party conducting the delivery shall not make
 686 the delivery if:
- 687 (A) No individual is at the address to accept delivery; or
 688 (B) The individual attempting to accept the delivery:
- 689 (i) Is less than 21 years of age;
 690 (ii) Fails to produce proper identification verifying his or her age; or
 691 (iii) Fails to provide a signature that matches such proper identification;
- 692 (8) All deliveries shall be inspected at the time of delivery by the individual accepting
 693 such delivery. The transaction shall be deemed complete upon acceptance of the delivery
 694 of the tobacco products, alternative nicotine products, or vapor products, and all sales
 695 shall be final; and
- 696 (9) No delivery shall knowingly be made to any address or to any property that is part
 697 of:
- 698 (A) Any public or private elementary or secondary school, including without limitation
 699 any dormitory, housing, or common space located on the campus thereof;
 700 (B) Any prison, reformatory, or other correctional facility;
 701 (C) Any addiction or substance abuse facility; or
 702 (D) Any locker, mailbox, package shipping location, or similar service or storage
 703 facility or business.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

759 48-11-5.

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

774 (2) The commissioner shall require a bond of a nonresident distributor satisfactory to the
 775 commissioner and in an amount of not less than \$1,000.00, conditioned upon the payment

776 of the tax and compliance with any other requirements specified by the commissioner.
 777 As a condition of authorization as provided in this Code section, a nonresident distributor
 778 shall agree to submit the distributor's books, accounts, and records for examination by the
 779 commissioner or the commissioner's duly authorized agent during reasonable business
 780 hours and shall appoint in writing an agent who resides in this state for the purpose of
 781 service. Service upon an agent shall be sufficient service upon the nonresident distributor
 782 and made by leaving a duly attested copy of the process with the agent. When legal
 783 process against any nonresident distributor is served upon the agent, the agent shall notify
 784 the nonresident distributor in the manner specified in Code Section 40-12-2.

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

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

796 48-11-6.

797 The commissioner may suspend or refuse to renew a license issued to any person under this
 798 chapter for violation of any provision of this chapter or Chapters 13 and 13A of Title 10
 799 or of the rules and regulations made pursuant to those chapters. After notice and
 800 opportunity for hearing, the commissioner may revoke a license issued to any person under
 801 this chapter for violation of any provision of this chapter or of any rule or regulation of the
 802 commissioner made pursuant to this chapter or Chapters 13 and 13A of Title 10 or of the
 803 rules and regulations made pursuant to those chapters. Any person aggrieved by the
 804 suspension of or refusal to renew his or her license may apply to the commissioner for a
 805 hearing as provided in subsection (a) of Code Section 48-11-18; and any person aggrieved
 806 by the action of the commissioner in revoking or refusing to renew his or her license after
 807 hearing may further appeal to the courts as provided in subsection (b) of Code Section
 808 48-11-18. No legal proceedings or other action by the commissioner shall be barred or
 809 abated by the suspension, revocation, or expiration of any license issued under this chapter.

810 48-11-7.

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

814 48-11-8.

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

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

822 (3) No person shall sell, offer for sale, or possess with intent to sell any loose or
823 smokeless tobacco in this state when the loose or smokeless tobacco container does not
824 bear the tax stamps required by Code Section 48-11-3 or upon which the tax has not been
825 paid under the alternate method of collecting the tax provided under Code Section
826 48-11-3.

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

829 (b) Each distributor at the location for which such distributor's license is issued and in the
830 manner specified by the commissioner shall affix the stamps required by this Code section
831 to each individual package of cigarettes sold or distributed by such distributor, except as
832 prohibited by Code Section 10-13A-5. Each distributor shall comply with the
833 commissioner's regulations for the payment of the tax on cigars, ~~or~~ loose or smokeless
834 tobacco, alternative nicotine products, or vapor products as provided in Code Section
835 48-11-3 or shall affix to each container of cigars or loose or smokeless tobacco sold by
836 such distributor or from which such distributor sells cigars or loose or smokeless tobacco
837 the stamps required by this chapter. The stamps may be affixed or the tax under the
838 alternate method may be paid by a distributor at any time before the cigars, cigarettes, ~~or~~
839 loose or smokeless tobacco, alternative nicotine products, or vapor products ~~is~~ are
840 transferred out of such distributor's possession.

