

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 1537

(SENATE AUTHORS: DZIEDZIC)

DATE
02/27/2017

D-PG
800 Introduction and first reading
Referred to Taxes

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to taxation; tobacco; modifying provisions for the taxation of tobacco and

1.3 vapor products; appropriating money; amending Minnesota Statutes 2016, sections

1.4 270C.722, subdivision 1; 270C.728, by adding a subdivision; 297F.01, subdivisions

1.5 9a, 10, 14, 17, 19, 20, 21, by adding subdivisions; 297F.03, subdivisions 1, 2, 3,

1.6 5, 6, 7, by adding a subdivision; 297F.04, subdivisions 1, 2; 297F.05, subdivision

1.7 3, by adding a subdivision; 297F.06, by adding a subdivision; 297F.08, subdivision

1.8 8a; 297F.09, subdivisions 2, 7, 10; 297F.12, subdivision 3; 297F.13, subdivisions

1.9 2, 4, by adding a subdivision; 297F.15, subdivision 9; 297F.19, by adding a

1.10 subdivision; 297F.20, subdivisions 5, 6, 7, 9, by adding subdivisions; 297F.21,

1.11 subdivision 1; 461.12, subdivision 8; proposing coding for new law in Minnesota

1.12 Statutes, chapter 297F; repealing Minnesota Statutes 2016, section 297F.185.

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

1.14 Section 1. Minnesota Statutes 2016, section 270C.722, subdivision 1, is amended to read:

1.15 Subdivision 1. **Notice of revocation; hearings.** (a) If: ~~(1)~~ a person fails to comply with

1.16 chapter 297A or the sales and use tax provisions of chapter 289A or the rules related to

1.17 sales tax, ~~or (2) any retailer purchases for resale from an unlicensed seller more than 20,000~~

1.18 ~~cigarettes or \$500 or more worth of tobacco products, without reasonable cause, the~~

1.19 commissioner may give the person 30 days' notice in writing, specifying the violations, and

1.20 stating that based on the violations the commissioner intends to revoke the person's permit

1.21 issued under section 297A.84. The notice must also advise the person of the right to contest

1.22 the revocation under this subdivision. It must also explain the general procedures for a

1.23 contested case hearing under chapter 14. The notice may be served personally or by mail

1.24 in the manner prescribed for service of an order of assessment.

1.25 (b) If the person does not request a hearing within 30 days after the date of the notice

1.26 of intent, the commissioner may serve a notice of revocation of permit upon the person, and

1.27 the permit is revoked. If a hearing is timely requested, and held, the permit is revoked after

2.1 the commissioner serves an order of revocation of permit under section 14.62, subdivision
2.2 1.

2.3 **EFFECTIVE DATE.** This section is effective August 1, 2017.

2.4 Sec. 2. Minnesota Statutes 2016, section 270C.728, is amended by adding a subdivision
2.5 to read:

2.6 Subd. 8. **Publication of revoked retail cigarette licenses.** (a) Notwithstanding any
2.7 other law, the commissioner may publish a list of persons who have had their retail licenses
2.8 to sell cigarettes or tobacco products revoked under section 297F.186. In the case of a license
2.9 holder that is a business entity, the commissioner may also publish the name of responsible
2.10 persons of the license holder, as defined in section 297F.186, subdivision 1.

2.11 (b) At least 30 days before publishing the name of a license holder or responsible person,
2.12 the commissioner shall mail a written notice to the license holder and to responsible persons
2.13 of the license holder of the commissioner's intent to publish. This notice may be included
2.14 as part of the notice of intent to revoke a license as required under section 297F.186,
2.15 subdivision 3.

2.16 (c) The list may be published by any medium or method. The list must contain the name
2.17 and address of the license holder and name of the responsible person and the date the license
2.18 was revoked.

2.19 (d) The commissioner shall remove the name of a license holder or responsible person
2.20 from the list five years from the date of the license revocation or upon the license holder or
2.21 responsible person receiving a license clearance under section 297F.186.

2.22 **EFFECTIVE DATE.** This section is effective August 1, 2017.

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

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

2.27 **EFFECTIVE DATE.** This section is effective January 1, 2018.

2.28 Sec. 4. Minnesota Statutes 2016, section 297F.01, is amended by adding a subdivision to
2.29 read:

2.30 Subd. 7a. **Consumer packaging.** "Consumer packaging" means any container of vapor
2.31 product that is of an appropriate size for sale to a consumer.

3.1 **EFFECTIVE DATE.** This section is effective January 1, 2018.

3.2 Sec. 5. Minnesota Statutes 2016, section 297F.01, subdivision 9a, is amended to read:

3.3 Subd. 9a. **Invoice.** "Invoice" means a detailed list of cigarettes and tobacco products
3.4 purchased or sold in this state that contains the following information:

3.5 (1) name of seller;

3.6 (2) name of purchaser;

3.7 (3) date of sale;

3.8 (4) invoice number;

3.9 (5) itemized list of goods sold including brands of cigarettes and number of cartons of
3.10 each brand, unit price, and identification of tobacco products by name, quantity, and unit
3.11 price; ~~and~~

3.12 (6) any rebates, discounts, or other reductions; and

3.13 (7) the weight or volume of the consumable material and concentration level of nicotine
3.14 of each vapor product sold.

3.15 **EFFECTIVE DATE.** This section is effective for invoices issued for vapor products
3.16 purchased or sold after December 31, 2017.

3.17 Sec. 6. Minnesota Statutes 2016, section 297F.01, subdivision 10, is amended to read:

3.18 Subd. 10. **Manufacturer.** "Manufacturer" means a person who produces and sells
3.19 cigarettes or tobacco products and includes a manufacturer of vapor products.

3.20 **EFFECTIVE DATE.** This section is effective January 1, 2018.

3.21 Sec. 7. Minnesota Statutes 2016, section 297F.01, is amended by adding a subdivision to
3.22 read:

3.23 Subd. 10c. **Manufacturer of vapor products.** "Manufacturer of vapor products" means
3.24 a person who makes, modifies, mixes, fabricates, assembles, processes, repacks, or relabels
3.25 a vapor product in Minnesota to sell.

3.26 **EFFECTIVE DATE.** This section is effective January 1, 2018.

4.1 Sec. 8. Minnesota Statutes 2016, section 297F.01, subdivision 14, is amended to read:

4.2 Subd. 14. **Retailer.** "Retailer" means a person ~~required to be licensed under chapter 461~~
4.3 located in this state engaged in this state in the business of selling, or offering to sell,
4.4 cigarettes or tobacco products to consumers.

4.5 **EFFECTIVE DATE.** This section is effective August 1, 2017.

4.6 Sec. 9. Minnesota Statutes 2016, section 297F.01, is amended by adding a subdivision to
4.7 read:

4.8 Subd. 16a. **Sales price of vapor products.** (a) "Sales price of vapor products" means
4.9 the price at which a distributor or retailer purchases a vapor product or the price at which
4.10 a subjobber purchases vapor products from a manufacturer of vapor products.

4.11 (b) For the purposes of section 297F.05, subdivision 3b, paragraph (a), clause (5), "sales
4.12 price of vapor product" means the price at which the manufacturer sells the product minus
4.13 a retailer markup equal to ten percent of that price.

4.14 (c) If a vapor product described in section 297F.01, subdivision 22b, paragraph (b),
4.15 includes a cartridge, bottle, or other package of nicotine solution which is available for
4.16 purchase as a separate item by the distributor, retailer, subjobber, or consumer, then the
4.17 price at which the vapor product is purchased or sold for purposes of paragraphs (a) and (b)
4.18 is limited to the usual price, without regard to any discount or reduction, at which the
4.19 cartridge, bottle, or other package of nicotine solution is separately sold to a distributor,
4.20 retailer, subjobber, or consumer.

4.21 (d) Sales price of vapor products includes the applicable federal excise tax, freight
4.22 charges, and packaging costs, regardless of whether they were included in the purchase
4.23 price, but does not include the tax imposed under section 297F.05, subdivision 3b.

4.24 **EFFECTIVE DATE.** This section is effective for vapor products subject to tax after
4.25 December 31, 2017.

4.26 Sec. 10. Minnesota Statutes 2016, section 297F.01, subdivision 17, is amended to read:

4.27 Subd. 17. **Stamp.** "Stamp" means the adhesive stamp supplied by the commissioner of
4.28 revenue for use on cigarette packages or packages of moist snuff or other tobacco products
4.29 or any other indicia adopted by the commissioner to indicate that the tax has been paid.

