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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 1346

02/16/2017 Authored by Davids and Petersburg
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; tobacco; changing the tax rate for nicotine solution used in
1.3 electronic cigarettes; amending Minnesota Statutes 2016, sections 297F.01,
1.4 subdivision 19, by adding subdivisions; 297F.05, subdivision 3, by adding
1.5 subdivisions; 297F.06, subdivisions 1, 4; 325F.77, subdivision 4.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2016, section 297F.01, is amended by adding a subdivision
1.8 to read:

1.9 Subd. 6a. Consumable material. "Consumable material" means any liquid nicotine
1.10 solution or other material containing nicotine that is depleted as a vapor product is used.

1.11 EFFECTIVE DATE. This section is effective July 1, 2017.

1.12 Sec. 2. Minnesota Statutes 2016, section 297F.01, subdivision 19, is amended to read:

1.13 Subd. 19. **Tobacco products.** (a) "Tobacco products" means any product containing,
1.14 made, or derived from tobacco that is intended for human consumption, whether chewed,
1.15 smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or
1.16 any component, part, or accessory of a tobacco product, including, but not limited to, cigars;
1.17 cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking
1.18 tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing
1.19 tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, vapor products,
1.20 and other kinds and forms of tobacco; but does not include cigarettes as defined in this
1.21 section. Tobacco products excludes any tobacco product that has been approved by the
1.22 United States Food and Drug Administration for sale as a tobacco cessation product, as a

2.1 tobacco dependence product, or for other medical purposes, and is being marketed and sold
 2.2 solely for such an approved purpose.

2.3 (b) Except for the imposition of tax under section 297F.05, subdivisions 3 and 4, tobacco
 2.4 products includes a premium cigar, as defined in subdivision 13a.

2.5 **EFFECTIVE DATE.** This section is effective July 1, 2017.

2.6 Sec. 3. Minnesota Statutes 2016, section 297F.01, is amended by adding a subdivision to
 2.7 read:

2.8 **Subd. 24. Vapor products.** "Vapor products" means any noncombustible product that
 2.9 employs a heating element, power source, electronic circuit, or other electronic, chemical,
 2.10 or mechanical means, regardless of shape or size, that can be used to produce vapor from
 2.11 nicotine in a solution or other form. Vapor products includes any electronic cigarette,
 2.12 electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any
 2.13 vapor cartridge or other container of nicotine in a solution or other form that is intended to
 2.14 be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic
 2.15 pipe, or similar product or device. Vapor products does not include any product regulated
 2.16 as a drug or device by the United States Food and Drug Administration.

2.17 **EFFECTIVE DATE.** This section is effective July 1, 2017.

2.18 Sec. 4. Minnesota Statutes 2016, section 297F.05, subdivision 3, is amended to read:

2.19 **Subd. 3. Rates; tobacco products.** (a) Except as provided in ~~subdivision~~ subdivisions
 2.20 3a and 3b, a tax is imposed upon all tobacco products in this state and upon any person
 2.21 engaged in business as a distributor, at the rate of 95 percent of the wholesale sales price
 2.22 of the tobacco products. The tax is imposed at the time the distributor:

2.23 (1) brings, or causes to be brought, into this state from outside the state tobacco products
 2.24 for sale;

2.25 (2) makes, manufactures, or fabricates tobacco products in this state for sale in this state;
 2.26 or

2.27 (3) ships or transports tobacco products to retailers in this state, to be sold by those
 2.28 retailers.

2.29 (b) Notwithstanding paragraph (a), a minimum tax equal to the rate imposed on a pack
 2.30 of 20 cigarettes weighing not more than three pounds per thousand, as established under
 2.31 subdivision 1, is imposed on each container of moist snuff.

3.1 For purposes of this subdivision, a "container" means the smallest consumer-size can,
 3.2 package, or other container that is marketed or packaged by the manufacturer, distributor,
 3.3 or retailer for separate sale to a retail purchaser. When more than one container is packaged
 3.4 together, each container is subject to tax.

3.5 **EFFECTIVE DATE.** This section is effective for sales made on or after July 1, 2017.

3.6 Sec. 5. Minnesota Statutes 2016, section 297F.05, is amended by adding a subdivision to
 3.7 read:

3.8 Subd. 3b. **Rates; vapor products.** A tax is imposed upon all vapor products in this state
 3.9 and upon any person engaged in business as a tobacco product distributor, at the rate of 30
 3.10 cents per milliliter of consumable material. The tax imposed under this subdivision is
 3.11 imposed at the time the tobacco products distributor:

3.12 (1) brings, or causes to be brought into this state, vapor products for sale;

3.13 (2) makes, manufactures, or fabricates vapor products in this state for sale in this state;

3.14 or

3.15 (3) ships or transports vapor products to retailers in this state to be sold by those retailers.

3.16 **EFFECTIVE DATE.** This section is effective for sales made on or after July 1, 2017.

3.17 Sec. 6. Minnesota Statutes 2016, section 297F.05, is amended by adding a subdivision to
 3.18 read:

3.19 Subd. 4b. **Use tax; vapor products.** A tax is imposed upon the use or storage by
 3.20 consumers of all vapor products in this state, and upon such consumers, at the rate of 30
 3.21 cents per milliliter of consumable material.

3.22 **EFFECTIVE DATE.** This section is effective for use and storage of vapor products
 3.23 on or after July 1, 2017.

3.24 Sec. 7. Minnesota Statutes 2016, section 297F.06, subdivision 1, is amended to read:

3.25 Subdivision 1. **Federal laws.** The tax imposed by this section does not apply with respect
 3.26 to any sale of cigarettes, vapor products, or tobacco products which under the Constitution
 3.27 and laws of the United States may not be subject to taxation by the state.

3.28 **EFFECTIVE DATE.** This section is effective for sales made on or after July 1, 2017.

4.1 Sec. 8. Minnesota Statutes 2016, section 297F.06, subdivision 4, is amended to read:

4.2 Subd. 4. **Tobacco products use tax.** The tobacco products use tax does not apply to the
4.3 possession, use, or storage of tobacco products if (1) the tobacco products have an aggregate
4.4 cost in any calendar month to the consumer of \$50 or less, ~~and~~ (2) for vapor products the
4.5 consumable material subject to the tax does not exceed in the aggregate 50 milliliters in any
4.6 calendar month, and (3) the tobacco products were carried into this state by that consumer.

4.7 **EFFECTIVE DATE.** This section is effective for possession, use, or storage of tobacco
4.8 products on or after July 1, 2017.

4.9 Sec. 9. Minnesota Statutes 2016, section 325F.77, subdivision 4, is amended to read:

4.10 Subd. 4. **Prohibition.** (a) Subject to the exceptions in paragraph (b), no person shall
4.11 distribute smokeless tobacco products or cigarettes, cigars, pipe tobacco, or other tobacco
4.12 products as defined in section 297F.01, subdivision 19, ~~except that single serving samples~~
4.13 ~~of tobacco may be distributed in tobacco stores.~~

4.14 (b) The following tobacco products are not subject to the prohibition in paragraph (a):

4.15 (1) single serving samples of tobacco, if distributed in tobacco stores; and

4.16 (2) vapor products as defined in section 297F.01, subdivision 24.