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

846 (d) Every dealer who comes into possession of cigars, cigarettes, or loose or smokeless
 847 tobacco not bearing proper tax stamps or other evidence of the tax imposed by this chapter
 848 shall report the cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine
 849 products, or vapor products to the commissioner prior to displaying, selling, using, or
 850 otherwise disposing of the cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative
 851 nicotine products, and vapor products. After a report, the commissioner shall authorize a
 852 licensed distributor to affix the proper stamps to the cigars, cigarettes, ~~and~~ loose or
 853 smokeless tobacco, alternative nicotine products, or vapor products or, in the case of cigars,
 854 ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products, authorize
 855 the dealer to remit the tax by the alternate method promulgated by the commissioner in
 856 accordance with Code Section 48-11-3. A licensed distributor shall affix the stamps or
 857 comply with the alternate regulations when presented a permit for such action issued by the
 858 commissioner. A licensed distributor shall stamp cigarettes or comply with the alternate
 859 method provided in this chapter with respect to cigars, ~~or~~ loose or smokeless tobacco,
 860 alternative nicotine products, or vapor products, other than such distributor's own, only
 861 when authorized by the permit issued by the commissioner.

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

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

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

882 48-11-9.

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

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

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

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

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

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

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

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

911 (b) Any cigars, cigarettes, loose or smokeless tobacco, alternative nicotine products, vapor
 912 products, or other property seized pursuant to this chapter may be offered for sale by the
 913 commissioner, at the commissioner's discretion, at public auction to the highest bidder after
 914 advertisement as provided in this Code section. The commissioner shall deliver to the
 915 Office of the State Treasurer the proceeds of any sale made under this Code section.
 916 Before delivering any cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine
 917 products, or vapor products sold to a purchaser at the sale, the commissioner shall require
 918 the purchaser to affix to the packages the amount of stamps required by this chapter or to

919 comply with the commissioner's alternate method. The seizure and sale of any cigars,
 920 cigarettes, loose or smokeless tobacco, or other property pursuant to this chapter shall not
 921 relieve any person from a fine, imprisonment, or other penalty for violation of this chapter.

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

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

949 48-11-10.

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

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

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

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

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

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

966 48-11-11.

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

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

990 48-11-12.

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

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

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

999 (C) The licensed distributor or dealer has not purchased sufficient stamps to cover such
 1000 licensed distributor's or dealer's receipts for sales or other disposition of unstamped
 1001 cigarettes or loose or smokeless tobacco and nontax-paid cigars, ~~or nontax-paid~~ loose
 1002 or smokeless tobacco, nontax-paid alternative nicotine products, or nontax-paid vapor
 1003 products.

1004 (2) In any case where a licensed distributor or dealer cannot produce evidence of
 1005 sufficient stamps purchased or other payment of the tax to cover the receipt of unstamped
 1006 cigarettes or loose or smokeless tobacco or nontax-paid cigars, ~~or nontax-paid~~ loose or
 1007 smokeless tobacco, nontax-paid alternative nicotine products, or nontax-paid vapor
 1008 products, it shall be assumed that the cigars, cigarettes, and loose or smokeless tobacco
 1009 were sold without having either the proper stamps affixed or the tax paid on unstamped
 1010 cigars or loose or smokeless tobacco.

1011 (b) If the commissioner determines that the deficiency or any part of the deficiency is due
 1012 to a fraudulent intent to evade the tax, a penalty of 50 percent of the deficiency shall be
 1013 added to the amount due.

1014 48-11-13.

1015 (a) There is imposed a tax on every person for the privilege of using, consuming, or storing
 1016 cigars, cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor
 1017 products in this state on which the tax imposed by Code Section 48-11-2 has not been paid.
 1018 The tax shall be measured by and graduated in accordance with the volume of cigars,
 1019 cigarettes, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor
 1020 products used, consumed, or stored as set forth in Code Section 48-11-2.