4.30 **EFFECTIVE DATE.** This section is effective July 1, 2019.

5.1 Sec. 11. Minnesota Statutes 2016, section 297F.01, subdivision 19, is amended to read:

5.2 Subd. 19. **Tobacco products.** (a) "Tobacco products" means any product containing,
 5.3 made, or derived from tobacco that is intended for human consumption, whether chewed,
 5.4 smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or
 5.5 any component, part, or accessory of a tobacco product, including, but not limited to, cigars;
 5.6 cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking
 5.7 tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing
 5.8 tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, vapor products,
 5.9 and other kinds and forms of tobacco; but does not include cigarettes as defined in this
 5.10 section. Tobacco products excludes any tobacco product that has been approved by the
 5.11 United States Food and Drug Administration for sale as a tobacco cessation product, as a
 5.12 tobacco dependence product, or for other medical purposes, and is being marketed and sold
 5.13 solely for such an approved purpose.

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

5.16 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.17 Sec. 12. Minnesota Statutes 2016, section 297F.01, subdivision 20, is amended to read:

5.18 Subd. 20. **Tobacco products distributor.** (a) "Tobacco products distributor" means ~~any~~
 5.19 ~~of the following:~~

5.20 (1) a person engaged in the business of selling tobacco products in this state who brings,
 5.21 or causes to be brought, into this state from outside the state any tobacco products for sale;
 5.22 or

5.23 (2) ~~a person who makes, manufactures, or fabricates tobacco products in this state for~~
 5.24 ~~sale in this state;~~

5.25 (3) a person engaged in the business of selling tobacco products outside this state who
 5.26 ships or transports tobacco products to retailers in this state, to be sold by those retailers.

5.27 (b) "Tobacco products distributor" includes a person who makes, manufactures, or
 5.28 fabricates tobacco products, other than vapor products, in this state for sale in this state.

5.29 (c) "Tobacco products distributor" includes a manufacturer of vapor products only to
 5.30 the extent that the manufacturer brings tobacco products into this state for use other than in
 5.31 manufacturing vapor products.

5.32 **EFFECTIVE DATE.** This section is effective January 1, 2018.

6.1 Sec. 13. Minnesota Statutes 2016, section 297F.01, subdivision 21, is amended to read:

6.2 Subd. 21. **Tobacco products subjobber.** "Tobacco products subjobber" means:

6.3 (1) a person, other than a manufacturer or distributor, who buys₂ from a manufacturer
6.4 of vapor products or a distributor₂ tobacco products upon which the tax imposed by this
6.5 chapter has been paid and sells them to persons other than the ultimate consumers₅; ₂ and

6.6 (2) any licensed distributor who delivers, sells, or distributes tobacco products upon
6.7 which the tax imposed by this chapter has been paid from a place of business other than
6.8 that licensed in the distributor's license.

6.9 **EFFECTIVE DATE.** This section is effective January 1, 2018.

6.10 Sec. 14. Minnesota Statutes 2016, section 297F.01, is amended by adding a subdivision
6.11 to read:

6.12 Subd. 22b. **Vapor product.** (a) "Vapor product" means any cartridge, bottle, or other
6.13 package that contains nicotine that is derived from tobacco and is in a solution that is
6.14 consumed, or meant to be consumed, through the use of a heating element, power source,
6.15 electronic circuit, or other electronic, chemical, or mechanical means that produces vapor
6.16 from the nicotine.

6.17 (b) Vapor product includes any electronic cigarette, electronic cigar, electronic cigarillo,
6.18 electronic pipe, or similar product or device, and any batteries, heating elements, or other
6.19 components, parts, or accessories sold with and meant to be used in the consumption of the
6.20 nicotine solution described in paragraph (a).

6.21 **EFFECTIVE DATE.** This section is effective January 1, 2018.

6.22 Sec. 15. Minnesota Statutes 2016, section 297F.03, subdivision 1, is amended to read:

6.23 Subdivision 1. **Selling without license illegal.** No person shall engage in the business
6.24 of a manufacturer of vapor products, distributor₂ or subjobber at any place of business
6.25 without first having received a license from the commissioner to engage in that business at
6.26 that place of business.

6.27 **EFFECTIVE DATE.** This section is effective January 1, 2018.

7.1 Sec. 16. Minnesota Statutes 2016, section 297F.03, subdivision 2, is amended to read:

7.2 Subd. 2. **Form of application.** Every application for a cigarette or tobacco products,
7.3 or manufacturer of vapor products license shall be made on a form prescribed by the
7.4 commissioner.

7.5 **EFFECTIVE DATE.** This section is effective January 1, 2018.

7.6 Sec. 17. Minnesota Statutes 2016, section 297F.03, subdivision 3, is amended to read:

7.7 Subd. 3. **Place of application.** A separate application for a distributor's license or a
7.8 manufacturer of vapor products license shall be made for each place of business at which
7.9 a distributor proposes to engage in business or a manufacturer proposes to manufacture
7.10 vapor products.

7.11 A separate application for a subjobber's license may be made by a licensed distributor
7.12 for each place of business, other than that licensed in the distributor's license, to which the
7.13 distributor sells or distributes stamped cigarettes or tobacco products.

7.14 **EFFECTIVE DATE.** This section is effective January 1, 2018.

7.15 Sec. 18. Minnesota Statutes 2016, section 297F.03, subdivision 5, is amended to read:

7.16 Subd. 5. **License fees; cigarettes.** Each application for a cigarette distributor's license
7.17 must be accompanied by a fee of ~~\$300~~ \$500. Each application for a cigarette subjobber's
7.18 license must be accompanied by a fee of ~~\$24~~ \$100. A distributor or subjobber applying for
7.19 a license during the second year of a two-year licensing period is required to pay only
7.20 one-half of the license fee.

7.21 **EFFECTIVE DATE.** This section is effective for license periods beginning after
7.22 December 31, 2017.

7.23 Sec. 19. Minnesota Statutes 2016, section 297F.03, subdivision 6, is amended to read:

7.24 Subd. 6. **License fees; tobacco products.** Each application for a tobacco products
7.25 distributor's license must be accompanied by a fee of ~~\$75~~ \$500. Each application for a
7.26 tobacco products subjobber's license must be accompanied by a fee of ~~\$20~~ \$100. A distributor
7.27 or subjobber applying for a license during the second year of a two-year licensing period
7.28 is required to pay only one-half of the license fee.

7.29 **EFFECTIVE DATE.** This section is effective for license periods beginning after
7.30 December 31, 2017.

8.1 Sec. 20. Minnesota Statutes 2016, section 297F.03, is amended by adding a subdivision
8.2 to read:

8.3 Subd. 6a. **License fees, vapor products.** Each application for a manufacturer of vapor
8.4 products license must be accompanied by a fee equal to the fee for a tobacco products
8.5 distributor license under subdivision 6. A manufacturer of vapor products is not required
8.6 to obtain a distributor license under subdivision 6 to sell vapor products manufactured by
8.7 the licensee and sold in consumer packaging to a tobacco products distributor, a tobacco
8.8 products subjobber, or a retailer.

8.9 **EFFECTIVE DATE.** This section is effective January 1, 2018.

8.10 Sec. 21. Minnesota Statutes 2016, section 297F.03, subdivision 7, is amended to read:

8.11 Subd. 7. **Issuance of license.** The commissioner, upon receipt of the application in proper
8.12 form, and payment of the license fee required by this chapter, shall, unless otherwise provided
8.13 by this chapter, issue the applicant a license in the form prescribed by the commissioner.
8.14 The license permits the applicant to engage in business as a manufacturer of vapor products,
8.15 distributor, or subjobber at the place of business shown in the application.

8.16 **EFFECTIVE DATE.** This section is effective January 1, 2018.

8.17 Sec. 22. Minnesota Statutes 2016, section 297F.04, subdivision 1, is amended to read:

8.18 Subdivision 1. **Powers of commissioner.** The commissioner may revoke or suspend the
8.19 license or licenses of any manufacturer of vapor products, distributor, or subjobber for
8.20 violation of this chapter, any other act applicable to the sale of cigarettes or tobacco products,
8.21 or any rule promulgated by the commissioner, in furtherance of this chapter.

8.22 **EFFECTIVE DATE.** This section is effective January 1, 2018.

