

TAXATION OF MOIST SNUFF

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca D. Lockhart

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Tobacco Products part to address the taxation of moist snuff.

Highlighted Provisions:

This bill:

- ▶ provides and modifies definitions;
- ▶ modifies the taxation of moist snuff; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2008.

Utah Code Sections Affected:

AMENDS:

59-14-102, as last amended by Laws of Utah 2007, Chapter 6

59-14-302, as renumbered and amended by Laws of Utah 1987, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-14-102** is amended to read:

59-14-102. Definitions.

As used in this chapter:

(1) "Cigarette" means [any] a roll for smoking made wholly or in part of tobacco[; irrespective];

30 (a) regardless of:
31 (i) the size ~~[or]~~ of the roll;
32 (ii) the shape~~[-and]~~ of the roll; or
33 (iii) whether ~~[or not]~~ the tobacco is:
34 (A) flavored[-];
35 (B) adulterated[-]; or
36 (C) mixed with any other ingredient[-]; and
37 (b) if the wrapper or cover of ~~[which]~~ the roll is made of paper or any other substance
38 or material except tobacco.

39 (2) "Consumer" means a person that is not required:
40 (a) under Section 59-14-201 to obtain a license under Section 59-14-202; or
41 (b) under Section 59-14-301 to obtain a license under Section 59-14-202.
42 (3) "Counterfeit cigarette" means:
43 (a) ~~[cigarettes]~~ a cigarette that ~~[have]~~ has a false manufacturing ~~[labels]~~ label; or
44 (b) ~~[packages]~~ a package of cigarettes bearing a counterfeit tax ~~[stamps]~~ stamp.
45 (4) "Importer" means ~~[any]~~ a person who imports into the United States, either directly
46 or indirectly, a finished cigarette for sale or distribution.

47 (5) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any
48 other person doing business as a distributor or retailer of cigarettes on tribal lands located in the
49 state.

50 (6) "Manufacturer" means ~~[any]~~ a person who manufactures, fabricates, assembles,
51 processes, or labels a finished cigarette.

52 (7) "Moist snuff" means tobacco that is:

53 (a) finely:
54 (i) cut;
55 (ii) ground; or
56 (iii) powdered; and
57 (b) not intended to be:

- 58 (i) smoked; or
- 59 (ii) placed in the nasal cavity.
- 60 [~~(7)~~] (8) "Retailer" means [any] a person [who] that:
- 61 (a) sells or distributes [~~cigarettes~~] a cigarette to a consumer in the state; or
- 62 (b) intends to sell or distribute [~~cigarettes~~] a cigarette to a consumer in the state.
- 63 [~~(8)~~] (9) "Stamp" [~~or "stamps"~~] means the indicia required to be placed on a cigarette
- 64 package that evidences payment of the tax on cigarettes required by Section 59-14-205.
- 65 [~~(9)~~] (10) (a) "Tobacco [~~products~~] product" means [~~all products~~] a product made of, or
- 66 containing tobacco[~~, except cigarettes~~].
- 67 (b) "Tobacco product" includes moist snuff.
- 68 (c) "Tobacco product" does not include a cigarette.
- 69 [~~(10)~~] (11) "Tribal lands" means land held by the United States in trust for a federally
- 70 recognized Indian tribe.

Section 2. Section **59-14-302** is amended to read:

59-14-302. Tax basis -- Rates.

(1) As used in this section:

- 74 (a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco
- 75 product charges after subtracting a discount.
- 76 (b) "Manufacturer's sales price" includes an original Utah destination freight charge,
- 77 regardless of:
- 78 (i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or
- 79 (ii) who pays the original Utah destination freight charge.

[~~(1)~~] (2) There is levied a tax upon the sale, use, or storage of tobacco products in the
81 state. [~~The rate of the tax is 35% of the manufacturer's sales price. The sales price is the~~
82 amount charged by the manufacturer less all discounts, and includes original Utah destination
83 freight charges, whether the product is shipped f.o.b. origin or f.o.b. destination and regardless
84 of who pays the freight charge.]

[~~(2)~~] (3) The tax levied under Subsection [~~(1)~~] (2) shall be paid by the manufacturer,

86 jobber, distributor, wholesaler, retailer, user, or consumer.

87 (4) The rate of the tax under this section is:

88 (a) for tobacco products except for moist snuff, 35% of the manufacturer's sales price;

89 or

90 (b) subject to Subsection (5), for moist snuff, \$.75 per ounce.

91 (5) (a) The tax under this section on moist snuff shall be imposed on the basis of the net
92 weight of the moist snuff as listed by the manufacturer.

93 (b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce,
94 a proportionate amount of the tax described in Subsection (4)(b) is imposed:

95 (i) on that fractional part of one ounce; and

96 (ii) in accordance with rules made by the commission in accordance with Title 63,
97 Chapter 46a, Utah Administrative Rulemaking Act.

98 **Section 3. Effective date.**

99 This bill takes effect on July 1, 2008.