1021 (b) This Code section shall not apply to:

1022 (1) Cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or
 1023 vapor products in the hands of a licensed distributor or dealer;

- 1024 (2) Cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or
 1025 vapor products in the possession of a common carrier complying with Code Section
 1026 48-11-22 or delivery being made pursuant to Code Section 48-11-4.2;
- 1027 (3) Cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or
 1028 vapor products stored in a public warehouse;
- 1029 (4) Cigarettes or little cigars in an amount not exceeding 200 cigarettes or little cigars
 1030 which have been brought into this state on the person;
- 1031 (5) Cigars in an amount not exceeding 20 cigars which have been brought into this state
 1032 on the person; ~~or~~
- 1033 (6) Loose or smokeless tobacco in an amount not exceeding six containers which has
 1034 been brought into this state on the person;
- 1035 (7) Alternative nicotine products in an amount not exceeding six containers which have
 1036 been brought into this state on the person;
- 1037 (8) Consumable vapor products in an amount not exceeding 50 milliliters which have
 1038 been brought into this state on the person; or
- 1039 (9) Up to five vapor devices which have been brought into this state on the person.

1040 48-11-14.

1041 (a) Before any person acquires cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative
 1042 nicotine products, or vapor products subject to the tax imposed by Code Section 48-11-13,
 1043 such person shall register with the commissioner as a responsible taxpayer subject to the
 1044 obligation of maintaining records and making reports in the form prescribed by the
 1045 commissioner. The report shall be made on or before the tenth day of the month following
 1046 the month in which the cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative
 1047 nicotine products, or vapor products were ~~was~~ acquired and shall be accompanied by the
 1048 amount of tax due.

1049 (b) If any person subject to the tax imposed by Code Section 48-11-13 fails to make the
 1050 required report or makes an incorrect report, the commissioner shall assess the correct
 1051 amount of tax due from that person from the best information available to him or her. A
 1052 copy of the assessment shall be furnished the person by registered or certified mail or
 1053 statutory overnight delivery, return receipt requested, or by personal service. Any person
 1054 aggrieved by any assessment pursuant to this Code section may request a hearing in the
 1055 manner provided in subsection (a) of Code Section 48-11-18.

1056 (c) Every person subject to the tax imposed by Code Section 48-11-13 who fails to register
 1057 with the commissioner as a responsible taxpayer, who fails to make a report within the time
 1058 specified, or who fails to remit the tax within the time specified may be required to pay a
 1059 penalty of not less than \$25.00 nor more than \$250.00 in addition to the tax and any other

1060 penalties imposed by law and found due by the commissioner. The commissioner may
 1061 proceed to collect the tax and penalty in the manner provided in subsection (c) of Code
 1062 Section 48-11-24.

1063 (d) Except as otherwise provided in this Code section, the sanctions and penalties set forth
 1064 in Code Sections 48-11-15, 48-11-17, 48-11-18, and 48-11-20 through 48-11-24 and in
 1065 Code Sections 48-7-2 and 48-13-38 shall be imposed where applicable for any violations
 1066 of this chapter by consumers.

1067 48-11-15.

1068 The Office of the State Treasurer is authorized to pay, on the order of the commissioner,
 1069 claims for refunds of cigar, cigarette, ~~or~~ loose or smokeless tobacco, alternative nicotine
 1070 product, or vapor product taxes found by the commissioner or the courts to be due any
 1071 distributor, dealer, or taxpayer. The commissioner, upon proof satisfactory to the
 1072 commissioner and in accordance with regulations promulgated by the commissioner, shall
 1073 refund the cost price of stamps affixed to any package of cigars, cigarettes, or loose or
 1074 smokeless tobacco or shall refund the tax paid on cigars, ~~or~~ loose or smokeless tobacco,
 1075 alternative nicotine products, or vapor products under the alternate method when the cigars,
 1076 cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products
 1077 have ~~has~~ become unfit for use, consumption, or sale and ~~has~~ have been destroyed or
 1078 shipped out of this state.

1079 48-11-16.