8.23 Sec. 23. Minnesota Statutes 2016, section 297F.04, subdivision 1, is amended to read:

8.24 Subdivision 1. **Powers of commissioner.** The commissioner may revoke ~~or~~, suspend,
8.25 or refuse to renew the license or licenses of any distributor or subjobber, or refuse to issue
8.26 a license to an applicant for a distributor or subjobber license, for violation of this chapter,
8.27 any other act applicable to the sale of cigarettes or tobacco products, or any rule promulgated
8.28 by the commissioner, in furtherance of this chapter.

8.29 **EFFECTIVE DATE.** This section is effective August 1, 2017.

9.1 Sec. 24. Minnesota Statutes 2016, section 297F.04, subdivision 2, is amended to read:

9.2 Subd. 2. **Refusal to issue or renew; revocation.** The commissioner must not issue or
 9.3 renew a license under this chapter, and may revoke a license under this chapter, if the
 9.4 applicant or licensee:

9.5 (1) owes \$500 or more in delinquent taxes as defined in section 270C.72, subdivision
 9.6 2;

9.7 (2) after demand, has not filed tax returns required by the commissioner;

9.8 (3) had a ~~cigarette or tobacco~~ license under this chapter revoked by the commissioner
 9.9 within the past two years;

9.10 (4) had a sales and use tax permit revoked by the commissioner within the past two
 9.11 years; or

9.12 (5) has been convicted of a crime involving cigarettes, including but not limited to:
 9.13 selling stolen cigarettes or tobacco products, receiving stolen cigarettes or tobacco products,
 9.14 or involvement in the smuggling of cigarettes or tobacco products.

9.15 **EFFECTIVE DATE.** This section is effective January 1, 2018.

9.16 Sec. 25. Minnesota Statutes 2016, section 297F.05, subdivision 3, is amended to read:

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

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

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

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

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

9.30 For purposes of this subdivision, a "container" means the smallest consumer-size can,
 9.31 package, or other container that is marketed or packaged by the manufacturer, distributor,

10.1 or retailer for separate sale to a retail purchaser. When more than one container is packaged
10.2 together, each container is subject to tax.

10.3 **EFFECTIVE DATE.** This section is effective January 1, 2018.

10.4 Sec. 26. Minnesota Statutes 2016, section 297F.05, is amended by adding a subdivision
10.5 to read:

10.6 Subd. 3b. **Rates; vapor products.** (a) In lieu of the tax imposed under subdivision 3, a
10.7 tax is imposed upon all vapor products in this state equal to:

10.8 (1) in the case of a Minnesota distributor who brings, or causes to be brought, vapor
10.9 products into this state, 95 percent of the sales price of vapor products paid by the distributor;

10.10 (2) in the case of a distributor who sells vapor products from outside this state to a
10.11 retailer, 95 percent of the sales price of vapor products paid by the retailer;

10.12 (3) in the case of a manufacturer of vapor products who sells the manufactured product
10.13 to retailers or subjobbers, 95 percent of the sales price of vapor products paid by the retailer
10.14 or subjobber;

10.15 (4) in the case of a Minnesota distributor who purchases vapor products from a
10.16 manufacturer of vapor products, 95 percent of the sales price of vapor products paid by the
10.17 distributor; and

10.18 (5) in the case of a manufacturer of vapor products who is also a retailer who sells the
10.19 manufactured product to consumers, 95 percent of the sales price of vapor products.

10.20 (b) The tax under this subdivision is imposed:

10.21 (1) on the distributor at the time the vapor products in consumer packaging are brought
10.22 into the state or received by the distributor who brings, or causes to be brought, into this
10.23 state the vapor products for sale in this state;

10.24 (2) on the distributor at the time the distributor ships or transports the vapor products in
10.25 consumer packaging from outside this state to retailers in this state;

10.26 (3) on the manufacturer of vapor products at the time the vapor products are sold to a
10.27 retailer or subjobber;

10.28 (4) on the distributor at the time a Minnesota distributor purchases the vapor products
10.29 in consumer packaging that were manufactured by a Minnesota manufacturer of vapor
10.30 products; and

11.1 (5) on the manufacturer of vapor products who is also a retailer of vapor products, at
11.2 the time the vapor products manufactured in this state are sold to the consumer.

11.3 **EFFECTIVE DATE.** This section is effective for vapor products bought, sold, or
11.4 manufactured in Minnesota after December 31, 2017.

11.5 Sec. 27. Minnesota Statutes 2016, section 297F.06, is amended by adding a subdivision
11.6 to read:

11.7 Subd. 6. **Exempt sales of vapor products to licensed manufacturers of vapor**
11.8 **products.** (a) A tobacco products distributor or manufacturer of vapor products, who at the
11.9 time of sale accepts in good faith a valid exemption certificate from a purchaser that is a
11.10 licensed manufacturer of vapor products, may sell vapor products in consumer packaging
11.11 containing more than 50 milliliters of nicotine solution to the purchaser exempt from the
11.12 tax imposed under section 297F.05, subdivision 3b.

11.13 (b) An exemption certificate is valid if it:

11.14 (1) is substantially in the form prescribed by the commissioner;

11.15 (2) bears the name and address of the purchaser;

11.16 (3) indicates the manufacturer of vapor products identification number issued to the
11.17 purchaser by the commissioner;

11.18 (4) is signed by the purchaser if it is in paper form, or meets the requirements of section
11.19 270C.304 if it is in electronic form; and

11.20 (5) indicates that the purchaser:

11.21 (i) intends to use the product to manufacture vapor products;

11.22 (ii) agrees to pay the applicable tax on the finished manufactured vapor products; and

11.23 (iii) agrees to pay the applicable tax if the purchaser does not use the product to
11.24 manufacture vapor product, but sells the product to a consumer or retailer.

11.25 (c) For determining the tax due under paragraph (b), clause (5), item (iii), any product
11.26 subject to tax is treated as if it was manufactured by the purchaser.

11.27 (d) A purchaser may use a blanket exemption certificate for continuing purchases. A
11.28 purchaser using a blanket exemption certificate must update the certificate as needed to
11.29 accurately reflect the information required under paragraph (b).

11.30 **EFFECTIVE DATE.** This section is effective January 1, 2018.

12.1 Sec. 28. Minnesota Statutes 2016, section 297F.08, subdivision 8a, is amended to read:

12.2 Subd. 8a. **Revolving account.** A ~~cigarette~~ tax stamp revolving account is created. The
12.3 commissioner shall use the amounts in this fund to purchase stamps for resale. The
12.4 commissioner shall charge distributors for the tax value of the stamps they receive along
12.5 with the commissioner's cost to purchase the stamps and ship them to the distributor. The
12.6 stamp purchase and shipping costs recovered must be credited to the revolving account and
12.7 are appropriated to the commissioner for the further purchases and shipping costs. The
12.8 revolving account is initially funded by a \$40,000 transfer from the Department of Revenue.

12.9 **EFFECTIVE DATE.** This section is effective January 1, 2019.

12.10 Sec. 29. **[297F.081] TOBACCO PRODUCTS STAMPS.**

12.11 **Subdivision 1. Stamp affixed by distributor.** (a) Before delivering, or causing to be
12.12 delivered, a package of moist snuff to a distributor, subjobber, retailer, or consumer in this
12.13 state, a distributor in this state must firmly affix to each package of moist snuff a tax stamp
12.14 obtained from the commissioner.

12.15 (b) When moist snuff is shipped into this state by any distributor from outside this state
12.16 to a retailer or subjobber, the appropriate stamp must be affixed to the package at the time
12.17 the package enters the state.

12.18 **Subd. 2. Stamps; design; printing.** The commissioner shall adopt the design of the
12.19 moist snuff stamp. At least one stamp must be designed for application to packages of moist
12.20 snuff destined for retail sale on an Indian reservation that is a party to an agreement under
12.21 section 270C.19, subdivision 2, and only to those packages. The commissioner shall arrange
12.22 for the printing of stamps in such amounts and denominations as the commissioner deems
12.23 necessary.

12.24 **Subd. 3. Deposit of proceeds.** The commissioner shall use the amounts appropriated
12.25 by law to purchase stamps for resale. The commissioner shall charge the purchasers for the
12.26 commissioner's cost to purchase the stamps along with the tax value of the stamps plus
12.27 shipping costs. The tax value of the stamps must be deposited in the general fund. The
12.28 portion of the charge to the purchaser that represents the commissioner's cost to purchase
12.29 the stamps and the shipping costs must be deposited in the revolving stamp fund under
12.30 section 297F.08, subdivision 8a.

