

### **53-7-402 Definitions.**

As used in this part:

- (1) "Agent" means any person authorized by the State Tax Commission to purchase and affix stamps on packages of cigarettes.
- (2) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.
- (3) "Manufacturer" means:
  - (a) any entity which:
    - (i) manufactures or otherwise produces cigarettes to be sold in the state;
    - (ii) causes cigarettes to be manufactured or produced anywhere with the intent to sell in the state; or
    - (iii) manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced with the intent to sell in the United States through an importer;
  - (b) the first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or
  - (c) any entity that becomes a successor of an entity described in Subsection (3)(a) or (3)(b).
- (4) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic, and nonsystematic methodological errors, and equipment related problems do not affect the results of the testing. Such a program ensures that the testing repeatability remains within the required repeatability values stated in Subsection 53-7-403(2)(f) for all test trials used to certify cigarettes in accordance with this part.
- (5) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95% of the time.
- (6) "Retail dealer" means any person, other than a manufacturer or wholesale dealer, engaged in selling cigarettes or tobacco products.
- (7) "Sale":
  - (a) means any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefore; and
  - (b) includes, in addition to cash and credit sales, the giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money.
- (8) "Sell" means to sell, or to offer or agree to sell.
- (9) "Wholesale dealer" means:
  - (a) any person who sells cigarettes or tobacco products to retail dealers or other persons for purposes of resale; and
  - (b) any person who owns, operates, or maintains one or more cigarette or tobacco product vending machines in, at, or upon premises owned or occupied by any other person.

Enacted by Chapter 362, 2007 General Session