1080 (a) The commissioner may permit licensed distributors to purchase tax stamps from the
 1081 department on account. Permits may be granted only to licensed distributors who post
 1082 bonds with the commissioner in amounts sufficient in the opinion of the commissioner to
 1083 secure payment for stamps delivered on account. Tax stamps purchased by licensed
 1084 distributors shall be paid for in full on or before the twentieth day of the month next
 1085 succeeding the purchase. The bond provided in this Code section shall be secured by cash
 1086 which shall bear no interest, by negotiable securities approved by the Office of the State
 1087 Treasurer, or by a surety bond executed by a surety company licensed to do business in this
 1088 state and approved by the commissioner.

1089 (b) The commissioner may cancel without notice any permit issued under this Code
 1090 section if the licensed distributor fails or refuses to comply with the requirements of this
 1091 Code section or with the rules and regulations adopted under authority of this Code section.

1092 (c) On or before June 30 of each fiscal year, the licensed distributor shall pay in its entirety
 1093 any liability for the purchase of tax stamps due at that time.

1094 48-11-17.

1095 The amount of any unpaid tax shall be a lien against the property of any distributor or
 1096 dealer who sells cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine
 1097 products, or vapor products without collecting the tax and against the property of any
 1098 person using or consuming cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative
 1099 nicotine products, or vapor products without proper stamps affixed to the cigars, cigarettes,
 1100 ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products or without
 1101 the tax paid on the cigars, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or
 1102 vapor products as otherwise provided in this chapter. The commissioner or the
 1103 commissioner's authorized agents are authorized to seize the property of a delinquent
 1104 distributor, dealer, or taxpayer and sell it as provided by law to satisfy the claim for taxes
 1105 due under this chapter; or the commissioner may record the commissioner's lien specifying
 1106 and describing the property against which the lien is effective, and the lien shall be good
 1107 as against any other person until the claim for taxes is satisfied.

1108 48-11-18.

1109 (a) Any person aggrieved by any action of the commissioner or the commissioner's
 1110 authorized agent may apply to the commissioner, in writing within ten days after the notice
 1111 of the action is delivered or mailed to the commissioner, for a hearing. The application
 1112 shall set forth the reasons why the hearing should be granted and the manner of relief
 1113 sought. The commissioner shall notify the applicant of the time and place fixed for the
 1114 hearing. After the hearing, the commissioner may make an order as may appear to the
 1115 commissioner to be just and lawful and shall furnish a copy of the order to the applicant.
 1116 The commissioner at any time by notice in writing may order a hearing on the
 1117 commissioner's own initiative and require the taxpayer or any other person whom the
 1118 commissioner believes to be in possession of information concerning any manufacture,
 1119 importation, use, consumption, storage, or sale of cigars, cigarettes, ~~or~~ loose or smokeless
 1120 tobacco, alternative nicotine products, or vapor products which ~~has~~ have escaped taxation
 1121 to appear before the commissioner or the commissioner's duly authorized agent with any
 1122 specific books of account, papers, or other documents for examination under oath relative
 1123 to the information.

1124 (b) Any person aggrieved because of any final action or decision of the commissioner,
 1125 after hearing, may appeal from the decision to the superior court of the county in which the
 1126 appellant resides. The appeal shall be returnable at the same time and shall be served and
 1127 returned in the same manner as required in the case of a summons in a civil action. The
 1128 authority issuing the citation shall take from the appellant a bond of recognizance to the
 1129 state, with surety, conditioned to prosecute the appeal and to effect and comply with the

1130 orders and decrees of the court. The action of the commissioner shall be sustained unless
1131 the court finds that the commissioner misinterpreted this chapter or that there is no
1132 evidence to support the commissioner's action. If the commissioner's action is not
1133 sustained, the court may grant equitable relief to the appellant. Upon all appeals which are
1134 denied, costs may be taxed against the appellant at the discretion of the court. No costs of
1135 any appeal shall be taxed against the state.

1136 48-11-19.