12.31 **Subd. 4. Sale of stamps.** (a) The commissioner shall sell moist snuff stamps only to
12.32 persons licensed as a tobacco products distributor.

13.1 (b) The commissioner may prescribe the method of shipment of the stamps to the
13.2 distributor.

13.3 (c) The commissioner shall charge the purchaser for the commissioner's cost to purchase
13.4 the stamps along with the tax value plus shipping costs.

13.5 (d)(1) The commissioner may sell moist snuff stamps on a credit basis to a distributor
13.6 unless:

13.7 (i) the distributor has been licensed by the commissioner as a tobacco products distributor
13.8 for less than one year;

13.9 (ii) the distributor has failed, without reasonable cause, to timely file tax returns or
13.10 reports required to be filed with the commissioner under a law administered by the
13.11 commissioner at any time during the prior 24 months; or

13.12 (iii) the distributor has failed, without reasonable cause, to timely pay taxes and fees
13.13 payable to the commissioner under a law administered by the commissioner at any time
13.14 during the prior 24 months.

13.15 (2) A distributor may purchase on a credit basis in any calendar month no more than the
13.16 number of stamps needed to affix to 15 percent of the number of moist snuff packages
13.17 reported to the commissioner as sold by the distributor during the previous 12-month period.

13.18 (3) A distributor who purchases stamps on a credit basis must pay the cost of the stamps
13.19 determined under paragraph (c) to the commissioner no later than the due date of the return
13.20 required under section 297F.09, subdivision 2, for the month that the order for the stamps
13.21 was received by the commissioner.

13.22 Subd. 5. **Tax stamping machines.** The commissioner may require any person licensed
13.23 as a distributor to stamp packages of moist snuff with a tax stamping machine, approved
13.24 by the commissioner, which shall be provided by the distributor. The commissioner shall
13.25 also supervise and check the operation of the machines. If the commissioner finds that a
13.26 stamping machine is not affixing a legible stamp on the package, the commissioner may
13.27 order the distributor to immediately cease the stamping process until the machine is
13.28 functioning properly.

13.29 Subd. 6. **Resale or transfer of stamps prohibited.** (a) No distributor shall resell or
13.30 transfer any moist snuff stamps purchased by the distributor from the commissioner. A
13.31 distributor may transfer another state's stamped moist snuff to another distributor for the
13.32 purpose of resale in the other state.

14.1 (b) A distributor who has on hand any moist snuff stamps when its tobacco products
 14.2 distributor license is revoked, canceled, or not renewed may return the stamps to the
 14.3 commissioner and receive a refund of the amount paid for the stamps.

14.4 (c) Moist snuff stamps that have become mutilated or unfit for use, or are affixed to
 14.5 moist snuff packages being returned to the manufacturer, or are affixed to packages of moist
 14.6 snuff that, or the contents of which, have become damaged and unfit for sale, shall be
 14.7 replaced by the commissioner, upon application by the distributor owning the stamps or
 14.8 moist snuff if the commissioner determines the stamps have not evidenced a taxable
 14.9 transaction.

14.10 Subd. 7. **Rulemaking for stamps on other tobacco products.** The commissioner may
 14.11 promulgate rules that require tax stamps to be affixed to tobacco products other than moist
 14.12 snuff. The rules may apply to one or more classes or types of tobacco product.

14.13 **EFFECTIVE DATE.** Subdivision 1 is effective for moist snuff delivered, caused to be
 14.14 delivered, or shipped after June 30, 2019. Subdivisions 2 to 7 are effective January 1, 2019.

14.15 Sec. 30. Minnesota Statutes 2016, section 297F.09, subdivision 2, is amended to read:

14.16 Subd. 2. **Monthly return; tobacco products distributor.** On or before the 18th day of
 14.17 each calendar month, a distributor with a place of business in this state or a manufacturer
 14.18 of vapor products shall file a return with the commissioner showing the quantity and
 14.19 wholesale sales price or sales price of vapor product of each tobacco product:

14.20 (1) brought, or caused to be brought, into this state for sale; and

14.21 (2) made, manufactured, or fabricated in this state for sale in this state, during the
 14.22 preceding calendar month.

14.23 Every licensed distributor outside this state shall in like manner file a return showing
 14.24 the quantity and wholesale sales price or sales of vapor product of each tobacco product
 14.25 shipped or transported to retailers in this state to be sold by those retailers, during the
 14.26 preceding calendar month. Returns must be made in the form and manner prescribed by the
 14.27 commissioner and must contain any other information required by the commissioner. The
 14.28 return must be accompanied by a remittance for the full tax liability shown. For distributors
 14.29 subject to the accelerated tax payment requirements in subdivision 10, the return for the
 14.30 May liability is due two business days before June 30th of the year and the return for the
 14.31 June liability is due on or before August 18th of the year.

14.32 **EFFECTIVE DATE.** This section is effective for taxes imposed on vapor products
 14.33 brought into the state or manufactured in the state after December 31, 2017.

15.1 Sec. 31. Minnesota Statutes 2016, section 297F.09, subdivision 7, is amended to read:

15.2 Subd. 7. **Electronic payment.** A cigarette or tobacco products distributor or a
15.3 manufacturer of vapor products having a liability of \$10,000 or more during a fiscal year
15.4 ending June 30 must remit all liabilities in all subsequent calendar years by electronic means.

15.5 **EFFECTIVE DATE.** This section is effective January 1, 2018.

15.6 Sec. 32. Minnesota Statutes 2016, section 297F.09, subdivision 10, is amended to read:

15.7 Subd. 10. **Accelerated tax payment; cigarette or tobacco products distributor or**
15.8 **manufacturer of vapor products.** A cigarette or tobacco products distributor or a
15.9 manufacturer of vapor products having a liability of \$250,000 or more during a fiscal year
15.10 ending June 30, shall remit the June liability for the next year in the following manner:

15.11 (a) Two business days before June 30 of the year, the distributor or manufacturer shall
15.12 remit the actual May liability and 81.4 percent of the estimated June liability to the
15.13 commissioner and file the return in the form and manner prescribed by the commissioner.

15.14 (b) On or before August 18 of the year, the distributor or manufacturer shall submit a
15.15 return showing the actual June liability and pay any additional amount of tax not remitted
15.16 in June. A penalty is imposed equal to ten percent of the amount of June liability required
15.17 to be paid in June, less the amount remitted in June. However, the penalty is not imposed
15.18 if the amount remitted in June equals the lesser of:

15.19 (1) 81.4 percent of the actual June liability; or

15.20 (2) 81.4 percent of the preceding May liability.

15.21 **EFFECTIVE DATE.** This section is effective January 1, 2018.

15.22 Sec. 33. Minnesota Statutes 2016, section 297F.12, subdivision 3, is amended to read:

15.23 Subd. 3. **Manufacturers.** (a) A manufacturer of tobacco products as defined by this
15.24 chapter shall report in the form and manner prescribed by the commissioner all sales of
15.25 tobacco products to Minnesota licensed distributors, subjobbers, retailers, or to any locations
15.26 within the state. The report is due on the 18th day of the month following the reporting
15.27 period.

15.28 (b) A manufacturer of vapor products must file a report with the commissioner no later
15.29 than the 18th day of each month identifying all vapor products placed into consumer
15.30 packaging and all sales of vapor products made by the manufacturer during the preceding
15.31 month. The report must identify the names and addresses of the persons within the state to

16.1 whom shipments to tobacco products distributors, subjobbers, or retailers were made, and
16.2 the quantity of vapor products manufactured or sold by type of product, brand, and size.
16.3 The reports must also include information related to sales and purchases of tax exempt vapor
16.4 products. If the manufacturer is also a retailer, the report must include the quantity of vapor
16.5 products sold to customers by type of product, brand, and size.

16.6 **EFFECTIVE DATE.** This section is effective January 1, 2018.

16.7 Sec. 34. Minnesota Statutes 2016, section 297F.13, subdivision 2, is amended to read:

16.8 Subd. 2. **Tobacco products distributor.** (a) A distributor shall keep at each licensed
16.9 place of business complete and accurate records for that place of business, including itemized
16.10 invoices of tobacco products held, purchased, manufactured, brought in or caused to be
16.11 brought in from outside the state, or shipped or transported to retailers in this state, and all
16.12 sales of tobacco products made, except sales to the ultimate consumer. These records must
16.13 show the names and addresses of purchasers, the inventory of all moist snuff stamps affixed
16.14 and unaffixed to packages of moist snuff, and all moist snuff on hand at the close of each
16.15 period for which a return is required, and any other pertinent papers and documents relating
16.16 to the purchase, sale, or disposition of moist snuff.

