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HOUSE BILL 2033

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State of Washington

69th Legislature

2025 Regular Session

By Representative Stonier

1 AN ACT Relating to taxation of nicotine products; amending RCW  
2 82.26.010; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 82.26.010 and 2020 c 139 s 31 are each amended to  
5 read as follows:

6 The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

8 (1) "Actual price" means the total amount of consideration for  
9 which tobacco products are sold, valued in money, whether received in  
10 money or otherwise, including any charges by the seller necessary to  
11 complete the sale such as charges for delivery, freight,  
12 transportation, or handling.

13 (2) "Affiliated" means related in any way by virtue of any form  
14 or amount of common ownership, control, operation, or management.

15 (3) "Board" means the liquor and cannabis board.

16 (4) "Business" means any trade, occupation, activity, or  
17 enterprise engaged in for the purpose of selling or distributing  
18 tobacco products in this state.

19 (5) "Cigar" means a roll for smoking that is of any size or shape  
20 and that is made wholly or in part of tobacco, irrespective of  
21 whether the tobacco is pure or flavored, adulterated or mixed with

1 any other ingredient, if the roll has a wrapper made wholly or in  
2 greater part of tobacco. "Cigar" does not include a cigarette.

3 (6) "Cigarette" has the same meaning as in RCW 82.24.010.

4 (7) "Department" means the department of revenue.

5 (8) "Distributor" means (a) any person engaged in the business of  
6 selling tobacco products in this state who brings, or causes to be  
7 brought, into this state from without the state any tobacco products  
8 for sale, (b) any person who makes, manufactures, fabricates, or  
9 stores tobacco products in this state for sale in this state, (c) any  
10 person engaged in the business of selling tobacco products without  
11 this state who ships or transports tobacco products to retailers in  
12 this state, to be sold by those retailers, (d) any person engaged in  
13 the business of selling tobacco products in this state who handles  
14 for sale any tobacco products that are within this state but upon  
15 which tax has not been imposed.

16 (9) "Indian country" means the same as defined in chapter 82.24  
17 RCW.

18 (10) "Little cigar" means a cigar that has a cellulose acetate  
19 integrated filter.

20 (11) "Manufacturer" means a person who manufactures and sells  
21 tobacco products.

22 (12) "Manufacturer's representative" means a person hired by a  
23 manufacturer to sell or distribute the manufacturer's tobacco  
24 products, and includes employees and independent contractors.

25 (13) "Moist snuff" means tobacco, or a similar product containing  
26 nicotine, that is finely cut, ground, or powdered; is not for  
27 smoking; and is intended to be placed in the oral, but not the nasal,  
28 cavity.

29 (14) "Person" means any individual, receiver, administrator,  
30 executor, assignee, trustee in bankruptcy, trust, estate, firm,  
31 copartnership, joint venture, club, company, joint stock company,  
32 business trust, municipal corporation, the state and its departments  
33 and institutions, political subdivision of the state of Washington,  
34 corporation, limited liability company, association, society, any  
35 group of individuals acting as a unit, whether mutual, cooperative,  
36 fraternal, nonprofit, or otherwise. The term excludes any person  
37 immune from state taxation, including the United States or its  
38 instrumentalities, and federally recognized Indian tribes and  
39 enrolled tribal members, conducting business within Indian country.

1 (15) "Place of business" means any place where tobacco products  
2 are sold or where tobacco products are manufactured, stored, or kept  
3 for the purpose of sale, including any vessel, vehicle, airplane,  
4 train, or vending machine.

5 (16) "Retail outlet" means each place of business from which  
6 tobacco products are sold to consumers.

7 (17) "Retailer" means any person engaged in the business of  
8 selling tobacco products to ultimate consumers.

9 (18)(a) "Sale" means any transfer, exchange, or barter, in any  
10 manner or by any means whatsoever, for a consideration, and includes  
11 and means all sales made by any person.