1137 (a) Each person appointed by the commissioner as a special agent or enforcement officer
1138 of the department for the enforcement of the laws of this state with respect to the
1139 manufacture, transportation, distribution, sale, possession, and taxation of cigars, cigarettes,
1140 little cigars, ~~and~~ loose or smokeless tobacco, alternative nicotine products, and vapor
1141 products shall have the authority throughout this state to:

1142 (1) Obtain and execute warrants for arrest of persons charged with violations of such
1143 laws;

1144 (2) Obtain and execute search warrants in the enforcement of such laws;

1145 (3) Arrest without warrant any person violating such laws in the officer's presence or
1146 within such officer's immediate knowledge when there is likely to be a failure of
1147 enforcement of such laws for want of a judicial officer to issue a warrant;

1148 (4) Make investigations in the enforcement of such laws and, in connection with such
1149 investigations, to go upon any property outside buildings, whether posted or otherwise,
1150 in the performance of such officer's duties;

1151 (5) Seize and take possession of all property which is declared contraband under such
1152 laws; and

1153 (6) Carry firearms while performing such officer's duties.

1154 (b) Each special agent or enforcement officer shall file with the commissioner a public
1155 official's bond in the amount of \$1,000.00, the cost of the bond to be borne by the
1156 department. Nothing in this chapter shall be construed to relieve agents and officers, after
1157 making an arrest, from the duties imposed generally to obtain a warrant promptly and to
1158 return arrested persons without undue delay before a person authorized to examine,
1159 commit, or receive bail as required by general law.

1160 (c) After a special agent or enforcement officer has accumulated 25 years of service with
1161 the department, upon leaving the department under honorable conditions, such special
1162 agent or enforcement officer shall be entitled as part of such officer's compensation to
1163 retain his or her weapon and badge pursuant to regulations promulgated by the
1164 commissioner.

1165 (d) As used in this subsection, the term 'disability' means a disability that prevents an
 1166 individual from working as a law enforcement officer. When a special agent or
 1167 enforcement officer leaves the department as a result of a disability arising in the line of
 1168 duty, such special agent or enforcement officer shall be entitled as part of such officer's
 1169 compensation to retain his or her weapon and badge in accordance with regulations
 1170 promulgated by the commissioner.

1171 48-11-20.

1172 The failure to do any act required by this chapter shall be deemed an act committed in part
 1173 at the office of the commissioner in Atlanta. The certificate of the commissioner to the
 1174 effect that any act required by this chapter has not been done shall be prima-facie evidence
 1175 that the act has not been done.

1176 48-11-21.

1177 The superior courts of this state shall have jurisdiction of offenses against this chapter
 1178 which are punishable by fine or imprisonment, or both.

1179 48-11-22.

1180 (a) Every person who transports upon the public highways, roads, and streets of this state
 1181 cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor
 1182 products not stamped or on which tax has not been paid in accordance with the alternate
 1183 regulations provided by the commissioner under Code Section 48-11-3 shall have in such
 1184 person's actual possession invoices or delivery tickets for the cigars, cigarettes, ~~and~~ loose
 1185 or smokeless tobacco, alternative nicotine products, and vapor products which show the
 1186 true name and address of the consignor or seller, the true name of the consignee or
 1187 purchaser, the quantity and brands of the cigars, cigarettes, ~~or~~ loose or smokeless tobacco,
 1188 alternative nicotine products, or vapor products transported, and the name and address of
 1189 the person who has assumed or shall assume the payment of the tax at the point of ultimate
 1190 destination. In the absence of the invoices or delivery tickets, the cigars, cigarettes, ~~or~~
 1191 loose or smokeless tobacco, alternative nicotine products, or vapor products being
 1192 transported and the vehicles in which the cigars, cigarettes, ~~or~~ loose or smokeless tobacco,
 1193 alternative nicotine products, or vapor products ~~are~~ is being transported shall be confiscated
 1194 and disposed of as provided in Code Section 48-11-9; and the transporter may be liable for
 1195 a penalty of not more than \$50.00 for each individual carton of little cigars or cigarettes,
 1196 \$50.00 for each individual box of cigars, ~~and~~ \$50.00 for each individual container of loose
 1197 or smokeless tobacco being transported by such person, and \$50.00 for each individual
 1198 container of alternative nicotine products, each vapor device, or each 5 milliliters of

1199 consumable vapor products. The penalty shall be recovered as provided in subsection (c)
 1200 of Code Section 48-11-24.