16.17 (b) When a licensed distributor sells tobacco products exclusively to the ultimate
16.18 consumer at the address given in the license, no invoice of those sales is required, but
16.19 itemized invoices must be made of all tobacco products transferred to other retail outlets
16.20 owned or controlled by that licensed distributor.

16.21 (c) All books, records, and other documents required by this chapter must be preserved
16.22 for a period of at least 3-1/2 years after the date of the documents or the date of the entries
16.23 appearing in the records, unless the commissioner authorizes in writing their destruction or
16.24 disposal at an earlier date.

16.25 (d) To determine whether the distributor is in compliance with the provisions of this
16.26 chapter, at any time during usual business hours the commissioner, or duly authorized agents
16.27 or employees, may enter a place of business of a distributor, without a search warrant, and
16.28 inspect the premises, the records required to be kept under this chapter, and the tobacco
16.29 products in that place of business. If the commissioner, or an agent or employee of the
16.30 commissioner, is denied free access or is hindered or interfered with in making the
16.31 examination, the commissioner may revoke the distributor's license.

16.32 **EFFECTIVE DATE.** This section is effective for moist snuff purchased, sold, or
16.33 disposed of after June 30, 2019.

17.1 Sec. 35. Minnesota Statutes 2016, section 297F.13, is amended by adding a subdivision
17.2 to read:

17.3 Subd. 2a. **Manufacturers of vapor products.** (a) A manufacturer of vapor products
17.4 shall keep at each licensed place of business complete and accurate records for that place
17.5 of business, including itemized invoices of vapor products held, purchased, manufactured,
17.6 brought in or caused to be brought in from outside the state, or shipped or transported to
17.7 distributors, subjobbers, or retailers in this state.

17.8 (b) A manufacturer of vapor products who is also a retailer must keep records of all sales
17.9 made to the ultimate customer. These records must include cash register tapes or other
17.10 similar electronic records and any other records which involve purchases or sales of vapor
17.11 products which are required to be kept by a retailer who makes sales subject to tax under
17.12 chapter 297A.

17.13 (c) When a manufacturer of vapor products sells vapor products exclusively to the
17.14 ultimate consumer at the address given in the license, no invoice of those sales is required,
17.15 but itemized invoices must be made of all vapor products transferred to other retail outlets
17.16 owned or controlled by that manufacturer.

17.17 (d) All books, records, and other documents required by this subdivision must be
17.18 preserved for a period of at least 3-1/2 years after the date of the documents or the date of
17.19 the entries appearing in the records, unless the commissioner authorizes in writing the
17.20 destruction or disposal at an earlier date.

17.21 (e) To determine whether the manufacturer is in compliance with the provisions of this
17.22 chapter, at any time during usual business hours the commissioner, or duly authorized agents
17.23 or employees, may enter a place of business of a manufacturer, without a search warrant,
17.24 and inspect the premises, the records required to be kept under this chapter, and the vapor
17.25 products in that place of business. If the commissioner, or an agent or employee of the
17.26 commissioner, is denied free access or is hindered or interfered with in making the
17.27 examination, the commissioner may revoke the manufacturer's license.

17.28 **EFFECTIVE DATE.** This section is effective January 1, 2018.

17.29 Sec. 36. Minnesota Statutes 2016, section 297F.13, subdivision 4, is amended to read:

17.30 Subd. 4. **Retailer and subjobber to preserve purchase invoices.** Every retailer and
17.31 subjobber shall procure itemized invoices of all cigarettes or tobacco products purchased.

17.32 The retailer and subjobber shall preserve a legible copy of each invoice for one year
17.33 from the date of the invoice or as long as the cigarette or tobacco product listed on the

18.1 invoice is available for sale or in their possession, whichever period is longer. The retailer
18.2 and subjobber shall preserve copies of the invoices at each retail location or at a central
18.3 location provided that the invoice must be produced and made available at a retail location
18.4 within one hour when requested by the commissioner or duly authorized agents and
18.5 employees. Copies should be numbered and kept in chronological order.

18.6 To determine whether the business is in compliance with the provisions of this chapter,
18.7 at any time during usual business hours, the commissioner, or duly authorized agents and
18.8 employees, may enter any place of business of a retailer or subjobber without a search
18.9 warrant and inspect the premises, the records required to be kept under this chapter, and the
18.10 packages of cigarettes, tobacco products, and vending devices contained on the premises.

18.11 **EFFECTIVE DATE.** This section is effective for sales and purchases by subjobbers
18.12 and retailers made on or after August 1, 2017.

18.13 Sec. 37. Minnesota Statutes 2016, section 297F.15, subdivision 9, is amended to read:

18.14 Subd. 9. **Physical inventory.** The commissioner or the commissioner's authorized agents
18.15 may, as considered necessary, require a cigarette or tobacco products distributor or a
18.16 manufacturer of vapor products to furnish a physical inventory of all cigarettes or tobacco
18.17 products in stock. The inventory must contain the information that the commissioner requests
18.18 and must be certified by an officer of the corporation.

18.19 **EFFECTIVE DATE.** This section is effective January 1, 2018.

18.20 Sec. 38. **[297F.186] REVOCATION OF CIGARETTE AND TOBACCO RETAIL**
18.21 **LICENSE.**

18.22 Subdivision 1. **Cigarette and tobacco retail revocation.** (a) A licensing authority must
18.23 not issue, transfer, or renew, and must revoke, a license if the commissioner notifies the
18.24 licensing authority that the license holder has been in possession of contraband cigarettes
18.25 or tobacco products under section 297F.21 at the location covered by the license.

18.26 (b) Within ten days after receipt of the notification from the commissioner under
18.27 paragraph (a), the licensing authority must notify the license holder by mail of the revocation
18.28 of the license. The notice must include a copy of the commissioner's notice to the licensing
18.29 authority and information, in the form specified by the commissioner, on the licensee's
18.30 option for receiving a license clearance from the commissioner. The licensing authority
18.31 must revoke the license within 30 days after receiving the notice from the commissioner,

19.1 unless it receives a license clearance from the commissioner as provided in subdivision 2,
19.2 paragraph (b).

19.3 (c) For purposes of this section, the following terms have the meanings given.

19.4 (1) "License holder" means an individual or legal entity who has a license to sell cigarettes
19.5 or tobacco products issued under chapter 461.

19.6 (2) "License" means a license to sell cigarettes or tobacco products under chapter 461.

19.7 (3) "Licensing authority" means a town board, county board, governing body of a home
19.8 rule charter or statutory city, or state agricultural society authorized to issue licenses under
19.9 chapter 461.

19.10 (4) "Applicant" is any individual, corporation, partnership, or any other legal entity that
19.11 is a holder of a license or that has filed an application to obtain a license.

19.12 (5) "Responsible person" means any individual who, either singly or jointly with others,
19.13 has the control of, supervision of, or responsibility for filing tax returns or reports, paying
19.14 taxes, or collecting or withholding and remitting taxes to the commissioner for a license
19.15 holder, or who has authority to purchase cigarettes or tobacco products, or supervises a
19.16 person who has authority to purchase cigarettes or tobacco products for the license holder.

19.17 Subd. 2. **New licenses after revocation.** (a) An applicant who has had a license revoked
19.18 under this section, or an applicant with a responsible person who was a responsible person
19.19 for another entity for which a license was revoked under this section, may not apply for a
19.20 license or seek the reinstatement of a revoked license unless the applicant presents to the
19.21 licensing authority a license clearance issued by the commissioner. A licensing authority
19.22 must not issue a new license to an applicant with such a responsible person or to an applicant
19.23 who has had a license revoked under this section or reinstate a revoked license unless the
19.24 applicant presents to the authority a license clearance issued by the commissioner.

