LONG TITLE

General Description:

This bill amends the Cigarette and Tobacco Tax and Licensing chapter to address the taxation of little cigars.

Highlighted Provisions:

This bill:
- defines terms;
- adjusts the tobacco products tax rate on little cigars; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2011.

Utah Code Sections Affected:

AMENDS:
- 59-14-102, as last amended by Laws of Utah 2010, Chapter 115
- 59-14-302, as last amended by Laws of Utah 2010, Chapters 115, 415 and last amended by Coordination Clause, Laws of Utah 2010, Chapter 407

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 a roll for smoking made wholly or in part of tobacco:
   (a) regardless of:
      (i) the size of the roll;
      (ii) the shape of the roll; or
      (iii) whether the tobacco is:
         (A) flavored;
         (B) adulterated; or
         (C) mixed with any other ingredient; and
   (b) if the wrapper or cover of the roll is made of paper or any other substance or
      material except tobacco.
(2) "Consumer" means a person that is not required:
   (a) under Section 59-14-201 to obtain a license under Section 59-14-202; or
   (b) under Section 59-14-301 to obtain a license under Section 59-14-202.
(3) "Counterfeit cigarette" means:
   (a) a cigarette that has a false manufacturing label; or
   (b) a package of cigarettes bearing a counterfeit tax stamp.
(4) "Importer" means a person who imports into the United States, either directly or
    indirectly, a finished cigarette for sale or distribution.
(5) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any
    other person doing business as a distributor or retailer of cigarettes on tribal lands located in the
    state.
(6) "Little cigar" means a roll for smoking:
    (a) made wholly or in part of tobacco;
    (b) that uses an integrated cellulose acetate filter or other similar filter; and
    (c) that is wrapped in a substance:
       (i) containing tobacco; and
       (ii) that is not exclusively natural leaf tobacco.
(7) "Manufacturer" means a person who manufactures, fabricates, assembles,
58 processes, or labels a finished cigarette.
59  "Moist snuff" means tobacco that:
60 (a) is finely:
61   (i) cut;
62   (ii) ground; or
63   (iii) powdered;
64 (b) has at least 45% moisture content, as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
65 (c) is not intended to be:
66   (i) smoked; or
67   (ii) placed in the nasal cavity; and
68 (d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or distributed in single-use units, including:
69   (i) tablets;
70   (ii) lozenges;
71   (iii) strips;
72   (iv) sticks; or
73   (v) packages containing multiple single-use units.
76 "Retailer" means a person that:
77 (a) sells or distributes a cigarette to a consumer in the state; or
78 (b) intends to sell or distribute a cigarette to a consumer in the state.
79 "Stamp" means the indicia required to be placed on a cigarette package that evidences payment of the tax on cigarettes required by Section 59-14-205.
81 "Tobacco product" means a product made of, or containing, tobacco.
82 (b) "Tobacco product" includes:
83   (i) a little cigar; or
84   (ii) moist snuff.
85 (c) "Tobacco product" does not include a cigarette.
"Tribal lands" means land held by the United States in trust for a federally 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:

(a) "Manufacturer's sales price" means the amount the manufacturer of a tobacco product charges after subtracting a discount.

(b) "Manufacturer's sales price" includes an original Utah destination freight charge, regardless of:

(i) whether the tobacco product is shipped f.o.b. origin or f.o.b. destination; or

(ii) who pays the original Utah destination freight charge.

(2) There is levied a tax upon the sale, use, or storage of tobacco products in the state.

(3) The tax levied under Subsection (2) shall be paid by the manufacturer, jobber, distributor, wholesaler, retailer, user, or consumer.

[(4) The rate of the tax under this section is, beginning on July 1, 2010:

(a) for tobacco products except for moist snuff[;] or a little cigar, the rate of the tax under this section is .86 multiplied by the manufacturer's sales price[; and]

(b) subject to Subsection (5), for moist snuff, $1.83 per ounce.]

(5) (a) Subject to Subsection (5)(b), the tax under this section on moist snuff shall be imposed:

(i) at a rate of $1.83 per ounce; and

(ii) on the basis of the net weight of the moist snuff as listed by the manufacturer.

(b) If the net weight of moist snuff is in a quantity that is a fractional part of one ounce, a proportionate amount of the tax described in Subsection [(4)(b)] (5)(a) is imposed:

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

(ii) in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) A little cigar is taxed in the same manner as a cigarette is taxed under Subsection
59-14-204(2).

(a) Moisture content of a tobacco product is determined at the time of packaging.

(b) A manufacturer who distributes a tobacco product in, or into, Utah, shall:
   (i) for a period of three years after the last day on which the manufacturer distributes the tobacco product in, or into, Utah, keep valid scientific evidence of the moisture content of the tobacco product available for review by the commission, upon demand; and
   (ii) provide a document, to the person described in Subsection (3) to whom the manufacturer distributes the tobacco product, that certifies the moisture content of the tobacco product, as verified by the scientific evidence described in Subsection [(6)] (7)(b)(i).

(c) A manufacturer who fails to comply with the requirements of Subsection [(6)] (7)(b) is liable for the nonpayment or underpayment of taxes on the tobacco product by a person who relies, in good faith, on the document described in Subsection [(6)] (7)(b)(ii).

(d) A person described in Subsection (3) who is required to pay tax on a tobacco product:
   (i) shall, for a period of three years after the last day on which the person pays the tax on the tobacco product, keep the document described in Subsection [(6)] (7)(b)(ii) available for review by the commission, upon demand; and
   (ii) is not liable for nonpayment or underpayment of taxes on the tobacco product due to the person's good faith reliance on the document described in Subsection [(6)] (7)(b)(ii).

Section 3. Effective date.

This bill takes effect on July 1, 2011.