1201 (b) This Code section shall apply only to the transportation of more than 200 cigarettes,
 1202 more than 200 little cigars, more than 20 cigars, ~~or~~ more than six containers of loose or
 1203 smokeless tobacco, more than six containers of alternative nicotine products, more than
 1204 five vapor devices, or more than 50 milliliters of consumable vapor products.

1205 48-11-23.

1206 (a) It shall be unlawful for any person, with the intent to evade the tax imposed by this
 1207 chapter, to transport cigars, cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine
 1208 products, or vapor products in violation of Code Section 48-11-22.

1209 (b) Any person who violates Code Section 48-11-22, with the intent to evade the tax
 1210 imposed by this chapter, shall, upon conviction, be subject to the following punishments:

1211 (1) If such person is transporting more than 20 but fewer than 60 cigars, more than 200
 1212 but fewer than 600 cigarettes or little cigars, ~~or~~ more than six but fewer than 18
 1213 containers of loose or smokeless tobacco, more than six but fewer than 18 containers of
 1214 alternative nicotine products, more than five vapor devices but fewer than 20 vapor
 1215 devices, or more than 50 milliliters but fewer than 200 milliliters of consumable vapor
 1216 products, such person shall be guilty of a misdemeanor;

1217 (2) If such person is transporting 60 or more but fewer than 200 cigars, 600 or more but
 1218 fewer than 2,000 cigarettes or little cigars, ~~or~~ 18 or more but fewer than 60 containers of
 1219 loose or smokeless tobacco, 18 or more but fewer than 60 containers of alternative
 1220 nicotine products, 20 or more but fewer than 60 vapor devices, or 200 milliliters or more
 1221 but fewer than 600 milliliters of consumable vapor products, such person shall be guilty
 1222 of a misdemeanor of a high and aggravated nature; or

1223 (3) If such person is transporting 200 or more cigars, 2,000 or more cigarettes or little
 1224 cigars, ~~or~~ 60 or more containers of loose or smokeless tobacco, 60 or more containers of
 1225 alternative nicotine products, 60 or more vapor devices, or 600 milliliters or more of
 1226 consumable vapor products, such person shall be guilty of a felony and, upon conviction
 1227 thereof, shall be imprisoned for not less than three years nor more than ten years.

1228 48-11-23.1.

1229 (a) As used in this Code section, the term 'package' means a pack, carton, or container of
 1230 any kind in which cigarettes, ~~or~~ loose or smokeless tobacco, alternative nicotine products,
 1231 or vapor products ~~are~~ is offered for sale, sold, or otherwise distributed, or intended for
 1232 distribution, to consumers.

1233 (b) No tax stamp may be affixed to, or made upon, any package of cigarettes, ~~or~~ loose or
 1234 smokeless tobacco, alternative nicotine products, or vapor products if:

1235 (1) The package differs in any respect with the requirements of the federal Cigarette
 1236 Labeling and Advertising Act, 15 U.S.C. Section 1331, et seq., or those requirements
 1237 established by the United States Food and Drug Administration, for the placement of
 1238 labels, warnings, or any other information upon a package of cigarettes, ~~or~~ loose or
 1239 smokeless tobacco, alternative nicotine products, or vapor products that ~~is~~ are to be sold
 1240 within the United States;

1241 (2) The package is labeled 'For Export Only,' 'U.S. Tax Exempt,' 'For Use Outside U.S.,'
 1242 or similar wording indicating that the manufacturer did not intend that the product be sold
 1243 in the United States;

1244 (3) The package, or a package containing individually stamped packages, has been
 1245 altered by adding or deleting the wording, labels, or warnings described in paragraph (1)
 1246 or (2) of this subsection;

1247 (4) The package has been imported into the United States after January 1, 2000, in
 1248 violation of 26 U.S.C. Section 5754;

1249 (5) The package in any way violates federal trademark or copyright laws; or

1250 (6) The package in any way violates Code Section 10-13A-5.