19.25 (b) Except as provided in paragraph (f), the commissioner may issue a license clearance
19.26 if the applicant and all responsible persons of the applicant:

19.27 (1) sign an agreement that acknowledges that the applicant and the responsible person
19.28 will follow all laws related to the taxation of cigarettes and tobacco products, including the
19.29 requirements to:

19.30 (i) purchase all cigarettes and tobacco products from distributors and subjobbers licensed
19.31 by the commissioner;

20.1 (ii) maintain invoices of all cigarettes or tobacco products purchased as required under
20.2 section 297F.13, subdivision 4, and produce those invoices within one hour when requested
20.3 by the commissioner or duly authorized agents and employees; and

20.4 (iii) timely file and pay to the commissioner all returns and all sales taxes related to the
20.5 sale of tobacco products; and

20.6 (2) deposit with the commissioner security or a surety bond in an amount equal to ten
20.7 times the amount of tax on the contraband cigarettes or tobacco products. The commissioner
20.8 must hold the security deposit for two years.

20.9 (c) The commissioner must pay interest on any money deposited as security. The interest
20.10 is calculated from the date of deposit to the date of refund, or date of application to any
20.11 outstanding tax liability, at a rate specified in section 270C.405. The commissioner must
20.12 refund the security deposit to the applicant at the end of the two-year period unless the
20.13 applicant has any unpaid tax liabilities payable to the commissioner. The commissioner
20.14 may apply the security deposit to any unpaid tax liabilities of the applicant owed to the
20.15 commissioner as well as the tax on any contraband cigarettes or tobacco products owned,
20.16 possessed, sold, or offered for sale by the applicant after the license clearance has been
20.17 issued.

20.18 (d) The commissioner may refund the security deposit before the end of the two-year
20.19 holding period if the license holder no longer has a license to sell cigarettes or tobacco
20.20 products issued by any licensing authority in the state.

20.21 (e) If the commissioner determines that a licensing authority has issued a new license
20.22 or reinstated a revoked license without the applicant submitting a license clearance, the
20.23 commissioner may notify the licensing authority to revoke the license. Revocations under
20.24 this subdivision are controlled by the provisions of subdivision 1, paragraph (b), and
20.25 subdivision 3. Notice of intent to require revocation from the commissioner must be sent
20.26 to the license holder and to the responsible person of the license holder.

20.27 (f) If an applicant has had, or if a person has been a responsible person to, a cumulative
20.28 number of two licenses revoked under this subdivision in a five-year period by all licensing
20.29 authorities within the state, the commissioner may refuse to issue a license clearance until
20.30 24 months have elapsed after the last revocation and the applicant has satisfied the conditions
20.31 for reinstatement of a revoked license or issuance of a new license imposed by this
20.32 subdivision.

20.33 Subd. 3. **Notice and hearing.** (a) Prior to notifying a licensing authority pursuant to
20.34 subdivision 1 to revoke a license, the commissioner must send a notice to the license holder

21.1 and to any known responsible person of the license holder of the commissioner's intent to
 21.2 require revocation of the license and of the license holder's or responsible person's right to
 21.3 a hearing. If the license holder or responsible person requests a hearing in writing within
 21.4 30 days of the date of the notice, a contested case hearing must be held. The hearing must
 21.5 be held within 45 days of the date the commissioner refers the case to the Office of
 21.6 Administrative Hearings. Notwithstanding any law to the contrary, the license holder or
 21.7 responsible person must be served within 20 days' notice in writing specifying the time and
 21.8 place of the hearing and the allegations against the license holder or responsible person.
 21.9 The notice may be served personally or by mail. A license is subject to revocation when 30
 21.10 days have passed following the date of the notice in this paragraph without the license holder
 21.11 requesting a hearing, or, if a hearing is timely requested, upon final determination of the
 21.12 hearing under section 14.62, subdivision 1.

21.13 (b) The commissioner may notify a licensing authority under subdivision 1 only after
 21.14 the requirements of paragraph (a) have been satisfied.

21.15 (c) A hearing under this subdivision is in lieu of any other hearing or proceeding provided
 21.16 by law arising from any action taken under subdivision 1.

21.17 **EFFECTIVE DATE.** This section is effective August 1, 2017.

21.18 Sec. 39. Minnesota Statutes 2016, section 297F.19, is amended by adding a subdivision
 21.19 to read:

21.20 **Subd. 10. Penalty for retailers who fail to comply.** (a) A retailer who fails to produce
 21.21 an itemized invoice from a licensed seller within one hour of being requested by the
 21.22 commissioner to do so as required under section 297F.13, subdivision 4, or who offers for
 21.23 sale or holds in inventory cigarettes or tobacco products without a license required under
 21.24 chapter 461 is subject to a penalty of \$100 for the first violation, \$2,000 for the second
 21.25 violation, and \$5,000 for the third and each subsequent violation occurring during any
 21.26 36-month period.

21.27 (b) A retailer who offers for sale or holds in inventory untaxed cigarettes or tobacco
 21.28 products is subject to a penalty equal to the greater of \$2,000, or 150 percent of the tax due
 21.29 on the cigarettes or tobacco products.

21.30 **EFFECTIVE DATE.** This section is effective for violations occurring on or after August
 21.31 1, 2017.

22.1 Sec. 40. Minnesota Statutes 2016, section 297F.20, is amended by adding a subdivision
22.2 to read:

22.3 Subd. 2a. Penalties for willful failure to file or pay. (a) A person or consumer required
22.4 to file a return, report, or other document with the commissioner who willfully attempts in
22.5 any manner to evade or defeat a tax by failing to do so when required is guilty of a felony.

22.6 (b) A person or consumer required to pay or to collect and remit a tax under this chapter,
22.7 who willfully attempts to evade or defeat a tax by failing to do so when required, is guilty
22.8 of a felony.

22.9 EFFECTIVE DATE. This section is effective for offenses committed on or after August
22.10 1, 2017.

22.11 Sec. 41. Minnesota Statutes 2016, section 297F.20, subdivision 5, is amended to read:

22.12 Subd. 5. Unstamped cigarettes or moist snuff; presumption. (a) Except as provided
22.13 in paragraph (b), whenever a package of cigarettes or moist snuff is found in the place of
22.14 business or in the possession of any person without a proper stamp affixed as required by
22.15 this chapter, it is presumed that those cigarettes or moist snuff are kept there or held by that
22.16 person illegally.

22.17 (b) This presumption does not apply to:

22.18 (1) cigarettes or moist snuff in the place of business or in the possession of a licensed
22.19 distributor;

22.20 (2) cigarettes or moist snuff in the possession of a common carrier or sleeping car
22.21 company engaged in interstate commerce;

22.22 (3) cigarettes or moist snuff held in a public warehouse of first destination in this state,
22.23 in the unbroken, original shipping containers, subject to delivery or shipping instructions
22.24 from the manufacturer or a distributor;

22.25 (4) cigarettes or moist snuff in the possession of a person other than a distributor in
22.26 quantities of 200 cigarettes or less or \$50 or less of moist snuff, when those cigarettes or
22.27 moist snuff have had the individual packages or seals broken, and when they are intended
22.28 for personal use and not to be sold or offered for sale;

22.29 (5) cigarettes or moist snuff sold under circumstances in which the tax cannot legally
22.30 be imposed because of the laws or Constitution of the United States.

22.31 EFFECTIVE DATE. This section is effective for moist snuff possessed after December
22.32 31, 2019.

23.1 Sec. 42. Minnesota Statutes 2016, section 297F.20, subdivision 6, is amended to read:

23.2 Subd. 6. **Unstamped cigarettes; untaxed tobacco products.** (a) A person, other than
 23.3 a licensed distributor, a licensed manufacturer of vapor products, or a consumer, who
 23.4 possesses, receives, or transports fewer than 5,000 unstamped cigarettes, or up to \$350
 23.5 worth of untaxed tobacco products is guilty of a misdemeanor.

23.6 (b) A person, other than a licensed distributor, a licensed manufacturer of vapor products,
 23.7 or a consumer, who possesses, receives, or transports 5,000 or more, but fewer than 20,001
 23.8 unstamped cigarettes, or more than \$350 but less than \$1,400 worth of untaxed tobacco
 23.9 products is guilty of a gross misdemeanor.

23.10 (c) A person, other than a licensed distributor, a licensed manufacturer of vapor products,
 23.11 or a consumer, who possesses, receives, or transports more than 20,000 unstamped cigarettes,
 23.12 or \$1,400 or more worth of untaxed tobacco products is guilty of a felony.

23.13 (d) For purposes of this subdivision, an individual in possession of more than 4,999
 23.14 unstamped cigarettes, or more than \$350 worth of untaxed tobacco products, is presumed
 23.15 not to be a consumer.