12 (b) The term "sale" includes a gift by a person engaged in the  
13 business of selling tobacco products, for advertising, promoting, or  
14 as a means of evading the provisions of this chapter.

15 (19)(a) "Taxable sales price" means:

16 (i) In the case of a taxpayer that is not affiliated with the  
17 manufacturer, distributor, or other person from whom the taxpayer  
18 purchased tobacco products, the actual price for which the taxpayer  
19 purchased the tobacco products;

20 (ii) In the case of a taxpayer that purchases tobacco products  
21 from an affiliated manufacturer, affiliated distributor, or other  
22 affiliated person, and that sells those tobacco products to  
23 unaffiliated distributors, unaffiliated retailers, or ultimate  
24 consumers, the actual price for which that taxpayer sells those  
25 tobacco products to unaffiliated distributors, unaffiliated  
26 retailers, or ultimate consumers;

27 (iii) In the case of a taxpayer that sells tobacco products only  
28 to affiliated distributors or affiliated retailers, the price,  
29 determined as nearly as possible according to the actual price, that  
30 other distributors sell similar tobacco products of like quality and  
31 character to unaffiliated distributors, unaffiliated retailers, or  
32 ultimate consumers;

33 (iv) In the case of a taxpayer that is a manufacturer selling  
34 tobacco products directly to ultimate consumers, the actual price for  
35 which the taxpayer sells those tobacco products to ultimate  
36 consumers;

37 (v) In the case of a taxpayer that has acquired tobacco products  
38 under a sale as defined in subsection (18)(b) of this section, the  
39 price, determined as nearly as possible according to the actual  
40 price, that the taxpayer or other distributors sell the same tobacco

1 products or similar tobacco products of like quality and character to  
2 unaffiliated distributors, unaffiliated retailers, or ultimate  
3 consumers; or

4 (vi) In any case where (a)(i) through (v) of this subsection do  
5 not apply, the price, determined as nearly as possible according to  
6 the actual price, that the taxpayer or other distributors sell the  
7 same tobacco products or similar tobacco products of like quality and  
8 character to unaffiliated distributors, unaffiliated retailers, or  
9 ultimate consumers.

10 (b) For purposes of (a)(i) and (ii) of this subsection only,  
11 "person" includes both persons as defined in subsection (14) of this  
12 section and any person immune from state taxation, including the  
13 United States or its instrumentalities, and federally recognized  
14 Indian tribes and enrolled tribal members, conducting business within  
15 Indian country.

16 (c) The department may adopt rules regarding the determination of  
17 taxable sales price under this subsection.

18 (20) "Taxpayer" means a person liable for the tax imposed by this  
19 chapter.

20 (21) "Tobacco products" means cigars, cheroots, stogies,  
21 periques, granulated, plug cut, crimp cut, ready rubbed, and other  
22 smoking tobacco, snuff, snuff flour, cavendish, plug and twist  
23 tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps,  
24 clippings, cuttings and sweepings of tobacco, and other kinds and  
25 forms of tobacco, prepared in such manner as to be suitable for  
26 chewing or smoking in a pipe or otherwise, or both for chewing and  
27 smoking, and any other product, regardless of form, that contains  
28 tobacco or nicotine, whether derived from tobacco or created  
29 synthetically, and is intended for human consumption or placement in  
30 the oral or nasal cavity or absorption into the human body by any  
31 other means, but does not include cigarettes as defined in RCW  
32 82.24.010.

33 (22) "Unaffiliated distributor" means a distributor that is not  
34 affiliated with the manufacturer, distributor, or other person from  
35 whom the distributor has purchased tobacco products.

36 (23) "Unaffiliated retailer" means a retailer that is not  
37 affiliated with the manufacturer, distributor, or other person from  
38 whom the retailer has purchased tobacco products.

1        NEW SECTION.    **Sec. 2.**    This act takes effect January 1, 2026.

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