

AN ACT

ENTITLED, An Act to revise certain provisions relating to internet and mail order sales of cigarettes and tobacco products.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-50-1 be amended to read as follows:

10-50-1. Terms used in this chapter mean:

- (1) "Consumer," any individual who is not a retailer or a licensed distributor or wholesaler pursuant to § 10-50-9;
- (2) "Dealer," or "retailer," any person other than a distributor or wholesaler, as defined herein, who is engaged in this state in the business of selling cigarettes or tobacco products at retail;
- (3) "Distributor," any person engaged in this state in the business of producing or manufacturing cigarettes, or importing into the state cigarettes, at least seventy-five percent of which are purchased directly from the manufacturers thereof;
- (4) "Licensed distributor," or "licensed wholesaler," a distributor or wholesaler licensed under the provisions of this chapter;
- (5) "Person," any individual, firm, fiduciary, partnership, limited liability company, corporation, trust, or association, however formed;
- (6) "Sale" or "sell," shall include or apply to gifts, exchanges, and barter;
- (7) "Secretary," the secretary of revenue and regulation;
- (8) "Tobacco products," cigars, snuff, chewing tobacco, and any other products made up or composed of tobacco in whole or in part, except cigarettes.

Section 2. That § 10-50-93 be repealed.

Section 3. That § 10-50-94 be repealed.

Section 4. That § 10-50-95 be repealed.

Section 5. That § 10-50-96 be repealed.

Section 6. That § 10-50-97 be repealed.

Section 7. That § 10-50-98 be repealed.

Section 8. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as follows:

No person who is engaged in the business of selling or distributing cigarettes or tobacco products may ship or transport, or cause to be shipped or transported, cigarettes or tobacco products to any consumer in the state. This section applies regardless of whether the person engaged in the business of selling or distributing cigarettes or tobacco products is located within or without the state.

Section 9. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as follows:

The attorney general may seek an injunction to restrain a threatened or actual violation of section 8 of this Act.

Section 10. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as follows:

The attorney general may bring a civil action in circuit court for any violation of section 8 of this Act. In a civil action, in addition to injunctive or any other relief, the court may impose a civil penalty, for a first violation of section 8 of this Act, in the amount of one thousand dollars or five times the retail value of the cigarettes or tobacco products involved, whichever is greater. A subsequent violation of section 8 of this Act is punishable by a civil penalty of five thousand dollars or five times the retail value of the cigarettes or tobacco products involved, whichever is greater.

Section 11. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as follows:

Each shipment, transport, or attempted shipment or transport, of cigarettes or tobacco products in violation of section 8 of this Act constitutes a separate violation.

Section 12. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as follows:

Any cigarettes or tobacco products shipped, transported, or attempted to be shipped or transported, in violation of section 8 of this Act shall be forfeited to the state and destroyed. In addition, any profit, gain, gross receipt, or other benefit from the violation of section 8 of this Act shall be disgorged and paid to the state treasurer for deposit in the state's general fund.

Section 13. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as follows:

Unless otherwise expressly provided, the penalties or remedies, or both, under sections 9 to 12, inclusive, of this Act are in addition to any other penalties and remedies available under any other law of the state. Nothing in this Act prohibits the collection of tax against a person receiving cigarettes or tobacco products in violation of this chapter.

An Act to revise certain provisions relating to internet and mail order sales of cigarettes and tobacco products.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1080

\_\_\_\_\_  
Chief Clerk  
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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1080  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor  
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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State