23.16 **EFFECTIVE DATE.** This section is effective January 1, 2018.

23.17 Sec. 43. Minnesota Statutes 2016, section 297F.20, subdivision 6, is amended to read:

23.18 Subd. 6. **Unstamped cigarettes; untaxed tobacco products.** (a) A person, other than
 23.19 a licensed distributor or a consumer, who possesses, receives, or transports fewer than 5,000
 23.20 unstamped cigarettes, or up to \$350 worth of untaxed tobacco products or unstamped moist
 23.21 snuff is guilty of a misdemeanor.

23.22 (b) A person, other than a licensed distributor or a consumer, who possesses, receives,
 23.23 or transports 5,000 or more, but fewer than 20,001 unstamped cigarettes, or more than \$350
 23.24 but less than \$1,400 worth of untaxed tobacco products or unstamped moist snuff is guilty
 23.25 of a gross misdemeanor.

23.26 (c) A person, other than a licensed distributor or a consumer, who possesses, receives,
 23.27 or transports more than 20,000 unstamped cigarettes, or \$1,400 or more worth of untaxed
 23.28 tobacco products or unstamped moist snuff is guilty of a felony.

23.29 (d) For purposes of this subdivision, an individual in possession of more than 4,999
 23.30 unstamped cigarettes, or more than \$350 worth of untaxed tobacco products or unstamped
 23.31 moist snuff, is presumed not to be a consumer.

24.1 **EFFECTIVE DATE.** This section is effective for moist snuff possessed after December
24.2 31, 2019, or for moist snuff received or transported after June 30, 2019.

24.3 Sec. 44. Minnesota Statutes 2016, section 297F.20, subdivision 7, is amended to read:

24.4 Subd. 7. **Sale of ~~cigarette~~ packages with Indian stamp.** (a) A retailer doing business
24.5 off of an Indian reservation who sells or offers to sell more than 200 but fewer than 5,000
24.6 cigarettes or up to \$350 worth of tobacco products with Indian stamps is guilty of a
24.7 misdemeanor.

24.8 (b) A retailer doing business off of an Indian reservation who sells or offers to sell 5,000
24.9 or more, but fewer than 20,001 cigarettes or more than \$350 but less than \$1,400 worth of
24.10 tobacco products with Indian stamps is guilty of a gross misdemeanor.

24.11 (c) A retailer doing business off of an Indian reservation who sells or offers to sell more
24.12 than 20,000 cigarettes or \$1,400 or more worth of tobacco products with Indian stamps is
24.13 guilty of a felony.

24.14 **EFFECTIVE DATE.** This section is effective for sales of tobacco products, or offers
24.15 to sell tobacco products, after June 30, 2019.

24.16 Sec. 45. Minnesota Statutes 2016, section 297F.20, subdivision 9, is amended to read:

24.17 Subd. 9. **Purchases from unlicensed sellers.** (a) No retailer or subjobber shall purchase
24.18 cigarettes or tobacco products from any person who is not licensed under section 297F.03
24.19 as a licensed distributor, manufacturer of vapor products, or subjobber.

24.20 (b) A retailer or subjobber who purchases from an unlicensed seller fewer than 5,000
24.21 cigarettes or up to \$350 worth of tobacco products is guilty of a misdemeanor.

24.22 (c) A retailer or subjobber who purchases from an unlicensed seller 5,000 or more, but
24.23 fewer than 20,001 cigarettes or more than \$350 but less than \$1,400 worth of tobacco
24.24 products is guilty of a gross misdemeanor.

24.25 (d) A retailer or subjobber who purchases from an unlicensed seller more than 20,000
24.26 cigarettes or \$1,400 or more worth of tobacco products is guilty of a felony.

24.27 **EFFECTIVE DATE.** This section is effective January 1, 2018.

25.1 Sec. 46. Minnesota Statutes 2016, section 297F.20, is amended by adding a subdivision
25.2 to read:

25.3 Subd. 13. **Aggregation and consolidation of venue.** In any prosecution under this
25.4 section, the number of unstamped cigarettes or the value of the untaxed tobacco products
25.5 possessed, received, transported, sold, offered to be sold, or purchased in violation of this
25.6 section within any six-month period may be aggregated and the defendant charged
25.7 accordingly in applying the provisions of this section. When two or more offenses are
25.8 committed by the same individual in two or more counties, the accused may be prosecuted
25.9 in any county in which one of the offenses was committed.

25.10 **EFFECTIVE DATE.** This section is effective for offenses committed on or after August
25.11 1, 2017.

25.12 Sec. 47. Minnesota Statutes 2016, section 297F.21, subdivision 1, is amended to read:

25.13 Subdivision 1. **Contraband defined.** The following are declared to be contraband and
25.14 therefore subject to civil and criminal penalties under this chapter:

25.15 (a) Cigarette packages which do not have stamps affixed to them as provided in this
25.16 chapter, including but not limited to (i) packages with illegible stamps and packages with
25.17 stamps that are not complete or whole even if the stamps are legible, and (ii) all devices for
25.18 the vending of cigarettes in which packages as defined in item (i) are found, including all
25.19 contents contained within the devices.

25.20 (b) A device for the vending of cigarettes and all packages of cigarettes, where the device
25.21 does not afford at least partial visibility of contents. Where any package exposed to view
25.22 does not carry the stamp required by this chapter, it shall be presumed that all packages
25.23 contained in the device are unstamped and contraband.

25.24 (c) A device for the vending of cigarettes to which the commissioner or authorized agents
25.25 have been denied access for the inspection of contents. In lieu of seizure, the commissioner
25.26 or an agent may seal the device to prevent its use until inspection of contents is permitted.

25.27 (d) A device for the vending of cigarettes which does not carry the name and address of
25.28 the owner, plainly marked and visible from the front of the machine.

25.29 (e) A device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes,
25.30 and boats used with the knowledge of the owner or of a person operating with the consent
25.31 of the owner for the storage or transportation of more than 5,000 cigarettes which are
25.32 contraband under this subdivision. When cigarettes are being transported in the course of
25.33 interstate commerce, or are in movement from either a public warehouse to a distributor

26.1 upon orders from a manufacturer or distributor, or from one distributor to another, the
26.2 cigarettes are not contraband, notwithstanding the provisions of clause (a).

26.3 (f) A device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes,
26.4 and boats used with the knowledge of the owner, or of a person operating with the consent
26.5 of the owner, for the storage or transportation of untaxed tobacco products intended for sale
26.6 in Minnesota other than those in the possession of a licensed distributor on or before the
26.7 due date for payment of the tax under section 297F.09, subdivision 2.

26.8 (g) Cigarette packages or tobacco products obtained from an unlicensed seller.

26.9 (h) Cigarette packages offered for sale or held as inventory in violation of section
26.10 297F.20, subdivision 7.

26.11 (i) Tobacco products on which the tax has not been paid by a licensed distributor or
26.12 manufacturer of vapor products.

26.13 (j) Any cigarette packages or tobacco products offered for sale or held as inventory for
26.14 which there is not an invoice from a licensed seller as required under section 297F.13,
26.15 subdivision 4.

26.16 (k) Cigarette packages which have been imported into the United States in violation of
26.17 United States Code, title 26, section 5754. All cigarettes held in violation of that section
26.18 shall be presumed to have entered the United States after December 31, 1999, in the absence
26.19 of proof to the contrary.

26.20 (l) Cigarettes subject to forfeiture under section 299F.854, subdivision 5, and cigarette
26.21 packaging and markings, including the cigarettes contained therein, which do not meet the
26.22 requirements under section 299F.853, paragraph (a).

26.23 (m) Vapor products purchased exempt from tax under section 297F.06, subdivision 6,
26.24 by a person other than a licensed manufacturer of vapor products.

26.25 **EFFECTIVE DATE.** This section is effective January 1, 2018.

26.26 Sec. 48. Minnesota Statutes 2016, section 297F.21, subdivision 1, is amended to read:

26.27 Subdivision 1. **Contraband defined.** The following are declared to be contraband and
26.28 therefore subject to civil and criminal penalties under this chapter:

26.29 (a) Cigarette packages which do not have stamps affixed to them as provided in this
26.30 chapter, including but not limited to (i) packages with illegible stamps and packages with
26.31 stamps that are not complete or whole even if the stamps are legible, and (ii) all devices for

27.1 the vending of cigarettes in which packages as defined in item (i) are found, including all
27.2 contents contained within the devices.