1251 (c) Any person who sells or holds for sale a cigarette, ~~or~~ loose or smokeless tobacco,
 1252 alternative nicotine product, or vapor product package to which is affixed a tax stamp in
 1253 violation of subsection (b) of this Code section shall be guilty of a misdemeanor.

1254 (d) Notwithstanding any other provision of law, the commissioner may revoke any license
 1255 issued under this chapter to any person who sells or holds for sale a cigarette, ~~or~~ loose or
 1256 smokeless tobacco, alternative nicotine product, or vapor product package to which is
 1257 affixed a tax stamp in violation of subsection (b) of this Code section.

1258 (e) Notwithstanding any other provision of law, the commissioner may seize and destroy
 1259 or sell to the manufacturer, only for export, packages that do not comply with subsection
 1260 (b) of this Code section.

1261 (f) A violation of subsection (b) of this Code section shall constitute an unfair and
 1262 deceptive act or practice under Part 2 of Article 15 of Chapter 1 of Title 10, the 'Fair
 1263 Business Practices Act of 1975.'

1264 48-11-24.

1265 (a) Any person who possesses unstamped cigarettes or nontax-paid cigars, ~~or~~ little cigars,
 1266 ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products in violation
 1267 of this chapter shall be liable for a penalty of not more than \$50.00 for each individual
 1268 carton of unstamped cigarettes and \$50.00 for each individual nontax-paid carton of little

1269 cigars, box of cigars, or container of loose or smokeless tobacco, alternative nicotine
 1270 products, or vapor products in his or her possession.

1271 (b) Any person who engages in any business or activity for which a license is required by
 1272 this chapter without first having obtained a license to do so or any person who continues
 1273 to engage in or conduct the business after the person's license has been revoked or during
 1274 a suspension of the license shall be guilty of a misdemeanor of a high and aggravated
 1275 nature and, upon conviction thereof, shall be subject to imprisonment for up to 12 months,
 1276 a fine of not more than \$5,000.00, or both. Each day that the business is engaged in or
 1277 conducted shall be deemed a separate offense.

1278 (c) Proceedings to enforce and collect the penalties provided by this chapter shall be
 1279 brought by and in the name of the commissioner. With respect to offenses committed
 1280 within the territorial jurisdiction of the court, each superior court shall have jurisdiction to
 1281 enforce and collect the penalty. The costs recoverable in any such proceeding shall be
 1282 recovered by the commissioner in the event of judgment in the commissioner's favor. If
 1283 the judgment is for the defendant, it shall be without costs against the commissioner. All
 1284 expenses incident to the recovery of any penalty pursuant to this Code section shall be paid
 1285 in the same manner as any other expense incident to the administration of this chapter.

1286 48-11-25.

1287 (a)(1) It shall be unlawful for any person, with the intent to evade the tax imposed by this
 1288 chapter, to possess unstamped cigarettes or loose or smokeless tobacco or nontax-paid
 1289 cigars, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor products.

1290 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a
 1291 misdemeanor.

1292 (b)(1) It shall be unlawful for any person, with the intent to evade the tax imposed by this
 1293 chapter, to:

1294 (A) Sell cigarettes or loose or smokeless tobacco without the stamps required by this
 1295 chapter being affixed to the cigarettes or loose or smokeless tobacco; or

1296 (B) Sell cigars, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or vapor
 1297 products without the stamp or stamps required by this chapter or without the tax being
 1298 paid on the cigars, ~~or~~ loose or smokeless tobacco, alternative nicotine products, or
 1299 vapor products in accordance with the alternate method.

1300 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony
 1301 and, upon conviction thereof, shall be imprisoned for not less than one year nor more than
 1302 ten years.

1303 48-11-26.

1304 (a) With respect to this chapter, it shall be unlawful for any person, with the intent to
1305 defraud the state or evade the payment of any tax, penalty, or interest or any part of a
1306 payment when due, to:

1307 (1) Willfully fail or refuse to file any report or statement required to be filed pursuant to
1308 this chapter or by the commissioner's rules and regulations; or

1309 (2) Aid or abet another in the filing with the commissioner of any false or fraudulent
1310 report or statement.