27.3 (b) A device for the vending of cigarettes and all packages of cigarettes, where the device
27.4 does not afford at least partial visibility of contents. Where any package exposed to view
27.5 does not carry the stamp required by this chapter, it shall be presumed that all packages
27.6 contained in the device are unstamped and contraband.

27.7 (c) A device for the vending of cigarettes to which the commissioner or authorized agents
27.8 have been denied access for the inspection of contents. In lieu of seizure, the commissioner
27.9 or an agent may seal the device to prevent its use until inspection of contents is permitted.

27.10 (d) A device for the vending of cigarettes which does not carry the name and address of
27.11 the owner, plainly marked and visible from the front of the machine.

27.12 (e) A device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes,
27.13 and boats used with the knowledge of the owner or of a person operating with the consent
27.14 of the owner for the storage or transportation of more than 5,000 cigarettes which are
27.15 contraband under this subdivision. When cigarettes are being transported in the course of
27.16 interstate commerce, or are in movement from either a public warehouse to a distributor
27.17 upon orders from a manufacturer or distributor, or from one distributor to another, the
27.18 cigarettes are not contraband, notwithstanding the provisions of clause (a).

27.19 (f) A device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes,
27.20 and boats used with the knowledge of the owner, or of a person operating with the consent
27.21 of the owner, for the storage or transportation of untaxed tobacco products intended for sale
27.22 in Minnesota other than those in the possession of a licensed distributor on or before the
27.23 due date for payment of the tax under section 297F.09, subdivision 2.

27.24 (g) Cigarette packages or tobacco products obtained from an unlicensed seller.

27.25 (h) Cigarette packages offered for sale or held as inventory in violation of section
27.26 297F.20, subdivision 7.

27.27 (i) Tobacco products on which the tax has not been paid by a licensed distributor.

27.28 (j) Any cigarette packages or tobacco products offered for sale or held as inventory for
27.29 ~~which there is not an invoice from a licensed seller~~ the retailer or subjobber does not produce
27.30 an itemized invoice from a licensed seller within one hour after being requested by the
27.31 commissioner to do so as required under section 297F.13, subdivision 4.

27.32 (k) Cigarette packages which have been imported into the United States in violation of
27.33 United States Code, title 26, section 5754. All cigarettes held in violation of that section

28.1 shall be presumed to have entered the United States after December 31, 1999, in the absence
28.2 of proof to the contrary.

28.3 (l) Cigarettes subject to forfeiture under section 299F.854, subdivision 5, and cigarette
28.4 packaging and markings, including the cigarettes contained therein, which do not meet the
28.5 requirements under section 299F.853, paragraph (a).

28.6 (m) All cigarettes and tobacco products, including those for which the tax has been paid,
28.7 offered for sale or held as inventory by a retailer operating without a license required under
28.8 chapter 461.

28.9 **EFFECTIVE DATE.** This section is effective August 1, 2017.

28.10 Sec. 49. Minnesota Statutes 2016, section 297F.21, subdivision 1, is amended to read:

28.11 Subdivision 1. **Contraband defined.** The following are declared to be contraband and
28.12 therefore subject to civil and criminal penalties under this chapter:

28.13 (a) Cigarette or tobacco products packages which do not have stamps affixed to them
28.14 as provided in this chapter, including but not limited to (i) packages with illegible stamps
28.15 and packages with stamps that are not complete or whole even if the stamps are legible, and
28.16 (ii) all devices for the vending of cigarettes in which packages as defined in item (i) are
28.17 found, including all contents contained within the devices.

28.18 (b) A device for the vending of cigarettes and all packages of cigarettes, where the device
28.19 does not afford at least partial visibility of contents. Where any package exposed to view
28.20 does not carry the stamp required by this chapter, it shall be presumed that all packages
28.21 contained in the device are unstamped and contraband.

28.22 (c) A device for the vending of cigarettes to which the commissioner or authorized agents
28.23 have been denied access for the inspection of contents. In lieu of seizure, the commissioner
28.24 or an agent may seal the device to prevent its use until inspection of contents is permitted.

28.25 (d) A device for the vending of cigarettes which does not carry the name and address of
28.26 the owner, plainly marked and visible from the front of the machine.

28.27 (e) A device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes,
28.28 and boats used with the knowledge of the owner or of a person operating with the consent
28.29 of the owner for the storage or transportation of more than 5,000 cigarettes which are
28.30 contraband under this subdivision. When cigarettes are being transported in the course of
28.31 interstate commerce, or are in movement from either a public warehouse to a distributor

29.1 upon orders from a manufacturer or distributor, or from one distributor to another, the
 29.2 cigarettes are not contraband, notwithstanding the provisions of ~~clause~~ paragraph (a).

29.3 (f) A device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes,
 29.4 and boats used with the knowledge of the owner, or of a person operating with the consent
 29.5 of the owner, for the storage or transportation of untaxed tobacco products intended for sale
 29.6 in Minnesota other than those in the possession of a licensed distributor on or before the
 29.7 due date for payment of the tax under section 297F.09, subdivision 2.

29.8 (g) Cigarette packages or tobacco products obtained from an unlicensed seller.

29.9 (h) Cigarette or tobacco products packages offered for sale or held as inventory in
 29.10 violation of section 297F.20, subdivision 7.

29.11 (i) Tobacco products on which the tax has not been paid by a licensed distributor.

29.12 (j) Any cigarette packages or tobacco products offered for sale or held as inventory for
 29.13 which there is not an invoice from a licensed seller as required under section 297F.13,
 29.14 subdivision 4.

29.15 (k) Cigarette packages which have been imported into the United States in violation of
 29.16 United States Code, title 26, section 5754. All cigarettes held in violation of that section
 29.17 shall be presumed to have entered the United States after December 31, 1999, in the absence
 29.18 of proof to the contrary.

29.19 (l) Cigarettes subject to forfeiture under section 299F.854, subdivision 5, and cigarette
 29.20 packaging and markings, including the cigarettes contained therein, which do not meet the
 29.21 requirements under section 299F.853, paragraph (a).

29.22 **EFFECTIVE DATE.** The amendment to paragraph (a) is effective January 1, 2020.
 29.23 The amendment to paragraph (h) is effective for packages of tobacco products offered for
 29.24 sale or held as inventory after June 30, 2019.

29.25 Sec. 50. Minnesota Statutes 2016, section 461.12, subdivision 8, is amended to read:

29.26 Subd. 8. **Notice to commissioner.** The licensing authority under this section shall, within
 29.27 30 days of the issuance or renewal of a license, ~~inform~~ provide the commissioner of revenue
 29.28 ~~of,~~ on a form prescribed by the commissioner and completed by the applicant, the licensee's
 29.29 name, address, trade name, Minnesota business identification number, the name of the
 29.30 individual or individuals who will be responsible for purchasing cigarettes or tobacco
 29.31 products for the licensee, and the effective and expiration dates of the license. The

30.1 commissioner of revenue must also be informed of a license ~~renewal~~, transfer, cancellation,
30.2 suspension, or revocation during the license period.

30.3 **EFFECTIVE DATE.** This section is effective for licenses issued, renewed, transferred,
30.4 canceled, suspended, or revoked after December 31, 2017.

30.5 Sec. 51. **APPROPRIATIONS.**

30.6 \$398,000 in fiscal year 2018 and \$371,000 in fiscal year 2019 are appropriated from the
30.7 general fund to the commissioner of revenue to carry out the provisions of this article.
30.8 \$429,000 in fiscal year 2020 and \$316,000 in fiscal year 2021 shall be added to the base
30.9 appropriations to the Department of Revenue.

30.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.

30.11 Sec. 52. **REPEALER.**

30.12 Minnesota Statutes 2016, section 297F.185, is repealed

30.13 **EFFECTIVE DATE.** This section is effective August 1, 2017.

APPENDIX
Repealed Minnesota Statutes: 17-3620

297F.185 REVOCATION OF SALES AND USE TAX PERMITS.

(a) If a retailer purchases for resale from an unlicensed seller more than 20,000 cigarettes or \$500 or more worth of tobacco products, the commissioner may revoke the person's sales and use tax permit as provided in section 270C.722.

(b) The commissioner may revoke a retailer's sales or use permit as provided in section 270C.722 if the retailer, directly or indirectly, purchases for resale cigarettes without the proper stamp affixed.