1311 (b) Any person who violates subsection (a) of this Code section shall be guilty of a
1312 misdemeanor of a high and aggravated nature and, upon conviction thereof, shall be subject
1313 to a fine of not more than \$1,000.00 for each separate offense.

1314 48-11-27.

1315 (a) It shall be unlawful for any person to:

1316 (1) Make a false entry upon any invoices or any record relating to the purchase,
1317 possession, or sale of cigars, cigarettes, or loose or smokeless tobacco, alternative
1318 nicotine products, or vapor products; or

1319 (2) With intent to evade any tax imposed by this chapter, present any false entry upon
1320 any such invoice or record for the inspection of the commissioner or the commissioner's
1321 authorized agents.

1322 (b) Any person who violates subsection (a) of this Code section shall be guilty of a
1323 misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than
1324 \$250.00 for each separate offense.

1325 48-11-28.

1326 (a) With respect to this chapter, it shall be unlawful for any person to:

1327 (1) Fraudulently make, utter, forge, or counterfeit any stamp prescribed by the
1328 commissioner;

1329 (2) Cause or procure a violation of paragraph (1) of this subsection to be done;

1330 (3) Willfully utter, publish, pass, or render as true any false, altered, forged, or
1331 counterfeited stamp;

1332 (4) Knowingly possess any false, altered, forged, or counterfeited stamp;

1333 (5) For the purpose of evading the tax imposed, use more than once any stamp required
1334 by this chapter; or

1335 (6) Tamper with or cause to be tampered with any metering machine authorized to be
1336 used.

1337 (b) Any person who violates subsection (a) of this Code section shall be guilty of a felony
1338 and, upon conviction thereof, shall be imprisoned for not less than three years nor more
1339 than ten years.

1340 48-11-29.

1341 Reserved.

1342 48-11-30.

1343 (a) Notwithstanding any other provision of law, the sale or possession for sale of
1344 counterfeit cigarettes by any person shall result in the seizure of the product and related
1345 machinery by the commissioner or his or her authorized agents and any law enforcement
1346 agency at the direction of the commissioner and shall be punishable as follows:

1347 (1) A first violation with a total quantity of less than two cartons of cigarettes shall be
1348 punishable by a fine of \$1,000.00 or five times the retail value of the cigarettes involved,
1349 whichever is greater, or imprisonment not to exceed five years, or both the fine and
1350 imprisonment;

1351 (2) A subsequent violation with a total quantity of less than two cartons of cigarettes
1352 shall be punishable by a fine of \$5,000.00 or five times the retail value of the cigarettes
1353 involved, whichever is greater, or imprisonment not to exceed five years, or both the fine
1354 and imprisonment;

1355 (3) A first violation with a total quantity of two cartons of cigarettes or more shall be
1356 punishable by a fine of \$2,000.00 or five times the retail value of the cigarettes involved,
1357 whichever is greater, or imprisonment not to exceed five years, or both the fine and
1358 imprisonment; and

1359 (4) A subsequent violation with a quantity of two cartons of cigarettes or more shall be
1360 punishable by a fine of \$50,000.00 or five times the retail value of the cigarettes involved,
1361 whichever is greater, or imprisonment not to exceed five years, or both the fine and
1362 imprisonment.

1363 (b) An act committed by or on behalf of a licensed cigarette manufacturer, cigarette
1364 importer, cigarette distributor, or cigarette dealer in violation of paragraph (2) or (4) of
1365 subsection (a) of this Code section shall also result in the revocation of the license by the
1366 department pursuant to Code Section 48-11-6.

1367 (c) Any counterfeit cigarette seized by or at the direction of the commissioner shall be
1368 destroyed by the commissioner or his or her designee. Any related machinery seized by
1369 or at the direction of the commissioner may be sold by the commissioner at public auction
1370 in accordance with the requirements of Code Section 48-11-9."

1371

SECTION 3.

1372 This Act shall become effective upon its approval by the Governor or upon its becoming law
1373 without such approval; provided, however, that Section 2 of this Act shall become effective
1374 on January 1, 2021, for all other purposes.

1375

SECTION 4.

1376 All laws and parts of laws in conflict with this Act are repealed.